



# **Private Hire and Hackney Carriage Licensing Policy**

## **2015—2018**

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## **Aims of the Policy**

This policy has been developed to provide guidance and information to ensure that both the private hire trade, the hackney carriage 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 Transport Act of 1985 introduced the expression 'licensed taxi' for a Hackney Carriage Vehicle. The term 'taxi' is therefore taken to mean a Hackney Carriage Vehicle in this policy.
- '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 private hire drivers, hackney carriage drivers, and private hire 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](http://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 1<sup>st</sup> October 2015. Those licences restricted to 1<sup>st</sup> 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 consecutively 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 consecutively.
- 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 consecutively.

### **“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 hackney carriage 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. Where a vehicle fails the exceptional circumstances test a period of 2 months will be allowed for the proprietor to find a suitable replacement vehicle. This vehicle must be under 5 years of age when it is then first tested. Upon passing the Council test the vehicle licence will run from the expiry of the previous licence. (Please note that this only applies where a vehicle has failed the exceptional circumstances test).

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 (as from 1<sup>st</sup> May 2015). 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 (Appendix 3) 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 a VOSA 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 consecutively.

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 private hire 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. Where a vehicle fails the exceptional circumstances test a period of 2 months will be allowed for the proprietor to find a suitable replacement vehicle. This vehicle must be under 5 years of age when it is then first tested. Upon passing the Council test the vehicle licence will run from the expiry of the previous licence. (Please note that this only applies where a vehicle has failed the exceptional circumstances test).

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 (from 1<sup>st</sup> May 2015).

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 consecutively 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 consecutively 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 consecutively 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 a 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 private hire and hackney carriage 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 private hire and hackney carriage licensing regime. Conversely, a properly administered 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.