

**FAREHAM**  
BOROUGH COUNCIL

# Taxi and Private Hire Licensing Conditions of Licencing 2022 - 2027

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## **1. Summary**

- a) The operation of a successful hackney carriage and private hire vehicle service is essential to the economic well-being of the Borough. It is equally important that the service provided by the Trade be properly regulated in order to instil confidence in the travelling public who wish to use the service. The overriding objective is to ensure Public Safety.
- b) There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector. The Council also has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to these core minimum standards and do this in a consistent and transparent manner.
- c) This policy contains information about legal requirements, government guidance, council policy, procedures and standards relevant to hackney carriage and private hire licensing.
- d) Licensing authorities should review their licensing policies every five years. Consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades' customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest, women's groups, local traders and the local multi-agency safeguarding arrangements.

## **2. Introduction**

### **2.1 Powers and Duties**

- a) This Taxi Licensing Policy has been produced pursuant to the powers conferred by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on the Council the duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles.
- b) The aim of the licensing process is to regulate the hackney carriage and private hire trade in order to promote well-run and responsible businesses that display sensitivity to the wishes and needs of the general public.
- c) The licensing authority will engage with their police force to monitor licensees' suitability.

### **2.2 Policy Status**

- a) In exercising its discretion in carrying out regulatory functions, the Council will have regard to this policy document.
- b) Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart substantially from its policy, clear and compelling reasons will be given for so doing.

- c) This policy (and associated work procedures) will provide those Council Officers who are required to administer the licensing function with appropriate guidelines within which to act. The Council may need to consider applications outside the policy.
- d) This policy took effect on **TBC** and will remain in existence for a period of five years, during which it shall be kept under review and revised as appropriate. Any changes in the licensing requirements will be followed by a review of the licences already issued. Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits.

### 3. Definitions

Throughout this document:

- “The Council” or “The Authority” means Fareham Borough Council.
- A “private hire driver” is a licensed driver who can drive private hire vehicles only.
- A “hackney carriage driver” is a licensed driver who can drive hackney carriage vehicles only.
- A “dual driver” is a licensed driver who can drive both types of vehicles.
- “Vehicle” or “Licensed Vehicle” means both a hackney carriage and private hire vehicle.
- “Hackney carriage” means a vehicle licensed under the Town Police Clauses Act 1847 to ply for hire throughout the district controlled by the Council.
- “Private hire vehicle” means a vehicle licensed under the Local Government (Miscellaneous Provisions) Act 1976 to carry passengers for hire or reward by prior booking.
- “Private hire operator” means a person who makes provision for the acceptance of private hire bookings to undertake themselves or pass to others to undertake.
- “The DfT” means the Department for Transport, including previous names under which that Department has been known.
- “The DfT Guidance” means The Department for Transport - Hackney Carriage and Private Hire Vehicle Licensing: Best Practice Guidance, published in March 2010.
- “The Committee” will mean the Licensing and Regulatory Affairs Committee of the Council.
- The word “Taxi” has no meaning in law and is often used generically to describe both hackney carriages and private hire vehicles.

- The term “DVLA driving licence” means a full original GB driving licence issued by the Driver and Vehicle Licensing Agency.

## **4. Background**

### **4.1 Role of Hackney Carriages and Private Hire Vehicles**

Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside “normal” hours of operation such as in the evenings or on Sundays), and/or for those with mobility difficulties.

### **4.2 Aims**

The aim of licensing the hackney carriage and private hire vehicle trade is, primarily, to protect the public as well as to ensure that the public have reasonable access to these services, because of the part they play in local transport provision. It is important that the Council’s hackney carriage and private hire licensing powers are used to ensure that licensed vehicles in the borough are safe, comfortable, properly insured and available where and when required. The hackney carriage and private hire industry within the Council’s area is fairly comprehensive and provides its population with a reasonable service.

### **4.3 Licensing Profile**

The Council currently licenses approximately 150 hackney carriages and 90 private hire vehicles. There are approximately 310 hackney/private hire drivers licensed by the Council.

### **4.4 Review of Policies & Practices**

- a) The Council has responsibility for licensing hackney carriage and private hire vehicles, drivers and operators within the borough of Fareham.
- b) This guidance sets out what is best practice in terms of hackney carriage and private hire licensing. It does not seek to cover the whole range of possible licensing requirements. Instead it seeks to concentrate only on those issues that have caused difficulty in the past or that seem of particular significance.

### **4.5 Best Practice Guidance & Legislation**

- a) The Department for Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales, it has produced Statutory Taxi and Private Hire Vehicle Standards.
- b) In 2006 the DfT produced a Best Practice Guidance to assist local authorities with the regulation of the hackney carriage and private hire trades. It was directed at local authorities in England and Wales to “decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes”. There was recognition, within the document, that it is for individual

licensing authorities to reach their own decisions both on overall policies and on individual licensing matters, in the light of their own views of the relevant considerations.

- c) In July 2020 the DfT's Guidance was updated, this policy takes the 2020 version into account.
- d) This document also takes account of the legislative basis of the Council's taxi licensing powers, contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended.
- e) Other guidance, such as that associated with legislative amendments under the Equalities Act 2010 and Immigration Act 2016 have been taken into account. This is in addition to other good practice guidance such as the Local Government Association guidance on the relevance of criminal convictions and the Guide Dogs for the Blind Association guidance on taxi access for the visually impaired.

#### **4.6 Costs and Benefits of Licensing Policies**

- a) The Guidance stresses that licensing requirements that are unduly stringent are likely to unreasonably restrict the supply of hackney carriage and private hire services, by increasing the cost of operation or by otherwise restricting entry to the trade. Licensing authorities are, therefore, cautioned to recognise that too restrictive an approach may well work against the public interest and can have safety implications.
- b) Licensing authorities are encouraged to ensure that each of their various licensing requirements is properly justified by the risk it seeks to address. The financial or other cost of a particular requirement, in terms of its effect on the availability of transport to the public, should at least be matched by the benefit it will provide to the public, for example, through increased safety.

### **5. Vehicles - (Hackney Carriage & Private Hire)**

#### **5.1 Limitation of Numbers**

- a) No powers exist for licensing authorities to limit the number of private hire vehicles that they licence. The present legal provisions on quantity restrictions for hackney carriage vehicles are set out in section 16 of the Transport Act 1985. This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed hackney carriages "if, but only if, the local authority is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet". In the event of a challenge to a decision to refuse a licence on these grounds, it would, therefore, have to be established that the Council had been reasonably satisfied that there was no significant unmet demand.
- b) Many Councils do not impose any quantity restrictions on hackney vehicles and the DfT regards this as best practice. Where restrictions are imposed,

licensing authorities are urged to regularly reconsider the matter, taking into account whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of those who use the services of such vehicles.

- c) Where quantity restrictions are imposed, vehicle licence plates command a premium, often of thousands of pounds. This tends to suggest that there are people who want to enter the market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions.
- d) If the Council were to take the view that a quantity restriction can be justified in principle, the Guidance advises that the level at which the limit should be set is addressed by means of a survey.
- e) The Council does not intend to set a limit on the number of hackney carriages that it licences, since no evidence has been provided of any difficulty arising from this stance.

## **5.2 Specifications and Conditions**

- a) Local authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriages and private hire vehicles.
- b) The DfT Guidance suggests that best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible. Authorities are encouraged to leave it open to the trade to put forward vehicles of their own choice, which can be shown to meet basic criteria. In that way, emerging new designs for vehicles can be readily taken into account.
- c) Licensing authorities are asked to be particularly cautious about specifying only purpose-built hackney carriages, with the strict constraint on supply that that implies. Councils are however encouraged to make use of the “type approval” rules within any specifications they determine this is explained in more detail elsewhere in this policy.
- d) The Council is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a hackney carriage or private hire vehicle licence. Hackney carriages and private hire vehicles provide a service to the public, so it is appropriate to set criteria for the external and internal condition of the vehicle, if these are not unreasonably onerous. The council has adopted minimum standards as set out in Appendix A, which it will normally apply in respect of all licensed vehicles.
- e) Vehicles will, in general, be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be accepted, provided that there is compliance with the specifications applicable to such vehicles.

## **5.3 Accessibility**



- a) All proprietors of Hackney Carriage vehicles must advise their drivers that they are required to take travel tokens in lieu of cash.
- b) The Government is committed to an accessible public transport system in which disabled people have the same opportunities to travel as other members of society. While the Disability Discrimination Act (DDA) 1995 and the Equalities Act 2010 allow regulations to set standards for wheelchair accessible taxis.
- c) The Disability Discrimination Act and Equalities Act places certain duties on licensed drivers to provide assistance to people in wheelchairs, to carry them safely and not to charge extra for doing so. Failure to abide by these duties could lead to prosecution and a maximum fine of £1,000.
- d) A list of all wheelchair accessible vehicles will be maintained in accordance with section 167 of the Equalities Act 2010 on the licensing webpage. This will place a duty on the drivers of the listed vehicles to comply with the requirements under section 165 of said Act. This list will be periodically updated based on the details given at the time of vehicle licensing.
- e) The National Taxi Association, supported by ROSPA (Royal Society for the Prevention of Accidents) and several disabled persons groups have in the past written to all licensing authorities asking them to prohibit the use of hackney carriage vehicles which are adapted for disabled passengers, where the wheelchair is loaded only from the rear rather than the side of the vehicle. The argument for this approach is that the wheelchair user has to be on the road during loading and unloading and is, therefore, exposed to risk from traffic. This is seen as being particularly relevant for hackney carriages, which, of necessity, operate from side loading hackney carriage stands.
- f) It is arguable that different accessibility considerations should apply as between hackney carriage and private hire vehicles in that customers dealing directly with the driver can hire hackney carriages on the spot, whereas private hire vehicles can only be booked through an operator. It is considered particularly important that a disabled person should be able to hire a hackney carriage on the spot with the minimum of delay or inconvenience and having accessible hackney carriage vehicles available helps make that possible.

#### **5.4 Maximum Age of Vehicles**

The Council has an age restriction on new licensed hackney carriage vehicles, but all applications for the licensing of vehicles will be treated on its individual merit. However, conditions have been placed on the licensing of vehicles. Applicants wishing to licence vehicles outside of this policy should show sufficient reason for the Council to deviate from agreed policy.

#### **5.5 Vehicle Testing**

- a) No vehicle may be used as a hackney carriage or private hire vehicle unless it has been given a clean bill of health (Engineer's Report and MOT) and the

Council has appropriately licensed it. Responsibility for ensuring the vehicle is tested and licensed remains with the licence holder.

- b) The proprietor of any vehicle licensed by the Council shall, at the request of any authorised officer of the Council, produce for inspection the vehicle licence and any other documentation as required.

## **5.6 Advertising**

- a) Advertising may be placed on the front lower driver and passenger doors of a Hackney Carriage or Private Hire vehicle. This may contain the name and telephone number of the company and for Private Hire companies the words "pre-booked only". In addition, a small strip providing only the company details on the rear windscreen (name, telephone number). Internal advertising will be at the proprietor's discretion. All advertising must be approved by the Licensing Officer prior to it being placed on the vehicle.
- b) There shall not, on any private hire vehicle licensed as such in the Borough of Fareham, be displayed on or from that vehicle any sign, notice or mark which consists of or includes:
  - i. The word "taxi" or "cab", whether in the singular or plural, or "hire" or any other word similar meaning or appearance to any of those words, whether alone or as part of another word, or
  - ii. Any illumination or other feature which, having regard to the time and place at which it is displayed and to any other circumstances, may suggest to a person seeking to hire a private hire vehicle or a taxi-cab that the vehicle is used for the purpose of carrying passengers for hire or reward, i.e. roof sign.
- c) The above refers to advertising in all media.
- d) The Council reserves the right to require that any advertisement it deems unsuitable be removed forthwith.

## **5.7 Exemption from displaying plates**

- a) The Local Government (Miscellaneous Provisions) Act 1976 requires that private hire vehicles and drivers always display the relevant licence plate and badge issued by the Council. The same legislation also permits a Council to exempt the display of licence plates and, where that exemption applies, the requirement to wear a private hire driver's badge does not apply.
- b) The open display of these identifying plates and badges is important in terms of protecting both the public and the taxi trade. However, there are limited occasions when the display of such identification may have the opposite effect both in terms of customer safety and commercial implications for the operating business. The operation of chauffeured, executive and limousine vehicles is a case in point. Identification of the vehicle as a licensed vehicle may allow "high risk" passengers to be more readily targeted putting both

them and the driver at risk. The display of the Council's licence plates externally may also deter some customers from using the service.

- c) It is not intended that all private hire vehicles should have access to this exemption. Only a small minority operating the type of service described above. To that end it is only considered appropriate to consider issue of exemption notices where the following requirements are met:
- The vehicle to be exempted is of a high quality both in terms of brand and condition
  - Vehicles will display a window plate, issued by the Council, in the front windscreen
  - The vehicle must have no visible defects, dents or blemishes to the external bodywork or internal trim.

## **5.8 Closed Circuit Television (CCTV)**

- a) The DfT Best Practice Guidance recommends licensing authorities look sympathetically on the installation of security measures, such as a screen between driver and passengers or CCTV systems as a means of providing some protection for vehicle drivers.
- b) The Council will not require enhanced security or CCTV measures in vehicles as it is considered that they are best left to the judgment of the owners and drivers themselves. The hackney carriage and private hire vehicle trades are, however, encouraged to build good links with the local police force, including participation in any Crime and Disorder Reduction Partnerships.
- c) If CCTV facilities are installed in a licensed vehicle, the proprietor will be responsible for ensuring the system conforms to the Data Protection Act and other relevant legislation and displays the necessary informative notice for passengers.

## **5.9 Consideration of Applications**

Council will consider all applications on their own merits once it is satisfied that the appropriate criteria have been met and the application form and supporting documents are complete.

## **5.10 Grant and Renewal of Licences**

- a) Hackney carriage and private hire vehicle licences will be granted for 12 months. However, a licence may be granted for a shorter period, should this be appropriate in the circumstances.
- b) Council Officers will send a reminder letter to the current taxi proprietor or operator two months before the existing licence expires in order to assist applicants in their prompt submission of re-licensing applications, but the

responsibility to ensure a vehicle is licensed remains with the proprietor or operator.

- c) Officers may only accept complete applications comprising of all the necessary paperwork. If an application is received late, the applicant's vehicle may be unlicensed for a period during which they will be unable to use it as a licensed vehicle.
- d) The licence fees payable are subject to annual review and will be published together with other Council licensing fees.

### **5.11 Environmental Considerations**

- a) The DfT Guidance suggests that licensing authorities, in discussion with those responsible for environmental health issues, may wish to consider how far their vehicle licensing policies can and should support any local environmental policies that the Council may have adopted.
- b) The impact of any standards should be carefully and thoroughly assessed, for example the effect on the supply of taxis and private hire vehicles in the area, to ensure the benefits of any policies outweigh the costs.
- c) As part of the consultation those responsible for environmental health issues will be asked for their views.
- d) As of 2 July 2018, the following vehicle standards apply for first licensing and transfers:
  - a. be at least Euro 6 for diesel vehicles;
  - b. be at least Euro 4 for petrol vehicles;
  - c. be an ultra-low emission vehicle (ULEV) or
  - d. be at least a Euro 5 or 6 hybrid vehicle.

### **5.12 Stretched Limousines & Speciality Vehicles**

- a) Stretched limousines are elongated saloon cars that have been increasingly used for mainstream private hire work. Their use generally includes all private hire work plus special occasions such as stag and hen parties and children's birthday parties. Speciality vehicles may include vintage and themed vehicles.
- b) The licensing of limousines and speciality vehicles will be approached on the basis that these vehicles have a legitimate role to play in the private hire trade, meeting a public demand. Therefore, licence applications for such vehicles will not be automatically rejected (for example just because the vehicles may be left-hand drive) and each application will be considered on its merits.
- c) The Driver and Vehicle Standards Agency (DVSA) has a process for vehicle approval. The Individual Vehicle Approval (IVA) inspection regime, which verifies that a converted vehicle is built to certain safety and environmental

standards. It is proposed that this standard is required from all limousine and specialty vehicles that do not meet the standard vehicles standards.

- d) As these vehicles may not meet the usual vehicle specification, additional documentation and inspection will be needed in order that the Council's responsibility to ensure safety and suitability, prior to a licence being issued, can be met (see Appendix A).
- e) The Council strongly recommends that anyone wishing to licence a limousine contacts the licensing section before purchasing a vehicle to ensure that advice can be provided as to whether the vehicle will meet the required standards, as each vehicle will be considered on its merits.

### **5.13 Contract Vehicles**

Effective from January 2008, the Road Safety Act 2006 has repealed section 76 of the Local Government (Miscellaneous Provisions) Act 1976, removing the exemption to be licensed as a private hire if working under a contract. The implication is that additional vehicles will require licensing. While the Courts will provide the definitive interpretation of the law, Fareham Borough Council is following guidance issued by the Department of Transport in relation to definitions of private hire vehicles that will require licensing. Organisations that may be affected by the changes described above should also consider seeking their own independent legal advice.

### **5.14 Funeral Vehicles**

There is no requirement for a vehicle to be licensed where it is being used in connection with a funeral or is being wholly or mainly used by a person carrying on the business of a Funeral Director for the purpose of funerals.

### **5.15 Wedding Vehicles**

A vehicle does not need to be licensed while it is being used in connection with a wedding.

Written certification from the Council of the relevant exemption claimed is not currently required and it is not proposed to change this arrangement.

### **5.16 Courtesy Cars**

- a) All vehicles with 8 or less seats that carry passengers for hire and reward must be licensed with the Council. Although there has been some legal debate regarding this particular issue, current case law supports the view that vehicles which are used as "courtesy cars", i.e. for transporting customers to and from hotels, night-clubs, etc. are being provided for hire and reward in the course of business, irrespective of whether or not a charge is made for such service. They should, accordingly, be licensed with the local Council, as should their "operator".

- b) Those operating “courtesy cars”, i.e. for transporting customers to and from hotels, nightclubs, etc. should have an operator’s licence, and the vehicle and the driver must be appropriately licensed.

## **5.17 Livery**

Some Councils require taxis to conform to requirements in terms of livery and markings, in order that they may be easily identified. Such a burden is not considered appropriate in this Council’s area. It is felt that that the visual distinction between hackney carriages and private hire vehicles can be achieved by the appropriate signage (see Appendix A). The Council does not require that licensed vehicles be finished in a special livery or appearance, notwithstanding requirements set out in Appendix A.

## **6. Drivers - (Hackney Carriage & Private Hire)**

### **6.1 Parallel Procedures**

The statutory and practical criteria and qualifications for a private hire driver are broadly similar to those for a hackney carriage driver. The sections below, therefore, apply equally to private hire and hackney carriage drivers.

### **6.2 Licensed Drivers’ Licences**

This Council issues private hire drivers’ licences, hackney carriage licences and dual drivers’ licences that permits drivers to drive both types of vehicle.

### **6.3 Age and Experience**

The Guidance recommends against setting a maximum age limit for drivers provided that regular medical checks are made on them. It also considers that minimum age limits, beyond the statutory age for holding a full driver’s licence are inappropriate, advising that applicants should be assessed on their merits. The Council will not impose either a maximum or minimum age limit for drivers. However, a minimum period of post-qualification experience of two years is required.

### **6.4 Testing**

Drivers will be required to undertake testing as part of the application procedure. Details of the tests are available in the applications packs.

Private Hire driver licences, where the applicant provides evidence that they are working for an Operator, where work will entail very specific types of work (i.e. school contracts, airport trips only, etc.), the applicant will not have to take the knowledge test.

### **6.5 Driving Proficiency and Qualifications**

New applicants will be expected to have passed a suitable driving assessment approved by the Council.

## **6.6 Medical Examination**

- a) The DfT recognises that it is clearly good practice for medical checks to be made on each driver as a condition for the initial grant of a licence and subsequent renewals. The Council has adopted the relevant DVLA 17 medical standard i.e. 'Group 2'. This is the standard applied to the licensing of lorry and bus drivers and is considered to be best practice.
- b) A medical examination by a GP at the applicant's surgery (if not possible other surgeries may be permitted at the discretion of the Council), to assess fitness to drive a licensed vehicle, is required before a licence may be granted. A DVLA Group 2 standard of medical fitness for professional drivers will be required.
- c) A request form for a medical examination, which may be presented to the applicant's GP, is obtainable from the Council. The applicant will be responsible for paying the fee for the examination to the relevant surgery. On completion of the examination, the report must be submitted to the Council.
- d) The Council will then submit this report to their Occupational Doctors for them to assess whether the applicant meets the DVLA Group 2 standards.
- e) Existing licence holders, having presented a medical certificate upon first being granted a licence, will be required to be re-examined every five years between the ages of 45 until 65 years of age. Annual medical checks will be required for those aged 65 years and over. More frequent checks will also be necessary if, in the opinion of the medical practitioner, it is necessary.
- f) Holders of current passenger carrying vehicle and/or large goods vehicle licences will not be exempt from the Council's medical requirements.
- g) Licence holders must advise the Council of any deterioration in their health that may affect their driving capabilities.
- h) Where there is any doubt as to the medical fitness of the applicant, the Council may require the applicant to undergo and pay for a further medical examination/ tests by a doctor.
- i) Where there remains any doubt about the fitness of any applicant, the Council will rely on the Occupational Doctors advice.

## **6.7 Disclosure Barring Service (DBS) Disclosures**

- a) It is the Council's view, supported by the taxi trade, that the public expects all reasonable precautions to be taken when determining whether to grant a licence to drive a hackney carriage or private hire and, as drivers are exempt from Rehabilitation of Offenders Act 1974; an Enhanced Disclosure will be the requirement for new drivers and for those renewing their licences.

- b) The Council requires drivers and operators to apply to the DBS Update Service for the Council to undertake DBS checks every six months.
- c) Licence holders are obliged to notify the Council within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. Importantly, a failure by a licence holder to disclose an arrest that the issuing 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.
- d) If a person applying for an Enhanced Disclosure has not lived in the UK for five years or more, since the age of 10, then an equivalent DBS check (certificate of good conduct duly authenticated) will need to be completed by the Embassy(ies) for the country(ies) in which the applicant has been living.
- e) The Council is an approved Disclosure Barring Service body. Therefore, applicants can deal with the Disclosure Barring Service through the Council.
- f) The Council is bound by rules of confidentiality and will not divulge information obtained to any third parties, except in accordance with the Data Protection Act. The applicant will be sent the disclosure report to their home address and must bring it into the licensing team on receipt.

## **6.8 Tax Conditionality**

- a) In accordance with Schedule 33 of the Finance Act 2021 all drivers and operators must complete a Tax Declaration process upon application and renewal. This process will involve an online check to be carried out by the applicant and a share code to be supplied to the Licensing Department.

## **6.9 Right to Work Check**

- a) All non-UK nationals must demonstrate their right to work via the Home Office online right to work checking service. This process will involve an online check to be carried out by the applicant and a 9 digit share code to be provided to the Licensing Department.

## **6.10 National Register**

- a) It is the Council's view, that if a driver does not disclose information about a previous revocation or refusal of a licence, there is often no way for a licensing authority to find this information out. This means that vital intelligence about an applicant's past behaviour is being missed and an individual might be able to obtain a licence in another area, despite having their licence revoked elsewhere. High profile instances of this happening have undermined public confidence in the safety of hackney carriages and private hire vehicles, and left licensing authorities open to criticism for something that is currently very difficult for them to control.



- b) In response to this issue this Council has subscribed to the National Register of Hackney Carriage and PHV driver licence refusals and revocations (on a database such as NR3).
- c) The register will allow the licensing authority to record details of where a driver's Hackney Carriage or PH driver licence has been refused or revoked (this does not extend to vehicles or operator licences). The system also allows Council's to check new applications against the Register. This will help to prevent people found to be not fit and proper in one area from securing a licence somewhere else through deception and non-disclosure.

### **6.11 Relevance of Convictions and Cautions**

- a) The Guidance recommends that in considering an individual's criminal record, authorities be encouraged to consider each case on its merits, but to take a particularly cautious view of any offences involving violence, dishonesty and sexual offences. Authorities are recommended to have a clear policy for the consideration of criminal records. For example, the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.
- b) In general terms, the more recent, serious and relevant to public safety the offence is, the less likely that an application will be granted.
- c) A DVLA driver endorsement check will be required upon applications for new driver licence applications, to ensure that the information held by the DVLA is in accordance with the information submitted by the applicant. The check will be made on an annual basis for all drivers.

### **6.12 Application Procedure**

- a) An application for a hackney carriage or private hire driver's licence must be made on the specified application form. The application procedure adopted by the Council is set out in Appendix A.
- b) Applicants and licensees are required to disclose if they hold or have previously held a licence with another authority. An applicant is also required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.
- c) Council officers will send a reminder letter to drivers eight weeks before their existing licence expires in order to assist applicants in their prompt submission of re-licensing applications. Drivers should ensure renewal applications are received by the Council a month in advance to ensure that licences can be processed and issued. Responsibility for ensuring renewal applications are made in time remains with the licence holder.

### **6.13 Grant and Renewal of Licences**

- a) Drivers' licences are issued for up to three years up until the age of 65, then on an annual basis.
- b) The Council will issue licences for up to three years but will take special circumstances on board if licences for one year are requested.
- c) Upon renewal of licensing the

### **6.14 Conditions of Licence**

- a) The Council is not permitted to attach conditions to a hackney carriage driver's licence. It is, however, empowered to attach such conditions to a private hire driver's licence as are considered necessary.
- b) Hackney carriage drivers are subject to the Council's byelaws (detailed in Appendix A) and joint licence holders are subject to the private hire driver's conditions.
- c) It is considered that the conditions set out in Appendix A are reasonably necessary and appropriate for private hire drivers.

### **6.15 Code of Conduct & Dress Code**

- a) The Council adopted a Code of Good Conduct for hackney carriage and private hire drivers in 2008 to ensure drivers were aware of the law, minimum standards of behaviour and dress. Details can be found at Appendix A.
- b) Failure to comply with any aspect of the Code of Good Conduct or Dress Code may be addressed as part of enforcement action. Repeated breaches following such advice or warnings may lead to more serious consequences from the Licensing Panel including, if necessary, non-renewal, suspension or revocation of licences.
- c) The Council believes that steps that serve to enhance the professional image of the hackney carriage and private hire trade and promotes the concept that drivers of licensed vehicles as vocational drivers is to be welcomed.

## **7. Private Hire Operators**

### **7.1 Requirements & Obligations**

- a) Any person who operates a private hire service (who is not also a hackney carriage proprietor who permits hackney carriages to be used for private hire) must apply to the Council for a private hire operator's licence. The objective in licensing private hire operators is the safety of the public, who will be using operators' premises and vehicles and drivers arranged through them. But again, best practice, in respect of the controls required over private hire

operators, is to ensure that the costs of any licensing requirements are commensurate with benefits that they seek to achieve.

- b) A private hire vehicle may only be despatched to a customer by a private hire operator who holds an operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a vehicle. A private hire operator must ensure that every private hire vehicle is driven by a person who holds a private hire driver's licence.
- c) Applications for operator's licences must be made on the prescribed form, together with the appropriate fee. The Council will then decide whether the applicant is a fit and proper person to hold such a licence.

## **7.2 Criminal Record Checks**

As private hire operators (as opposed to private hire vehicle drivers) are not exempt in respect of the Rehabilitation of Offenders Act 1974, a current (less than 3 months old) Enhanced Disclosure from the Disclosure Barring Service and a Certificate of Good Conduct from the relevant embassy for overseas applicants, will be required. It is a requirement to sign up to the Update Service with DBS in order for the Licensing Authority to carry out six monthly checks.

## **7.3 Conditions**

The Council has power to impose such conditions on an operator's licence, as it considers reasonably necessary. The standard conditions set out in Appendix A are those considered to be reasonably necessary.

## **7.4 Record Keeping**

- a) Operators are required to keep records of each booking to, for example, enable police checks to be made if any mishap should befall a passenger and assist with the recovery of lost property to the rightful owner.
- b) Operators must keep records in respect of all bookings, vehicles and drivers, for a period of one year.

## **7.5 Licence Duration**

- a) Private hire operators' licences are granted for a five-year period from the date of grant, subject to the power to grant a licence for a shorter period should this be appropriate in the circumstances.
- b) An operator can apply for a licence for the number of vehicles that they have at the time of application. An operator's licence authorises vehicles up to the number stated on the licence. If an operator wishes to add to his or her fleet above that number, then an amendment would need to be applied for.
- c) Holders of existing licences will normally be reminded, in the month preceding their expiry, when their licences are due to be renewed. However, it remains the responsibility of the licence holder to renew their licence.

## **7.7 Address from which an Operator may operate**

- a) Upon the grant of an operator's licence, the Council will specify the address from which the operator may operate. This will be the premises where the records are kept and where bookings are made. The Council will not grant a licence to an operator whose premises are located outside the borough. This is to ensure that proper regulation and enforcement measures may be taken by the Council and is in no way intended to be a restraint of trade.
- b) The operator must notify the Council in writing of any change of his/her address, (whether this is a home address or the address from where he/she operates) during the period of the licence, within 7 days of such a change taking place or, preferably, before this takes place.
- c) It will be the responsibility of the operator to ensure that appropriate planning consent exists for the operational address to be used for that purpose. The grant of a private hire operator's licence will not imply that such consent is necessary or likely to be granted, as such determination will be subject to any appropriate planning application and consultation process.

## **8. Disciplinary and Enforcement Measures**

### **8.1 Enforcement**

- a) It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the hackney carriage and private hire trades. The DfT accepts that the resources devoted by licensing authorities to enforcement will vary according to local circumstances. They remind authorities, however, that it is desirable to ensure that hackney carriage and private hire enforcement effort is at least partly directed to the late-night period, when problems such as touting tend most often to arise.
- b) With a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference, the Council will only intervene where it is necessary and proportionate to do so.
- c) The Handbook set out at Appendix A will be used to ensure that its enforcement effort is reasonable, transparent and well directed.

### **8.2 Disciplinary Hearings**

Disciplinary matters, except in the case of breaches of vehicle requirements, will ordinarily be referred to the Licensing Panel or dealt with by Officers. One of the functions of the Panel is to consider the impact of transgressions of the law on the fitness of an individual to hold a hackney carriage or private hire licence, and to take the action appropriate to the circumstances.

Members of the Licensing Panel will have undertaken sufficient training in licensing procedures, natural justice, understanding the risks of CSAE, disability

and equality awareness and the making of difficult and potentially controversial decisions. All training will be formally recorded by the Licensing Authority.

### **8.3 Range of Powers**

The Council may take steps, upon receipt of evidence that an offence has been committed in relation to a hackney carriage, private hire or operator's licence. A breach of a condition Hackney Carriage and Private Hire Licensing Policy Statement amounts to an offence in this context.

## **9. Delegated Powers**

### **9.1 Licensing and Regulatory Affairs Committee**

The Licensing and Regulatory Affairs Committee of Fareham Borough Council is responsible for the management of the hackney carriage and private hire licensing regime in the borough.

### **9.2 Delegated Functions**

- a) The Committee has delegated responsibility for exercising the Council's functions in respect of the following:
- Sections 47, 57, 58 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976; and as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
  - Power to licence drivers of hackney carriages and private hire vehicles under sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
  - Power to licence operators of hackney carriages and private hire vehicles under Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
- b) Accordingly, it will deal with applications and disciplinary matters referred to it by Licensing Officers.
- c) The Council's Head of Environmental Health has delegated responsibility, in so far as it relates to hackney carriage or private hire, in respect of the licensing and registration functions of the Council listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) for:
- Deciding applications for authorisations, registration, consents, licences or certificates of approval
  - Serving notices and take consequential action, including carrying out work in default
  - Issuing simple cautions

- Recommending the institution of legal proceedings
  - Authorising officers to exercise statutory functions.
- d) The Head of Environmental Health may further delegate the power to grant or suspend refuse or revoke licenses. Licensing Officers are permitted to issue oral and written warnings and cautions and may instigate prosecutions wherever appropriate.
- e) In general terms where an applicant is aggrieved by the Council's decision to refuse to grant a licence or by any conditions imposed on a licence the applicant has a right of appeal to the Magistrates' Court within 21 days of the applicant being notified of the Council's decision.

## **10. Fares & Fees**

### **10.1 Fares - General**

- a) Councils have the power to set taxi fares for journeys within their area (there is no power to set fares for private hire vehicles). The DfT sees it as good practice to review the fare scales at regular intervals, including any graduation of the fare scale by time of day or day of the week. It suggests that in doing so authorities should pay particular regard to the needs of the travelling public, with reference both to what it is reasonable to expect people to pay but also to the need to give taxi drivers sufficient incentive to provide a service at the times when it is needed. It recognises that there may well be a case for higher fares at times of higher demand.
- b) Taxi fares are a maximum, and in principle are open to downward negotiation between passenger and driver. Such negotiations are, however, to be discouraged at ranks or for on street hailings as they could lead to confusion and arguments.

### **10.2 Fares - Prescribed rates**

- a) The driver of a hackney carriage vehicle, whether by agreement or otherwise, must not charge any fare greater than the rate prescribed by the Council. The driver/operator of a private hire vehicle may make their own agreement with the hirer as to the fare for a particular journey.
- b) There are however, no provisions in the relevant legislation or this policy, which prevent the driver of a hackney carriage or private hire vehicle from charging less than the fare shown on the meter.
- c) It is not proposed to introduce provisions that would prevent the driver of a hackney carriage or private hire vehicle from charging less than the fare shown on the meter.

### **10.3 Fares - Review**

Fares rates will usually be reviewed no more than once a year with any change agreed being implemented in April or May. This is with the exception of a significant change in circumstances or where there is support from 20% or more of the drivers/operators. In such circumstances the fare rates will be reviewed during the same months of the intervening year.

## 10.4 Receipts

A driver must, if requested by the passenger, provide them with a written receipt for the fare paid.

## 10.5 Licence Fee Structure

- a) The guidance does not deal with the issue of licensing fees at all. It is, however, generally recognised that the fees set for all hackney carriage and private hire licences should be such as to ensure that the costs of the service, including the cost of issue and administration will, so far as possible be met from fee income. It is, on the other hand, not lawful for the Council to seek to make a profit from licence fees that are within its discretion. In particular, with regard to the fees charged for hackney carriage and private hire vehicle and operator licences, the legislation provides that these should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands, and administering the control and supervision of hackney carriages and private hire vehicles.
- b) The fees payable for the grant and renewal of hackney carriage and private hire licences will be reviewed annually as part of the budgetary process and a public notice will be placed in the local newspaper. Licence holders will be notified of any changes and the current scale of fees will be supplied to new applicants at the time of application.

## 11. Taxi Ranks

### 11.1 Appointed Ranks

A number of ranks for hackney carriages have been designated within the Fareham Borough Council area and these are listed below:

Market Quay	Rank for 16
Rank No. 2 (BHF Furniture shop)	Rank for 6
Fareham Railway Station	Rank for 10
Library Rank	Rank for 8
Maytree Road	Rank for 3
Stubbington Green	Rank for 3
Titchfield Square	Rank for 1
Warsash Road	Rank for 1
Duncan Road	Rank for 7
Middle Road, Park Gate	Rank for 1
Portchester car park	Rank for 4

### 11.2 Waiting on Stands

It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on any stand for hackney carriages. Drivers of hackney carriages may only wait on a stand whilst plying for hire or waiting for a fare; drivers who park on a stand and leave their vehicle unattended are committing an offence.

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