

To: Chairman and Members of the Taxi and General Licensing Committee

Councillors Jenns, Bates, Clews, Farrow, Fowler, Hobley, Jarvis, Osborne, O Phillips, Smith, Stuart, Taylor, Turley, Whapples and A Wright

For the information of other Members of the Council

For general enquiries please contact Democratic Services on 01827 719221 or via email – democraticservices@northwarks.gov.

For enquiries about specific reports please contact the Officer named in the reports.

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TAXI AND GENERAL LICENSING COMMITTEE AGENDA

2 October 2024

The Taxi and General Licensing Committee will meet on Wednesday 2 October 2024 which commences at 6.30pm in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire.

The day after the meeting a recording will be available to be viewed on the Council's YouTube channel at [NorthWarks - YouTube](#).

AGENDA

- 1 Evacuation Procedure.**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests.**

4 **Public Participation**

Up to twenty minutes will be set aside for members of the public to put questions to elected Members. This will not allow members of the public to speak on any licensing application being considered by the Committee if they are not a party to that application under the Licensing Act 2003. If you are a party to a hearing you will have received a notice of hearing and should respond as indicated in that notice.

Members of the public wishing to address the Board on any other issue must register their intention to do so by 9:30am two working days prior to the meeting. Participants are restricted to five minutes each.

If you wish to put a question to the meeting, please register by email to democraticservices@northwarks.gov.uk or telephone 01827 719221/ 719226 /719237.

Once registered to speak, the person asking the question has the option to either:

- (a) attend the meeting in person at the Council Chamber;
- (b) attend remotely via Teams; or
- (c) request that the Chair reads out their written question.

The Council Chamber has level access via a lift to assist those with limited mobility who attend in person however, it may be more convenient to attend remotely.

If attending remotely an invitation will be sent to join the Teams video conferencing for this meeting. Those registered to speak should dial the telephone number and ID number (provided on their invitation) when joining the meeting to ask their question. However, whilst waiting they will be able to hear what is being said at the meeting.

5 **Minutes of the Taxi and Licencing Committee 30 January 2024** – copy herewith, to be approved as a correct record and signed by the Chairman.

ITEMS FOR DISCUSSION AND DECISION

6 **Adoption of Taxi Licensing Policy and consultation on Pavement Licensing Policy – Report of the Chief Executive**

Summary

The report asks the Committee to ratify the Draft Hackney Carriage and Private Hire Licensing Policy and review and consider a consultation on this new Pavement Licensing Policy.

The Contact Officer for this report is Sharon Gallagher (719292).

STEVE MAXEY
Chief Executive

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE TAXI AND GENERAL LICENSING COMMITTEE

30 January 2024

Present: Councillor Jenns in the Chair

Councillors Clews, Hobley, Jarvis, Osborne, O Phillips, Smith, Stuart, Taylor, Turley, Whapples and A Wright

Apologies for absence were received from Councillors Bates and Fowler

1 **Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared at the meeting.

2 **Minutes**

The minutes of the meeting of the Taxi and General Licensing Committee held on 24 January 2023, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

3 **General Fund Revenue Budget – 2023/24 Revised and 2024/25 Estimates and Fees and Charges**

Interim Corporate Director – Resources (Section 151 Officer) reported on the revised budget for 2023/24 and an estimate of expenditure for 2024/25, together with forward commitments for 2025/26, 2026/27 and 2027/28. It also included a review of the fees and charges for Taxi and General Licensing with recommendations for increases.

Resolved:

- a That the revised budget for 2023/24 be accepted;**
- b That the fees and charges, as set out in Appendix C and section 5 of the report, be approved; and**

Recommendation to Executive Board:

- c That the 2024/25 estimates be approved, as submitted in the report of the Interim Corporate Director – Resources (Section 151 Officer), be included in the budget to be brought before the meeting of the Executive Board on 12 February 2024.**

4 Local Government (Miscellaneous Provisions) Act 1976 – Fixing of Fares – Hackney Carriages - Report of the Chief Executive

The Chief Executive asked the Committee to consider a request from the taxi trade for an increase in fares.

Resolved:

- a That an increase in Hackney Carriage fares, as set out in the proposed table of fares contained in the report, be allowed; and**
- b That if objections to any agreed increase be received within the statutory period and not withdrawn, those objections are considered by a Sub-Committee of this Committee.**

5 Consultation on Review of Taxi Licensing Policy – Report of the Chief Executive

The Chief Executive asked the Committee to review and consider a consultation on the new Taxi Licensing Policy.

Resolved:

- a That the report be noted; and**
- b That a consultation to review the Taxi Licensing Policy be carried out.**

A Jenns
Chair

Agenda Item No 6

Taxi and General Licensing Committee

2 October 2024

Report of the Chief Executive

Adoption of Taxi Licensing Policy and consultation on Pavement Licensing Policy

1 Summary

- 1.1 The report asks the Committee to ratify the Draft Hackney Carriage and Private Hire Licensing Policy and review and consider a consultation on this new Pavement Licensing Policy.

Recommendation to the Committee

- a That the Committee agrees to adopt The Hackney Carriage and Private Hire Licensing Policy; and
- b The Committee agrees to a consultation to introduce a Pavement Licensing Policy

2 Public Consultation and Engagement

The Consultation for the Draft Hackney Carriage and Private Hire Licensing Policy ran from the 1 February 2024 until the 3 May 2024. During the consultation period we didn't receive any objections, we received two comments from drivers re fares and wages.

Consultation is required to ascertain support from the residents of the Borough to ensure a robust Pavement Licensing Policy that reflects a reasonable and proportionate response to the licensing regimes and enforcement when required.

- 2.1 Councillors Jenns (Chair) and Clews (Vice-Chair) have been sent an advanced copy of this report for comment. Any comments received will be reported verbally at the meeting.

... Draft Hackney Carriage and Private Hire Licensing Policy at Appendix A
Draft Pavement Licensing Policy at Appendix B.

3 Report

- 3.1 Members will be aware that the Council is the licensing authority in relation to two types of passenger carrying vehicles.

- 3.1.1 Hackney Carriages, which may ply for hire on ranks or be 'flagged down' by members of the public, the drivers of which have a duty to take a fare in such circumstances; and
- 3.1.2 Private Hire Vehicles which may not ply for hire or be flagged down and which the public must book via an operator which also licensed by the Council but are not obliged to take a fare.
- 3.2 In relation to Hackney Carriages the law requires the Council to issue a licence for the vehicle, to ensure that it is safe and roadworthy and of a suitable design; and a licence for those who drive them, ensuring that they are a fit and proper person to do so.
- 3.3 In relation to Private Hire vehicles, three licences must be issued, those for drivers and vehicles similar to those referred to in 3.2 above, along with an operator's licence for those through whom bookings must be made.
- 3.4 The legislation relating to each is slightly different, although there are some overlapping provisions. There is also guidance and case law which regulates the process of issuing licences and how those who are licensed must conduct themselves.
- 3.5 The Council has previously made several policies relating to vehicles and drivers however, due to some recent amendments to the law, it has become necessary to update these. Extensive work has been undertaken and it has become clear that, for ease of those who operate licensed vehicles, the public and the Council, it will be simpler to include all relevant provisions in a single policy document. This will ensure that all relevant provisions can be easily identified, and when appropriate, that document can be reviewed and updated without the need to cross reference a number of other policies.
- 3.6 In summary, this policy contains provisions relating to the criteria for licensing each type of taxi, the criteria applying to drivers and operators and the procedures applying to applications and review of licences. It is also intended that a 'penalty points' scheme is adopted so that, if a driver or operator commits a minor breach of the law or policy, it can be dealt with in a simplified manner by officers. More serious matters will still be reported to members for their consideration.
- 3.7 The following have been referenced and considered.
- Review of policy in line with other authorities.
 - Cross referenced with The Department of Transport (DfT) Best Practice Guidance updated November 2023, The DfT Statutory Standards for Taxis and Private Hire Vehicles 2020, updated November 2022.
 - Review of policy includes relevant legislation introduced in 2022, Taxis and Private Hire Vehicles (Safeguarding and Road safety) Act 2022 and Taxis and Private Hire Vehicles (Disabled Persons) Act 2022.

4 Pavement Licensing Consultation

- 4.1 The Business and Planning Act 2020 successfully introduced a mechanism for premises serving food and drink such as bars, restaurants and pubs, to place furniture on the pavement to help the hospitality industry recover from the coronavirus lockdown and social distancing restrictions.
- 4.2 The Pavement Licensing regime was temporarily extended until March 2024 when the Levelling Up and Regeneration Act 2023 made permanent the provisions set out in the Business and Planning Act 2020 that streamlined the process to allow businesses to secure these licences quickly.
- 4.3 However the Levelling Up and Regeneration Act introduces a number of changes. Previously the Business and Planning Act allowed a maximum application fee of £100, a streamlined consultation determination period for applications and for licences to be valid for up to 12 months. Now, the fee for applying for a licence under the Business and Planning Act process is capped at £500 for first time applications and £350 for renewals and the public consultation period and licence duration has been extended.
- 4.4 The new Act also confirms that applications for Pavement Licences should where possible be made under these provisions as opposed to Pavement licences granted by Warwickshire County Council, the Highways Authority, under Part 7A of the Highways Act 1980.

5 Report Implications

5.1 Finance and Value for Money Implications

- 5.1.1 There are no direct finance or value for money implications in the report since any work undertaken would be funded from existing budgets.

5.2 Safer Communities Implications

- 5.2.1 A well-regulated taxi service is important in providing safe transport for residents including many vulnerable people.
- 5.2.2 Several pavement licences in an area may result in larger distributed or dense crowds of people, which may result in anti-social behaviour.

5.3 Legal and Human Rights Implications

- 5.3.1 This report gives an overview of the statutory procedure which applies to making a scheme. There are no material legal, data protection or human rights implications arising from the adoption of the new policies provided the relevant statutory procedures are followed.

5.4 Environment and Sustainability Implications

- 5.4.1 The proposed use may result in excessive noise and litter.

5.5 Health, Wellbeing and Leisure Implications

5.5.1 A well-regulated taxi service will allow more people to access health and leisure opportunities which will increase general wellbeing.

5.6 Human Resources Implications

5.6.1 There are no human resource implications contained in the report.

5.7 Risk Management Implications

5.7.1 There are no risk management implications contained in the report.

5.8 Equalities Implications

5.8.1 There are no specific equalities implications in relation to this report, however if the recommendation is adopted then the informal consultation process may identify ways in which any scheme could benefit particular groups having protected characteristics.

5.9 Links to Council’s Priorities

5.9.1 Supporting employment and business, promoting sustainable and vibrant communities and Improving leisure and wellbeing opportunities.

The Contact Officer for this report is Sharon Gallagher (719292).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date



North Warwickshire
Borough Council

Draft Hackney Carriage and Private Hire Licensing Policy

2024-2029

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PART 1 – INTRODUCTION

North Warwickshire Borough Council (“the Council”) is the licensing authority for the private hire and hackney carriage regime in the Borough of North Warwickshire.

In carrying out its Taxi and Private Hire licensing function the Council seeks to promote the following objectives:

- Protection of the Public
- Safety and health of drivers and the public.
- High standards of vehicle safety, comfort and access.
- Prevention of crime and disorder and the protection of the consumers.
- Ensure that the decision-making processes are transparent, and the resulting decisions are fair, proportionate and consistent.
- Equality and accessibility in service provision.

The Council expects all applicants, drivers, proprietors and operators to demonstrate commitment to promoting these objectives.

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

The Policy adheres to statutory guidance issued in July 2020 by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 to protect children and vulnerable adults from harm when using taxi and private hire services.

The main types of licence are:

- Dual Hackney Carriage and Private Hire Drivers’ Licence - All drivers of Hackney Carriages and Private Hire Vehicles (‘Drivers’) must hold a Dual Hackney Carriage and Private Hire Drivers’ Licence issued by the Borough Council of North Warwickshire.
- Private Hire Vehicle Licence - Private Hire Vehicles must be licensed by the Council, as must the Driver and the Private Hire Operator who is responsible for taking the bookings. All three licences must be issued by the same Council.
- Private Hire Operator Licence - Private Hire Operators must be licensed by the Council, as must the Drivers and Vehicles they operate.
- Hackney Carriage Vehicle Licence - Hackney Carriages (Taxis) must be licensed with the Council as must the driver. Both licences must be with the same Council.

The rules on Taxis and Private Hire Vehicles can be complex. This document is intended to make it clear how the Council operates its licensing service.

Please note that the following vehicles are not required to be licensed:

- vehicles owned by funeral directors wholly or mainly for the purpose of funerals,

- ambulances and voluntary vehicles
- vehicles used solely for the purpose of weddings.

Scope

The Hackney Carriage and Private Hire Licensing Policy is applicable to the licensing of hackney carriage and private hire drivers and vehicles and to the licensing of private hire operators. This policy supersedes all previous Council policies relating to Hackney Carriages, Private Hire Vehicles, Operators and Drivers.

Purpose

The fundamental purpose of licencing is to protect the safety and welfare of the public who live, work and visit North Warwickshire. The importance of a thriving hackney carriage and private hire trade to the growth and prosperity of North Warwickshire's local economy is recognised; however, the safety and welfare of the public is the over-riding principle that will be considered when matters are dealt with under this Policy.

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

The main concerns for the Council are to ensure:

- the safeguarding of children, young persons and adults at risk of abuse and neglect.
- That in order to promote the welfare of children and to protect them from harm, prospective and licensed drivers and operators who have dealings with children and families have a duty to report matters of concern that could relate to the safety and/or welfare of children and vulnerable persons to the relevant authorities (refer to the Council's Safeguarding Policy, and Appendix A for further information).
- That any person who applies to be a hackney carriage or private hire vehicle, driver or operator is a fit and proper person and does not pose a threat (in any form) to the public.

The Council uses the phrase 'fit and proper' as an aid to interpret what is meant by it. The tests that the Council will use to determine whether an individual is considered fit and proper/safe and suitable to hold a licence are below:

- For drivers: "Would you allow your child, spouse or partner, parent, grandchild or any other person for whom you care, to get into a vehicle with this person alone at any time of day or night?"
- For private hire operators: "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?"
- For vehicle proprietors: "Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without

arousing suspicion and be satisfied that they would not allow it to be used for criminal or other unacceptable purposes and be confident that they would maintain it to an acceptable standard throughout the period of the licence?”.

- that the public are safeguarded from dishonest persons; that vehicle's used to convey passengers are safe and fit for the purpose for which they are licensed and
- that the impact on the environment is reduced in line with European and national guidelines.

The Policy provides guidance to any person with an interest in hackney carriage and private hire licensing; in particular, but not restricted to:

- persons who wish to apply for hackney carriage and private hire vehicle, drivers or operator licences; persons who hold existing licences, including those that are the subject of review,
- the Council, in its capacity as the licensing authority, including licensing officers and members of the public protection committee,
- service users who have concerns relating to an operator, vehicle or driver; licensing consultants, solicitors and barristers advising and/or representing applicants/licence holders; and
- Magistrates' and judges hearing appeals against Council decisions.

The Policy is also designed to put the Council's licensing requirements into context.

Consultation and Communication

In determining this Policy, the views of relevant stakeholders have been taken into consideration.

To deliver a transparent, accountable and efficient licensing service the Council is committed to ongoing communication and consultation with all stakeholders. In particular, the Council welcomes the opportunity to communicate and consult with representatives of the hackney carriage and private hire trade to enable and encourage the exchange of views and information in relation to the Policy, conditions, changes in the law and reviews. The specific methods to achieve this communication and consultation will be determined as required.

The views of relevant stakeholders will be considered in any major changes to this Policy.

Review

The policy will be formally reviewed after 5 years. However, it will be the subject of continuous evaluation and, if necessary, formally reviewed at any time. At the time of each review relevant stakeholders will be consulted.

Minor changes would be made without consultation where:

- they are to correct an administrative error,
- they are a change needed because something is no longer possible or legal,
- there is no foreseeable detrimental effect to licensee's interests.

Legislative framework

The operation of the Council's licensing service is undertaken in accordance with relevant legislation, applicable licence conditions, the Regulators' Code (BRDO 14/705 April 2014) and the Secretary of State for Transport Statutory Taxi and Private Hire Vehicle Standards July 2020 (updated Nov 2022), Taxi & Private Hire Licensing Best Practice Guidance for Licensing Authorities in England November 2023 and such other guidance that may be issued from time to time by the Department for Transport and other Government departments.

The primary legislation relating to hackney carriage and private hire licensing, at the time this policy comes into force, is contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and may be subject to change with any new and/or amended legislation. This policy reflects the changes to hackney carriage and private hire licensing introduced by the Deregulation Act 2015 and Immigration Act 2016, and the provisions contained within the Equality Act 2010. It also encompasses provisions from other pieces of legislation such as (but not exclusively) the:

- Road Safety Act 2006
- Road Traffic Acts (Various)
- Criminal Justice & Public Order Act 1994
- Transport Act 1985
- Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022
- Taxi and Private Hire Vehicles (Disabled Persons) Act 2022

In addition, the service is provided in accordance with all relevant Council policies, but in particular the following which mirror the framework of policies which under section 177(4) of the Policing and Crime Act 2017 the authority must have regard to when exercising its licensing functions:

- Diversity & Equality Scheme
- Information Security policy
- Corporate Enforcement policy

The General Data Protection Regulations ("GDPR") and the Data Protection Act 2018 ("DPA18") covers the collection, storage, processing and distribution of personal data. It also gives certain rights to individuals about whom information is recorded. The Council aims to fulfil its obligation under the legislation to the fullest extent by only processing personal data for the purposes of legitimate interests pursued by the Council or legal requirements imposed on the Council. The DPA18 obliges local authorities to comply with the below data protection principles. The principles state that the information shall be:

- used fairly, lawfully and transparently,
- used for specified, explicit purposes,
- used in a way that is adequate, relevant and limited to only what is necessary,
- accurate and, where necessary, kept up to date,
- kept for no longer than is necessary,
- handled in a way that ensures appropriate security, including protection against unlawful or
- unauthorised processing, access, loss, destruction or damage

Further information about GDPR and DPA18 can be obtained at the Information Commissioner's website (www.ico.gov.uk). Enquiries regarding the Council's use of personal

data should be addressed to the Councils Data Protection Officer at The Council House, South Street, Atherstone, CV9 1DE.

The Policy and associated conditions do not address health and safety at work requirements. Drivers and operators are required to ensure compliance with all relevant health and safety at work provisions. This is likely to impact on the health and safety requirements associated with transporting passengers with disabilities, e.g., those who need to carry oxygen for medical purposes or those with assistance dogs. This may have implications on the extent of the discretion that drivers have to refuse to carry passengers with certain disabilities.

Conditions

The Council will adopt any reasonable conditions that it deems necessary and appropriate to ensure that proprietors, operators, drivers and vehicles comply with relevant legislation and the fundamental purpose of the guidance, i.e., to protect the safety and welfare of the public and in particular children and vulnerable adults.

Any licensed driver, vehicle proprietor or operator may request a review of any condition or any element of this Policy at any time. Requests will be dealt with on their individual merits.

Initiatives that lead to the improvement of any element of the service in particular enhancing the safety of the public are actively sought.

Our approach

The Council aim to balance protection of the public against requirements which are too onerous. Requirements which are too onerous may ultimately reduce the availability and increase the cost of taxis/private hire vehicles. We aim to be pragmatic and work with the trade to improve the service provided to the public.

The Council are committed to being as open as possible in our dealings with the public and the trade. We will seek to put as much information as possible on the website in as user-friendly form as possible.

Public Register

The Council will hold and maintain a register for all the licences which it issues. The information held on the register will be restricted to the name of the licence holder; a unique licence number; the date of commencement; and the date of the expiry of the licence. The register will be available for inspection by prior arrangement with the Councils Licensing team and where possible will be published on the Councils website.

PART 2 – LICENSING PRINCIPLES, PROCESS AND DELEGATION

Introduction

The Council has adopted Part II of the Local Government (Miscellaneous Provisions) Act 1976 and, together with the provisions contained in the Town Police Clauses Act 1847, the Council carries out the licensing of hackney carriage drivers and vehicles and private hire drivers, vehicles and operators.

This part of the policy focusses on the principles the Council will follow when administering licence applications, reviewing conditions, setting fees and setting the table of fares. It explains the roles and duties of the Licensing Committee and officers of the Council.

The Council aims to provide a clear, consistent and responsive service to prospective and current licence holders, members of the public and other stakeholders. This includes the provision of advice to prospective applicants, including advice on the effect that convictions, etc. may have on any application, and to existing licence holders. The Council will be mindful of the needs of the applicant but this will be balanced against the duty that the Council has to protect the safety and welfare of the public.

All licence applications will be considered and determined on their own individual merits, but with regard to the statutory guidance regarding the protection of children and vulnerable adults who use taxi and private hire services.

Licensing principles

The Council aims to provide a clear, consistent and responsive service to prospective and current licence holders, members of the public and other stakeholders. This includes the provision of advice to prospective applicants, including advice on the effect that convictions, etc. may have on any application, and to existing licence holders. The Council will be mindful of the needs of the applicant but this will be balanced against the over-riding duty that the Council has to protect the safety and welfare of the public.

All licence applications will be considered and determined on their own individual merits.

Licensing process and delegation of functions

The Council has delegated its licensing function to the Licensing Committee, who have further delegated officers of the Council to determine all applications and take action in accordance with this Policy.

Whilst officers and the relevant committees will, in the majority of cases, follow the Policy. Where the policy is silent, the reasons for departing from the guidance will be made clear.

Committees

Licensing Committee

This Committee is made up of 15 members of the Council. It deals with conditions of licence, the setting of fees and charges and hackney carriage fares.

Decisions

The Council has the power to refuse to grant or renew licences and also to suspend or revoke existing licences in accordance with relevant legislative provisions. In addition, the Council may choose to issue written warnings.

Any decision to refuse to grant or renew a licence or to suspend or revoke an existing licence, including the decision to suspend or revoke with immediate effect or to issue a written warning will be made in accordance with the Council's scheme of delegation and other relevant procedures.

Where applications are to be determined, the officer, and/or Licensing committee will take into consideration the facts of the application, any information and/or evidence provided by other interested parties including, but not restricted to, officers from the Council with responsibility for safeguarding and officers from Warwickshire Police together with the recommendation made by the licensing officer presenting the report. Applicants will be given the opportunity to submit written and/or verbal representations as appropriate.

Following the determination of an application by the Council the applicant will receive a copy of the decision in writing. This written decision will be delivered as soon as is practicable after the decision has been made. This will include information on the right of appeal where appropriate.

Application/Renewal Decision

Where the Council is minded to not approve the licence/renewal in the form applied for, it will give the applicant/licence holder a chance to make representations in person, by telephone or face to face, or in writing by letter or email before the decision is taken.

Where an application is incomplete or does not meet the application criteria the Council will reject the application. This will be confirmed in writing.

Decision to suspend/revoke a licence.

Suspension, Immediate Suspension, Revocation and Immediate Revocation of a driver's licence can be carried out by the Licensing Committee, or a duly authorised officer of the Council.

Where the Council is minded to suspend or revoke a licence it will give the applicant/licence holder a chance to make representations in person, by telephone or face to face, or in writing by letter or email before the decision is taken.

Suspension or Revocation of a vehicle licence can be carried out by the Licensing Committee or a duly authorised officer of the Council.

Appeals

If the applicant/licence holder is aggrieved by the decision of the Council they may appeal to the relevant court (in most cases the Magistrates Court). The appeal needs to be made within 21 days of being notified in writing of the Council's decision and must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to promptly seek appropriate independent legal advice in such circumstance.

Working in partnership

The Council aims to work in partnership with other relevant agencies/bodies when dealing with hackney carriage and private hire licensing issues. Such partnerships will include, but are not restricted to, relevant hackney carriage and private hire trade associations, neighbouring local authorities, Warwickshire Police, Driver and Vehicle Standards Agency (DVSA), Revenues and Benefits teams, Safeguarding Partnerships and consumer groups.

The Council regularly meets and shares information with other enforcement authorities including Warwickshire Police and Warwickshire Trading Standards through the Warwickshire Multi Agency Licensing & Enforcement Meetings (MALEM) and other Borough and District Councils within Warwickshire via the Licensing Technical Support Group meetings.

The Council, as primary regulator, will ensure that all relevant provisions relating to the effective administration of licensing functions are robustly enforced in order to ensure protection of the public.

Where licensing staff do not consider that this policy is being correctly applied, they are able to raise this for investigation, and remedial action if required, through the Council's internal whistleblowing procedure.

PART 3 – LICENSABLE ACTIVITIES

Introduction

This part of the Guidance focusses on the licensable activities and the necessary steps required to obtain and to hold such a licence. These steps will include the standards that applicants must attain and the conditions that apply. Where appropriate, any reference to 'applicant' is deemed to include existing licence holders.

The following are applicable to all licence types:

- Where an applicant has failed to declare relevant information or provided false information the application is likely to be refused; where this relates to an existing licence, the licence is likely to be suspended or revoked. Applicants are reminded that it is an offence to make a false declaration knowingly or recklessly or omit any material particularly when giving information required by the application for a licence.
- All licence fees are payable at the time of application in full. Where a licence is not granted, i.e., the applicant withdraws their application a portion of the fees may be returned to the applicant. The actual amount of the refund will depend upon the progress of the application at the time the applicant withdraws.
- In the event that an application for a licence is paid by cheque, the licence will not be valid until such time as the cheque has cleared. In the event that the cheque does not clear and the licence has been issued, the licence will be null and void with immediate effect.
- The application process must be completed within 6 months unless prevented from doing so by matters that are outside the applicant's control, e.g., external delays in the DBS process, otherwise the application process will cease to progress further until such time as the applicant provides all the required information. Applications not completed within 6 months without a justified reason for the delay will be considered abandoned. A refund may be made for abandoned applications depending on the level of work that has already been carried out.
- Where a licence has lapsed, been surrendered or revoked a new application must be submitted in accordance with the relevant new licence procedures before the Council will consider the application.
- When a licence expires, the Council will not permit any 'periods of grace' for the submission of a renewal application, unless there is satisfactory evidence of exceptional circumstances that are accepted by the Council.

Appointments

The Council operates an appointment system for new applicants. New applicants will not be seen and applications will not be accepted without an appointment without prior agreement by a Council Officer or the Licensing Admin Officer.

Disclosure & Barring Service (DBS) data and other relevant information

The Council follows the Disclosure and Barring Service (DBS) Code of Practice for Registered Persons and Other Recipients of Disclosure Information (November 2015) and will retain a copy of the certificate in line with the Council's data retention policy and data protection legislation.

DBS certificates must be in the correct workforce (i.e., 'Other Workforce') and for the correct job role (i.e., Taxi Driver or Taxi Licensing). Further information about the DBS can be found at:

<https://www.gov.uk/government/organisations/disclosure-and-barringservice/about>

The Council will accept an Enhanced DBS disclosure report issued as part of an application made through a separate organisation provided,

- It is for 'other workforce'.
- It includes both of the Barring checks.
- It is for the same job role (Taxi Driver or Taxi Licensing).
- It is presented to the Council for verification within 3 months of issue date of the certificate.
- the applicant has subscribed to the DBS Update Service; and
- the applicant has authorised the Council to access the relevant online record

Further information can be found at:

<https://www.gov.uk/dbs-update-service>

The Council will make regular use of the DBS update service provided by the DBS and, where this shows changes to a licence holders record, a new DBS disclosure will be required. The licence holder is required to pay the appropriate fee before the new DBS disclosure application is submitted.

Where an applicant has spent an extended period of time overseas and hence their DBS record is incomplete the authority will require an applicant for a licence to provide data on their criminal record or a Certificate of Good Character issued by the relevant Embassy or High Commission.

The certificate must be authenticated, translated and sealed by the Embassy or High Commission. Further information on this can be found at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Drivers who undertake work for County Council transport contracts, e.g., school contracts, are advised to contact the School Transport Team at Warwickshire County Council in order to ascertain the level of criminal record disclosure required and any other requirements in this respect. Information will be shared between Warwickshire County Council and the Borough Council about individuals and businesses that apply and/or tender to deliver passenger transport contracts.

The School Transport Team can be contacted by email at:

educationtransport@warwickshire.gov.uk

In addition to information via the DBS service the authority maintains close links with the local police licensing unit ensuring that information held by either party, relevant to taxi and private hire driver licensing, is efficiently and effectively shared under existing protocols. Where the local authority obtains or holds relevant information not known to the DBS service or the local police, they will refer this to either or both organisations in order that the information they hold is up to date and complete. This will include information regarding licences which the authority has refused, revoked or suspended them, on the basis that they believe the individual presents a risk of harm to a child or vulnerable adult.

The authority will also share information with other local licensing authorities regarding licences they refuse, suspend or revoke and with the national register maintained by the National Anti-Fraud Network known as the 'NR3' register.

Counter-Terrorism and Security Act 2015

The Council has a duty under the Counter-Terrorism and Security Act 2015 ("CTSA") to have due regard to the requirement to prevent people from being drawn into terrorism. The applicant/licence holder shall facilitate the Council's compliance with its duty pursuant to the CTSA and the applicant/licence holder shall have regard to the statutory guidance issued under section 29 of the CTSA and in particular to ensure that they:

- understand what radicalisation means and why people may be vulnerable to being drawn into terrorism,
- are aware of extremism and the relationship between extremism and terrorism,
- know what measures are available to prevent people from becoming drawn into terrorism and how to challenge the extreme ideology that can be associated with it; and
- obtain support for people who obtain support for people who may be exploited by radicalising influences.

Where the applicant/licence holder identifies or suspects that someone may be engaged in terrorist related activity, the applicant/licence holder must refer such person or activity to the police. For more information please see:

<https://www.gov.uk/government/publications/counter-terrorism-support-for-businesses-andcommunities>

<https://www.gov.uk/government/publications/prevent-duty-catalogue-of-training-courses>

Immigration Act 2016

As of 1st December 2016, the Council are obliged to ensure that all drivers and operators have the right to work within the UK prior to issuing them a licence. All applicants will be treated in line with the government guidance that can be found here:

<https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

As part of the new/renewal application process the individual will have to provide the Council with ones of the documents listed in Annex A of the Government Guidance.

Where an applicant cannot provide a current proof of their right to work in the UK then a licence will not be issued to them. Where an applicant has a time limited right to work in the UK then the Council will only issue a licence up until the expiry date of that document.

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3a. HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS

Summary

Any person who drives a hackney carriage must hold the appropriate vehicle driver's licence. Hackney carriage vehicle driver's licences are issued in accordance with section 46 of the Town Police Clauses Act 1847.

Any person who drives a private hire vehicle licence must hold the appropriate vehicle driver's licence. Private hire vehicle driver's licences are issued in accordance with section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

The Council issues a dual Hackney Carriage and Private Hire licence entitling the driver to drive both vehicles.

Fit and proper person

The Licensing Authority has a duty to ensure that any person who is granted a driver's licence is 'fit and proper' to hold a driver's licence. Once granted, they must remain a 'fit and proper' person for the duration of that licence.

The term "Fit and Proper Person" for the purposes of taxi and Private Hire licensing is not legally defined. However, in determining whether a person is fit and proper to hold a licence, those tasked with determining licences / applications are effectively asking the following question of themselves:

"Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?"

If the answer to the question is an unqualified 'yes', then the person can be considered to be fit and proper. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether a licence should be granted to that person. If, on the balance of probabilities, the answer is 'no' the individual should not hold a licence. An applicant or licence holder should not be 'given the benefit of doubt'.

The fitness and propriety of a driver will be monitored / assessed, throughout the period that the licence is held, by the Licensing Authority with assistance from Partner Agencies.

All applicants/Licensees are expected to act with honesty and integrity throughout the application process and must therefore fully and accurately disclose any information that is requested. This includes information regarding previous cautions, convictions, warnings and reprimands, current investigations and pending criminal proceedings.

The application and compliance procedures are designed to ensure high standards are maintained, monitored and non-compliance is appropriately enforced.

Licensing authorities have to make difficult decisions but the safeguarding of the public is paramount.

The Council will use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked a taxi or PHV driver licence. It will record any cases within North Warwickshire Borough Council area and check the database for all licence applications and renewals. The Licensing Authority will record the reasons for any refusal,

suspension or revocation and provide those to other authorities as appropriate.

In order to assess the suitability of an applicant the Licensing Authority will undertake any checks and apply whatever processes it considers necessary to determine whether an applicant is 'fit and proper' to hold a licence and ensure that licences are not issued to, or used by, unsuitable people.

In assessing the suitability of an applicant or licence holder, the Licensing Authority will consider the following factors:

- Criminality including cautions.
- Period of holding a driver's licence
- Number of endorsed driving licence penalty points
- Right to work
- Medical fitness
- Standard of driving / driving ability
- General conduct / standards of behaviour (including online behaviour)
- The conduct of the applicant in making the application (e.g, whether they have acted with honesty and integrity during the application process).
- The previous licensing history of existing / former licence holders (including honesty and integrity).
- Theoretical knowledge of issues and matters related to the work of a licensed driver.

The Council may at any time request a DVLA check code from an applicant or licensed driver, in order to access DVLA records. The DVLA check code must be provided within 7 days of such a request.

Disclosure & Barring Service Check

As referred to above, hackney carriage and private hire vehicle drivers are required to undertake an enhanced criminal record disclosure (DBS check) and due to the nature of the occupation such drivers are deemed to be an exempt occupation under the provisions of the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders Act (Exceptions) Order 2003.

The effect of this, in relation to hackney carriage and private hire drivers, is to render the Rehabilitation of Offenders Act 1974 inapplicable and therefore convictions are deemed never to be spent. As a result, all convictions, including cautions, will be taken into account when considering a person's suitability to hold a driver's licence. Consequently, applicants are required to provide details of all convictions and cautions, including driving endorsements and disqualification periods relating to 'major' traffic offences.

Although cautions are generally not as serious as convictions, they do require an admission of guilt before they can be issued and are therefore a valuable indication as to an applicant's character and whether they are a fit and proper person to hold or be granted a licence.

A criminal record does not automatically bar an applicant from holding a driver's licence; however, it will be a significant factor when determining whether a licence ought to be granted or not. Where an applicant has previous criminal convictions, these will be considered in line with the guidance set out in **Appendix H**. However, the over-riding consideration will always be to ensure the safety and welfare of the public.

Applicants must have a UK traceable DBS record of at least 5 years or if the applicant has

not been resident in the UK for an unbroken period of at least 5 years have obtained a Certificate of Good Character from the Consulate of the applicant's country of origin. The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided. Proof of a right to work in the United Kingdom will also be required. Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the GOV.UK website at <https://www.gov.uk/government/world>. The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at fcocorrespondence@fco.gov.uk or by post at the FCO, King Charles Street, London, SW1A 2AH.

Period of licence

Licences will be issued at a standard length of 3 years. Any shorter duration licence will only be issued if a licensee has requested this and it is appropriate in the specific circumstances of the case, or where required (e.g., when the licence holders leave to remain in the UK is time-limited) or when the licence is only required to meet a short term demand. Licences will not be issued on a probationary basis, in accordance with the Statutory Taxi and Private Hire Vehicle Standards.

Application process

The application form(s) must be fully completed and include all relevant information, supporting documentation and payment of the appropriate fee. If any part of the application form is incomplete or relevant information or supporting documentation is not provided, the applicant will be requested to provide the missing information / documentation and will be informed that the application will not be accepted until such time as all required information/documentation is provided. The full fee for the licence is payable at the time the application is submitted.

In addition to submitting the application form and fee an applicant must:

- Provide a full UK driving licence (or the European equivalent) that has been held for at least 2 years.
- Provide an enhanced DBS certificate including checks against the barring lists, issued:
 - within the previous 3 months or
 - be Registered with the DBS update service with a relevant up to date certificate.
- Authorise the Council to access the relevant online record via the DBS update service.
- Provide one (1) passport sized photograph.
- Provide evidence of their right to work in the UK in accordance with the Home Office requirements.
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices.
- Pass CSE & Disability Equality Training approved and prescribed by the Council.
- Undergo Group 2 medical examination and provide the medical certificate issued by the Medical Practitioner.
- Pass the practical driving standards assessment test.
- Provide a DVLA online check code.

Arranging DBS

Applicants must subscribe to the DBS Update Service; proof of subscription reference number and the last DBS certificate number must be provided. DBS certificate checks will be made every 6 months. Failure to subscribe to the update service will result in unnecessary additional fees.

Medical requirements

The Council is permitted to satisfy itself that an applicant for a licence is physically fit and remains so during the currency of any licence. Consequently, all applicants for a hackney carriage or private hire vehicle driver's licence are required to undertake a medical examination on initial application, at defined intervals thereafter and at any other such time as the Council requires to ensure their fitness to drive. The standards required are set out in the DVLA publication 'At a Glance Guide to the Current Medical Standards of Fitness to Drive' (May 2014). The standard required is the 'Group 2 Entitlement'. No grandfather rights are given by the Council in relation to medical matters.

Applicants must undertake the medical examination every 3 years, or sooner if stipulated by the examining doctor and provide a satisfactory medical certificate before a licence is issued,

Applicants over the age of 70 must undertake a medical examination and provide a satisfactory medical certificate annually, or sooner if stipulated by the examining doctor.

Age 19 to 70	Every 3 Years
Age over 70	Every Year

In particular, applicants must consider the medical conditions listed in **Appendix I** as the Council may refuse to grant an application or revoke an existing licence where an applicant has any of the listed conditions. Where relevant, the applicant must comply with the additional requirements detailed in **Appendix I**.

If once licensed, the driver's medical circumstances change during the currency of the licence, the driver must inform the Council within 10 working days. The Council may require the driver to immediately undertake a further medical examination and provide an approved medical certificate confirming the outcome of this examination and the driver's fitness (or otherwise) to continue as a licenced driver. The cost of this additional test will be met by the driver.

Should an authorised officer of the Council have reason to believe that a licensed hackney carriage or private hire vehicle driver has a medical condition that renders them unfit to drive, a further medical examination will be requested.

All medical examinations must be carried out by a General Practitioner (GP) registered with the General Medical Council. The Council reserves the right to refer any medical matters to its own appointed Medical Officer whose decision on the fitness (or otherwise) of a driver to continue as a licensed driver will be final.

The Council will not grant or renew, as the case may be, any driver's licence unless the foregoing provisions are complied with and the driver can demonstrate that they are medically fit to hold a driver's licence.

With respect to current licence holders, if it is deemed necessary to do so, a licence may be revoked or suspended in the interests of protecting the public until further medical examination(s) has/have been carried out or if the licence holder is unable to demonstrate that they are medically fit to hold a driver's licence. The costs of any further medical examinations are to be met by the licence holder.

Medical exemptions involving the carriage of disabled persons and assistance dogs may apply to new applicants or licensed drivers who suffer from certain medical conditions but they must provide sufficient proof that they have a history of a specific health problem(s) that means they qualify for such a medical exemption. However, the Council reserves the right to refuse to grant a licence if deemed appropriate to do so.

DVLA and other relevant driving licences

A person applying for a driver's licence must have held a full DVLA/EC/EEA category B driving licence for at least 2 years at the time of application. This includes European Union (EU), European Economic Area (EEA) and Northern Irish licences.

Throughout the currency of the licence, the driver must possess a full driving licence in accordance with the above requirements.

Applicants are required to produce the original of their driving licence. Copies will not be accepted.

All applicants holding driving licences issued by agencies other than the DVLA must produce a certificate to show a driving record from the country of issue.

The Council will not provide photocopies of any driver's driving licence from Council records.

The Council will use the online Government Driving Licence Checker to check driving licences. www.gov.uk/view-driving-licence.

All applicants for and holders of a Hackney Carriage & Private Hire Combined Drivers Licence will be required to have an annual check of their DVLA driver licence record.

Practical Driving Standards Assessment Test.

The Council approved provider has been employed to carry out the practical driving Assessment Test. Applicants are required to pass an assessment before a licence is issued. Acceptable Photographic identification is required before the test can be commenced. Applicants who fail the Practical Driving Assessment Test will be allowed to re-do the assessment. All re-tests will be charged in accordance with the fees set by the Council and are non-refundable in the event of failure. No refund will be provided for any cancellations with less than 24 hours' notice in writing.

If applicants fail three successive Practical Driving Assessments, they will be required to wait at least 12 months (from the date of the most recent failure) before being permitted to take further tests.

A third failure may lead to the application being refused on the grounds that the applicant does not have the required skills to deal with the public in the role of a Combined Hackney Carriage and Private Hire driver. At this point of the application only the grant fee will be refunded.

Renewal applications

On renewal of an existing licence, applicants must:

- Submit a completed application form.
- Pay the appropriate fee.
- Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 3 months or be Registered with the DBS update service with a relevant up to date certificate.
- Authorise the Council to access the relevant online record via the DBS update service.
- Provide evidence of their right to work in the UK in accordance with the Home office requirements.
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices.
- Undergo Group 2 medical examination and provide the medical certificate issued by the Medical Practitioner if required.
- Provide a DVLA online check code.
- Provide a Tax check code.

Providing the above are satisfied, the Council will renew the licence subject to the receipt of a satisfactory enhanced DBS report and satisfactory reports through Warwickshire Police (or other relevant force), other local authorities and any other organisation, agency or person that the Council has deemed appropriate to seek information from.

To allow continuous driving, a licence application must be received by the Council 28 days before the expiry date to allow the Council sufficient time to process the renewal application. Once a licence expires, is revoked (subject to a statutory appeal process) or surrendered, it ceases to exist.

Once a licence ceases to exist, a renewal application will not be accepted by the Council and the applicant must submit a new driver's licence application which will be processed in accordance with the Council's new application procedures. If a new application is received within 12 months of the expiry date, not all elements of a new application will be required.

Licence conditions

The applicable conditions with which a driver holding a hackney carriage and private hire driver's licence must comply are set out at **Appendix B**. These conditions are in addition to any matters set out within the main body of the Policy.

Main legal requirements

Production of documents. The driver must, on request, produce for inspection their driver's, licence or forthwith within 5 days to the Council's offices, or other suitable location as directed by the Licensing Team.

Driver's badges and licences

The driver badge, once issued, must be worn by the driver at all times when driving the licensed vehicle and the badge must be plainly and distinctly visible.

All drivers of vehicles licensed for hackney purposes of which they are not the operator, must before commencing driving that vehicle, deposit a copy of their driver's licence with the operator for retention by him until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his.

On ceasing to be a licensed driver through suspension, revocation, refusal to renew or expiry of the driver's licence, the licence holder must return the badge to the Council within 7 days (or earlier if the Council so demands) of the suspension, revocation, refusal to renew or expiry becoming effective.

Journeys

Drivers must not unnecessarily prolong a journey, in distance or in time. Vehicles permitted to be driven for private hire and hackney carriage purposes. Only vehicles licensed by the Council are permitted to be used for hackney carriage and private hire purposes.

Driving licensed vehicles

Once a vehicle is licensed it is classed as licenced at all times. Only drivers who are licensed by North Warwickshire Borough Council are permitted to drive vehicles that are licensed by this authority. The only exceptions to this are when the vehicle is undergoing a fitness test and needs to be driven by the MOT examiner or it is being driven by a qualified mechanic for the purposes of a vehicle service, recovery or maintenance or otherwise permitted by legislation.

Touting

A proprietor or driver of a hackney carriage, when standing or plying for hire, must not call out or otherwise importune any person to hire such vehicle and must not make use of the services of any other person for this purpose.

Plying for hire

Drivers of private hire vehicles must NOT 'ply for hire'. The Council's interpretation of 'plying for hire' is set out at **Appendix G** and is based on relevant legislation and case law.

Transporting children

As a minimum, drivers must comply with the requirements set out in the table below. For clarity children should not travel in a push chair.

Category	Front seat	Rear seat	Who is responsible?
Child under 3	The right child restraint must be used	The right child restraint must be used. If one is not available in a taxi, may travel unrestrained.	Driver
Child from 3rd birthday up to 135 cm in height (or 12th birthday, whichever they reach first)	The right child restraints must be used	The right child restraint must be used where seat belts are fitted. Must use adult belt in a rear seat if the right child restraint is not available: in a taxi; for a short distance in an unexpected necessity; if two occupied child restraints prevent fitting of a third.	Driver

Category	Front seat	Rear seat	Who is responsible?
Child 12, 13, or over 135 cm in height	Seat belt (or child restraint) must be worn if fitted	Seat belt (or child restraint) must be worn if fitted.	Driver
All Passengers 14 years and over	Seat belt must be worn if fitted	Seat belt must be worn if fitted.	Passenger

Smoking in vehicles

Drivers must not, at any time, smoke or permit passengers to smoke in their vehicle as required by the Health Act 2006 and the Smoke-Free (Exemptions and Vehicles) Regulations 2007. This includes e-cigarettes and vaping and any similar paraphernalia. No smoking signs shall be displayed clearly visible to passengers.

Refusing to convey passengers.

A driver of a hackney carriage who is waiting at a rank/stand must not refuse to carry a passenger with or without a reasonable excuse.

Overcharging

Drivers of hackney carriages must not charge more than is permitted under the current table of fares.

Persons riding without consent.

Drivers of hackney carriages must not permit persons to be carried in the vehicle unless they have the consent from the person who is actually hiring the vehicle.

Unauthorised drivers

Licensed drivers of hackney carriages must not allow any persons to drive a hackney carriage unless they are authorised to do so by the proprietor and hold an appropriate license to do so.

Unattended vehicles

Hackney carriage drivers must not leave their vehicle unattended in any street or public place or venue or Taxi Rank, or in contravention to parking regulations.

Obstruction

Hackney carriage drivers must not obstruct other hackney carriage drivers/vehicles from undertaking their normal hiring and driving activities.

3b. HACKNEY CARRIAGES

Summary

Hackney carriages are licensed in accordance with the provisions contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

Commonly known as 'taxis', hackney carriages are licensed to stand for hire at a taxi rank or can be hailed in the street when within the administrative area of the council with which it is licensed. Hackney carriages may also undertake pre-booked journeys anywhere in the country.

All hackney carriages, whilst plying for hire, shall be immediately capable of providing for at least one wheelchair if designated as a Wheelchair Accessible Vehicle by the Council.

Section 167 of the Equality Act 2010 requires Local Authorities to maintain and publish a list of all designated Wheelchair Accessible taxis and Private Hire Vehicles. The duties on drivers apply to drivers of vehicles in this list include:

- (a) to carry the passenger
- (b) To carry their wheelchair/mobility aids
- (c) not to make, or propose to make, any charge for carrying out these duties,
- (d) to take reasonable steps to carry the passenger in safety and reasonable comfort,
- (e) to provide reasonable mobility assistance

The Council will not licence a vehicle for hire and reward which is licensed by another local authority or allow or permit a hackney carriage identification plate issued by another authority to be displayed on the vehicle.

The Council does not limit the number of hackney carriage vehicle licences that it will issue.

Relevant licensable area

The Council will not operate separate zones for licensing of hackney carriages and the relevant licensable area will be the whole administrative area of the Council.

Intended use of vehicles

A person applying for a licence for a hackney carriage vehicle should do so with the intention of using the vehicle in the administrative area of North Warwickshire Borough Council. Where the intention is to use a hackney carriage licensed vehicle in another council's area for private hire, then the applicant should apply to that council for an appropriate licence.

In accordance with section 57 of the Local Government (Miscellaneous Provisions) Act 1976, a person applying for a hackney carriage licence will be required to indicate whether the vehicle will be used primarily within the administrative area of North Warwickshire Borough Council or outside the area. Details will be required as to the proportion of business that will be carried out both within and out of North Warwickshire Borough Council's administrative area. In addition, details of the location of business carried on outside the Council's area will be required. Applications received where the primary use of the vehicle is or is likely to be outside the Council's area will be refused.

Period of licence

Vehicle licences will be issued for 12 months.

Vehicle Specifications

Upon first application all vehicles must be able to carry a minimum of 4 persons or a maximum of 8 or wheelchair accessible, or converted to conform with European type approval, and be less than 8 years old for a new licence or 10 years for a transfer. All Vehicles will require a twice yearly fitness test.

The following upper age limits apply:

- No vehicle licence will be renewed on any vehicle that is of 12 years of age.
- There will be no upper age limit on Electric /hybrid vehicles.

Licence applications for vehicles in “exceptional condition” which are outside of the Council’s policy, for example by age and type of vehicle, will be subject to additional checks relevant to the type of vehicle. Applicants must request the vehicle be checked by the Licensing Team in order to assess if it meets the required standard. This vehicle check must be completed at least a month before the licence plate expires. The compliance test must show no advisories or minor defects. An additional fee will be charged for vehicles outside of the Council’s policies to cover additional administration.

Vehicles must

- a) seat not less than four (4) or no more than eight (8) passengers (not including the driver) and:
- b) Be a Light Passenger Vehicle as defined by section 85 of the Road Traffic Act 1988 and have a minimum of 4 wheels. Unless licensed at the implementation of this policy, vehicles converted from being light goods vehicles (registered under the N1 tax classification) to being passenger carrying vehicles will not be considered suitable for licensing.
- c) Be fitted with a taximeter, calibrated to the Borough Council’s approved tariff,
- d) Be fitted with an illuminated roof sign,
- e) Provide sufficient means by which any person in the carriage may communicate with the driver.
- f) All paintwork must be maintained in a uniform colour and free from dents, scratches or rust.
- g) Have a watertight roof or covering.
- h) Provide at least two windows on each side of the vehicle of which one window on one side must have a means of opening/closing.
- i) Have fitted rear passenger windows that are not heavily tinted or blacked out and will allow a minimum of 35% transmission of light (tolerance of 2%) and must comply with the Road Vehicles (Construction & Use) Regulations 1986. No additional film will be permitted.
- j) Have seats that are properly cushioned and covered.
- k) Have a floor provided with a proper carpet, mat, or other suitable covering.

- l) Have fittings and furniture in a clean condition and be well maintained and in every way fit for public service.
- m) Provide means for securing luggage if the carriage is so constructed as to carry luggage:
- n) Be fitted with an anti-lock braking system.
- o) Where tilting passenger seats are fitted (except where these are part of the manufacturer's original vehicle specification), the seat must,
- be forward facing (with the exception of the fold down seats fitted onto the bulkhead/partition of a purpose built hackney carriage).
 - be designed for use by an adult.
 - have a three point seatbelt - as specified in the Road Vehicle (Construction and Use) Regulations 1986 (as amended).
- p) Have a minimum of four passenger doors, which may include the rear tailgate doors if they can be opened from inside the vehicle, including an entry/exit point for the driver:
- q) Be maintained in a sound mechanical and structural condition at all times.
- r) Have a full size spare wheel or space saver design wheel and the tools to change a wheel OR an emergency puncture repair kit OR carry details of their current contract with a mobile tyre replacement specialist (in any event where a spare wheel or puncture repair kit has been used, it is only to permit the current fare to be completed and any defective wheel must be replaced before taking another fare to ensure passenger safety); all pneumatic tyres, including the spare, must comply with the vehicle manufacturer's specification and any relevant legislation;
- s) Be maintained in a clean and safe condition at all times from both exterior and interior perspectives.
- t) Vehicles should have no damage affecting the structural safety of the vehicle and must not have been written off for insurance purposes.
- u) Minibuses and Multi-Purpose Vehicles (MPVs) must have a step fitted to assist passenger access through all rear passenger doors.
- v) Electric vehicles that are fitted with a range extension device are permitted, providing that it is approved by the manufacturer and fitted by a suitably qualified professional.

Where required, vehicles shall have a designated space capable of accepting a reference wheelchair, of at least 1200mm by 700mm (measured front to back and side to side) with a minimum headroom of 1350mm measured from the floor of the vehicle for each passenger who uses a wheelchair. The space(s) shall be immediately adjacent to a vehicle door which is fitted with wheelchair access equipment so that the passenger using a wheelchair can board the vehicle and use the anchoring equipment with the minimum of manoeuvring.

Wheelchairs can be loaded from either the side or the rear of the vehicle.

A system for the effective anchoring of wheelchairs must be provided such that they only face forwards or rearwards when the vehicle is in motion. It is best practice to secure wheelchairs in a forwarding facing position.

A suitable restraint must be available to the occupant of the wheelchair.

A ramp or ramps, or other approved lifting device must be present and available for use to enable the safe loading and unloading of any passenger using a wheelchair, and be capable of supporting a wheelchair, occupant and helper. When deployed ramps must run flush with the vehicles interior floor level.

Any lifting device fitted must be regularly tested in accordance with any applicable health and safety regulations (e.g., Lifting Operations and Lifting Regulations 1998) for such devices and maintained in good working order.

Application and Supporting Documentation

The application process to licence a hackney carriage vehicle is the same for a new or renewal application. The Council encourages vehicles presented to be licensed for Hackney Carriage/Private Hire for the first time to be wheelchair accessible. Where the vehicles are wheelchair accessible, they may be purpose built, or specifically converted from a passenger carrying vehicle with no wheelchair access to a passenger carrying vehicle that is capable of carrying a passenger in their wheelchair (typically known as an M1 conversion). Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval).

The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information, supporting documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation/fee and informed that the application will not be accepted until such time as all the information/documentation is provided.

Any person wishing to licence a hackney carriage vehicle must submit:

- a) A completed application form.
- b) A Basic, Standard, or Enhanced Disclosure Certificate issued within the last 12 months or a DBS certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process).
- c) A Statutory Declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent' convictions'.
- d) The appropriate licence fee (in full at the time of application).
- e) A current vehicle fitness/garage test pass certificate (from the Council's nominated testing station).
- f) A valid certificate of insurance for public hire and this must remain valid for the period of the licence and must be produced on demand to an authorised officer or Police, and in any case within 24 hours.
- g) The V5 registration certificate
- h) A valid certificate/report to confirm the vehicle is fitted with a taximeter in accordance with the requirements
- i) Converted vehicles must provide an appropriate certificate to prove the conversion has

been carried out to the required standard (European-wide type approval or equivalent). Where the vehicle is fitted with a mechanically operated ramp/lift; a valid certificate/report confirming the ramp/lift complies with the requirements of the Lifting Operations and Lifting Regulations 1998 shall be provided. (NB. The vehicle proprietor is responsible for ensuring that a competent person carries out the necessary checks every 6 months in accordance with these Regulations.)

Where non-mechanical ramps are used; confirmation is required from the proprietor of the vehicle that the ramps comply with the relevant provisions of the Provision and Use of Work Equipment Regulations 1998. (NB. Council officers will check that the provision of nonmechanical ramps is being maintained by the vehicle proprietor.); and

Where fittings are used to secure wheelchairs to the floor of a vehicle, a valid certificate/report confirming that all the fittings meet the required specifications should be provided.

Taximeters

Taximeters must be:

- certified by a notified body in accordance with the Measuring Instruments Directive (MID) (2004/22/EC), in particular Annex 007;
- fitted with a device, the use/action of which will bring the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter and such a device must be capable of being locked in a position such that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter,
- calibrated against an appropriate standard to ensure the tariff charged does not exceed the maximum fares agreed by the Council,
- calendar controlled,
- fixed to the vehicle with appropriate seals/appliances to prevent any person from tampering with the meter except by breaking, damaging, or permanently displacing the seals/appliances; and
- have the word 'FARE' printed on the face of the meter in plain letters so as clearly to apply to the fare recorded thereon.

Fitness test requirements

The Council requires all vehicles to be tested twice a year, to ensure that they are suitable and 'fit' to be licensed.

Testing of all vehicles takes place at the Council's nominated Garage.

An authorised officer of the Council may request that an additional test is carried out during the licence period.

Where a vehicle licence is suspended as a result of an accident; a garage test will be required to confirm that it is roadworthy once any repairs have been completed. The driver is responsible for the cost of any additional garage tests. A vehicle fitness/garage test pass certificate will be required before the suspension can be lifted. Where a vehicle fails the garage test the proprietor will be given 28 days to rectify the failure items and submit the vehicle for a re-inspection. If the garage deems the vehicle to be non-repairable, it fails the re-inspection or is not resubmitted within 28 days then the vehicle will not be eligible for a retest and any licence in place will lapse or will not be granted.

- If a vehicle fails its fitness test the licence will be suspended. The licencing officer, in consultation with the proprietor of the vehicle will agree a time by which the vehicle must pass its fitness test. If it fails to pass by the agreed time the licence may be revoked.
- With respect to a licensed vehicle, in the event of a proprietor failing to present the vehicle for a fitness test (unless delayed or prevented by sufficient cause accepted and agreed in advance by the Council), the Council may suspend the licence and require the proprietor of that hackney carriage to return the plate to them within 72 hours. If the vehicle is not presented for its fitness test within 14 days of the suspension the licence may be revoked.

V5 registration certificate

The Council accepts that a full V5 registration form in the new owner's name is not always available upon first licence; however, the V5/2 green section of the V5 form must be produced, or a bill of sale. Where the green section has been produced on first licensing the vehicle, a full V5 form in the new owner's name must be produced to the Council within 7 days of the form being received by the owner of the vehicle. A V5 form or proof of purchase must be produced upon transfer of a vehicle licence.

Renewal of a licence

To allow the vehicle's licence to be renewed, **a renewal application form must be received by the Council at least 10 working days prior to the expiry date of the original licence** to allow the Council sufficient time to process the renewal application. Once a licence expires, is revoked (subject to a statutory appeal process) or surrendered, it ceases to exist. In such circumstances the vehicle must not be used after the expiry date until the renewal plate has been issued.

Once a licence ceases to exist a renewal application will not be accepted by the Council and the applicant must submit a new vehicle licence application which will be processed in accordance with the Council's new application procedures.

Vehicle not fit for the conveyance of passengers.

Where a proprietor has notified the Council that damage has occurred to a vehicle, otherwise than in accordance with relevant road traffic legislation, or an inspection of the vehicle by an officer of the Council has determined that a vehicle is not fit for the purpose of conveying passengers, an authorised officer of the Council will decide if the condition is such that the vehicle may continue in service or not. If not, the Council may at that time suspend the licence and require the proprietor of the vehicle to return the vehicle's plate to

them within 72 hours.

The suspension will be lifted and the plate returned at such time when the condition of the vehicle is demonstrated, to the satisfaction of the Council, to be fit for conveying passengers. The Council will require the proprietor to arrange for a further fitness test to be undertaken and certificate produced before the vehicle will be permitted to operate.

Advertising

Proprietors may advertise on hackney carriages in accordance with the conditions set out at **Appendix J**. This is subject to prior approval from the Council.

Proprietors of hackney carriage vehicles are permitted to install closed circuit television (CCTV) systems providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. The relevant legislation must be adhered to. If CCTV is fitted then the proprietor must prominently display signs indicating that CCTV is in use in the vehicle. For further information:

<https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-docouncils-stand>

Trailers

Hackney carriages are permitted to tow trailers when undertaking the licensable activity, providing the conditions set out at **Appendix K** are complied with.

Ranks

The Highways section of Warwickshire County Council will work with the hackney carriage trade, Licensing and Warwickshire Police to determine where ranks/stands ought to be situated.

Where a driver is plying for hire and is illegally parked or if, in the opinion of an officer of the Council or police officer, the driver is plying for hire in a dangerous location, the driver's licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action.

LPG converted vehicles.

The Council must be satisfied that any vehicle that has been converted to LPG has been converted correctly prior to a licence being issued. To this end, the Council will undertake checks with the UK LPG Vehicle Register.

With respect to new applications, where it is established that a conversion has not been undertaken correctly and/or the vehicle is unsafe in any way, the Council will refuse the application.

In the event that an LPG conversion has been undertaken on a vehicle during a current licenced period and the proprietor of the vehicle fails to notify the Council within 7 days of the conversion and provide the LPG Association Conversion Certificate, the Council will suspend the vehicle licence until such time as the certificate is produced. If the certificate is not produced within 28 days from the date the licence was suspended the Council will revoke the licence.

In the case of a conversion that has been undertaken on a vehicle during a current licenced period and it is subsequently established that the conversion has not been undertaken correctly and/or the vehicle is unsafe in any way, the Council will suspend the licence until such time as the conversion has been undertaken correctly and/or it is demonstrated to the satisfaction of the Council that the vehicle is safe. If this does not occur within a period of 28 days from the date the licence was suspended the Council will revoke the licence.

Electric and Zero Emission Capable Vehicles

The Council encourages and promotes the purchase of fully electric and zero emission capable vehicles to be licensed as Hackney Carriages. The Council support the use of electric vehicles that are fitted with a range extension device, providing that it is approved by the manufacturer and fitted by a suitably qualified professional.

Hackney carriage fares

The hackney carriage trade will be expected to apply for any change to the hackney carriage fares. Any proposed changes will be notified to all hackney carriage licence holders, considered by Licensing Committee and advertised in the local press before they are adopted. This does not preclude the Council from putting forward changes to the fares or taking a decision not to accept the application from the trade.

Licence conditions

The applicable conditions relevant to a hackney carriage licence are set out at **Appendix C**. These conditions are in addition to any matters set out within the main body of the Policy.

Main legal requirements

Change of proprietor.

The proprietor must give notice to the Council of any transfer in his interest in the hackney carriage vehicle to a person other than the proprietor whose name is specified in the licence. Such notice must be given, in writing, within 7 days specifying the name and address of the person to whom the vehicle has been transferred.

Change of address

The proprietor of a hackney carriage must notify the Council in writing, within 7 days of any change of their address.

Retention of driver's licences

Where a Hackney Carriage is working for an Operator, they must ensure that each driver's licence is lodged with the operator before the driver is employed to carry out work and must

retain the licence in their possession for the period during which the driver remains in their employment. When a driver leaves their employment, the operator must return the driver's licence unless the licence holder has been guilty of misconduct in which case the operator may retain the licence and must issue a summons to have the cause of complaint determined by the Courts. (Note: If the Courts find that the licence has been improperly retained, they have the powers to order its return and to award compensation).

Inspection

The proprietor must present their hackney carriage for inspection/testing by the Council as required. The proprietor must provide, on request, the address where the hackney carriage is kept and allow the Council to inspect/test the vehicle at that address.

Accidents

The proprietor, notwithstanding their responsibilities under relevant road traffic legislation, must report to the Council any accident as soon as reasonably practicable. However, where the vehicle has suffered accident damage that materially affects the safety, performance or appearance of the vehicle, or the comfort or convenience of fare paying passengers, the driver must notify the Council within 72 hours. Failure to do so may result in penalty points being awarded.

Production of documents

The proprietor must, on request, produce for inspection the hackney carriage vehicle licence and insurance certificate within 7 days.

Return of identification plate

Where a licence is revoked, suspended or expires, the proprietor, when required by the Council to do so must return the identification plate within 7 days.

Transporting children

As a minimum, vehicles must be capable of complying with the requirements set out in the table below. For clarity children should not travel in a push chair.

Category	Front seat	Rear seat	Who is responsible
Child under 3	The right child restraint must be used	The right child restraint must be used. If one is not available in a taxi, may travel unrestrained.	Driver
Child from 3rd birthday up to 130 cm in height (or 12th birthday, whichever they reach first)	The right child restraint must be used	The right child restraint must be used where seat belts are fitted. Must use adult belt in a rear seat if the right child restraint is not available: in a taxi; for a short distance in an unexpected necessity; if two occupied child restraints prevent fitting a third.	Driver

Child 12 or 13, or over 135 cm in height	Seat belt (or child restraint) must be worn if fitted.	Seat belt (or child restraint) must be worn if fitted.	Driver
All Passengers 14 and over	Seat belt must be worn if fitted	Seat belt must be worn if fitted.	Passenger

Ranks

Hackney carriage ranks/stands are provided in accordance with the Local Government (Miscellaneous Provisions) Act 1976. The Council may appoint ranks/stands for hackney carriages. It is not a mandatory statutory requirement for the Council to do so. Before providing ranks/stands the Council will liaise with the police and the highways department of Warwickshire County Council.

Fares

Drivers undertaking journeys ending outside the Council's area and in respect of which no fare and no rate of fare was agreed before the journey commenced must not charge more than that indicated on the taximeter or more than the current table of fares allows. Where a hackney carriage is used for a private hire contract the fare charged must not exceed the fares set down in the current table of fares.

Parking/waiting.

Where a driver is dropping off or picking up a fare and is illegally parked or creating an obstruction (this does not include a legitimate period of time where a private hire vehicle has stopped to drop off or pick up a fare), the driver's licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action such as being interviewed, have a warning issued to them. The vehicle's horn is not to be used to inform customers you are waiting or that you have arrived. It must only be used in line with Reg.99 The Road Vehicles (Construction and Use) Regulations 1986.

3c. PRIVATE HIRE VEHICLES

Summary

Private hire vehicles are licensed in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976. Private hire vehicles must not have the appearance of a hackney carriage vehicle.

When considering whether a vehicle is a private hire vehicle by the nature of the work it does, North Warwickshire Borough Council shall have regard to the document Private Hire Vehicle Licensing - A note for guidance from the Department for Transport (August 2011).

The Council does not limit the number of private hire vehicle licences that it will issue.

The Council will not licence a vehicle for hire and reward which is licensed by another local authority or allow or permit a private hire vehicle identification plate issued by another authority to be displayed on the vehicle.

Section 167 of the Equality Act 2010 requires Local Authorities to maintain and publish a list of all designated Wheelchair Accessible taxis and Private Hire Vehicles. The duties on drivers apply to drivers of vehicles in this list include:

- (a) to carry the passenger,
- (b) To carry their wheelchair/mobility aids
- (c) not to make, or propose to make, any charge for carrying out these duties,
- (d) to take reasonable steps to carry the passenger in safety and reasonable comfort
- (e) to provide reasonable mobility assistance

Period of licence

Vehicle licences will be issued for 12 months.

Vehicle Specifications

Upon first application all vehicles must be less than 8 years old. Vehicles will be required to undertake a twice yearly test at a testing centre nominated by the Council.

The following upper age limits apply:

- No vehicle licence will be renewed on any vehicle that is of 12 years of age.
- There will be no upper age limit on Electric /hybrid vehicles.

Licence applications for vehicles in “exceptional condition” which are outside of the Council’s policy, for example by age and type of vehicle, will be subject to additional checks relevant to the type of vehicle. Applicants must request the vehicle be checked by the Licensing Team in order to assess if it meets the require standard. This vehicle check must be completed at least a month before the licence plate expires. The compliance test must show no advisories or minor defects. An additional fee will be charged for vehicles outside of the Council’s policies to cover additional administration.

Vehicles must

- a) seat not less than 4 or more than eight passengers (not including the driver) and:
- b) Be a Light Passenger Vehicle as defined by section 85 of the Road Traffic Act 1988 and have a minimum of 4 wheels. Vehicles converted from being light goods vehicles (registered under the N1 tax classification) to being passenger carrying vehicles will be considered subject to paragraph (e) below.
- c) It must not be of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage.
- d) To be licensed for Private Hire the vehicle must have uniform coloured paintwork.
- e) The Council encourages vehicles presented to be licensed for Private Hire for the first time to be wheelchair accessible. Where the vehicles are wheelchair accessible, they may be purpose built, or specifically converted from a passenger carrying vehicle with no wheelchair access to a passenger carrying vehicle that is capable of carrying a passenger in their wheelchair (typically known as an M1 conversion). Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval).

- f) Provide sufficient means by which any person in the carriage may communicate with the driver.
- g) All paintwork must be maintained to a high standard and be free from dents, scratches and rust other than can be attributed to general wear and tear in the life of a licensed vehicle.
- h) Have a watertight roof or covering.
- i) Provide at least two windows on each side of the vehicle of which one window on one side must have a means of opening/closing.
- j) Have fitted rear passenger windows that are not heavily tinted or blacked out and will allow a minimum of 35% transmission of light (tolerance of 2%) and must comply with the Road Vehicles (Construction & Use) Regulations 1986. No additional film will be permitted.
- k) Have seats that are properly cushioned and covered.
- l) Have a floor provided with a proper carpet, mat, or other suitable covering.
- m) Have fittings and furniture in a clean condition and be well maintained and in every way fit for public service.
- n) Provide means for securing luggage if the carriage is so constructed as to carry luggage.
- o) Be fitted with an anti-lock braking system.
- p) Where tilting passenger seats are fitted (except where these are part of the manufacturer's original vehicle specification), the seat must,
 - be forward facing (with the exception of the fold down seats fitted onto the bulkhead/partition of a purpose built hackney carriage),
 - be designed for use by an adult,
 - have a three point seatbelt - as specified in the Road Vehicle (Construction and Use) Regulations 1986 (as amended).
- q) Have a minimum of four passenger doors, which may include the rear tailgate doors if they can be opened from inside the vehicle, including an entry/exit point for the driver:
- r) Be maintained in a sound mechanical and structural condition at all times.
- s) Have a full size spare wheel or space saver design wheel and the tools to change a wheel OR an emergency puncture repair kit OR carry details of a current contract with a mobile tyre replacement specialist (in any event where a spare wheel or puncture repair kit has been used, it is only to permit the current fare to be completed and any defective wheel must be replaced before taking another fare to ensure passenger safety); all pneumatic tyres, including the spare, must comply with the vehicle manufacturer's specification and any relevant legislation;
- t) Be maintained in a clean and safe condition at all times from both exterior and interior perspectives.

- u) Vehicles should have no damage affecting the structural safety of the vehicle and must not have been written off for insurance purposes.
- v) Minibuses and Multi-Purpose Vehicles (MPVs) must have a step fitted to assist passenger access through all rear passenger doors.
- w) Electric vehicles that are fitted with a range extension device are acceptable, providing that it is approved by the manufacturer and fitted by a suitably qualified professional.

Wheelchair Accessible Vehicles

Vehicles must be able to accommodate at least one wheelchair using passenger.

Vehicles shall have a designated space capable of accepting a reference wheelchair, of at least 1200mm by 700mm (measured front to back and side to side) with a minimum headroom of 1350mm measured from the floor of the vehicle for each passenger who uses a wheelchair. The space(s) shall be immediately adjacent to a vehicle door which is fitted with wheelchair access equipment so that the passenger using a wheelchair can board the vehicle and use the anchoring equipment with the minimum of manoeuvring.

Wheelchairs can be loaded from either the side or the rear of the vehicle.

A system for the effective anchoring of wheelchairs must be provided such that they only face forwards or rearwards when the vehicle is in motion. It is best practice to secure wheelchairs in a forwarding facing position.

A suitable restraint must be available to the occupant of the wheelchair.

A ramp or ramps, or other approved lifting device must be present and available for use to enable the safe loading and unloading of any passenger using a wheelchair, and be capable of supporting a wheelchair, occupant and helper. When deployed ramps must run flush with the vehicles interior floor level.

Any lifting device fitted must be regularly tested in accordance with any applicable health and safety regulations (e.g., Lifting Operations and Lifting Regulations 1998) for such devices and maintained in good working order.

Application and Supporting Documentation

The application process to licence a Private Hire vehicle is the same for a new or renewal application.

The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information, supporting documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation/fee and informed that the application will not be accepted until such time as all the information/documentation is provided.

Any person wishing to licence a Private Hire vehicle must submit:

- a) A completed application form.
- b) A Basic, Standard, or Enhanced Disclosure Certificate issued within the last 12 months or a DBS certificate registered on the update service (unless also licensed as

a driver and have provided an enhanced DBS and update service registration as part of that process).

c) A Statutory Declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent' convictions.

d) The appropriate licence fee (in full at the time of application).

e) A current vehicle fitness/garage test pass certificate (from the Council's nominated Garage).

h) A valid certificate of insurance for private hire. This must remain valid for the period of the licence and must be produced on demand to an authorised officer or Police, and in any case within 24 hours.

g) The V5 registration certificate

h) Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval or equivalent).

Where the vehicle is fitted with a mechanically operated ramp/lift; a valid certificate/report confirming the ramp/lift complies with the requirements of the Lifting Operations and Lifting Regulations 1998 shall be provided. (NB. The vehicle proprietor is responsible for ensuring that a competent person carries out the necessary checks every 6 months in accordance with these Regulations.).

Where non-mechanical ramps are used; confirmation is required from the proprietor of the vehicle that the ramps comply with the relevant provisions of the Provision and Use of Work Equipment Regulations 1998. (NB. Council officers will check that the provision of non-mechanical ramps is being maintained by the vehicle proprietor.); and

Where fittings are used to secure wheelchairs to the floor of a vehicle, a valid certificate/report confirming that all the fittings meet the required specifications should be provided.

Fitness test requirements

The Council requires all vehicles to be tested at least twice a year, to ensure that they are suitable and 'fit' to be licensed.

Testing of all vehicles takes place at the Council's nominated testing station.

The frequency of testing is twice per year for all vehicles. up. An authorised officer of the Council may request that an additional test is carried out during the licence period.

Where a vehicle licence is suspended as a result of an accident; a garage test will be required to confirm that it is roadworthy. Once any repairs have been completed. The driver is responsible for the cost of any additional garage tests. A vehicle fitness/garage test pass certificate will be required before the suspension can be lifted. Where a vehicle fails the garage test the proprietor will be given 28 days to rectify the failure items and submit the vehicle for a re-inspection. If the garage deems the vehicle to be non-repairable, it fails the re-inspection or is not resubmitted within 28 days then the vehicle will not be eligible for a retest and any licence in place will lapse or will not be granted.

- If a vehicle fails its fitness test the licence will be suspended. The licencing officer, in consultation with the proprietor of the vehicle will agree a time by which the vehicle must pass its fitness test. If it fails to pass by the agreed time the licence may be revoked.

- With respect to a licensed vehicle, in the event of a proprietor failing to present the vehicle for a fitness test (unless delayed or prevented by sufficient cause accepted and agreed in advance by the Council), the Council may suspend the licence and
- require the proprietor of that vehicle to return the plate to them within 72 hours. If the vehicle is not presented for its fitness test within 14 days of the suspension the licence may be revoked.

V5 registration certificate

The Council accepts that a full V5 registration certificate in the new owner's name is not always available upon first licence; however, the V5/2 green section of the V5 form must be produced. Where the green section has been produced on first licensing the vehicle, a full V5 form in the new owner's name must be produced to the Council within 7 days of the form being received by the owner of the vehicle. A V5 form or proof of purchase must be produced upon transfer of a vehicle licence.

Renewal of a licence

To allow the vehicle's licence to be renewed, **a renewal application form must be received by the Council at least 10 working days prior to the expiry date** of the original licence to allow the Council sufficient time to process the renewal application. Once a licence expires, is revoked (subject to a statutory appeal process) or surrendered, it ceases to exist.

Once a licence ceases to exist a renewal application will not be accepted by the Council and the applicant must submit a new vehicle licence application which will be processed in accordance with the Council's new application procedures.

Vehicle not fit for the conveyance of passengers.

Where a proprietor has notified the Council that damage has occurred to a vehicle, otherwise than in accordance with relevant road traffic legislation, or an inspection of the vehicle by an officer of the Council has determined that a vehicle is not fit for the purpose of conveying passengers, an authorised officer of the Council will decide if the condition is such that the vehicle may continue in service or not. If not, the Council may at that time suspend the licence and require the proprietor of the vehicle to return the vehicle's plate to them within 72 hours.

The suspension will be lifted and the plate returned at such time when the condition of the vehicle is demonstrated, to the satisfaction of the Council, to be fit for conveying passengers. The Council will require the proprietor to arrange for a further fitness test to be undertaken and certificate produced before the vehicle will be permitted to operate.

Advertising

Proprietors may advertise on private hire vehicles in accordance with the conditions set out at **Appendix J**. This is subject to prior written approval from the Council.

Closed circuit television (CCTV)

Proprietors of private hire vehicles are permitted to install closed circuit television (CCTV) systems providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. The relevant legislation must be adhered to. If CCTV is fitted then the proprietor must prominently display signs indicating that CCTV is in use in the vehicle. For further information:

<https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-do-councils-stand>

Trailers

Private hire vehicles licensed by the Council are permitted to tow trailers when undertaking the licensed activity providing that the conditions set out at **Appendix K** are complied with at all times.

Meters

Private hire vehicles will not require a meter. However, if a meter is fitted, it must be:

- certified by a notified body in accordance with the Measuring Instruments Directive (MID) (2004/22/EC), in particular Annex 007;
- fitted with a device, the use/action of which will bring the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter and such a device must be capable of being locked in a position such that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter,
- calibrated against an appropriate standard to ensure the tariff charged does not exceed the maximum fares agreed by the Council,
- calendar controlled,
- fixed to the vehicle with appropriate seals/appliances to prevent any person from tampering with the meter except by breaking, damaging, or permanently displacing the seals/appliances; and
- have the word 'FARE' printed on the face of the meter in plain letters so as clearly to apply to the fare recorded thereon.

LPG converted vehicles.

The Council must be satisfied that any vehicle that has been converted to LPG has been converted correctly prior to a licence being issued. To this end, the Council will undertake checks with the UK LPG Vehicle Register.

With respect to new applications, where it is established that a conversion has not been undertaken correctly and/or the vehicle is unsafe in any way, the Council will refuse the application.

In the event that an LPG conversion has been undertaken on a vehicle during a current licenced period and the proprietor of the vehicle fails to notify the Council within 7 days of

the conversion and provide the LPG Association Conversion Certificate, the Council will suspend the vehicle licence until such time as the certificate is produced. If the certificate is not produced within 28 days from the date the licence was suspended the Council will revoke the licence.

In the case of a conversion that has been undertaken on a vehicle during a current licenced period and it is subsequently established that the conversion has not been undertaken correctly and/or the vehicle is unsafe in any way, the Council will suspend the licence until such time as the conversion has been undertaken correctly and/or it is demonstrated to the satisfaction of the Council that the vehicle is safe. If this does not occur within a period of 3 months from the date the licence was suspended the Council will revoke the licence.

Electric and Zero Emission Capable/Hybrid Vehicles

The Council encourages and promotes the purchase of fully electric and zero emission capable or hybrid vehicles to be licensed as Private Hire Vehicles. The Council support the use of electric vehicles that are fitted with a range extension device, providing that it is approved by the manufacturer and fitted by a suitably qualified professional.

Licence conditions

The applicable conditions relevant to a private hire vehicle licence are set out at **Appendix C**. These conditions are in addition to any matters set out within the main body of the Policy.

Main legal requirements

Change of proprietor

The proprietor must give notice to the Council of any transfer in his interest in the private hire vehicle to a person other than the proprietor whose name is specified in the licence. Such notice must be given, in writing, within 7 days specifying the name and address of the person to whom the vehicle has been transferred.

Change of address

The proprietor of a hackney carriage must notify the Council in writing within 7 days of any change of their address.

Retention of driver's licences

Where a Private Hire is working for an Operator, they must ensure that each driver's licence is lodged with the operator before the driver is employed to carry out work and must retain the licence in their possession for the period during which the driver remains in their employ. When a driver leaves their employment, the operator must return the driver's licence unless the licence holder has been guilty of misconduct in which case the operator may retain the licence and must issue a summons to have the cause of complaint determined by the Courts. (Note: If the Courts find that the licence has been improperly retained, they have the powers to order its return and to award compensation.)

Inspection

The proprietor must present their private hire vehicle for inspection/testing by the Council as required, up to a maximum of 2 times per year. The proprietor must provide, on request, the address where the private hire vehicle is kept and allow the Council to inspect/test the vehicle at that address.

Accidents

The proprietor, notwithstanding their responsibilities under relevant road traffic legislation, must report to the Council any accident as soon as reasonably practicable. However, where the vehicle has suffered accident damage that materially affects the safety, performance or appearance of the vehicle, or the comfort or convenience of fare paying passengers, the driver must notify the Council within 72 hours.

Production of documents

The proprietor must, on request, produce for inspection the private hire vehicle licence and insurance certificate within 7 days.

Return of identification plate

Where a licence is revoked, suspended or expires, the proprietor, when required by the Council to do so must return the identification plate within 7 days.

Transporting children

As a minimum, private hire vehicles must be capable of complying with the requirements set out in the table below. For clarity children should not travel in a push chair.

Category	Front seat	Rear seat	Who is responsible?
Child under 3	The right child restraint must be used	The right child restraint must be used. If one is not available in a taxi, may travel unrestrained.	Driver
Child from 3rd birthday up to 135 cm in height (or 12th birthday, whichever they reach first)	The right child restraint must be used	The right child restraint must be used where seat belts are fitted. Must use adult belt in a rear seat if the right child restraint is not available: In a taxi; for a short distance in an unexpected necessity; if two occupied child restraints prevent a third.	Driver
Child 12 or 13, or over 135 cm in height	Seat belt (or child restraint) must be worn if fitted	Seat belt (or child restraint) must be worn if fitted.	Driver
All Passengers 14 years and over	Seat belt must be worn if fitted	Seat belt must be worn if fitted	Passenger

Ranks/stands.

A private hire vehicle must not wait on any rank/stand. It is an offence to do so and may result in enforcement action being taken against the driver.

Parking/waiting.

Where a driver is dropping off or picking up a fare and is illegally parked or creating an obstruction (this does not include a legitimate period of time where a private hire vehicle has stopped to drop off or pick up a fare), the driver's licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action such as being interviewed, have a warning issued to them.

The vehicle's horn is not to be used to inform customers you are waiting or that you have arrived. It must only be used in line with Reg.99 The Road Vehicles (Construction and Use) Regulations 1986.

Private Hire Vehicle Exemption Certificates

The Local Government (Miscellaneous provisions) Act 1976 requires that a District must issue a private hire vehicle with an identity plate or disc and that the proprietor should not use, or permit the use of, that vehicle without displaying the plate or disc as directed by the Council.

The Local Government (Miscellaneous provisions) Act 1976 s75 (3) gives the District Council the discretion to grant a proprietor an exemption from displaying the licence plate on their private hire vehicle.

Executive hire vehicles are private hire vehicles with an additional application to be made for an exemption to display the licence plate and side identification stickers. They are high value, prestige vehicles that are used by companies for transporting special guests or senior members of staff in luxury. Executive hire vehicles are styled more as chauffeur driven vehicles than standard private hire vehicles.

Each application for an executive hire vehicle will be considered on its own merits. The overriding consideration will be public safety. The clear identification of a licenced vehicle is considered such a safety aspect, particularly when visiting such places as airports, seaports and the centre of large towns.

Exemptions will not be granted as a matter of course. A clear case for the exemption will have to be made by the proprietor to the authority.

In determining an application, it will normally be the executive nature of the work that will indicate whether or not the exemption should be granted, as well as the specification and high quality of the vehicle being used.

If the applicant for an executive Hire Vehicle has ever been cautioned or convicted by any authority of unlawfully plying for hire, the council may refuse to allow the applicant to have a vehicle licensed for executive hire.

Separate conditions apply to Executive Hire Vehicles with the exemption to display the vehicle plate. These are set out in Appendix D.

Executive Hire Vehicles should have the following features as a minimum in order to be considered for licensing, this list is not exhaustive.

- High quality vehicle in terms of brand and condition, with no visible defects, dents or blemishes to the external bodywork or trim

- Luxury or prestige vehicle
- Engine size of 2000cc or greater
- Automatic transmission
- Minimum specification of air conditioning/climate control to front and rear seats, all electric windows, central locking and suitable front and rear headrests for all passengers.

Executive hire vehicles are to be used for purposes such as corporate bookings to transport employees and clients on business related journeys, and bookings where customers have asked to book a vehicle without obvious private hire plates or signage. The Council closely monitors the use of executive hire vehicle, such vehicles are not to be used as standard private hire vehicles.

On the grant of an executive hire licence the council will issue an executive hire window badge for display in the front and rear window.

The drivers of executive hire vehicles are exempted from the requirement to wear a driver's badge. However, the Council will expect the badge to be carried in the vehicle and to be available for inspection by an authorised officer of the council or a police officer.

Limousines, Novelty Vehicles and Vintage Vehicles

For the purpose of licensing a limousine is described as a luxurious vehicle that has been stretched by the insertion of an additional section not exceeding 3048 millimetres to extend the length of the vehicle. The vehicle shall be capable of carrying up to, but not exceeding, eight passengers. Applicants are directed towards the VOSA (now DVSA) 'Guidance for Operators of Stretch Limousines' (March 2011).

Limousines will be licensed by the Council, however, the over-riding consideration will be the safety of the vehicle. Such types of vehicles will only be licensed as private hire vehicles. They will be subject to the production of specific documents, in original form or as copies certified by the vehicle builder (uncertified photocopies will not be accepted), and to conditions as set out in Appendix E. These are in addition to the documents required and the conditions applicable to standard private hire vehicle licensing. Proprietors may submit an application for a Private Hire Vehicle Exemption Certificate.

The following documentation must be produced prior to licensing:

- a. Evidence of compliance through the Individual Vehicle Approval Scheme (IVA) or a Qualified Vehicle Modifier (QVM) certificate; this is issued by the vehicle builder.
- b. Public Liability Insurance documentation for a minimum of £5,000,000 and, where drivers other than the proprietor are used, Employer Liability Insurance documentation for a minimum of £10,000,000.
- c. Documentation recording the overall weight of the vehicle (as displayed on the vehicle.)

In addition to stretched limousines, novelty vehicles, e.g., fire engines, and vintage vehicles will also be considered for licensing. Such vehicles do not have to comply with the European Emission Standards or the New Car Assessment Programme rating but will be dealt with by a case by case basis and referred to the Council's Licensing Committee for determination.

3d. PRIVATE HIRE OPERATORS

Summary

Private hire operators are licensed in accordance with the Local Government (Miscellaneous Provisions) Act 1976. Any person who wishes to take bookings, in the course of a business, for a private hire vehicle must hold a private hire operator licence.

Period of licence

Licences will be issued at a standard length of 5 years. Any shorter duration licence will only be issued if a licensee has requested this and it is appropriate in the specific circumstances of the case, or where required (e.g., when the licence holders leave to remain in the UK is time-limited) or when the licence is only required to meet a short term demand. Licences will not be issued on a probationary basis in accordance with the Statutory Taxi & Private Hire Vehicle Standards.

Application process

The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information or supporting documentation is not provided, the applicant will be requested to provide the missing information/documentation and informed that the application will not be processed until such time as all the information/documentation is provided. The full fee for the licence is payable at the time the application is submitted.

The application process to licence a private hire operator is the same for a new or renewal application.

Any person (including a sole trader, partnership or company) wishing to become a licensed private hire operator must submit:

- a completed application form (where the application relates to a partnership or a company, the application form must provide the name, address and date of birth of all partners, directors/company secretaries, as appropriate); A check of the Companies House register may be undertaken to confirm these details.
- Tax check code
- Proof of Right to Work
- the appropriate licence fee,
- a list of the vehicles and drivers which they operate,
- a basic DBS certificate issued within the last 3 months or a DBS certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process); for each director, partner and company secretary,
- Relevant insurance documentation
- a schedule of all employees indicating those staff who take bookings and dispatching vehicles,
- details of their policy regarding the employment of ex-offenders

The schedule of employees must be kept up to date with any changes notified in writing to the licensing authority.

Any changes of director, partner or company secretary must also be notified in writing to the Licensing Authority

Disclosure & Barring Service Check

All applicants (including sole traders, partnerships and companies) for a private hire operator's licence must prove that they are a fit and proper person to hold an operator's licence.

The applicant must also prove that all employees that work for them and who take bookings, dispatch vehicles, or have access to booking records are fit and proper people to be employed in such positions. They must provide evidence that they have seen a basic DBS for such employees who are not North Warwickshire Borough Council licensed drivers and also evidence that it is a condition of their employment that they will inform the employer of any criminal convictions they receive during their employment.

Where the applicant or employee already holds a valid Hackney Carriage & Private Hire Drivers Licence a DBS certificate will not be required. If the applicant or employee is not a licensed driver then they will be required to submit a Basic DBS certificate. For a Basic Certificate: Applicants can apply to the DBS online at <https://www.gov.uk/government/organisations/disclosure-and-barring-service> or through a Responsible Organisation.

A DBS check on all relevant persons will be made annually unless the holder of a valid dual driver's licence whereby the check will be made every 6 months, therefore we recommend subscribing to the DBS update service to save incurring unnecessary extra costs.

Enquiries may be made through Warwickshire Police (or other relevant force), other local authorities and any other organisation, agency or person that the Council has deemed appropriate to seek information from

The Council adopts the same principles when determining whether an applicant is a fit and proper person to hold a private hire operator's licence as it does to persons applying for a driver's licence. In this respect, applicants are required to have due regard, as appropriate, to the requirements and information set out at section 3a of this Policy.

Applicants must have a UK traceable DBS record of at least 5 years or if the applicant has not been resident in the UK for an unbroken period of at least 5 years have obtained a Certificate of Good Conduct from the Consulate of the applicant's country of origin (at their own cost). The certificate must be translated.

Further information can be found at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided.

Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the GOV.UK website at

<https://www.gov.uk/government/world>

The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at fcocorrespondence@fco.gov.uk or by post at the FCO, King Charles Street, London, SW1A 2AH.

Operator's premises

The Council will not grant an operator's licence unless the operator can demonstrate to the Council that they have the appropriate planning consent required to operate their business.

The Council will only grant operator licences applicable to the physical premises from which the operator's business will be run.

The Council will not grant an operator's licence to apply to any physical premises that falls out of the administrative area of North Warwickshire Borough Council.

There are a number of specific conditions set out in the operator licence conditions that apply to premises. Operators must be particularly mindful of complying with these and should they fail to do so the Council will consider revoking the operator's licence.

Where the base is accessible to the public, either for booking or waiting, the Council will expect the premises to be clean, adequately ventilated and heated and that all laws have been complied with, including the Equality Act 2010.

Insurance

Any premises that provide access to members of the public must be covered by Public Liability insurance for a minimum of £5,000,000.

The operator must also obtain information as to any requirement for them to have Employers Liability indemnity; if there is such a requirement, it must be for a minimum of £1,000,000.

Record keeping

Operators must keep records in accordance with the conditions attached to their licence. Such records must be available upon request from an authorised officer of the Council or a police officer.

Under the conditions the operator is required to keep a number of different forms of record namely:

- Booking records (to include which member of staff took the booking when the booking is taken by a person and not a computerised method)
- Operator vehicle schedule.
- Operator driver schedule.

Each of these records must be kept up to date and retained by the operator for a period of at least 12 months (as per conditions of licence).

Closed circuit television (CCTV)

Operators are permitted to install closed circuit television (CCTV) systems in premises to which the public have access to make bookings or to wait providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. If CCTV is fitted then the operator must

prominently display signs indicating that CCTV is in use in the vehicle.

Complaints Procedure

Operators are required to have in place a complaints procedure and must maintain a record of all complaints received, including details of any investigation and/or actions taken as a result of a complaint.

The complaints procedure and compliant records must be made available to the licensing authority or Warwickshire Police on request and will be audited and checked by an authorised officer of the Council as appropriate.

Licence conditions

Applicable conditions relevant to a private hire operator licence are set out at Appendix F. These conditions are in addition to any matters set out within the main body of the Policy.

Child Sexual Exploitation and Disability Awareness

All new operators are required to complete Child Sexual Exploitation training and Disability awareness training.

Failure to complete the training within the required time, could result in the licence being suspended until the required training has been completed.

Main legal requirements

Contract

Every contract for the hire of a private hire vehicle is deemed to be made with the operator who accepted the booking.

Transporting children

As a minimum, operators must ensure the vehicles they operate are capable of complying with the requirements set out in the table below. For clarity children should not travel in a push chair

Category	Front seat	Rear seat	Who is responsible?
Child under 3	The right child restraint must be used	The right child restraint must be used. If one is not available in a taxi, may travel unrestrained.	Driver
Child from 3rd birthday up to 135 cm in height (or 12th birthday, whichever they reach first)	The right child restraint must be used	The right child restraint must be used where seat belts are fitted. Must use adult belt in a rear seat if the right child restraint not available: in a taxi; for a short distance in an unexpected necessity; two occupied child restraints prevent fitting of a third.	Driver
Child 12 or 13, or over 135 cm in height	Seat belt (or child restraint) must be worn if fitted	Seat belt (or child restraint) must be worn if fitted.	Driver
All Passengers 14 and over	Seat belt must be worn if fitted	Seat belt must be worn if fitted	Passenger

PART 4 – COMPLIANCE, ENFORCEMENT AND COMPLAINTS

Summary

This part of the Policy sets out the manner in which the Council approaches compliance and enforcement, including the way in which complaints will be dealt with, as it relates to hackney carriage and private hire licensing.

Compliance and enforcement

The Council's licensing officers will work closely with the hackney carriage and private hire trades to achieve compliance with the relevant legislation and the Council's conditions of licence. The Council will do so in accordance with the Council's Corporate Enforcement Policy. In addition, hackney carriage and private hire vehicle drivers and operators must comply with all reasonable requests made by officers of North Warwickshire Borough Council, other local authorities and the police.

The Council will work closely with other enforcement authorities, particularly Warwickshire Police when dealing with licensed and unlicensed vehicles and drivers, especially concerning cross boundary related issues.

Licence holders are strongly encouraged to cooperate with officers of all other local authorities. Failure to cooperate may lead to the suspension or revocation of their driver's licence.

Breaches of the driver code of conduct and/or vehicle and operator licence conditions will be dealt with in accordance with the Council's enforcement policy and will be referred to the duly authorised officer. Repeated breaches of licence conditions will result in the matter being referred to the Licensing Committee.

The Council operates a points system for any breaches of conditions. If any driver/proprietor reaches 12 points within a 3 year period they will automatically be referred to the Licensing Committee. Further points within the same period will automatically result in a committee hearing. If any driver/proprietor breaches the exact same condition 3 times in a 3 year period it will automatically result in a committee hearing. If any operator reaches 12 points in a 12 month period it will automatically result in a committee hearing.

The points list is not exhaustive and the licencing officer may decide to have a committee hearing for any driver/proprietor should the officer feel the offence is serious enough to warrant it.

A driver can appeal any points awarded by writing to the Head of Environmental Health.

The Council has a Corporate Enforcement Policy which it will consider before taking any enforcement action. The Licensing Team must be familiar with the requirements of the policy and appropriate training will be provided, where required.

Authorised Officers will be authorised to take enforcement actions relevant and appropriate to their level of competence. Competency will be assessed individually by reference to qualifications and experience.

Where there is a shared enforcement role with other agencies, e.g., the Police, we will liaise with and co-operate with them to ensure there is no conflict of interest or unnecessary duplication of enforcement.

The Council will investigate all valid complaints with regard to drivers, vehicles and operators/proprietors. It will also do spot checks and undercover checks. Investigations will be focused and targeted on businesses that do not comply and/or in those areas of the Borough where complaints have identified potential problems. Those individuals or businesses will face proportionate and meaningful sanctions. Complaints are frequently made against hackney carriage and private hire drivers. Such complaints will be considered first by the licensing officer as to the nature of the complaint being serious enough to be forwarded to an authorised officer of the Council or Licensing Committee.

An authorised officer of the Council /Licensing Committee will consider the history of all complaints made against the driver to assess any patterns. If a problem is inherent, then the Council will consider whether the driver is a fit and proper person to hold such a licence.

Complaints may be investigated by way of an interview under caution in compliance with the Police and Criminal Evidence Act 1984.

Private hire and hackney carriage drivers are professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at all times. Any traffic offences show a lack of responsibility whilst driving, either due to the maintenance and safety of their vehicles, or in the manner of their driving. The Council expects all licence holders to adhere to the specifications set out in this Policy and in any relevant legislation. Any complaints that relate to misconduct will be fully investigated and appropriate action will be taken where deemed necessary.

Licence holders are expected to co-operate fully with all requests made of them by an authorised officer of the Council. Failure to do so and/or obstruct an officer in their duty will lead to appropriate action being taken where deemed necessary. This includes, but is not limited to, attending interviews and vehicle inspections, and producing documentation upon request.

Enforcement Options

Licence application and enforcement decisions will always be consistent, balanced, fair and relate to common standards which ensure that the public is adequately protected. In reaching any decision many criteria will be considered including the,

- seriousness of any offences,
- driver or operator's past history,
- consequence of non-compliance,
- likely effectiveness of the various enforcement options,
- danger to the public.

Having considered all relevant information and evidence, the choices for action are:
Licence Applications:

- grant licences subject to the Council's Standard Conditions,
- refuse to grant a licence.
- Grant for a limited time period

- take no action,
- take informal action,
- suspend a licence,
- revoke a licence,
- use simple cautions,
- prosecute.

Where an officer is unable to determine an application/licence, where an applicant has declared convictions, or when the Council have become aware of convictions the application/licence may be referred to the Licensing Committee.

This Council will have regard to the Convictions Guidelines at Appendix H.

Informal Action

Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and written requests for action. Verbal warnings will be confirmed in writing.

Such informal enforcement actions may be appropriate in any of the following circumstances:

- the act or omission is not serious enough to warrant more formal action,
- from the individual driver or operator's past history it can be reasonably expected that informal action will achieve compliance,
- confidence in the operator's management is generally high,
- the consequences of non-compliance will not pose a significant risk to the safety of the public.
- Failure to notify of a conviction that would not in itself breach the guidance on determining the suitability (Appendix H) outlined in this policy.

Details of any informal action will be recorded on the councils' records. This will form part of the history which will be reviewed when considering the appropriate action to take if further enforcement action is prompted. When a licence holder has received three warnings in a 3 year rolling period their licence will be referred to the Licensing Committee to determine whether any further action is required.

Appearance before the Licensing Committee

An offending individual or company may be summoned before the Licensing Committee to answer allegations of breaches of relevant legislation, or conditions attached to licences.

The Licensing Committee have the option of deciding the application on its merits, and may:

- Take no action,
- Give a written warning,

- require the production of driving licences or other specified documentation at the Council's office or other suitable location as communicated by the Licensing Team,
- suspend the licence, upon setting conditions, or for a period of time,
- revoke the licence,
- recommend prosecution action.

Details of the appeals procedure will be set out in the written notification of action sent by the Council.

The Licensing Committee will have regard to the guidance on convictions shown at Appendix H of this policy.

Suspension Notices under section 68 of the Local Government (Miscellaneous Provisions) Act 1976

An authorised officer may serve notice in writing for a hackney carriage, private hire vehicle or taximeter attached to a licensed vehicle, requiring the vehicle or taximeter to be examined at the Council's garage at a time specified in the notice.

This notice will only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter. An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as the officer is satisfied with the condition of the hackney carriage or private hire vehicle.

This action will only be taken when the officer has reasonable grounds to suspect that the condition of the vehicle is an immediate danger to passengers and/or other road users. Details of the appeals procedure will be set out in the written notification of action sent by the Council.

Prosecution

The decision to prosecute is a very significant one. Prosecution will, in general be restricted to those circumstances where the law is blatantly disregarded, legitimate instructions of the Council are not followed and / or the public is put at serious risk. Such circumstances are, however, in a minority. Decisions to prosecute will be made in a consistent manner and be proportionate to the circumstances.

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

- where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it,
- when there appears to have been reckless disregard for the safety of passengers or other road users,
- where there have been repeated breaches of legal requirements,

- where a particular type of offence is prevalent,
- where a particular contravention has caused serious public alarm.

Officers will take account of the Corporate Enforcement Policy when circumstances have been identified which may warrant a prosecution.

Simple Cautions

A simple caution may be used as an alternative to a prosecution in certain circumstances.

Complaints

Where appropriate, complainants will be encouraged to raise complaints with the relevant licence holder or business concerned. However, the Council will also respond to complaints in line with its Enforcement Policy and will use complaint information to assist in the determination of licensing decisions.

The authority will maintain a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees. Data held within the system will be used to target compliance and enforcement activity as well as to provide a picture of the potential risks a licence holder may pose. It will also be used as part of the 'balance of probabilities' assessment required in any licence review undertaken as a result of multiple or serious complaints.

PART 5 - FARES & FEES

The Council's policy is that the fees charged by the authority should meet the cost to the authority to administer the service. The service provided in relation to hackney carriages and private hire vehicles should not make a profit or a loss. Any surplus produced would of course be put back into the service. This is in line with Council's charging policy.

Review and setting of fees

The Council may review the licence fees annually. The Council is committed to working with the trade to identify ways in which savings/efficiencies can be made to avoid increasing the burden on the trade.

Private hire rates

The Council has no power to regulate the rate for private hire vehicles. However, the conditions set out the requirement that the amount charged shall be no more than the agreed fare. In addition, the Council expects all drivers to meet their legal obligation not to prolong a journey.

Hackney carriage tariffs

The Council sets the Table of Fares (or Tariffs) for hackney carriage journeys and they are the maximum charges that Hackney Carriages can charge for journeys wholly within the Borough's administrative area and the rate at which the taximeters must be calibrated to in order for them to calculate journey fares. These will be reviewed upon request by the trade, with a view to any changes coming into effect within 6 months of the review. The Council recognises the importance of these tariffs being fair (both to the public and to the trade). This is particularly the case as Hackney Carriages used for private hire can only charge at the Council set rates by virtue of section 67 of the Local Government (Miscellaneous Provisions) Act 1976.

The licensing conditions set out the requirement that the amount charged shall be no more than the agreed fare. In addition, the Council expects all drivers to meet their legal obligation not to prolong a journey.

The Table of Fares (or Tariffs) is published on the Council's website.

It is an offence to charge more than the maximum metered fare for any journey that starts and ends within the Borough. A fixed price can be agreed before the journey commences but it must not exceed the maximum metered fare.

PART 6 – LICENSING CONTACT DETAILS

Contact details

For information, advice and guidance relating to Hackney Carriage and Private Hire licensing please contact:

Licensing
North Warwickshire Borough Council
The Council House
South Street
Atherstone
CV9 1DE

Telephone: 01827 715341

Email: Licensing@northwarks.gov.uk

DRAFT

CHILD SEXUAL EXPLOITATION AND TRAFFICKING OF CHILDREN AND YOUNG PEOPLE

Introduction

Set out below is information for hackney carriage and private hire vehicle drivers and operators to help them report, to the relevant authorities, matters of concern that could relate to the safety of children and vulnerable persons in relation to child sexual exploitation and trafficking.

General information

North Warwickshire Borough Council's Licensing Service is helping to tackle child sexual exploitation and trafficking by working together with key partners particularly Warwickshire Police, Children and Adult Services within the County Council and the Warwickshire Safeguarding Children Board.

Through agencies working together and sharing information, we aim to identify and prevent sexual exploitation, disrupt the activities of perpetrators, protect children and young people and prosecute perpetrators of sexual exploitation. Sharing information with Warwickshire Police and Warwickshire Children Safeguarding Board helps to protect young people from harm. Safeguarding children and young people is everyone's business and everyone's responsibility.

Child sexual exploitation is a crime that can affect any child, anytime, anywhere regardless of their social or ethnic background. Sexual exploitation of children and young people involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive something, e.g., food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money, etc. as a result of them performing, and/or another or others performing on them, sexual activities. Violence, coercion and intimidation are commonly involved in such exploitative relationships.

Child sexual exploitation involves perpetrators grooming children and using their powers to sexually abuse them. Sexual exploitation of children and young people can take many forms, whether it occurs through a seemingly 'consensual' relationship with an older boyfriend, or a young person having sex in return for attention, gifts, alcohol or cigarettes. Child sexual exploitation does not always involve physical contact; it can also occur through the use of technology.

How hackney carriage and private hire vehicle drivers and private hire operators can help tackle child sexual exploitation.

Drivers of hackney carriages and private hire vehicles as well as private hire operators are in a good position to help identify victims of sexual exploitation because, through the transport services they provide, drivers and operators regularly come into contact with children and young people. This means that licenced drivers and private hire operators are in an ideal position to help protect young people. In particular, drivers should ask themselves the following questions when picking up a fare:

- Does your customer appear to be under 18 years old?
- Are they with a much older person and appear to be in a relationship?
- Do you think that they are under the influence of alcohol or drugs?
- Are you taking them to a hotel, party or secluded location? If so, ask yourself why?
- Are children/young people being taken regularly to the same localities? If so, ask yourself why?

If the answers to any of the questions above gives you even the slightest cause for concern, these concerns should be reported.

If you have reason to suspect that a child is being abused or at risk of abuse it is your responsibility to report your concerns and share information with Warwickshire Police (Tel: 101) and Warwickshire Children Social Care First Response Service (Tel: 01926 414144).

If a child is in immediate danger phone 999

Further information about Safeguarding Children can be found at:

www.safeguardingwarwickshire.co.uk

All drivers and operators are expected to attend Child Sexual Exploitation (CSE) training and any updates provided throughout their licence period. North Warwickshire Borough Council provides training in (CSE). Attendance of this training is compulsory on initial application.

HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVERS LICENCE - CONDITIONS OF LICENCE

Hackney Carriage & Private Hire (Combined) Driver Licences are issued subject to the following conditions. Drivers are advised to study these conditions carefully and are warned that their licence may be revoked for non-compliance.

All the offences listed in the Penalty Points Scheme are included as relevant conditions.

The Driver must behave in a professional and courteous manner at all times when carrying out his or her duties, and not act in a manner to a passenger, member of the public or other licence holder that may:

- Cause any person to feel uneasy or take offence at their actions.
- Cause any person to believe their actions are inappropriate (this may include the use of social media, whether in the context of work or otherwise)
- Cause any person to fear for their physical safety.
- Cause any person to doubt their integrity; and
- Bring into disrepute the integrity of the Council for having issued a licence to such person.

The Driver must be clean and presentable in appearance, and if one is supplied wear the uniform provided by the employer.

The Driver must wear the driver badge issued by the Council in a position that is clearly visible to passengers, and if requested produce it on demand to the passenger or Authorised Officer.

The Driver must not at any time lend or give their badge or licence to any other person, except for the copy of the licence that is required by these conditions to be given to the Private Hire Operator.

The Driver must report the loss of the licence and/or badge(s) to the Licensing Team as soon as such loss becomes known and arrange for the issue of any replacement and make payment for any appropriate fee.

The Driver must, before commencing to drive the vehicle, deposit a copy of their Hackney Carriage & Private Hire Driver licence with their Private Hire Operator for retention by the Operator until such time as they cease to be permitted or employed to drive the vehicle or any other vehicle used by the same Operator.

The Driver must not drive a licensed vehicle without the licence plate being securely attached to the backing plate supplied by the Council and positioned either directly above or below the rear vehicle registration number plate (except for those Private Hire Vehicles that have been granted an Exemption Notice) or as determined by an authorised officer.

The Driver must ensure that before the vehicle is used, that copies (either physical or electronic) of the Certificate of Insurance, Logbook and vehicle licence are available within the vehicle, so as to be available to an Authorised Officer upon request.

The Driver must not carry any other person in the vehicle without the permission of the hirer.

The Driver must if asked by the passenger, indicate the route they are going to take, subject to any directions given by the hirer.

The Driver must deliver the passenger to their chosen destination as agreed when the booking was made, unless he or she has exceptional cause, or is otherwise directed by the hirer.

The Driver must:

- Take a reasonable amount of luggage including wheelchairs and children's pushchairs (the pushchair shall be folded and secured in the luggage area of the vehicle).
- Give reasonable assistance in loading and unloading luggage.
- Give reasonable assistance in removing luggage to or from the entrance of any building, station or place at which he or she takes up or sets down passengers.
- Offer reasonable assistance to elderly, vulnerable or disabled persons with entering or getting out of the vehicle, and any other reasonable assistance during the course of the journey.
-

The Driver must offer and provide any necessary assistance to wheelchair users when entering or getting out of the vehicle, and any other reasonable assistance during the course of the journey. If the Licensing Authority is satisfied that it is appropriate on medical grounds to exempt the person from the above requirement it shall issue a certificate of exemption.

The Driver of a vehicle which has been hired, by or on behalf of a blind or partially sighted person, or a disabled person, who is accompanied by his / her assistance dog, or by a person who wishes a blind or partially sighted person, or a disabled person to accompany him / her in the vehicle must, carry the passenger and his/her dog. They should ask the passenger where they want themselves and their dog to sit in the vehicle and allow it to remain with the passenger if requested and not make any additional charge. If the Licensing Authority is satisfied that it is appropriate on medical grounds to exempt the person from the above requirement it shall issue a certificate of exemption.

The Driver must, if the hirer of a vehicle is accompanied by any animal(s) make sure that it is securely contained to the satisfaction of the driver, if he or she agrees to carry the passenger and his/her animal(s). The driver is not compelled to convey any other type of animal than an assistance dog.

The Driver must, if asked to transport an unaccompanied child and/or if a passenger requests that the Driver wait until they are safely inside the building, agree to such requests.

The Driver of a Private Hire vehicle must provide information to passengers including driver

photo ID and the vehicle licence number, in advance of a journey. This enables all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.

The Driver must provide a written receipt to the hirer if requested to do so. The receipt will detail the date and time the journey started, the starting and finishing address, the cost or fare charged, the driver's full name and North Warwickshire Borough Council issued driver/badge Number.

The Driver must immediately after the termination of any hiring of the vehicle or as soon after as practicable carefully search the vehicle for any property which may have been accidentally left there.

Licence holders are required to notify the Licensing Authority within 48 hours of an arrest and release, charge, conviction or caution of any sexual offence or alleged offence, any offence involving dishonesty or violence and any motoring offence. This includes being interviewed by the police about any such allegation. An arrest or interview under caution for any of these offences within this scope will result in a review by the licensing authority as to whether the licence holder is fit to continue to hold a licence. This does not mean that a licence will be automatically withdrawn, the licensing authority will consider what, if any, action in term of the licence should be taken based on the balance of probabilities. A failure by a licence holder to disclose an arrest that the licensing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

The Driver must notify the Licensing Officer in writing, within 5 working days, of any change in his or her details that have occurred since the most recent application made to the Licensing Officer (i.e., home address, telephone number, etc), and pay the appropriate fee for his/her record to be amended accordingly.

The Driver must notify the Council in writing as soon as possible and in any event within 10 working days of any illness or injury affecting his fitness to act as a driver, and if requested by an Authorised Officer must agree to a Medical Examination being carried out to ensure such illness / injury would not give rise to concerns for public safety at the Council's third party approved provider.

The Driver must notify the Council in writing of the acceptance of any fixed penalty received within 5 working days. The driver must subsequently inform the Council immediately following its endorsement.

The Driver must declare all relevant motoring endorsements, and all offences, cautions and convictions on any application to renew the licence. No caution or conviction should be omitted from any application. Failure to inform the Licensing Authority of these during the licensing period may result in suspension, revocation and/or any other course of action deemed appropriate by the Licensing Authority.

The Driver must have regard to Warwickshire Police's policy in relation to lost property.

Any lost property found within or originating from the vehicle must be reported to the North Warwickshire Borough Council's Licensing Team and if it was a pre-booked journey, the Operator.

The Driver must not sound the vehicle horn when arriving at an address to pick up passengers.

The Driver must not play any radio or other sound reproducing equipment in the vehicle, except for the purpose of sending or receiving messages in connection with the operation of the vehicle, without the express consent of the hirer.

The Driver must not eat or drink (with the exception of water) in the vehicle whilst a passenger or passengers are on-board.

The Driver must not at any time use electronic cigarettes and/or vaping equipment) or permit any passenger to use electronic cigarettes/ vaping equipment) in any licensed Hackney Carriage or Private Hire vehicle.

The Driver must not wilfully obstruct any Authorised Officer or fail to comply with any requirement made by such a person without reasonable cause or fail to give any such person any other assistance or information such person may reasonably require in the performance of his or her duties.

The Driver must not whilst driving or in charge of a Private Hire Vehicle offer the vehicle for immediate hire whilst the driver is on a road or other public place except where such an offer is first communicated from the Private Hire Operator to the driver by telephone, radio, or other such apparatus fitted to the vehicle.

The Driver must not whilst driving or in charge of a Private Hire Vehicle, park in a "prominent position" (i.e., where people are likely to congregate, locations with a high level of footfall, within sight of a taxi rank), and be in attendance of the vehicle without a booking having been made for him or her to be at such a location, that may encourage any person to approach the vehicle in the belief that the driver and the vehicle are available for immediate public hire.

The Driver must not whilst driving or in charge of a Private Hire Vehicle, contact the Private Hire Operator to request a booking be made on behalf of any person.

The Driver of a vehicle equipped with a taximeter must ensure that the table of fares) is displayed in a clearly visible position in the vehicle, provide an explanation of the table of fares if requested by the passenger, and make available upon request to any Authorised Officer.

The Driver must when driving a Hackney Carriage vehicle equipped with a taxi-meter ensure that during any hiring the face of the taxi-meter is at all times plainly visible to the passengers.

The Driver must when driving a Hackney Carriage vehicle equipped with a taxi-meter set the meter into operation when the hirer starts her or his journey.

The Driver must if the vehicle is involved in an accident, inform the vehicle proprietor as soon as practicably possible, in order that the vehicle proprietor and/or vehicle driver may contact the Licensing Officer within 72 hours of the incident occurring.

The Driver must if the vehicle is involved in an accident, complete an accident report form providing his or her name and address and any other reasonable details, the vehicle proprietors name and address, details of the vehicle insurance, and the licence number and registration number of any vehicle affected.

The Driver must when driving a Hackney Carriage to a taxi rank and finding that the taxi rank is occupied by the full number of Carriages, proceed to another stand, and not park on or near a taxi rank that is full.

The Driver must when driving a Hackney Carriage on arriving at a rank that is not fully occupied station the vehicle immediately behind the last Hackney Carriage so as to face in the same direction. When the Hackney Carriage immediately in front of the vehicle moves forward, the Driver shall also move forward to allow more Hackney Carriages to join the rank.

The Driver must when driving a Hackney Carriage, not cause an obstruction when parked on a taxi rank and when the vehicle is the first vehicle on the rank be in constant attendance and be ready to be hired at once by any person.

The Driver must when driving a Hackney Carriage, not park on a rank in the North Warwickshire Borough for any purpose other than for standing for hire.

The Driver must carry a copy (either physical or electronic) of these conditions within the vehicle and make them available for inspection by the hirer or any passenger, or Authorised Officer upon request, and be familiar with the conditions of the Hackney Carriage & Private Hire (Combined) Driver licence, and of the Enforcement Procedures as detailed in the Councils Policy on the Relevance of Warnings, Offences, Cautions and Convictions.

The Driver will complete Safeguarding, (including Child Sexual Exploitation and County Lines) and Disability Awareness training.

HACKNEY CARRIAGES & PRIVATE HIRE VEHICLES: CONDITIONS OF LICENCE

Hackney Carriage and Private Hire Vehicle licences are issued subject to the following conditions. You are advised to study these carefully and you are warned that for non-compliance with any one condition, the licence may be revoked or suspended.

All the offences listed in the Penalty Points Scheme are included as relevant conditions.

The vehicle licence will be valid for a period of up to 12 months and must be renewed on or before the anniversary of the original licence until the vehicle is either replaced or reaches the upper age limit.

The Proprietor of a licensed vehicle must not cause or allow the vehicle to be used unless:

- The Driver of the vehicle holds a Hackney Carriage & Private Hire (Combined) Driver Licence issued by North Warwickshire Borough Council, and is insured by the proprietor, to drive the vehicle.
- The number of the vehicle licence is fixed and displayed on the vehicle at all times during which the vehicle is licensed, by means of the Licence Plate and bracket issued by the Council to the Proprietor.
- The Licence Plate is fixed and displayed outside on the rear of the vehicle with the particulars thereon facing outwards, in such a position that the vehicle's registration mark is not obscured.
- The Licence Plate is clearly visible in daylight from the road at the rear of the vehicle.

The Licence Plate referred to in these Conditions will remain the property of the Council and must be returned within 7 days to the Licensing Team, if the Proprietor no longer holds a vehicle licence issued by the Council which is in force in respect of the vehicle or has been suspended or revoked.

The Proprietor of a licensed vehicle shall report the loss of any plate or licence to the Licensing Team as soon as such loss becomes known.

The Proprietor must ensure that vehicles are maintained in a good mechanical and structural condition at all times and be capable of satisfying the Council's mechanical and structural inspection at any time whilst the vehicles are licensed with this Authority.

The vehicle must be a single uniform colour.

The interior and exterior of the vehicle must be kept in a clean condition and maintained in a safe condition by the Proprietor.

The Proprietor of a licensed vehicle must not cause or permit the vehicle to be used unless it complies with the Council's vehicle specification and the conditions attached to the licence.

The Proprietor must permit an Authorised Officer or any Police Constable to inspect the

vehicle at all reasonable times.

The Proprietor must present the vehicle for inspection and testing, to an Authorised Officer, at any time and place within the Borough of North Warwickshire as specified in a notice, provided that the Council shall not under the provisions of this condition require the Proprietor to present the vehicle for inspection and testing on more than three separate occasions during any period of twelve months.

If, upon completion of the inspection, the Authorised Officer or Police Constable is not satisfied as to the condition of the vehicle for use as a hire vehicle, the Proprietor shall be asked to remove and surrender the Licence Plate from the vehicle. This will be kept by the Authorised Officer or Police Constable until such time as the condition of the vehicle is satisfactory, when it will then be returned to the Proprietor.

All accidents must be reported to the Licensing Team, in writing, within 72 hours of the accident occurring. Such a responsibility is that of the Vehicle Licence Holder and the Driver of the vehicle at the time of the accident.

The proprietor of a Hackney Carriage or Private Hire Vehicle, in the event that following an accident, he or she does not believe that the vehicle requires taking out of service / replacing, and who wishes to continue to use the vehicle as a licensed Hackney Carriage or Private Hire Vehicle shall make the vehicle available to the Authorised Officer, who will inspect the vehicle and decide whether the vehicle is fit to continue in service.

If the Authorised Officer considers the damage to be such that the vehicle may continue in service until such time as a permanent repair is undertaken, these must be undertaken within 28 days of the damage occurring and a letter authorising the use of the vehicle for a maximum period of 28 days will be issued by the Authorised Officer and shall be retained within the vehicle during the permitted period.

If any damage is considered by the Authorised Officer to be extensive enough to affect the safety or general appearance of the vehicle, the vehicle licence will be suspended.

The vehicle must be repaired before the plate is re-affixed and the suspension can be lifted and the vehicle can return to service. In the case of any dispute as to fitness for service the vehicle will be taken to the Council nominated testing station where a qualified mechanic will give a binding decision, which will be final. The owner will pay the fee for such examination.

A Hackney Carriage Vehicle must have an illuminated sign on the roof of the vehicle bearing the word "TAXI" on the front and on the rear unless a sign is manufactured into the body work of the vehicle.

A Private Hire Vehicle may display signs on the front doors of the vehicle identifying the Private Hire Firm, giving the name and telephone number. Magnetic signs to cover the permanent signs are only permitted if a driver operates for an additional licensed Operator and are not permitted in any other circumstance. The use of magnetic door signs on a vehicle which carries an exemption from displaying signage is forbidden.

A Private Hire Vehicle must not display any sign or notice:

- which consists of or includes the words 'TAXI', 'TAX' or 'CAB' whether in the singular or plural or as part of another word; or
- which consists of the words 'FOR HIRE'; or
- Where the form of wording is in any such way as to suggest that the vehicle on which it is displayed is presently available to pick up any passengers wishing to hire it or would be so available if not already hired.

General advertising must be in accordance with Appendix J.

Wheelchair Access Vehicles have spaces reserved for the carrying of wheelchairs. The restraining mechanisms are designed purposely for the restraint of wheelchairs only.

Pushchairs must be folded and secured in the luggage compartment of the vehicle infants should be safely restrained in a passenger seat in compliance with the seat belt regulations. Infants must not be transported in a pushchair.

Only items belonging to passengers may be carried in the luggage space of the vehicle, (i.e. no cleaning products, oils etc. belonging to the vehicle or driver may be carried).

Animals belonging to the Proprietor or the driver must not be allowed to ride in the vehicle when the vehicle is working. Any animal of the hirer is to be conveyed in the rear of the vehicle with the exception of guide or assistance dogs which will remain with the hirer at all times (even if they are in the front) and which must be carried free of charge.

The Proprietor of a licensed Hackney Carriage or Private Hire Vehicle in which a taximeter is installed shall not cause or permit the vehicle to be used unless the taximeter is so constructed, attached to the vehicle and maintained as to comply with the following requirements:

- The taximeter is fitted with a key or other device, so that the taximeter can be switched on and the word "hired" will appear,
- Such key or device shall be capable of being locked so that the taximeter can be switched off and no fare recorded,
- When the taximeter is in operation, the fare shall be recorded in figures clearly legible and free from ambiguity.

The Hackney Carriage fare shall not exceed the rate of fares set by the Council.

The taximeter shall be placed so that all letters and figures on its face can be seen by passengers in the vehicle and for that purpose, the letters and figures shall be capable of being suitably illuminated during any period of hiring.

The Proprietor of a licensed Hackney Carriage must not allow the vehicle to be used unless the table of fares fixed by this Council is displayed clearly inside the vehicle. Where other fares are programmed into the meter there must also be a table of fares displayed for the additional fares.

The Proprietor of a licensed Private Hire Vehicle in which a taximeter is installed must not allow the vehicle to be used unless there is on display the table of fares fixed by him which he proposes to charge.

If the proprietor wishes to surrender the licence at any time, he or she must do so by way of written confirmation to the Licensing Team, and the vehicle licence and licence plate be returned to the Licensing Team within 7 days of the notification of surrender.

Should the licensed vehicle be sold to another person the vehicle licence will be required to be transferred. An application together with certificate of insurance and vehicle logbook will be required to be submitted within 7 days of the sale.

The Proprietor of a licensed vehicle shall ensure that copies (either physical or electronic) of the following documents are kept in the vehicle at all times whilst it carries out licensable duties, and that all Drivers are aware of the documents are located, should they be asked to produce it to an Authorised Officer:

- Vehicle Logbook
- Valid Certificate of Insurance
- Vehicle Licence

And the Proprietor shall produce the following original documents at the request of an Authorised Officer of the Council (either straight away or at the main Council Offices or other suitable location as communicated by the Licensing Team, within five working days of the request being made):

- Vehicle Logbook
- Valid Certificate of Insurance
- Vehicle Licence

At all times the proprietor of a licensed vehicle must keep in force in relation to the use of the vehicle, a Policy of Insurance complying with the requirements of Part VI of the Road Traffic Act 1988.

Any change of vehicle on insurance must be notified to the Council on or before the change takes place.

On changing address, the Proprietor of a licensed vehicle must return the licence, for amendment, to the Licensing Team within 7 days of the change, together with the appropriate fee.

The licence must be returned to the Licensing Team upon expiry, revocation or suspension, within 7 days.

The Proprietor of a licensed vehicle must maintain a list of names and addresses of all drivers of the vehicle and maintain a record that provides information as to which driver has

use of the vehicle at all times and produce this information to the Licensing Team on request.

Where the vehicle is licensed as a Private Hire Vehicle or Hackney Carriage with another Authority during the period of this licence, the Licensing Team must be notified and the licence with this Authority will be subject to revocation.

The Proprietor of a licensed vehicle who has agreed, undertaken, or has been hired to be in attendance with the vehicle at an appointed time and place must, unless prevented because of some unavoidable reason, cause the vehicle to attend at such appointed time and place.

Private Hire Vehicles must not ply for hire or stand on a taxi rank for any reason which includes the picking up or dropping off passengers.

All bookings for Private Hire Vehicles must be made in advance. All Private Hire Vehicles must display door signs that state all bookings must be made in advance, i.e., 'ADVANCE BOOKINGS ONLY'.

The Proprietor must ensure that any radio equipment fitted to the licensed vehicle is at all times kept in a safe and sound condition and maintained in proper working order.

The Proprietor/Driver of a licensed vehicle must ensure that:

- There is no smoking of electronic cigarettes/vaping equipment within the vehicle at all times. This applies to both drivers and passengers,
- and No smoking signs are displayed within the vehicle. One on each rear passenger door window and one on the front dash.

Vehicle Licence proprietors are required to notify the licensing authority within 48 hours of being bailed, arrested, cautioned, reprimanded or are involved in an investigation, charged with or convicted of any criminal offence and interviewed under caution at a police station for any offence, which you are suspected of having committed.

The proprietor must notify the Council in writing of the acceptance of any fixed penalty endorsement within 5 working days. The proprietor must subsequently inform the Council immediately following its endorsement.

The proprietor of a licensed vehicle must within 7 days of any request made by an Authorised Officer, make available any records or other information that would reasonably assist with an investigation.

The proprietor of a licensed vehicle must not wilfully obstruct an Authorised Officer, or without reasonable excuse fail to comply with any requirement made by such a person, or without reasonable cause, fail to give any such person any other assistance or information such person may reasonably require in the performance of his or her duties.

The proprietor of a Hackney Carriage or Private Hire vehicle must provide the Private Hire Operator to whom he or she supplies the vehicle to undertake journeys with a copy of his or her Vehicle Licence during the period that the vehicle is utilised so.

The proprietor of a Hackney Carriage or Private Hire vehicle must notify the Council in

advance, in writing, if he or she is to be away from the address shown of the licence, for a period of more than 7 days.

The proprietor of a Hackney Carriage or Private Hire Vehicle must ensure information is displayed within the vehicle, clearly visible on how customers are able to make complaints to North Warwickshire Borough Council.

The vehicle proprietor will complete Safeguarding, (including Child Sexual Exploitation and County Lines) and Disability Awareness training.

The proprietor of a Hackney Carriage or Private Hire vehicle must ensure that a copy (either physical or electronic) of these conditions is retained within the vehicle and made available for inspection by the hirer or any passenger, or Authorised Officer upon request.

Requirements of the Hackney Carriage Byelaws, the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

Hackney Carriage Byelaws

1. Throughout these byelaws "the Council" means North Warwickshire Borough Council, and "the district" means the Borough of North Warwickshire.

2.

a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto. (Plate provided for outside and Tariff Card provided for inside).

b) A proprietor of a hackney carriage shall:

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

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

3. The proprietor of a hackney carriage shall:

provide sufficient means by which any person in the carriage may communicate with the driver,

cause the roof or covering to be kept water-tight,

provide any necessary windows and a means of opening and closing with not less than one window on each side,

cause the seats to be properly cushioned or covered,

cause the floor to be provided with a proper carpet, mat, or other suitable covering,

cause the fittings and furniture generally to be kept in a clean condition well

maintained and fit for public service,

provide means of securing luggage if the carriage is so constructed as to carry luggage,

provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use, provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.

- 4 The proprietor of a hackney carriage shall cause any taximeter with which the carriage is provided to be so constructed, attached and maintained as to comply with the following requirements, that is to say:
 - a) the taximeter shall be fitted with a key, flag or other device the turning of which will bring the machinery of the taximeter into action and cause the work "HIRED" to appear on the face of the taximeter,
 - b) such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter,
 - c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance in pursuance of the byelaw in that behalf,
 - d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon,
 - e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring,
 - f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.
5. A proprietor of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
6. A proprietor of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.
7. The proprietor of a hackney carriage who has agreed or has been hired to be

in attendance with the carriage at an appointed time and place, shall unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.

8. A proprietor of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons determined by the Council and specified on the plate attached to the outside of the carriage.
9. Every proprietor of a hackney carriage who knowingly conveys in the carriage the dead body of any person shall immediately thereafter notify the fact to the Medical Officer of Health/Consultant for Communicable Disease Control via North Warwickshire Borough Council.
10. The Proprietor of a hackney carriage shall not permit the exhibition of any advertisement in or upon such carriage unless it shall have been previously approved by the Council.
11. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate of fare prescribed by the Council in accordance with Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 the rate or fare being calculated by distance unless the hirer expresses at the commencement of the hiring his desire to engage by time.

Where a hackney carriage furnished with a taximeter is hired by distance the proprietor shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.
12.
 - a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by the byelaw in that behalf to be exhibited inside the carriage, in clearly distinguishable letters and figures.
 - b) The proprietor of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.
13. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
14. The proprietor or driver of a hackney carriage shall if any property accidentally

left therein by any person who may have been conveyed in the carriage be found by or handed to him:

- a) Carry it as soon as possible and in any event within 48 hours if not sooner claimed by or on behalf of its owner, to the office of the Council, and leave it in the custody of the officer in charge on his giving a receipt for it.
- b) Be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

Penalties

Any person contravening the byelaws shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale and in the case of a continuing offence to a further fine of two pounds for each day after written notification of the offence has been given by the Council.

Exceptional Age Policy

Hackney Carriages and Private Hire Vehicles licensed by North Warwickshire Borough Council can continue to have their licenses renewed until they reach 12 years of age from the date of registration.

If the licence holder wishes to continue to renew the vehicle licence after its standard working life, then application can be made for an annual extension to the licence as follows:

- a. The owner of a hackney carriage or private hire vehicle whose vehicle is approaching 12 years of age respectively will be required to notify the Licensing Authority in writing at the time of making an application for the grant of a licence that they wish to extend the operating life of their existing vehicle by twelve months in accordance with the Exceptional Vehicle Age Policy.
- b. In subsequent years the owner of a hackney carriage or private hire vehicle, who has been granted a licence in accordance with the Exceptional Vehicle Age Policy at the last date of licensing, shall notify the Licensing Authority at least six months prior to submitting a renewal application, that he intends to seek a further extension to the operating life of the vehicle.
- c. The examination and inspection of any vehicle in accordance with this policy shall take place on the second scheduled test date preceding the renewal date for the vehicle's licence. This applies to initial requests for consideration under this policy and all subsequent requests.
- d. The criteria detailed below are in addition to all current vehicle test criteria requirements.
- e. The Licensing Authority's test station shall be authorised to examine and approve the vehicle's mechanical condition in accordance with this policy.
- f. A duly authorised officer of the Licensing Authority or its nominee will undertake an inspection of the vehicle to assess its general condition and appearance

in accordance with the criteria detailed below: -

Criteria

- a) The vehicle must have a full, unbroken, continuous history of testing for its Certificate of Fitness
- b) In order for a vehicle to be considered suitable for an operating extension under this policy it must have successfully passed two of its last three fitness tests on first submission in the twelve months preceding the second scheduled test date.
- c) The bodywork of the vehicle must be in near perfect condition with no substantial dents, damage or corrosion being evident.
- d) Paintwork should be unblemished and have a good overall colour match.
- e) The interior and exterior trim must be complete.
- f) All interior fittings must be in place and working.
- g) No excessive loose wiring should be evident hanging from the dashboard.
- h) All carpets, where provided, must be in a clean well-fitted and secure state with no unduly worn areas.
- i) The boot and luggage compartment must be clean, uncluttered and watertight.
- j) There shall be no evidence of leakage of fuel from the vehicles fuel filler cap.

PRIVATE HIRE VEHICLE – EXECUTIVE VEHICLE SUPPLEMENTARY CONDITIONS OF LICENCE

Hackney Carriage & Private Hire (Combined) Driver Licences are issued subject to the following conditions. Drivers are advised to study these conditions carefully and are warned that the licence may be revoked for non-compliance. These conditions only apply when driving an Executive Hire Vehicle with Plate Exemption.

Not all the offences listed in the Penalty Points Scheme are included as relevant conditions, only those that are applicable.

The Driver must behave in a professional and courteous manner at all times when carrying out his or her duties, and not act in a manner to a passenger, member of the public or other licence holder that may:

- Cause any person to feel uneasy or take offence at their actions,
- Cause any person to believe their actions are inappropriate (this may include the use of social media, whether in the context of work or otherwise)
- Cause any person to fear for their physical safety,
- Cause any person to doubt their integrity; and
- Bring into disrepute the integrity of the Council for having issued a licence to such person.

The Driver must be clean and presentable in appearance, and if one is supplied wear the uniform provided by the employer.

The Driver must carry the driver badge issued by the Council and if requested produce it on demand to the passenger or Authorised Officer.

The Driver must carry their dashboard licence and if requested produce it on demand to the passenger or Authorised Officer.

The Driver must not at any time lend or give his/her badge or licence to any other person, except for the copy of the licence that is required by these conditions to be given to the Private Hire Operator.

The Driver must report the loss of the licence and/or badge(s) to the Council as soon as such loss becomes known and arrange for the issue of any replacement and make payment or any appropriate fee.

The Driver must, before commencing to drive the vehicle, deposit a copy of his Hackney Carriage & Private Hire (Combined) Driver licence with his/her Private Hire Operator for retention by the Operator until such time as he/she ceases to be permitted or employed to drive the vehicle or any other vehicle used by the same Operator.

The Driver must not drive a licensed vehicle without the windscreen/rear window identification notice being attached.

The Driver must ensure that before the vehicle is used, copies (either physical or electronic)

of the Certificate of Insurance, Logbook and vehicle licence are available within the vehicle, so as to be available to an Authorised Officer upon request.

The Driver must not carry any other person in the vehicle without the permission of the hirer.

The Driver must if asked by the passenger, indicate the route they are going to take, subject to any directions given by the hirer.

The Driver must deliver the passenger to their chosen destination as agreed when the booking was made, unless he or she has exceptional cause, or is otherwise directed by the hirer.

The Driver must:

- Take a reasonable amount of luggage including wheelchairs and children's pushchairs (the pushchair shall be folded and secured in the luggage area of the vehicle),
- Give reasonable assistance in loading and unloading luggage,
- Give reasonable assistance in removing luggage to or from the entrance of any building, station or place at which he or she takes up or sets down passengers.
- Offer reasonable assistance to elderly, vulnerable or disabled persons with entering or alighting from the vehicle, and any other reasonable assistance during the course of the journey.

Driver must offer and provide any necessary assistance to wheelchair users when entering or getting out of the vehicle, and any other reasonable assistance during the course of the journey. If the Licensing Authority is satisfied that it is appropriate on medical grounds to exempt the person from the above requirement it shall issue a certificate of exemption.

The Driver of a vehicle which has been hired, by or on behalf of a blind or partially sighted person, or a disabled person, who is accompanied by his / her assistance dog, or by a person who wishes a blind or partially sighted person, or a disabled person to accompany him / her in the vehicle must, carry the passenger and his/her dog. They should ask the passenger where they want themselves and their dog to sit in the vehicle and allow it to remain with the passenger if requested and not make any additional charge. If the Licensing Authority is satisfied that it is appropriate on medical grounds to exempt the person from the above requirement it shall issue a certificate of exemption.

The Driver must, if the hirer of a vehicle is accompanied by any animal(s) make sure that it is securely contained to the satisfaction of the driver, if he or she agrees to carry the passenger and his/her animal(s). The driver is not compelled to convey any other type of animal than an assistance dog.

The Driver must, if asked to transport an unaccompanied child and/or if a passenger requests that the Driver wait until they are safely inside the building, agree to such requests.

The Driver of a Private Hire vehicle must provide information to passengers including driver photo ID and the vehicle licence number, in advance of a journey. This enables all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.

The Driver must provide a written receipt to the hirer if requested to do so. The receipt will

detail the date and time the journey started, the starting and finishing address, the cost or fare charged, the driver's full name and North Warwickshire Borough Council issued driver/badge Number.

The Driver must immediately after the termination of any hiring of the vehicle or as soon after as practicable carefully search the vehicle for any property which may have been accidentally left there.

The Driver must have regard to Warwickshire Police's policy with regard to lost property. Any lost property found within or originating from the vehicle must be reported to North Warwickshire's Borough Council's Licensing Team and if it were a pre booked journey, the operator.

The Driver must not sound the vehicle horn when arriving at an address to pick up passengers.

The Driver must not play any radio or other sound reproducing equipment in the vehicle, except for the purpose of sending or receiving messages in connection with the operation of the vehicle, without the express consent of the hirer.

The Driver must not eat or drink (except for water) in the vehicle whilst a passenger or passengers are on-board.

The Driver/Proprietor must notify the Licensing Officer in writing, within 7 days of any change in his or her details that have occurred since the most recent application made to the Licensing Officer (i.e. home address, telephone number, etc), and pay the appropriate fee for his/her record to be amended accordingly.

The Driver must notify the Council in writing as soon as possible and in any event within 10 working days of any illness or injury affecting his fitness to act as a driver, and if requested by an Authorised Officer must agree to a Medical Examination being carried out to ensure such illness / injury would not give rise to concerns for public safety at the Council's third party approved provider.

The Driver must declare all relevant motoring endorsements, and all offences, cautions and convictions on any application to renew the licence. No caution or conviction should be omitted from any application.

Driver Licence holders are required to notify the licensing authority within 48 hours of being bailed, arrested, cautioned, reprimanded, or are involved in an investigation, charged with or convicted of any criminal offence and interviewed under caution at a police station for any offence which you are suspected of having committed.

The proprietor must notify the Council in writing of the acceptance of any fixed penalty endorsement within 5 working days. The proprietor must subsequently inform the Council immediately following its endorsement.

The Driver must not whilst driving or in charge of a Private Hire Vehicle offer the vehicle for immediate hire whilst the driver is on a road or other public place except where such an offer is first communicated from the Private Hire Operator to the driver by telephone, radio, or other such apparatus fitted to the vehicle.

The Driver must not whilst driving or in charge of a Private Hire Vehicle park in a “prominent position” (i.e. where people are likely to congregate, locations with a high level of footfall, within sight of a taxi rank), and be in attendance of the vehicle without a booking having been made for him or her to be at such a location, that may encourage any person to approach the vehicle in the belief that the driver and the vehicle are available for immediate public hire.

The Driver must not whilst driving or in charge of a Private Hire Vehicle, contact the Private Hire Operator to request a booking be made on behalf of any person.

The Driver must carry a copy (either physical or electronic) of these conditions within the vehicle and make them available for inspection by the hirer or any passenger, or Authorised Officer upon request, and be familiar with the conditions of the Hackney Carriage & Private Hire (Combined) Driver licence, and of the Enforcement Procedures as detailed in the Councils Policy on the Relevance of Warnings, Offences, Cautions and Convictions.

All new proprietors, unless they are holders of a Hackney Carriage & Private Hire Combined Drivers Licence issued by North Warwickshire Borough Council are required to complete Safeguarding training (including Child Sexual Exploitation and County Lines).

The vehicle licence will be valid for a period of up to 12 months and must be renewed on or before the anniversary of the original licence until the vehicle is either replaced or reaches the upper age limit.

The Proprietor of a licensed vehicle must not cause or allow the vehicle to be used unless:

- The Driver of the vehicle holds a Hackney Carriage & Private Hire (Combined) Driver Licence issued by North Warwickshire Borough Council,
- and is insured by the proprietor, to drive the vehicle.

The Proprietor must ensure that vehicles are maintained in a good mechanical and structural condition at all times and be capable of satisfying the Council's mechanical and structural inspection at any time whilst the vehicles are licensed with this Authority.

The vehicle must be a single uniform colour.

The interior and exterior of the vehicle must be kept in a clean condition and maintained in a safe condition by the Proprietor.

The Proprietor of a licensed vehicle must not cause or permit the vehicle to be used unless it complies with the Council's vehicle specification and the conditions attached to the licence.

The Proprietor must permit an Authorised Officer or any Police Constable to inspect the vehicle at all reasonable times.

The Proprietor must present the vehicle for inspection and testing, to an Authorised Officer or Police Constable, at any time and place within the Borough of North Warwickshire as specified in a notice, provided that the Council shall not under the provisions of this condition require the Proprietor to present the vehicle for inspection and testing on more than three separate occasions during any period of twelve months. If, upon completion of the inspection, the Authorised Officer or Police Constable is not satisfied as to the condition of the vehicle for use as a hire vehicle, the Proprietor shall be asked to remove and surrender the Licence Plate from the vehicle. This will be kept by the Authorised Officer or Police Constable until such time as the condition of the vehicle is

satisfactory, when it will then be returned to the Proprietor.

All accidents must be reported to the Licensing Team, in writing, within 72 hours of the accident occurring. Such a responsibility is that of the Vehicle Licence Holder and the Driver of the vehicle at the time of the accident.

The proprietor of a Private Hire Vehicle, in the event that following an accident, he or she does not believe that the vehicle requires taking out of service / replacing, and who wishes to continue to use the vehicle as a licensed Hackney Carriage or Private Hire Vehicle shall make the vehicle available to the Authorised Officer, who will inspect the vehicle and decide whether the vehicle is fit to continue in service.

If the Authorised Officer considers the damage to be such that the vehicle may continue in service until such time as a permanent repair is undertaken, these must be undertaken within 28 days of the damage occurring and a letter authorising the use of the vehicle for a maximum period of 28 days will be issued by the Authorised Officer and shall be retained within the vehicle during the permitted period.

If any damage is considered by the Authorised Officer to be extensive enough to affect the safety or general appearance of the vehicle, the vehicle licence will be suspended.

The vehicle must be repaired before the suspension can be lifted and the vehicle can return to service. In the case of any dispute as to fitness for service the vehicle will be taken to the Council nominated testing station where a qualified mechanic will give a binding decision, which will be final. The owner will pay the fee for such examination.

General advertising is not permitted on any licensed vehicle that has been granted an exemption.

If the proprietor wishes to surrender the licence at any time, he or she must do so by way of written confirmation to the Licensing Team, and the vehicle licence and licence plate be returned to the Licensing Team within 7 days of the notification of surrender.

Should the licensed vehicle be sold to another person the vehicle licence will be required to be transferred. An application together with certificate of insurance and vehicle logbook will be required to be submitted within 7 days of the sale.

At all times the proprietor of a licensed vehicle must keep in force in relation to the use of the vehicle, a Policy of Insurance complying with the requirements of Part VI of the Road Traffic Act 1988.

Any change of vehicle on insurance must be notified to the Council on or before the change takes place.

The licence must be returned to the Licensing Team upon expiry, revocation or suspension, within 7 days.

The Proprietor of a licensed vehicle must maintain a list of names and addresses of all drivers of the vehicle and maintain a record that provides information as to which driver has use of the vehicle at all times and produce this information to the Licensing Team on request.

Where the vehicle is licensed as a Private Hire Vehicle with another Authority during the period of this licence, the Licensing Team must be notified and the licence with this Authority will be subject to revocation. The Proprietor of a licensed vehicle who has agreed,

undertaken, or has been hired to be in attendance with the vehicle at an appointed time and place must, unless prevented because of some unavoidable reason, cause the vehicle to attend at such appointed time and place.

Private Hire Vehicles must not ply for hire or stand on a taxi rank for any reason which includes the picking up or dropping off passengers.

All bookings for Private Hire Vehicles must be made in advance.

The Proprietor must ensure that any radio equipment fitted to the licensed vehicle is at all times kept in a safe and sound condition and maintained in proper working order.

The Proprietor/Driver of a licensed vehicle must ensure that: There is no smoking of electronic cigarettes/vaping equipment within the vehicle at all times. This applies to both drivers and passengers; and No smoking signs are displayed within the vehicle.

The proprietor of a licensed vehicle must within 5 working days of any request made by an Authorised Officer, make available any records or other information that would reasonably assist with an investigation.

The proprietor of a licensed vehicle must not wilfully obstruct an Authorised Officer, or without reasonable excuse fail to comply with any requirement made by such a person, or without reasonable cause, fail to give any such person any other assistance or information such person may reasonably require in the performance of his or her duties.

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LIMOUSINE CONDITIONS OF LICENCE

These additional conditions are attached to the licenses issued by the North Warwickshire Borough Council under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act") in relation to limousines and special event vehicles.

For the purpose of licensing a limousine is described as a luxurious vehicle that has been stretched by the insertion of an additional section not exceeding 3048 millimetres to extend the length of the vehicle.

The North Warwickshire Borough Council has carefully considered the following conditions and has decided that they are reasonably necessary.

The licence holder (the owner of the vehicle) must meet all the conditions of this licence, including those for private hire vehicles generally.

Breach of the conditions may lead to the immediate suspension of the vehicle and consideration of revocation of the licence or prosecution.

The additional conditions attached to the licence are as follows:

The vehicle will be presented for, and successfully complete, a garage test at the Council testing station every 6 months.

The vehicle will be licensed for a maximum number of 8 passengers.

The vehicle will not be subject to an age restriction for the purposes of licensing.

Adequate three point seat belt installations must be in place for the equivalent number of passengers and driver.

Must provide a certificate of compliance through the Individual Vehicle Approval Scheme (IVA, formerly known as the Single Vehicle Approval Scheme (SVA)).

Must provide proof of manufacturer's alterations approval for the vehicle.

Children under 135cm tall or 12 years (whichever they reach first) cannot travel in a sideways facing seat.

Standard council identification plates must be displayed.

PRIVATE HIRE OPERATOR LICENCE - CONDITIONS OF LICENCE

All of the offences listed in the Penalty Points Scheme are included as relevant conditions.

The Operator must keep a record and maintain such a record at his/her premises detailing the particulars of all vehicles operated by him or her, which shall include the following:

- the licence plate numbers,
- the registration numbers,
- the names and addresses of the proprietors,
- the names and addresses of drivers,
- the licence (badge) numbers of drivers,
- copies of licences for all licensed vehicles and drivers; and copies of insurance certificates for all licensed vehicles.

The Operator must, before a hiring starts, record in a suitable book the pages of which are numbered consecutively, or by use of a suitable computer programme the following particulars:

- the date and time of the booking,
- the name and contact telephone number / email address (if either are available) of the hirer and, where the booking is received from another operator, the name of that operator,
- the manner in which the booking was made (i.e., whether by telephone, in person, or by electronic means),
- the time and place at which it is intended that the passenger shall be collected,
- the destination (which may be recorded electronically at the conclusion of the journey using GPS tracking),
- the time at which the driver was allocated the booking,
- the registration number and licence plate number of the vehicle allocated to the booking,
- the name and driver licence number of the driver who will attend the booking,
- where the booking is passed onto another operator by way of “sub-contracting”, the name and address of that operator, together with the Operator’s licence number and issuing authority,
- the name of the individual responding to the booking request; the name of the individual that dispatched the vehicle.

The Operator must keep the records referred to in the above conditions and make available for inspection on request by an authorised Officer of the Council or a Police Officer for a period of not less than 12 months. If the records are maintained by the use of a computer,

the operator shall ensure that a print-out of any record kept can be provided at any time the business is in operation, on request by an authorised officer of the Council or a Police Officer for a period of not less than 12 months.

A register of all staff that will take bookings or dispatch vehicles will be retained for a period of not less than 12 months.

The Operator must within 5 working days of any request made by any Authorised Officer, make available any records or other information that would reasonably assist with an investigation. Any failure to comply with the reasonable request of an Authorised Officer will be considered relevant when assessing the suitability of the applicant to continue to hold a Private Hire Operator licence.

The Operator must have a complaints procedure in place which can be audited and checked by the licensing authority upon request.

The Operator must not invite or accept a booking for a Licensed Vehicle, or control or arrange a journey to be undertaken by such vehicle, without first making available in writing, or giving orally, or by means of electronic communication to the person making the booking information as to the basis of charge for the hire of the vehicle.

The Operator must not charge a higher price for any journey, for a person who requires "mobility assistance" than would otherwise be charged for a person without such a need for "mobility assistance" for the same journey.

The Operator must not accept a booking for a vehicle to carry more passengers than the vehicle is licensed to carry.

The Operator must not take any bookings requested directly by the driver of any licensed vehicle.

The Operator must, when accepting a booking for a vehicle to attend at an appointed time and place, ensure that unless delayed or prevented by some sufficient cause, a suitable vehicle attends at that appointed time and place. If an Operator sub-contracts a booking (under the Deregulation Act, 2015) the operator shall inform the customer prior to the vehicle's arrival at the pick-up point, of the details of the sub-contractor that will be conducting the journey and give them the contact number and licensed name of that Operator.

The Operator must provide and ensure that any vehicle that is fitted with a taxi-meter carries and displays a list of the tariffs charged by the Operator.

The Operator must take all necessary measures, including those requested by an Authorising Officer or Police Officer to prevent vehicles in its employment, from parking or congregating in such a manner as to cause a nuisance to any reasonable person.

The Operator must make all necessary measures to ensure drivers in their employment do not park in a prominent position that may encourage unlawful hire.

The Operator must maintain an adequate supply of livery and provide such livery upon request to the driver of a Licensed Vehicle in his or her employ should such livery be found to be absent, deteriorated or perished.

The Operator must not, knowingly or without the prior written consent of the Council, engage in partnership with, or allow or tolerate any involvement in the management of the licensed Operator by:

- any person who has been convicted of an offence under the Local Government (Miscellaneous Provisions) Act 1976 or any other legislation relating to Private Hire and Hackney Carriage licensing; and
- any person who, for the purposes of Part II of the said Act, has been found by any Licensing Authority not to be a fit and proper person to hold a Hackney Carriage & Private Hire (Combined) Driver Licence or Private Hire Operator Licence.

Operator licence holders are required to notify the licensing Authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any monitoring offence. An arrest for any of these offences within this scope should result in a review as to whether the licence holder is fit to continue to do so.

This should not be seen as a direction that a licence should be withdrawn, it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. A failure by a licence holder to disclose an arrest that the licensing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation,

The operator must notify the Council in writing of the acceptance of any fixed penalty endorsement within 5 working days. The driver must subsequently inform the Council immediately following its endorsement.

The Operator must be responsible for the actions of any manager, supervisor or any other person appointed to run the Private Hire Operator business on his / her behalf.

If provision is made by the Operator on his or her premises for the reception of members of the public proposing to hire a vehicle, the Operator must ensure that the premises are in a clean and tidy condition at all times, and that adequate arrangements are made for the seating of customers within the premises.

The Operator must not permit any person who is behaving in a manner likely to give rise to concerns regarding the safety of other members of the public, to remain upon the premises in respect of which this licence is in force.

The Operator must understand that a Private Hire Operator licence is not transferable.

The Operator must notify the Council immediately (and in any case within 5 working days) of any change in the Operator's business address, in the vehicles operated by the Operator or in the drivers employed to drive them; and make payment of any associated fee for the re-issue of the licence following such amendments being made.

The Operator must ensure that every driver employed to drive the vehicles operated by the Operator holds a Hackney Carriage & Private Hire (Combined) Driver Licence and is acquainted with the conditions attached to such a driver licence.

The use of a driver who holds a PCV licence and the use of a public service vehicle such as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the hirer.

The Operator must ensure that the holder of any Hackney Carriage Vehicle Licence or Private Hire Vehicle Licence relating to a licensed vehicle operating under his / her Operator licence is acquainted with the conditions attached to such a vehicle licence.

The Operator must inform the licensing authority if he/she intends to be absent or unavailable for 7 days or more, giving details of a responsible person.

The Operator will complete Safeguarding, (including Child Sexual Exploitation and County Lines) and Disability Awareness training.

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PLYING FOR HIRE

Only licensed hackney carriages are permitted to ply for hire and only in the administration area of North Warwickshire Borough Council with which they are licensed. It is **ILLEGAL** for a private hire vehicle to ply for hire. This means:

- a) Private hire vehicles **MUST NOT** carry passengers if the journey has not been pre-booked with a private hire operator by the passenger.
- b) All private hire vehicle journeys **MUST** be pre-booked through a licensed private hire operator.
- c) All bookings **MUST** be made by prospective passengers themselves directly with a private hire operator who will despatch the vehicle. Prospective passengers may instruct a third party, e.g., a restaurant manager, to make a booking on their behalf but this third party **MUST NOT** be the private hire vehicle driver.
- d) A driver of a private hire vehicle is **NOT** permitted to make the booking on behalf of a prospective passenger.
- e) Private hire operators **MUST NOT** accept any booking made by a driver on behalf of a passenger.
- f) Private hire vehicle drivers are **NOT** permitted to make their vehicles available for immediate hire. This means that private hire vehicle drivers **MUST NOT** physically position their vehicles in such a way as to be waiting in any area that is on view to the public to invite custom, e.g., allowing prospective customers to approach the vehicle and ask, 'Are you free?'
- g) In most cases, the vehicle will not be insured during a journey that has not been correctly pre-booked.
- h) Private hire vehicles **MUST NOT** wait at any taxi rank/stand.
- i) Private hire vehicle **MUST NOT** be hailed in the street.

Other circumstances may constitute unlawful 'plying for hire'; accordingly, each case of allegedly unlawful 'plying for hire' will be judged on its own facts. Nevertheless, attention is drawn to the Council's position as set out above.

Further information about the relevant legislation is available in the Town Police Clauses Act 1847, in particular Section 45, and in Part II of the Local Government (Miscellaneous Provisions) Act 1976, in particular Section 64.

APPENDIX H

FIT & PROPER RELEVANCE OF CRIMINAL CONVICTIONS AND CAUTIONS

Introduction

This document sets out the Council's stance on the relevance of convictions and cautions and medical matters in respect of applications for the grant of new licenses, and the renewal of existing hackney carriage and private hire vehicle, driver's operator's and proprietor's licenses.

These guidelines are to assist the Licensing Committee and Licensing Sub Committee (collectively referred to as the Committee) in their decision-making and to maintain the consistency of the decisions made. They will also provide clearer information to current and potential applicants.

The objective of the licensing regime is to ensure that, so far as possible, those licensed to drive taxis are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, medically fit, honest and trustworthy. It is not to punish the applicant twice for a conviction or caution, but to ensure that public safety is not compromised.

These guidelines will be taken into account when dealing with new applications as well as renewal applications for an existing private hire/hackney carriage driver's licence, private hire/hackney carriage vehicle licence, and a private hire operator's licence, and when considering offences by, or other complaints about, an existing driver.

Each case will be considered on its own merits. Any necessary hearings will be conducted in privacy unless on balance the public interest suggests otherwise. The list of offences and other complaints detailed in this document is not exhaustive and the Council may take into consideration any other matters not specifically listed.

As part of this policy, the Council does not permit a person to apply for a hackney carriage or private hire licence until:

1. They have held a driving licence for a minimum of 2 years.
2. They have passed as a minimum the Blue Lamp Trust standard taxi driving test or a higher qualification at least QCF Level 2.
3. They can demonstrate that they have the right to work in the UK.
4. They have undertaken training approved by the Licensing Authority in Safeguarding Vulnerable Persons & Prevention Of Child Sexual Exploitation.

Any appeals against decisions in respect of refusal to grant must be made to the Magistrates Court.

Legislation

The Local Government (Miscellaneous Provisions) Act 1976 Section 51 deals with the issue of driver suitability:

“...Council shall not grant a licence to drive a (Private Hire/Hackney Carriage Vehicle) unless they are satisfied that the person is a **fit and proper person** to hold a driver’s licence.”

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

...the District Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds.

1. That he has since the grant of the licence.
 - i) Been convicted or cautioned of an offence involving dishonesty, indecency or violence; or
 - ii) Been convicted or cautioned of an offence or has failed to comply with the provisions of the Act of 1847 or of Part of this Act; or
2. Any other reasonable cause.

Therefore, the wording of the legislation makes it clear that the Council may grant a licence ONLY if it is satisfied that the person is fit and proper - the onus is on the applicant to prove this, NOT the Council to demonstrate that they are not.

Procedure

1. The completed application and associated documents will be considered.
2. The Licensing Manager will then grant the licence or renewal where the Applicant is deemed to be fit and proper in accordance with the policy.
3. Where the policy indicates that an application should be refused the Licensing Manager will write to the Applicant and advise that refusal is proposed and indicate the reason why.
4. The Applicant will then be given the chance to make representations to the Councils Licensing Sub Committee (“the Committee”) before a decision is made. Representations can be made in person or in writing.
5. The Applicant will need to notify the Council within 21 days if they want their application to be considered by the Committee.
6. When this notification is received a hearing before the Committee will be arranged and the Applicant notified of the date.
7. A report will be prepared and submitted to the Committee which will contain details of why refusal of the application has been proposed and include any evidence that the Applicant has already submitted. The Applicant will be given a copy of the report and the opportunity to submit further evidence in advance of the hearing.

8. The Applicant may attend the hearing and address the Members of the Committee. The Applicant may choose to attend with a legal representative or a friend who may speak on their behalf. The Applicant may choose not to attend but to send in written representations for the Committee to consider. If the Applicant does not attend the Committee may decide to consider the application in their absence.
9. The Committee will then decide whether to grant or refuse the application based on whether they believe that the applicant is fit and proper to hold a licence. The Applicant will be notified of the decision in writing. If the decision is to refuse the application, then the written notification will include reasons for the refusal and details of how to appeal.
10. If an Applicant indicates that they do not want their application or renewal to be considered by the Committee or does not respond, then the Licensing Manager will review the application after 21 days and decide whether to grant or refuse the licence. The Applicant will then be informed of the decision and reasons in writing along with the right of appeal.

“Fit and Proper Person”

There is no absolute definition as to what constitutes a “fit and proper person”. However, considering the range of passengers that a driver may carry, for example, elderly people, unaccompanied children, people with disabilities, those who have had too much to drink, lone women and foreign visitors, the Committee will want to have confidence that such people would be able to rely on the driver.

Some important areas that will be considered by the Committee are:

- Honesty and trustworthiness - taxi drivers often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars; any passenger would expect to be charged the correct fare for a journey and then given the correct change; they would also expect a driver to hand in any article left by a passenger in a vehicle, and also to maintain confidentiality between driver and fare.
- Courtesy - taxi drivers are often subject to unpleasant or dishonest behaviour. The Council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. A driver will be expected not to have any convictions or cautions for offences of a violent or threatening nature.
- Consistently good and safe driving - those paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence.
- Good knowledge of the area that they are working in.
- Good physical and mental health.
- Ability to read, speak and understand English, together with a working knowledge of arithmetic in giving the correct change, etc.

- Good knowledge and awareness of any special requirements that disabled passengers may have.
- To be able to exercise judgement in deciding whether a young person or vulnerable adult entering a taxi is placing him / herself in harm's way by association with a controlling or over solicitous adult or by the influence of drugs and / or alcohol.

Protecting the Public

- The over riding consideration of the Members of the Committee is to protect the travelling public.
- Having considered and applied the appropriate guidelines, the following question should be applied:
- *“Would I allow my daughter or son, granddaughter or grandson, spouse, mother or father, or any other person I care for or any vulnerable person I know, to get into a vehicle with this person alone?”*
- If answer is yes, then favourable consideration should be given towards allowing the application to proceed (subject to any other test being completed); or permitting the licence to continue if there is one in force.
- If the Committee has reasonable doubts, then an application should be refused until those doubts can be allayed through further evidence being supplied or consideration be given to revocation or suspension of the licence. It is the applicant's responsibility to provide sufficient evidence to this effect.

Compliance With Conditions And Requirements Of The Licensing Authority

The Committee may take into account an applicant's relevant history while holding a licence, from this or any other authority, and also, in deciding whether a person is a fit and proper person to hold a licence, or continue to hold, such matters as their record of complaints, or positive comments from members of the public, their compliance with Licence conditions and their willingness to co-operate with Licensing Officers.

Convictions / Cautions

The licence application form requires that the applicant must disclose all convictions and cautions. These include any spent convictions under the Rehabilitation of Offenders Act 1974 s 4, and Rehabilitation of Offenders Act (Exceptions) Order 2003. An existing licence holder must report any such convictions within seven days to the Licensing Authority.

The Committee is required to look at any past indicators (convictions, speeding offences etc.) that may affect a person's suitability to hold, or continue to hold, a licence and consider the possible implications of granting such a licence, or allowing an existing licence to continue.

Applicants must disclose any cautions they have received or any pending matters. Existing licence holders must report these within 7 days to the Licensing Authority.

If a licence is granted to a person on the basis of false or incomplete information supplied by

them the Committee may revoke the Licence and require the applicant to submit a further application which will be considered in the light of the full information now available to the Committee.

The disclosure of any conviction will not necessarily preclude an applicant from being issued a licence. However, all convictions, spent or live, will be assessed, and may be taken into consideration.

All hackney carriage and private hire drivers and operators, proprietors and drivers currently holding a licence must disclose any conviction or caution imposed on them, whether for motoring offences or any other reason, in writing to the Council within 7 days.

Rehabilitation Periods

These guidelines have separated the various offences affecting such an application into categories, each detailing the period that must usually elapse after a particular offence within that category before an applicant can be considered a fit and proper person to hold a licence. If, after consideration by the Committee, a person does not satisfy these guidelines, then the application should be refused or the licence revoked or suspended until the applicant is able to satisfy them.

The Committee will not consider evidence as to whether an applicant did or did not commit an offence of which a Court has convicted them. The applicant may, however, explain any mitigating factors, which they may consider led to them committing the offence. The Committee may choose to take these factors into account, together with all other relevant information, in deciding whether the applicant is a fit and proper person to hold or retain a licence.

If the applicant or holder of a licence has notified the Council of a conviction but is appealing against it to a higher court, the matter may be referred to the Committee for a decision as to whether the licence / application should be suspended pending the outcome of the appeal.

Convictions for offences may not automatically prevent a person from proceeding with an application or mean that his licence is revoked or suspended. However, the number, type and frequency of any offences will be taken into account. In some cases it may be appropriate to issue a licence together with a strong warning as to future driving conduct, or to give a similar warning to an existing licence holder. If a significant history of offences is disclosed, refusal of an application or a revocation or suspension may result.

Hackney Carriage/Private Hire Offences

Offence	Minimum period free from conviction
Providing false information on licence application	5 Years
Using an unlicensed vehicle	5 Years
Driving a licensed vehicle without a licence/Operating a vehicle without an operator's licence/Proprietor using an unlicensed driver	5 Years
Not wearing identity badge	5 Years
Obstruction of an authorised officer	5 Years

constable/failing to comply with requirement of authorised officer or Constable.	
Overcharging/Unnecessarily prolonging journey	5 Years
Failing to produce records/documents on request	5 Years
Failing to notify change of details including address, convictions, cautions and accidents.	5 Years

These minimum periods are following conviction by a court or where a driver has accepted a Simple Caution. Officers will prosecute for these offences in accordance with the Enforcement Policy which is available on the Council website.

The Enforcement Policy describes how action will be taken in a graduated manner which is proportionate to the matter under consideration. For example, the actions that can be taken are:

- Informal warning
- Formal Warning
- Formal Action, including Simple caution, Prosecution, or actions by the Committee

TRAFFIC OFFENCES

New applicants:

Any new applicant who has 9 penalty points or more on his driving licence will be required to appear before the Council's Licensing Committee and should expect their application to be rejected. The Licensing Committee may, upon considering any representations by the applicant at a meeting:

- Issue the licence with or without a written warning
- Refuse the application.

For any offences totaling 8 or fewer points on an applicant's driving licence, a licence may be granted, with a formal warning with regard to future conduct.

Any applicant that has been convicted of a major traffic offence will be assessed in accordance with the table below.

Existing Licence Holders

Private hire and hackney carriage drivers are professional drivers and must be always aware of the safety of their passengers and the safety of their vehicles. Any traffic offences could show a lack of responsibility whilst driving either due to the maintenance and safety of their vehicles or in the manner of their driving.

Convictions for traffic offences may not automatically prevent a person from proceeding with a renewal of their licence, or from keeping their licence. However, the number, type and frequency of an offence will be taken into account. In some cases, it may be appropriate to issue a licence together with a strong warning as to future driving requirements.

Any existing licence holder who has 9 penalty points or more on his driving licence will be required to appear before the Committee to explain their convictions. The Committee then have the option of:

- Taking no further action
- Giving a written warning
- Requiring the driver to pass a DSA private hire/hackney drivers test, **at the driver's own expense**, within 2 months of their decision.
- Suspending the Licence upon conditions or for a period of time
- Revoking the licence.

Any driver who has been convicted of a major traffic offence will be assessed in accordance with the table below.

Offence	Offence Code	Minimum period free from conviction
Death/serious injury by dangerous driving	DD10/DD80	Not suitable to be licensed
Manslaughter or Culpable Homicide whilst driving a vehicle	DD60	Not suitable to be licensed

Death by careless driving	CD40/CD50/CD60 CD70/CD80/CD90	Not suitable to be licensed
Dangerous/Furious Driving	DD40/DD90/MR09	Not suitable to be licensed
Careless Driving	CD10/CD20/CD30	10 Years
Driving/Attempting to drive under the influence of alcohol or drugs	DR10/DR20/DR80 MR29	10 years
Failing to stop/report an accident/accident offences	AC10/AC20 AC30/MR19	10 Years
In charge of vehicle under the influence of alcohol/drugs	DR40/DR50/DR90	10 Years
Failing to provide a specimen for analysis/refusing to give permission for specimen analysis	DR30/DR31/DR61 DR60/DR70	10 Years
Driving without insurance	IN10	5 Years
Driving or attempting to drive whilst disqualified	BA10/BA30/MR49	10 years
Driving other than in accordance with a licence	LC20/LC50	5 Years
Driving having failed to notify a disability/false declaration about fitness	LC30/LC40	10 Years
Driving whilst using a mobile phone	CU80	5 years
Disqualification following totting up	TT99	5 years from end of disqualification period

MEDICAL PROBLEMS PRESENTED

New applicants

Any applicant who's driving licence has been revoked or refused on medical grounds by the DVLA within the last 5 years; or has received a conviction for driving a vehicle after failing to notify a disability; or made a false declaration about fitness and medical health, will be required to appear before the Licensing Committee and should expect their application to be rejected, until medical proof of current fitness can be provided.

The onus is on the applicant to provide appropriate medical proof from their GP/consultant or nominated practitioner at their own expense, which may be required be brought to any Committee hearing. The Committee may consider issuing a licence if they are satisfied that the report shows a clean bill of health, and that the applicant is a fit person to recommence driving and is deemed to be of no threat to public safety.

If the Committee has any doubts over the applicant's fitness, then the application should be adjourned or refused until further evidence can be produced by the applicant to overcome these doubts.

Existing Licence Holders

Any existing licence holder whose driving licence has been revoked or refused on medical grounds by the DVLA or who has received an offence of driving a vehicle after failing to notify a disability or a false declaration about fitness and medical health, will be required to appear before the Licensing Committee and should expect their renewal application to be rejected, until medical proof of current fitness can be provided.

If evidence to the above is not declared, but is discovered by officers, the driver must attend a meeting of the Committee to explain why they failed to declare it.

All licensed drivers must submit to a medical inspection every three years by either their own GP/consultant or one of the nominated medical practitioners. However, if at any time the Environmental Health Manager or the Committee feel that a medical condition has arisen or an existing one has deteriorated since a previous medical was taken, an additional medical report may be required to be obtained at the driver's own expense.

SEXUAL OFFENCES

Offence	Minimum Period Free From Conviction
Rape	Not suitable to be licensed
Assault by penetration	Not suitable to be licensed
Sexual assault	Not suitable to be licensed
Sexual offences involving a child or young person	Not suitable to be licensed
Indecent exposure	Not suitable to be licensed
Prostitution/Soliciting	Not suitable to be licensed
Soliciting prostitutes from a motor vehicle or kerb crawling	Not suitable to be licensed
Human trafficking for exploitation	Not suitable to be licensed

DRUG OFFENCES

Offence	Minimum Period Free From Conviction
Supply of controlled drugs/Possession intent to supply	Not suitable to be licensed
Possession of a controlled drug	5 Years

VIOLENCE AND PUBLIC ORDER OFFENCES AND OFFENCES AGAINST PROPERTY

Offence	Minimum Period Free From Conviction
Murder	Not suitable to be licensed
Manslaughter	Not suitable to be licensed
Grievous Bodily Harm/Unlawful Wounding	Not suitable to be licensed
Robbery	Not suitable to be licensed
Arson With Intent To Endanger Life	Not suitable to be licensed

Arson	10 Years
Riot Or Violent Disorder	10 Years
Possession Of A Firearm	Not suitable to be licensed
Assault Occasioning Actual Bodily Harm	10 Years
Assaulting A Police Officer	10 Years
Threats To Kill	Not suitable to be licensed
Witness Intimidation	10 Years
Affray	10 Years
Possession Of An Offensive Weapon Or Bladed Article	Not suitable to be licensed
Harassment With Fear Of Violence	Not suitable to be licensed
Harassment	10 Years
Criminal Damage (Value Over £5000)	5 Years
Criminal Damage (Value Under £5000)	3 Years
Threatening Behaviour – Section 4 & 4A Public Order Act	7 Years
Common Assault	7 Years
Drunk And Disorderly In A Public Place	5 Years
Disorderly Behaviour – Section 5 Public Order Act	5 Years
Terrorism Offences	Not suitable to be licensed

OFFENCES OF DISHONESTY

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public, for example, by demanding more than the legal fare or giving incorrect change. Overseas visitors can be confused by the change in currency and become “fair game” for an unscrupulous driver. Similarly, any customer can be defrauded by a driver taking them by any other than the shortest route or by them retaining any lost property left in their vehicle.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. For these reasons a serious view is taken at any convictions involving dishonesty.

Offence	Minimum Period Free From Conviction
Burglary	Not suitable to be licensed
Fraud (Sentence Of Imprisonment)	Not suitable to be licensed
Fraud (No Sentence Of Imprisonment)	5 Years
Theft (Sentence Of Imprisonment)	Not suitable to be licensed
Theft (No Sentence Of Imprisonment)	10 Years
Vehicle taking	5 Years

COMPLAINTS AGAINST DRIVERS

Complaints are occasionally made against hackney carriage and private hire drivers. Such complaints include refusal to assist a disabled passenger, use of abusive language or refusal to accept a fare or threatening or failing to respond to a reasonable request by officers. Such complaints should be considered first by the Licensing Officer for consideration as to the nature of the complaint being serious enough to be forwarded to the Licensing Committee.

The Committee should then consider the complaint together with any history of complaints made against the driver to assess any patterns. On the basis of the evidence, the Committee should consider whether the driver is a fit and proper person to hold a licence.

APPEALS

Any applicant refused a driver’s licence on the grounds that the Committee is not satisfied they are a fit and proper person to hold such a licence, or who has had their licence suspended, revoked or had a condition attached with which they disagree has a right of appeal to the magistrates’ court within 21 days of the notice of decision.

GLOSSARY

Appeal A means by which a committee hearing decision can be reviewed by the Magistrates Court or the Crown Court. The decision of the Committee maybe upheld or overturned.

Caution A signed admittance of guilt of committing an offence where no further action is taken at that time. It may be taken into account in the case of re-offending.

Committee A panel of the Licensing Committee gathered together to consider the suitability of

a person to hold a taxi related licence.

Any reference to "Committee" will be classed as the Licensing Committee for the purposes of Licensing.

Conviction Judicial determination that someone is guilty of a criminal offence.

Fit and Proper Person A person who is of no threat to the general public, has a good character and is therefore deemed fit and suitable to hold a licence.

Hackney Carriages A vehicle that can carry passengers for hire or reward, can be hailed by a prospective passenger and can park on a rank to await the approach of passengers; a car available for public hire.

Mitigating Circumstances, The conditions surrounding a conviction. These conditions may alter the perceived seriousness of a crime.

Plying for Hire To actively invite or respond to a hail for a taxi with the intent to charge a specific fare for the service.

Private Hire Vehicles A car which must be pre-booked with a private hire operator. This type of vehicle cannot stand in a rank or ply for hire.

Proprietor The person in possession of a vehicle which is the subject of a hiring agreement or hire purchase agreement.

Operator This is the business, which in this country can cover anything from a one person business up to the largest firm in the country

Rehabilitation, the period to which the standing authority feels a person has repented their crimes.

Revoke To take back something for an indefinite period of time.

Suspend To hold something away from its owner for a period of time.

Written Warning A letter advising that although an offence was not serious enough to have warranted the suspension or revocation of the licence, the offence committed is unacceptable and has caused concern to the committee as to the person's suitability to hold such a licence. If, in the future, similar behaviour is exhibited, the consequences could be much more severe, possibly leading to the suspension of the licence.

Patterns of behaviour

A series of offences or a pattern of behaviour/conduct over a period of time is more likely to give cause for concern than an isolated conviction/incident. However, that is not to say that an isolated conviction/incident cannot give cause for concern in its own right, particularly where it relates to a serious matter. In such circumstances, the Council will give significant consideration to refusing to grant a licence or to suspending and/or revoking an existing licence.

A serious view will always be taken where an applicant shows any tendency towards criminal and/or unacceptable/inappropriate behaviour patterns. In such instances, the Council is unlikely to consider such an applicant/existing licence holder to be a fit and proper person to hold a licence and will consider refusing to grant a licence or to suspending/revoking an existing licence.

ADDITIONAL MEDICAL FITNESS GUIDANCE

The following conditions are a bar to the grant of a licence:

A. Epileptic Attack

Applicants must have been free of epileptic seizures for at least ten years and not have taken anti-epileptic medication during this ten year period.

B. Insulin Treated Diabetes

Applicants for a private hire or hackney carriage driver licence will be required to satisfy the Council that they meet the medical requirements which would allow a C1 (small lorry) Group 2 licence to be issued. If found to be suffering from Diabetes Mellitus, the applicant must provide a medical report from a hospital consultant specialising in diabetes confirming:

the applicant has been undergoing insulin treatment for over four (4) weeks;

during the 12 months prior to the date of the licence application, the applicant has not suffered a hypoglycaemic episode requiring the assistance of another whilst driving; and,

the applicant has a history of responsible diabetic control and is at minimal risk of a hypoglycaemic attack resulting in incapacity.

The applicant will also be required to submit a signed declaration that:

they will comply with the directions for treatment given to him/her by the doctor supervising that treatment;

immediately report to the Council in writing, any change in diabetic condition; and

provide to the Council as and when necessary, evidence that blood glucose monitoring is being undertaken at least twice daily and at times relevant to driving a hackney carriage or private hire vehicle during employment.

C. Eyesight

I. Applicants must be able to read in good daylight a number plate at 20.5 metres, (67 feet), and if glasses or corrective lenses are required to do so, these must be worn while driving. In addition applicants must have a visual acuity of at least 6/9 in the better eye; and visual acuity of a least 6/12 in the worst eye; and if these are achieved by correction the uncorrected visual acuity in each eye must be no less than 3/60.

II. A licence will also be refused or revoked if an applicant has uncontrolled diplopia, (double vision), or does not have a normal binocular field of vision.

D Other Medical Conditions

In addition to those medical conditions covered by legislation, applicants (or licence holders) are likely to be refused if they are unable to meet the national recommended guidelines in the following cases:

- Within 3 months of myocardial infarction, any episode of unstable angina, CABG or coronary angioplasty;
- A significant disturbance of cardiac rhythm occurring within the past 5 years unless special criteria are met;
- Suffering from or receiving medication for angina or heart failure;
- Hypertension where the BP is persistently 180 systolic or over, or 100 diastolic or over;
- A stroke or TIA within the last 12 months;
- Unexplained loss of consciousness within the past 5 years;
- Meniere's or other conditions causing disabling vertigo, within the past 1 year, and with a liability to reoccur;
- Recent severe head injury with serious continuing after effects, or major brain surgery;
- Parkinson's disease, multiple sclerosis or other 'chronic' neurological disorders likely to affect limb power or co-ordination;
- Suffering from psychotic illness in the past 3 years, or suffering from dementia;
- Alcohol dependency or misuse, or persistent drug or substance misuse or dependency in the past 3 years;
- Insuperable difficulty in communicating by telephone in an emergency;
- Any other serious medical condition which may cause problems for road safety when driving a Hackney Carriage or Private Hire Vehicle;
- If major psycho tropic or neuroleptic is being taken;
- Any malignant condition within the last 2 years likely to metastasise to brain or lung or malignant melanoma

ADVERTISING ON HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

Advertisements will not be permitted by North Warwickshire Borough Council if, in the Council's reasonable opinion, the advertisement falls within any of the following categories:

- a. does not comply with the law or incites someone to break the law;
- b. does not comply with the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing;
- c. is likely to cause widespread or serious offence to members of the public on account of the nature of the product or service being advertised the wording or design of the advertisement or by way of inference;
- d. depicts men, women or children in a sexual manner or displays nude or semi-nude figures in an overtly sexual context (**NB** whilst the use of underdressed people in most underwear advertising may be seen as an appropriate context, gratuitous use of an overtly sexual nature will be unacceptable);
- e. depicts or refers to indecency or obscenity or uses obscene or distasteful language including that set out in a foreign language;
- f. relates to lap-dancing, 'gentlemen's clubs', escort agencies or massage parlours;
- g. depicts direct or immediate violence to anyone shown in the advertisement;
- h. condones or provokes anti-social behaviour;
- i. contains images or messages, which relate to matters of public controversy and sensitivity;
- j. refers to or portrays (or gives the impression of portraying) a living person unless the written consent of that person is obtained and is produced to North Warwickshire Borough Council;
- k. contains negative references to North Warwickshire Borough Council's services or those services provided or regulated by other local authorities;
- l. relates to a political party or parties or a political cause;
- m. relates to or advertises alcohol or tobacco;
- n. in the case of digital media, poses a health and safety risk an. In the case of digital media, poses a health & safety risk a result of flickering or other visual imagery

CONDITIONS APPLICABLE TO THE USE OF TRAILERS

The use of trailers is only permitted for vehicles of the multi-passenger type (more than 4 passenger seats) and on pre-arranged journeys where passenger's luggage cannot be safely accommodated within the vehicle.

The licensed towing vehicle's insurance must cover the towing of a trailer. Trailers must not be left unattended anywhere on the highway.

The speed restrictions applicable to trailers must be observed at all times.

A spare wheel for the trailer and adequate tools to change a wheel must be carried at all times by a licensed vehicle whilst towing a trailer.

The towing of a trailer by a licensed vehicle shall only permit the conveyance of luggage and belongings owned by a passenger whilst the vehicle is hired by a passenger within the vehicle.

The tow bar must comply with the type approval regulations in respect of all tow bars fitted to cars after August 1998.

Drivers of vehicles towing trailers must ensure that they have the correct driving licence group to permit them to tow the relevant trailer, as per the DVLA guidance (info 30) Driving Licensing Requirements for Towing Trailers in Great Britain.

Trailers must be inspected at initial licensing and annually thereafter by a garage approved by the Council for that purpose.

An additional plate will be issued by the Council for each vehicle licensed to tow trailers and the relevant plate must be affixed to the rear of the trailer near the vehicle number plate. The cost for this additional plate will be paid for by the vehicle proprietor

Un-braked trailers shall be less than 750 KGs gross weight.

Trailers over 750 KGs gross weight shall be braked acting on at least two road wheels.

The towing vehicle must have a kerb weight of at least twice the gross weight of the trailer.

A suitable lid or other approved means of enclosure shall be fitted to secure the contents within the trailer when in use and to keep it watertight.

The maximum permissible length of the trailer shall be 7 metres including the drawbar and coupling.

The width of the trailer shall not be greater than the towing vehicle subject to no trailer being wider than 2.3 metres.

The maximum length for braked twin axle trailers is 5.54 metres.

The trailer must at all times comply with all Road Traffic legislation requirements, in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986.

The trailer shall not display any form of sign or advertisement not required or approved by the Council or Road Traffic legislation.

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DRESS CODE

Drivers shall, as a minimum, wear a shirt or “T” shirt or blouse and tailored shorts (not denim), trousers, skirt. Denim jeans are acceptable as long as they meet all the other conditions.

The shirt, t-shirt, dress or blouse shall be of one colour except for any contrasting detail and piping. It should cover the shoulders and in the case of t-shirts, shirts and blouses be capable of being worn inside the shorts, trousers or skirt.

T-shirts, sweat tops, jumpers, blouses or dresses shall not carry any words or pictures apart from discreet logos and manufacturer names, the name of the operator or proprietor and the name of the driver.

Shirts or blouses worn as open neck shall have no more buttons open than the collar button and the next button.

“Tailored” In respect of shorts and trousers shall be defined as having a fly fastening. In respect of shorts, trousers and skirts be capable of being worn with a belt on the waist. In addition, shorts, trousers and skirts shall be of one colour with the exception of contrasting detail and piping which will be allowed. To avoid any doubt tracksuits, denim shorts and denim jackets are not permitted.

For safety reasons footwear for all drivers shall fit around the heel by an enclosed or sling back. To avoid any doubt mules or beach flip flops shall not be permitted.

All clothing shall be clean, free from holes, rips and snags and fastenings shall be in good order.

Drivers shall not wear any item of clothing or apparel which exhibits any of the following:

- Sports teams of any description
- Offensive language
- References to drunkenness or the use of recreational drugs
- Anything racist, sexist, discriminatory or otherwise offensive
- Any advertising that does not conform to the relevant codes of advertising practice.

To be clear examples of unacceptable standards of dress would include bare chests or shoulders, dirty, ripped or damaged clothing.

Exceptions related to faith or disability are accepted.

PRIVATE HIRE/HACKNEY CARRIAGE VEHICLE LICENSING – HIRE COMPANIES

Applications for the grant of a private hire or hackney carriage vehicle licence will be accepted from Hire Companies, however special rules will apply.

A hire management company can only licence a vehicle if the accident vehicle is not roadworthy and has been suspended by the licensing team or the vehicle is off the road due to the accident repair work being carried out (proof from the garage will be required).

The application and all necessary documents must be in the name of the vehicle proprietor (Hire Management Company). The licence and plate will only be issued for a maximum period of 8 weeks.

The vehicle licence will lapse once the vehicle is handed back to the Hire Management Company.

All vehicles which are present to the Council for licensing and all vehicles whilst licensed must comply with the vehicle specifications contained within the appendices.

A replacement vehicle will only be issued on a like for like basis i.e., the number of seats.

Process

The vehicle proprietor (Hire Management Company) must sign all applications for a new vehicle licence.

Any application not signed by the proprietor will not be accepted. In addition the operator of the firm for which the vehicle will be used must sign the application form for a new private hire, hire vehicle.

The following documentation is required for the issue of a vehicle licence:-

- Details of the licenced driver who will be responsible for the vehicle.
- Compliance test pass certificate not more than 14 days old.
- Vehicle insurance or cover note which must cover the vehicle for 'Public Hire' if hackney carriage or 'private hire' if private hire or in any case for 'hire & reward'
- Vehicle v5
- Fee

On the grant of the licence the following items will be issued:-

- Vehicle Licence
- Plate
- Conditions

The licence plates remain the responsibility of the accident management company and must be returned to the licensing office when the vehicle is handed back to them. The vehicle will be cancelled.

Failure to comply with these guidelines will result in future applications being rejected.

Reporting an accident

Proprietors have 72 hours in which to report an accident. An authorised officer will assess the vehicle and if required will instruct the proprietor to take it to the nominated testing station for them to assess if the vehicle is roadworthy. Should the vehicle be roadworthy but requiring repair – these repairs should be done within 28 days. Should the vehicle not be roadworthy then vehicle will be suspended until such a time that the testing station deem the vehicle to be roadworthy.

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PENALTY POINTS SCHEME

The aim of the Driver Penalty Points Scheme is to help maintain and improve service standards. The Scheme seeks to provide a consistent approach to dealing with unacceptable conduct such as failures to abide by the Council's Code of Conduct, the licence conditions or minor offences where revocation, suspension, prosecution may be disproportionate.

Authorised officers of North Warwickshire Borough Council may record penalty points against a driver's record if they become aware of conduct that breaches this policy and the licence conditions and/or statutory provisions for the operation of Hackney Carriage and Private Hire driver/ vehicle licensing.

The authorisation to issue a warning and place points on a driver's licence record is given to Licensing Enforcement Officers, Licensing Officers, their managers and any other officers designated in the Scheme of Authorisation.

The points placed on record will be based on the published tariff. This tariff may be amended from time to time in order to maintain and improve service standards in changed circumstances.

A driver, who is discovered to have contravened any of the items listed in the tariff and licence conditions will be notified by an authorised officer of the contravention and the points that have/will be placed on record. A driver who disputes that they have contravened requirements will be invited to submit a written submission/representation. The driver will be asked to do this within 14 days of the warning being received. Any representation, whenever received, will be placed on file.

An officer authorised by the Head of Environmental Health will review the officer's report and any written submissions and may decide that the penalty points should be removed or a different number recorded. The driver will be informed of the outcome of this review. The officer reviewing the points allocation will not be the same officer who allocated the points. There is no further review or appeal against the warning and the placing of penalty points on record.

If, in any period of 3 years, twelve points or more have accumulated on a driver's record then an officer authorised by the Head of Environmental Health will review the driver's conduct record. They will refer the driver to the Licensing Committee for his/her fitness to hold a licence with North Warwickshire Borough Council to be considered unless this would be significantly disproportionate given the nature and incidence of the contraventions and the driver has provided evidence of meeting TBC requirements. The Licensing Committee will be provided with a report setting out the driver's record of conduct, the warnings issued and points awarded, any substantiating or corroborating evidence and any written submissions received.

Where there is CCTV footage of the incident/s being brought before the Licensing Committee, then the driver will have the opportunity to view the footage at the Council's offices before the hearing subject to such conditions as may be required to protect third parties rights under the Data Protection Act 2018. The driver will have the opportunity to make written and verbal submissions to the Licensing Committee. The Licensing Committee will review the driver's record and consider whether he/she is a fit and proper person to hold a licence and decide whether any action should be taken, for example suspension or revocation of the licence, imposition of additional conditions such as further training.

The driver has a right of appeal to the Magistrates Court against any decision of the Committee.

The Driver Penalty Points Scheme runs alongside the Council's system of enforcement for contraventions of statutes, rules, regulations and conditions. Enforcement measures include written notices, written warnings, suspension notices, and/or prosecution.

All the offences listed below form part of the driver, operator and vehicle licensing conditions. There will be no negative effect for driver's renewal applications in relation to the grant of a licence until the accumulation of 12 points on the driver's record, where this will be reviewed by an officer authorised by the Head of Environmental Health to determine.

The Penalty Points Policy & Procedure is published on the North Warwickshire Borough Council website and updated as and when required.

The Trade will be consulted on any significant changes.

The Driver and Operator's Penalty Points Scheme – Tariff

Offence/Breach of Condition	Maximum Points Awarded by Authorised Officers	Applicable to driver	Applicable to vehicle proprietor or operator
Providing false or misleading information on licence application form or failing to provide relevant information or the relevant fee (including dishonoured cheques)	6	Yes	Yes
Failure to notify the licensing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence or alleged offence, any offence involving dishonesty or violence and any motoring offence. This includes being interviewed by the police about any such allegation.	9	Yes	Yes
Failure to notify the licensing authority within 5 working days of receiving a Fixed Penalty Notice	6	Yes	Yes
Failure to notify the licensing authority as soon as possible and no later than 10 working days of any illness or injury affecting fitness to act as a driver	4	Yes	Yes
Failure to notify, in writing, the Authority of change of address within 5 working days	3	Yes	Yes
Failure to report, in writing, within 72 hours, accident or damage to licensed vehicle, which would cause the vehicle to breach licence condition.	4	Yes	Yes
Refusal to accept hiring without reasonable cause e.g., drunk or rude customer.	6	Yes	
Unreasonable prolongation of journeys or any misconduct regarding the charging of fares	6	Yes	

Offence/Breach of Condition	Maximum Points Awarded by Authorised Officers	Applicable to driver	Applicable to vehicle proprietor or operator
Plying for hire by private hire vehicle drivers.	9	Yes	Yes
Using a mobile phone and/or electronic devices whilst driving as witnessed by an officer of the authority.	6	Yes	
Using unlicensed vehicle for carrying passengers for hire or reward or a licensed vehicle without insurance.	12	Yes	Yes
Failure to produce relevant documents within timescale, when requested by an authorised officer/ police officer	4	Yes	Yes
Failure to maintain vehicle in a satisfactory condition – including interior or exterior.	4	Yes	Yes
Failure to provide proof of insurance cover when requested.	6	Yes	
Failure to produce hackney carriage or private hire vehicle for testing when required.	6	Yes	Yes
Using a vehicle whilst subject to a suspension order issued by a Licensing Officer/Police Officer.	12	Yes	Yes
Using a vehicle for which the licence has been revoked.	12	Yes	Yes
Failure to get approval in writing from the licensing authority before CCTV equipment is installed and used in the vehicle.	4	Yes	Yes
Carrying more passengers than stated on the vehicle licence.	12	Yes	
Failure to display external/internal licence plate as required.	4	Yes	Yes
Failure to correctly display authorised side identity stickers as required.	4 Per Sticker	Yes	Yes
Incorrectly displayed advertisements	3 per advert		Yes
Carrying an offensive weapon in the vehicle.	12	Yes	Yes
Failure to notify the sale of private hire or hackney carriage vehicle or change of ownership.	4		Yes
Failure to apply for prior approval for advertising signage on the outside of the vehicle.	3	Yes	Yes
Failure to correctly display authorised no smoking stickers.	3 per missing sticker	Yes	Yes
Displaying unsuitable or inappropriately sited signs or advertisements in or on the vehicle.	3	Yes	Yes
Failure to display authorised Hackney Carriage roof sign	4	Yes	Yes

Offence/Breach of Condition	Maximum Points Awarded by Authorised Officers	Applicable to driver	Applicable to vehicle proprietor or operator
Failure to use authorised roof light.	4	Yes	
Failure to electronically connect authorised roof sign to taximeter	4	Yes	Yes
Displaying unauthorised written or other material on any window.	4	Yes	Yes
Failure to comply with a requirement, provide information or assistance to a Licensing Officer/Police Officer.	6	Yes	Yes
Using a non-approved or non-calibrated taximeter	6	Yes	Yes
Obstruction of Licensing Officer/Police Officer wishing to examine a licensed vehicle.	12	Yes	Yes
Evidence of smoking in vehicle	3	Yes	Yes
Failure to search the vehicle for lost property	3	Yes	
Failure to declare lost property	6	Yes	
Sounding horn when arriving at an address to pick up passengers	3	Yes	
Playing a radio or other sound reproducing equipment which is a source of nuisance or annoyance to any person, whether inside or outside the vehicle	3	Yes	
Playing a radio or other sound reproducing equipment against the request of the hirer and/or passenger(s)	4	Yes	
Evidence of food or drink (excluding water) left in vehicle whilst working	3	Yes	Yes
Displaying any feature on a private hire vehicle that may suggest that it is a taxi	6	Yes	Yes
Using a vehicle the appearance of which suggests that it is a taxi	6	Yes	Yes
Failure to carry an assistance dog without requisite medical exemption.	12	Yes	
Driver not holding a current DVLA Driving licence.	12	Yes	Yes
Failure to wear driver's personal badge, so it is visible to the public	4	Yes	
Failure to correctly display dash badge	4	Yes	
Failure to notify the Council, in writing, of a loss of identity badge or licence	4	Yes	
Lending or giving of his or her badge or licence to another person	12	Yes	
Failure to notify, in writing, a change in medical circumstances.	6	Yes	
Unsatisfactory appearance of driver.	3	Yes	
Failure to observe rank discipline (hackney carriage only).	4	Yes	

	Failure to maintain proper records of private hire vehicle	3		Yes
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Offence/Breach of Condition	Maximum Points Awarded by Authorised Officers	Applicable to driver	Applicable to vehicle proprietor or operator
Failure to keep or produce records of private hire bookings or other documents required to be kept or produced.	6		Yes
Misleading use of the words 'Taxi' or 'Cab' on advertising materials.	3		Yes
Failure to issue complete receipt on request.	3	Yes	
Failure to return vehicle licence plate within 7 days after due notice following expiry, revocation or suspension of such licence.	4	Yes	Yes
Unsatisfactory behaviour or conduct of driver	4	Yes	
Failure to notify the Authority, in writing, of any motoring convictions or cautions within 7 working days of said conviction or cautions during period of current licence	6	Yes	
Failure to behave in a civil and orderly manner	4	Yes	
Failure to take reasonable amount of luggage	3	Yes	Yes
Failure to give reasonable assistance to passengers entering or getting out of the vehicle or during the journey	3	Yes	
Failure to give assistance with loading/unloading luggage to or from any building, vehicle or place.	3	Yes	
Failure to display table of fares.	4	Yes	Yes
Failure to carry legal spare wheel or authorised suitable alternative and tools.	4	Yes	Yes
Failure to attend punctually at appointed time and place without sufficient cause.	4	Yes	Yes
Using a licensed vehicle with bald tyre(s).	4 per tyre	Yes	Yes
Failure to display a current licence plate.	4	Yes	Yes
Waiting or stopping in any area where parking is prohibited unless requested by a paying customer present in the vehicle.	3	Yes	
Drive where prohibited, unless directed by the hirer	3	Yes	
Failure to display within the vehicle information on how customers are able to make complaints to North Warwickshire Borough Council.	3	Yes	Yes
Failure to comply with any other licensing condition	3	Yes	Yes

	Offence/Breach of Condition	Maximum Points Awarded by Authorised Officers	Applicable to driver	Applicable to vehicle proprietor or operator
	not detailed in the table. ** see below			

** Further conditions may be added as the policy is reviewed.

Certain infringements may result in driver, proprietors or operators receiving penalty points. Points may be awarded to one or several persons depending upon the nature of the infringement, however each case must be determined on its own merits.

Certain matters are specific to hackney carriages, private hire drivers or private hire operators.

Where enforcement action is taken and penalty points given, the driver/operator will be advised in writing of the reason for the enforcement action, and provided with details of the relevant conditions / standards / regulations that the licence holder has failed to comply with.

Licence holders may appeal the issue of any of the above, by way of writing to the Head Environmental Health, and providing evidence that supports any such appeal.

Hearings

Where a hearing is required to determine the suitability of an applicant or current licence holder either for the accumulation of warnings, or owing to a single matter that breaches the licence conditions, or in contradiction to Appendix H Relevance of Criminal Convictions and Cautions a report will be provided ahead of the Hearing to the applicant / licence holder detailing the reasons why the matter requires such a hearing.

Where an application is to be heard by the Licensing Committee, the applicant will be given an opportunity to make representations, either in writing or orally at a meeting. All representations will be given full consideration prior to a decision being made in respect of the application.

The options available to the Committee include (but are not limited to):

- Suspension of the licence
- Revocation of the licence
- Head of Service Warning
- The imposition of additional conditions and / or requirements placed on the applicant / licence holder
- The grant / refusal of an application
- To take no further action

The Licensing Authority has the power to suspend/revoke the licence with immediate effect if it is necessary in the interests of public safety.

If a licensee or applicant is dissatisfied with a decision of the Licensing Authority, an appeal may be lodged with the local Magistrates Court but this must be within 21 days being notified.

Revocation / Suspension of a Hackney Carriage & Private Hire (Combined) Driver Licence including immediate

The Licensing Authority can suspend and/or revoke a licence in accordance with:

1. Section 60(1) Local Government (Miscellaneous Provisions) Act 1976 for vehicle licences;
2. Section 61(1) Local Government (Miscellaneous Provisions) Act 1976 for driver licences;
3. Section 62(1) Local Government (Miscellaneous Provisions) Act 1976 for operator licences.

If the Licensing Authority makes a decision to revoke or suspend a Hackney Carriage & Private Hire (Combined) Driver licence, it will be required to consider whether that revocation/suspension should take immediate effect under Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Authority can only suspend/revoke with immediate effect if it is in the interests of public safety to do so.

Before making determination, where it is practicable to do so, the Licensing Authority should provide the licence holder an opportunity to make representations. It may not be practicable to do so in circumstances where public safety is at risk.

The overriding consideration is the safety and protection of passengers and the general public. Matters such as employment status and personal circumstances should not be taken into account when determining whether an applicant is fit and proper to hold a licence and would not in any event outweigh the public safety factor.

Where the Licensing Authority has decided that a licence holder is no longer “fit and proper” to hold a licence, for public safety reasons, the presumption will be that the revocation of the licence shall have immediate effect.

If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, the Council will give notice to the driver, which includes a statement to that effect and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

In situations where there are concerns of public safety, the Licensing Authority will consider whether an immediate suspension and/or revocation is necessary in the circumstances. Where a decision is made to suspend and/or revoke with immediate effect, the driver cannot work during any appeal process.

A decision to refuse or revoke a licence on public safety grounds will also be referred to the Police.

Refusal to renew a licence

If a decision is taken to refuse to renew a licence and the applicant is not satisfied with the decision then an appeal can be made to the Magistrates Court with 21 days of receiving notification.

Prosecution of licence holders

The Licensing Authority reserves the right to prosecute licence holders for relevant offences.

Appeals

Where a right to appeal exists, the appeal can be made to the local Magistrates Court but must be within 21 days of notification.

Service Requests and Complaints

Members of the public can submit any service requests, complaints and/or concerns about licensed drivers, vehicles and/or operators in writing, or by email to the Licensing Team at:

North Warwickshire Borough Council
Licensing Team
The Council House
South Street
Atherstone
CV9 1DE

Email: Licensing@northwarks.gov.uk

DRAFT



North Warwickshire
Borough Council

Pavement Licensing Policy 2024-29

DRAFT

Effective:

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1. Introduction

The Business and Planning Act 2020 successfully introduced a mechanism for premises serving food and drink such as bars, restaurants and pubs, to place furniture on the pavement to help the hospitality industry recover from the coronavirus lockdown and social distancing restrictions.

The Pavement Licensing regime was temporarily extended until March 2024 when the Levelling Up and Regeneration Act 2023 made permanent the provisions set out in the Business and Planning Act 2020 that streamlined the process to allow businesses to secure these licences quickly.

However the Levelling Up and Regeneration Act introduces a number of changes. Previously the Business and Planning Act allowed a maximum application fee of £100, a streamlined consultation determination period for applications and for licences to be valid for up to 12 months. Now, the fee for applying for a licence under the Business and Planning Act process is capped at £500 for first time applications and £350 for renewals and the public consultation period and licence duration has been extended.

The new Act also confirms that applications for Pavement Licences should where possible be made under these provisions as opposed to Pavement licences granted by Warwickshire County Council, the Highways Authority, under Part 7A of the Highways Act 1980.

2. Scope

2.1 Definition of pavement café

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.

2.2 Eligible Businesses

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

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Businesses that do not use their premises for the sale of food or drink, for example salons, are ineligible. Though they can apply for permission to place furniture on the pavement under the Highways Act 1980.

2.3 Eligible Locations

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footways restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

A pavement licence does not grant the right to permanently close a road. To do so, a pedestrian planning order made under section 249(2) or 249(2A) of the Town and Country Planning Act 1990, extinguishing the right to use vehicles on the highway, is required. Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980.

Where a pavement licence is granted, clear access routes on the highway will need to be maintained, taking into account the needs of all users, including disabled people.

2.4 Type of furniture permitted

The furniture which may be placed on the pavement include:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable, which in principle means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.

The Council would also expect the type of furniture to be 'in keeping' with the local area.

Furniture that is not removable and used in connection with the outdoor selling or consumption of food or drink are not permitted by a pavement licence.

Advertising boards are not included in the definition of furniture within the pavement licensing regime. As well as needing consent under the Highways Act 1980, advertising boards also require express advertising consent under the Town and Country Planning Regulations 2007.

Applicants that wish to place non-removable furniture onto the highway must apply for permission under the Highways Act 1980.

2.5 Planning Permission

Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

2.6 Interaction with Part 7A of the Highways Act 1980

Part 7A of the Highways Act 1980 already provides a mechanism for local authorities to grant businesses permission to place objects or structures on the highway for any of the following:

- (i) for a purpose which will result in the production of income;
- (ii) for the purpose of providing a centre for advice or information; or
- (iii) for the purpose of advertising.

However the Levelling Up and Regeneration Act 2023 Schedule 22, Paragraph 11 now sets out that if a Business applies for a Pavement Licence from North Warwickshire Borough Council, then they cannot apply for a permission under the Highways Act 1980.

3. Application and Determination of Pavement Licences

3.1 Submission of the Application

An application for a Pavement Licence must be made to the Council, and the following will be required to be submitted with the application:

- a completed Application Form
- the required fee, paid by credit or debit-card
- proof of the applicant's identity and right to work
- a plan showing the location of the premises shown by a red line, so the application site can be clearly identified
- a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that the applicant wishes to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
- the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- the proposed duration of the licence;
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied for;
- (if applicable) reference of existing pavement licence currently under consideration by the local authority;
- (if applicable) evidence of consent from neighbouring frontage(s) to use footway space outside their property
- evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, and
- any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.

3.2 Fees

The fee for applying for a licence under the Business and Planning Act process is capped at £500 for first time applications and £350 for renewals.

The Council will use an established methodology to review these fees annually, however fees have been set at £150 for new applications and £120 for renewals for 2024/25.

Application fees must accompany the application in order for the application to be considered valid and for the consultation period to commence.

The fee is an 'application' fee for the processing of the application. The fee will not be refunded if the application is withdrawn, refused or if a licence is surrendered or revoked before expiration.

3.3 Consultation

Applications are consulted upon for 14 days, starting with the day after the day on which a valid application was made to the Council.

The Council will publish details of the application on its website at www.northwarks.gov.uk.

The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are no detrimental effects from the application the Council will consult with:

- North Warwickshire Borough Council Environmental Health Team.
- North Warwickshire Borough Council Planning
- Warwickshire Fire & Rescue Service
- Warwickshire Police (including Police Licensing Officer and Designing Out Crime Officer)
- The appropriate Local Ward Councillor(s)
- The appropriate Parish or Town Council

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider these when determining the application.

3.4 Site Notice

An applicant for a pavement licence must on the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises. The notice must be constructed and secured so that it remains in place until the end of the public consultation period. Evidence of compliance with the site notice requirement must be supplied to the Council. The Council would also expect the applicant serves a copy of the site notice on immediate neighbours to make them aware of the application.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;
- state the address of the premises and name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- state the end date of the consultation (14 days starting the day after the application is submitted to the authority).

A template Site Notice is shown as Appendix 1.

3.5 Site Assessment

The following matters will be taken into account by the Council in considering the suitability of the proposed application:

- public health and safety – including a balanced consideration for security implications, particularly the risk to groups of people from interaction with hostile vehicles, and the creation of large crowds in public spaces. Additionally, the impact of several pavement licences in an area may result in larger, distributed, or dense crowds of people.
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour, excessive noise and litter; and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings, and its users, taking account of:
 - considerations under the no-obstruction condition including the cumulative impact of multiple pavement licences in close proximity, in particular considering the needs of disabled people, see section 3.6 below,
 - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles,
 - whether there are other permanent street furniture or structures in place on the footway that already reduce access,
 - the impact of access and egress to the premises
 - the impact on any neighbouring premises
 - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.2 of [Inclusive Mobility](#), and
 - other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and take any issues around noise, and nuisance into consideration as part of the proposal.

3.6 Ensuring the needs of disabled persons

When determining whether furniture constitutes an unacceptable obstruction the Council must consider the needs of disabled people.

In order to do this, the Council will consider the following matters when setting conditions, determining applications and when considering whether enforcement action is required:

- Section 3.2 of Inclusive Mobility - gives advice on the needs of particular pavement users sets out a range of recommended widths which would be required, depending on the needs of particular pavement users. Section 4.2 of Inclusive Mobility sets out that footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters. The Council is aware of the restricted nature of some of the streets in the borough and therefore will take a proportionate approach if this is not feasible due to physical constraints. A minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other.
- any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. However, as these are not necessary for the consumption of food, this will need to be balanced to ensure any barriers do not inhibit other street users, such as the mobility impaired, as such barriers may create a further obstacle in the highway. Advertising boards are not included in the definition of furniture within the pavement licensing regime, therefore, should not be used as a barrier;
- any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway or force pedestrians into the highway. The available route must be entirely clear for pedestrians to use and not be impeded with tables and chairs;
- the cumulative impact of multiple pavement licences in close proximity to each other and if there is specific evidence that this may create a build-up furniture in a particular area and potentially cause obstruction on the footway for certain pavement users, such as disabled people;
- so that where possible furniture is non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction – for example, the local authority could refuse the use of plastic patio furniture, unless measures have been taken to ensure it is kept in place.

Section 149 of the Equality Act 2010 places a duty on the Council to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who do not and foster or encourage good relations between people who share a protected characteristic and those who don't.

3.7 Determination

Once the application is submitted the Council has 28 days from the day after a valid application is made (excluding public holidays) to consult on and determine the application. This consists of 14 days for public consultation, and then 14 days to consider and determine the application after the consultation period has ended.

If the local authority determines the application before the end of the determination period, the local authority can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application,
- impose conditions on any licence granted, or
- refuse the application.

If the local authority does not determine the application within the 28 day period, the application will be deemed to have been granted subject to any published local or national conditions.

Applications will normally be determined by an Officer with the appropriate delegation due to the determination period as set out in the Act resulting in timing difficulties in convening a Regulatory Sub-Committee.

3.8 Approval of Applications

North Warwickshire Borough Council supports the aims of the Business and Planning Act and wishes to help promote economic growth and a 'café culture' in its area and will therefore seek to grant applications for licences where possible.

However this aim has to be balanced with the need to ensure the issuing of pavement licences does not put public health or safety at risk, does not lead to antisocial behaviour or public nuisance and ensures that the public, particularly those with disabilities such as sight impairment are unhampered when walking along streets.

The Council will consider the criteria contained within these guidelines in determining applications and will treat each case on its merits.

On approving the application, the Council will issue a Pavement Café Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions, which will be attached to all Pavement Café Licences are shown at Appendix 2. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

The Council generally will only permit Pavement licences between 09:00 and 23:00.

Applications outside these hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

3.9 Licences Deemed to be Granted

The Council aims to determine all applications within the determination period provided by the Act. That means that applications will be granted or refused within the period of 14 days beginning with the first day after the public consultation period.

If the Council does not make a determination by the end of the determination period, the Act provides that the licence is deemed to have been granted for two years and the business can place the proposed furniture such as tables and chairs within the area set out in the application for the purpose or purposes proposed.

3.10 Licence Duration

If the Council determines an application before the end of the determination period (which is 14 days, beginning with the first day after the end of the public consultation period, excluding public holidays) the duration of the licence will be specified.

The expectation from the Guidance is that local authorities will grant licences for two years unless there are good reasons for granting a licence for a shorter period, such as plans for future changes in use of road space.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for two years.

3.11 Refusal of Applications

If the site is deemed unsuitable for a Pavement licence, or if relevant representations are made which cannot be mitigated by imposing conditions, then the application may be refused.

The Council may refuse an application on other grounds including (but not limited to) where the granting of the licence would put at risk public health or safety, lead to antisocial behaviour or public nuisance or unreasonably hamper pedestrian's ability to move freely.

The Council will notify applicants of the reasons for refusal following determination.

There is no statutory appeal process against a decision to refuse an application.

4. Conditions

4.1 Local Conditions

The Council's standard conditions are set out at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application and representations received on a case by case basis.

Where a local authority sets a local condition that covers the same matter as set out in national published conditions, then the locally set condition takes precedence over the national condition to the extent that it is inconsistent with it.

4.2 National Conditions

The national conditions relating 'no obstruction' and provision of 'no smoking' areas applies to all Licences. The National conditions are shown in Appendix 3.

4.3 National No Obstruction Condition

Section 3.6 above provides guidance on ensuring the needs of disabled persons and consequently the no-obstruction condition.

4.4 National No Smoking Condition

The national smoke-free seating condition seeks to ensure customers have greater choice, so that both smokers and non-smokers are able to sit outside.

It is important that businesses can cater to their customers' preferences. The National Conditions impose a smoke-free seating condition in relation to licences where seating used for the purpose of consuming food or drink has been placed on the highway. The condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area.

The Council will not prescribe how businesses will wish to cater for their customers, however ways of meeting this condition could include:

- Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (Signs) Regulations 2012.
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
- Licence holders should provide a minimum 2m distance between non-smoking and smoking areas, wherever possible.

Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.

5. Enforcement

5.1 General Principles of Enforcement

The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or the Police. The Council will normally seek to rectify any issues arising as a consequence of the activities authorised by a pavement licence by engaging in informal discussions with the licence holder in the first instance.

Obtaining a Pavement Licence does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, applicants must ensure all such permissions, etc. are in place prior to operating.

All enforcement activity will be undertaken in line with the principles set out in the Regulator's Code and the Council's Enforcement Policy.

5.2 Breaches of Pavement Licence Conditions

If the Council considers that a licence-holder has breached any condition of the licence, the authority may:

- revoke the licence, or
- serve a notice on the licence-holder requiring the taking of such steps to remedy the breach as are specified in the notice within such time as is so specified.

If a licence-holder on whom an enforcement notice is served fails to comply with the notice, the Council may:

- revoke the notice, or
- take the steps itself and recover the costs of doing so from the licence holder.

The Council may revoke a licence in the following circumstances:

1. For breach of condition, (whether or not a remediation notice has been issued) or
2. Where:
 - There are risks to public safety.
 - the highway is being obstructed (other than by anything permitted by the licence);
 - there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night or litter is not being cleaned up;
 - it comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
 - the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.
3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.

5.3 Removal of Unlicensed Furniture

The Levelling Up and Regeneration Act introduces a new provision allowing the Council to deal with unlicensed Pavement Café facilities.

In cases where furniture which would normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, The Council can give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.

If furniture continues to be placed on the highway, in violation of the notice, the Council may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid. If within 3 months of the notice, the costs are not paid, the Council can dispose of the furniture by sale or other means and retain the proceeds.

6. Review Procedures

Now there is a permanent Pavement Licensing regime, the Council's Policy has been updated to reflect the new procedures in place and revised Guidance published by the Department for Levelling Up, Housing and Communities in April 2024.

This Policy will be reviewed from time to time should changes occur in relevant legislation or guidance, or the nature of Pavement licences generally, or as a result of local considerations within the North Warwickshire Borough. In any case the Policy will be reviewed after a period of 5 years following adoption.

Site Notice Template for display by an applicant for a Pavement Licence.

Section 2 of the Business and Planning Act 2020.

I/We *(name of applicant)*,

do hereby give notice that on *(date of application)* [I/we] have applied to North Warwickshire Borough Council for a 'Pavement Licence' at:

(postal address of premises)

known as

(name premises known by)

The application is for:

(brief description of application (e.g outdoor seating to the front of the premises for serving of food and drink))

Any person wishing to make representations to this application may do so by writing, preferably by email, to:

Licensing
North Warwickshire Borough Council
The Council House
South Street
Atherstone
CV9 1DE
Licensing@northwarks.gov.uk

by: *(last date for representations being the date 14 days after the date the application is submitted to the local authority (excluding public holidays))*

The application and information submitted with it can be viewed on the Council's website at:

Signed

Dated *(date the notice was placed which must be the same date as the date of application)*

Pavement Licence Standard Conditions

1. The Holder(s) of this Licence is not permitted to carry out the activities authorised by this Licence otherwise than strictly in accordance with the Licence and these Conditions.
2. The Holder(s) shall produce a copy of this Licence on demand when so required by a Police Officer or an Officer of the Council authorised in writing under the Act.
3. The Holder(s) shall return this Licence to the Council at Council House, South Street, Atherstone, Warwickshire, CV9 1DE immediately on revocation of this Licence.
4. The Holder(s) shall not cause any unnecessary obstruction of the highway or danger to persons using it and shall not permit persons to gather in the Licensed Area so as to cause a nuisance or annoyance or danger to any person lawfully using the highway. A clear width of 1.5m of footway (or any other distance specified in your Licence) is to be left for the safe passage of pedestrians.
5. The Holder(s) shall not use or allow to be used any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio or television receiving sets whilst carrying out the activities authorised by this Licence unless otherwise permitted by the Council in writing.
6. The Holder(s) shall not make any excavation or indentations of any description whatsoever in the surface of the Licensed Area or surrounding highway or place or fix any equipment or furniture of any description other than as referred to in this permission on the surface of the Licensed Area or surrounding highway.
7. The Licensed Area must be used solely for the purpose of selling or serving food or drink supplied from the premises or consuming food or drink supplied in connection with that purpose and not for any other purpose whatsoever.
8. The Holder(s) shall have full responsibility for the Licensed Area, which must be adjacent to their premises. The total number of customers using the Licensed Area must be monitored in order to prevent overspill on to the highway outside the Licensed Area.
9. Licences will not usually be granted to allow activities to take place outside the hours of 0900 to 2300. Specific times will be stated on each Licence.
10. If the Licensed Area is licensed for the consumption of alcohol the Licence Holder shall display in a prominent position, as specified by the Council, a notice setting out the hours for which the premises are licensed to sell alcohol.

(Licence holders should also note that:

You may only sell alcohol if you have a Licence granted by your local Council. If you have not already got one you should contact your local Council to find out how you can apply for one.

Other Conditions on their Licence to sell alcohol under the Licensing Act 2003 must also be complied with in relation to the sale of alcohol in the Licensed Area)

11. The Holder(s) shall not place on the highway any furniture or equipment or advertisement other than as expressly permitted by the Licence and must maintain the furniture and equipment in a clean and tidy condition and not place it so as to obstruct the entrance to or exit from any premises. All furniture and equipment must comply with the terms of the Licence.
12. The Holder(s) shall not make any claim or charge against the Council in event of the furniture or equipment or other objects being lost, stolen or damaged in any way from whatever cause whilst in use under the Licence.
13. The Holder(s) shall not do or suffer anything to be done in or on the Licensed Area or adjoining highway which in the opinion of the Council may be or become a danger, nuisance or annoyance to or

cause damage or inconvenience to the Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.

14. The Holder(s) shall not assign, underlet or part with this Licence or any interest or possession given by it but the Holder(s) may surrender it to the Council at any time by written electronic notice in a form approved by the Council.

15. The Holder(s) shall observe and comply with any directions in relation to the use of the highway given by Officers of the Council authorised in writing. In particular, access shall be provided at all times for highway works by statutory undertakers or telecommunications operators.

16. The Holder(s) shall maintain the Licensed Area shown edged in red on the plan attached to this Licence, and the immediately adjacent highway, in a clean and tidy condition during the hours permitted by this Licence. The Holder shall leave those areas in a clean, tidy and unobstructed condition at the end of each period of daily use permitted by this Licence which shall include (1) sweeping and/or washing down the area as necessary, and (2) removing any refuse and litter deposited on the highway in the vicinity of the furniture and equipment.

17. The Licensed Area shall be surrounded by planters or ropes or other suitable barriers to contain the furniture and equipment within the boundary. Any such barriers must comply with good practice in the Secretary of States' Guidance in relation to Pavement Licences to assist people with visual impairment to recognise the boundary.

18. The Holder(s) shall provide litterbins or similar receptacles for the deposit of cartons, wrappers, containers and similar discarded items and ensure that these are emptied daily. Waste from the Holder(s) use of the Licensed Area must not be disposed of in the permanent litterbins provided by the Council within the highway.

19. The Holder(s) shall remove all furniture and equipment or other articles placed on the highway in accordance with this Licence at the end of each period of daily use permitted by this Licence. The Holder must provide suitable storage for all furniture and equipment when not in use in accordance with this Licence and may not store furniture and equipment on the highway.

20. The Holder(s) shall indemnify the Council against all actions, proceedings, claims, demands and liability which may at any time be taken, made or incurred in consequence of the use of the furniture and equipment and for this purpose must take out and maintain throughout the duration of this licence at the Holder(s) expense a policy of insurance approved by the Council in the sum of at least, £5,000.000 in respect of any one event. The Holder must produce current receipts for premium payments, policy documents and confirmation of annual renewal of the policy on request to an Officer of the Council authorised in writing under Act.

21. The Council may revoke this licence at any time as permitted by the Act and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the Holder(s) in respect of such revocation. The Council may also serve notice on the holder requiring them to remedy any breach of this Licence and, should they fail to do so take the action required under that notice and recover the costs of doing so from the Licence holder.

22. Nothing in the Licence or these Conditions shall be construed as the granting or purported granting by the Council of any tenancy under the Landlord and Tenant Act 1954 or any permission under the Town and Country Planning Act 1990 or any statutory modification or re-enactment thereof for the time being in force.

23. The Holder(s) shall be responsible for any rates, taxes and outgoings, which may be charged in relation to the Licensed Area under any enactment or agreement.

24. The Holder(s) must be aware of any potential conflict with and must not interfere with any special cyclic events on the highway including but not limited to Markets, Fairs, Seasonal Events, Sporting Events, Local Events.

25. Any failure to comply with any Conditions of this Licence may be considered by the Council in determining whether to grant any subsequent Licence under the Act or similar legislation relating to use of the highway.

26. If the Holder ceases to trade during the duration of this Licence, no refund of the application fee will be issued under any circumstances.

27. The Licence Holder shall use plastic and/or polycarbonate glasses for serving alcoholic drinks in the Licensed Area.

28. The Licence Holder must comply with any relevant health protection legislation which is in force at any time when this Licence is in effect and ensure that the Licensed Area is operated in accordance with that legislation and/or guidance.

'Holder' means the person or persons who apply for a Licence and are granted a Licence.

'Licensed Area' means the area shown on the plan attached to the Licence granted by the Council.

'Premises' means the shop, pub, restaurant or other business premises from which you are trading or intend to trade from and in connection with which food and/or drink is to be served.

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National Conditions

The Secretary of State publishes this condition in exercise of their powers under Section 5 of the Business and Planning Act 2020:

1. Condition relating to clear routes of access:

It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.2 of [Inclusive Mobility](#).

Guidance on the effect of this condition:

- Section 3.2 of Inclusive Mobility - gives advice on the needs of particular pavement users sets out a range of recommended widths which would be required, depending on the needs of particular pavement users. Section 4.2 of Inclusive Mobility sets out that footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters. Local authorities should take a proportionate approach if this is not feasible due to physical constraints. A minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other.
- any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. However, as these are not necessary for the consumption of food, this will need to be balanced to ensure any barriers do not inhibit other street users, such as the mobility impaired, as such barriers may create a further obstacle in the highway. Advertising boards are not included in the definition of furniture within the pavement licensing regime, therefore, should not be used as a barrier;
- any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway or force pedestrians into the highway. The available route must be entirely clear for pedestrians to use and not be impeded with tables and chairs;
- the cumulative impact of multiple pavement licences in close proximity to each other and if there is specific evidence that this may create a build-up furniture in a particular area and potentially cause obstruction on the footway for certain pavement users, such as disabled people;
- so that where possible furniture is non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction – for example, the local authority could refuse the use of plastic patio furniture, unless measures have been taken to ensure it is kept in place.

2. Condition relating to smoke-free seating

The national smoke-free seating condition seeks to ensure customers have greater choice, so that both smokers and non-smokers are able to sit outside.

It is important that businesses can cater to their customers' preferences. The Business and Planning Act 2020 imposes a smoke-free seating condition in relation to licences where seating used for the purpose of consuming food or drink has been, (or is to be) placed on the relevant highway. The condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area. Ways of meeting this condition could include:

Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (Signs) Regulations 2012. No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.

Licence holders should provide a minimum 2m distance between non-smoking and smoking areas, wherever possible.

Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.