



Sandwell  
Metropolitan Borough Council

# Private Hire and Hackney Carriage Licensing Policy

## “The Policy Handbook”

February 2022

Incorporating the changes, which are highlighted in yellow, if Statutory Standards were to be adopted

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# 1. PURPOSE OF THIS POLICY HANDBOOK

This Policy Handbook will comprise the following sections:

1. Purpose of the Policy Handbook
2. Private Hire & Hackney Carriage Drivers' Licence Policy
3. Hackney Carriage & Private Hire Vehicle Licence Operators' Policy
4. Private Hire and Hackney Carriage Determination of Matters Policy Guidelines (The Guidelines).
5. Enforcement Policy

This Policy Handbook will provide information needed to apply for a Private Hire or Hackney Carriage licence in Sandwell. In particular:

- How to Contact the Taxi Licensing Office
- The Appointment/Drop-in System
- Acceptable criteria for Applicants/Licence Holders
- Vehicle Criteria
- Licence Conditions

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## 1.1 HOW TO CONTACT THE TAXI LICENSING OFFICE

The Licensing Office is situated at: -

**Sandwell Metropolitan Borough Council, Taxi Licensing Office, Waterfall Lane Depot, Waterfall Lane, Cradley Heath, West Midlands, B64 6RL**

By Phone on: 0121 569 6655 (*during office hours*)

By Email on: [taxi\\_licensing@sandwell.gov.uk](mailto:taxi_licensing@sandwell.gov.uk)

## 1.2 THE APPOINTMENT/DROP IN SYSTEM

We operate both formal appointments and drop-ins throughout office hours. Please contact us to confirm which is best suited to meet your requirements, please contact us in the following ways:

To ensure that you are dealt with, when you arrive for your appointment, you should ensure the following:

- Arrive on time. (if you are more than 10 minutes late you will need to rearrange your appointment)
- Have all required documents with you.

## 1.3 FEES

Licence Fees are determined by the Council on an annual basis. If the Council intends to vary its licence fees an advert is placed in the local press to commence consultation ensure that everybody has an opportunity to comment on the fees before they come into force in the new financial year.

A copy of the current list of fees is available from the Licensing Office on request and can also be viewed on the council's website at:

<http://www.sandwell.gov.uk/taxi>

**Please be aware that you must pay all outstanding fees before a further appointment will be booked or any other applications accepted.**

## 1.4 PAYMENT METHODS

The Licensing Office accepts payment for Licence Fees in the following ways:

- Debit Card (*Solo, Switch or Delta*)

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- Credit Card (*Visa or MasterCard*)

Please be advised that the Taxi Licensing Office is unable to receive cash or cheque payments

## 1.5 THE LICENSING COMMITTEE

The Council has an obligation to ensure that Private Hire and Hackney Carriage licences are only issued to applicants that are considered to be 'fit and proper'.

To enable the Council to do this, the Council has drawn up criteria, which an applicant must meet for the licence to be issued.

If you don't fulfil these criteria for any reason and wish to pursue your application, you will be required to attend a Licensing Sub Committee Meeting.

This Committee has the power to grant or refuse applications. The Committee can also suspend, revoke or refuse to renew an existing licence.

The Licensing Sub Committee is comprised of Elected Council Members who normally meet at least once a month, in order to deal with licensing issues.

There will be a number of council officers present during the meeting to assist the Members.

If you are required to attend a committee meeting, the reason will be explained to you at the earliest opportunity by a member of staff from the Licensing Office.

A letter will be sent inviting you to attend the next available meeting. This letter will contain the time and date of the meeting and a copy of the report that will be presented to the Committee.

If you are unable to attend the meeting or feel that you need further assistance in any way, you should contact the Licensing Office immediately.

The meeting gives you the opportunity to tell the Committee about anything you feel they should know, before they make a decision about your application. It also allows the Committee to look at the background to your individual circumstances before making a decision on the application.

Licensing Office staff will not be included in the decision making process and have no influence over the decision of the Committee. To ensure that this is the case, members of staff from the Licensing Office who are involved in the investigation and compilation of the report will leave the meeting room with you, whilst the decision is made.

You will be informed of the Committee's decision immediately after it has been made. This decision is then confirmed in writing within 14 days. If a licence is refused, suspended or revoked, the letter will outline the reason for the Committee's decision and will inform you of any right of appeal you may have.

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In the event that a licence is either refused or revoked, the information will be recorded on the National Register of Taxi Licence Revocations and Refusals (NR3) and will remain on this register in line with NAFN's (the data controller), data retention policies.

If you are unhappy with the Council's decision, and wish to appeal, you may want to seek legal advice.

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## 2. PRIVATE HIRE & HACKNEY CARRIAGE DRIVERS' LICENCE POLICY

### 2.1 MAKING AN APPLICATION FOR A DRIVER'S LICENCE (NEW AND RENEWALS)

**All application forms must be submitted by the applicant. Applications submitted by a third party will not be accepted. The Council will shortly be moving to an online application process and at this point all new applications must be submitted online.**

Before submitting an application, you must have completed the following:

- Driving Assessment with the Council's Appointed Driving Examiner (Must be less than 12 months old)
- Wheelchair Assessment Certificate from the Council's appointed assessor. This is only required if you applying for a Hackney Carriage Driver's licence or you intend to drive a wheelchair accessible private hire vehicle.
- Equality & Disability Awareness Training with the Council's appointed training provider. (Must be less than 3 months old)
- CSE & Safeguarding Awareness Training with the Council's appointed training provider. (Must be less than 12 months old)
- Medical with the Council's approved Doctor (Must be less than 1 month old)
- New applicants will be required to undertake and pass a Suitability Test.
- New applicants for a Hackney Carriage Drivers Licence will be required undertake and pass an additional test.

If you have not completed any of the above or your certificate is out of date, your application will not be accepted.

When submitting an application for a licence, in addition to the above certificates, you must also bring the following documents:

- The completed application form (Private Hire applicants must have the form signed by a Sandwell licensed Private Hire Operator).

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- Your full, current driving licence issued by DVLA, Swansea. You must have held a full UK driving licence for at least 2 years. Driving entitlement earned in countries with exchange agreements with the UK is also acceptable providing the licence has been exchanged for a UK driving licence.
- Appropriate payment mechanism. (Please refer to the fee list attached to your application form)
- Passport (if you currently have one).
- Photographic identification *i.e.*, a passport, DVLA photo card.
- Completed DBS application and required documentation (including at least 2 proofs of address). You must produce a list of all addresses (and dates that you lived there) in the 5 years prior to completing the DBS disclosure application form. The DBS application process will be shortly be moved online at which point paper DBS applications will not be accepted
- New applicants will be required to produce criminal record checks or equivalent if they have lived outside the UK after the age of 18 for those countries they have resided in. Licensed Drivers who are required to attend committee due to their criminal convictions will need to produce a criminal record check or equivalent if they have been resident outside of the UK after the age of 18. Criminal Record Checks must be requested and supplied in compliance with Home Office guidance. New applicants or existing drivers who cannot produce a criminal record check will be referred to committee and invited to produce information that supports a suitability decision.
- National Insurance Number.
- All applicants for the grant or renewal of a licence must produce documentary evidence that they have the right to live and work in the United Kingdom.

If you forget any of the above items when you attend the Licensing Office, your application will **not** be accepted.

The application process requires you to undergo a number of tests and checks before a licence can be issued to you. These tests and checks are detailed below.

## 2.2 THE DRIVING TEST

All applicants for a driver's licence are required to pass a Private Hire Drivers Driving Test carried out by the council's nominated provider. Details of the driving test provider can be obtained from the Licensing Office. Only certificates from the nominated provider will be accepted.

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The driving test is a vocational taxi test specifically designed to reflect modern driving practices and conditions. There are specific elements that relate to the safe conveyance of passengers.

Applicants and existing licence holders wishing to drive a wheelchair accessible private hire vehicle or a hackney carriage will also be required to complete a wheelchair user assessment.

## 2.3 THE MEDICAL EXAMINATION

In order to ensure the safety of both you and your passengers, you will have to successfully complete a medical assessment. The medical is carried out to DVLA Group 2 Medical Standards.

All applicants must be medically examined by the Council's authorised Medical Examiner every 3 years. In the case of applicants over the age of 65 years, a medical examination is required annually.

In some cases, the Medical Examiner may determine that individual applicants are examined on a more regular basis.

When attending for your Medical Examination you must take with you a copy of your medical history for the past two years and a list of any medication that has been prescribed to you. Any costs incurred in obtaining this information from your GP must be met by you. If you wear glasses or corrective lenses you must also produce a copy of your latest prescription.

If you are an existing licence holder and the Medical Examiner determines that you are not fit to drive a licensed vehicle, your licence will be suspended with immediate effect on the grounds of public safety.

The Council's authorised Medical Examiner is located at Sandwell & West Birmingham Hospitals NHS Trust, Occupational Health & Wellbeing Service, Courtyard Garden, Sandwell General Hospital, Lyndon, West Bromwich, West Midlands. B71 4HJ.

**Medical Fitness Certificates from any other source will NOT be accepted by the Council.**

The procedure for taking the medical is included in the application pack which can be downloaded from the council's website <http://www.sandwell.gov.uk/taxi>

## 2.4 THE DBS DISCLOSURE

The Disclosure & Barring Service (DBS) previously known as the Criminal Records Bureau or CRB is a Government Agency responsible for carrying out checks in relation to an applicant's criminal history.

All new applicants for a Private Hire or Hackney Carriage Driver's Licence are required to undergo an enhanced criminal history disclosure on application. The applicant is also required to sign up to the DBS update service and renew. Details on how to join the DBS update service can be obtained from the Licensing Office or from the DBS website <https://www.gov.uk/dbs-update-service>. Failure to sign up to the

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update service will prevent a licence being issued. In the event that you do not sign up to the update service within the required timescale this will result in the applicant being required to complete another DBS disclosure application at their own expense.

The disclosure application form and DBS Update registration will be completed, at the time of your first appointment and then sent to the DBS for them to carry out their checks. If an applicant has a criminal history, **this will be revealed on the disclosure**. You must disclose all convictions, cautions, reprimands, conditional discharges and bind-overs **NO MATTER HOW LONG AGO THEY HAPPENED**. Failure to disclose matters which are revealed on the DBS disclosure will result in delays, as your application will be referred to the Licensing Sub Committee for a decision (Please refer to the Determination of Matters Policy Guidelines).

It is the responsibility of the applicant to complete and check the form, to ensure that all information entered on the form is correct.

In order to complete the form you must be able to provide the following details:

- Full name, date of birth, current permanent address etc.
- Details of any previous names used.
- National Insurance number.
- Place of birth.
- Previous addresses in the last 5 years.

You will also need to have with you **at least three** of the following original documents. Please note that there are time limits on some of the documents. Examples of the documents you will need are:

- Passport (If you hold a valid passport **it must be produced** for DBS purposes).
- DVLA Driving Licence.
- Birth Certificate.
- Marriage Certificate.
- P45 or P60.
- Utility bill (dated within the last 3 months).
- UK medical card.
- Bank / credit card statement (dated within the last 3 months).

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**Failure to provide the required documents will result in your application being rejected until such time that you are able to produce the required documentation.**

When all checks have been made, the DBS will send the disclosure certificate to your home address. The Licensing Office does not receive a copy of the certificate. As soon as you receive the certificate you must produce it to the Licensing Office. If you have not applied to join the DBS update service whilst the disclosure application was being processed, you will have the opportunity to join once the certificate has been produced, however you must join within 28 days of the certificate being printed. This is a DBS Policy therefore the Council cannot extend the 28 day period. Failure to join will mean that you will no longer be able to register the disclosure certificate with the update service therefore you will be required to start the application process again at your own expense.

Any matters identified on the disclosure will be assessed against the Driver's policy and "Determination of Matters Policy Guidelines", which is included in Section 5 of this Policy Handbook.

#### **Existing holders of a Private Hire or Hackney Carriage Drivers licence.**

Existing licence holders whose DBS is due to expire must also complete a new DBS disclosure certificate and apply to join the update service. Any licence holder who fails to join the DBS update service or fails to renew their subscription to the DBS Update Service will have their licence suspended and will be unable to work until a new DBS certificate has been produced.

All drivers will have their criminal history checked via the DBS update service at least every 6 months. If the Licensing Office receives information that a driver has committed an offence or receives intelligence on offending behaviour, the Licensing Office will regularly check the current status of the licence holder's disclosure certificate via the DBS update service. If the DBS update service reveals that the original certificate is no longer valid the licence holder will be required to complete a new DBS disclosure application at their own expense. They will also have their licence suspended until the new information can be considered by the Licensing Sub Committee. Where an applicant has spent three or more continuous months outside the UK once their licence has been issued, that they should provide criminal records information from that country or a "Certificate of Good Character" on their return. This can be obtained by visiting the following website - <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Any driver referred to the committee will have their DBS checked through the update service.

The Licensing Sub Committee has the discretion to require a licence holder to be subject to more frequent DBS checks.

All applicants and holders of a licence must give permission for the Council to carry out checks, at any time, via the update service.

**New section to be added**

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## NATIONAL REGISTER OF TAXI LICENCE REVOCATIONS AND REFUSALS (NR3)

All applications for a new licence or licence renewal will automatically be checked on the NR3 Register to ascertain whether or not the applicant has had a licence either refused or revoked by another licensing authority. If a search indicates a match with the applicant, this authority will seek further information about the entry on the register from the Licensing Authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific licence application and will not be retained beyond the determination of that application.

In the event that it is confirmed that the applicant has had a licence either refused or revoked by another authority, the application will be referred to the Licensing Sub Committee for determination

Where a hackney carriage driver, dual driver or private hire driver licence is refused or revoked by this authority, the Licensing Authority will automatically record this decision on the NR3 Register.

The Information recorded on NR3 itself will be limited to:

- Name
- Date of Birth
- Address and contact details
- National Insurance Number
- Driving Licence number
- Decision Taken
- Date of Decision
- Date decision effective

Information will remain on this register in line with NAFN's (the data controller), data retention policies.

Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision of information of or under NR3 are necessary to this Authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under GDPR, you can do so to the authority's Data Protection Officer who can be contacted at the following email address [info\\_management@sandwell.gov.uk](mailto:info_management@sandwell.gov.uk)

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You have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about the handling of data can be found on ICO's website: <https://ico.org.uk/make-a-complaint/>

The Licensing Authority will publish a policy on the approach it will take to requests by other authorities for further information about entries on NR3 and about the use it will make of any further information provided to it. To obtain a copy of this policy, please contact the Taxi Licensing Team on [taxi\\_licensing@sandwell.gov.uk](mailto:taxi_licensing@sandwell.gov.uk) or visit the Council's website [https://www.sandwell.gov.uk/info/200176/business/359/taxi\\_and\\_private\\_hire\\_licences/3](https://www.sandwell.gov.uk/info/200176/business/359/taxi_and_private_hire_licences/3)

## 2.5 THE SUITABILITY ASSESSMENT

To ensure that all your customers receive a consistently high level of service, all applicants for a Private Hire Driver's Licence or Hackney Carriage Driver's Licence are required to pass a classroom based suitability assessment which is designed to ensure that you understand the following:

- The law and conditions of the licence.
- When to inform us if you are convicted of an offence, or if you have received cautions, reprimands, conditional discharges, bind-overs or fixed penalties.
- Your responsibilities to the Council.
- Your knowledge of the Highway Code.
- Your command of the English language.
- Your basic maths skills.
- Vehicle maintenance.
- Customer Service.
- Geographical Knowledge.

To assess your understanding, we will ask 50 questions and you will need to answer at least 45 correctly. You will be given 1 hour to complete the assessment. If you do not successfully complete this assessment, retests can be taken up to a maximum of 3 assessments in total (i.e. 2 retests). A fee is payable for each assessment. **If you have failed the assessment 3 times, we will refuse to grant your licence.**

You will not be able to reapply within 12 months of the date of your last unsuccessful Suitability Assessment.

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From **DATE TO BE INSERTED** applicants will also be required to take and pass an approved English course, with one of the Council's preferred providers as detailed on the Council's website. Existing licence holders will be required to provide proof of passing the course within one year of the above date. In the event that the approved course is not completed, their licence will be suspended until such time as the course has been passed.

If your English or basic skills are below the required standard to pass the Suitability Assessment, your application will be refused.

An information pack on the Suitability Assessment is available from the Licensing Office or can be downloaded from the council's website <http://www.sandwell.gov.uk/taxi>

## 2.6 HACKNEY CARRIAGE KNOWLEDGE TEST

Applicants for a Hackney Carriage Driver's Licence are also required to successfully complete a test in order to assess their knowledge of Sandwell and the surrounding areas. Applicants will also be required to demonstrate that they have full knowledge of the location and capacity of each Sandwell hackney carriage stand or rank. You will be expected to have knowledge of roads and buildings in the vicinity of each stand or rank.

A Hackney Carriage Knowledge Test information pack is available from the Licensing Office or can be downloaded from the council's website <http://www.sandwell.gov.uk/taxi>

You may take a total of 3 knowledge tests within one year of submitting your application for a licence. The first knowledge test must be taken within the first 6 months. If you do not successfully complete the knowledge test on the first occasion, retests can be taken up to a maximum of 3 tests in total (i.e. 2 retests). A fee is payable for each test. **If you have failed to successfully complete the knowledge test within 3 attempts, we will refuse to grant your licence.**

You will not be able to reapply within 12 months of the date of your last unsuccessful test.

If your English or basic skills are below the required standard to pass the knowledge test, your application will be refused.

## 2.7 EQUALITY AND DISABILITY AWARENESS TRAINING

All existing and new applicants for a Private Hire or Hackney Carriage Driver's licence will be required to successfully complete Equality and Disability Awareness Training, carried out by the Council's appointed training provider, prior to a licence being issued.

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Any applicant or licence holder who fails to attend a scheduled appointment to undertake the Equality and Disability Awareness Training, or fails the assessment at the end of the training, will be required to pay a fee, for a further appointment to be booked on the training course. Failure to attend a scheduled appointment, or successfully complete the assessment, may result in a licence holder's licence being suspended until such time as they successfully complete the required training and assessment.

## **2.8 CHILD SEXUAL EXPLOITATION (CSE) AWARENESS & SAFEGUARDING TRAINING**

All existing and new applicants for a Private Hire or Hackney Carriage Driver's licence will be required to successfully complete CSE & Safeguarding Training, carried out by the Council's appointed training provider, prior to a licence being issued.

All existing holders of a Private Hire or Hackney Carriage Driver's licence will be required to successfully complete CSE & Safeguarding Training, carried out by the Council's appointed training provider prior to their licence being renewed.

Any applicant or licence holder, who fails to attend a scheduled appointment to undertake the CSE & Safeguarding Training, may be required to pay a fee, to the Council's appointed training provider, for a further appointment to be booked on the training course. Failure to attend a scheduled appointment may result in a licence holder's licence being suspended until such time as they successfully complete the required training.

## **2.9 SANDWELL MBC CODE OF CONDUCT WHEN WORKING WITH VULNERABLE PASSENGERS**

A vulnerable passenger is a passenger whose age or disability means that they are more susceptible to harm than a typical passenger. This may be a child, an elderly person or somebody with learning difficulties for example. In addition, an individual should be considered vulnerable if they do not fall within the description above, but their condition is such as to render them more susceptible to harm than may otherwise be the case (for example as a result of being under the influence of alcohol).

This code of conduct aims to promote good safeguarding practice for drivers and staff working with vulnerable passengers in the taxi or private hire trade. The following safeguarding principles should be embedded into driver working practice:

- Drivers must carry photo ID at all times, and wear it in accordance with the conditions of licence.
- A vulnerable passenger must not be transported in the front passenger seat of the vehicle.

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- The driver / operator must confirm that appropriate provision has been made for the vulnerable person prior to accepting the booking or commencing the journey. This does not necessarily mean that the driver / operator is responsible for the provision of appropriate measures, however if appropriate measures are not in place then the driver / operator must not undertake the journey.
- When making a journey with vulnerable passengers, photo-identification should be produced to the carer responsible for the vulnerable person. If necessary, the driver should obtain a record of the carer's contact details if there is no chaperone.
- If a vulnerable passenger is refused service a responsible person should be informed so that alternative arrangements can be made. For example, this situation may arise if the customer has an assistance dog and the driver has a medical exemption granted by the council.
- Drivers should always ask if a vulnerable passenger needs help, and should not make assumptions.
- A log should be maintained by drivers when a service has been provided to a vulnerable passenger including the details of any incidents occurring / actions taken or refusals of service.
- Drivers and operators must remain alert to issues around the safeguarding of children and vulnerable adults. If a driver/operator is concerned about the safety, welfare or behaviour of a vulnerable person, they should report this to the police by telephoning 101 (or in appropriate cases by calling 999).
- If a driver/operator is concerned about someone else's conduct, they should report their concerns to the council's licensing department (0121-569 6655), Police (101) or Crimestoppers (0800 555111). In the case of an emergency you should ring the Police on 999.

**These following standards are equally applicable when working with vulnerable and non-vulnerable passengers.**

Drivers must remain professional at all times and should not:

- Touch a person inappropriately.
- Make offensive or inappropriate comments (such as the use of swearing or sexualised or discriminatory language).
- Behave in a way that may make a passenger feel intimidated or threatened.
- Attempt to misuse personal details obtained via the business about a person.

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## 2.10 SANDWELL MBC LICENSED DRIVER DRESS CODE

The purpose of a driver's dress code is to seek a standard of dress that provides a positive image of the hackney carriage and private hire trade in Sandwell to enhance a professional image of licensed drivers and ensure that public and driver safety is not compromised.

### Acceptable Standard of Dress

All clothing worn by the driver must be clean and in good condition, and the driver must have good standards of personal hygiene.

### Footwear

Footwear for all drivers shall fit around the heel of the foot. Open backed shoes i.e. Flip Flops, are not acceptable.

### Unacceptable Standard of Dress

The following are deemed to be unacceptable:

- (a) Clothing that is not kept in a clean condition, free from holes and rips.
- (b) Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend.
- (c) Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel.
- (d) Drivers not having either the top or bottom half of their bodies suitably clothed.
- (e) The wearing of hoods or other clothing that obscures the driver's vision or their identity.

### Corporate ID

All private hire drivers must wear a corporate badge or corporate logo endorsed clothing displaying the company name of the Private Hire Operator through whom they are working.

This policy also applies to any hackney carriage drivers who are working through a Sandwell Private Hire Operator.

## 2.11 CRITERIA FOR APPLICANTS AND LICENCE HOLDERS

Listed below are the circumstances under which the Council will **normally** refuse to grant you a licence, or take action in respect of an existing licence.

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If you are unsure whether your application will be affected by any convictions or other matters you may have, a member of the licensing team will be pleased to advise you.

## 2.12 PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS

***We will normally refuse to grant a licence, renew a licence, or take action in relation to an existing licence, if:***

- You are a new applicant and have held a full driving licence for less than 2 years, or are under 21 years of age. (Driving entitlement earned in countries with exchange agreements with the UK is also acceptable providing the licence has been exchanged for a UK driving licence).
- You have been disqualified from driving, and have not held your full driving licence for at least 12 months since the disqualification expired.
- You have not successfully completed all aspects of the suitability test. If you fail the suitability test three times we will refuse to grant your application. You will not normally be able to reapply within 12 months of the date of your last unsuccessful test.
- You have not successfully completed all aspects of the Hackney Carriage Driver's Knowledge test. If you fail the Knowledge Test three times we will refuse to grant your application. You will not normally be able to reapply within 12 months of the date of your last unsuccessful test. (This only applies to applicants for a Hackney Carriage Driver's Licence or Dual Licence).
- You have not passed the required driving assessment carried out by the Council's nominated provider.
- You have not passed the Council's medical examination undertaken by the nominated provider.
- You have not successfully completed the Council's Equality and Disability Awareness Training.
- You have not successfully completed the Council's CSE Awareness & Safeguarding Training.
- You have previously been a licence holder and that licence has been revoked during the past 12 months.
- You have previously had an application for a licence refused within the last 12 months.
- Your application for a licence has not been successfully completed within 12 months of the date your application was received. In such circumstances we will deem that the applicant has withdrawn the application to be licensed and any future application will require a new fee and the entire process to be completed again. (Upon request the applicant will receive a refund of any element of the licensing fee that has not been spent during their individual application process. No refund will be provided for third party costs i.e. DVLA check and DBS check).

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- You have exhibited behaviour which, in the opinion of the authority, is inappropriate to a licence holder and amounts to reasonable cause to show that you are not a fit and proper person to hold a driver's licence.
- The Determination of Matters Policy Guidelines contained in **Section 7** of this Handbook apply to you.

**PLEASE NOTE: The Provisions of the Rehabilitation of Offenders Act 1974 do not apply to applicants for Private Hire and Hackney Carriage Driver's licences. Therefore all convictions/cautions, reprimands, conditional discharges, bind-overs and fixed penalties must be declared to the Licensing Office at the time of application.**

#### **Serious past convictions – Existing licence holders**

As included in the Determination of Matters Policy Guidelines, existing licence holders who committed a serious offence in the past which has previously been determined by the Committee or officers or Court, whereupon if they were a new applicant would not be granted a licence, will be brought before the committee, following the implementation of the policy, to consider whether or not their licence should be revoked. The committee will consider each case on its merits and take into account the length of time that has elapsed since the conviction and the drivers conduct and the length of time the licence holder has held a licence.

#### **Past convictions – Existing licence holders**

Existing licence holders who committed an offence in the past, other than those referred to in the above paragraph and specified in the Determination of Matters Policy Guidelines, which has previously been determined by the Committee or officers or Court, whereupon if they were being determined after the implementation of the policy would expect an alternative outcome, will be brought before the committee, upon receipt of their application for a renewal, to consider whether or not their licence should be suspended for a longer period of time or if the licence should be revoked. The committee will consider each case on its merits and take into account the length of time that has elapsed since the conviction and the drivers conduct and the length of time the licence holder has held a licence.

## **2.13 ALL DRIVERS LICENCES**

All applicants for a licence and all existing licence holders must comply with the following requirements:

- On expiry of a licence, identification badges must be returned to the Licensing Office within 7 days.
- If a licence has been suspended or revoked the identification badges must be returned to the Licensing Office immediately.
- Any change in medical condition which affects the driver's ability to drive safely must be reported to the Licensing Office within one working day.

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- Any convictions, fixed penalties, cautions, reprimands etc. must be reported in writing within 7 days or 48 hours for sexual, dishonesty, violence or motoring offences. This also includes any allegations currently under investigation by the Police or any other Enforcement Agency.
- Whether charged or not the driver must report any arrest and release within 48 hours.
- An arrest for any sexual offence, any offence involving dishonesty or violence and any motoring offence will result in the review by the Licensing Sub Committee of the licence holder's suitability to continue to hold a licence.
- Any change of address must be reported within 3 days.
- Any change of operator must be reported within 3 days.
- Any accidents involving a licensed vehicle must be reported within 72 hours.
- Any driver who will not be working for a period in excess of 4 weeks should return their badges to the Licensing Office until such time that they are ready to start work again.
- All applicants and licence holders must comply with any reasonable request from an authorised officer or Police Officer.
- **All** Private Hire and Hackney Carriage Drivers have a duty to carry guide, hearing and other assistance dogs accompanying disabled people, and do so without additional charge. The dog must be allowed to remain with the passenger. The **only** exception to this rule is where the driver provides medical evidence in support of an application for an Exemption Certificate.
- Any discrimination in relation to disabled passengers is unacceptable. Discrimination may be considered as behaviour that is inappropriate to a licence holder and amounts to reasonable cause to show that you are not a fit proper person to hold a driver's licence. The matter will be considered by the Licensing Sub Committee and may result in action being taken in relation to your licence.
- Driver licence identification badges will not be issued to a driver until the driver has produced appropriate insurance to the authority for the licensed vehicle they intend to drive.

***We will normally suspend, revoke or refuse to renew your licence if:***

- You are in breach of any conditions of your licence during its lifetime.
- You exhibit behaviour which, in the opinion of the Authority, is inappropriate to a licence holder and amounts to reasonable cause to show that you are not a fit and proper person to hold a driver's licence.

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- Any of the criteria outlined for refusal of a licence, apply to the licence holder after the grant of a licence.
- You have carried out, or have caused to be carried out a contract when either the driver, or vehicle, or both, were not correctly licensed, or insured.

**If your licence is refused or revoked any future application for a licence will be treated as a new application and you will be required to complete all the required tests, checks and training again.**

**If you allow your licence to expire before submitting a further application for a licence, and your licence has expired for more than 14 days, any future application for a licence will be treated as a new application and you will be required to complete all the required tests, checks and training again before a new licence can be issued. A licence may be renewed after the 14 day period if there are exceptional circumstances that can be attributed to the applicant or the Licensing authority.**

## **2.14 Private Hire Driver Conditions of Licence**

This Licence is granted subject to the Local Government (Miscellaneous Provisions) Act 1976 and in addition, the following conditions:

### **2.14.1 DRIVER LICENCE**

- a) The licence holder must not assign or in any way part with the benefit of the licence which is personal to the licensee.
- b) The licence holder shall not ply for hire under any circumstances.

### **2.14.2 DRIVER BADGE**

- a) The licence holder must at all times, when driving a licensed vehicle for hire or reward, wear the driver's badge issued by the Council on a prominent visible place on the outer clothing. An additional badge is also issued which must be displayed in the vehicle at all times when acting as a Private Hire Driver.
- b) The driver's identification badges remain the property of the Council. Upon expiry of the licence and badges (whether application to renew has been made or not) the badges must be returned to the Licensing Office within 7 days of expiry or other such time as the Council may specify.
- c) The badges must be returned to the Licensing Office immediately if the licence is suspended or revoked.

### **2.14.3 CONDUCT OF DRIVER**

- a) The licence holder must dress in accordance with the Sandwell MBC Licensed Driver Dress Code.

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- b)** The licence holder must comply with the Sandwell MBC Code of Conduct in relation to working with vulnerable passengers.
- c)** The licence holder must behave in a civil and orderly manner and comply with all reasonable requirements of any person hiring or being conveyed in the vehicle.
- d)** The licence holder must afford all reasonable assistance with passenger luggage as may be required. At the conclusion of the journey the licence holder must similarly offer all reasonable assistance to passengers leaving the vehicle and assist them with luggage or any disability aids or wheelchair.
- e)** Particular care must be taken with unaccompanied children and vulnerable adults. Licence holders must remain alert to safeguarding matters related to children and vulnerable adults. Licence holders should ensure that children and vulnerable adults leave the vehicle directly onto the kerb and immediately outside their destination (if it is safe and legal to do so).
- f)** The licence holder must take all reasonable steps to ensure the safety of passengers entering or conveyed in or alighting from the vehicle, especially those passengers with a disability.
- g)** The licence holder must not smoke tobacco or like substance in the vehicle at any time as provided by the Health Act 2006. Similarly the use of e-cigarettes or vaping is prohibited in the vehicle.
- h)** The licence holder must not, without the express consent of the hirer, drink or eat in the vehicle (water may be drunk) or play any radio or sound reproducing instrument or equipment in the vehicle other than for the sending or receiving messages in connection with the operation of the vehicle. It is for the driver to determine if he/she wishes to allow passengers to eat or drink in the vehicle.
- i)** The driver must at all times when driving a licensed vehicle ensure that such vehicle is maintained in a roadworthy and clean condition.
- j)** The driver of a licensed vehicle must ensure that none of the identification plates / window stickers / signs / notices that are required to be displayed on the vehicle become concealed from public view or be so damaged or defaced that any figure or material particular is rendered illegible.
- k)** The driver of a private hire vehicle must if he/she is aware that the vehicle has been hired to be in attendance at an appointed time and place or he/she has otherwise been instructed by the operator or proprietor of the vehicle to be in attendance at an appointed time and place punctually attend at the appointed time and place unless delayed or prevented by sufficient cause.
- l)** The use of radio scanner equipment is prohibited.
- m)** The driver of a wheelchair accessible vehicle is required to hold a Wheelchair Assessment Certificate from the Driving & Vehicle Standards Agency (DVSA) or the Council's nominated Training Provider.
- n)** Drivers must undertake an inspection of any vehicle that they are driving whilst working as a private hire driver. This inspection must be undertaken at least weekly and before the first carriage of fare paying

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passengers in the vehicle whilst it is being driven by the driver. The checks to be carried out by the driver must include all vehicle maintenance items listed in the annex to the Highway Code entitled 'vehicle maintenance, safety and security'. In addition, a check must be made to ensure that all plates, signage and notices that are required by Sandwell MBC licensing conditions are appropriately fixed / attached to the vehicle. A record must be made by the driver to confirm that the checks have been undertaken; this record must be available for inspection by an authorised officer of the council.

**o)** The Licence holder shall ensure that the Private Hire and Hackney Carriage Licensing Policy – “The Handbook” is complied with in every respect.

## 2.15 FARES AND FARECARDS

**a)** The driver of a **private hire vehicle** must ensure that a notice is visibly displayed for the benefit of passengers to the effect that in the absence of a published fare scale, the fare should be agreed between passenger(s) and driver before commencement of the journey. When a fare scale is used that fare scale must be displayed and must be a similar size to the fare cards carried by Hackney Carriages and must give an accurate reflection of the charge, including any specific additions (i.e. Bank Holiday and after midnight loading) the customer may be expected to pay.

**b)** The driver must not, if driving a licensed vehicle fitted with a taximeter, cause the fare recorded thereon to be cancelled or concealed until the hirer has had the opportunity of examining it and has paid the fare.

**c)** The driver must not demand from any hirer of a **private hire vehicle** a fare in excess of any previously agreed for that hiring between the hirer and the operator or if the vehicle is fitted with a taximeter and there has been no previous agreement as to the fare, the fare shown on the face of the taximeter.

**d)** The driver must, if requested by the hirer, provide a written receipt for the fare paid, such receipt to bear the name and address of the proprietor of the vehicle together with the badge number of the driver.

## 2.16 PASSENGERS

**a)** The driver must not cause or suffer or permit to be conveyed in a licensed vehicle a greater number of persons exclusive of the driver than the number of persons specified in the licence issued in respect of that licensed vehicle. In addition the driver must ensure that seat belt legislation is complied with in respect of all children conveyed in the vehicle.

**b)** The driver must not allow to be conveyed in the front of a licensed vehicle:

- more than one person unless the vehicle is manufactured to carry two front seat passengers and seat belts are fitted for both passengers, or

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- any person between the ages of 10 and 18 years old, unless the passenger is part of a group that includes at least one person over the age of 18, or all other passenger seats in the vehicle are occupied by persons under the age of 18.

c) The driver must not, without the consent of the hirer of the vehicle, convey or permit to be conveyed any other person in that vehicle.

d) The driver must provide all reasonable assistance to passengers and especially those with a disability. The Equality Act 2010 places the following duties on licensed drivers:

## 2.17 Duty to assist passengers in Wheelchairs

S.165 of the Equality Act 2010 places a duty on drivers of designated taxis or private hire vehicles, unless an exemption certificate has been issued under S.166 of the Equality Act 2010, to:

- Carry the passenger while in the wheelchair;
- Not to make any additional charge for doing so;
- If the passenger chooses to sit in a passenger seat to carry the wheelchair;
- To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- To give the passenger such mobility assistance as is reasonably required.

## 2.18 Duty to carry guide dogs and assistance dogs

Under the Equality Act 2010, the driver must not fail or refuse to carry out a booking by or on behalf of a person with disabilities who is accompanied by an 'assistance dog' unless the driver has a Medical Exemption granted by the Licensing Authority and is displaying the Exemption Certificate in the approved manner or in the vehicle.

Any animal belonging to or in the custody of any passenger should remain with that passenger and be conveyed in the front or rear of the vehicle.

Drivers are advised to have a blanket / towel which is kept in the boot of the licensed vehicle to be used where he/she may have concerns about excess dog hair being left in the vehicle.

## 2.19 FOUND PROPERTY

The driver shall ensure that the vehicle is searched at the end of every hiring to ensure that property has not been left behind by the passenger. If the driver discovers property left in the vehicle, they must make

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every attempt to immediately return it to the hirer. If this is not possible the driver must inform their Operator that they have the property in their possession. If the Operator does not hold any contact details for the hirer, the property must be immediately handed-in at the nearest Police Station.

## 2.20 MEDICAL CONDITION(S)

- a. In the case of a medical condition that affects the licence holder's ability to drive safely, the licence holder must stop driving immediately and report the matter to the Licensing Office within one working day.
- b. The licence holder will successfully complete a medical examination on a 3 yearly basis. On attaining the age of 65, the licence holder shall complete the medical on an annual basis. Certain medical conditions may result in the Medical Officer requiring the licence holder to undergo more frequent examinations, at the licence holder's expense.

## 2.21 CONVICTIONS, CAUTIONS, ARREST ETC.

The licence holder must notify the Licensing Office **in writing within 7 days (48 hours for sexual, dishonesty, violence or motoring convictions or any arrest for whatever reason)** providing full details of any conviction, bind over, caution, warning, reprimand or arrest for any matter (whether or not charged) imposed on him / her during the period of the licence. **An arrest for any sexual offence, any offence involving dishonesty or violence and any motoring offence will result in the review by the Licensing Sub Committee of the licence holders suitability to continue to hold a licence.**

**What should be reported:**

- Any conviction (criminal or driving matter);
- Any caution (issued by the Police or any other agency);
- Issue of any Magistrates Court summonses against you;
- Issue of any Fixed Penalty Notice (FPN), or Notice of Intended Prosecution (NIP) for any matter;
- Any harassment or other form of warning or order within the criminal law including anti-social behaviour orders or similar;
- Arrest for any offence (whether or not charged).
- Any acquittal following a criminal case heard by a court.

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## 2.22 Fixed Penalty Notices

The licence holder must notify the Licensing Office in writing of any Fixed Penalty Notice (FPN) or Notice of Intended Prosecution (NIP) within **7 days of the receipt of such a notice**. The notice must be produced to the Licensing Office. The licence holder must subsequently produce his/her driving licence to the Licensing Office, together with any court, fixed penalty office, or DVLA correspondence immediately following receipt of confirmation that the endorsement has been placed on the drivers licence records, or in any case **within 8 weeks of the date of the original offence**. An on-line DVLA licence check will be carried out by the Licensing Office.

This includes all motoring offences – whether endorsable or not and requirements to attend a Speed Awareness Course. This means that licence holders are required to notify the Licensing Office if they opt to attend a speed awareness course rather than have their licence endorsed.

### Arrest for any Offence

Whether charged or not the licence holder must notify the Licensing Office within **48 hours** of their arrest for an alleged offence(s). **An arrest for any sexual offence, any offence involving dishonesty or violence and any motoring offence will result in the review of the licence holders suitability to hold a licence.**

## 2.23 DISCLOSURE AND BARRING SERVICE ONLINE UPDATE SERVICE

All licence holders must subscribe to the Disclosure and Barring Service Online Update Service. Any costs associated with maintaining this subscription must be met by the licence holder.

The driver must give permission for the council to undertake checks of their DBS status should the council consider it necessary to do so. The council will use the update service to monitor the criminal record of drivers.

**In the event that a driver is not permitted to subscribe to the update service, they will be subject to an enhanced DBS check every 6 (six) months with all associated costs funded by the driver.**

## 2.24 CHANGE OF OPERATOR

The licence holder must notify the Licensing Office **in writing within 3 days** of any change of operator through whom he/she works.

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## 2.25 CHANGE OF ADDRESS

The licence holder must notify the Licensing Office *in writing within 3 days* of any change of his/her address taking place during the period of the licence, whether permanent or temporary.

## 2.26 CUSTOMER AND OTHER PERSONAL INFORMATION

Drivers must ensure that any personal information obtained during the course of their business is stored securely, and only retained for as long as is absolutely necessary. Access to this information must be restricted to those that will use it for the purpose for which it has been collected.

Personal information must not be used for any other purpose other than that for which it was collected without the express permission of the individual to which the information relates.

For example, telephone numbers provided by customers so that they can be alerted / updated by SMS text message with regard to a booking they have made must only be used for this purpose. The information must not be retained by the driver after the text message has been sent, and / or used for any other purpose (such as unsolicited marketing calls

## 2.27 OCCASIONS WHEN LICENSED DRIVERS ARE NOT UTILISING THEIR LICENSES FOR AN EXTENDED PERIOD OF TIME

If circumstances are such that a licensed driver does not intend to work as a private hire driver in Sandwell for a period exceeding 4 weeks, they must surrender their licence to the Licensing Office. The identification badges and licence must be surrendered as soon as it becomes clear that the driver will not be working for a period exceeding this time.

Once the Licensing Office is in receipt of the badges and licence, the licence will be suspended until such time as the driver is in a position to commence work again. The council reserve the right to undertake any checks in relation to the driver that may be required to ensure that the driver remains a fit and proper person to hold a licence. Such checks may include a medical examination, DBS disclosure and checks with other agencies. **Where an applicant has spent three or more continuous months outside the UK once their licence has been issued, that they should provide criminal records information from that country or a "Certificate of Good Character" on their return. This can be obtained by visiting the following website - <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>**

Examples of circumstances that may require the surrender of the licence include:

- The driver intends to spend an extended period of time outside of the UK.

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- The driver is ill or unable to work for some other reason.

**This is not an exhaustive list.**

## **2.28 DUTY TO COOPERATE ON REGULATORY MATTERS**

Licensed drivers must co-operate with authorised officers of the council and Police Officers in all matters relating to the regulation of the licensed vehicle trade. However nothing in this condition affects the driver's statutory protection afforded by other legislation. Any driver who fails to comply with any reasonable request or obstructs an authorised officer when carrying out their duties may be liable to prosecution.

## **2.29 APPEARANCE OF DRIVER**

If a licensed driver alters their appearance significantly (for example by growing / removing a beard or moustache, changing hair colour etc.), they must attend the Licensing Office at the earliest opportunity to return their existing Licence Identification badges and obtain replacement Licence Identification badges.

## **2.30 ACCIDENTS**

If at any time the vehicle is involved in an accident, however minor, the driver must inform the Licensing Office of this fact as soon as possible and in any event within 1 working day (by telephone or email). An accident report form (available from the Licensing Office) must then be completed and submitted to the Licensing Office within 72 hours of the accident occurring (except in exceptional circumstances when the report must be made as soon as possible after the 72 hours deadline – an example of an exceptional circumstance would be that the driver is incapacitated due to the accident and physically unable to make the notification).

## **2.31 NOTES**

- a) These conditions should be read in conjunction with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976.
- b) Any person who commits an offence against any of the provisions of the Act of 1976 pursuant to Section 76 may be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to such other penalty as expressly provided in the Act. The driver should ensure compliance at all times.
- c) The use of a vehicle not licensed as a private hire vehicle to fulfil any private hire booking is prohibited even if no fare is charged for the journey or irrespective of when, how and to whom any fare is payable.

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**d)** If at any time the conduct of the driver leads to concerns by the Council as to whether they remain a fit and proper person to hold a licence, the Council will investigate the conduct and if satisfied that the driver is no longer a fit and proper person the driver licence may be suspended and subsequently revoked.

**e)** Failure to declare any conviction within the required timescale together with the nature of the conviction will be taken into account in deciding whether a licence holder is a fit and proper person to hold a licence. This may result in the suspension, revocation, or refusal to renew the private hire driver licence.

**f) ANY INFRINGEMENT OF THE LICENSING CONDITIONS COULD LEAD TO SUSPENSION OR REVOCATION OF THE LICENCE.**

**g) ANY PERSON AGGRIEVED BY ANY CONDITION SPECIFIED IN THE LICENCE MAY APPEAL TO A MAGISTRATES' COURT WITHIN 21 DAYS OF ISSUE.**

## **2.32 HACKNEY CARRIAGE DRIVER'S LICENCES**

### **BYELAWS WITH RESPECT TO HACKNEY CARRIAGES IN THE METROPOLITAN BOROUGH OF SANDWELL**

**Byelaws made under Section 68 of the Town Police Clauses Act 1847, and section 171 of the Public Health Act, 1875, by Metropolitan Borough of Sandwell with respect to hackney carriages in the Metropolitan Borough of Sandwell.**

#### **INTERPRETATION**

1) Throughout these byelaws "the Council" means the Council of the Metropolitan Borough of Sandwell and "the District" means the Metropolitan Borough of Sandwell.

**Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence, shall be displayed.**

2) (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto;

(b) A proprietor or driver of a hackney carriage shall:

not wilfully or negligently cause or suffer any such number to be concealed from public view whilst the carriage is standing or plying for hire;

(i) not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

(ii) Deleted by Home Office

**Provisions regulating how hackney carriages are to be furnished or provided**

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(3) The proprietor of a hackney carriage shall:

- (a) Provide sufficient means by which any person in the carriage may communicate with the driver;
- (b) cause the roof or covering to be kept water-tight;
- (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
- (d) cause the seats to be properly cushioned or covered;
- (e) cause the floor to be provided with a proper carpet mat or other suitable covering;
- (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
- (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
- (h) provide an efficient fire extinguisher, which shall be carried in such position as to be readily available for use;
- (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.

(4) The proprietor of a hackney carriage shall cause any taximeter with which the carriage is provided to be so constructed, attached, and maintained as to comply with the following requirements, that is to say,

- (a) the taximeter shall be fitted with a key, flag or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" with letters at least two inches in height to appear on the face of the taximeter;
- (b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance in pursuance of the byelaw in that behalf;
- (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- (e) the taximeter shall be so placed so that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring;

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(f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

**Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges.**

(5) The driver of a hackney carriage provided with a taximeter shall:

(a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaws in that behalf locked in the position in which no fare is recorded on the face of the taximeter;

(b) as soon as the carriage is hired by distance, and before beginning the journey, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring;

(c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act, 1972, and also at any other time at the request of the hirer.

(6) A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.

(7) The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:

(a) proceed with reasonable speed to one of the stands fixed by the byelaw in that behalf;

(b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;

(c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction;

(d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.

(8) A proprietor or driver of a hackney carriage, when standing or plying for hire shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the service of any other person for the purpose.

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(9) The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

(10) The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.

(11) The driver of a hackney carriage when hired to drive any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.

(12) A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.

(13) If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.

(14) The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage.

(a) convey a reasonable quantity of luggage;

(b) afford reasonable assistance in loading and unloading;

(c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

**Provisions fixing the stands of hackney carriages.**

(15) \* **Please see attached list of Hackney Carriage Stands** (not part of the byelaw).

**Provisions fixing the rates or fares to be paid for hackney carriages within the district, and securing the due publication of such fares.**

(16) The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the following table, the rate or fare being calculated by distance unless the hirer express at the commencement of the hiring his desire to engage by time.

Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the following table which it may not be possible to record on the face of the taximeter.

\* **Please see attached current tariff of fares** (not part of the byelaw)

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(17) (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by the byelaws in that behalf to be exhibited inside the carriage, in clearly distinguishable letters and figures.

(b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

**Provisions securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof;**

(18) The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.

(19) The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him,

(a) carry it as soon as possible and in any event within 24 hours, if not sooner claimed by or on behalf of its owner, to any Police Station;

(b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to 5 new pence in the pound of its estimated value (or the fare for the distance from the place of finding to the nearest Police Station, whichever be the greater) but not more than five pounds.

(20) Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding twenty pounds and in the case of a continuing offence to a further fine not exceeding five pounds for each day during which the offence continues after conviction therefor.

(21) The byelaws with respect to hackney carriages in the County Borough of Warley made by the Warley County Borough Council on the 15<sup>th</sup> day of June, 1973, and confirmed by the Secretary of State on the 15<sup>th</sup> day of August, 1973, are hereby revoked.

**The common Seal of the Borough Council of Sandwell was hereunto affixed this 15th day of April, 1976 in the presence of:**

**C. GREEN**

***Director of Administration and Legal Services***

**The foregoing byelaws with the exception of byelaw 2(b) (iii) are hereby confirmed by the Secretary of State and shall come into operation on the 1<sup>st</sup> day of October 1976.**

**Signed by authority of the**

**Secretary of State**

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Home Office  
Whitehall

**R.F.D.SHUFFREY**  
*An Assistant Under Secretary of State*

20<sup>th</sup> August 1976

\* Please note: the provisions for appointing stands for hackney carriages and for fixing the rates or fares have been superseded by the Council making use of the Local Government (Miscellaneous Provisions) Act 1976 sections 63 and 65 respectively, and therefore, no longer form part of the byelaws, but for the stands which were created by the original byelaw.

Please note also that paragraph 11 of the byelaws has been replaced by the provisions of Section 69 of the Local Government (Miscellaneous Provisions) Act 1976 which states

(1) No person being the driver of a hackney carriage vehicle licensed by the Council shall without reasonable cause unnecessarily prolong, in distance or in time, the journey for which the hackney carriage vehicle has been hired.

(2) If any person contravenes the provisions of this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **3. HACKNEY CARRIAGE & PRIVATE HIRE VEHICLE LICENCE**

**THIS SECTION OF THE POLICY HANDBOOK SHOULD BE READ IN CONJUNCTION WITH THE ADDITIONAL POLICY DOCUMENT ENTITLED 'SUPPLEMENTARY VEHICLE TESTING CRITERIA'.**

#### **3.1 MAKING A VEHICLE APPLICATION**

This section will provide all the information you will require to license a Hackney Carriage or Private Hire vehicle in Sandwell.

All Hackney Carriage and Private Hire vehicles in Sandwell must pass the Council's Vehicle Test before a licence can be issued.

Before you attend for your appointment at the Licensing Office, you must ensure that you bring the following items with you.

- The completed application form. Signed or stamped by the Licensed Operator you are going to work for. **From NEED TO ENTER DATE, the Licensing Authority will only accept applications for a 1 year vehicle licence.**
- The complete DVLA (V5) Vehicle Registration document (Log Book)\*
- A valid, original insurance document.

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- Your full, current driving licence issued by the DVLA.
- The current licence fee (A current fee schedule is available from the Licensing Office and available on our website).
- Your meter calibration certificate (Hackney Carriages only).
- If your vehicle has been converted to run on Liquefied Petroleum Gas (LPG) you must also produce a safety certificate issued within the last twelve months from a UKLPG approved installer.
- If your vehicle is fitted with a tail-lift you must also produce a LOLER safety inspection certificate issued within the last six months.
- Basic DBS Certificate that is less than one month old (see notes below) to be submitted with applications from DATE TO BE INSERTED if a company, to be submitted for all Directors/partners.

#### Basic DBS Certificate

If you have already submitted a valid DBS certificate as part of your driver application and you are signed up to the DBS update service, you will not be required to provide a basic DBS certificate. In the event that your DBS is not valid at the point of application, the vehicle application will be rejected. Should the certificate contain any convictions, they will be considered in line with the Private Hire and Hackney Carriage Determination of Matters Policy Guidelines which means the application may need to be referred to the Licensing Committee for determination. If the applicant is a company, a hearing may be held with one, some, or all of the individuals concerned. If a new partner or director joins the company, they will be required to provide taxi licensing with a new basic DBS certificate within one month of taking up this position.

If you forget any of the above items when you attend the Licensing Office to make your application, your application **may not** be accepted, and you may incur additional costs and delays.

#### IMPORTANT NOTICE

The Licensing Office cannot issue refunds under any circumstances.

#### VEHICLE KNOWLEDGE TEST

If you do not hold a drivers licence issued by Sandwell MBC, relevant to the type of vehicle licence you have applied for, you will be required to pass a vehicle knowledge test based on the law and licence conditions relating to the type of vehicle licence you have applied for.

You will only be allowed 3 attempts to pass the knowledge test. Failure to pass the knowledge test within 3 attempts will normally result in refusal to issue a licence. You will not normally be allowed to apply again for a vehicle licence until 12 months have passed since the last unsuccessful knowledge test.

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## 3.2 Log Books\*

You must produce the logbook (V5) for your vehicle, at the time of your appointment.

If the log book is **NOT** in the name of the applicant, or the applicant's name and/or address is recorded incorrectly, it will only be accepted by the Licensing Office if the applicant agrees to complete the change of keeper information and allows the document to be sent to the DVLA, Swansea.

In the case of brand new vehicles, (where there is no log book) the Licensing Office will accept formal documentation from the vehicle supplier, in place of the log book, if the following information is supplied:

- Registration number
- Make, model and colour
- Body type
- Registration date
- Chassis number
- Engine number
- Engine size
- Fuel type

Please note Sandwell MBC will only licence vehicles that meet the M1 vehicle standard therefore you must ensure that the vehicle categorisation displayed on the log-book is M1.

## 3.3 New Applications

If you are licensing a vehicle for the first time, there are a number of things you need to consider.

- Private Hire or Hackney Carriage?
- Is the vehicle suitable? (See pages 3.11 to 3.18 -Vehicle Criteria)
- Is the vehicle a 'Brand New' vehicle? (See page 3.7)
- Will the vehicle pass the test? (Also see additional policy document entitled 'Supplementary Vehicle Testing Criteria')

When you have chosen your vehicle, you should contact the Licensing Office to arrange an appointment to submit the application if not submitting online. If you are unsure about the suitability of your vehicle you should contact the Licensing Office for advice.

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It will not be necessary to purchase a vehicle before submitting it for approval.

When you submit the application, you will be given an appointment for the vehicle to be tested.\*

You should attend the garage appointment **on time** with the vehicle clean and tidy, and in a suitable condition for use as a Hackney Carriage or Private Hire Vehicle. If the interior, including boot area, or exterior of the vehicle are dirty the vehicle examiner may refuse to carry out the test and you will have to pay for the vehicle to be re-inspected

When the vehicle passes the test, you can use the drop-in service to be issued with your Hackney Carriage or Private Hire Vehicle plates and licence (subject to the application process being completed and the production of valid Private Hire/Hackney Carriage Insurance).

If the vehicle fails the test, you can use the drop-in service to book an appointment to have the vehicle retested. You may have to pay a retest fee before this appointment can be made.

\*If the vehicle is 'Brand New', the vehicle will undergo a visual inspection by Authorised Licensing Officers only.

### 3.4 Renewal Applications

The renewal of a license is the applicants responsibility. If you are making a renewal application, you will receive the following information approximately six weeks before the expiry of the licence.

- Notification letter, with a pre-booked appointment included.
- An application form.

The appointment includes both an office and a garage appointment. This means that you can make your application, pay the fee, have the vehicle tested and, subject to the vehicle passing the test, collect your new plates and licence, all in one visit.

If you cannot attend your pre-booked appointment at the time and date given, you should telephone the Licensing Office immediately to rearrange. Failure to do so may result in the Licensing Office being unable to offer you an alternative appointment before the expiry of your licence.

**You will not be allowed to renew your licence more than one month prior to its expiry.**

**IF YOU ARE LATE SUBMITTING YOUR RENEWAL APPLICATION, YOU WILL ONLY BE ABLE TO APPLY TO RENEW THE LICENCE IF YOU DO SO WITHIN 14 DAYS OF THE EXPIRY AND ONLY IN EXCEPTIONAL CIRCUMSTANCES. ANY APPLICATION SUBMITTED MORE THAN 14 DAYS AFTER THE EXPIRY OF THE PREVIOUS LICENCE WILL BE TREATED AS A NEW APPLICATION. THIS MAY MEAN THAT YOUR VEHICLE NO LONGER COMPLIES WITH COUNCIL POLICY THEREFORE IT IS ESSENTIAL THAT YOU RENEW YOUR LICENCE BEFORE IT EXPIRES.**

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## 3.5 Vehicle Testing

Vehicle testing is carried out at the Council’s Transport Depot in Waterfall Lane, Cradley Heath, on the same site as the Licensing Office. Some larger or specialist vehicles may be sent to another testing station if the Council’s facility is too small to safely examine them.

If you are licensing a vehicle for the first time, or your current licence is due for renewal, your vehicle will be subjected to a test. This test will be undertaken in accordance with the Supplementary Vehicle Testing Criteria.

There are three types of test, the details of which are listed below:

### Full Test

The full test lasts about 1 hour and includes a full MOT, together with a taxi test. The taxi test covers items such as the general condition of the vehicle both in terms of the vehicles bodywork and interior condition, possible accident damage and the examination of items such as the first aid kit and fire extinguisher.

### Interim Vehicle Check

Interim Vehicle Checks are designed to ensure that licensed vehicles are suitably maintained throughout the lifetime of their licence. The Interim Vehicle Check lasts about half an hour and includes the taxi test.

The number of Interim Vehicle Checks your vehicle will be subjected to are outlined in the table over the page. If your vehicle fails any of the tests or you fail to attend for your appointment and/or have failed to give 24 hours notice of being unable to attend, a further test fee will be required. If the application is submitted after the expiry of the licence, the vehicle will be subject to a full test.

	Brand New Vehicle	Vehicle under 5 years old	Vehicle over 5 years old
Application	Licensing Officer check	Full test	Full Test
4 months			Interim check
6 months	Interim check	Interim check	
8 months			Interim check
Renewal	Full Test	Full Test	Full test

\*For the purposes of testing a “Brand New” vehicle shall mean any vehicle that is the current registration mark and has travelled less than 1000 miles.

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As you can see from the above table, the age of your vehicle will affect how often your vehicle is checked and the amount of money you will have to pay for your licence.

**You should ensure that you attend for your scheduled Interim Vehicle Checks, as failure to do so may result in your Licence being suspended.**

**VEHICLE EXAMINATION CERTIFICATES SHALL ONLY BE VALID FOR A PERIOD OF TWO WEEKS. IF THE VEHICLE IS NOT LICENSED DURING THAT PERIOD IT WILL BE SUBJECT TO ANOTHER TEST AT THE COST OF THE APPLICANT OR LICENCE HOLDER BEFORE THE LICENCE CAN BE ISSUED.**

**If a licensed vehicle fails a vehicle inspection at Waterfall Lane due to defects which warrant the licence being suspended with immediate effect, the vehicle identification plates and window stickers must be immediately removed from the vehicle and returned to the Licensing Office before the vehicle leaves the testing station.**

**Likewise if a licensed vehicle is inspected by an authorised officer and that officer deems the vehicle to have serious defects which warrant an immediate suspension of the licence. The vehicle identification plates and window stickers must be immediately removed from the vehicle and handed to the authorised officer.**

## **3.6 Buying a Vehicle**

Certain vehicles are unsuitable to be used as Hackney Carriages or Private Hire Vehicles.

The Council has adopted criteria that all vehicles licensed in Sandwell have to meet.

**You should read the “criteria for applicants” section of this booklet, located on pages 3.11 to 3.18 and the additional policy document entitled ‘Supplementary Vehicle Testing Criteria’, before buying a vehicle, to ensure that your chosen vehicle complies with the Council’s requirements.**

**If you are in any doubt as to the suitability of your chosen vehicle, please telephone the Licensing Office. We will be happy to give you advice before you make any financial outlay.**

Most car dealers will be happy to allow you to present the vehicle at the Licensing Office to ensure it is suitable, prior to purchase.

The Council cannot be held responsible for any costs you may incur as a result of purchasing a vehicle that is unsuitable for use as a Hackney Carriage or Private Hire Vehicle.

## **3.7 IMPROVEMENTS TO VEHICLE STANDARDS**

In order to improve the service offered to members of the public, the Council has agreed the following changes in Policy:

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### **Vehicle Identification -Hackney Carriages**

From 1 September 2015, the Council will only grant a hackney carriage licence if, to the satisfaction of the Licensing Manager or the Legal Manager, the vehicle is black in appearance. This policy only relates to new applications for a hackney carriage licence for non-purpose built hackney carriages i.e. van or MPV conversions. Existing Sandwell MBC licensed hackney carriages that are not black may still continue to be licensed providing the vehicle licence has not expired for more than 14 days and only in exceptional circumstances. Purpose built London-style hackney carriages can be any colour.

### **Vehicle Identification – Private Hire Vehicles**

From 1 September 2015, with the exception of Minibuses and Multi Purpose Vehicles (MPV's), the Council will grant a private hire vehicle licence for any colour vehicle. Minibuses and MPV type vehicles may be any colour apart from black. A licence will not be issued for a Minibus or MPV if the vehicle's paintwork could be mistaken for being black.

Any vehicle that is black in colour which has the appearance of a hackney carriage or in the opinion of the Licensing Manager or the Legal Manager could be mistaken for being a hackney carriage will not be licensed as a private hire vehicle by the authority.

### **Age Policy**

Applicants will be able to make an application for a vehicle of any age however the age of the vehicle will still determine the level of licence fee and the number of Interim Vehicle Checks that the vehicle will be subject to. (Further information on Interim Vehicle Checks is available on pages 3.6 and 3.7).

### **Window Stickers**

All Sandwell MBC licensed vehicles must display a self-adhesive sticker along the top edge of the window glass of each rear passenger door. The sticker will confirm that the vehicle is a licensed vehicle and that smoking is not allowed in the vehicle. The stickers must be displayed at all times that the vehicle is in use on the road (even if it is not being used for work).

### **Internal Vehicle Sign**

With effect from **DATE TO BE INSERTED**, all hackney carriage and private hire vehicles will be required to display a sign inside the licensed vehicle informing passengers how and who to make a complaint to – the sign to be provided by Sandwell MBC and to be visible at all times when the vehicle is available for hire and reward.

### **Roof Signs & Operator door signs.**

With effect from 1 October 2017, the council will recall all council supplied roof signs. The licensed operator will have the discretion to decide if vehicles working through their business are required to display an illuminated roof sign of the operator's choice. If using roof signs the operator must ensure that

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the roof sign displays, as a minimum, the name and telephone number of the Operator. The Operator base name must be displayed at the front of the roof sign and the telephone number on the rear of the roof sign. All letters and numbers must be at least 1 inch in height and clearly distinguishable.

If the operator decides not to use roof signs, the operator must ensure that all vehicles working through the base display door signs/stickers clearly identifying the name and telephone number of the company.

Limousines and Speciality/Novelty vehicles will be exempt from displaying company signage.

## 3.8 PRIVATE HIRE VEHICLE CRITERIA

**The Council licenses many different types of vehicle for Private Hire purposes. To be sure that your vehicle is suitable to be licensed as a Private Hire Vehicle in Sandwell, you should check it against the following criteria. In addition, you should ensure that the vehicle fulfils the criteria throughout the period it is licensed.**

### 3.8.1 Saloon Cars

a) All vehicles must be suitable in size, type and design for use as a Private Hire Vehicle. No Private Hire Vehicle can have more than 8 passenger seats. Authorised Officers of the Council will decide the number of passengers the vehicle is licensed to carry, using the following criteria:

- The number of opening doors.
- The rear passenger compartment dimensions.
- The access and exit routes from the vehicle.
- The number of passenger seats

b) The passenger compartment of the vehicle must be of a suitable standard to ensure that a passenger's journey is comfortable and safe. To ensure that this is the case, the vehicle must fulfil the following:

- All seats and carpets must be free from tears and holes. The interior of the vehicle must be kept clean and tidy at all times.
- All retractable windows function correctly and fully.
- The vehicle has forward facing seats only, except as mentioned below in the paragraph on page 3.14 relating to Small Minibuses and Multi-Purpose Vehicles (MPVs).
- The vehicle is accessible to all passengers, including the elderly.
- The vehicle is fully fitted with functioning seatbelts that comply with all legal requirements.

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- The vehicle must be a right hand drive (except in limousines, and speciality or novelty vehicles as mentioned below on pages 3.14 and 3.15).

c) **The exterior of the vehicle should promote a positive image of the Private Hire Fleet in Sandwell.** To ensure that this is the case, the vehicle must fulfil the following criteria:

- With effect from 1 September 2015, any vehicle which is subject of a new application for a Private Hire Vehicle licence may be any colour.
- The vehicle must be reasonably free of dents and scratches. The vehicle must be free from corrosion. Any accident damage must be repaired to a professional standard. For further guidance please see 'Supplementary Vehicle Testing Criteria'.
- The exterior of the vehicle must be kept clean and tidy at all times, including the registration plates and licence identification plates.

d) There are a number of other elements that you will have to satisfy in order to obtain a Private Hire Vehicle Licence. These are outlined below:

- The vehicle must be equipped with a suitable first aid kit and fire extinguisher and both must be permanently marked with the vehicle's registration number.
- The use (in emergencies only) of space-saver, run flat tyres or puncture repair kits for all vehicles that are manufactured and delivered with such tyres or kits as standard;
- In the case where a Liquefied Petroleum Gas (LPG) conversion is considered suitable, and the tank occupies the usual site of the spare wheel, the vehicle will be exempt from the requirement to carry a spare wheel (matching those fitted to the vehicle) or a manufacturers space-saver wheel, provided an appropriate and adequate tyre sealant is carried safely in the vehicle for emergencies. A written tyre contract may also be in force. The tyre contract should be available for inspection either at the Licensing Office, or on request by an Authorised Officer or a Police Officer;
- All other licensed vehicles must either carry a spare wheel matching those fitted to the vehicle and an appropriate means of changing the wheel OR there must be a current tyre contract in force;
- That Multi-Purpose Vehicles (MPVs) are only suitable for conversion to LPG if the tank is situated in the spare wheel doughnut, in licensed vehicles.
- The vehicle must have a valid vehicle excise licence (road tax).
- The boot is empty, tidy, clean and capable of carrying luggage.
- The vehicle must not be of such a design or appearance as to lead any person to believe that it is a Hackney Carriage.

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- The vehicle must not have tinted or blacked out windows, which were fitted after manufacture. Tint film must not be applied to any of the windows of the vehicle.
- The vehicle is covered by a policy of insurance incorporating cover for use as a private hire vehicle and covering passenger indemnity.
- NB. The Licensing Office will not accept copied or faxed insurance documents as proof of valid insurance cover. Only original documents issued by the broker/insurance company will be accepted. The Licensing Office will accept electronic copies of insurance certificates or cover notes if the document is in an acceptable format and has been emailed directly to the Licensing Office by the broker/insurance company.
- In the case of any driver and/or any vehicle insurance cover notes or certificates the Licensing Office must receive written evidence that the driver and vehicle are covered on the policy. Written confirmation may be by insurance schedule or email confirmation from the broker/insurance company.
- The vehicle must pass any vehicle examination test carried out on behalf of the Authority.
- The applicant must produce all documents/information requested by the Licensing Office.
- The full fee must be paid.
- If the vehicle is a LPG gas conversion, any application for a Private Hire vehicle licence must be accompanied with a LPG safety certificate or annual service report issued within the previous 12 months. Only safety certificates or annual service reports issued by UKLPG Approved Autogas Installers will be accepted.
- In the case of wheel chair accessible vehicles, the vehicle must be equipped with suitable wheel chair restraints. Any detachable wheel chair restraints must be permanently marked with the vehicle's registration number.
- In the case of vehicles that do not have integrated wheel chair ramps, the ramps must be permanently marked with the vehicle's registration number.

Once the vehicle is licensed you are responsible for the following:

- The Licence holder must not be in breach of any of the conditions of the licence during its lifetime.
- The driver of the vehicle must be a licensed Sandwell Private Hire Driver and must be identified to the Licensing Office.
- The vehicle must be operated through a Sandwell licensed Private Hire Operator.
- The applicant must successfully complete all parts of the knowledge test.

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In addition to the above criteria, certain types of vehicles have additional or separate requirements. These are listed below:

### 3.8.2 Minibuses and Multi-Purpose Vehicles (MPVs)

- From 1 September 2015, Minibuses and MPVs can be any colour apart from black. A new licence will not be issued for a Minibus or MPV if the vehicle's paintwork could be mistaken for being black. The law requires Private Hire Vehicles to be clearly distinguishable from Hackney Carriages. If the public may be mistaken for believing that the vehicle is a hackney carriage a licence will not be issued.
- Any seatbelts fitted to the vehicle must meet the appropriate vehicle inspectorate standard.
- Vehicles with M1 type approval, which have a rear facing second row (of three rows of seats) fitted at manufacture and which have three point seat belts on all seats at manufacture, may be licensed as private hire vehicles.
- In order to ensure that the vehicle does not appear to be a hackney carriage the vehicle must not have a bulkhead behind the first row of seats and if the second row of seats are rear facing they must not fold upright.
- In the case of wheel chair accessible vehicles, if the vehicle does not have integrated wheel chair ramps, the ramps must be permanently marked with the vehicle's registration number.
- In the case of wheel chair accessible vehicles, the vehicle must be equipped with suitable wheel chair restraints. Any detachable wheel chair restraints must be permanently marked with the vehicle's registration number.

### 3.8.3 Limousines

The definition of a limousine for the purposes of Licensing in Sandwell is "any vehicle manufactured as a stretch vehicle, such as a Ford Lincoln, Volvo, Mercedes or equivalent, or any other vehicle deemed to be a limousine by the Licensing Manager or the Legal Manager". The criteria for these vehicles is the same as for saloon cars, however:

- Side facing and rear facing seats will be permitted, subject to adequate seatbelt installations being in place.
- Left-hand drive Limousines will be acceptable.

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- The vehicle may be black in colour if the Licensing Manager or the Legal Manager is satisfied that the vehicle could not be mistaken for being a hackney carriage.
- Tinted glass is permitted on all windows in the rear passenger compartment.
- The Licensing Manager or the Legal Manager will determine applications for Limousines and may refer the application to the Committee where issues around public safety are raised.

### 3.8.4 Speciality or Novelty Vehicles

The criteria for these vehicles shall be the same as saloon cars but the same exceptions applicable to Limousines shall also apply to Speciality or Novelty Vehicles. The Licensing Manager or the Legal Manager will determine applications for Speciality or Novelty Vehicles and may refer the application to the Committee where issues around public safety are raised.

### 3.8.5 All Vehicles

Sandwell Council requires that all licensed vehicles must reach at least M1 type approval safety standard. If documentation is not available to prove that a vehicle reaches this required standard, the vehicle must obtain a Single Vehicle Approval or Individual Vehicle Approval certificate from the Driver and Vehicle Standards Agency (D.V.S.A.).

**Sandwell Council will not license or re-license any vehicle that has been written off by an insurance company regardless of the category of write-off.**

## 3.9 HACKNEY CARRIAGE CRITERIA

**Hackney Carriage vehicles are specific vehicles which are approved by the Council. The current list of vehicles approved for Hackney Carriage purposes is available at the Licensing Office.**

**The Criteria for these vehicles is outlined below:**

a) All vehicles must be suitable in size, shape and design for use as a Hackney Carriage Vehicle. The maximum passenger seating capacity for the vehicle is 8. The number of passengers applicable for each vehicle type will be decided by Authorised Officers, using the following criteria:

- The number of opening doors.
- The rear passenger compartment dimensions.
- The access and exit routes from the vehicle.

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b) The passenger compartment of the vehicle must be of a suitable standard to ensure that a passenger's journey is comfortable and safe. To ensure that this is the case, the vehicle must fulfil the following:

- The vehicle must have side-loading wheelchair access. Vehicles with rear-loading wheelchair access are not acceptable.
- The vehicle is accessible to all passengers, including the elderly and passengers with disabilities.
- All seats and carpets must be free from tears and holes. The interior of the vehicle must be kept clean and tidy at all times.
- The vehicle is fully fitted with functioning seatbelts that comply with all legal requirements.
- All retractable windows function correctly and fully.
- The vehicle must be a right hand drive.

c) The exterior of the vehicle should promote a positive image of the Hackney Carriage Fleet in Sandwell. To ensure this is the case, the vehicle must fulfil the following criteria:

- With effect from 1 September 2015, Any non-purpose built van/MPV converted vehicle which is subject of a new application for a Hackney Carriage licence must be Black. Purpose-built London style hackney carriages can be any colour.
- The vehicle must be reasonably free of dents and scratches. The vehicle must be free from corrosion. Any accident damage must be repaired to a professional standard. For further guidance please see 'Supplementary Vehicle Testing Criteria'.
- The exterior of the vehicle must be kept clean and tidy at all times, including the registration plates and licence identification plates.

d) There are a number of other elements that you will have to satisfy in order to obtain a Hackney Carriage Licence. These are outlined below:

- The applicant must successfully complete all parts of the knowledge test.
- The vehicle must be equipped with a suitable first aid kit and fire extinguisher and both must be permanently marked with the vehicle's registration number.
- The vehicle must be equipped with suitable wheel chair restraints. Any detachable wheel chair restraints must be permanently marked with the vehicle's registration number.
- In the case of vehicles that do not have integrated wheel chair ramps, the ramps must be permanently marked with the vehicle's registration number.

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- the use (in emergencies only) of space-saver, run flat tyres or puncture repair kits for all vehicles that are manufactured and delivered with such tyres or kits as standard;
- If the vehicle is a LPG gas conversion, any application for a Hackney Carriage licence must be accompanied with a LPG safety certificate or annual service report issued within the previous 12 months. Only safety certificates or annual service reports issued by UKLPG Approved Autogas Installers will be accepted.
- in the case where an Liquefied Petroleum Gas (LPG) conversion is considered suitable, and the tank occupies the usual site of the spare wheel, that the vehicle be exempted from the requirement to carry a spare tyre matching those fitted to the vehicle, provided an alternative tyre or repair kit is carried safely on the vehicle for emergencies (without compromising luggage space), or a written tyre contract is in force. The tyre contract should be available for inspection either at the Licensing Office, or on request by an Authorised Officer or a Police Officer’;
- all other licensed vehicles must either carry a spare wheel matching those fitted to the vehicle and an appropriate means of changing the wheel OR there must be a current tyre contract in force;
- that Multi-Purpose Vehicles are only suitable for conversion to LPG if the tank is situated in the spare wheel doughnut, in licensed vehicles.
- The vehicle has a valid vehicle excise licence. (road tax)
- The boot is empty, tidy, clean and capable of carrying luggage.
- The vehicle must not have tinted or blacked out windows, which were fitted after manufacture. Tint film must not be applied to any of the windows of the vehicle.
- The vehicle is covered by a policy of insurance incorporating cover for use as a Hackney Carriage (Public Hire) and covering passenger indemnity. If the vehicle is also used to carry out pre-booked journeys the vehicle must also have insurance cover for Private Hire use.
- NB. The Licensing Office will not accept copied or faxed insurance documents as proof of valid insurance cover. Only original documents issued by the broker/insurance company will be accepted. The Licensing Office will accept electronic copies of insurance certificates or cover notes if the document is in an acceptable format and has been emailed directly to the Licensing Office by the broker/insurance company.
- In the case of any driver and/or any vehicle insurance cover notes or certificates the Licensing Office must receive written evidence that the driver and vehicle are covered on the policy. Written confirmation may be on an insurance policy schedule or email confirmation from the broker/insurance company.
- The vehicle must pass the vehicle examination carried out on behalf of the Authority.

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- The applicant must produce all documents/information requested by the Licensing Office.
- The full fee must be paid.

Once the vehicle is licensed you are responsible for the following:

- The Licence holder must not be in breach of any of the conditions of the licence during its lifetime.
- The driver of the vehicle must be a licensed Sandwell Hackney Carriage Driver and must be identified to the Licensing Office.
- The vehicle must be fitted with a taximeter capable of adjustment to the current Sandwell hackney fare rates. The applicant/Licence holder must supply a valid calibration meter certificate, in the form required by the Council, as evidence that the meter is set to the current Sandwell hackney fare tariff.

e) Sandwell Council requires that all licensed vehicles must reach at least M1 type approval safety standard. If documentation is not available to prove that a vehicle reaches this required standard, then the vehicle must obtain a Single Vehicle Approval or Individual Vehicle Approval certificate from the Driver and Vehicle Standards Agency (D.V.S.A.)

f) **Sandwell Council will not license or re-license any vehicle that has been written off by an insurance company regardless of the category of write-off.**

## 3.10 Hackney Carriages working outside the Borough of Sandwell

By law a hackney carriage can only ply for hire in the borough in which it is licensed. A hackney carriage licence holder is also entitled to carry out pre-arranged bookings.

In accordance with the legislation and case-law Sandwell MBC will not license anyone it believes intends to use a Sandwell licensed hackney carriage predominantly or entirely outside of the borough of Sandwell. Similarly Sandwell MBC will take action against any licence holder found to be working predominantly or entirely through a Private Hire Operator or Hackney Carriage Controller/Dispatcher outside of the borough of Sandwell.

Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 states:

(1) A district council may require any applicant for a licence under the Act of 1847 or under this Part of this Act to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.

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(3) If any person knowingly or recklessly makes a false statement or omits any material particular in giving information under this section, he shall be guilty of an offence.

Section 37 of the Town Police Clauses Act 1847 gives the authority concerned a discretion as to whether to grant a Hackney Carriage licence or not.

The case of R (App Newcastle City Council) v Berwick-Upon-Tweed Borough Council considered the issue of Hackney Carriages being used through Private Hire Operators licensed in a different area to the authority that issued the Hackney Carriage Licence, and considered the purpose of the Town Police Clauses Act 1847.

In his judgement the judge addressed the concerns that arise from the concept of vehicles working remotely from the licensed area by stating:

*“If hackney carriages are working remote from their licensing authority a number of, at the least potentially, undesirable consequences follow. The licensing authority will not easily keep their licensed fleet under observation. It will be carrying out its enforcement powers from a distance. The licensing authority where the hackney carriage has chosen to operate will have no enforcement powers over the vehicle although it is being used in its area. Further, unlike its own licensed vehicles, the hackney carriage from remote areas will not be subject to the same conditions and byelaws as the local vehicles. It is no surprise that the legislation provides for testing and testing centres to be within the licensing authority’s area.*

*Section 37 of the 1847 Act gives the authority concerned a discretion as to whether to grant a licence or not. Hence the use of the word “may”.*

*The exercise of that discretion falls to be considered against the back ground of the legislation and in my judgment should be used “to promote the policy and objects of the Act”. The licence permits the vehicle to ply for hire in the prescribed area. The authority, if it wishes, can restrict the number of licences it issues based on demand within the area. The local authority can issue it its own conditions and make its own byelaws. It can make provision for its own inspections of the hackney carriages. Thus the licensing regime is local in character. In addition it can be seen that most of the provisions have public safety much in mind. The local imposition of conditions and byelaws, local testing and enforcement, together with the other statutory provisions I have referred to all seem to me to point clearly to the conclusion that it was the intention behind the licensing system that it should operate in such a way that the authority licensing hackney carriages is the authority for the area in which those vehicles are generally used. Further the 1847 Act provides for licences to be granted for hackney carriages to ply for hire within the prescribed distance (i.e. within the area of the licensing authority).*

*In my judgment a local authority, properly directing itself, is entitled, and indeed obliged, to have regard to whether the applicant intends to use the licence to operate a hackney carriage in that authority’s area and also to have regard to whether in fact the applicant intends to use that hackney carriage predominantly, or entirely, remotely from the authority’s area. This should result in each local authority licensing those hackney carriages that will be operating in their own area and should reduce the number of hackney carriages which operate remotely from the area where they are licensed.”*

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**We will normally refuse to grant you a licence, or take action in relation to an existing licence, if:**

- You are using or intend to use the vehicle to work predominantly or entirely through a Private Hire Operator or Hackney Carriage Controller/Dispatcher outside of the borough of Sandwell.
- You have made a false statement in order to obtain a licence.
- You have exhibited behaviour, which in the opinion of the Authority, is inappropriate to a licence holder and amounts to reasonable cause to show that you are not a fit and proper person to hold a vehicle licence.

### **3.11 Insurance**

Before you can collect your Private Hire or Hackney Carriage Vehicle plates, you must satisfy the Council that the vehicle is adequately insured.

In order to do this you must produce a valid insurance cover-note or certificate to the Licensing Office, when you attend to collect your plates.

Sandwell Council consider insurance to be a major public safety issue. The implications of members of the public being transported in vehicles that are not appropriately insured are extremely serious.

It is important to understand that a licensed vehicle is always a licensed vehicle, therefore Private/Public Hire insurance cover must be maintained for the whole of the licence period.

The vehicle must not be driven by anybody who does not hold an appropriate Private Hire or Hackney Carriage Driver's Licence.

You should consider the following when producing insurance documents:

- Only original documents will be accepted. (Faxed or Copied Insurance Documents will not be accepted). The Licensing Office will accept electronic copies of insurance certificates or cover notes if the document is in an acceptable format and has been emailed directly to the Licensing Office by the broker/insurance company.
- In the case of any driver and/or any vehicle insurance cover notes or certificates the Licensing Office must receive written evidence that the driver and vehicle are covered on the policy. Written confirmation may be on an insurance policy schedule or email confirmation from the broker/insurance company.
- The document must cover the driver for the purposes of 'Hire and Reward'.
- If you are making a renewal application, you must produce the relevant Private Hire or Hackney Carriage insurance document, to the Licensing Office, **at the time of application.**

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- The insurance cover on the vehicle **cannot** lapse.
- Any licence holder who fails to insure their vehicle will have their licence suspended and will be unable to work until they have been referred to Committee.

## 3.12 Transfer Procedure

### Selling a Licensed Vehicle

If you sell your licensed vehicle to another licensed driver, you have full responsibility for all licence conditions, until the licence is transferred to the new owner. This can include additional costs or legal action.

In order to avoid any inconvenience, you should comply with the following procedure:

- Contact the Licensing Office to inform them who is buying the vehicle and request a Transfer Form.
- Sign the Transfer Form
- The new owner (or both parties) should attend the Licensing Office with the current set of plates and the new insurance document.

### Buying a Licensed Vehicle

If you are buying a licensed vehicle then you should attend the Licensing Office at the earliest opportunity.

When you attend the office, you should ensure that:

- Both parties have completed the transfer form.
- You can provide adequate insurance
- You pass a knowledge test, if required
- You have paid the necessary fee.

## 3.13 CCTV

The use of CCTV equipment in Hackney Carriages and Private Hire Vehicles shall be permitted providing the licence holder informs the Licensing Office that they have installed such a system.

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The installation of this equipment must comply with all relevant legislation e.g. CE Mark requirements.

It is the licence holder's responsibility to ensure that they comply with all the requirements of Data Protection legislation in particular issues around the storage of data, and the need to display a notice informing passengers that CCTV recording equipment is in use. [The Surveillance Camera Commissioner \(SCC\) has provided guidance on the Surveillance Camera Code of Practice, along with guidance on data protection and third party certification guidance. This information can be found on the following page <https://www.gov.uk/government/publications/passport-to-compliance>](https://www.gov.uk/government/publications/passport-to-compliance)

[The Information Commissioners Office \(ICO\) has also published guidance on the use of CCTV, data retention and disposal which must also be complied with. This can be found on the following page <https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>](https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf)

The licence holder must ensure that the CCTV equipment is recording every time that the vehicle is being driven regardless of whether or not there are passengers on board. The licence holder must provide a copy of the data stored on their CCTV device to any Police Officer or authorised officer of Sandwell MBC on request.

The use of advertising on CCTV screens is permitted providing the advert has been approved by the Licensing Manager or the Legal Manager.

### **3.14 Security Screens in Private Hire Vehicles**

The use of polycarbonate security screens in Private Hire Vehicles shall be permitted providing the licence holder has produced evidence to the Licensing Office that the screen complies with European Safety Standards, e.g. 2000/4/EC.

Advertising on the security screen shall be permitted providing the licence holder has received prior approval from the Licensing Manager or the Legal Manager. The advert must comply with the requirements set out in the Advertising Guidelines. Two A4 size posters displaying adverts can be displayed. Each advert must be displayed on the screen behind each front seat. See appendix A picture 1.

### **3.15 Advertising Guidelines for Hackney Carriage and Private Hire Vehicles**

**To be used when deciding whether to give consent to a Hackney Carriage licence holder for a request to advertise on the exterior or interior of a hackney carriage in accordance with Condition 11 of the licence.**

**Also to be used when deciding whether to give consent to a Private Hire Vehicle licence holder for a request to advertise on CCTV Screens or a Security Screen in accordance with Condition 13 of the licence.**

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**Consent will not normally be given for an application by a licence holder for advertising in the following circumstances:**

- If the proposed advert does not comply with the current Advertising Code of Practice.
- If the proposed advert is unlawful.
- If the proposed advert is made of material which would obscure the driver's view.
- If the proposed advert depicts text or images comprising or promoting the following: Political, ethical or religious messages, Sexual content, Nudity or indecent material or content, Illegal drugs, Alcoholic drinks, (but not anti 'drink-drive' messages).

Each case will be considered on its own merits.

The use of adverts on hackney carriages is controlled and enforced by condition number 11 of the hackney carriage licence, which states:

***'The licence holder shall not fix or cause to be fixed any roof sign, advertisement or other stickers/lettering without the express consent of the Licensing Office'.***

The use of adverts on Private Hire Vehicles is controlled and enforced by condition number 13 of the Private Hire Vehicle licence, which states

***'The licence holder shall not fix or cause to be fixed any advertisement or other stickers/lettering without the express consent of the Licensing Office, except in the case of an Operator's own choice of roof sign'.***

**Where the Licensing Office is unable to give consent for advertising the matters will be placed before the Licensing Sub Committee for determination.**

## **3.16 Licence Conditions Applicable to Private Hire Vehicle Holders**

This Licence is granted subject to the Local Government (Miscellaneous Provisions) Act 1976 and in addition the following conditions:

- 1) The licence holder shall ensure that any person who drives the licensed vehicle is the holder of a Private Hire Drivers Licence issued by Sandwell Metropolitan Borough Council.

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2) The licence holder must ensure that the large and small Private Hire plates and how to make a complaint sign, issued by Sandwell Metropolitan Borough Council, are displayed in the following manner:

- The large exterior plate must be securely attached to the rear of the vehicle.
- The small interior plate must be displayed inside the vehicle in a position that is clearly visible to all passengers.
- All vehicles with licences issued on or after after DATE TO BE INSERTED must display a sign inside the vehicle informing passengers how and who to make a complaint to and this sign is to be visible at all times the vehicle is available for hire and reward.

3) Upon grant or renewal of the licence, the Licence holder shall ensure that, with effect from 1 September 2015, window stickers supplied by the Council are fixed to the windows of both rear passenger doors at all times that the vehicle is used on the road (even if it is not being used for work).

4) The licence holder must ensure that either a roof sign or door signs/stickers or both are displayed on the vehicle. As a minimum, the name and telephone number of the Operator base must be displayed on the signage. All letters and numbers must be at least 1 inch in height and clearly distinguishable.

5) The licence holder shall return both Private Hire Vehicle plates, window stickers, and roof-sign if issued by the council, to the Licensing Office within 7 days of being requested to do so by an Authorised Officer, and in any event, on expiry of the plates/or licence.

6) The licence holder shall permit the vehicle to be inspected by an Authorised Officer of the Council or a Police Officer, at any reasonable time.

7) The licence holder shall submit the vehicle for inspection/testing by the Council's nominated testers, when required.

8) The licence holder shall ensure that any accident or damage to the licensed vehicle is reported in writing, to the Licensing Office, within 72 hours.

9) The licence holder shall not use the vehicle, if it has been suspended under the provisions of the Local Government (Miscellaneous Provisions) 1976.

10) The licence holder shall maintain, at all times when a licence is in force, insurance cover in respect of passenger indemnity (i.e. Private Hire Insurance).

11) The licence holder shall ensure that all documentation required for the Private Hire Operator records are available at the operating premises for inspection at all times.

12) The licence holder shall provide the current, valid, original insurance document, on demand, to an Authorised Officer of the Council or a Police Officer.

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- 13) The licence holder shall not fix or cause to be fixed any advertisement or other stickers/lettering without the express consent of the Licensing Office, except in the case of an Operator's own choice of roof sign or door signs/stickers.
- 14) The licence holder shall ensure that the number of passengers carried in the vehicle does not exceed that stated in the Licence.
- 15) The vehicle must be operated through a Private Hire Operator licensed by Sandwell MBC. It is illegal to use the vehicle through a Private Hire Operator licensed by another borough.
- 16) If the licence holder moves to a different base he/she must attend the Licensing Office, within 72 hours, to sign a new declaration confirming details of the Operator through whom the vehicle is being operated.
- 17) The licence holder shall ensure that the vehicle complies with the criteria contained in the Policy Handbook, throughout the currency of the Licence.
- 18) The licence holder shall ensure that the Vehicle Transfer Procedure contained in the Policy Handbook is complied with in every respect.
- 19) The licence holder shall ensure that any roof rack or trailer attached to the vehicle is approved by the Licensing Office.
- 20) The licence holder must ensure that tinted or blacked out windows are not fitted to the vehicle after manufacture and that tint films are not applied to any of the windows in the vehicle.
- 21) The licence holder shall ensure that the Policy Handbook is complied with in every respect, during the currency of the Licence.
- 22) The licence holder must inform the Licensing Office, in writing, within 72 hours, of any change of address and must ensure that all documents e.g. log-book, DVLA licence and insurance certificate are amended to display the new address and produced to the Licensing Office within 8 weeks of the notification.
- 23) The licence holder shall ensure that nothing is stored or displayed on or in the vehicle without the prior permission of the Licensing Office. E.g. Flags, Religious Symbols, Christmas Decorations, amplifiers etc.
- 24) The licence holder must ensure that the words Taxi(s), Cab(s), For Hire, or any other terminology that may lead the public to believe that the vehicle is a hackney carriage, are not displayed anywhere on or in the vehicle at any time.
- 25) No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made subsequent to the inspection of the vehicle by the Council at any time while the licence is in force and at all times the vehicle shall comply with the specifications of the Council for a licensed private

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hire vehicle. (Vehicles which have been modified in any way from the manufacturer's standard of construction may not be considered suitable for licensing purposes depending upon the nature of the modification).

26) Vehicles must not be fitted with Dual Fuel or 'after market' Liquid Petroleum Gas (LPG) systems unless they have been tested and certified by a recognised UKLPG Association accredited installer. The proprietor must notify the Licensing Office in writing if their vehicle has a LPG system fitted during the currency of a licence. The notification must be made within 5 working days, and include the production of a certificate referred to above. The vehicle must also appear on the UKLPG register.

27) The proprietor/driver employed to drive the vehicle must ensure that the licensed vehicle has a weekly safety check carried out by the proprietor/driver or a person of their choosing. As a minimum this must be a visual check on all lights, oil, water, tyres, mirrors and seat belts. A written record must be made of each safety check, details of faults recorded and remedial action taken. The record must be signed by the person undertaking the safety checks and kept in the vehicle for a minimum of 30 days and then for a further six months by the proprietor. On being so required by a Police Officer or Authorised Officer or Vehicle Examiner the driver must produce, to that officer, the recorded weekly checks kept in the vehicle and the proprietor, on request by that officer, must produce those recorded checks in his/her possession and/or those kept in the vehicle.

### 3.17 Licence Conditions Applicable to Hackney Carriage Licence Holders

This licence is granted subject to the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847 and Public Health Act 1875 and in addition the following conditions:

- 1) The licence holder shall not cause the vehicle to which this licence relates, to be driven by any person, for any purpose, who does not hold a valid Hackney Carriage Driver's licence, issued by Sandwell Metropolitan Borough Council.
- 2) The licence holder must ensure that the large and small Hackney Carriage plates **and how to make a complaint sign**, issued by Sandwell Metropolitan Borough Council, are displayed in the manner dictated by the Licensing Office at all times.
  - The large exterior plate must be securely attached to the rear of the vehicle.
  - The small interior plate must be displayed inside the vehicle in a position that is clearly visible to all passengers.
  - All vehicles with licences issued on or after **DATE TO BE INSERTED** must display a sign inside the vehicle informing passengers how and who to make a complaint to and this sign is to be visible at all times the vehicle is available for hire.

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- 3) The licence holder shall ensure both Hackney Carriage plates and window stickers are returned to the Licensing Office within 7 days of being requested to do so by an Authorised Officer, and in any event, on expiry of the plates/or licence.
- 4) From 1 September 2015 upon grant or renewal of the licence, the licence holder shall ensure that window stickers supplied by the Council are fixed to windows of both rear passenger doors at all times that the vehicle is used on the road (even if it is not being used for work).
- 5) The licence holder shall permit the vehicle to be inspected by an Authorised Officer of the Council or a Police Officer, at any reasonable time.
- 6) The licence holder shall submit the vehicle for inspection/testing by the Council's nominated testers, when required.
- 7) The licence holder shall ensure that any accident, involving the licensed vehicle, is reported in writing, to the Licensing Office, within 72 hours.
- 8) The licence holder shall not cause the vehicle to be used, if it has been suspended under the Local Government (Miscellaneous Provisions) Act 1976.
- 9) The licence holder shall maintain, at all times when a licence is in force, insurance cover in respect of passenger indemnity. (i.e. **Hackney Carriage insurance**).
- 10) The licence holder shall provide the current, valid, original insurance document, on demand, to an Authorised Officer of the Council or a Police Officer.
- 11) The licence holder shall not fix or cause to be fixed any roof sign, advertisement or other stickers/lettering without the express consent of the Licensing Office.
- 12) The licence holder shall ensure that the number of passengers carried in the vehicle does not exceed that stated in the Licence
- 13) The licence holder shall ensure that the vehicle complies with the criteria contained in the Policy Handbook, throughout the currency of the Licence.
- 14) The licence holder shall ensure that the Vehicle Transfer Procedure contained in the Policy Handbook is complied with in every respect.
- 15) The Licence holder must ensure that the interior of the vehicle is plainly visible, at all times, from the outside of the vehicle. Heavily tinted or blacked out windows are therefore not permitted.
- 16) The vehicle must be parked free of the adopted highway at all times when not in use.
- 17) The licence holder shall ensure that the Policy Handbook is complied with in every respect, during the currency of the licence.

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18) The licence holder shall ensure that the taxi meter fitted to the vehicle is always set to the current Sandwell hackney carriage tariff. If the Council changes the hackney carriage tariff the licence holder must produce a meter calibration certificate, confirming the meter has been amended to the new tariff, within 14 days of being requested to do so. Failure to do so may result in the licence being suspended.

19) The licence holder must inform the Licensing Office, in writing, within 72 hours, of any change of address and must ensure that all documents e.g. log-book, DVLA licence and insurance certificate are amended to display the new address and produced to the Licensing Office within 8 weeks of the notification.

20) The licence holder shall ensure that nothing is stored or displayed on or in the vehicle without the prior permission of the Licensing Office. E.g. Flags, Religious Symbols, Christmas Decorations, amplifiers etc.

21) The vehicle may only be used to ply for hire in the borough of Sandwell. It is illegal to ply for hire outside of the borough. Similarly you may only use Hackney Carriage ranks or stands in the borough of Sandwell.

22) The licence holder must not use the vehicle to carry out pre-booked journeys predominantly or entirely outside of the borough of Sandwell.

23) If the licence holder is using the vehicle through a private hire operator, the licence holder must sign a declaration confirming the details of the Operator through whom the vehicle is being operated. If the licence holder moves to a different base he/she must attend the Licensing Office, within 72 hours, to sign a new declaration confirming details of the Operator through whom the vehicle is being operated.

24) No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made subsequent to the inspection of the vehicle by the Council at any time while the licence is in force and at all times the vehicle shall comply with the specifications of the Council for a licensed private hire vehicle. (Vehicles which have been modified in any way from the manufacturer's standard of construction may not be considered suitable for licensing purposes depending upon the nature of the modification).

25) Vehicles must not be fitted with Dual Fuel or 'after market' Liquid Petroleum Gas (LPG) systems unless they have been tested and certified by a recognised UKLPG Association accredited installer. The proprietor must notify the Licensing Office in writing if their vehicle has a LPG system fitted during the currency of a licence. The notification must be made within 5 working days, and include the production of a certificate referred to above. The vehicle must also appear on the UKLPG register.

26) The proprietor/driver employed to drive the vehicle must ensure that the licensed vehicle has a weekly safety check carried out by the proprietor/driver or a person of their choosing. As a minimum this must be a visual check on all lights, oil, water, tyres, mirrors and seat belts. A written record must be made of each safety check, details of faults recorded and remedial action taken. The record must be signed by the person undertaking the safety checks and kept in the vehicle for a minimum of 30 days and then for a

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further six months by the proprietor. On being so required by a Police Officer or Authorised Officer or Vehicle Examiner the driver must produce, to that officer, the recorded weekly checks kept in the vehicle and the proprietor, on request by that officer, must produce those recorded checks in his/her possession and/or those kept in the vehicle.

## **4. SUPPLEMENTARY VEHICLE TESTING CRITERIA**

### **4.1 EXTERIOR OF VEHICLE**

- a) The exterior of the bodywork, the underside of the vehicle and the engine compartment must be in a suitable clean condition to allow for proper inspection of these areas.
- b) Check the operation of all external door catches and locks to ensure that all doors can be securely closed and easily opened. Check all door seals.
- c) Check all doors to ensure that they are properly aligned and will close easily.
- d) Ensure that the door hinges are in good condition allowing free movement of the door.
- e) Examine operation of check straps to ensure that the doors are restrained when opened.
- f) Examine the external paintwork for signs of damage, which adversely affects the appearance of the vehicle. The paintwork should be clean, in good condition and consistent and uniform over the whole vehicle. Two-tone colour and transfers are acceptable, provided that they are to the manufacturer's specification and factory fitted from new. See Appendix A picture 9. No advertisements or signs other than the company or operating name shall be displayed in or on the Private Hire Vehicle except where the Licensing Manager has given permission for an advert to be displayed on CCTV screens or a security screen. See Appendix A picture 1. Hackney Carriage Vehicles will be allowed to carry any livery subject to Council approval. Please see Guidance Notes (Page 56).
- g) Ensure that the rear boot lid opens and closes, and that the hinges and opening mechanism adequately support the lid when it is in the 'lifted' position and doesn't come into contact with rear screen.
- h) Check that all lights fitted are in working order.
- i) After-market tinted or blacked out windows are not acceptable. Tinted and anti-glare, manufacturer fitted only, windows are acceptable. Tint film must not be applied to any windows. Where considered appropriate Limousines and Speciality/Novelty Vehicles may be allowed heavily tinted or blacked out windows in the rear of the vehicle. Please see Guidance Notes (Page 48).

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j) Ensure that the front and rear bumpers are in good order and are securely fixed to the vehicles. Front Bull Bars are NOT ALLOWED

k) Roof racks and box storage only allowed providing the carrier is of an approved type fitted to the roof guttering. It must not be used to carry weight in excess of the manufacturer's recommendation.

l) Check that the vehicle has a wing mirror on both sides of the vehicle and that all mirror glass and housing are free of any damage or defects.

**PLEASE NOTE Hackney Carriage Vehicles can display adverts subject to Council approval. Private Hire Vehicles are not allowed to display any advert on the exterior of the vehicle other than the Operator's base name and telephone number.**

## 4.2 EXTERIOR OF VEHICLE - REASONS FOR FAILURE

- a) Contamination preventing proper inspection. (If the vehicle is in a dirty condition the test will not be carried out).
- b) Defective door catches which prevent a door opening and closing properly. (The vehicle will fail the test where defects in a door seal are considered to be likely to cause rain penetration, excessive draught and excessive road noise inside the vehicle or represent a trip hazard to users of the vehicle).
- c) Poorly fitted doors to vehicle.
- d) Defective door hinges
- e) Check straps that prevent the doors from opening fully or does not retain the door in its open position.
- f) Corrosion or damage to the vehicle body or structure, which adversely affects the appearance and / or safety of the vehicle. (Engineers certification may be required to satisfy the vehicle examiner that the repairs have been properly carried out). Generally poor damaged paintwork to the vehicle. (Licensing Office to be consulted if required). Two-tone paintwork, which is not to manufacturer's specification. Please see Appendix A picture examples 9. Any advertisements found on or in a Private Hire Vehicle or Hackney Carriage Vehicle that have not been approved. **PLEASE SEE NOTES BELOW.**
- g) Worn hinges to boot lid, defective boot lock, and weak or defective boot opening device.
- h) Inoperable or inefficient reversing or front fog lights. (Lights may be inefficient intensity when incorrect bulbs have been fitted. Any lamp fitted must work correctly and be properly aligned).
- i) Heavily tinted or blacked out windows on vehicles that do not have appropriate authorisation. Tint film. Please see guidance notes (Page 75).

[IL0: UNCLASSIFIED]

- j) Damaged or inadequately secured front or rear bumpers. Bull Bars Fitted.
- k) Carrier/roof box not of an approved type. Carrier/roof box not fitted correctly to the roof guttering. Carrier/roof box insecure.
- l) Missing mirrors or any damage or defects to mirrors.

**PLEASE NOTE Hackney Carriage Vehicles can display adverts subject to Council approval.**

**Private Hire Vehicles are not allowed to display any advert on the exterior of the vehicle other than the Operator's base name and telephone number.**

### **4.3 TAXI SIGNS, PRIVATE HIRE ROOF SIGNS, & LICENCE PLATES**

- a) Inspect the vehicle licence plate fixed to the rear of the vehicle for signs of damage or excessive wear, and ensure that the licence details/numbers are clearly legible, and not obscured by tow bars etc.
- b) Examine the plate fixing to the vehicle to ensure that it is securely fixed. Ensure that the plate is securely fixed in a prominent position to the external rear bodywork of the vehicle, (provision normally allotted).
- c) Private Hire Operators will decide if vehicles working through their company are required to display a roof sign supplied by the operator. If a roof sign is displayed it must be capable of illumination at night. The roof sign must display the operator base name on the front and the base telephone number on the rear.
- d) Private Hire Vehicles that do not display a roof sign are required to display door magnets, door stickers or sign writing applied to both sides of the vehicle displaying the name and telephone number of the operator. Letters and numbers should be at least 1 inch in height and clearly distinguishable.
- e) All hackney carriages must display a permanently fixed 'TAXI' bubble light which is integrated into the roof of the vehicle. The rear casing of the taxi bubble light must match the paintwork on the vehicle. The front of the bubble light must be able to be illuminated and must display the word 'TAXI' in black lettering on an amber or orange coloured lens.

### **4.4 TAXI SIGNS, PRIVATE HIRE ROOF SIGNS, & LICENCE PLATES - REASONS FOR FAILURE**

- a) A plate that does not conform to the Council's standards affixed to the vehicle. A plate, which is damaged or has lettering which, is not clearly legible or obscured by a tow bar.

[IL0: UNCLASSIFIED]

- b) Insecure plate fixing.
- c) Private hire vehicle's roof sign is cracked, broken or does not fully illuminate. The roof sign does not display the operator base name on the front and the base telephone number on the rear.
- d) Any Private Hire Vehicle that is not displaying either a roof sign or door magnets/sign writing/self-adhesive stickers displaying the name and telephone number of the operator. Letters and numbers should be at least 1 inch in height and clearly distinguishable.
- e) Absence of 'TAXI' bubble light or the taxi bubble light is detachable. The bubble light is cracked, broken, or does not fully illuminate. The taxi bubble light is poorly painted or does not match the colour of the rest of the vehicle. The lens is not amber or orange in colour. The taxi sign is a rectangular magnetic roof sign resembling those fitted to private hire vehicles.

## 4.5 TYRES AND SPARE WHEEL

- a) Examine the tyres for signs of damage or excessive wear, and ensure that each tyre has a minimum tread depth of 2mm across the central  $\frac{3}{4}$  of the tread around the complete circumference of the tyre. Advice to be given when tyres are at 3mm.
- b) It is acceptable for the wording 'Taxi' to be embossed onto the tyres of Hackney Carriages.
- c) All four wheels (Inc alloys) must be of the same design including alloy wheel centre discs. Vehicles without alloys must have wheel trims fitted. All wheel trims must be matching, free of cracks and missing pieces, and securely fixed.
- d) All vehicles (Except LPG converted vehicles – **PLEASE SEE NOTES BELOW**) must carry either a full sized spare wheel or have the original manufacturers space saver wheel which should carry the marking on either the tyre or wheel rim '**Maximum speed 50 MPH**'. Space saver wheel must not be fitted to the vehicle at the time of test. It is acceptable for a vehicle to carry a tyre sealant instead of a spare wheel or space saver only if that is how the vehicle was manufactured.
- e) All four tyres fitted on the vehicle must be of the same size and specification. The spare wheel must be of the same size and specification. Some vehicles may have different sized tyres fitted to the front axle compared to that at the back axle. In these circumstances it is acceptable to carry an appropriate tyre sealant.
- f) Examine the presence of a jack and wheel brace provided with the vehicle to ensure that they are in good condition. Locking wheel nut adapter to be present at the time of test.
- g) Examine the presence of an appropriate and adequate tyre sealant that is suited to the size and type of tyre fitted on that vehicle.

[IL0: UNCLASSIFIED]

h) Tyre Sealant must be in good clean condition and within the expiry date, if applicable. The vehicles registration number must be permanently marked on the tyre sealant.

**PLEASE NOTE Vehicles that have been converted to LPG will not be expected to carry either a full size spare wheel or a manufacturer's space saver wheel. However, they will be required to carry an appropriate and adequate tyre sealant made available for inspection at the time of the test to suit the size and type of tyre fitted on that vehicle and the tyre sealant must be in date.**

## 4.6 TYRES AND SPARE WHEELS - REASONS FOR FAILURE

- a) Damaged, worn or substandard or otherwise illegal tyres. Tread depth below 2mm. Advice to be given if tyre is between 2mm and 3mm.
- b) Taxi tyres on vehicles, which are not hackney carriages.
- c) All four wheels not of the same design. Missing, damaged or mis-matched wheel trims, missing centre discs on alloy wheels.
- d) No spare wheel. Space saver wheel not to manufacturer's specification and not clearly marked. In the case of vehicles manufactured with a tyre sealant, the vehicle will fail if the tyre sealant is not present, suitable or out of date.
- e) Tyre(s) found not to be of the same size or specification on the same axle.
- f) Failure to provide a suitable jack and/or wheel brace with the vehicle. Jack/wheel brace in poor condition. Locking wheel nut adapter not present.
- g) Failure to provide an appropriate and adequate tyre sealant that is suited to the size and type of tyre fitted to that vehicle.
- h) Date on tyre sealant expired or in a poor condition. Registration number not permanently marked on tyre sealant.

**PLEASE NOTE Vehicles that have been converted to LPG will not be expected to carry either a full size spare wheel or a manufacturer's space saver wheel. However, they will be required to carry an appropriate and adequate tyre sealant made available for inspection at the time of the test to suit the size and type of tyre fitted on that vehicle and the tyre sealant must be in date.**

## 4.7 BOOT (includes area behind rear seats in MPV's and Minibuses.

- a) Examine the interior for evidence of damage, corrosion or water ingress.

[IL0: UNCLASSIFIED]

- b) Examine the boot floor covering to ensure that it is in good condition and that it offers adequate area for luggage carrying as well as protection to luggage from getting soiled.
- c) Examine the interior of the boot for accumulation of dirt, dust, grease, litter etc. or staining of any surface with which luggage may come into contact.
- e) The boot must be empty at all times however items can be stored under the boot floor covering where suitable space exists.

**PLEASE NOTE SOME VEHICLES THAT HAVE BEEN CONVERTED TO RUN ON LPG MAY NOT HAVE ADEQUATE LUGGAGE CARRYING SPACE. THIS IS ACCEPTABLE.**

## **4.8 BOOT (includes area behind rear seats in MPV's and Minibuses - REASONS FOR FAILURE**

- a) Damage or corrosion to the floor of the boot, inner wing panels or lid.
- b) Excessive wear, damage or staining to the boot floor covering.
- c) Accumulations of dirt, grease, rubbish etc., in the boot which could soil or damage luggage stored therein.
- d) The boot (above the boot floor covering) is not empty.

**PLEASE NOTE SOME VEHICLES THAT HAVE BEEN CONVERTED TO RUN ON LPG MAY NOT HAVE ADEQUATE LUGGAGE CARRYING SPACE. THIS IS ACCEPTABLE.**

## **4.9 ENGINE COMPARTMENT**

- a) Inspect for excessive oil leaks. Check that any leakage of oil is within reasonable limits considering the age, mileage and service record of the vehicle.
- b) Where visible ensure that the radiator is properly secured to the vehicle and check for leaks.
- c) Where visible inspect all cooling system hoses visible in the engine compartment for leaks.
- d) Where visible Check all fluid levels are adequate.

[IL0: UNCLASSIFIED]

## 4.10 ENGINE COMPARTMENT - REASONS FOR FAILURE

- a) Excessive oil leaks which are liable to cause a smell through burning or likely to contaminate the road surface.
- b) A leaking or inadequately secured radiator
- c) Leaking and significantly worn or deteriorated hoses not secured that it is likely to chafe to cause premature failure.
- d) Any fluid level is inadequate.

## 4.11 CLUTCH AND TRANSMISSION

- a) Test the clutch for satisfactory operation.
- b) Where visible inspect the clutch/gear change linkage for undue wear.
- c) Where visible inspect the clutch hydraulic system and cylinders.
- d) Test gearbox mountings for security. Check that any gearbox oil leakage is within reasonable limits considering the age, mileage and service record of the vehicle.
- e) Inspect rear axle for oil leaks. Check that any leakage of rear axle oil is within reasonable limits considering the age, mileage and service record of the vehicle.

## 4.12 CLUTCH AND TRANSMISSION - REASON FOR FAILURE

- a) Clutch judder, grab or slipping outside normal limits.
- b) Linkages are so worn that they are likely to fail.
- c) Undue corrosion and leaks.
- d) Mountings corroded/contaminated as likely to fail, leaking oil that is liable to cause a smell through burning or contaminate the road surface.
- e) Liable to cause a smell through burning or contaminate the road surface.

## 4.13 STEERING/SUSPENSION

- a) Specially modified or lowered suspension that does not conform to manufacturer's specification is not allowed.

[IL0: UNCLASSIFIED]

b) Steering wheels that do not conform to the manufacturer's specification are not allowed.

## 4.14 STEERING/SUSPENSION REASONS FOR FAILURE

a) Where a suspension has been lowered that it gives passengers an uncomfortable or hard ride.

b) Where a steering wheel has been fitted incorrectly or that it affects the control or manoeuvrability of the vehicle.

## 4.15 INTERIOR OF VEHICLE

a) Inspect the seats (including driver's seat) and upholstery for general condition. Check that all seats, upholstery trim and carpets are clean, odourless, sound and not stained. Check for holes and tears. Check there are no sharp edges, which would be likely to cause injury or damage to the driver or passengers. Check roof lining for dirt, holes, missing parts. **Car seat covers may be installed in the vehicle but they must be removed prior to the vehicle test in order that the seats can be fully inspected.**

b) Remove any loose mats from the floor and examine the carpets for signs of water leakage or water ingress. Ensure mats and carpets are free of tears or holes.

c) Check each of the passenger seats within the vehicle to ensure that all the squab cushions and backrests are in good condition and offer proper support to the passenger.

d) Check that courtesy lights are fitted and working correctly.

e) Examine the interior rear view mirror and ensure that it is securely fixed, clear and no ornamental objects hanging from the bracket.

f) Ensure heaters and demisters are adequately working.

g) Examine the brake and clutch pedal anti slip rubber pedal covers for signs of excessive wear.

h) Check that all seat belts and clasps (including covers) are free from defects.

i) Check that there are no broken or missing parts inside the vehicle. E.g. Broken door handles, window winders, speaker covers, air vents, grab handles, door trims.

j) Check the condition of all windows. Check the operation of all windows ensuring that they can be fully lowered and raised easily. (Exceptions are in the case of safety of the passengers).

k) Check the operation of all the door release catches to ensure that the doors can be easily opened from within the vehicle.

l) Check that all childproof locks are working correctly.

m) Check to ensure that the dash and panel lights are working so that they illuminate instrument and dials.

[ILO: UNCLASSIFIED]

- n) Ensure that all panel warning lights extinguish when the engine is running.
- o) Any ramp provided with the vehicle to assist disabled passengers must be present and clearly marked with the registration number of the vehicle.
- p) Check that a suitable First Aid Kit and Fire Extinguisher are present and have been permanently marked with the vehicles registration number.
- q) All Hackney Carriage and Private Hire Vehicles must display a 'No Smoking' sign in a prominent position in each compartment of the vehicle in which people can be carried. The signs must show the international 'No Smoking' symbol at least 70mm in diameter. See Guidance Notes (Page 44) and notes below

**It is recommended that for most standard Hackney Carriage and Private Hire Vehicles two signs are sufficient to comply with these requirements.**

## 4.16 INTERIOR OF VEHICLE - REASONS FOR FAILURE

- a) A vehicle, which is in dirty condition with accumulation of dust, litter, debris etc., or staining to carpets or upholstery (unacceptable smells of vomit, food or other contaminants). Seats which are dirty, torn or holed. Floor that is not covered by adequate carpets or mats. Carpet is so badly worn that it is likely to cause a danger to passengers. Roof lining is dirty or torn. Missing grab handles. Holes in roof due to missing parts.
- b) Evidence of water leakage or water ingress into the vehicle from either rainwater penetration or leaking coolant from vehicle heater system.
- c) Loose seating, inadequate padding. Upholstery which is in poor condition and /or offers poor support to passengers.
- d) Faulty interior light fittings.
- e) A loose, damaged or missing rear view mirror.
- f) Defective heater/windscreen demister (controls that cannot be adjusted from cold to hot and fan assistance does not function).
- g) The anti-slip rubber pedal covers are missing, incomplete, loose, worn smooth or to the metal.
- h) Damaged seat belts or seat belt clasps.
- i) Broken or missing parts inside the vehicle. E.g. Broken door handles, window winders, speaker covers, air vents, grab handles, door trims.
- j) Window winder/slides that do not allow windows to be easily lowered/raised or slide.
- k) Ineffective interior door release catches.
- l) Ineffective child proof locks (doors still opening when locks activated).

[ILO: UNCLASSIFIED]



m) Dash and instrument panel not illuminated.

n) Warning lights still visible when engine running. Any Red lights will result in a licence being refused/suspended. Any Yellow/Amber lights will result in the applicant/licence holder being allowed time to rectify the problem.

o) Missing ramps or ramp not marked with vehicle registration number.

p) First Aid Kit and/or Fire Extinguisher missing, inadequate, dirty or not permanently marked with the vehicles registration number.

q) 'No Smoking' signs are not present or found to not be in a prominent position in each compartment of the vehicle in which people can be carried. The diameter of international no-smoking sign is less than 70mm.

See Paragraph 3.7 Window Stickers and notes below.

**It is recommended that for most standard Hackney Carriage and Private Hire Vehicles two signs are sufficient to comply with these requirements.**

## **4.17 WHEELCHAIR ACCESSIBLE TAXIS – Additional Criteria**

a) In the case of new applications for converted vehicles. The vehicle must be black in colour.

b) The vehicle must have side-loading wheel chair access on the near side (kerb side) of the vehicle.

c) There must be sufficient space between the front of the rear seat and the partition for a wheelchair to turn.

d) A means to secure both the chair and the wheelchair occupant must be provided and found to be in good working order. The wheel chair restraints must be permanently marked with the vehicles registration number.

e) Appropriate ramps must be carried within the vehicle at all times and must be permanently marked with the registration number of the vehicle.

f) Check for condition of belts, buckles, ramps and any associated fittings.

g) All hackney carriages must display a permanently fixed 'TAXI' bubble light which is integrated into the roof of the vehicle. The rear casing of the taxi bubble light must match the paintwork on the vehicle. The front of the bubble light must be able to be illuminated and must display the word 'TAXI' in black lettering on an amber or orange coloured lens.

h) All hackney carriages must be full hackney carriage specification. They must have a fully sealed bulkhead which separates the driver compartment from the passenger compartment. The second row of seats must fold completely upright against the bulkhead.

[ILO: UNCLASSIFIED]

i) The vehicle must have yellow high-visibility grab handles to aid passengers when entering or exiting the vehicle.

j) Stickers displaying the word 'TAXI' in yellow lettering must be displayed on all sides of the exterior of the vehicle. The lettering must be at least 3 inches in height and clearly distinguishable. (Not required for Purpose Built London Style Cabs).

## **4.18 WHEELCHAIR ACCESSIBLE TAXIS REASONS FOR FAILURE**

a) The vehicle is not Black in colour (New applications for converted vehicles only).

b) The vehicle does not have side-loading wheel chair access on the near side (kerb side) of the vehicle.

c) Insufficient space between the front of the rear seat and the partition for a wheelchair to turn.

d) No means of securing the chair and occupant to the vehicle, or present but not in good working order, or not permanently marked with vehicles registration number.

e) Ramps not carried on the vehicle and not permanently marked with the vehicle registration number or plate number.

f) Belts frayed, damaged or inoperative locking mechanisms. Ramps not structurally sound.

g) Absence of 'TAXI' bubble light or the taxi bubble light is detachable. The bubble light is cracked, broken, or does not fully illuminate. The taxi bubble light is poorly painted or does not match the colour of the rest of the vehicle. The lens is not amber or orange in colour. The 'TAXI' lettering on the bubble light lens is not black in colour. The taxi sign is a rectangular magnetic roof sign resembling those fitted to private hire vehicles.

h) The vehicle has not been converted to full hackney carriage specification. The interior does not resemble a London-Style Taxi. Missing or partial bulkhead. The driver compartment is not separated from the passenger compartment. The second row of seats does not fold completely upright and flush against the bulkhead or the springs are broken on the hinges and the seat does not return to an upright position.

i) The vehicle does not have yellow high-visibility grab handles to aid passengers when entering or exiting the vehicle.

J) The vehicle does not have stickers displaying the word 'TAXI' in yellow lettering displayed on all sides of the exterior of the vehicle. The lettering must be at least 3 inches in height and clearly distinguishable. (Not required for London Style Cabs).

[IL0: UNCLASSIFIED]

## 4.19 L.P.G. FUEL

a) A certificate of conformity in line with the Code of Practice of the LPG Gas Association Regulations must be provided at the time of test. Certificate issued must be from a UKLPG approved garage. Please see sample certificate Appendix A, picture 2.

b) Check security and condition of fuel pipes. All LPG vehicles must undergo an annual service or safety check by a UKLPG approved installer every twelve months. A UKLPG annual service report or safety certificate, dated within the last twelve months, must be produced on each vehicle application.

**PLEASE NOTE - SOME UKLPG CERTIFICATES MAY VARY AND MAY NOT BE EXACTLY IN THE SAME FORMAT AS SHOWN IN THE EXAMPLE IN APPENDIX A, PICTURE 2. AS LONG AS THE CERTIFICATE HAS BEEN ISSUED BY A UKLPG APPROVED GARAGE IT CAN BE ACCEPTED.**

**IF A VEHICLE HAS HAD A NEW GAS CONVERSION FITTED, A CERTIFICATE MUST BE PRODUCED SHOWING THAT IT HAS BEEN INSTALLED BY A UKLPG APPROVED GARAGE AND IN LINE WITH THE CODE OF PRACTICE OF THE UKLPG ASSOCIATION REGULATIONS.**

**ALL BRAND NEW VEHICLES WITH FACTORY FITTED LPG GAS CONVERSIONS WILL NOT BE REQUIRED TO PRODUCE A UKLPG GAS CERTIFICATE DURING ITS FIRST YEAR OF PLATING BUT THEY MUST BE ENTERED ON THE UKLPG VEHICLE REGISTER. AFTER THE FIRST YEAR THE LICENCE HOLDER MUST PRODUCE A SAFETY CHECK CERTIFICATE OR AN ANNUAL SERVICE REPORT CARRIED OUT BY A UKLPG APPROVED GARAGE FOR EVERY YEAR THAT THE VEHICLE IS LICENSED.**

## 4.20 L.P.G FUEL REASONS FOR FAILURE

a) No evidence of certificate of conformity or incorrect documentation. Please see sample certificate in Appendix A, picture 2.

b) Fuel pipes and fittings that are not secured and likely to chafe.

**PLEASE NOTE - SOME UKLPG CERTIFICATES MAY VARY AND MAY NOT BE EXACTLY IN THE SAME FORMAT AS SHOWN IN THE EXAMPLE ON APPENDIX A, PICTURE 2. AS LONG AS THE CERTIFICATE HAS BEEN ISSUED BY A UKLPG APPROVED GARAGE IT CAN BE ACCEPTED.**

**IF A VEHICLE HAS HAD A NEW GAS CONVERSION FITTED, A CERTIFICATE MUST BE PRODUCED SHOWING THAT IT HAS BEEN INSTALLED BY A UKLPG APPROVED GARAGE AND IN LINE WITH THE CODE OF PRACTICE OF THE UKLPG ASSOCIATION REGULATIONS.**

**ALL BRAND NEW VEHICLES WITH FACTORY FITTED LPG GAS CONVERSIONS WILL NOT BE REQUIRED TO PRODUCE A UKLPG GAS CERTIFICATE DURING ITS FIRST YEAR OF PLATING BUT THEY MUST BE ENTERED ON THE UKLPG VEHICLE REGISTER. AFTER THE FIRST YEAR THE LICENCE HOLDER MUST PRODUCE A**

[IL0: UNCLASSIFIED]

**SAFETY CHECK CERTIFICATE OR AN ANNUAL SERVICE REPORT CARRIED OUT BY A UKLPG APPROVED GARAGE FOR EVERY YEAR THAT THE VEHICLE IS LICENSED.**

## **4.21 TAIL LIFTS REASONS FOR FAILURE**

a) You must produce a certificate of inspection and weight test not more than six months old at the time of test. A valid **LOLER** (Lifting Operations and Lifting Equipment Regulation 1998) certificate must be produced at the time of the test. Please see Appendix A, Pictures 3, 4 and 5.

## **5. VEHICLE GUIDANCE NOTES**

### **5.1 WRITE OFFS**

All vehicles subject to a new vehicle application should have no damage affecting the structural safety of the vehicle. **Any vehicle written off for insurances purposes will not be licensed, regardless of category unless the vehicle was licensed by Sandwell prior to being written off and following repair has passed an MOT and Sandwell licensed vehicle test. Category A and B write offs will not be licensed under any circumstance**

**From 1 October 2017 Vehicle Salvage Codes are as follows:**

**A – (SCRAP)** -This vehicle has been inspected by an appropriately qualified person, declared unsuitable or beyond repair and has been identified to be crushed in its entirety.

Definition -This vehicle is deemed not suitable to be repaired. Must be crushed without any parts being removed. This vehicle will be classed as waste.

**B – (BREAK)** -This vehicle has been inspected by an appropriately qualified person and declared unsuitable or beyond repair.

Definition -The vehicle is deemed not suitable to be repaired. Usable parts can be recycled. This vehicle will be classed as waste.

**S – (STRUCTURAL) Repairable** -This vehicle has been inspected by an appropriately qualified person and declared suitable for repair.

Definition -Repairable vehicle which has sustained damage to any part of the structural frame or chassis and the insurer/self-insured owner has decided not to repair the vehicle.

**N – (NON STRUCTURAL) Repairable** -This vehicle has been inspected by an appropriately qualified person and declared suitable for repair.

[IL0: UNCLASSIFIED]

Definition -Repairable vehicle which has not sustained damage to the structural frame or chassis and the insurer/self-insured owner has decided not to repair the vehicle. While the damage to the vehicle has been noted as non-structural, there may still be some safety critical items that require replacement e.g. steering and suspension parts.

**Please Note If the vehicle to be tested flags the DVLA ‘seriously damaged’ marker the vehicle will not be tested. Additionally, if testers have any concerns about the condition of a vehicle the vehicle may not be tested or licensed.**

## 5.2 Tinted Windows

For safety reasons it should be possible to observe the driver and passengers being carried. Many vehicles are used for the carriage of children and vulnerable persons, and for this reason tinted windows that prevent clear vision into the vehicle shall not be permitted.

Only manufacturer fitted tinted and anti-glare windows are acceptable and all Hackney Carriage and Private Hire Vehicles must allow at least 75% of light transmitted through the windscreen and at least 70% of light to be transmitted through the driver’s window and front passenger window.

## 5.3 Modifications/Converted Vehicles

All vehicles shall comply in all respects with the requirements of the Motor Vehicle (Type Approval) Regulations 1980, Motor Vehicle (Type Approval) Regulations (Great Britain) 1984 and the Road Vehicles (Construction and Use) Regulations 1986. In addition, all vehicles must comply in all respects with the British and European Vehicle Regulations and be type approved to the requirements of the M1 category of European Whole Type Approval 70/156/EEC as amended.

The Council will licence any of the purpose built ‘London Style Black Cabs’ i.e. LTI’s, TX’s, Metro Cabs’ etc providing they meet all other requirements.

Any non-purpose built (specially converted) Hackney Carriage will only be licensed at the Licensing Manager’s discretion. Non-Purpose built Hackney Carriage Vehicles must be: 1) Black in colour 2) Have a Whole European Type Approval Certificate 3) Have a Low Volume Type Approval Certificate

**Please see the list of all approved Purpose Built and converted Hackney Carriages on Page 81.**

Vehicles converted from vans which have a type approval other than M1 will not be acceptable unless they are presented with approved M1 certification for the resultant vehicle. If a vehicle has been registered with DVLA and issued with an appropriate registration index number, no change, structural alteration or rearrangement of detail shall be carried out to the vehicle unless such change shall have been subsequently granted M1 Whole Type Approval.

[IL0: UNCLASSIFIED]

Any Limousines, Imported and Converted vehicles from outside the EU will require an Individual Vehicle Approval (IVA) test irrespective of age.

Any vehicles which have had their seating capacity reduced or increased in order to get a licence for Private Hire or Hackney Carriage must also have a Voluntary Individual Vehicle Approval (IVA) test carried out. In the first instance applicants must contact DVLA Swansea for the necessary application forms to be completed. They are then returned to DVLA Swansea -who then contacts the VOSA testing station who will then contact the applicant with an appointment for the vehicle to be inspected.

All bolt holes where seats have been removed must be covered over. Any seats that have been added must be fitted to the manufactures specification and pass the IVA test and have all the necessary documentation in place.

**Please Note Drivers will have to produce a V5 logbook at the time of the test for inspection by the tester for any converted vehicles to ensure that the information contained within the logbook accurately reflects the conversion.**

All tail lifts whether underslung, internal or externally fitted, must have a Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) Certificate issued every 6 months to ensure the lift is safe to use.

Some people have tracking fitted in the vehicle floors to enable them to fit seating into the tracking in various configurations and also to secure wheelchairs that are being carried in the vehicle. The tracking and the seating used comes under scrutiny during the IVA test. The seats should also have seatbelts fitted.

The IVA Certificate, the LOLER Certificate and amended DVLA V5 documents must all be produced to the Licensing Officer, before any licence can be granted on any conversions.

## 5.4 Multi-Purpose Vehicles (MPV's)

Sandwell MBC will continue licensing MPV type vehicles, and the use of all seats within them, provided all legal requirements are met. In doing so, however, we advise that the driver's attention is drawn to RoSPA's guidelines regarding passenger safety in MPV type vehicles.

The Royal Society for the Prevention of Accidents Road Safety Advisory Group has investigated the safety of access and egress in Multi Purpose Vehicles that were used as passenger carrying vehicles. Their conclusions were:

***'It is the Society's view that all vehicles designed or used for public transport, and in this category we include both Hackney Carriage and Private Hire Vehicles, should provide adequate and ready means of access and egress to each and every seat. Thus the use of MPV's regardless of their size or configuration should enable each and any passenger to exit from the vehicle without recourse to other passengers leaving their seats, or for other seats to be stowed before the exit is made available'.***

[ILO: UNCLASSIFIED]

If drivers require advice on seating configurations, please see seating configurations diagram for MPV's on Appendix A, Picture 6.

## 5.5 LPG Converted Vehicles

All vehicles which are powered by Liquid Petroleum Gas (LPG) shall comply with all the relevant legislation set out in the ***Road Vehicles (Construction and Use) Regulations 1986 (as amended)***. LPG conversions shall also comply with LP Gas Associations, Autogas Installations Code of Practice 11 and any later version of the CoP. Conversion shall still comply with Road Vehicles (Construction and Use) Regulations 1986.

## 5.6 LOLER

LOLER stands for ***“The Lifting Operations and Lifting Equipment Regulations 1998”***. LOLER legislation states that all lifting equipment such as tail lifts, provided for use at work must meet legal requirements and have “Thorough Examinations” carried out regularly by a “Competent person”. It is a detailed examination of the tail lift by a competent person and provides a report/certificate to show that the tail lift is safe to use. It may also detect any defects which are, or may become, dangerous and report(s) these to the company. It is not the same as a weight test or service.

The Thorough Examination reports must be kept available for the Health and Safety Inspectors for at least two years, or until the next report, whichever is longer. Lifting equipment includes any equipment used at work for lifting or lowering loads, including attachments used for anchoring, fixing or supporting it. Thorough Examinations of the lift should be carried out at least every six months.

## 5.7 GUIDANCE NOTES ON BODYWORK STANDARDS.

### General

The Council requires Hackney Carriages and Private Hire Vehicles which are licensed by it for the use of fare paying passengers to maintain a high standard of presentation.

### Paintwork

The Council recognises that vehicle paintwork can deteriorate with time and that paintwork is easily damaged yet costly and difficult to repair. The conditions relating to the standard of the paint finish reflect this.

### Uniform Colour

Paintwork should be uniform in colour over the whole of the vehicle. Where repairs have been carried out best practice body shop techniques should be followed to ensure that an identical colour match is obtained using recognised automotive re-finishing products.

[ILO: UNCLASSIFIED]

### **Gloss Finish**

Paintwork should have a gloss finish over the whole of the vehicle. Where the paintwork has begun to fade due to age and the effects of ultra violet degradation over large areas of the vehicle and where it cannot be returned to an acceptable level of gloss by the use of 'cutting' compounds, re-finishing may be required, particularly where a none uniform appearance results.

### **Poor Workmanship**

Repairs should be carried out to a high standard. Defects which result from poor preparation or poor application of the paint finish are likely to result in the vehicle **not** reaching the required standard. Such defects include runs, 'orange peel', 'fish eyes', dust in the paint, orbital sander marks, poor paint coverage, overspray etc.

### **'Cosmetic' Damage**

The Council recognises that vehicles suffer minor 'cosmetic' damage during day to day use and that this type of damage can be the most difficult and the most costly to repair. The conditions reflect that this type of defect is inevitable on Hackney Carriages and Private Hire Vehicles and permit areas of minor 'cosmetic' damage as detailed below.

The overall appearance of the vehicle will be assessed to determine the suitability of the vehicle. Compliance with the requirements may be achieved by repairing only some of the bodywork defects where this is to the advantage of the proprietor.

### **Scratches**

Scratches should be no longer than 200 mm, and not deep enough to expose the bare metal. They should be no wider than 2 mm. **(A scratch is where the paint film is damaged, but there is no deformation of bodywork).**

### **Small Dents**

Dents where the paintwork is broken are not acceptable. Dents, where the paintwork is **not** broken, should be no larger than 100 mm in diameter and no deeper than 10 mm at the deepest point.

### **Rust Spots**

Any areas of rust/corrosion are not acceptable.

*(A rust spot is a defect caused by oxidation of the metal due to a failure of the paint film to protect it but without obvious damage).*

### **Flaking etc**

Areas of flaking paint or lacquer are not acceptable.

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*(Flaking is where an area of the paint or lacquer film loses its adhesion to the substrate due to poor preparation, contamination, water ingress etc).*

### **Stone Chips**

Stone chips will not cause the vehicle to fail the test unless the paint film has been broken and rusting is evident.

*(A stone chip is a defect to the paint film caused by the impact of small stones 'thrown up' by other traffic etc).*

### **Replacement Panels**

A 'panel' is the roof, front wing, rear wing, front door (including 'A' pillar), rear door (including 'B' pillar), bonnet (including the area below the windscreen), boot or tailgate, sill, front panel (including bumper), rear panel (including bumper).

Vehicles which have been damaged and had replacement panels fitted are acceptable as Hackney Carriages and Private Hire Vehicles provided that the repairs have been carried out to a high standard. The colour of the replacement panel must match the other panels and any plastic door mouldings or transfers must also match.

### **Fitting**

Replacement panels (genuine or non-genuine) should be fitted to the vehicle manufacturer's specification using approved fittings.

### **Alignment**

Replacement panels should be correctly aligned. They should be level with all adjacent panels and the gaps between panels should be uniform and similar to those between original panels.

### **Smoking in Hackney Carriage & Private Hire Vehicles**

On 1<sup>st</sup> July 2007, England became 'smoke free'. The Health Act 2006 was introduced to protect employees and the public from the harmful effects of second-hand smoke which prohibited smoking in virtually all enclosed public spaces, workplaces and public and work vehicles.

It is illegal for the driver or any passengers to smoke in a licensed Hackney Carriage or Private Hire Vehicle at any time regardless of whether the vehicle is being used as a 'taxi' or for private use.

All Hackney Carriage and Private Hire Vehicles must display a 'No Smoking' sign in a prominent position in each compartment of the vehicle in which people can be carried. The signs must show the international 'No Smoking' symbol at least 70mm in diameter. There are no exemptions to these legal requirements.

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Given the variety of vehicles licensed it is not possible to prescribe where 'No Smoking' signs should be located however, when deciding where to display the signs the following guidelines should be followed:

Signs must be in a prominent position.

There must be one sign in each compartment of the vehicle in which people can be carried.

The driver's visibility is not impeded

Signs do not obstruct air bag covers.

It is recommended that for most standard Hackney Carriage/Private Hire Vehicles, two signs are sufficient to comply with these requirements.

Certain offences can be dealt with by way of a fixed penalty fine and some can lead to large fines if prosecuted and convicted by a court.

Any licence holder caught smoking in their vehicle also risks action being taken in respect of their drivers licence.

Licence holders should note council policy does not allow the use of vaping or e-cigarettes in the vehicle.

## 5.8 SMBC APPROVED HACKNEY CARRIAGE VEHICLES

The current approved list of Hackney Carriage Vehicles is shown below:

### **Purpose Built 'London Style' Hackney Carriage Vehicles**

- All London style cabs (TX Series)
- Metro Cabs (Manual, Auto, Auto Series II, Series III, TTT)
- Carbodies (London Style -FX4, Fairway)

### **Non-Purpose Built (Converted) Hackney Carriage Vehicles**

- Citroen Dispatch
- Citroen Eurocab
- Fiat Scudo
- Fiat Eurocab
- Fiat TW200 (Scudo Conversion)
- Ford Tourneo Taxi

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- Mercedes Eurocab
- Mercedes Vito
- Nissan Primastar
- Peugeot E7
- Peugeot Expert
- VW Eurocab (Transporter)

These vehicles must be of the required design and specification, can only be **BLACK** in colour, must have either a 'Whole European Type Approval Certificate' or have a 'Low Volume Type Certificate', and must meet all the other criteria listed in this document.

## 6. PRIVATE HIRE OPERATOR LICENCE

### 6.1 Making an Application for an Operator's Licence

**All application forms must be submitted by the applicant. Applications submitted by a third party will not be accepted.**

Before submitting an application, you must have obtained the following documents where necessary:

- A Basic Disclosure Certificate. The Certificate must have been issued within 1 month of the date of application. A new Basic Disclosure Certificate must be produced every twelve months. (This is not required if you hold a current drivers licensed issued by Sandwell MBC and your DBS Enhanced Disclosure Certificate is still valid).
- Planning permission for the premises where you intend to operate the business. If planning permission is not required you must receive confirmation in writing and produce it to the Licensing Office.
- If applicable, a licence from Ofcom to use a radio communication system to communicate with the drivers working through the base.
- Public Liability insurance (to the value of £2 million).
- Employee Liability insurance (if you are employing staff to work at or through your business).
- CSE Awareness & Safeguarding Training Certificate from the Council's training provider.
- Equality & Disability Awareness Training Certificate from the Council's training provider.

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You must provide the above documents when submitting an application for a licence. Additionally you must also bring the following items:

- The completed application form.
- Your full, current driving licence issued by DVLA, Swansea. (This is required so we can check if you have any endorsements on your licence).
- The current fee. (Please refer to the fee list attached to your application form)
- Passport (if you currently have one).
- Photographic identification i.e., a passport, DVLA photo card.
- If you have lived overseas you must produce a criminal record check (from age 18) from the country/countries covering the period you lived in the country.
- National Insurance Number.
- All applicants for the grant or renewal of a licence must produce documentary evidence that they have the right to live and work in the United Kingdom.

If you forget any of the above items when you attend the Licensing Office, your application will **not** be accepted.

The application process requires you to undergo a number of tests and checks before a licence can be issued to you. These tests and checks are detailed below. An inspection of the premises will also take place. Where officers have concerns about the suitability of the premises the application will be referred to Committee.

## 6.2 KNOWLEDGE TEST

To ensure that all your customers receive a consistently high level of service, you are required to pass a knowledge test.

The test is designed to assess your understanding of:

- The Law, Council Policy and Licence Conditions.
- Your responsibilities to the Council.
- Your responsibilities to your employees, drivers and customers.

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To assess your understanding, we will ask 20 questions and you will need to answer at least 16 correctly. If you do not successfully complete this test, retests can be taken up to a maximum of 3 tests in total (i.e. 2 retests). **If you have failed the test 3 times, we will refuse to grant your licence.**

You will not normally be able to reapply within 12 months of the date of your last unsuccessful test.

Managers and Nominated Deputies will also be required to successfully complete the knowledge test before they can be considered as being suitable to fulfil this role.

## **6.3 CRIMINAL RECORD CHECKS for Operators, Managers, Deputies and all staff with access to passenger data.**

**(This section does not apply to anyone who is a Sandwell MBC licensed driver).**

From 1 December 2017, all new applicants for a Private Hire Operators licence will be required to produce a valid Basic Disclosure Certificate prior to a licence being issued.

From 1 December 2017, existing holders of a Private Hire Operators licence will be required to produce a valid Basic Disclosure Certificate prior to a licence being renewed. **If a company, a valid Basic Disclosure Certificate to be submitted for all Directors/partners.**

Operators must meet the same standard as Drivers when considering criminal records. A Basic Disclosure Certificate must have been issued within one month of the application for a licence. Operators will be required to produce a new Basic Disclosure Certificate annually. Failure to produce evidence of a new Basic Disclosure Certificate prior to the previous one expiring may result in your licence being suspended.

From 1 December 2017, the Operator must ensure that all staff, working at the base, who have access to customer data, including the manager/deputy, are checked annually with regard to their criminal record. Staff working at the base must meet the same standard as Drivers and Operators when considering criminal records. Evidence of an employee's Basic Disclosure Certificate must be presented to an authorised officer on request.

Operators and Call handlers at the base can handle sensitive information, such as details of vulnerable adults and children. They can also be aware of any houses that are empty if the occupant(s) are using a licensed vehicle. For these reasons it is essential that only suitable people are allowed to work at Private Hire Operator bases. **Any person who either takes a booking or dispatches a vehicle will also be required to produce a copy of a basic DBS check for the Operator to retain at the premises.**

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## 6.4 Requirement for a licence

A licensed hire vehicle must only be despatched to a customer by a Private Hire Operator who holds an operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a licensed hire vehicle.

A Private Hire Operator must ensure that every licensed hire vehicle is driven by a person who holds a licence issued by the same Authority that issued the vehicle licence. This authority must be the same authority that issued the operator's licence.

Any person who operates a Private Hire service must apply to the Council for a Private Hire Operator's Licence. The objective in licensing Private Hire Operators is the safety of the public, who will be using operators' premises, and vehicles and drivers, arranged through them.

## 6.5 Fitness and propriety

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 and reprimands),

Factors such as general character, non-criminal behaviour, honesty and integrity,

Previous conduct (particularly in cases where the applicant holds or has previously held a licence issued by Sandwell Council),

Business practices demonstrated by the applicant (for example standard of record keeping, compliance with other regulatory requirements, financial practices etc.)

In addition the Council will also consider further information sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards, other licensing authorities and statutory agencies.

If an application is received from a person that is not a driver licensed by Sandwell MBC, the applicant will be required to provide a Basic Disclosure from the Disclosure and Barring Service, and undertake the council's Equality & Disability Awareness Training and also the CSE Awareness and Safeguarding Training (as required for licensed drivers). **If the applicant is a company, a basic DBS is to be submitted for all Directors/partners. In the event that the basic DBS certificate contains any convictions, they will be considered in line with the Private Hire and Hackney Carriage Determination of Matters Policy Guidelines, which means the matter may need to be referred to the Licensing Committee for determination. If the applicant is a company, a hearing may be held with one, some or all of the individuals concerned. If a new partner /director joins the company, they will need to provide taxi**

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licensing with a new basic DBS certificate within one month of taking up this position. (The DBS certificate to be no more than one month old).

Similarly all employees (i.e. call handlers etc.) working through the base will also be required to provide a Basic Disclosure from the Disclosure and Barring Service, and undertake the council's Equality & Disability Awareness Training and also the CSE Awareness and Safeguarding Training (as required for licensed drivers).

## 6.6 Insurance

Before an application for a Private Hire Operator's licence is issued, the applicant shall produce evidence that they have taken out appropriate public liability insurance for the premises to be licensed. Where necessary, operators must also hold employers liability insurance.

## 6.7 Licence Conditions

The Council has power to impose such conditions on an operator's licence, as it considers reasonably necessary and these are set out at the end of this Section.

However, where it is considered necessary, additional conditions may be imposed. In considering what is reasonably necessary the Council will take into account the aims and objectives of this policy.

Operators must only use vehicles and drivers licensed by Sandwell Metropolitan Borough Council.

Failure of the operator to adhere to the conditions of licence will lead to enforcement action.

## 6.8 Operator responsibility in relation to vehicles / drivers that are operated and staff employed at the business.

The operator is responsible for all persons (and vehicles) that are employed, contracted or otherwise used in the course of their business. To that end, the operator must undertake sufficient checks to satisfy themselves that only suitable employees, drivers and vehicles are used (and continue to be used) in the course of their business. The failure of an operator to ensure that appropriate checks are carried out may call into question the operator's fitness and propriety. In addition, a failure to take appropriate action in relation to drivers that persistently breach licence conditions may also be detrimental to the continued fitness and propriety of the operator.

The following are examples of circumstances that may affect the fitness and propriety of a Private Hire Operator:

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- Licensed drivers or vehicle proprietors persistently (either individually or as a group) breaching the conditions of their licence whilst working for / under the instruction of a particular operator.
- Vehicles being operated that are in an unsuitable condition.
- Failure by the operator to satisfactorily address concerns in relation to licensed drivers / vehicle proprietors (including matters related to child / adult safeguarding).

The council expects licensed operators to support the council in its aims to raise awareness of and tackle issues around child and adult safeguarding. Operators must remain alert to these and similar issues, failure to do so will call into question the fitness and propriety of the operator.

## 6.9 New Management of company following revocation of a licence.

Where a licence has been revoked, the Authority will not normally grant an application for an operator's licence within 12 months of the date of the revocation, when they are not satisfied that the management structure of the private hire company is not related to the management involved in the revoked licence and when the authority is not satisfied that the applicant is a fit and proper person to hold the licence. However, each application is to be considered on its own merits.

### CRITERIA FOR APPLICANTS

#### 6.10 Private Hire Operators

*We will normally refuse to grant a licence, renew a licence, or take action in relation to an existing licence, if any of the following applies to the applicant or licence holder or the nominated deputy/manager:*

- You are under 21 years of age.
- If your English or basic skills are below the required standard to pass the knowledge test, your application for a licence will be refused.
- You or any employee has not successfully completed the Council's Equality & Disability Awareness Training.
- You or any employee has not successfully completed the Council's CSE Awareness & Safeguarding Training.

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- You have previously been a licence holder with any local authority and that licence has been revoked during the past 12 months.
- You have previously had an application for a licence refused within the last 12 months by any local authority.
- Your application for a licence has not been successfully completed within 12 months of the date your application was received. In such circumstances we will deem that the applicant has withdrawn the application to be licensed and any future application will require a further licence fee to be paid and the entire process to be completed again. (Upon request the applicant will receive a refund of any element of the licensing fee that has not been spent during their individual application process. No refund will be provided for third party costs).
- You have exhibited behaviour which, in the opinion of the authority, is inappropriate to a licence holder and amounts to reasonable cause to show that you are not a fit and proper person to hold an operator's licence.
- The Determination of Matters Policy Guidelines contained in Section 7 of this Policy Handbook apply to you.
- The nominated premises are not located within the Borough of Sandwell.
- The nominated premises or access to the premises is considered to be unsuitable.
- You are not in day-to-day control of the business.
- You have not successfully completed the Private Hire Operator's Knowledge Test.
- You have not produced all documents/information requested by the Authority.
- You have convictions under the Local Government (Miscellaneous Provisions) Act 1976 or associated legislation.
- The full fee has not been paid.

***You must also ensure that you comply with the following criteria during the lifetime of your licence:***

- All advertisements used by the company should be approved by the Local Authority, before use or purchase of any materials.
- You must ensure that you keep adequate records of all employees, drivers and vehicles working at the company, as defined by the Licensing Office.
- You should not breach any conditions of the licence during its lifetime.

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- You should not carry out, or cause to be carried out, a contract when either the driver, vehicle, or both are not correctly licensed, or insured.
- The licence holder must ensure that there is at least one vehicle available at the base for the use of disabled passengers at all times.
- The licence holder must not be in breach of any of the conditions attached to the planning permission for the premises.

## 6.11 Important Base Documents

As a Private Hire Operator, you may have a considerable number of drivers and vehicles working through your company at any one time.

It is your responsibility to ensure that they are all correctly licensed and insured.

In order to satisfy the requirements of your licence, the Council requires you to maintain a file containing the following documents, (*see chart below*). This record should be available at your base for inspection at all times.

You should ensure that all drivers produce these documents, before they begin work.

**NB. Remember that you have overall responsibility for any activities undertaken by drivers working through your business.**

Document	Reason
Current DVLA Driving Licence	To ensure that the driver has no convictions or disqualifications unknown by the Licensing Office
Copy of Private Hire Driver's License	To ensure that the driver holds a valid current Private Hire Drivers Licence
Copy of Current DVSA (MOT) Certificate for the Vehicle	To ensure that the vehicle has the necessary valid DVSA (MOT) Test Certificate.
Copy of Valid Insurance Cover	To ensure that the vehicle is covered by a relevant insurance policy, at all times whilst working as a Private Hire Vehicle.
Copy of Vehicle Registration Document	To ensure that current owner details are correct

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Copy of Current Private Hire Vehicle Licence	To ensure that the Vehicle owner holds a valid current Private Hire Vehicle Licence.
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## 6.12 Nominated Deputy (Manager)

We accept that you cannot be available twenty four hours a day, seven days a week. However, you are still responsible for the business, when you are not there.

In order that you can meet your responsibilities, even in your absence, you should nominate a deputy or a manager who is over the age of 21 years to act on your behalf.

This person must have knowledge of the business and have access to all records kept on the premises at all times.

### **CONDITIONS ATTACHED TO PRIVATE HIRE OPERATORS LICENCES PURSUANT TO SECTION 55 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 -PART II**

## 6.13 OPERATOR LICENCE

- a) The operator is responsible for all persons that they employ, contract or use in the course of their business. To that end, the operator must undertake sufficient checks to satisfy themselves that only suitable drivers and employees are used (and continue to be used) in the course of their business. The failure of an operator to ensure that appropriate checks are carried out may call into question the operator's fitness and propriety. In addition, a failure to take appropriate action in relation to drivers that persistently breach licence conditions may also be detrimental to the continued fitness and propriety of the operator.
- b) The operator licence is not transferable and the person to whom it is issued must display it in a prominent position at the business premises recorded on the licence at all times during the currency of the licence, so as to be on view to members of the public, except on such occasions as the licence is presented to the Licensing Authority for amendment or if it is required to be produced for inspection by an Authorised Officer of the Council or a Police Officer.
- c) The Licence is granted in respect of the premises referred to in the licence and is not transferable.
- d) The Operator must notify the Council in writing of any change in partnership, directorship, ownership, management or control of the business within 5 working days.

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- e) The Operator must notify the Council in writing within 7 days of any other material change affecting the licence during its validity.
- f) The operator must not at any time operate more private hire vehicles than are specified on the planning permission for the premises.
- g) A licensed operator must inform the council if they are going to be absent from the day to day running of the business for a period of 2 consecutive months. In doing this, the operator must confirm if the manager / nominated deputy will be responsible for the running of the business on their behalf. The operator should also nominate an additional person who is responsible in the absence of the manager / deputy.
- h) Operators must conduct their business in accordance with all relevant statutory provisions. This includes health, safety and welfare legislation, environmental legislation and equalities legislation.
- i) The holder of this Licence shall ensure that all conditions of planning permission in respect of the premises are fully complied with in every respect.

## **6.14 BUSINESS PREMISES**

- a) The Operator must only conduct business from the Office at the address specified on the Licence. The Council reserves the right for an Authorised Officer to inspect the premises for suitability and compliance with the requirements of these Conditions.
- b) The Operator must not cause or permit the business premises to be used by any other person(s) for any other purpose than that connected with the conduct or operation of the private hire business. This condition will not apply if the business premises is the residential address of the licensed operator.
- c) The Operator must not conduct his business, nor employ or utilise any person to conduct his business in any premises, the use of which have not been approved by the Council.
- d) If the licensed operator employs any other person to work at the business premises, the premises must be kept clean, adequately lit, heated and ventilated and must conform to all other legal requirements including the legal requirement that no smoking be allowed on the premises under the requirements of the Health Act 2006; the requirements of the Regulatory Reform (Fire Safety) Order 2005 which requires that a fire safety risk assessment is in place at the premises and Health and Safety at Work Regulations.

## **6.15 RECORD OF BOOKINGS**

- a) The operator must keep an accurate record of every booking of a private hire vehicle or hackney carriage accepted by him/her. The loss of records by theft or otherwise must be reported to the Council in writing within 24 hours, and also immediately to the Police in the event of theft being

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suspected. Separate records must be kept at each premises from which the Operator conducts business. The records must be kept at all times at the business premises and not removed.

All such records must be in English, permanent, legible and preserved for a period of not less than 5 years following the date of the last entry.

Records must be kept in one of the following forms:

- i. a bound book with consecutively numbered pages (loose leaf registers are not acceptable) or
- ii. on continuous stationery which has been generated in the form of an instantaneous print out by a computerised system. The Operator must ensure that adequate supplies of continuous stationery and ink cartridges are maintained and that the printer is appropriately replenished to ensure that at all times full and legible booking details are printed, or
- iii. a computerised recording system which automatically generates a permanent entry onto a recordable CD or DVD at the same time the booking is entered onto the system. Satisfactory certification from the program supplier/installers must be produced to the Council before using any such system for the recording of bookings required by law to be maintained. Such certification must confirm that the system stored or recorded is tamper-proof; and once inputted, cannot be altered, amended, deleted or added to in any way. Any change to the recording system must only be by way of prior written agreement from the Council.
- iv. the removable CD/DVD must be changed on the first day of every month and kept in a secure place at the premises for production on demand by the Police or an Authorised Officer.
- v. on secure computer hard drives or secure cloud storage systems.

Regardless of which system is used. Copies of booking records must be provided to an authorised officer or Police officer on request.

b)(1) In respect of whichever system is used the Operator must, at the time the booking is taken, enter therein:

- i. the date and time the booking was received, any subsequent cancellation, and the signature (or in the case of a computer system, the identity) of the person taking **and responding to** the booking;
- ii. the name and address of the hirer;
- iii. the time of the journey, together with the journey date if different from the booking date; the address or name of the premises from which it is to commence (i.e. the point of pick up of the passenger(s)) and the address or place of destination;
- iv. the private hire/hackney carriage plate number of the vehicle to be used for the journey **and vehicle registration number** (personal code systems are not acceptable);

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v. the badge number and name of the driver of the vehicle used;

vi. remarks (including details of any sub-contracting to another licensed operator).

vii. the name of the individual(s) that responded to the booking and/or dispatched the vehicle.

viii. it is accepted that Operators may outsource booking and dispatch functions, but the obligation to protect children and vulnerable adults cannot be passed on. Operators are required to produce evidence that comparable protections are applied by the Company to which they outsource these functions and booking records should evidence that the customer was made aware of this prior to the booking being confirmed.

b)(2) i. Where a private hire vehicle is unsuitable, for example where a larger vehicle such as a minibus is needed because more than 8 passenger seats are required or to accommodate luggage, the person making the booking/hirer should be informed that a PSV is necessary, and that a PCV licensed driver will be used who is subject to a lower level of checks than a private hire/dual/hackney carriage licensed driver;

ii. A record is to be kept that the hirer was informed of the above and gave their consent to the use of a vehicle and driver who had not been subject to the higher level of checks carried out by Sandwell Council for taxi and private hire licensing purposes. This record to be produced to an authorised officer of the Council or a Police Officer for inspection if requested.

c) Where any bookings are sub contracted either by the operator to another licensed operator or are accepted by the operator from another operator a full record of the booking (in line with 3b above) and notes must be included; including the name of the sub-contractor and contact information)

d) No alterations to records may be made – any amendment must be made to the original record by way of an addition.

e) Entries in the bound book, or on the digital copy generated by a computerised system, must cover a 24 hour period and must contain information in relation to only one private hire firm and no details in connection with the bookings of other private hire firms. The Operator must ensure that any booking clerk involved is competent in the recording of bookings and operating the system used.

f) The records of bookings must be maintained and kept up to date at all times and must be made available for inspection at all reasonable times without notice by any duly Authorised Officer of the Council or any Police Officer. Such Officers must be permitted to photograph and / or remove such records, however kept, from the premises as required.

g) The Operator must not fail or refuse to accept a booking by or on behalf of a disabled person accompanied by an 'assistance dog' when the reason for failure or refusal is that the disabled person will be accompanied by the 'assistance dog'.

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h) The Operator must ensure that any personal information obtained during the course of their business is stored securely, and only retained for as long as is absolutely necessary. Access to this information must be restricted to only those persons who will use it for the purpose for which it has been collected.

Personal information must not be used for any other purpose other than that for which it was collected without the express permission of the individual to which the information relates.

For example, telephone numbers provided by customers so that they can be alerted / updated by SMS text message with regard to a booking they have made must only be used for this purpose. The information must not be retained by the Operator after the text message has been sent, and / or used for any other purpose (such as unsolicited marketing calls).

i) The Licence holder shall maintain a folder containing copies of the following documents for all drivers/vehicles working through the base:

- Up-to-date DVLA Driving Licence.
- Sandwell Private Hire Drivers Licence.
- Current MOT Certificate.
- Current insurance cover note or certificate of insurance.
- Vehicle Registration Document.
- Sandwell Private Hire Vehicle Licence.

The information outlined above must be retained at the Operating premises and be available for inspection by an Authorised Officer or Police Officer **at all times**.

j) The Operator must not accept any booking for a particular private hire vehicle / hackney carriage which would require that vehicle to carry more passengers than it is licensed to carry.

k) The Operator must not operate a private hire vehicle / hackney carriage without the driver thereof being licensed by Sandwell MBC. The Operator must personally examine the drivers' licences issued by the Council and satisfy himself / herself as to their validity.

l) The Operator must bring to the attention of all drivers their legal obligations regarding the use of seat belts by both adults and children under 14 years of age.

m) The Operator must bring to the attention of all drivers their legal obligation regarding no smoking in vehicles under the Health Act 2006. The operator must also advise drivers that vaping and the use of e-cigarettes is also prohibited.

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- n) The Operator must ensure that all drivers are aware of their obligations under any other legislation relevant to the work of a private hire vehicle.
- o) The Operator must ensure that all licensed drivers who carry out work on behalf of their company act in a civil and orderly manner both towards customers and any other member of the public.
- p) The Operator must provide a prompt, efficient and reliable service to members of the public at all reasonable times and, for this purpose, must in particular:
- a. Ensure that when a licensed vehicle has been hired to be in attendance at an appointed time and place, the vehicle must, unless delayed or prevented by sufficient cause, punctually attend at the appointed time and place.
  - b. Behave in orderly and civil manner and must take all reasonable precautions to ensure the safety of all persons conveyed in licensed vehicles operating from his/her office premises.
- q) Where applicable, only radio equipment licensed by OFCOM must be used for the purpose of conducting the business authorised by this licence. The OFCOM licence must be produced on request to the Police or an Authorised Officer. CB apparatus must not be used in connection with any private hire booking at any operating address or in any private hire vehicle/hackney carriage available from such operating base.
- r) The use of radio scanner equipment is prohibited.
- s) Keep a Register of all staff that will take bookings or dispatching vehicles, to be made available to an authorised officer of the Council or Police Officer on request
- t) Evidence that they have had sight of a recent basic DBS for all booking and dispatch staff
- u) Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of the document recorded on the register
- v) From **DATE TO BE INSERTED** have a policy on employing ex-offenders, a copy of which is to be supplied to the Licensing Authority on each application and a copy of which to be available at the base and produced to an authorised officer of the Council or Police Officer on request
- w) The register is to be kept for the same period as the Operator's booking records.

## 6.16 ADVERTISING

- a) The Operator must not trade or advertise under any name for private hire purposes unless such trade name has been approved by the Council and has accordingly been entered on the Private Hire Operator's Licence issued by the Council.

In addition, the following should be considered before paying for any advertising:

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- i) The trading name shall be displayed in full on all advertisements
  - ii) The trading name shall not incorporate the words 'taxi', 'hire' or 'cab'
  - iii) The Licensing Office may refuse to register any trading name, where in their opinion, it is likely to cause confusion to the general public, or is similar to a trading name registered to another licensed operator.
  - iv) For the avoidance of doubt 'advertisement' in this condition means any display on or in the vehicle used in conjunction with the business; and directory; newspaper or media reference or notice or any card or circular distributed for public use, which displays the address or telephone number of the operators business.
- b) The Operator must supply a copy of advertising materials to the Council for recording on file.
- c) The Operator must ensure that all advertising materials comply with Advertising Standards Authority requirements and do not contain offensive, misleading or potentially inflammatory wording which could be seen as defamatory.

## 6.17 GENERAL CONDITIONS

- a) The Operator must ensure that Public Liability Insurance is in force throughout the validity of the licence for each and every operating base open to the public to a minimum cover of £2 million. Certification must be produced on demand to the Licensing Office or any Authorised Officer.
- b) The Operator must affix a properly printed notice in a prominent position inside the business premises, so as to be easily read by any person seeking to hire a private hire vehicle/hackney carriage, stating that any complaints regarding a hiring relating to his/her business should be addressed to:
- Sandwell MBC Taxi Licensing Office, Waterfall Lane Transport Depot, Waterfall Lane, Cradley Heath. B64 6RL.**
- Such notice must also state that the Council does not control the fares for private hire vehicles and that, in the absence of any fare scale published by the Operator, the fare should be agreed before the journey commences. Any fare scale in operation must be on prominent public display and be an accurate reflection of the charge, including any specific additions i.e. Bank Holidays and after midnight loading (including any waiting times) which the customer may be expected to pay.
- c) The Operator must notify the Council **in writing within 7 days (48 hours for sexual, dishonesty, violence or motoring convictions or any arrest for whatever reason)** providing full details of any conviction, bind over, caution, warning, reprimand or arrest for any matter (whether or not charged) imposed on him / her (or if the Operator is a Company or Partnership on any of the Directors, Secretary or Partners) during the period of the licence. **An arrest for any sexual offence, any offence**

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involving dishonesty or violence and any motoring offence will result in the review by the Licensing Sub Committee of the licence holders suitability to continue to hold a licence.

- d) The Operator must notify the Council in writing within 3 days of any change of home address whether permanent or temporary.
- e) Where any property is left by a customer in the business premises, or in any vehicle used for any hiring and placed in the Operator's safekeeping by the driver thereof. The Operator must endeavour to arrange to return such property to its rightful owner, failing which it must be dealt with in accordance with legal requirements and handed in as found property to the Police within 24 hours.
- f) The Operator must not, by him/herself, his/her agents, or any other person importune, or cause or permit to be importuned any person by calling out or by any other means whatsoever to hire any of the licensed vehicles under his/her control.
- g) The Operator must not cause or permit the private hire vehicle licence plate or any notices that are required to be displayed on the inside or outside of a private hire vehicle to be:
- Concealed from public view
  - Defaced
  - Disfigured

The Operator must also ensure that the licence plate and notices are always legible and displayed in accordance with the conditions of the private hire vehicle licence.

- h) All licence holders must hold a current Basic Disclosure Certificate. A new certificate must be obtained every 12 months and produced to the Licensing Office. Failure to produce a current certificate may result in the licence holder's licence being suspended. Any costs associated with obtaining this certificate must be met by the licence holder. The licence holder must ensure that all drivers and employees working through the base also hold a valid disclosure certificate as required by council policy.
- i) You must keep and maintain at your licensed premises a register of all persons employed whether full or part time, in which shall be recorded their full name, date of birth, address, national insurance number, contact telephone number, any call sign/codes they are allocated and the dates their employment commenced/terminated. Further, in relation to each employed individual, copies of supporting documentation in the form of a valid passport or a DVLA photocard licence and utility bills of no more than 2 months old must be kept. This register must be retained at your licensed premises and be available for inspection by an authorised officer at any time during the hours of operation.
- j) The Licence holder must ensure that all drivers working through the base fully conform with the Council's requirements in relation to the Dress Code Policy and wearing corporate clothing or a corporate logo/badge on their clothing, as outlined in the Private Hire Driver's Licence conditions.

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- k) The licence holder must ensure that all vehicles working through the base display company signage at all times. Signage may be in the form of a roof sign or door stickers/magnets or both. All company signage must conform with the Council's requirements at all times that the vehicle is working. Operators will be required to lodge a design with the Licensing Office for approval. All roof signs used at the base must be of a uniform design and as a minimum, display the full company name on the front and the telephone number of the base on the rear. Door signs must display the full company name and telephone number. The Operator will determine what signage is used.
- l) All vehicles working through the business must display licence identification plates and window stickers, supplied by the Council, at all times that the vehicle is working).
- m) The Licensed Operator or the person nominated by the Operator in writing, must be on the premises or in charge of the Operation and immediately contactable by an Authorised Officer or Police Officer **at any time**.
- n) The Operator must ensure that any person left in charge of the premises in the absence of the Operator, is fully aware of the conditions applicable to this licence, particularly those relating to the maintenance of records for drivers, vehicles and bookings and the need to comply with the conditions at all times.
- o) All Private Hire Operators should have the facility to carry guide dogs for the visually impaired, hearing dogs for the deaf and other assistance dogs, when required to do so by a member of the public. **There should be a minimum of 1 vehicle and driver available at all times to carry out this type of work. Therefore, if one vehicle is being used another one should also be available to provide this facility.**
- p) Private Hire Operators must ensure that at all times the level of service they provide to people with disabilities is identical to the service they provide to able-bodied passengers, both in terms of price and level of service.
- q) Any discrimination in relation to disabled passengers is unacceptable. Discrimination may be considered as behaviour that is inappropriate to a Licence Holder and amounts to reasonable cause to show that you are not a fit proper person to hold an operator's licence. The matter will be considered by the Licensing Sub Committee and may result in action being taken in relation to your licence.

## 6.18 OPERATOR NOTES

**In these Conditions** "Operator" means the person who is the current holder of an Operator's Licence

"Business premises" means the operating premises from which the Operator conducts the business

i. These conditions should be read in conjunction with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976.

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- ii. Any person who commits an offence against any of the provisions of the Act pursuant to Section 76 may be liable on summary conviction to a fine not exceeding Level 3 on the standard scale.
- iii. The use of a licensed private hire vehicle to fulfil any private hire booking requires the driver to hold a currently valid private hire driver's licence even if no fare is charged for the journey or irrespective of when, how and to whom any fare is payable. Operators are reminded that the use of free fare cars/courtesy cars which are not licensed as private hire vehicles are not permitted for private hire journeys. Every contract for the hire of a licensed private hire vehicle is deemed to be made with the Operator who accepted the booking for the hire vehicle whether or not the Operator provided the vehicle.
- iv. Any failure on the part of the Operator to make appropriate enquiries as to the licensing status of drivers and/or vehicles for any purpose could be construed as reasonable cause to suspend or revoke the licence. The onus remains with the Operator to clarify any legal requirements which he or she may be required by law to observe.
- v. Any applicant not currently licensed by the Council as an Operator or driver must submit to the Council a Basic Criminal Records Disclosure as to unspent convictions. Such Disclosure to be no more than 1 month old at the time of submission.
- vi. ANY INFRINGEMENT OF THE LICENSING CONDITIONS COULD LEAD TO SUSPENSION OR REVOCATION OF THE LICENCE.**
- vii. ANY REQUEST FOR ADVICE FROM THE COUNCIL IN RELATION TO LICENSING LEGISLATION SHOULD BE IN WRITING TO WHICH A WRITTEN RESPONSE WILL BE GIVEN SO AS TO AVOID ANY FUTURE DISPUTE AS TO THE ADVICE GIVEN. THIS DOES NOT PRECLUDE YOU FROM OBTAINING YOUR OWN INDEPENDENT LEGAL ADVICE.**
- viii. ANY PERSON AGGRIEVED BY ANY CONDITION SPECIFIED IN THE LICENCE MAY APPEAL TO A MAGISTRATES COURT WITHIN 21 DAYS OF ISSUE.**

## **7. Private Hire and Hackney Carriage Determination of Matters Policy Guidelines**

### **Private Hire and Hackney Carriage Determination of Matters Policy Guidelines**

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## 7.1 INTRODUCTION

7.1.1 The purpose of the Policy Guidelines (The Guidelines) is to provide guidance on the criteria taken into account by the council when determining whether or not to grant/renew a licence to an applicant or to take action on an existing licence holder in respect of a driver, vehicle, or private hire operator's licence.

This policy will be immediately applied to all current licences, in addition to being considered at the time of renewal and grant of a licence.

7.1.2 The overriding aim of the local authority is to protect the safety of the public.

The local authority is concerned to ensure:

- That a person is a fit and proper person.
- That the person does not pose a threat to the public.
- That the public are safeguarded from a dishonest person.
- The safeguarding of children and young people, people with disabilities, and vulnerable people.

7.1.3 The term "Fit and Proper Person" for the purposes of hackney carriage and private hire licensing has been defined in the Statutory Taxi and Private Hire Vehicle Standards issued in July 2020. In determining whether a person is fit and proper to hold a licence, those tasked with determining applications and licences will consider the following question:

"Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of the day or night?"

If, on the balance of probabilities, the answer to the question is "no", the individual should not hold a licence.

Licensing Authorities have to make difficult decisions, but the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

In order to assess the suitability of an applicant or licence holder (and to inform decision makers when answering the question above), the local authority will undertake whatever checks and apply whatever

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processes it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. In assessing the suitability of an applicant or licence holder, the council will take into consideration the following factors:

- Criminality
- Period of holding a driver's licence
- Number of endorsed driving licence penalty points
- Right to work
- Medical fitness
- Standard of driving / driving ability
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process).
- The previous licensing history of existing / former licence holders.
- Whether or not the applicant appears on either of the DBS barred lists that confirms that the applicant is barred from working with children or barred from working with adults.

In addition the local authority will also consider further information sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards, other licensing authorities and statutory agencies and checking the NR3 register to see if the applicant has had a licence either refused or revoked by another licensing authority.

Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire driver, but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to ANY individual that appears on either barred list.**

Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be "fit and proper", the reasons for reaching this conclusion should be recorded.

Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the Safeguarding Vulnerable Groups Act 2006. It is an offence to knowingly allow a barred individual to work in regulated activity. The guidance on home to school travel and transport issued by the Department for Education should be considered before making a decision on such an application.

7.1.4 There are numerous decided cases which can be considered in each matter, where appropriate. The leading case is *McCool v Rushcliffe Borough Council* 1998. In this case where the grant of a private

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hire driver's licence was being considered the Lord Chief Justice said "One must, as it seems to me, approach this case bearing in mind the objectives of this licensing regime which is plainly intended, among other things, to ensure so far as possible that those licensed to drive private hire vehicles are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest, and not persons who would take advantage of their employment to abuse or assault passengers".

This case is also applied to existing holders of a Private Hire Drivers Licence and also to applicants for, and holders of, a Hackney Carriage Drivers licence.

7.1.5 The Guidelines provide guidance to any person with an interest in hackney carriage and private hire licensing. In particular, but not exclusively:

- Applicants for driver/vehicle/operator licenses.
- Existing licence holders whose licences are being reviewed/renewed.
- Licensing officers.
- Members of the Licensing Sub Committee.
- Magistrates hearing appeals against local authority decisions.

7.1.6 Where licensing officers have delegated powers to grant licences, they will utilise these Guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the Licensing Sub Committee.

7.1.7 Whilst the Committee and officer will have regard to the Guidelines contained in the policy, **each case will be considered on its individual merits. The Guidelines act as a guide to the Committee and officers as to a starting point only; the sanctions are an indication of the likely outcome of an appearance before the Committee or the officer with delegated powers. The Committee or officer will not fetter its discretion.**

7.1.8 Licences can be issued for a shorter period of time in certain circumstances

i.e. medical conditions, limited leave to remain in the country etc. The Committee will not issue a licence to an applicant or renew a licence for an existing licence holder, for a shorter period of time, if the applicant/licence holder is not a fit and proper person.

## 7.2 General policy

7.2.1 These sanctions may be reduced where there are mitigating circumstances or increased where there are aggravating circumstances.

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7.2.2 Any reference to convictions also applies to cautions since the offender must have admitted the offence in question to receive a caution. It also applies to fixed penalties and reprimands.

7.2.3 Whilst criminal convictions will play a significant part in the local authority's determination on whether an individual is fit and proper or not, the Council will also take into account other factors such as general character, non-criminal behaviour, driving abilities, and other police information etc.

7.2.4 In considering this guidance the local authority will be mindful that each case must be considered on its individual merits and, where the circumstances demand, the Committee or officer with delegated authority may depart from the Guidelines in this policy. In such circumstances reasons will be given for departure and recorded as part of the formal record.

7.2.5 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:

- remain free of conviction for the appropriate period; and
- show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).

(Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence).

7.2.6 The standards and criteria set out in paragraphs 8 to 22 below are those that would normally be applied to applications and licences. The local authority may depart from these criteria; however, it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

**7.2.7 Where an applicant has been convicted of a criminal offence, the local authority cannot review the merits of the conviction but it can look at the facts behind the conviction.**

7.2.8 Personal circumstances of an applicant or licence holder, such as financial commitments, are irrelevant except to explain his or her conduct. In making a decision personal circumstances will not be taken into account unless personal circumstances in some way have contributed to the behaviour in question (*McCool v Rushcliffe Borough Council 1998*).

## 7.3 Pre-requisites to making an application

7.3.1 It is the policy of the local authority that every application for the grant or renewal of a licence to drive a Hackney Carriage and/or Private Hire Vehicle must be accompanied by satisfactory evidence of the following matters (and that applications that are incomplete will not be deemed to have been made until such time as they are completed)

- That the applicant has the right to live and work in the country.

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- An enhanced criminal record check and evidence that they are not on a child and/or vulnerable adult barring list.
- A certificate of their current medical fitness [to DVLA Group 2 standard] – (See medical section in Driver Policy).
- That the applicant is authorised to drive a vehicle of the same classification as that which the licence will allow them to drive.
- That the applicant holds a UK driving licence and has a minimum of two years post-qualification driving experience.
- That the applicant has adequate literacy and numeracy skills to provide the service that they wish to be licensed for. This will be demonstrated by means of a test. (See Suitability Assessment section in Driver Policy).
- That the applicant has sufficient ability to speak English and to understand spoken English to provide the service that they wish to be licensed for. This will be demonstrated by means of a test. (See Suitability Assessment section in Driver Policy) **and**
- **From DATE TO BE INSERTED applicants will be required to take and pass an approved English course, with one of the Councils preferred providers as detailed on the Council's website. Existing licence holders will be required to provide proof of passing the course within one year of the above date. In the event that the approved course is not completed, their licence will be suspended until such time as the course has been passed.**
- That the applicant has completed Child Sexual Exploitation (CSE) Awareness and Safeguarding Training provided by the local authority's appointed training provider. (See CSE & Safeguarding Training in Driver Policy).
- That the applicant has completed Equality & Disability Awareness Training provided by the local authority's appointed training provider. (See Equality & Disability Awareness Training in Driver Policy).
- For persons who seek to be authorised to drive a wheelchair accessible vehicle) that the applicant has the ability to safely load and secure wheelchair users in a wheelchair accessible vehicle whilst in their chair. This is provided for by the Wheelchair Assessment Test.
- That the applicant has completed the driving test carried out by the local authority's appointed driving test provider. (See The Driving Test section in Driver Policy).
- If an applicant has previously lived outside of the United Kingdom the applicant must produce a criminal record check from each country in which they have lived whilst over the age of 18 before a licence application can be made.

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- Where an applicant has spent three or more continuous months outside the UK once their licence has been issued, that they should provide criminal record information from that country or a “Certificate of Good Character” on their return. This can be obtained by visiting the following website: - <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

## 7.4 Appeals

7.4.1 Any applicant who is not granted a driver’s licence on the grounds that the local authority is not satisfied he or she is a fit and proper person to hold such a licence has a right to appeal to the Magistrates’ Court within 21 days of the notice informing him/her of the outcome.

7.4.2 Any applicant who is not granted an operator licence on the grounds that the local authority is not satisfied he or she is a fit and proper person to hold such a licence has a right to appeal to the Magistrates’ Court within 21 days of the notice informing him/her of the outcome.

7.4.3 Any licence holder who is suspended or revoked, or where the licence has not been renewed has a right to appeal to the Magistrates’ Court within 21 days of the notice informing him/her of the outcome.

7.4.4 The Committee may decide to warn an applicant as to future conduct either in isolation or in conjunction with another sanction such as a suspension. There is no right of appeal against such a warning. There is however a statutory right of appeal against a suspension or revocation.

7.4.5 In the case of a warning issued by an officer, if the applicant or licence holder is not prepared to accept such a warning the matter will be referred to the Licensing Sub Committee for determination.

## 7.5 Powers

7.5.1 Section 46 of the Town Police Clauses 1847 states:

No person shall act as driver of any hackney carriage licensed in pursuance of this or the special Act to ply for hire within the prescribed distance without first obtaining a licence from the commissioners, which licence shall be registered by the clerk to the commissioners, [and such fee as the commissioners may determine shall be paid] for the same; and every such licence shall be in force until the same is revoked except during the time that the same may be suspended as after mentioned.

7.5.2 Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 states:

(1) Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver’s licence: Provided that a district council shall not grant a licence—

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(a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or

(b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

(2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

7.5.3 Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 states:

(1) Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence: Provided that a district council shall not grant a licence unless they are satisfied;

(a) that the applicant is a fit and proper person to hold an operator's licence; and

(b) if the applicant is an individual, that the applicant is not disqualified by reason of the applicant's immigration status from operating a private hire vehicle].

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

[(2) [Subject to section 55ZA, every] licence granted under this section shall remain in force for five years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.]

(3) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

(4) Any applicant aggrieved by the refusal of a district council to grant an operator's licence under this section, or by any conditions attached to the grant of such a licence, may appeal to a magistrates' court.

7.5.4 Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 states:

(1) A district council may require any applicant for a licence under the Act of 1847 or under this Part of this Act to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.

(2) Without prejudice to the generality of the foregoing subsection—

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(a) a district council may require an applicant for a driver's licence in respect of a hackney carriage or a private hire vehicle—

(i) to produce a certificate signed by a registered medical practitioner to the effect that he is physically fit to be the driver of a hackney carriage or a private hire vehicle; and

(ii) whether or not such a certificate has been produced, to submit to examination by a registered medical practitioner selected by the district council as to his physical fitness to be the driver of a hackney carriage or a private hire vehicle;

(3) If any person knowingly or recklessly makes a false statement or omits any material particular in giving information under this section, he shall be guilty of an offence.

7.5.5 Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states:

(1) Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage—

(a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or

(b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

7.5.6 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states:

(1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—

(a) that he has since the grant of the licence—

(i) been convicted of an offence involving dishonesty, indecency or violence; or

(ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or

(b) any other reasonable cause.

7.5.7 Section 62 of the Local Government (Miscellaneous Provisions) Act 1976 states:

(1) Notwithstanding anything in this Part of this Act a district council may suspend or revoke, or (on application therefor under section 55 of this Act) refuse to renew an operator's licence on any of the following grounds:—

(a) any offence under, or non-compliance with, the provisions of this Part of this Act;

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(b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;

(c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or

(d) any other reasonable cause.

(2) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the operator notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal.

(3) Any operator aggrieved by a decision of a district council under this section may appeal to a magistrates' court.

7.5.8 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the local authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the local authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. In accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.

7.5.9 In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

## **7.6 Consideration of disclosed criminal history**

7.6.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the local authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operators licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions, or charges awaiting trial, or allegations pending a charging decision, the local authority will look into:

- How relevant the offence(s) are to the licence being applied for.
- How serious the offence(s) were.
- When the offence(s) were committed.
- The date of conviction.

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- Circumstances of the individual concerned.
- Sentence imposed by the court.
- The applicant's age at the time of conviction.
- Whether they form part of a pattern of offending.
- Any other character check considered reasonable (e.g. personal references).
- Any other factors that might be relevant, for example
  - The previous conduct of an existing or former licence holder,
  - Whether the applicant has intentionally misled the council or lied as part of the application process,
  - Information provided by other agencies / council departments.

7.6.2 Existing holders of drivers' licences and those persons that hold a private hire operator's licence are required to notify the local authority must notify the Licensing Office **in writing within 7 days (48 hours for sexual, dishonesty, violence or motoring convictions or any arrest for whatever reason)** of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions and reprimands). **An arrest for any sexual offence, any offence involving dishonesty or violence and any motoring offence will result in the review by the Licensing Sub Committee of the licence holder's suitability to continue to hold a licence.**

7.6.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the Taxi Licensing Office in confidence for advice.

7.6.4 The local authority conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any applicant for a driver's licence. The local authority follows the DBS's Code of Practice on the fair use of disclosure information. A copy is available on request.

7.6.5 Applicants applying for the grant or a renewal of a driver's licence will be required to obtain an enhanced disclosure at their expense. The local authority abides by the DBS's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.

7.6.6 So that the local authority receives relevant information as quickly as possible in order to take appropriate and proportionate action to protect public safety, it is the local authority's policy to require applicants to register for the DBS's update service. Registration lasts for one year. Licence holders are required to provide evidence of continuous registration throughout the duration of their licence. The local authority will check the licence holder's criminal history at least **every 6 months** via the DBS Update Service.

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7.6.7 More information about the DBS can be found on their website at <https://www.gov.uk/dbs-update-service>

7.6.8 The local authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the local authority or other local authorities, and information disclosed by the police.

7.6.9 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused and they may be prosecuted.

7.6.10 Applicants who receive a fixed penalty, conviction, caution, reprimand etc. whilst their application is pending must report such matters to the Licensing Office, in writing, within 7 days of receiving the sanction.

7.6.11 Any offences or behaviour not covered by this Policy will not prevent the local authority from taking into account those offences or behaviours.

## **7.7 Once a licence has been granted**

7.7.1 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally not be granted, they should expect consideration to be given as to the suspension or revocation of their licence, or refusal to renew a licence. Existing drivers will be treated as seriously as new applicants. With regards to a suspension unless as specified in these Guidelines an existing driver can expect his or her licence to be revoked where it would be the case that an applicant would not be granted.

7.7.2 Existing licence holders who committed a serious offence in the past which has previously been determined by the Committee or officers or Court, whereupon if they were a new applicant would not be granted a licence, will be brought before the committee, following the implementation of the policy, to consider whether or not their licence should be revoked. The committee will consider each case on its merits and take into account the length of time that has elapsed since the conviction and the drivers conduct and the length of time the licence holder has held a licence.

7.7.3 Existing licence holders who committed an offence in the past, other than those referred to in the above paragraph and specified in these Policy Guidelines, which has previously been determined by the Committee or officers or Court, whereupon if they were being determined after the implementation of the policy would expect an alternative outcome, will be brought before the committee, upon receipt of their application for a renewal, to consider whether or not their licence should be suspended for a longer period of time or if the licence should be revoked. The committee

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will consider each case on its merits and take into account the length of time that has elapsed since the conviction and the drivers conduct and the length of time the licence holder has held a licence.

7.7.4 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver by the officer with delegated powers, or at the Committee meeting. [Local Government (Miscellaneous Provisions) Act 1976, Section 61 (2A) & (2B)]

7.7.5 A suspension or revocation of the licence of an operator takes effect at the end of the period of 21 days beginning with the day on which notice is given to the operator.

7.7.6 In the event that a licence is either refused or revoked, the information will be recorded on the National Register of Taxi Licence Revocations or Refusals (NR3) and will remain on this register in line with NAFN's, (the data controller), data retention policies.

Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision of information of or under NR3 are necessary to this Authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under GDPR, you can do so to the authority's Data Protection Officer who can be contacted at the following email address [info\\_management@sandwell.gov.uk](mailto:info_management@sandwell.gov.uk)

You have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about the handling of data can be found on ICO's website:

<https://ico.org.uk/make-a-complaint/>

The Licensing Authority will publish a policy on the approach it will take to requests by other authorities for further information about entries on NR3 and about the use it will make of any further information provided to it. To obtain a copy of this policy, please contact the Taxi Licensing Team on [taxi\\_licensing@sandwell.gov.uk](mailto:taxi_licensing@sandwell.gov.uk) or visit the Council's website

[https://www.sandwell.gov.uk/info/200176/business/359/taxi\\_and\\_private\\_hire\\_licences/3](https://www.sandwell.gov.uk/info/200176/business/359/taxi_and_private_hire_licences/3)

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## 7.8 Serious offences involving violence

7.8.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. **Where an applicant or licensee has been convicted of a crime which resulted in the death or was intended to cause the death or serious injury of another person, they will not be licensed. In all cases, the definition of serious injury will be taken to be an injury which results in a person being detained in hospital as an 'in patient'.**

7.8.2 A licence will not be granted where the applicant has a conviction for an offence such as:

- Murder.
- Manslaughter.
- Manslaughter or culpable homicide while driving.
- Terrorism offences.
- Or any similar offences (including attempted or conspiracy to commit offences which replace the above).

All current licence holders with such a conviction will be brought before the Committee, following the implementation of the policy, to consider whether or not their licence should be revoked.

7.8.3 At the time of application a minimum period of 10 years free of conviction or at least 10 years from completion of the sentence given (whichever is the longer) should be required before granting a licence. Such offences are set out below:

- Any racially or religiously aggravated offence.
- Arson. Wounding with intent.
- Grievous bodily harm.
- Robbery.
- Riot.
- Assault occasioning actual bodily harm.
- Violent disorder.
- Cruelty to a child.
- Neglect of child.

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- Or any similar offences (including attempted or conspiracy to commit offences which replace the above).

7.8.4 At the time of application a minimum period of **10 years free of conviction or at least 10 years** from completion of the sentence given (whichever is the longer) should be required before granting a licence. Such offences are set out below:

- Section 4 Protection from Harassment Act 1997.
- Affray.
- Assault on a Constable
- Or any similar offences (including attempted or conspiracy to commit offences which replace the above).

7.8.5 At the time of application a minimum period **of 10 years free of conviction or at least 10 years** from completion of the sentence given (whichever is the longer) should be required before granting a licence. Such offences are set out below:

- Common assault / Battery / Assault by beating.
- Section 5 Public Order Act 1986 offence (harassment, alarm or distress).
- Section 4 Public Order Act 1986 offence (fear of provocation of violence).
- Section 4A Public Order Act 1986 offence (intentional harassment, alarm or distress).
- Section 2 Protection from Harassment Act 1997.
- Obstruction.
- Criminal damage.
- Resisting arrest.
- Stalking.
- Or any similar offences (including attempted or conspiracy to commit offences which replace the above).

7.8.6 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

7.8.7 In the event of a licence being granted, a strict warning as to the applicant's future conduct and how it may affect the licence, both verbally and in writing should be administered.

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## 7.9 Possession of a weapon/bladed article.

7.9.1 If an applicant has been convicted of possession of a weapon/bladed article or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

7.9.2 At the time of application a minimum period of 7 years free of conviction or at least 7 years from completion of the sentence given (whichever is the longer) should be required before granting a licence.

7.9.3 An application will not normally be granted where the applicant has a conviction for an offence involving a firearm. All current licence holders with such a conviction will be brought before the Committee, following the implementation of the policy, to consider whether or not their licence should be revoked.

## 7.10 Sex and indecency offences

7.10.1 As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Those applicants with convictions for the more serious sexual offences will not be granted. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, or who is currently on the Sex Offenders Register or on any barred list, a licence will not be granted.

7.10.2 A licence will not be granted where the applicant has a conviction for an offence such as:

- Rape.
- Assault by penetration.
- Offences involving children or vulnerable adults.
- Sexual assault.
- Indecent assault.
- Exploitation of prostitution.
- Trafficking for sexual exploitation.
- Possession of indecent photographs, child pornography etc.
- Or any sex or indecency offence that was committed in the course of employment as a taxi or PHV driver.

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- Or any similar offences (including attempted or conspiracy to commit offences which replace the above).

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, this list is not exhaustive.

All current licence holders with such a conviction will be brought before the Committee, following the implementation of the policy, to consider whether or not their licence should be revoked.

7.10.3 At the time of application a minimum period of 10 years free of conviction or at least 10 years from completion of the sentence given (whichever is the longer) should be required before granting a licence. Such offences are set out below:

- Indecent exposure.
- Soliciting (kerb crawling).
- Voyeurism.
- Or any similar offences (including attempted or conspiracy to commit offences which replace the above).

7.10.4 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a sexual nature other than those mentioned in 10.2 above where a single offence will mean that the licence will not be granted.

7.10.5 In addition to the above the local authority will not grant a licence to any applicant who is currently on the Sex Offenders Register. All current licence holders currently on the Sex Offenders Register will be brought before the Committee, upon receipt of their application to renew their licence.

## 7.11 Dishonesty

7.11.1 A licensed driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

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7.11.2 At the time of application a minimum period of 10 years free of conviction or at least 10 years from completion of the sentence given (whichever is the longer) should be required before granting a licence. Such offences are set out below:

- Theft.
- Burglary.
- Fraud.
- Benefit fraud.
- Forgery.
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Money laundering.
- Perverting the course of justice.
- Or any similar offences (including attempted or conspiracy to commit offences which replace the above).

7.11.3 At the time of application a minimum period of 7 years free of conviction or at least 7 years from completion of the sentence given (whichever is the longer) should be required before granting a licence. Such offences are set out below:

- Handling or receiving stolen goods.
- Taking a vehicle without consent.
- Or any similar offences (including attempted or conspiracy to commit offences which replace the above).

7.11.4 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for a dishonesty offence.

## 7.12 Drugs

7.12.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

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7.12.2 A licence will not be granted where the applicant has a conviction for an offence such as:

- Supply of drugs.
- Or any similar offences (including attempted or conspiracy to commit offences which replace the above).

All current licence holders with such a conviction will be brought before the Committee, following the implementation of the policy, to consider whether or not their licence should be revoked.

7.12.3 At the time of application a minimum period of 5 years free of conviction or at least 5 years from completion of the sentence given (whichever is the longer) should be required before granting a licence;

- Possession of drugs.
- Or any similar offences (including attempted or conspiracy to commit offences which replace the above).
- Any applicant may also have to undergo drugs testing for a period of time at their own expense to demonstrate that they are not using controlled drugs. The length of time, frequency and type of testing to be determined on a case by case basis.

7.12.4 A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.

## 7.13 Driving offences involving the loss of life

7.13.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. Where an applicant or licensee has been convicted of a crime which resulted in the death or was intended to cause the death or serious injury of another person, they will not be licensed. In all cases, the definition of serious injury will be taken to be an injury which results in a person being detained in hospital as an 'in patient'.

A licence will not be granted where the applicant has a conviction for an offence such as:

- Causing death by dangerous driving.
- Causing death by careless driving whilst under the influence of drink or drugs.
- Causing death by driving: unlicensed, disqualified or uninsured drivers.
- Or any similar offences.

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All current licence holders with such a conviction will be brought before the Committee, following the implementation of the policy, to consider whether or not their licence should be revoked.

## 7.14 Drink driving/driving under the influence of drugs/using a mobile phone whilst driving

7.14.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his/her DVLA driving licence but he or she should be warned as to the significant risk to his/her licence status in the event of re-offending. Normally at **least 7 years**, after the restoration of the driving licence following a drink/drug drive conviction should elapse before an application will be considered. If there is any concern that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed. **In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs. The frequency and type of testing to be determined on a case by case basis.**

7.14.2 Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research (see for instance <http://www.rospa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>) which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:

- are much less aware of what's happening on the road around them.
- fail to see road signs.
- fail to maintain proper lane position and steady speed.
- are more likely to 'tailgate' the vehicle in front.
- react more slowly, take longer to brake and longer to stop.
- are more likely to enter unsafe gaps in traffic.
- feel more stressed and frustrated.

7.14.3 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.

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7.14.4 An application will not normally be granted where the applicant has a conviction or fixed penalty for using a mobile whilst driving within the previous 5 years. In the case of an existing licence holder the licence will normally be revoked.

7.14.5 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of driving under the influence of drink or drugs, or whilst using a mobile phone.

NEW SECTION TO BE ADDED HERE

## Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

In particular, any convictions relating to offences under the Equality Act 2010 which covers:

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race
- Religion or Belief
- Sex

## 7.15 Licensing offences

7.15.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons which have occurred in the previous 3 years will normally result in a licence not being granted. In the case of existing licence holders a licensee will normally be suspended for 3 years for the first offence.

7.15.2 A licence will not normally be granted if an applicant has more than one conviction in the last 5 years for a licensing offence from the date of conviction.

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## 7.16 Insurance offences

7.16.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. Convictions which have occurred in the previous three years will normally result in a licence not being granted. In the case of existing licence holders a licence will normally be revoked.

7.16.2 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an insurance related offence.

7.16.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have his or her operators' licence revoked and be prevented from holding a licence for at least three years.

## 7.17 Minor Traffic Offences

(Highlighted Grey in the Tables at Annex A)

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

7.17.1 In the case of new applicants and existing licence holders, where there are six or less points on the DVLA licence, the matter will be determined by an officer with delegated authority. Such officer, as per the scheme of delegations, will have the power to grant and renew a licence with or without a warning and in the case of an existing licence holder to take no action or to take action by way of a warning.

7.17.2 If a new applicant has failed to disclose a minor traffic offence or an existing licence holder has failed within seven days to disclose a minor traffic offence, on the first occasion, the Licensing Manager will issue a written warning.

7.17.3 An applicant for the grant of a licence, or an existing licence holder, will be referred to the Committee if he/she has more than six live\* points on their driving licence for any offence(s) other than major traffic offences.

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In the case of an application for the grant or renewal of licence, if the applicant has six points to his/her DVLA licence:-

The Committee when considering the grant of a licence must take into account the applicant's driving record. If the Committee decides to grant a licence, a strict warning as to the applicants future conduct and how it may affect the licence, both verbally and in writing should be administered.

In the case of an existing licence holder, if the licence holder has seven to nine points on his/her DVLA licence:-

The Committee must take into account the applicant's driving record. Sanctions could range from a Strong Written Warning to Revocation if the licence holder has repeatedly committed the same offence.

In the case of an application for the grant or renewal of licence, if the applicant has 10 or more points on his/her DVLA licence; a licence will not normally be granted.

In the case of an existing licence holder, if the licence holder has 10 or more points on his/her DVLA licence; the Committee would normally revoke the licence.

\*The word 'live' is used to signify 3 years from date of offence (Fixed Penalties only), conviction or sentence, whichever is the later.

## **7.18 Major Traffic Offences**

**(Offences that are not highlighted in the Tables at Annex A)**

7.18.1 With the exception of Major Traffic Offences covered in Paragraphs 7.13 to 7.16 in the case of an application for the grant or renewal of licence, a licence will not normally be granted. A period of 3 years free from convictions should elapse before another application is considered.

In the case of an existing licence holder, a licence will normally be revoked.

## **7.19 Outstanding charges or summonses/allegations.**

7.19.1 If the individual is the subject of an outstanding charge, summons, or allegation their application can continue to be processed, but may be refused, revoked or suspended by the Committee depending upon the seriousness of the offence together with any other conviction history.

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## 7.20 Non-conviction information

7.20.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he or she could be a danger to the public, consideration should be given to refusing the licence or revoking or suspending the licence.

## 7.21 Cautions

7.21.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence or offences.

## 7.22 Licences issued by other local authorities

7.22.1 Applicants who hold a licence with one local authority should not automatically assume that their application will be granted by another. Each case will be determined on its own merits.

7.22.2 Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate. Any change in circumstances must be reported within 7 days.

## 7.23 Summary

7.23.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before the relevant time period, free from conviction, has elapsed.

7.23.2 While it is possible that an applicant may have a number of convictions that, individually, meet the above Guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

7.23.3 The matters detailed in these Guidelines are not exhaustive. The applicant or licence holder may have to attend Committee, if there are other matters not contained in the Guidelines which indicate that the applicant or licence holder has exhibited behaviour, which in the opinion of the local authority is inappropriate to a licence holder and amounts to reasonable cause to show that you are

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not a fit and proper person to hold a licence. (E.g. allegations of a serious nature, or convictions or complaints).

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## Annex A – Motoring offences and penalty points

The following is a guide to the number of penalty points a court may impose, it does not reflect the fact that some offences may incur a disqualification. These codes are recorded from information supplied by the courts.

### Endorsement codes and penalty points

Each endorsement has a special code and is given 'penalty points' on a scale from 1 to 11. You get more points for more serious offences.

The table shows the offence codes that can be put on your driving record. It also shows how many penalty points you can get for them. Some offences may also involve a disqualification.

Offence codes and penalty points must stay on your driving record for 4 or 11 years depending on the offence.

### Accident offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
AC10	Failing to stop after an accident	5 to 10
AC20	Failing to give particulars or report an accident within 24 hours	5 to 10
AC30	Undefined accident offences	4 to 9

### Disqualified driver

Codes BA10 and BA30 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
BA10	Driving while disqualified by order of court	6
BA30	Attempting to drive while disqualified by order of court	6

Codes BA40 and BA60 must stay on a driving record for 4 years from the date of the conviction.

Code	Offence	Penalty points
BA40	Causing death by driving while disqualified	3 to 11

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Code	Offence	Penalty points
BA60	Causing serious injury by driving while disqualified	3 to 11

### Careless driving

Codes CD10 to CD30 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
CD10	Driving without due care and attention	3 to 9
CD20	Driving without reasonable consideration for other road users	3 to 9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3 to 9

Codes CD40 to CD70 must stay on a driving record for 11 years from the date of the conviction.

Code	Offence	Penalty points
CD40	Causing death through careless driving when unfit through drink	3 to 11
CD50	Causing death by careless driving when unfit through drugs	3 to 11
CD60	Causing death by careless driving with alcohol level above the limit	3 to 11
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis	3 to 11

Codes CD80 and CD90 must stay on a driving record for 4 years from the date of the conviction.

Code	Offence	Penalty points
CD80	Causing death by careless, or inconsiderate, driving	3 to 11
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	3 to 11

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### Construction and use offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
CU10	Using a vehicle with defective brakes	3
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers	3
CU80	Breach of requirements as to control of the vehicle, mobile telephone etc.	6

### Reckless/dangerous driving

These codes must stay on a driving record for 4 years from the date of the conviction.

Code	Offence	Penalty points
DD10	Causing serious injury by dangerous driving	3 to 11
DD40	Dangerous driving	3 to 11
DD60	Manslaughter or culpable homicide while driving a vehicle	3 to 11
DD80	Causing death by dangerous driving	3 to 11
DD90	Furious driving	3 to 9

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## Drink

Codes DR10 to DR61 must stay on a driving record for 11 years from the date of the conviction.

Code	Offence	Penalty points
DR10	Driving or attempting to drive with alcohol level above limit	3 to 11
DR20	Driving or attempting to drive while unfit through drink	3 to 11
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3 to 11
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity	3 to 11
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive	10

Codes DR40 to DR70 must stay on a driving record for 4 years from the date of the offence or 4 years from date of conviction where a disqualification is imposed.

Code	Offence	Penalty points
DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of a vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to provide specimen for breath test	4

## Drugs

These codes must stay on a driving record for 11 years from the date of the conviction.

Code	Offence	Penalty points
DG10	Driving or attempting to drive with drug level above the specified limit	3 to 11

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Code	Offence	Penalty points
DG60	Causing death by careless driving with drug level above the limit	3 to 11
DR80	Driving or attempting to drive when unfit through drugs	3 to 11

These codes must stay on a driving record for 4 years from the date of the offence or 4 years from date of conviction where a disqualification is imposed.

Code	Offence	Penalty points
DG40	In charge of a vehicle while drug level above specified limit	10
DR90	In charge of a vehicle when unfit through drugs	10

#### Insurance offences

Code IN10 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
IN10	Using a vehicle uninsured against third party risks	6 to 8

#### Licence offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
LC20	Driving otherwise than in accordance with a licence	3 to 6
LC30	Driving after making a false declaration about fitness when applying for a licence	3 to 6
LC40	Driving a vehicle having failed to notify a disability	3 to 6
LC50	Driving after a licence has been revoked or refused on medical grounds	3 to 6

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### Miscellaneous offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3
MS30	Play street offences	2
MS50	Motor racing on the highway	3 to 11
MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)	3
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc.	6

### Motorway offences

Code MW10 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
MW10	Contravention of special roads regulations (excluding speed limits)	3

### Pedestrian crossings

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
PC10	Undefined contravention of pedestrian crossing regulations	3

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Code	Offence	Penalty points
PC20	Contravention of pedestrian crossing regulations with moving vehicle	3
PC30	Contravention of pedestrian crossing regulations with stationary vehicle	3

### Speed limits

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
SP10	Exceeding goods vehicle speed limits	3 to 6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3 to 6
SP30	Exceeding statutory speed limit on a public road	3 to 6
SP40	Exceeding passenger vehicle speed limit	3 to 6
SP50	Exceeding speed limit on a motorway	3 to 6

### Traffic direction and signs

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with 'stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with traffic sign (excluding 'stop' signs, traffic lights or double white lines)	3

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Code	Offence	Penalty points
TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3

### Special code

Code TT99 must stay on a driving record for 4 years from the date of conviction.

It shows disqualification under 'totting-up' - if the total of penalty points reaches 12 or more within 3 years, the driver can be disqualified.

### Theft or unauthorised taking

Code UT50 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
UT50	Aggravated taking of a vehicle	3 to 11

### 'Mutual recognition' codes

You'll get an 'MR' code on your driving record if you're disqualified while driving in Northern Ireland or the Isle of Man. Your disqualification period will also be valid in GB and will stay on your record for 4 years from the date of conviction.

Code	Offence
MR09	Reckless or dangerous driving (whether or not resulting in death, injury or serious risk)
MR19	Wilful failure to carry out the obligation placed on driver after being involved in a road accident (hit or run)
MR29	Driving a vehicle while under the influence of alcohol or other substance affecting or diminishing the mental and physical abilities of a driver
MR39	Driving a vehicle faster than the permitted speed

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Code	Offence
MR49	Driving a vehicle whilst disqualified
MR59	Other conduct constituting an offence for which a driving disqualification has been imposed by the State of Offence

### **Aiding, abetting, counselling or procuring offences**

For these offences, the codes are similar, but with the number 0 on the code changed to 2.

For example, code LC20 (driving otherwise than in accordance with a licence) becomes code LC22 on your driving record if you have helped someone to do this.

### **Causing or permitting offences**

For these offences, the codes are similar, but with the number 0 on the code changed to 4.

For example, LC20 (driving otherwise than in accordance with a licence) becomes LC24 on your licence if you've caused or permitted someone to do this.

### **Inciting offences**

For these offences, the codes are similar, but with the number 0 on the code changed to 6.

For example, DD40 (dangerous driving) becomes DD46 on your driving record if you've incited someone to do this.

### **Non-endorsable offences**

Some offences are non-endorsable. A non-endorsable offence does not carry any penalty points but they carry a period of disqualification.

At the end of the disqualification (over 56 days) the driver will have to apply for a renewal licence together with the appropriate fee. Any queries about offences and endorsements should be directed to the convicting court.

Source: [www.gov.uk](http://www.gov.uk)

For an up to date list of driving endorsements (penalty points) please refer to the above website.

The penalty points list in these guidelines is subject to change.

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## 8. Private Hire and Hackney Carriage Licensing Enforcement Policy

### 8.1 Enforcement Policy Statement

8.1.1 It is the policy of Sandwell Metropolitan Borough Council Taxi Licensing to ensure that, Private Hire Drivers, Hackney Carriage Drivers, Private Hire Operators, Private Hire Vehicles / Proprietors and Hackney Carriage Vehicles / Proprietors are licensed correctly and carry out their trade in accordance with both the relevant law, policy and the conditions attached to the licences.

8.1.2 The principal purpose of Private Hire and Hackney Carriage licensing is to protect the public and promote public safety.

8.1.3 All enforcement action, be it verbal warnings, the issue of written warnings, statutory notices, appearance before the Licensing Sub Committee or prosecution, will primarily be based upon the seriousness of the breach and the possible consequences arising out of it. Enforcement action will not, therefore, constitute a punitive response to minor technical contraventions of legislation.

8.1.4 This Enforcement Policy forms part of the Council's Private Hire and Hackney Carriage Licensing Policy "The Policy Handbook". Specific advice on the issue of licences and enforcement action is contained in the Policy Handbook.

8.1.5 Authorised officers (as authorised by the Scheme of Delegations), when making enforcement decisions, will abide by the Policy Handbook. Any departure from the policy must be exceptional, capable of justification, be fully considered and be endorsed at management level or above before the decision is taken (unless it is considered that there is significant risk to the public in delaying the decision).

8.1.6 Authorised officers will be fully acquainted with the requirements of the Policy Handbook and appropriate training will be provided where required.

8.1.7 Officers will be authorised by The Scheme of Delegations to take enforcement action which is relevant and appropriate.

8.1.8 When creating this Enforcement Policy, we have had regard to The Legislative and Regulatory Reform Act 2006 which requires us to carry out regulatory activities in a way which is transparent, accountable, proportionate and consistent and further that regulatory activities should be targeted only at cases in which action is needed. We have also had regard to the Regulator's Code in determining this policy and will take this Code into account when considering any enforcement action.

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8.1.9 The Regulators Code was introduced in April 2014 and can be read on [www.gov.uk/government/publications/regulators-code](http://www.gov.uk/government/publications/regulators-code).

Policies and procedures to be read in conjunction with the Code are:-

- Sandwell Metropolitan Borough Council's Private Hire and Hackney Carriage Licensing Policy – The Policy Handbook.
- Sandwell Metropolitan Borough Council's Private Hire and Hackney Carriage Licensing Enforcement Policy.
- Sandwell Metropolitan Borough Council's Corporate Complaints Procedure.
- Sandwell Metropolitan Borough Council's Data Protection Act and Freedom of Information Act Policy.
- Sandwell Metropolitan Borough Council's Private Hire and Hackney Carriage List of Fees and Charges.

## 8.2 Enforcement Options

8.2.1 Achieving and maintaining a consistency of approach to making all decisions, which concern enforcement action, including prosecution, is of paramount importance. To achieve and maintain consistency, it is vital that this policy is always considered and followed where appropriate.

8.2.2 A range of tools and powers, including test purchases, to ensure compliance with legislation and conditions of licences will be used. Compliance assessment is ultimately to ensure that the driver or operator is a "fit and proper" person to hold a licence and/or the vehicle is safe. The safety of passengers, pedestrians and other road users is paramount.

8.2.3 Where appropriate referrals will be made to other agencies such as the Police, HM Customs & Excise and both Adult and / or Child safeguarding teams and Home Office (Immigration).

8.2.4 The Council will respond to complaints made by the public and referrals from other agencies & bodies. In addition officers will undertake proactive inspections and testing as either, day to day activity or as part of programmed operations.

8.2.5 Enforcement decisions must always be consistent, balanced, fair and relate to common standards which ensure that the public is adequately protected. In reaching any decision many criteria must be considered including the:-

- seriousness of any offences;

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- driver, proprietor or operator's past history;
- consequence of non-compliance;
- likely effectiveness of the various enforcement options;
- danger to the public

8.2.6 Having considered all relevant information and evidence, the choices for action are:-

- take no action;
- take informal action (advice, warning, education);
- use statutory notices;
- suspend a vehicle licence;
- suspend a driver's licence;
- revoke a driver's licence;
- referral to the Licensing Sub Committee;
- use formal cautions;
- prosecute.

8.2.7 In certain circumstances more than one choice of action may be appropriate. For example it may be appropriate to refer a matter to the Licensing Sub Committee who may revoke the licence. The matter may then be considered appropriate for Prosecution. A suspension may be linked to an educational requirement such as a further driving test or a drugs rehabilitation test for example.

8.2.8 An officer may give a verbal or written warning. If this is not accepted the matter will be referred to the Licensing Sub Committee to consider whether the warning was merited or not. The Licensing Sub Committee can issue warnings based on fact in accordance with the convictions policy. For example if a licensed driver has 9 penalty points, sanctions could range from a strong written warning to revocation of the licence. They may lose their DVLA Licence under "totting up" should they be convicted of another driving related offence.

8.2.9 This policy document provides detailed guidance applicable to the various options for enforcement action.

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## 8.3 Informal Action

8.3.1 Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and requests for action and the use of letters.

8.3.2 Such informal enforcement action may be appropriate in any of the following circumstances:-

- the act or omission is not serious enough to warrant more formal action;
- from the individual licence holder's past history it can be reasonably expected that informal action will achieve compliance;
- confidence in the licensed operator's management is high;
- the consequences of non-compliance will not pose a significant risk to the safety of the public.

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

## 8.4 Statutory Notices

8.4.1 Under Section 68 of the Local Government (Miscellaneous) Provisions Act 1976, an authorised officer may serve notice in writing for a Hackney Carriage or Private Hire Vehicle or the Taximeter affixed to such vehicle to be examined at the council's testing station at a time specified in the notice. This notice will only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taxi meter.

An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he is satisfied with the condition of the Hackney Carriage or Private Hire Vehicle.

8.4.2 Under Section 60 of the Local Government (Miscellaneous) Provisions Act 1976, an authorised officer may suspend or revoke, or refuse to renew a vehicle licence on any of the following grounds—

- that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
- any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
- any other reasonable cause.

8.4.3 Where an authorised officer suspends, revokes or refuses to renew any licence under this section they shall give to the proprietor of the vehicle notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew the licence within fourteen days of such

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suspension, revocation or refusal. Any proprietor aggrieved by such a decision may appeal to a magistrates' court.

8.4.4 Under Section 50 of the Local Government (Miscellaneous Provisions) Act 1976 an authorised officer may by notice in writing inspect a vehicle, licence or insurance policy.

8.4.5 Under Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 an authorised officer may suspend or revoke a private hire driver or hackney carriage driver's licence with immediate effect in the interests of public safety.

## **8.5 Appearance before the Licensing Sub Committee**

8.5.1 A Licence holder may be required to appear before the Licensing Sub Committee to answer allegations relating to breaches of relevant legislation, Bye-laws or conditions attached to licences.

8.5.2 Current licence holders who report convictions or breach relevant legislation during the period of their licence may be referred to the Licensing Sub Committee.

8.5.3 The guidance for determining matters referred to the Licensing Sub Committee is contained within the Council's Private Hire and the Hackney Carriage Licensing Policy – The Policy Handbook and the Private Hire and Hackney Carriage Determination of Matters Policy Guidelines.

8.5.4 The Sub Committee may decide to take one of the following actions:-

- no action;
- a written warning;
- suspend a licence;
- suspend a licence with immediate effect
- place additional conditions on a licence
- require the applicant/licence holder to undergo additional tests
- refuse to renew a licence
- revoke a licence;

In certain circumstances more than one choice of action may be appropriate. For example it may be appropriate to suspend a licence and require the successful completion of a further driving test or drugs rehabilitation test

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## 8.6 Appeals

8.6.1 The right of appeal against decisions of the Licensing Sub Committee will be outlined in writing to the licence holder or applicant.

8.6.2 Any notifications of enforcement action will include written information on how to appeal where appropriate. This information will explain how, where and within what time period an appeal may be brought.

## 8.7 Use of Simple Cautions

8.7.1 Sandwell Metropolitan Borough Council has based this policy on the guidance on formal cautions issued by the Ministry of Justice. It must be applied to all decisions relating to simple cautions from the date it comes into effect, regardless of when the offence was committed. The guidance issued by the Ministry of Justice on the use of simple cautions will be considered alongside this policy.

8.7.2 The Ministry of Justice Guidance can be found at

<https://www.gov.uk/government/publications/simple-cautions-guidance-for-police-and-prosecutors>

8.7.3 The aims of the simple caution scheme are:

- To offer a proportionate response to low-level offending where the offender has admitted the offence;
- To deliver swift, simple and effective justice that carries a deterrent effect;
- To record an individual's criminal conduct for possible reference in future criminal proceedings or in criminal record or other similar checks;
- To reduce the likelihood of re-offending;
- To increase the amount of time police officers spend dealing with more serious crime and reduce the amount of time officers spend completing paperwork and attending court, whilst simultaneously reducing the burden on the courts.

8.7.4 A simple caution is a formal warning that may be given to persons aged 18 or over who admit to committing an offence. The simple caution scheme is designed to provide a means of dealing with low-level, mainly first-time, offending without a prosecution. A simple caution may only be given where specified criteria are met.

8.7.5 Whether an offender is suitable for a simple caution is an operational decision for the Sandwell Metropolitan Borough Council Legal Team based on the specific circumstances of the individual case.

8.7.6 A simple caution may only be issued when

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- The offender has made a clear and reliable admission to the offence
- The offender agrees to the issue of a simple caution
- There is sufficient evidence to provide a realistic prospect of conviction if the offender were to be prosecuted

8.7.7 The admission of guilt does not need to be made within a formal interview under Police and Criminal Evidence Act 1984 (PACE). However, the method for obtaining and recording the admission must be PACE compliant.

8.7.8 Simple cautions form part of an offender's criminal record and may be referred to in future legal proceedings and, in certain circumstances, may be revealed as part of a criminal record check. Offenders must be made aware of this before agreeing to accept a simple caution. A record of the Simple Caution will be retained by Sandwell Metropolitan Borough Council Taxi Licensing and may also be shared with other Local Authority Licensing Teams.

8.7.9 There is no formal right of appeal against the administration of a simple caution once it has been accepted by the offender and administered by the Local Authority. However, it may be challenged by way of a complaint against the Local Authority that administered it and by way of a claim for judicial review.

8.7.10 In deciding whether a simple caution is appropriate a decision-maker must apply the Full Code Test, as set out in the Code for Crown Prosecutors which is explained further in this policy below in paragraph 9. The Code for Crown Prosecutors can be found at [http://www.cps.gov.uk/publications/code\\_for\\_crown\\_prosecutors/](http://www.cps.gov.uk/publications/code_for_crown_prosecutors/)

8.7.11 An assessment of the seriousness of the offence is the starting point for considering whether a simple caution may be appropriate. The more serious the offence, the less likely it is that a simple caution will be appropriate.

8.7.12 Before a simple caution is authorised and administered, the Licensing Manager seeking to do so must ensure the offender understands the implications of accepting a simple caution and consents to receiving a simple caution.

8.7.13 If the decision is made to administer a Simple Caution, it will be administered by the Licensing Manager or his/her deputy in his/her absence. A letter and caution card will be prepared for the Licence holder to read and sign which will include details of the offence, date of the offence and the fact that the matter was admitted.

## 8.8 Prosecution

8.8.1 The decision to prosecute is a very significant one. Prosecution will, in general, be restricted to those circumstances where the law is blatantly disregarded, legitimate instructions of the Council are not followed and / or the public is put at serious risk.

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8.8.2 It is important that the criteria on which a decision to prosecute is made provide common standards, which ensure a consistent approach.

8.8.3 The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:-

- where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law abiding are placed at a disadvantage to those who disregard it;
- when there appears to have been reckless disregard for the safety of passengers or other road users;
- where there have been repeated breaches of legal requirements;
- where a particular type of offence is prevalent;
- where a particular contravention has caused serious public alarm;

8.8.4 When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered, to enable a consistent, fair and objective decision to be made.

8.8.5 Before referring a matter to Legal Services for possible prosecution, the Senior Licensing Enforcement Officer or Licensing Manager must be satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person or company. There must be a realistic prospect of conviction; a bare prima facie case is not enough. With insufficient evidence to prosecute, the issue of a caution is not an alternative. The matter is then sent to Legal Services for consideration.

8.8.6 In addition to being satisfied that there is sufficient evidence to provide a realistic prospect of conviction, there must be a positive decision, based on the relevant criteria that it is in the public interest to prosecute. The Code for Crown Prosecutors, issued by the Crown Prosecution Service, provides guidance, which will be considered by Legal Services and followed in each case, including relevant public interest criteria.

8.8.7 When a decision is being taken on whether to prosecute, the factors to be considered may include:-

- the seriousness of the alleged Offence;
- the risk of harm to the public;
- identifiable victims;
- failure to comply with a statutory notice served for a significant breach of legislation;
- disregard of safety for financial reward;

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- the previous history of the party concerned;
- offences following a history of similar offences;
- failure to respond positively to past warnings;
- the ability of any important witnesses and their willingness to co-operate;
- the willingness of the party to prevent a recurrence of the problem
- the probable public benefit of a prosecution and the importance of the case e.g. whether it might establish a legal precedent;
- as indicated above, advice on the public interest is contained in the Code for Crown Prosecutors. The general thrust of the advice contained therein is that, the graver the offence, the less likelihood there will be that the public interest will allow anything other than a prosecution.
- whether other action, such as issuing a caution in accordance with the current Home Office guidelines would be more appropriate or effective.

8.8.8 Once a decision has been taken that prosecution is the most appropriate course of action, the matter will be referred, without undue delay, to the Council's Legal Services. Legal Services will assess the evidence in accordance with the Code for Crown Prosecutors and take the action that they deem appropriate.

## 8.9 Transparency

8.9.1 Following the receipt of a notification of a conviction, an allegation of a serious offence or an adverse vehicle inspection, the licence holder will be informed of the action intended to be taken as soon as possible.

8.9.2 Following the completion of an investigation into a complaint or any enforcement activity, the licence holder will be informed of the action intended to be taken.

8.9.3 Any written documentation issued or sent will:-

- contain all the information necessary to understand the offence and what needs to be done to rectify it. Where additional works or actions are required, the period allowed for them to be completed will be indicated.
- indicate the legislation or conditions contravened and measures which will enable compliance with the legal requirements and point out, where appropriate, that other means of achieving the same effect may be chosen i.e. Good Practice

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8.9.4 The clear distinction between legal requirements and matters, which are recommended as good practice in all enforcement action, even if only giving verbal advice, is vitally important.

## 9. DECISION MAKING – AUTHORISATIONS

### 9.1 Persons who may authorise a prosecution

Please see the most recent Scheme of Delegations which is published on the Council's website.

### 9.2 Consultees in the decision making process

- Senior Licensing Enforcement Officer
- Licensing Enforcement Officer
- Director - Prevention & Protection
- Legal Manager
- Licensing Manager
- Senior Licensing Officer
- Solicitor

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