



EAST HAMPSHIRE DISTRICT COUNCIL

HACKNEY CARRIAGE AND PRIVATE HIRE
LICENSING POLICY

Part 1: Drivers and Operators

Date of implementation: 1st November 2023

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1. Introduction

- 1.1** The purpose of this Policy is to set out how the Council as a Licensing Authority, intends to carry out the licensing and control of Hackney Carriage and Private Hire trades within the District. In this Policy reference to the Council and the Licensing Authority is one and the same.
- 1.2** The Council has a responsibility to ensure all operators and drivers are fit and proper to hold licences, and vehicles are safe to operate. Conditions, which are attached and form part of this Policy, will apply to licences to ensure public safety is protected.
- 1.3** This policy provides guidance to any person with an interest in hackney carriage and private hire licensing. In particular, but not exclusively:
- Applicants for drivers' licenses,
 - Existing licensed drivers whose licences are being reviewed,
 - Licensing Officers,
 - Members of the Licensing Committee, and
 - Magistrates hearing appeals against local authority decisions.
- 1.4** The policy has immediate effect and will be applied to existing licences and new applications received after the date that the policy is adopted by the Council. The Council reserves the right to overturn a decision that has previously been made or refuse a renewal of a licence where appropriate.
- 1.5** The Licensing Authority reserves the right to depart from this Policy if there are, in its reasonable opinion, exceptional or compelling reasons to do so. In addition, the Council may follow any current or subsequent recommendations made by the Institute of Licensing, the Department for Transport or any other national guidance issued.

2. Aims and Objectives of the Policy

- 2.1** The purpose of taxi/private hire licensing is detailed in the Department for Transport "Taxi and Private Hire Licensing – Best Practice Guide March 2010" para. 8, which states "The aim of local authority licensing of the taxi and PHV trades is to protect the public". The Licensing Authority is concerned to ensure:
- That a licence holder is a fit and proper person
 - That the licence holder does not pose a threat to the public
 - That the public are safeguarded from a dishonest person, and
 - The safeguarding of children, young and vulnerable persons.
- 2.2** The following legislation allows the Licensing Authority to fulfil its aim:
- Section 37 of the Town Police Clauses Act 1847

- Section 45 of the Local Government (Miscellaneous Provisions) Act 1976.

2.3 In addition, byelaws which apply to the district of East Hampshire District Council have been made under Section 68 of the Town Police Clauses Act 1847, Section 65(7) of the Local Government (Miscellaneous Provisions) Act 1976 and Section 171 of the Public Health Act 1875.

Consultation

2.4 It is the Council's policy to consult with all interested parties before making decisions on matters referred to in this policy. These include the Police, the Highways Authority, licensed hackney carriage and private hire representatives and others thought appropriate. These may include groups representing disabled people, the Chambers of Commerce, Organisations with a wider transport interest and special interest groups.

Review

2.5 This Policy will be reviewed every five years or sooner if there are relevant legislative changes or significant issues arise in the area.

Sharing licensing information

2.6 The Council may use the information submitted on any application form for any licence(s) for the purpose of its statutory function(s).

2.7 The Council is under a duty to protect the public funds it administers, and to this end may use the information provided for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

2.8 The Council may provide information submitted on any application form for a licence or permission to other statutory Authorities, such as Her Majesty's Revenue and Customs (HMRC), The Audit Commission, Home Office and Law Enforcement Agencies.

Public Registers

2.9 The Council will maintain public registers of licensed drivers, vehicles and vehicle proprietors.

NR3S Register

2.10 The licensing authority provides information to the National Register of Taxi Licence Refusals, Revocations and Suspensions (NR3S). This became a legal requirement in April 2023 under the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022. The Register is a mechanism for licensing authorities

to share details of individuals who have had a hackney carriage or private hire vehicle drivers licence suspended, revoked or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or private hire vehicle drivers licence.

2.11 Therefore:

- Where a Combined (Dual) Hackney Carriage/Private Hire Vehicle Driver's licence or a Restricted Private Hire Vehicle Driver's licence is revoked, suspended or an application for one refused, the Authority will automatically record this decision on NR3S. This is a condition of applying for/being granted a Combined (Dual) Hackney Carriage/Private Hire Vehicle Driver's licence or a Restricted Private Hire Vehicle Driver's Licence.
- All applications for a new licence or licence renewal will automatically be checked on NR3S. If a search of NR3S indicates a match with an applicant, the Authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3S search will only be used in respect of the specific licence application and will not be retained beyond the determination of that application.
- In addition to the above, the Licensing Authority reserves the right to search NR3S for existing licenced drivers at any point during the period of a licence, where concerns are raised about whether a driver continues to be a fit and proper person to hold a licence. For example, where a complaint is received. If a search on NR3S indicates a match with the licenced driver, this Authority will seek further information about the entry on the register in the same way as detailed in this section and in Appendix A.

2.12 The information recorded on NR3S 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.

2.13 The information will be retained on NR3S for a period of 11 years.

2.14 This is a mandatory part of applying for and/or being granted a combined (Dual) Hackney Carriage/Private Hire Vehicle Driver's Licence or a Restricted Private Hire Vehicle Driver's Licence. The authority has a published policy on the approach it will take to requests by other authorities for further information about entries on

NR3S, and about the use it will make of any further information provided to it. The Policy is included in Appendix A.

- 2.15** Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision or receipt of information of or under NR3S are necessary to the 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 NR3S data will be transferred out of the United Kingdom.
- 2.16** 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 the GDPR, you can do so to the authority's Information Governance Manager and Data Protection Officer via dpa@easthants.gov.uk. Further information is also available at www.easthants.gov.uk/data-protection.
- 2.17** You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about handling of data can be found on the ICO's website: <https://ico.org.uk/make-a-complaint/>

3. Driver Licensing requirements

- 3.1** East Hampshire District Council issues two types of licence to drive vehicles:
- i. The Combined (Dual) Hackney Carriage and Private Hire Driver's Licence allowing drivers to drive both Hackney Carriage and Private hire vehicles licensed by the Licensing Authority; and
 - ii. The Restricted Private Hire Driver's Licence allowing drivers only to drive a Private Hire Vehicle undertaking Local Authority contract work e.g. school or social care where the same regular journey is undertaken. The private hire vehicle must not carry a taximeter.

Fit and proper person test

- 3.2** Under sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 the Licensing Authority must not grant a licence for a Private Hire Vehicle Driver or a Hackney Carriage Driver unless satisfied that the applicant is a fit and proper person to hold a licence.
- 3.3** In each case, the authority has powers to grant a licence, renew it on application and, during the life of the licence, suspend or revoke it.
- 3.4** An individual will not be considered fit and proper to hold a licence if there is any evidence of dishonesty, and/or it can be shown that an applicant or existing licence

holder has misled or attempted to mislead the Council as part of any process associated with the administration or determination of a licence.

- 3.5** There is no definition in law of a “fit and proper” person. There are however a number of Case Law points relating to fit and proper. As stated by Bingham LCJ in the case of *McCool v Rushcliffe Borough Council* (1998), an appeal against a council’s refusal of a private hire driver’s licence where the Council was not satisfied of the applicant’s fitness and propriety states:

‘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 is 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 or abuse or assault passengers.’

The commonly adopted test as a result of Lord Bingham’s judgement is:

“Would you, (as a member of the licensing committee charged with the ability to grant a hackney carriage driver’s licence), knowing what you do about the applicant, allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, get into a vehicle with this person alone?”

- 3.6** It is becoming accepted that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation of “fit and proper” which neither adds nor removes anything from the original term but brings the concept up to date. Both terms are used interchangeably in this Policy.

- 3.7** In order to assess the suitability of an applicant or licence holder the Licensing Authority can ask for such information as they may reasonably consider necessary to determine whether the licence should be granted. This Authority will take into consideration the following factors and will therefore ask for information related to these matters:

- Criminality – enhanced DBS with adults and children’s barred list check and sign-up to the update service
- Period of holding a driver’s licence
- Age
- Number of endorsed driving licence penalty points
- Right to work
- Immigration status
- Tax conditionality (renewal applications)
- Medical fitness
- Standard of driving
- General conduct/standard of behaviour including in making the application
- Ability to communicate in English

- Knowledge test
- Safeguarding training
- Information on the National Register of Taxi Licence referrals and revocations (NR3)
- The previous licensing history of existing/former licence holders

Disclosure and Barring Service (DBS)

- 3.8** All applicants/licensees are required to obtain an enhanced DBS with barred list checks from the Council's approved provider. If you have signed up to the update service with a certificate not previously issued by this Authority, we will need to see the certificate prior to completing a check on the DBS update service. Full information on how to apply is available from the Licensing Team. In the interests of public safety, the Council will not issue a licence to any individual that appears on the children and/or adult barred lists.
- 3.9** All new applicants must subscribe to the Disclosure and Barring Service online update service before the licence is issued. For existing drivers, you must sign up to the update service when you are next required to produce a DBS certificate in line with this policy. Signing up to the update service will be required by a condition placed on the licence. Licensees must also give consent to the Council to check the status of their certificate online should we consider it necessary to do so, and routinely every six months in line with national guidance. The Council will use the update service to monitor the criminal record of licence holders. The update service can be used when a licence is renewed - if there are no changes recorded on the DBS certificate. If there are changes, the full certificate will be required before a licence is renewed.
- 3.10** A licence will not be granted in the absence of a current enhanced DBS certificate or renewed without either the same or a check completed via the update service. A licence will be suspended if a check cannot be completed when the Council submits a request to the update service. Applicants are responsible for the costs of obtaining the DBS certificate and any costs associated with maintaining the subscription.

Guidelines on the relevance of convictions and cautions etc

- 3.11** The purpose of these guidelines which form part of the Hackney Carriage/Private Hire Policy is to provide guidance on the criteria considered by the Licensing Authority when determining whether or not an applicant or an existing licence holder is a "fit and proper" person to hold/retain a hackney carriage/private hire vehicle driver's licence.

- 3.12** These guidelines relate to the relevance of convictions and cautions for both new applicants and existing licence holders.
- 3.13** As public trust and confidence in the overall safety and integrity of the hackney carriage and private hire system is vital, the standards detailed for drivers in these guidelines will also be applied to operators and vehicle proprietors.
- 3.14** There may be occasions where it is appropriate to depart from the guidelines, and such instances must be agreed by the Licensing Team Leader or Environmental Health Manager or referred to the Licensing sub-committee as deemed appropriate in the individual circumstances.

Definitions

- 3.15** Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction. Fixed penalties and community resolutions will also be considered in the same way as a conviction. Matters which have not resulted in a criminal conviction can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this Policy, any reference to “conviction” will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 3.16** In this Policy “since completion of any sentence imposed” is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing, regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date, then this new sentence becomes relevant for the purposes of this Policy.
- 3.17** In this policy the word “applicant” refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders who are having their licence reviewed for example due to a complaint or because offending activity has recently come to light.

Consideration of disclosed criminal history

- 3.18** 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 an appropriate period; and
 - Show adequate evidence that they are a fit and proper person to hold a licence, with the onus on the applicant to produce such evidence.
- 3.19** 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.

3.20 If an applicant has any convictions, cautions, warnings or charges awaiting trial, the Licensing Authority will consider the following:

- How relevant the offence(s) are to the licence being applied for,
- The seriousness of the offence(s),
- When the offence(s) were committed,
- The date of conviction(s),
- 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), and
- Any other factors that might be relevant.

Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction [*Nottingham City Council v. Mohammed Farooq* (1998)].

Rehabilitation of Offenders Act 1974

3.21 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that any and all criminal convictions will be taken into account by the Local Authority in determining the fitness and propriety of an individual. In terms of spent convictions, only relevant spent convictions will be considered.

3.22 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing team in confidence for advice.

Outstanding charges or summonses

3.23 If a new applicant has been charged with any offence and is awaiting trial, the determination of the application will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, this authority will take this Policy into account in deciding what action to take.

Non-conviction information

3.24 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests they could be a danger to the public, the application should be refused.

Single convictions

- 3.25** In relation to single convictions, the time periods detailed in the following paragraphs should elapse after completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

Offences resulting in death

- 3.26** Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

- 3.27** 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(s) were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence

- 3.28** Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Violence related offences include but are not limited to: Terrorism offences, arson, grievous bodily harm, actual bodily harm, racially aggravated offence, robbery, criminal damage, riot, common assault, violent disorder, resisting arrest, affray, any Public Order Act offence or any similar offences (including attempted or conspiracy to commit).

Possession of a weapon

- 3.29** Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Sex and indecency offences

- 3.30** Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.

Sex and indecency offences include but are not limited to: rape, assault by penetration, offences involving children or vulnerable adults, sexual assault, indecent assault, exploitation of prostitution, soliciting (kerb crawling), possession

of indecent photographs, making obscene/indecent telephone calls, indecent exposure or any similar offences (including attempted or conspiracy to commit).

- 3.31** The Licensing Authority will not grant a licence to an applicant who is currently on the Sex Offenders Register or on any 'barred' list.

Dishonesty

- 3.32** Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed. Offences involving dishonesty include but are not limited to; theft, burglary, fraud, handling or receiving stolen goods, forgery, conspiracy to defraud, obtaining money or property by deception, other deception, taking a vehicle without consent, or any similar offences (including attempted or conspiracy to commit).

Discrimination

- 3.33** 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.

Drugs

- 3.34** Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years has elapsed since the completion of any sentence imposed.
- 3.35** Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 3.36** If there is evidence of persistent drugs use, misuse or dependency, a satisfactory medical report (in accordance with DVLA Group 2 medical standards) will be required before the licence is granted or at any time for a licenced driver.
- 3.37** If the applicant was an addict, they must show evidence of 5 years free from drug taking after detoxification treatment.

Motoring convictions

- 3.38** Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences

can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and calls into question whether they are a safe and suitable person to be granted or retain a licence.

Drink driving/driving under the influence of drugs

- 3.39** Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 3.40** If there is any suggestion that an applicant is alcohol dependent, a satisfactory medical report must be provided before the application can be granted. If the applicant is found to be an alcoholic, a period of 5 years must elapse after treatment is complete before a further licence application is considered.

Using a hand-held telephone or hand-held device whilst driving

- 3.41** Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

- 3.42** **A minor traffic or vehicle related offence** is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a hand-held mobile telephone (these are addressed separately), and has not resulted in injury to any person or damage to any property (including vehicles). Examples include: obstruction, waiting in a restricted street, speeding that is not excessive etc.

If sufficient penalty points have been accrued to require a period of disqualification a licence will only be issued when a valid driving licence is held and the applicant able to demonstrate a period of at least 12 months free from further motoring offences.

- 3.43** **A major traffic or vehicle related offence** is one which is not covered by those under minor traffic or vehicle related offences. It does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a hand-held mobile telephone, these have been addressed separately. It does include any offence which resulted in injury to any person or damage to any property (including vehicles). Examples include: reckless driving, driving without due care and attention, driving whilst disqualified or excessive speeding offences etc. It

also includes driving without insurance, or any offence connected with motor insurance.

Any conviction for major offences will form part of the fit and proper person assessment with the Licensing Authority expecting applicants to have a period of 3 years free from conviction. More than one conviction for this type of offence during any licence period may result in any issued licence being revoked.

Hackney carriage and private hire offences

- 3.44** Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Vehicle use offences

- 3.45** Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Repeat offending

- 3.46** In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Where an applicant has more than one conviction, serious consideration will be given as to whether they are a safe and suitable person to be granted or retain a licence. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.

Behaviour once licenced

- 3.47** Once a licence has been granted, there is a continuing requirement on the part of the licensee to continue to be a 'fit and proper' person. **If the licensee receives any convictions or is subject to other actions which would have prevented them being granted a licence on initial application, that will lead to the licence being revoked.**
- 3.48** If a licence holder falls short of the 'fit and proper' standard at any time, the licence will be revoked or not renewed on application to do so.
- 3.49** The Council reserves the right to overturn a decision that has previously been made regarding issuing/renewing a licence based on the requirements in this Policy.

- 3.50** Licenced drivers are required to notify the licensing authority in writing within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence, including the issue of a fixed penalty notice. An arrest for any of the offences within this scope will result in a review by the Council as to whether the licence holder continues to be fit.

Right to work in the UK

- 3.51** As required under the Immigration Act 2016, applicants must provide evidence that they have a right to work in the UK. Failure to provide satisfactory documentation will result in the application being refused.
- 3.52** The Licensing Authority reserves the right to provide documentation or information to the Home Office where it is considered appropriate to do so.
- 3.53** Where an applicant is subject to immigration controls, a licence will not be issued for longer than the period that the applicant has permission to undertake paid employment in the UK.

Residency outside of the UK

- 3.54** If an applicant has spent six continuous months or more living outside of the United Kingdom since the age of 10 years, they must provide evidence of a criminal record check from the relevant country or countries covering the period the applicant was overseas. It may be referred to as a certificate of good conduct'. You will have to apply in the country or to the relevant embassy in the UK. Guidance on the application process for criminal records checks overseas and for specific Countries is available from gov.uk.
- 3.55** In the case where an applicant is not able to obtain these they must provide proof of their application to do so. They will also then need to provide a full previous UK address history for a minimum of 5 years, along with two references from persons of standing in the community or with a professional background, who have been known to the applicant for a minimum of 5 years. These referees cannot be related to the applicant or members of the taxi/private hire trade.
- 3.56** If an applicant has spent six continuous months or more living outside of the United Kingdom since their current licence was issued/renewed, they will also be required to provide evidence of a criminal record check from the relevant country or countries. This must be provided before their licence is renewed.
- 3.57** Ex service personnel are exempt from the requirement of obtaining a criminal record check or certificate of good conduct for their period(s) of military service. Proof of period of military service is required.

Tax conditionality

- 3.58** The renewal of a driver licence will only be completed if the individual applying for the licence can show they have completed a tax check with the HMRC. A tax check confirms you are registered for tax. If a tax check has not been completed the Licensing Authority will be unable to consider the renewal application and the current licence will expire.
- 3.59** Applicants applying for a driver licence who previously held the same licence with this authority and it ceased to be valid less than a year from when the new application is made, will also need to show they have completed a tax check with the HMRC. A tax check confirms you are registered for tax. If a tax check has not been completed the Licensing Authority will be unable to consider the application.
- 3.60** Applicants applying for a driver licence with this Authority who already hold the same licence with another licensing authority will need to show they have completed a tax check with the HMRC. A tax check confirms you are registered for tax. If a tax check has not been completed the Licensing Authority will be unable to consider the application.
- 3.61** Tax checks are completed on www.gov.uk through a government gateway account. When the tax check is completed, a code will be issued. This code must be provided to Licensing. Further information of tax checks is available on the gov.uk website.
- 3.62** New applicants will not need to complete a tax check if they have:
- Never held a licence of the same type before
 - Had a licence of the same type that ceased to be valid a year or more before making this application.

Instead, as part of your application process you will need to confirm you are aware of your tax responsibilities. Further information on this is also available on the gov.uk website.

Driving licence

- 3.63** The application for a licence must be accompanied by satisfactory evidence that the applicant is authorised to drive a vehicle of the same classification as that which the licence will allow them to drive. Consent for the Licensing authority to verify their DVLA licence record must be provided such as by providing a driving licence check code.
- 3.64** The Licensing Authority considers that driving experience is relative to the length of time a person has been lawfully permitted to drive. Therefore, applicants must have held a full driving licence for a minimum of 3 years at the time of application. This licence must have been issued in the UK, the European Community (EC) or one of the countries in the European Economic Area (EEA).

Driving assessment

- 3.65** In addition to possessing a driving licence issued by a relevant country, all new applicants are required to have passed an approved driving assessment such as the Blue Lamp Trust taxi driving assessment (or any other driving assessment or training which the Licensing Authority considers appropriate and has pre-agreed). A pass certificate must be provided.

Age

- 3.66** All applicants must be over 21 years of age at the time of application.

Knowledge test

- 3.67** All applicants must have passed the Licensing authority's knowledge test. This assesses local knowledge – roads and locations, basic literacy and numeracy, the Highway Code and basic awareness of the role and responsibilities of a licenced driver. Payment for the test must be made in advance and failure to attend without prior notice shall mean forfeiture of any monies paid.

There is a separate knowledge test for dual Hackney Carriage and Private Hire drivers and restricted Private Hire drivers. The later focuses on basic literacy and numeracy, the Highway Code and basic awareness of the role and responsibilities of a licenced driver.

- 3.68** Applicants who previously held a drivers licence with this Council (and previously completed and passed a knowledge test) and their licence expired more than 3 years ago, will be required to undertake and pass a new knowledge test as part of their new application.
- 3.69** In an applicant is found to have cheated during a knowledge test they will fail automatically and be excluded from continuing with the application process.

Qualifications for drivers

- 3.70** Driver training is an essential part of ensuring that drivers of licensed vehicles meet the high standards that the public expect of them. The Council believes all licenced drivers whose role demands high standards in driving and customer service would benefit from a nationally recognised qualification that includes professional customer service, transporting those who require assistance, transporting children and young people, Health & Safety in the Taxi and Private Hire work environment, the regulatory framework of the Taxi and Private Hire industry, routes and fares and transporting luggage.

3.71 The original BTEC qualification “Introduction to the role of the Professional taxi and Private Hire Driver” has now been replaced. While this qualification remains acceptable for those who already have it, new qualifications apply to new applicants of the Combined (Dual) Hackney Carriage and Private Hire Driver’s Licence. These are either:

- City and Guilds level 2 Certificate in the introduction to the role of the professional taxi and private hire driver, or,
- Level 2 VRQ Introduction to the role of the taxi and private hire driver or,
- Level 2 NVQ Certificate in Road Passenger Vehicle Driving (Taxi and Private Hire) or,
- Highfield Level 2 Certificate for Professional Taxi and Private Hire Drivers or,
- or a suitable equivalent agreed in writing with the Licensing Team before the start of the qualification.

For holders of the Restricted Private Hire Licence, the MiDAS qualification is no longer available. While this qualification remains acceptable for those who already have it, the new qualification that applies to new applicants is:

- the Driver and Vehicle Standards Agency (DVSA) MPV Certificate for drivers of Taxis, Company and School vehicles,
- or a suitable equivalent agreed in writing with the Licensing Team before the start of the qualification.

3.72 All new driver applicants must pass a Qualification approved by the Licensing Authority suitable for their role as detailed in 3.71 within 12 months of being granted a licence. This will help to ensure they develop the skills and knowledge they need to keep themselves, their passengers, the public and their vehicle safe.

3.73 No Hackney Carriage or Private Hire driver licences (granted for 12 months) will be renewed where the applicant has not completed a suitable course at the time of applying to renew their licence. This includes drivers who allow their licence to expire and then apply again as a new driver in order to circumvent the qualification requirement. For licences which were initially granted for longer than 12 months, the licence will be suspended after 12 months from the date of issue until the licence holder has completed the required qualification.

English language skills

3.74 The applicant must have sufficient ability to speak and read English and to understand spoken and written English to provide the service that they wish to be licensed for. This will be assessed throughout the application process and through the introduction of any post licence qualifications.

Medical fitness

- 3.75** The Council recognises that licensed drivers should have more stringent medical standards than those applicable to normal car drivers because they carry members of the public, they are on the road for longer hours than most car drivers, they may have to assist disabled passengers and they handle luggage.
- 3.76** The Council requires all licensed drivers to meet the DVLA Group 2 Standards of Medical Fitness as applied by the DVLA to the licensing of lorry and bus drivers.
- 3.77** Applicants must undergo and pass a medical examination that meets this standard using the medical assessment form provided by the Council. Medical examinations must be carried out prior to initial application, then at 45 years of age, every five years after this until the age of 65 years and then every year from the age of 65. Licence holders with certain medical conditions may also be required to adhere to additional requirements as detailed in the DVLA Group 2 Standards of Medical Fitness in order for them to retain their driver's licence.
- 3.78** The medical examination form must be completed by the applicants' own GP or another GP at the same practice in order that the examining GP has access to their full medical records. In exceptional circumstances, and with prior agreement from a Licensing Officer, a medical assessment can be carried out by another registered GP as long as the applicant's medical history has been viewed and assessed. The GP carrying out the medical must confirm they have viewed the applicant's medical history.
- 3.79** Licence holders must advise the Licensing Team of any deterioration or other change in their health that may affect their driving capabilities as and when they occur.
- 3.80** Applicants/licenced drivers are responsible for all costs incurred in any medical examinations required by the Council.
- 3.81** Licensed drivers are under a legal duty to carry guide, hearing and other prescribed assistance dogs in their vehicles and without additional charge. Drivers who have a medical condition which is aggravated by exposure to dogs may apply to the Council for exemption from the duty on medical grounds. If an application is successful, they will be issued with an exemption certificate and a notice of exemption. The notice of exemption must be displayed in the vehicle in a prominent position such as on the dashboard or on the windscreen.
- 3.82** All medicals will be referred to the Council's nominated medical advisor to determine whether or not the applicant meets the DVLA Group 2 Standards of Medical Fitness. No licence shall be issued or renewed until medical clearance (if required) has been confirmed in writing by the Council's nominated Medical advisor.

3.83 Where there is any doubt as to the medical fitness of the applicant or a licenced driver, the Council may require the person to undergo a further medical examination.

Safeguarding training

3.84 Working as a licenced driver may bring you into contact with children and vulnerable adults. Safeguarding training is concerned with raising awareness of safeguarding issues and those who may be more vulnerable. The aim of the training is to provide the skills, knowledge and understanding of what is meant by safeguarding and Child Sexual Exploitation, to recognise what makes a person vulnerable and understand how to respond and where to report safeguarding concerns to.

3.85 All new applicants must have successfully completed an approved training/awareness raising course in relation to the safeguarding of children and vulnerable people. This course must have been pre-approved by the Licensing Authority and completed before a new driver licence is granted. Confirmation of the training such as a certificate must be provided as part of the application process. Refresher training must then be undertaken every 3 years and this must be before renewal of the licence.

3.86 Existing licenced drivers will be required to complete safeguarding training before renewing your licence. If your licence is due for renewal within 12 months of the introduction of this policy, you will be given an additional 12 months to complete the training. Once an initial course has been completed, refresher training must then be undertaken every 3 years and this must be before a licence is renewed.

3.87 Suitable courses include the Blue Lamp Trust Taxi Safeguarding course which has been developed in conjunction with the Hampshire Constabulary. Further details are available from: <https://bluelamptrust.org.uk/safeguarding/>. Training may be undertaken in a classroom setting or on line. Alternative courses must be agreed in advance in writing with the Licensing Team.

3.88 The refresher training must be pre-approved by the Licensing Authority and confirmation of completion of the training, such as a certificate, must be provided. For those issued with a three year licence, refresher training will be required prior to re-licensing. Any drivers issued annually, will also be required to have safeguarding training before licence renewal.

3.89 Failure to complete/provide evidence of suitable training/refresher training within the timescales given above will result in the suspension of a drivers' licence or a refusal to renew the licence, as appropriate.

3.90 Applicants/licenced drivers are responsible for all costs incurred in any safeguarding training required by the Council.

Working with children and vulnerable adults

- 3.91** 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 someone with learning difficulties for example. It could also include someone who is under the influence of alcohol.
- 3.92** It is essential that young, elderly and other vulnerable people are safeguarded and protected while being transported in a licensed vehicle. 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 999 in an emergency).

Other concerns can be reported to Crimestoppers on Tel 0800 555 111 and the anti-terrorist hotline on Tel 0800 789 321.

Dress code

- 3.93** The purpose of a driver's dress code is to achieve a standard of dress that provides a positive image of the hackney carriage and private hire trade in the district to enhance a professional image of licensed drivers and ensure that public and driver safety is not compromised.
- 3.94** All clothing worn by the driver must be clean and in good condition. A smart, well-groomed appearance is expected, and the driver must have good standards of personal hygiene.
- 3.95** Suitable clothing includes:
- long legged trousers
 - knee length tailored shorts
 - knee length skirt
 - T-shirt, shirt or blouse which has a full body capable of being tucked inside trousers etc and short or long sleeves so that shoulders are covered
 - A knee length dress which has a full body and short or long sleeves.
- 3.96** Footwear for all drivers should fit around the heel of the foot and be suitable for driving. Flip-flops, clogs or similar, or bare feet is not permitted.
- 3.97** The following standards of dress **are not** acceptable:
- Dirty clothing
 - Ripped, snagged or holes in clothing
 - Words or graphics on any clothing that is offensive or suggestive
 - Sportswear i.e football/rugby/cricket kits, track suits, beach wear
 - Camouflage
 - Studs or sharp edges to clothing

- Pronounced heels to shoes
- Short skirts
- The wearing of hoods or other clothing that obscures the drivers vision or their identity

Applications

- 3.98** All application forms submitted (new applicants and renewals) must be fully completed in order to be accepted and assessed and the appropriate fee paid.

New Applicants

- 3.99** If an applicant has not successfully completed all of the criteria required above for being issued with a drivers' licence within 6 months of submitting an application to drive a hackney carriage and/or private hire vehicle, the application will be rejected and a new application with new supporting checks would need to be submitted.

Renewals for existing licenced drivers

- 3.100** Licences will not be renewed unless all of the information required to support the renewal application has been provided and has been assessed i.e. medical checks, DBS check etc.

Photographs

- 3.101** Applicants must provide suitable photographs to accompany their initial application, on renewal and as and when requested.

Re-application after refusal

- 3.102** In the case where a licence has been refused or revoked no new application will be considered for a minimum period of 12 months from the date of refusal/revocation.

Changes in circumstances

- 3.103** Licenced drivers must notify the Licensing authority, within 7 days of any change of name and/or address.

Duration of licence

- 3.104** Where the Licensing Authority issues a Licence to drivers it will be for a maximum of 3 years from the date of issue. The authority may grant a licence for 1 year

instead upon request, and dependant on the circumstances of the individual case. For applicants subject to immigration controls see para. 3.53.

Conditions

- 3.105** The Council may attach such conditions to a Drivers licence as are considered necessary. The conditions for a Dual Hackney Carriage and Private Hire Vehicle Driver's licence are set out in Appendix A. The conditions for a Restricted Private Hire Vehicle Driver's licence are also set out in Appendix A.
- 3.106** The Council has also made byelaws that are specifically applicable to Hackney Carriage drivers/proprietors. These are detailed on the Council website at:
<https://www.easthants.gov.uk/licensing/making-licensing-application/taxi-and-private-hire-licences/information-current-licence>.

4. OPERATOR LICENSING REQUIREMENTS

Requirements for a licence

- 4.1** The objective in licensing Private Hire Operators is the safety of the public as they will be using the operator's premises, and vehicles and drivers arranged through them. A private hire vehicle can only be despatched to a customer by a private hire operator. The vehicle must have been licensed by the same authority as that which has granted the operator's licence. In addition, the vehicle must be driven by a private hire driver licensed by the same authority, hence all three licences must be issued by the same authority.
- 4.2** The Operator must have a physical base located within the District of the Licensing Authority. From here they will make bookings and keep records.
- 4.3** There is no maximum limit to the number of vehicles an operator may have. A private hire operator licence may be applied for by an individual (who may or may not also be a licenced driver), a company or a partnership.
- 4.4** Applications for an Operators licence must be made on the prescribed form, together with the appropriate fee. Application forms must be fully completed in order to be accepted and assessed. The Council will then decide whether the applicant is a fit and proper person to hold an Operator licence.
- 4.5** Where the Licensing Authority issues a Private Hire Operators Licence it will be for a maximum of 5 years from the date of issue. The authority may grant a licence for 1 year instead upon request, and dependant on the circumstances of the individual case.

Fit and proper person

- 4.6** Under Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 the Licensing Authority must not grant a Private Hire Operators licence unless satisfied that the applicant is a fit and proper person to hold such a licence.
- 4.7** To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for private hire operators and a suitable variation on the test for drivers as detailed in the Institute of Licensing “Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades”, April 2018 will be used. That is “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”
- 4.8** In assessing whether the applicant (an individual, partner or director) is a ‘fit and proper’ person, the same standards regarding convictions and cautions will be applied to operators as those applied to drivers – paragraphs 3.11–3.50 above. In the same way as for drivers/driver applicants, where an operator applicant has more than one conviction, serious consideration will be given as to whether they are a safe and suitable person.

Basic disclosure

- 4.9** In assessing whether the applicant is a ‘fit and proper’ person, an applicant who is not a licensed driver with the Licensing Authority must provide a Basic Disclosure from the Disclosure and Barring Service (DBS). The basic disclosure is required on application for the grant of a licence and annually thereafter. This basic disclosure may be obtained through the Council’s approved supplier (paragraph 3.8) or through www.gov.uk.
- 4.10** If the applicant is a partnership or a Company, the ‘fit and proper’ person test will be applied to each partner or director. Therefore, a basic disclosure is required for each person and this is on application and annually thereafter. A licensed Private Hire Operator must advise the licensing authority of any change in directors or partners within 5 working days of the change occurring and this applies throughout the life of the licence.
- 4.11** If the applicant (an individual, partner or director) is an existing licenced driver or, has submitted an application to become such at the same time as they have submitted their Operator’s licence application, they will not be required to provide a basic disclosure. This is because a licenced driver is required to have an enhanced DBS check when applying for the driver’s licence and every 6 months thereafter. The basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. Should an individual cease to hold a driver’s licence with the Authority, a basic DBS will be required immediately.

- 4.12** Refusal to licence an individual as a driver or to suspend or revoke a driver's licence will not automatically mean that the individual cannot be issued with or continue to hold a private hire operator's licence. That decision will be based on the appropriate information.
- 4.13** Licenced operators are required to notify the licensing authority in writing within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence, including the issue of a fixed penalty notice. An arrest for any of the offences within this scope will result in a review by the Council as to whether the licence holder continues to be fit. If the Operator is a partnership or a Company this requirement will apply to each partner or director.

Right to work in the UK

- 4.14** As required under the Immigration Act 2016, all applicants (individuals, partners and directors) must provide evidence that they have a right to work in the UK. Failure to provide satisfactory documentation will result in the application being refused.
- 4.15** The Licensing Authority reserves the right to provide documentation or information to the Home Office where it is considered appropriate to do so.
- 4.16** Where an applicant is subject to immigration controls, a licence will not be issued for longer than the period that the applicant has permission to undertake paid employment in the UK.

Residency outside of the UK

- 4.17** If an applicant (individuals, partners and directors) is not a licensed driver with the Council and has spent extended periods of times living overseas, they will be required to provide evidence of a criminal record check from the relevant country or countries covering the period the applicant was overseas. It may be referred to as a certificate of good conduct.
- 4.18** This is required for applicants who have spent six continuous months or more living outside of the United Kingdom since the age of 10 years. You will have to apply in the country or to the relevant embassy in the UK. Guidance on the application process for criminal records checks overseas and for specific Countries is available from gov.uk.
- 4.19** In the case where an applicant is not able to obtain these they must provide proof of their application to do so. They will also then need to provide a full previous UK address history for a minimum of 5 years, along with two references from persons of standing in the community or with a professional background, who

have been known to the applicant for a minimum of 5 years. These referees cannot be related to the applicant or members of the taxi/private hire trade.

- 4.20** If an applicant has spent six continuous months or more living outside of the United Kingdom since their current licence was issued/renewed, they will also be required to provide evidence of a criminal record check from the relevant country or countries. This must be provided before their licence is renewed.
- 4.21** Ex service personnel are exempt from the requirement of obtaining a criminal record check or certificate of good conduct for their period(s) of military service. Proof of period of military service is required.

Tax Conditionality

- 4.22** The renewal of an operator's licence will only be completed if the person, company or any type of partnership applying for the licence, can show they have completed a tax check with the HMRC. A tax check confirms you are registered for tax. If a tax check has not been completed the Licensing Authority will be unable to consider the renewal application and the current licence will expire.
- 4.23** Applicants (individual, company or partnership) applying for a operator licence who previously held the same licence with this authority and it ceased to be valid less than a year from when the new application is made, will also need to show they have completed a tax check with the HMRC. A tax check confirms you are registered for tax. If a tax check has not been completed the Licensing Authority will be unable to consider the application.
- 4.24** Applicants (individual, company or partnership) applying for an operator licence with this Authority who already hold the same licence with another licensing authority will need to show they have completed a tax check with the HMRC. A tax check confirms you are registered for tax. If a tax check has not been completed the Licensing Authority will be unable to consider the application.
- 4.25** Tax checks are completed on www.gov.uk through a government gateway account. When the tax check is completed, a code will be issued. This code must be provided to Licensing. Further information of tax checks is available on the gov.uk website.
- 4.26** New applicants will not need to complete a tax check if they have:
- Never held a licence of the same type before
 - Had a licence of the same type that ceased to be valid a year or more before making this application.

Instead, as part of your application process you will need to confirm you are aware of your tax responsibilities. Further information on this is also available on the gov.uk website.

Safeguarding training

4.27 If an application is received from an individual, company or partnership and the person(s) is not a driver licensed by this Council, then the applicant will be required to undertake safeguarding training as required for licensed drivers (Paragraphs 3.84–3.90). This will apply to all individual applicants as well as all partners in a partnership and all directors in a company. For new applicants this will be prior to becoming licenced. Existing operators (individuals, partners and directors) will be required to complete such training within 2 years of the date of introduction of this Policy.

Other requirements

4.28 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 drivers, administrative staff and vehicles are used, and continue to be used in the course of their business.

4.29 Private Hire Operators and Drivers are not necessarily the only contact points for customers. For example, person(s) that takes bookings, person(s) that dispatch the vehicles, and there may be other members of staff who have contact with customers. It is appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.

4.30 The Operator must undertake suitable checks on employee/contractors who take bookings and/or dispatch vehicles and/or interact with the public as part of their work, to satisfy themselves that they are fit and proper people to undertake their work tasks. The Operator must keep the following records:

- a) An up to date register of all staff/contractors that take bookings or dispatch vehicles or interact with the public as part of their work.
- b) Evidence that they have had sight of a Basic DBS check for all individuals listed on the above register. Basic DBS checks must be conducted on any individuals added to the register. A DBS certificate provided by an individual should be less than one month old when checked.
- c) The register must be kept up to date and the records kept for the same duration as booking records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register.
- d) If the Operator outsources booking and dispatch functions, they must keep evidence that comparable checks and records are applied by the Company to which they outsource these functions.

- 4.31** The Operator must provide a policy on employing ex-offenders in roles that would be on the register detailed above. Those with a conviction for offences detailed in paragraphs 3.11-3.50” Guidelines on the relevance of convictions and cautions”, other than those relating to driving, may not be suitable to undertake a role that would require them to be on the register.
- 4.32** When individuals start taking booking and/or start dispatching vehicles for the operator they must be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 4.33** The failures 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.
- 4.34** The following are examples of circumstances that may affect the fitness and propriety of an Operator:
1. Licenced drivers or vehicle proprietors persistently breaching the conditions of their licence while working for/under the instruction of a particular operator.
 2. Vehicles being operated that are in an unsuitable condition.
 3. Failure by the operator to satisfactorily address concerns in relation to licenced drivers/vehicle proprietors.
 4. Employment of staff that have contact with the public and/or oversee the dispatching of vehicles, where a basic DBS check has not been completed for the individual or the results of those checks would indicate that the individual presents a risk to the public.
 5. The Council expects licenced 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.

Use of passenger carrying vehicles (PCV) licenced drivers

- 4.35** The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking is not permitted without the informed consent of the booker. This must be included in any booking record.
- 4.36** Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats are required or to accommodate luggage, the booker is to be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

Conditions

- 4.37** The Council may attach such conditions to an Operator's licence as are considered necessary. The conditions for Private Hire Operator's licence are set out in Appendix C.

5. FEES

Fee structure

- 5.1** The legislation covering the Hackney Carriage and Private Hire trade provides that fees charged to applicants can cover most of the costs to the Council in providing the licensing services. This includes elements of administration costs and the costs in ensuring compliance by licensees.

Fee setting

- 5.2** Fees will normally be reviewed and set as part of the Council's budget process and come into force from 1st April each year. Any variation to fees will be subject to public consultation as required by the relevant legislation and will be approved by the Council's Licensing Committee and full Council.
- 5.3** Current prices for Council services can be viewed on the Council's website

APPENDIX A

Policy for East Hampshire District Council in respect of requests for information, disclosure of information, and use of information as a result of an entry on the NR3S register (National Register of Taxi Licence Refusals, Revocations, and Suspensions).

1. Introduction

- 1.1** The licensing authority has signed up to the NR3S register as required by the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, and is therefore able to search the register when an application is received for a new drivers licence, or to renew an existing drivers licence. In this policy the searching authority is referred to as ‘the second authority’.
- 1.2** If a match is found, then a request can be made to the authority that entered the information onto the NR3S. In this policy the authority that entered the information onto NR3S is referred to as ‘the first authority’. The ‘second authority’ can request more details regarding the revocation or refusal of a drivers’ licence by the first authority.
- 1.3** The first authority can then provide information to the second authority, enabling the second authority to take the earlier action into account and make an informed decision as to whether or not the licence should be granted or renewed.
- 1.4** In this policy any reference to a new drivers licence or the renewal of an existing drivers licence includes both drivers licences issued by this authority.
Namely:
- Combined (Dual) Hackney Carriage and Private Hire Vehicle Drivers’ Licence
 - Restricted Private Hire Vehicle Drivers’ Licence.

2. Overarching principles

- 2.1** This Policy covers the use that this authority - East Hampshire District Council will make of the ability to access and use information contained on the National Register of Taxi Licence refusals, revocations and suspensions (NR3S). The NR3S contains information relating to any refusal to grant, or the suspension of, or revocation of, a taxi drivers’ licence. This information is important in the context of a subsequent application to another authority for a drivers’ licence by a person who has had their licence refused or revoked in the past.
- 2.2** This authority has signed up to the NR3S. This means that when an application for a taxi drivers’ licence is refused, or when an existing taxi drivers’ licence is revoked, that information will be placed upon the register.

- 2.3** When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, this authority will make a search of the NR3S. The search will only be made by an Officer who has been trained in the use of the NR3S and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.
- 2.4** Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.
- 2.5** For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application.
- 2.6** The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible. However to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.
- 2.7** Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated.
- 2.8** Any appeal by way of case stated must be lodged within 21 days of the decision of either the magistrates court or the crown court. To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.
- 2.9** Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court. (If the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.
- 2.10** Decisions of the local authority, Magistrates' Court and Crown Court are also susceptible to judicial review. Generally any right of appeal should be exercised in

preference to judicial review, but there are occasions when leave has been granted for judicial review in the circumstances. Any application for judicial review must be made promptly; and in any event not later than 3 months after the grounds to make the claim first arose. If an application for judicial review is made after any relevant data has been destroyed, this authority will request the information again and then retain that information until all court proceedings relating to that judicial review (which will include potential appeals to the Court of Appeal and Supreme court) have been determined.

- 2.11** The data will be held securely in accordance with East Hampshire District Council's general policy on the secure retention of personal data. The retention schedule can be accessed via www.easthants.gov.uk. At the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's general policy on the erasure and destruction of personal data.

3. Making a request for further information regarding an entry on NR3S

- 3.1** When an application is made to this authority for the grant of a new, or renewal of a HC/PH drivers' licence, this authority will check the NR3S register.
- 3.2** We will make and then retain a clear electronic record of every search that is made on the register. This will detail:
- The date of the search;
 - The name or names searched;
 - The reason for the search (new application or renewal);
 - The results of the search; and
 - The use made of the results of the search (this information will be entered on to the register at a later date).
- 3.3** This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.
- 3.4** If this authority discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details (the first authority) for further information about that entry. That request will also include details of this authority's data protection policy in relation to the use of any data that is obtained as a result of this process.
- 3.5** This request will be made in writing using the information disclosure form detailed below. It will be posted or emailed to the contact address of the authority that entered those details (the 1st authority) which will be detailed in the register.

Information disclosure form

This form is submitted following a search of the National Register of Refusals, Revocations and suspensions (NR3S).

(For completion by requestor authority)

Name of the licensing authority requesting the information:

East Hampshire District Council

Requestor authority reference number:

Name of licensing authority from which information is sought:

.....
.....

Name of the individual in respect of whom the request is made:

.....
.....

Decision in respect of which the request is made: Refusal/revocation/suspension

Other details for this record:

.....
.....

Address:

.....
.....
.....
.....

Driving licence No.

.....
.....

National Insurance No.

.....
.....

Reference number:

.....

Declaration by requesting authority:

East Hampshire District Council hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi/PHV

licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.

The information provided below will only be processed, used and saved by the authority in connection with this particular application and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and PHV licences, and will be retained in accordance with the Authority's retention policy relating to the provision of such information.

To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request can be accessed at:

Signed:

Name:

Position:

Date:

(For completion by the providing authority)

Further information to support the decision recorded on NR3S in respect of the above named individual.

Declaration by providing authority

(the authority) hereby confirms that it has conducted a data protect impact assessment.

It also confirms that the information above is accurate, and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals, Revocations and Suspensions was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above named authority accordingly.

The authority also confirms that, as part of the basis for securing, retaining or applying for a taxi/PHV licence, the above named individual has been made aware to the fact that this information will be shared, in accordance with all relevant data and privacy requirements.

Signed:

Name:

Position:

Date:

4. Responding to a request made for further information regarding an entry on NR3S.

- 4.1** When EHDC receives a request for further information from another authority a electronic record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years. This record can be combined with the written record of the action taken as a result of the request.
- 4.2** This authority will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request.
- 4.3** This authority will conduct a Data Protect Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.
- 4.4** If this authority is satisfied that the other authority's (the 2nd authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed. This will be determined by an officer who has been trained to discharge this function. If this authority is not satisfied that the 2nd authority's data protection policy is satisfactory, no disclosure can be made. In such circumstances it is essential that a discussion takes place as a matter of urgency between the data protection officers of this authority and the 2nd authority.
- 4.5** Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3S register for a period of 25 years, but this authority (the 1st authority) will not disclose information relating to every entry. Each application will be considered on its own merits.
- 4.6** This authority will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained with the Council's Hackney Carriage/Private Hire Licensing Policy regarding first convictions. Where the reason for refusal to grant or revocation relates to a conviction (or similar) which is within the timescales determined in those guidelines, the information will be disclosed. Where the reason for refusal to grant or revocation relates to a conviction (or similar) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy.

4.7 Any information about convictions will be shared in accordance with this policy under Part 2 of Schedule 1 to the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.

4.8 The officer will record what action was taken and why. This authority will make and then retain a clear written record of every decision that is made as a result of a request from another authority.

This will detail:

- The date the request was received
- How the data protection impact assessment was conducted and its conclusions
- The name or names searched
- Whether any information was provided
- If information was provided, why it was provided (and details of any further advice obtained before the decision was made)
- If information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
- How and when the decision (and any information) was communicated to the requesting authority.

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

5. Using any information obtained as a result of a request to another authority

When this authority receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications (see section 3 Driver licensing requirements in the HC/PH Licensing Policy).

5.1 This authority will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above).

5.2 Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this authority will make in relation to the application.

APPENDIX B

Combined (Dual) Hackney Carriage and Private Hire Vehicle Driver's Conditions

These conditions are made under section 51 Local Government (Miscellaneous Provisions) Act 1976 by East Hampshire District Council in respect of Private Hire Vehicle Drivers.

1. Interpretation

- 1.1** In these conditions:- "The Act" means Local Government (Miscellaneous Provisions) Act 1976; "the council" means East Hampshire District Council; "licensed driver/driver" means a person licensed to drive a private hire vehicle under Section 51 of the Act; "authorised officer" means any officer of the council authorised in writing by the council for the purpose of these conditions; "driver's badge" means, in relation to the driver of a private hire vehicle, a badge issued by the council under section 54 of the Act; "hackney carriage" has the meaning as defined in the Town Police Clauses Act 1847 ; "Byelaws" mean those in respect of Hackney Carriages made by East Hampshire District Council under section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875.
- 1.2** The licence holder must make themselves familiar with these conditions and apply them at all times and upon request, make them known to any hirer. The licence holder must also make themselves familiar with the Byelaws, apply them at all times when driving a hackney carriage, and upon request make them known to any hirer.

2. Driver Badge

- 2.1** The driver must at all times, when driving a licensed vehicle for hire or reward, wear the driver's badge issued by the Council in a prominent visible place on the outer clothing. Drivers may wear their badge in the following ways:
- A clip badge attached to clothing in a prominent position
 - A plain or Council issued lanyard around the neck.
- 2.2** The drivers badge remains the property of the Council. If the driver's licence is suspended or revoked the driver's badge and paper licence must be returned to the Council within 7 days of a written notice or upon the request of an authorised officer.
- 2.3** If the badge is lost or damaged so that it is unserviceable, the licence holder shall without delay apply to the Council for a replacement badge, paying the appropriate fee.
- 2.4** The driver shall not cause or permit their badge to be worn by any other person.

3. Conduct of licensed drivers

- 3.1** The driver must at no time cause or allow the noise emitted by any radio or in car entertainment in the vehicle to be a source of nuisance or annoyance to any person, whether they are inside or outside the vehicle.
- 3.2** The driver shall make themselves familiar with the topography of the district and, if request to do so, satisfy the Council as to their knowledge of the district.
- 3.3** The driver shall not at any time by calling out or otherwise, harass any person to hire the vehicle and shall not make use of the services of any other persons for this purpose.
- 3.4** The driver when hired to drive to any destination, subject to any direction given by the hirer, proceed to that destination by the shortest available route, and shall not, without reasonable cause, prolong in distance or time any journey for which the vehicle is hired.
- 3.5** The driver when hired or agreed to be in attendance with his vehicle at an appointed time and place, attend punctually with such vehicle unless delayed or prevented by some sufficient cause beyond his control.
- 3.6** The driver must provide a prompt, efficient and reliable service at all times and comply with all reasonable requirements of any person hiring or being conveyed in the vehicle.
- 3.7** The driver must take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from their vehicle and offer passengers such assistance as may be required such as with luggage or any disability aids or wheelchair.
- 3.8** The driver must have good standards of personal hygiene and cleanliness and follow the dress code detailed in the Hackney Carriage and Private Hire Policy at all times.
- 3.9** The driver must behave in a civil, courteous and orderly manner at all times. Including in their dealings with the general public, licensed operators, proprietors and other drivers of licensed vehicles, as well as the Council's authorised Officers.
- 3.10** The driver must follow the Hackney Carriage and Private Hire Policy regarding working with children and vulnerable adults.
- 3.11** The driver must at all times when driving a licensed vehicle ensure that such vehicle is maintained in a roadworthy and clean condition.
- 3.12** The driver must not smoke, vape or use e-cigarettes or any similar device or substance, in a licenced vehicle at any time.

- 3.13** The driver must not transport in the vehicle more persons than the number specified on the plate attached to the vehicle.
- 3.14** The driver must immediately after the end of any hiring of a licensed vehicle, or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left there. If any property is found or given to the licence holder, having been left in the licenced vehicle, the licence holder shall take it to a police station as soon as reasonably practicable or, in any case, within 24 hours.
- 3.15** The driver if requested by the hirer of a hackney carriage or private hire vehicle, provide a written receipt for the fare paid.
- 3.16** If the driver at any time during the life of the licence, becomes aware of any medical condition which may affect their fitness to drive licensed vehicles they shall immediately give notice in writing to the council and shall, if required, submit to an examination by a registered medical practitioner of the council's choice to ascertain their fitness to be licensed.
- 3.17** The driver must notify the Council in writing within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence, including the issue of a fixed penalty notice. An arrest for any of the offences within this scope will result in a review by the Council as to whether the licence holder continues to be fit.
- 3.18** If at any time during the life of the licence the licence holder is the subject of a driving ban imposed by a Court of Law, they shall without delay give notice in writing to the Council and surrender their driver's badge and paper licence.
- 3.19** The driver must notify the Council in writing within 5 working days of the details of any change of name and/or address.

APPENDIX C

Restricted Private Hire Vehicle Driver's Conditions

These conditions are made under section 51 Local Government (Miscellaneous Provisions) Act 1976 by East Hampshire District Council in respect of Private Hire Vehicle Drivers.

1. Interpretation

1.1 In these conditions:- "The Act" means Local Government (Miscellaneous Provisions) Act 1976; "the council" means East Hampshire District Council; "licensed driver/driver" means a person licensed to drive a private hire vehicle under Section 51 of the Act; "authorised officer" means any officer of the council authorised in writing by the council for the purpose of these conditions; "driver's badge" means, in relation to the driver of a private hire vehicle, a badge issued by the council under section 54 of the Act; "hackney carriage" has the meaning as defined in the Town Police Clauses Act 1847 ; "Byelaws" mean those in respect of Hackney Carriages made by East Hampshire District Council under section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875.

1.2 The licence holder must make himself familiar with these conditions and apply them at all times and upon request, make them known to any hirer.

2. Driver Badge

2.1 The driver must at all times, when driving a licensed vehicle for hire or reward, wear the driver's badge issued by the Council in a prominent visible place on the outer clothing. Drivers may wear their badge in the following ways:

- A clip badge attached to clothing in a prominent position
- A plain or Council issued lanyard around the neck.

2.2 The driver's badge remains the property of the Council. If the driver's licence is suspended or revoked the driver's badge and paper licence must be returned to the Council within 7 days of a written notice or upon the request of an authorised officer.

2.3 If the badge is lost or damaged so that it is unserviceable, the licence holder shall without delay apply to the Council for a replacement badge, paying the appropriate fee.

2.4 The driver shall not cause or permit their badge to be worn by any other person.

3. The limitations of the Restricted Private Hire Driver's Licence

- 3.1** A restricted private hire driver's licence may only be issued for the purpose of carrying out the following journeys in a private hire vehicle not carrying a taximeter:
- Local Authority contracts (e.g. school or social care) where the same regular journey is undertaken.

4. Conduct of licensed drivers

- 4.1** The driver must at no time cause or allow the noise emitted by any radio or in car entertainment in the vehicle to be a source of nuisance or annoyance to any person, whether they are inside or outside the vehicle.
- 4.2** The driver shall make themselves familiar with the topography of the district as appropriate to the Local Authority Contract work, and if requested to do so, satisfy the Council as to their knowledge of the district.
- 4.3** The driver when hired to drive to any destination subject to a Local Authority contract, and subject to any direction given by the hirer, proceed to that destination by the shortest available route, and shall not, without reasonable cause, prolong in distance or time any journey for which the vehicle is hired.
- 4.4** The driver when hired or agreed to be in attendance with his vehicle at an appointed time and place, attend punctually with such vehicle unless delayed or prevented by some sufficient cause beyond his control.
- 4.5** The driver must provide a prompt, efficient and reliable service at all times and comply with all reasonable requirements of any person hiring or being conveyed in the vehicle.
- 4.6** The driver must take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from their vehicle and offer passengers such assistance as may be required such as with luggage or any disability aids or wheelchair.
- 4.7** The driver must have good standards of personal hygiene and follow the dress code detailed in the Hackney Carriage and Private Hire Policy at all times.
- 4.8** The driver must behave in a civil, courteous and orderly manner at all times. Including in their dealings with the general public, licensed operators, proprietors and other drivers of licensed vehicles, as well as the Council's authorised Officers.
- 4.9** The driver must follow the Hackney Carriage and Private Hire Policy regarding working with children and vulnerable adults.
- 4.10** The driver must at all times when driving a licensed vehicle ensure that

such vehicle is maintained in a roadworthy and clean condition.

- 4.11** The driver must not smoke, vape or use e-cigarettes or any similar device or substance, in a licenced vehicle at any time.
- 4.12** The driver must not transport in the vehicle more persons than the number specified on the plate attached to the vehicle.
- 4.13** The driver must immediately after the end of any hiring of a licensed vehicle, or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left there. If any property is found or given to the licence hold, having been left in the private hire vehicle, the licence holder shall take it to a police station as soon as reasonably practicable or, in any case, within 24 hours.
- 4.14** The driver if requested by the hirer of a private hire vehicle, provide a written receipt for the fare paid.
- 4.15** If the driver if, at any time during the life of the licence, becomes aware of any medical condition which may affect their fitness to drive licensed vehicles they shall immediately give notice in writing to the council and shall, if required, submit to an examination by a registered medical practitioner of the council's choice to ascertain their fitness to be licensed.
- 4.16** The driver must notify the Council in writing within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence, including the issue of a fixed penalty notice. An arrest for any of the offences within this scope will result in a review by the Council as to whether the licence holder continues to be fit.
- 4.17** If at any time during the life of the licence the licence holder is the subject of a driving ban imposed by a Court of Law, they shall without delay give notice in writing to the Council and surrender their driver's badge and paper licence.
- 4.18** The driver must notify the Council in writing within 5 working days of the details of any change of name and/or address.

APPENDIX D

Private Hire Vehicle Operator's Conditions

These conditions are made under section 55(3) Part II of the Local Government (Miscellaneous Provisions) Act 1976, by East Hampshire District Council with respect to persons licensed to operate Private Hire Vehicles in the Council area.

1. Interpretation

- 1.1** In these conditions:- "The Act" means Local Government (Miscellaneous Provisions) Act 1976; "the council" means East Hampshire District Council; "operator" means the business making provision for the invitation or acceptance of bookings for private hire vehicles; "operator's licence" means a licence under Section 55 of the Act; "private hire vehicle" means a motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers; "authorised officer" means any officer of the Council authorised in writing by the Council for the purpose of these conditions.
- 1.2** Throughout these conditions, the term "licence holder" means the operator.
- 1.3** The licence holder must make themselves familiar with the conditions, and apply them at all times, and upon request make them known to any hirer.

2. Operator licence

- 2.1** The Operator must not trade under any name for private hire purposes unless the name has been approved by the Council and has been entered on the Private Hire Operator's Licence issued by the Council.
- 2.2** The Operator must inform the Council of any proposed change of trading name prior to any change. In changing the name, the Operator may not use any name already in use within the Council area, or a name that so closely resembles a name already in use that it is deemed by the Council likely to confuse customers.
- 2.3** The Operator must inform the Council of any proposed change of address prior to any move, as this licence is specific to the address shown on it. Operators must be aware that planning permission is usually required for the operation of a private hire business where the number of vehicles to be operated exceeds one. This licence does not allow the use of the premises as a private hire operator's base in the absence of planning permission.
- 2.4** The Operator must notify the Council in writing of any changes in ownership, partnership or directorship of the business within 5 working days.

- 2.5** The Operator must provide a prompt, efficient, courteous and reliable service to members of the public, other licensed operators, proprietors and drivers of licensed vehicles as well as the Council's authorised Officers. They must also ensure that those who work for or with them do the same.
- 2.6** The operator must behave in a civil, courteous and orderly manner at all times. Including in their dealings with the general public, licensed operators, proprietors and other drivers of licensed vehicles, as well as the Council's authorised Officers.
- 2.7** The Operator must notify the Council in writing within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope will result in a review by the Council as to whether the licence holder continues to be fit to hold the licence. If the Operator is a partnership or Company, this requirement will be applied to each partner or director.

3. Vehicles and Drivers

The Operator shall:

- 3.1** Not employ any vehicle or driver in the course of a Private Hire Business unless that vehicle and driver are licensed for that purpose for use in the Council's District/Borough. Copies of the private hire driver and vehicle licences for all drivers and vehicles used, must be held by the Operator.
- 3.2** Take all reasonable steps to ensure that the Council's Conditions in respect of 'Operators', 'vehicles' and 'drivers' licences under his control are properly observed.
- 3.3** Notify the Council in writing within 7 days when a driver or vehicle starts or finishes working for them.
- 3.4** Keep an up to date record of all of their drivers. These records must be made available to the Council on the request of an authorised Officer.
- 3.5** Upon the issue or renewal of the operator's licence, provide the Council with a record of all drivers and vehicles which they operate.
- 3.6** Keep a copy of the current insurance certificate/cover note in respect of each private hire vehicle which is available to them for carrying out bookings accepted by them.
- 3.7** Not allow a greater number of Private Hire Vehicles to operate from their premises than the number for which planning permission has been granted by the Council.

4. Operator Premises

- 4.1** The Operators base must be located within the District/Borough of the Licensing Authority.
- 4.2** The Operator must only conduct business from the office at the address specified on the Licence. The Operator must hold a licence in respect of each address from which they operate.
- 4.3** Any public reception area provided must be kept in a clean and tidy condition at all times and have adequate seating. The premises must conform to all other legal requirements including the legal requirement that no smoking be allowed on the premises under the Health Act 2006. 'No smoking' signs must be displayed in a prominent position at every entrance to the premises. Signs must meet statutory requirements.
- 4.4** No person who is behaving in a disorderly manner shall be permitted to remain on the premises.

5. Booking records

- 5.1** An Operator shall maintain at the premises for which they are licensed, a record book or auditable computer record in a form satisfactory to the Council.
- 5.2** Whether using a record book or computer record, the Operator is required to record the following information for each booking:
 - 1. The name of the passenger;
 - 2. The date and time of the request;
 - 3. The time and date of intended pick up;
 - 4. The pick-up point;
 - 5. The destination;
 - 6. The name of the driver and the driver's licence number;
 - 7. The vehicle registration and plate number of the vehicle;
 - 8. The name of any individual that responded to the booking request;
 - 9. The name of any individual that dispatched the vehicle;
 - 10. Details of any booking which are sub-contracted (see 6.2);
 - 11. Any other information required by the Operator.
- 5.3** As a minimum before the booking is undertaken the operator must record, 1, 2, 3, 4 of the above. If all of the information is not available at the time of accepting the booking then the remaining details must be recorded as soon as is practicable and within 1 hour of the completion of the booking.
- 5.4** The Operator shall keep the above booking records for a minimum of 2 years. The Operator shall produce such records for inspection on request to any authorised officer of the Council or any Police Officer.

6. Records of staff who take bookings, dispatch vehicles and interact with the public.

- 6.1** The Operator must also keep the following records:
- 6.2** An up to date register of all staff/contractors that take bookings or dispatch vehicles or interact with the public as part of their work.
- 6.3** The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept (2 years).
- 6.4** A record that the Operator has seen a Basic DBS check for all individuals listed in the register under 6.2 above (the certificate itself should not be retained). Basic DBS checks must be provided by any individual added to the register. The basic DBS certificate must be less than one month old when checked. This record must be retained for the duration that the individual remains on the register.
- 6.5** Operators must ensure that the register and basic DBS checks on staff and new staff are compatible with their policy on employing ex-offenders.
- 6.6** The Operator must have a written policy on employing ex-offenders in roles that would be on the register detailed in 6.2 above.
- 6.7** If the Operator outsources bookings and dispatch functions, written evidence that comparable protections are applied by the Company to which they outsource these functions must be kept.

7.0 Sub-contracting

- 7.1** Every contract for the hire of a Private Hire Vehicle licensed by the Council shall be deemed to be made with the Operator who accepted the booking for that vehicle whether or not the Operator provided the vehicle.
- 7.2** 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 (see 5.2) must be made, and notes must be included stating the name and Council district of the other operator.
- 7.3** Where a booking is sub-contracted, the Operator originally receiving the booking must inform the customer with whom the contract is made of the name of the Operator to whom the booking has been sub-contracted.

8. Use of passenger carrying vehicles (PCV) licensed drivers

- 8.1** The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking shall not be permitted without the informed consent of the booker. The booker must be informed that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check. A record must be made that consent has been given by the booker.

9. Advertisement

- 9.1** All signs or advertisements, in whatever form and wherever so displayed, shall not consist of or include the words “taxi” or “cab”, whether in the singular or plural whether alone or as part of another word or any word of similar meaning or appearance.

APPENDIX E

6. LICENSING ENFORCEMENT POLICY

Introduction

- 6.1** The principal purpose of Licensing is to protect and promote public health and public safety. This applies to all aspects of Licensing including Hackney Carriage and Private hire licensing. All aspects of Licensing and its regulation and enforcement undertaken by the Licensing Team, are covered by this Policy.
- 6.2** The Licensing Team at EHDC will have full regard to the Environmental Health Enforcement Policy when undertaking its duties. The aim of this section is not to duplicate that Policy but to detail how the Licensing function will approach enforcement in more detail, while operating within the overarching approach and principles detailed in the Environmental Health Enforcement Policy. Both policies comply with the principles in the Regulators Compliance Code. The Policy details what businesses and any other parties being regulated can expect from enforcement and will ensure all such action is proportionate and is conducted with openness, fairness and transparency.
- 6.3** The Licensing Team recognise that most businesses and individuals want to comply with the law. Assistance and advice will be provided, wherever possible, to help businesses and individuals meet their legal obligations. However, it will take firm action against those who flout the law or act irresponsibly. Any kind of enforcement action will be primarily based on an assessment of risk to public safety.
- 6.4** A range of tools and powers will be used to ensure compliance. 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.
- 6.5** The purpose of enforcement action is to:
- Protect the public
 - Punish offenders
 - Change the behaviour of offenders
 - Deter future non-compliance
 - Provide a fair-trading environment for compliant businesses
- 6.6** The Licensing Team Leader is responsible for the effective operation of this policy. All Licensing officers must be fully acquainted with the requirements of this policy and any future amendments.

- 6.7** All Licensing officers will follow this policy when making enforcement decisions. Any departure from the policy will be exceptional, capable of justification and be fully considered by the Licensing Team Leader or Environmental Health Manager before the decision is taken. Any departures from this policy and the reasons for it, will be recorded.
- 6.8** The Council's Licensing Committee have jurisdiction in certain matters within this policy. It is not necessary for Council Members to be involved in detailed consideration of individual cases (other than in very exceptional circumstances).
- 6.9** Our principles of enforcement will include the following:
- Advice will be put clearly and simply and confirmed in writing on request. It will explain what is required, why it is required and over what timescale.
 - We will ensure that any enforcement action is proportionate to the risks.
 - We will take into account the circumstances of the case and the attitude of the licence holder.
 - We will work with customers to help them meet their legal obligations without unnecessary expense.
 - Legal requirements will be clearly distinguished from best practice advice.
 - We will ensure that any enforcement, or remedial action taken is reasonable and in proportion to the circumstances.
 - We will ensure that clear reasons for any formal enforcement action are given to the person/business against whom any enforcement action is being taken at the time the action is taken. These reasons will be confirmed in writing at the earliest opportunity. Complaints and relevant appeals procedures will be explained at the same time.
 - We will carry out our duties in a fair, equitable and consistent manner.
 - To achieve this, we will consult and liaise with other local authorities and agencies, such as the Hampshire and Isle of Wight Licensing Officers' Group, and particularly, where there is a shared enforcement role, with other enforcing authorities such as the Police, the Fire Authority and Hampshire County Council Trading Standards.
 - Licensing staff will be courteous, identify themselves by name and carry an identity card. Contact details will be provided for customers requesting further help or advice.

Determining when enforcement action is taken

- 6.10** In determining the nature and extent of enforcement action Licensing Officers will consider the following:
- The risk of harm to the public and others
 - Whether the matter is in the public interest
 - The seriousness of the offence

- The consequence of non-compliance
- The explanation of the offender
- Confidence in the individual that they will not offend in the future
- Whether there has been previous contravention of the legislation and/or licence conditions
- The willingness of the alleged offender to prevent a recurrence of the problem
- The likely effectiveness of the various enforcement options
- The availability and reliability of witnesses
- The sufficiency of the evidence
- Statutory defences

6.11 Before formal enforcement action is taken, where appropriate, the authorised officer will discuss the circumstances of the case with the Licensing Team Leader or Environmental Health Manager and complete an internal decision notice. Where immediate action is taken, reasons for such action will be given at the time and confirmed in writing.

6.12 Where there are rights of appeal against formal action, notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.

6.13 In making decisions about enforcement action, the Council is not acting on behalf of an individual complainant, but rather is exercising a wider responsibility to secure a safe environment for the public and any others who may be affected.

Enforcement Options

6.14 Enforcement action may only be initiated by officers who are authorised to do so in accordance with the Licensing Team’s authorisation procedure. The enforcement options detailed below constitute incremental steps reflecting the seriousness of the non-compliance. The five levels of enforcement action are not necessarily sequential. While best practice recommends that prosecution is considered as a last resort, each case will be considered on its own merits. Action at any of the levels may be instigated following non-compliance as considered appropriate, taking into account the factors listed previously in 6.10.

LEVEL 1

- Verbal advice and/or guidance
- Advisory letters or letter identifying non-compliance
- Information to promote or assist compliance

LEVEL 2

- Written warning advising of the consequences of continued non-compliance or of a repetition of reported non-compliance
- Penalty Points

LEVEL 3

- Attachment of additional conditions
- Refusal to renew licence/permit/consent
- Suspension and/or revocation of licence
- Licensing Sub-Committee hearing

LEVEL 4

- Simple cautioning of adult offenders

LEVEL 5

- Prosecution

Informal action

6.11 The Licensing Team uses a variety of informal actions to secure compliance with legislation including offering advice, verbal warnings/requests for action, the use of letters and inspection reports.

6.12 It is appropriate to use informal action in the following circumstances:

- The act or omission is not serious enough to warrant formal action;
- From the individual's/businesses past history, it can be reasonably expected that informal action will achieve compliance;
- The consequence of non-compliance will not pose a significant risk to the public.

6.13 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.

Penalty Points

- 6.14** Hackney Carriage and Private Hire Operators, Drivers and Vehicles are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, Conditions and the Council's Byelaws.
- 6.15** The Council operates a Penalty Points system of enforcement of specified breaches of byelaws, rules, regulations or conditions of a licence. The Penalty Points system will apply to operators, drivers and proprietors of vehicles.
- 6.16** The primary objective of the penalty points scheme is to improve the levels of compliance amongst licensed drivers, vehicle owners, private hire operators and to help improve the standards, safety and protection of the travelling public. It is designed to work in conjunction with the other enforcement options detailed in this policy. It provides a formalised stepped enforcement plan. The purpose of the scheme is to record misdemeanours and to act as a record of licence holder's behaviour and conduct so as to ascertain whether they are a fit and proper person. It does not prejudice the Council's ability to take other forms of actions.
- 6.17** Licensing Officers are authorised to operate the scheme and issue points accordingly. The Penalty Points system is detailed in Appendix E.

Simple cautioning of adult offenders

- 6.18** The Home Office Circular 016/2008 'Simple cautioning of adult offenders' states that the purpose of the simple caution is:
- to deal quickly and simply with less serious offenders where the offender has admitted the offence
 - to divert them from unnecessary appearance in the criminal courts
 - record an individual's criminal conduct for possible reference in future criminal proceedings or relevant security checks; and
 - to reduce the likelihood of re-offending.
- 6.19** In determining whether to issue a simple caution the requirements detailed in the Home Office Circular 016/2008 Simple Cautioning of adult offenders will be followed. The Environmental Health Service Manager is designated the "cautioning officer" to issue simple cautions.
- 6.20** Where a person declines the offer of a simple caution, it will be necessary to consider taking alternative enforcement action i.e. a prosecution.
- 6.21** Where a simple caution has been given other relevant regulatory bodies will be advised such as the Police.

Prosecution

6.22 The decision to refer a case for prosecution is a very significant one. Prosecution will, in general, be restricted to those persons who blatantly disregard the law, refuse to achieve even the basic minimum legal requirements, often following previous contact with the authority, and who put the public at serious risk.

6.23 The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:

- a) The seriousness of the alleged offence:
 - The risk of harm to the public
 - Identifiable victims
 - Failure to comply with a statutory notice served
 - Disregard of public health for financial reward.
- b) The previous history of the party concerned:
 - Offences following a history of similar offences
 - Failure to respond positively to past warnings
 - Failure to comply with statutory notices.
- c) The likelihood of the defendant being able to establish a due diligence defence.
- d) The ability of any important witnesses and their willingness to co-operate.
- e) The willingness of the party to prevent a reoccurrence of the problem.
- f) Any explanation offered by the business or the suspected offender. This will always be encouraged.
- g) The probable public benefit of a prosecution and the importance of the case e.g. whether it might establish a legal precedent.
- h) Whether other action, such as issuing a simple caution in accordance with Home Office Circular 016/2008 would be more appropriate.

6.24 There are various factors which will point away from a prosecution including:

- The likelihood of a nominal penalty
- The offence was committed as a result of a genuine mistake or misunderstanding. This must be balanced against the seriousness of the offence.
- Whether any other action, such as issuing a simple caution in accordance with Home Office Circular 016/2008 would be more appropriate.

6.25 When circumstances have been identified which may warrant a prosecution, all relevant evidence and information shall be considered, to enable a consistent, fair

and objective decision to be made. For the prosecution to proceed there must be relevant, admissible, substantial and reliable evidence that an identifiable person or company has committed an offence. There must be a realistic prospect of conviction. There must be a positive decision, based on relevant criteria, that it is in the public's interest to prosecute. With insufficient evidence to prosecute, other types of formal action, such as a simple caution, are not alternatives.

- 6.26** Before a prosecution proceeds, the case officer must have the prosecution report signed off by the Environmental Health Services Manager. It will then be referred to the Legal team via the normal service request process.
- 6.27** Where a prosecution is initiated other relevant bodies may be advised. These bodies may include Primary Authorities and/or the Police.
- 6.28** In all cases where there may be a shared enforcement responsibility, such as Hampshire Constabulary, the Gambling Commission, Trading Standards or Hampshire Fire and Rescue, the other party will always be consulted on the best co-ordinated approach.

Other actions

- 6.29** Regardless of any course of action arising following non-compliance with legal requirements or the Policy, other actions including the following may also be taken:
- Issue of Fixed Penalty Notices
 - Issue of Penalty Points
 - Referral to the Licensing Sub-Committee
 - Referral to another appropriate agency
 - Referral to another appropriate Local Authority
 - Referral to the Police
 - Referral to the Vehicle and Operator Services Agency (VOSA)
 - Referral to another appropriate department within the Council
 - Re-sit the driving assessment
 - Re-sit the knowledge test
 - Re-sit the safeguarding training

Decisions of the Licensing Officer, Licensing Committee and the appeals procedure

- 6.30** Where Licensing Officers have delegated powers to grant licences, they will utilise the guidelines set in this Policy when making such decisions. Where appropriate applications for licences will be referred to the Licensing Sub-Committee. While Officers and the Committee will have regard to the guidelines contained in the Policy, **each case will be considered on its individual merits and, where the**

circumstances demand, the Committee/Officer may depart from the guidelines.

- 6.31** Any applicant who is refused a driver's licence on the grounds that the Licensing Authority is not satisfied that he or she is a fit and proper person to hold such a licence has the right of appeal to the Magistrates' Court within 21 days of the notice of refusal.
- 6.32** Any applicant who is refused a Private Hire vehicle licence or a Hackney Carriage vehicle licence has the right of appeal to the Magistrates' Court.
- 6.33** Any applicant refused an Operator licence on the grounds that the Licensing Authority is not satisfied that he or she is a fit and proper person to hold such a licence has the right of appeal to the Magistrates' Court within 21 days of the notice of refusal.
- 6.34** Any licence holder whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.

APPENDIX F

Penalty Points Scheme

Introduction

- 1.** Should Drivers, Operators or Proprietors of Vehicles commit an offence or breach of the rules, regulations or conditions of licence, they will be interviewed as part of the investigation. Once investigations are completed, letters are sent out detailing the outcome and a permanent record kept on the person's file. The outcome of investigations may result in no further action being taken, advice given, verbal warning, penalty points being awarded, a formal/written warning, referral to the Licensing Sub-Committee and/or prosecution.
- 1.1** If Penalty Points are awarded, the Officer will advise the appropriate person (proprietor of a vehicle, driver or Operator) in writing as soon as possible after completion of the investigation into the matter. They will be advised that the penalty points will be recorded against the licence after the 14 calendar day appeal period unless, an appeal is made during this time. Any appeals/disputes regarding the issuing of penalty points will be referred to the Licensing Sub-Committee who will have the discretion to award a greater number of points than displayed on the tariff, if the decision is upheld.
- 1.2** In the event that a driver/owner/operator commits an offence or breaches a condition as listed in the penalty points table in Appendix C they shall be awarded the number of points applicable to the circumstances as shown in the table for the breach/offence shown in the table.
- 1.4** The Penalty Points Scheme does not prejudice the Council's ability to take other actions. In all cases a record will remain against the driver's record, regardless of whether Points have been issued or have become spent.
- 1.5** Penalty points remain for 36 months from the date the penalty points were issued. The period is on a roll forward basis, so as to allow any older points to be considered as spent and therefore excluded from the running total recorded against any individual licensee.
- 1.6** Where a licence holder accumulates 12 penalty points or more in any 36 month period, the matter will be referred to the Council's Licensing Sub-Committee to decide whether the licence holder is a fit and proper person. The Licensing-Sub Committee may then suspend or revoke a licence, or issue a warning to the licence holder, depending on the circumstances. Periods of suspension of a licence by a Sub-Committee will depend on the nature of the breaches of the legislation/conditions and the compliance history of the individual. Suspension periods will normally vary between 7 to 31 days.

- 1.7 The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, byelaws and regulations. The Council may also issue written warnings or suspend, revoke or not renew licences without having issued penalty points in the first instance. In all cases actions will be in line with the Councils Enforcement Policy with the overarching aim of protecting public safety.

2. Penalty Points Table

PENALTY POINTS TABLE				
Offence/Breach of Condition		Minimum & maximum Points Applicable	Driver	Vehicle Owner or Operator
1	Providing false or misleading information on licence application form/failing to provide relevant information or the relevant fee (including dishonoured cheques).	6 - 12	✓	✓
2	Failure to notify, in writing, the Council of change of name and/or address within 5 working days.	3	✓	✓
3	Failure to notify, in writing, the Council of any changes in ownership, partnership or directorship of the business within 5 working days.	3		✓
4	Refusal to accept hiring without reasonable cause.	6 - 12	✓	
5	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares.	3 - 12	✓	
6	Plying for hire by Private Hire drivers.	6 - 12	✓	✓
7	Using unlicensed vehicle or vehicle without insurance or MOT.	6 - 12	✓	✓
8	Allowing unlicensed driver to drive a licensed vehicle	6 - 12		✓
9	Failure to produce relevant documents within timescale when requested by an authorised officer.	4 - 6	✓	✓
10	Unsatisfactory condition of vehicle, interior or exterior.	4	✓	✓
11	Failure to provide evidence of valid MOT upon request.	4 - 6	✓	✓

12	Failure to produce Hackney Carriage or Private Hire vehicle for testing when required	4 - 6	✓	✓
13	Failure to provide proof of valid insurance cover when requested.	4 - 6		✓
14	Using a vehicle subject to a suspension order issued by an authorised officer or a police officer.	6 - 12	✓	✓
15	Using a vehicle for which the licence has been suspended or revoked.	6 - 12	✓	✓
16	Failure to report, in writing, within 72 hours accident or damage to licensed vehicle, which would cause the vehicle to breach licence conditions.	3 - 4	✓	✓
17	Carrying more passengers than stated on the vehicle licence.	6 - 9	✓	
18	Failure to display external/internal licence plate or signs as required.	4	✓	✓
19	Carrying an offensive weapon in the vehicle.	6 - 12	✓	
20	Charging or obtaining more than the legal fare. (Hackney Carriage)	6 - 12	✓	✓
21	Charging or obtaining more than the agreed fare. (Private Hire)	6 - 12	✓	✓
22	Failure to notify transfer of Private Hire or Hackney Carriage vehicle licence within 14 days.	4	✓	✓
23	Failure to carry fire extinguisher.	3 - 4		✓
24	Failure to carry first aid kit.	3 - 4		✓
25	Displaying unsuitable or inappropriate sited signs or advertisements in the vehicle.	3 - 6		✓
26	Displaying advertisement without the written agreement of the Council	3 - 6		✓
27	Failure to use authorised roof light	3 - 4	✓	
28	Failure to maintain records in a suitable form of the commencement and cessation of work of each driver each day.	3 - 4		✓
29	Failure to produce on request records of drivers work activity.	3 - 4		✓
30	Using a non-calibrated taximeter.	6	✓	✓

31	Interfering with a taxi-meter.	6 - 12	✓	✓
32	Obstruction of an authorised officer or police officer in the course of their duties.	6 - 12	✓	✓
33	Evidence of smoking or use of electronic cigarette or other vaporising device in vehicle.	4 - 6	✓	✓
34	Evidence of food or drink in vehicle available for hire.	3	✓	✓
35	Evidence of alcohol or illegal drugs in vehicle	6 - 12	✓	✓
36	Displaying any feature on private hire vehicle that may suggest that it is a taxi.	6		✓
37	Using a private hire vehicle with the appearance of which suggests that it is a taxi	6		✓
38	Failure to carry an assistance dog without requisite exemption.	9 - 12	✓	✓
39	Failure to wear driver's badge.	4	✓	
40	Failure to notify, in writing, a change in medical circumstances.	6	✓	✓
39	Failure to observe Policy on appearance of driver.	3 - 12	✓	
40	Failure to observe rank discipline. (Hackney Carriage)	3 - 12	✓	
41	Failure to maintain proper records of private hire vehicle.	4 - 6		✓
42	Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced.	4 - 6		✓
43	Failure to keep or produce an up to date register of all staff/contractors who take bookings, dispatch vehicles or interact with the public as part of their work.	4		✓
44	Failure to keep or produce a record that all staff on the register referred to in 43 above, have completed a basic DBS check as required.	4		✓
45	Failure to keep or produce a policy on employing ex-offenders in roles that would be on the register detailed in 43 above.	4		✓

46	Misleading use of the words 'Taxi' or 'Cab' on advertising materials.	3		✓
47	Failure to issue receipt on request.	3 - 12	✓	✓
48	Failure to return vehicle licence plate within 7 days after due notice following revocation or suspension of such licence.	6 - 12	✓	✓
49	Failure to notify the Council, in writing, within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence, including the issue of a fixed penalty notice.	4 - 12	✓	✓
50	Failure to behave in a civil, courteous and orderly manner or other unsatisfactory behaviour or conduct.	4 - 12	✓	✓
51	Failure to give assistance with loading/unloading.	3 - 12	✓	✓
52	Failure to display fare card.	3	✓	✓
53	Failure to attend punctually at appointed time and place without sufficient cause.	3 - 4	✓	✓
54	A licensed vehicle with a bald tyre.	2 - 4 per tyre	✓	✓
55	Failure to attend a vehicle inspection.	6	✓	✓
56	Failure to comply with any other conditions	3 - 12	✓	✓
57	Use of hand held device (eg mobile phone) whilst driving licensed vehicle	4 - 6	✓	
58	Leaving Hackney Carriage unattended on a rank.	3	✓	
59	Points awarded by Licensing Sub-Committee where matters referred to them for decision.	1- 12	✓	✓

Note, where only one figure is given in the table for an offence/breach of condition this is both the minimum and maximum points applicable.