

Hackney Carriage and Private Hire Licensing Guidance

As of 11 April 2017

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PART 1 – INTRODUCTION

Scope

- 1.0 The Hackney Carriage and Private Hire Guidance is applicable to the licensing of hackney carriage and private hire drivers and vehicles and to the licensing of private hire operators.

Purpose

- 1.1 The fundamental purpose of licencing is to protect the safety and welfare of the public who live, work and visit Tamworth. The importance of a thriving hackney carriage and private hire trade to the growth and prosperity of Tamworth local economy is recognised; however, the safety and welfare of the public is the overriding principle that will be considered when matters are dealt with under the Guidance.
- 1.2 Tamworth Borough Council ('the Council') is particularly concerned to ensure:
- the safeguarding of children, young persons and adults with care and support needs who are at risk of abuse and neglect;
 - 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;
 - that the public are safeguarded from dishonest persons; and
 - that vehicles used to convey passengers are safe and fit for the purpose for which they are licensed.
- 1.3 This document 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, members of the relevant licensing committees and the internal panel (or other relevant decision making bodies);
 - licensing consultants, solicitors and barristers advising and/or representing applicants/licence holders; and
 - magistrates and judges hearing appeals against Council decisions.
- 1.4 The Guidance is also designed to put the Council's licensing requirements into context.

Consultation and Communication

- 1.5 In determining this Guidance, the views of relevant stakeholders have been taken into consideration.

- 1.6 In order to deliver a transparent, accountable and efficient licensing service the Council is committed to ongoing communicating 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 Guidance, conditions, changes in the law and reviews. The specific methods to achieve this communication and consultation will be determined as required.

Review

- 1.7 This Guidance will be reviewed periodically, however, it will be the subject of continuous evaluation and, if necessary, formally reviewed at any time. At the time of review all relevant stakeholders will again be consulted. Any licensed driver, proprietor or operator may request a review of the policy at any time.

Legislative framework

- 1.8 The operation of the Council's licensing service is undertaken in accordance with relevant legislation and applicable licence conditions. The primary legislation relating to hackney carriage and private hire licensing is contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. In addition, the service is provided in accordance with all relevant Council policies, but in particular the following:

- Equal Opportunities Policy
- Disability and Discrimination
- Race Equality Scheme
- Data Protection Policy
- Enforcement Policy

- 1.9 This Guidance and associated conditions do not address health and safety at work requirements. Drivers and operators are required to ensure all relevant health and safety at work provisions are satisfied.

Conditions

- 1.10 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. Any licensed driver, vehicle proprietor operator may request a review of any condition or any element of this Guidance at any time. Requests will be dealt with on their individual merits. Those initiatives that lead to the improvement of any element of the service in particular enhancing the safety of the public are actively sought.

Safeguarding Children and Adults at Risk

- 1.11 All local authorities, including district/borough councils in England, have a responsibility to safeguard and promote the welfare of children and adults with care and support needs who are at risk of abuse and neglect. Safeguarding children and adults who are at risk is everyone's responsibility. Abuse is not acceptable and must not be tolerated. Often children and adults at risk do not realise they are a victim of abuse, or are unable to protect themselves from harm. This is why it is important that action is taken and people know what to do when they have safeguarding concerns. It is paramount that all individuals working either directly or indirectly with children and adults at risk have an understanding of safeguarding commensurate to their role, and know how to recognise and

report safeguarding concerns, in relation to children and/or adults at risk. Tamworth Borough Council provides safeguarding awareness training for all taxi drivers, the training includes information on recognising and responding to concerns in relation to child exploitation and trafficking (for further information please see **Appendix A**).

PART 2 – LICENSING PRINCIPLES, PROCESS AND DELEGATION

Introduction

- 2.0 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.
- 2.1 This part 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, the Sub-Committee and officers of the Council.

Licensing principles

- 2.2 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.
- 2.3 All licence applications will be considered and determined on their own individual merits.

Licensing process and delegation of functions

- 2.4 The Council has delegated its licensing function to the Licensing Committee and further delegated authority to Licensing committee, additionally, officers of the Council who will determine all applications in accordance with this Policy.
- 2.5 Whilst officers and the relevant committees will, in the majority of cases, follow the guidance, there may be specific circumstances that require a departure from the guidance. In such circumstances, the reasons for departing from the guidance will be made clear.

Committees

- 2.6 Licensing Committee

This Committee is made up of 13 members of the Council. It deals with conditions of licence, the setting of fees and charges and hackney carriage fares.

Decisions

- 2.8 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.
- 2.9 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.

- 2.10 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 Staffordshire 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.
- 2.11 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.

Appeals

- 2.12 Parties aggrieved by a decision of the Council have a right of appeal. This must be lodged with the relevant Court in accordance with the relevant statutory provisions. The Council strongly advises parties to promptly seek appropriate independent legal advice in such circumstances.

Working in partnership

- 2.13 The Council aims to work in partnership 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 authorities, Staffordshire Police, Driver and Vehicle Standards Agency (DVSA), Revenues and Benefits teams and consumer groups.

PART 3 – LICENSABLE ACTIVITIES

Introduction

- 3.1 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.
- 3.2 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 knowingly or recklessly make a false declaration or omit any material particularly when giving information required by the application for a licence;
 - All licence fees payable at the time of application are non-refundable;
 - 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 and the process must recommence from the beginning;
 - Where a licence has 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.

Appointments

- 3.3 The Council (Customer Services) runs an appointment system. Applicants will not be seen without an appointment. To assist drivers and operators to make appointments in a timely manner, the Council will notify all operators, drivers and the proprietors of vehicles that their licence is due to expire and are given sufficient notice for their applications before the expiry of a licence.

Criminal record disclosure

- 3.4 The Council follows the Disclosure and Barring Service (DBS) Code of Practice for Registered Persons and Other Recipients of Disclosure Information (April 2009) and abides by the handling of DBS certificate information requirements on the secure storage, handling, use, retention and disposal of disclosure certificates and certificate information. Further information about the DBS can be found on the GOV.UK website at <https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>.

- 3.5 Drivers who undertake contract work for Staffordshire County Council e.g. Education are advised to contact them in order to ascertain the standard of criminal record disclosure required and any other requirements in this respect. The Staffordshire County Council will share information with the Licensing Team about individuals and businesses that apply and/or tender to deliver passenger transport contracts.
- 3.6 All drivers are encouraged to register for the DBS Update Service <https://www.gov.uk/dbs-update-service> further information can be found at. Any drivers who have registered for this service need to supply the last Certificate number during their application process.

3a. HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS

Summary

- 3a.1 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.
- 3a.2 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.
- 3a.3 The Council issues a dual Hackney Carriage and Private Hire licence entitling the driver to drive both vehicles.

Fit and proper person

- 3a.4 Licensed drivers provide a public service. The Council will not licence anyone to drive a hackney carriage or private hire vehicle unless it is satisfied that they are a fit and proper person.
- 3a.5 In considering the fit and proper person test, all applicants on initial application and renewal must complete an enhanced Disclosure and Barring Service (DBS) check and undergo a medical examination. The Council may also make additional enquiries with Staffordshire Police (and other relevant police forces, where appropriate), other relevant local authorities and any other appropriate organisation, agency or person in order to ensure the Council is in a position to make as accurate an assessment of the applicant's fitness to hold a licence as is reasonably practicable.
- 3a.6 With specific reference to existing licence holders, where there is any cause for a licence to be reviewed, the Council may request the licence holder to consent to a further enhanced DBS check the cost of which lies with the licence holder. Where a licence holder refuses to consent to a further check the Council will take this into consideration in determining their continuing fitness to hold a licence.
- 3a.7 When assessing the fitness of an applicant to hold a drivers licence, the Council will consider the applicant's criminal history as a whole, together with all other relevant evidence, information and intelligence including their history (e.g. complaints and positive comments from the public, compliance with licence conditions and willingness to co-operate with licensing officers) whilst holding a licence from the Council or any other authority. Particular attention will be given to patterns of behaviour, irrespective of the time-scale over which they have occurred, both in terms of proven criminal offences and other behaviour/conduct that may indicate the safety and welfare of the public may be at risk from the applicant.
- 3a.8 In addition, an important element associated with the fitness to hold a licence is the appearance and behaviour of a licensed driver. Consequently, the Council requires all licensed drivers to maintain a reasonable standard of appearance and behaviour when in contact and dealing with other road users, pedestrians, customers, the general public, other licensed operators and drivers of hackney carriage and private hire vehicles, Council officers and elected members at all times. Applicants and licensed drivers must also co-operate with any reasonable request made by an authorised officer of the Council or any police officer.

- 3a.9 It must also be recognised that the Council will consider all criminal history, behaviour and conduct irrespective of whether the specific history, behaviour or conduct occurred whilst drivers were directly engaged in hackney carriage or private hire licensed work at the time or whether they occurred during the drivers' own personal time.

Criminal record disclosure

- 3a.10 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.
- 3a.11 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.
- 3a.12 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.
- 3a.13 A criminal record does not automatically bar an applicant from holding a drivers 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.
- 3a.14 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. 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

- 3a.15 Except in exceptionally circumstances Driver licences will be issued for a period of three years.

Application process

- 3a.16 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 (which includes the cost of the DBS check, unless applicants provide proof of online subscription to the DBS update service, and the initial knowledge test) is payable at the time the application is submitted.

New applications

3a.17 All new applicants must be at least 21 years old and have held a full DVLA/EC/EEA category B driving licence for at least 1 year at the time of application. The 1 year period is calculated from the date of issue of the full driving licence.

3a.18 In addition, applicants must:

- Submit a completed application form
- Pay the appropriate licence fee
- Provide a passport sized photograph countersigned in accordance with passport rules to prove the applicant's identity
- Have a satisfactory enhanced DBS report
- Where applicable have a satisfactory report in respect of the enquiries made through Staffordshire (or other relevant force), other local authorities and any other organisation, agency or person that the Council has deemed appropriate to seek information from
- Pass the Council's knowledge test
- Provide a completed medical examination form (Group 2)

Renewal applications

3a.19 On renewal of an existing licence, applicants must:

- Submit a completed application form
- Pay the appropriate licence fee
- Currently on all applications the applicant's must provide a passport sized photograph countersigned in accordance with passport rules to prove the applicant's identity
- Complete a DBS disclosure – or provide proof of registration to the DBS Update Service
- Where required, pass a Group 2 medical examination (refer to paragraphs 3a.30 to 3a.40 below to determine whether a medical examination is/is not required)

3a.20 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 Staffordshire 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.

- 3a.21 To allow continuous driving, a licence application must be received by the Council by the 1st day of the month of the expiry month 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.
- 3a.22 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.

Arranging DBS

- 3a.23 Appointments are made by the applicant booking an appointment with the Council's Customer Services department with the applicant to complete a DBS application form, knowledge test.

Applicants can subscribe to the DBS Update Service, but proof of subscription reference number and the last DBS certificate number must be provided.

Knowledge test

- 3a.24 Applicants for a licence to drive a hackney carriage or private hire vehicle will be required to take and pass the Council's knowledge test. This test is aimed at assessing the driver's knowledge of streets, locations, attractions, entertainment venues and general geography of the Council's administrative area in order to satisfy the Council that they will be able to convey passengers who may be unfamiliar with the locality. This test will be conducted in English. Details of what is required in the knowledge test are provided within the application pack.
- 3a.25 Normal examination conditions will apply during the knowledge test. Any person found to be using unfair means during the test will be excluded from the test and will be required to take a fresh test and pay the appropriate fee. This may also affect their fitness and propriety to be granted a licence.
- 3a.26 The charge for the initial knowledge test is included in the licence fee. Where an applicant fails the knowledge test there is an additional fee for every subsequent test and every missed test. Once an appointment has been allocated for the test, the applicant must give 2 clear working days' notice to cancel an appointment otherwise they will be required to pay the test fee. In such circumstances the Council will deem that the applicant has failed the test.
- 3a.27 An applicant is permitted to take the knowledge test up to a maximum of 3 times per application, subject to the additional re-test fees being paid. Where an applicant fails the knowledge test three times, the application will be refused, subject to a manager who has responsibility for licensing permitting a further test or tests where the circumstances are considered appropriate. The applicant will not be permitted to re-apply for a drivers licence until the expiry of a 12 month period from the date of the last failed knowledge test.
- 3a.28 The holder of a driver's licence may be required to satisfactorily undertake a further knowledge test or tests at the discretion/request of the Council.
- 3a.29 Failure to submit to or pass any knowledge test will permit the Council to refuse to grant or renew a driver's licence or to revoke or suspend the licence as required.

Medical requirements

- 3a.30 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.
- 3a.31 Applicants must undertake the medical examination and provide a satisfactory medical certificate before a licence is issued. Every 5 years upto the age of 45, or sooner if stipulated by the examining doctor.
- 3a.32 Applicants aged 45 to 65 will be required to undertake a medical examination every 3 years, or sooner if stipulated by the examining doctor. Applicants must provide satisfactory medical certificate.
- 3a.33 Applicants over the age of 65 must undertake a medical examination and provide a satisfactory medical certificate annually, or sooner if stipulated by the examining doctor.
- 3a.34 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**.
- 3a.35 If once licensed, the driver's medical circumstances change during the currency of the licence, the driver must inform the Council within 7 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.
- 3a.36 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.
- 3a.37 All medical examinations must be carried out by the Council's appointed Medical examiner who is 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.
- 3a.38 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 drivers licence.
- 3a.39 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 drivers licence.
- 3a.40 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. Where this is the case, the applicant/licensed driver must submit to a rigorous medical examination and 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

- 3a.41 A person applying for a drivers licence must be at least 21 years old and have held a full DVLA/EC/EEA category B driving licence for at least 1 year at the time of application. This includes European Union (EU), European Economic Area (EEA) and Northern Irish licences.
- 3a.42 Throughout the currency of the licence, the driver must possess a full driving licence in accordance with the above requirements.
- 3a.43 Applicants are required to produce the original of their driving licence. Copies will not be accepted.
- 3a.44 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.
- 3a.45 The Council will not provide photocopies of any driver's driving licence from Council records.

English speaking

- 3a.46 The applicant is expected to complete the knowledge test without any translation being offered. And must be able to show they are capable of completing a receipt.

Licence conditions

- 3a.47 The applicable conditions with which a driver holding a hackney carriage, private hire or drivers 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

- 3a.48 Production of documents

The driver must, on request, produce for inspection their driver's licence forthwith or within 5 days to either the Council's offices or a police station.

- 3a.49 Driver's badges and licences

There are two badges issued. One must be worn by the driver at all times when driving the licensed vehicle and the badge must be plainly and distinctly visible.

The second badge must be displayed in a prominent position within the vehicle to be seen by members of the public.

- 3a.50 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.
- 3a.51 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

and licence to the Council within 7 days (or earlier if the Council so demands) of the suspension, revocation, refusal to renew or expiry becoming effective.

3a.52 Journeys

Drivers must not unnecessarily prolong a journey, in distance or in time.

3a.53 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.

3a.54 Driving licensed vehicles

Only drivers who are licensed by Tamworth 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.

3a.55 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.

3a.56 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.

3a.57 Transporting children

As a minimum, drivers must comply with the requirements set out in the table below.

| Category | Front seat | Rear seat | Who is responsible? |
|--|---------------------------------------|--|----------------------------|
| Child up to 3 years | Correct child restraints must be used | Correct child restraint must be used. If a restraint is not available in a licensed hackney carriage or private hire vehicle, the child may travel unrestrained. | Driver |
| Child from 3rd birthday up to 135 cm in height or 12th birthday, whichever they reach first | Correct child restraints must be used | Where seat belts are fitted, the correct child restraint must be used. The child must use adult belt if the correct child restraint is not available as follows: in a licensed hackney carriage or private hire vehicle; or for a short distance in an unexpected necessity; or two occupied child restraints prevent fitting of a third. A child 3 years and over may travel unrestrained in the rear seat of a vehicle if seat belts are not fitted in the rear. | Driver |
| Child over 135 cm in height or 12 or 13 years old | Seat belt must be worn if available* | Seat belt must be worn if available. | Driver |
| Passengers aged 14 years and over | | Seat belt must be worn if available. | Passenger |

*Vehicles built before 1965 are not required to have fitted seatbelts.

3a.58 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.

3a.59 Refusing to convey passengers

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

3a.60 Overcharging

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

3a.61 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.

3a.62 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.

3a.63 Unattended vehicles

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

3a.64 Obstruction

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

3b. HACKNEY CARRIAGES

Summary

- 3b.1 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.
- 3b.2 Commonly known as 'taxis', hackney carriages are licensed to stand for hire at a taxi rank or can be hailed in the street in the administrative area of the Council with which it is licensed and may also undertake pre-booked journeys anywhere in the country.
- 3b.3 The Council does not limit the number of hackney carriage licences that it will issue.
- 3b.4 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.
- 3b.5 All hackney carriages must be capable of providing for at least one wheelchair. Transitional arrangements set out at paragraph 3b.7 apply.

Relevant licensable area

- 3b.6 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

- 3b.7 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 Tamworth 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. 3b.9 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 Tamworth 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 Tamworth 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.
- 3b.8 Full details of the Council's intended use policy for the licensing of hackney carriages is set out at **Appendix J**.

Period of licence

- 3b.9 Vehicle licences will be issued for 12 months.

Applicant

- 3b.10 The applicant for a vehicle licence must be the person who is the legal owner of the vehicle concerned and entitled to have the ownership of the vehicle registered under the provisions of Regulation 10 of the Road Vehicles (Registration and Licensing) Regulations 2002 in their own name. Prior to licensing and thereafter, as required, satisfactory evidence must be produced to demonstrate compliance with this requirement.

Vehicles

3b.11 The Council requires all hackney carriage vehicles to comply with the following requirements:

Safety

3b.12 Every new type of taxi must comply in all respects with the requirements of the Motor Vehicle (Type Approval) Regulations 1980, the Motor Vehicle (Type Approval) Regulations (Great Britain) 1984, the Motor Vehicles (EC Type Approval) Regulations 1998 and with any further national or international legislation as may be applicable. They must also comply in use with the Road Vehicles (Construction and Use) Regulations 1986 (C & U). Every new type of taxi offered for approval must comply in all respects with British and European vehicle regulations and be "type approved" to the requirements of the M1 category of European Whole Type Approval Directive 2007/46/EC as amended. Those taxis which have not been "type approved" to the M1 category (e.g. conversions) must be presented with approved certification that the specific vehicle meets the requirements of that category. Each vehicle must also have passed the Council's fitness test.

Other Requirements

3b.13 Vehicles must not seat more than eight passengers (not including the driver). Any alterations to the manufacturer seating configuration must be inspected and certified by DVSA and:

- (a) Be a Light Passenger Vehicle as defined by section 85 of the Road Traffic Act 1988 and have a minimum of 4 wheels
- (b) Provide sufficient means by which any person in the carriage may communicate with the driver.
- (c) Entire external bodywork of the vehicle must be of a uniform colour. (This does not prohibit the display of advertisements as authorised by the Council.
- (d) All paintwork must be maintained in a high gloss finish of a uniform colour (but note the specific requirement at 'c' above) and free from dents, scratches or rust.
- (e) Have a watertight roof or covering.
- (f) 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.
- (g) Tinted windows will only be permitted in accordance with the manufacturers or specialist coachbuilder's specification and must comply with the Road Vehicles (Construction & Use) Regulations 1986 as amended.
- (h) Have seats that are properly cushioned and covered.
- (i) Have a floor provided with a proper carpet, mat, or other suitable covering.
- (j) Have fittings and furniture in a clean condition and be well maintained and in every way fit for public service.

- (k) Provide means for securing luggage if the carriage is so constructed as to carry luggage.
- (l) All seats must have unobstructed access. (No tilting or sliding seats) :-
have a three point seatbelt as specified in the Road Vehicle (Construction and Use) Regulations 1986 (as amended)
- (m) Have a minimum of four passenger doors including an entry/exit point for the driver if a vehicle other than a taxi approved to the specifications of the Public Carriage Office.
- (n) Be maintained in a sound mechanical and structural condition at all times.
- (o) Have a spare pneumatic tyre or suitable manufacturers repair kits. Where tyres, including the spare must comply with the vehicle manufacturer's specification and any relevant legislation.
- (p) Be maintained in a clean and safe condition at all times from both exterior and interior perspectives.
- (q) Have provision for the legal transportation of a minimum of one wheelchair at all times.

Application process

- 3b.14 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.
- 3b.15 The application process to licence a hackney carriage vehicle is the same for a new or renewal application.
- 3b.16 Any person wishing to licence a hackney carriage vehicle must submit:
- a completed application form;
 - the appropriate licence fee;
 - a valid Certificate of fitness
 - a valid certificate of insurance for public hire
 - all vehicles must have current Vehicle Excise Duty (Road Tax) this can be checked online
 - the V5 registration certificate
 - the vehicle is fitted with a taximeter in accordance with the requirements

3b.17 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

3b.18 Fitness tests are required in accordance with the following requirements:

- Vehicles must be submitted for an fitness test in accordance with Tamworth borough Council's testing policy at intervals (and any other inspection deemed necessary by an authorised officer).
- Vehicles are tested every 6mnths when under 4years of age, and at 4 monthly intervals when over 4 years of age.
- Fitness tests must be undertaken by a 'Nominated Tester' or Authorised Vehicle Examiner at a Vehicle Testing Station appointed under Section 45 of The Road Traffic Act 1988 and the Motor Vehicles Test Regulations 1981; the cost of all tests must be met by the vehicle operator.
- The vehicle must have a valid fitness test throughout the licence period.
- With respect to a licensed vehicle, in the event of a proprietor failing to present to the Council a fitness test certificate as required (unless delayed or prevented by sufficient cause accepted and agreed 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.

V5 registration certificate

3b.19 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

- 3b.20 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.
- 3b.21 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

- 3b.22 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 officer may require the proprietor to arrange for a further MOT test to be undertaken and certificate produced before the vehicle will be permitted to operate; this is at the discretion of the authorised officer.

Advertising

- 3b.23 Proprietors may advertise on hackney carriages in accordance with the conditions set out at **Appendix K**. This is subject to prior approval from the Council.

Closed circuit television (CCTV)

- 3b.24 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.

Trailers

- 3b.25 Hackney carriages are permitted to tow trailers when undertaking the licensable activity, providing the conditions set out at **Appendix L** are complied with.

Ranks

- 3b.26 The Highways section of Staffordshire County Council will work with the hackney carriage trade, Licensing and Staffordshire Police to determine where ranks/stands ought to be situated.
- 3b.27 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

- 3b.28 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.
- 3b.29 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.
- 3b.30 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.
- 3b.31 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.

Hackney carriage fares

- 3b.32 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

- 3b.33 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

- 3b.34 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 14 days specifying the name and address of the person to whom the vehicle has been transferred.

- 3b.35 Change of address

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

- 3b.36 Retention of drivers 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 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.)

3b.37 Inspection

The proprietor must present their hackney carriage for inspection/testing by the Council as required per year.

3b.38 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.

3b.39 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.

3b.40 Production of documents

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

3b.41 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.

3b.42 Transporting children

As a minimum, vehicles must be capable of complying with the requirements set out in the table below.

| | Front seat | Rear seat | Who is responsible? |
|--|---------------------------------------|--|---------------------|
| Child up to 3 years | Correct child restrains must be used | Correct child restraint must be used. If a restraint is not available in a licensed hackney carriage or private hire vehicle, the child may travel unrestrained. | Driver |
| Child from 3rd birthday up to 135 cm in height or 12th birthday, whichever they reach first | Correct child restraints must be used | Where seat belts are fitted, the correct child restraint must be used. The child must use adult belt if the correct child restraint is not available as follows: in a licensed hackney carriage or private hire vehicle; or for a short distance in an unexpected necessity; or two occupied child restraints prevent fitting of a third. A child 3 years and over may travel unrestrained in the rear seat of a vehicle if seat belts are not fitted in the rear. | Driver |
| Child over 135 cm in height or 12 or 13 years old | Seat belt must be worn if available* | Seat belt must be worn if available. | Driver |
| Passengers aged 14 years and over | Seat belt must be worn if available* | Seat belt must be worn if available. | Passenger |

*Vehicles built before 1965 are not required to have fitted seatbelts.

3b.43 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 the Council.

3b.44 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.

3b.45 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.

3c. PRIVATE HIRE VEHICLES

Summary

- 3c.1 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.
- 3c.2 When considering whether a vehicle is a private hire vehicle by the nature of the work it does, Tamworth Borough Council shall have regard to the document Private Hire Vehicle Licensing - A note for guidance from the Department for Transport (August 2011)
- 3c.3 The Council does not limit the number of private hire vehicle licences that it will issue.
- 3c.4 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.

Period of licence

- 3c.5 Vehicle licences will be issued for 12 months.

Applicant

- 3c.6 The applicant for a vehicle licence must be the person who is the legal owner of the vehicle concerned and entitled to have the ownership of the vehicle registered under the provisions of Regulation 10 of the Road Vehicles (Registration and Licensing) Regulations 2002 in their own name. Prior to licensing and thereafter, as required, satisfactory evidence must be produced to demonstrate compliance with this requirement.

Vehicles

- 3c.7 The Council requires private hire vehicles to comply with the following requirements:

Safety

- 3c.8 Every new type of taxi must comply in all respects with the requirements of the Motor Vehicle (Type Approval) Regulations 1980, the Motor Vehicle (Type Approval) Regulations (Great Britain) 1984, the Motor Vehicles (EC Type Approval) Regulations 1998 and with any further national or international legislation as may be applicable. They must also comply in use with the Road Vehicles (Construction and Use) Regulations 1986 (C & U). Every new type of taxi offered for approval must comply in all respects with British and European vehicle regulations and be "type approved" to the requirements of the M1 category of European Whole Type Approval Directive 2007/46/EC as amended. Those taxis which have not been "type approved" to the M1 category (e.g. conversions) must be presented with approved certification that the specific vehicle meets the requirements of that category. Each vehicle must also have passed the Council's fitness test.

Other Requirements

- 3c.9 Vehicles must not seat more than eight passengers (not including the driver) and:

- a) Be a Light Passenger Vehicle as defined by section 85 of the Road Traffic Act 1988 and have a minimum of 4 wheels;
- b) Provide sufficient means by which any person in the carriage may communicate with the driver;
- c) All paintwork must be maintained in a high gloss finish of a uniform colour and free from dents, scratches or rust;
- d) Have a watertight roof or covering;
- e) 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.
- f) Tinted windows will only be permitted in accordance with the manufacturers or specialist coachbuilder's specification and must comply with the Road Vehicles (Construction & Use) Regulations 1986 as amended.
- g) Have seats that are properly cushioned and covered;
- h) Have a floor provided with a proper carpet, mat, or other suitable covering.
- i) Have fittings and furniture in a clean condition and be well maintained and in every way fit for public service.
- j) Provide means for securing luggage if the carriage is so constructed as to carry luggage;
- k) All seats must have unobstructed access. (No tilting or sliding seats) :-
- l) All seats must have have a three point seatbelt
- m) Have a minimum of four passenger doors including an entry/exit point for the driver.
- n) Be maintained in a sound mechanical and structural condition at all times.
- o) Have a spare pneumatic tyre, or manufacturers repair kit. All tyres, including the spare must comply with the vehicle manufacturer's specification and any relevant legislation.
- p) Be maintained in a clean and safe condition at all times from both exterior and interior perspectives.

Application process

- 3c.10 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.
- 3c.11 The application process to licence a private hire vehicle is the same for a new or renewal application.

3c.12 Any person wishing to licence a private hire vehicle must submit:

- a completed application form;
- the appropriate licence fee;
- a valid fitness test (in accordance with the requirements set out at paragraph 3c.12 below);
- a valid certificate of insurance for private hire
- Evidence that appropriate Vehicle Excise Duty (Road Tax) has been paid, e.g. email confirmation from the DVLA or Post Office receipt; (which can be checked online)

- the 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.)
- evidence of compliance with the relevant European Emission Standards as set out in paragraph 3C.8 either at the point of vehicle construction or by a subsequent adaption or conversion approved by the Council - the compliance must be relevant to the engine installed in the vehicle and this must be reflected in the V5 registration certificate; and

Fitness test requirements

3c.13 Fitness test are required in accordance with the following requirements:

- Vehicles must be submitted for an fitness test in accordance with Tamworth borough Council's testing policy at intervals (and any other inspection deemed necessary by an authorised officer).
- Vehicles are tested every 6mnths when under 4years of age, and at 4 monthly intervals when over 4 years of age.
- Fitness tests must be undertaken by a 'Nominated Tester' or Authorised Vehicle Examiner at a Vehicle Testing Station appointed under Section 45 of The Road Traffic Act 1988 and the Motor Vehicles Test Regulations 1981; the cost of all tests must be met by the vehicle operator.
- The vehicle must have a valid fitness test throughout the licence period.
- With respect to a licensed vehicle, in the event of a proprietor failing to present to the Council a fitness test certificate as required (unless delayed or prevented by sufficient cause accepted and agreed 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.

V5 registration certificate

3c.14 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

- 3c.15 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.
- 3c.16 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

- 3c.17 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 officer may require the proprietor to arrange for a further MOT test to be undertaken and certificate produced before the vehicle will be permitted to operate; this is at the discretion of the authorised officer.

Advertising

- 3c.18 Proprietors may advertise on private hire vehicles in accordance with the conditions set out at **Appendix K**. This is subject to prior written approval from the Council.

Closed circuit television (CCTV)

- 3c.19 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.

Trailers

- 3c.20 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 L** are complied with at all times.

Meters

- 3c.21 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

3c.22 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.

3c.23 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.

3c.24 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.

3c.25 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.

Licence conditions

3c.26 The applicable conditions relevant to a private hire vehicle licence are set out at **Appendix D**. These conditions are in addition to any matters set out within the main body of the Policy.

Main legal requirements

3c.27 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 14 days specifying the name and address of the person to whom the vehicle has been transferred.

3c.28 Inspection

The proprietor must present their private hire vehicle for inspection/testing by the Council as required, up to a maximum of 3 times per year.

3c.29 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.

3c.30 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.

3c.31 Production of documents

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

3c.32 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.

3c.33 Transporting children

As a minimum, private hire vehicles must be capable of complying with the requirements set out in the table below.

| | Front seat | Rear seat | Who is responsible? |
|--|---------------------------------------|---|---------------------|
| Child up to 3 years | Correct child restraints must be used | Correct child restraint must be used. If a restraint is not available in a licensed hackney carriage or private hire vehicle, the child may travel unrestrained. | Driver |
| Child from 3rd birthday up to 135 cm in height or 12th birthday, whichever they reach first | Correct child restraints must be used | Where seat belts are fitted, the correct child restraint must be used. The child must use adult belt if the correct child restraint is not available as follows: in a licensed hackney carriage or private hire vehicle; or for a short distance in an unexpected necessity; or two occupied child restraints prevent fitting of a third. A child 3 years and over may travel unrestrained in the rear seat of a vehicle if seat belts are not fitted in the rear. | Driver |
| Child over 135 cm in height or 12 or 13 years old | Seat belt must be worn if available* | Seat belt must be worn if available. | Driver |
| Passengers aged 14 years and over | Seat belt must be worn if available* | Seat belt must be worn if available. | Passenger |

*Vehicles built before 1965 are not required to have fitted seatbelts.

3c.34 Ranks/stands

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A private hire vehicle must not wait on any rank/stand.

3d. Private Hire Executive vehicles

- 3d.1 The Council will consider requests to licence a vehicle for Private Hire Vehicle Executive Plating. This is a licence that will allow for discreet plating but can only be used for trips of an executive nature and not for general private hire use.
- 3d.2 Vehicles must be pre-approved by an authorised officer and must be such, in the opinion of the licensing officer, of such quality and character to be considered an executive vehicle.
- 3d.3 The applicable conditions relevant to a private hire vehicle licence are set out at **Appendix E**. These conditions are in addition to any matters set out within the main body of the Policy.

3e. PRIVATE HIRE OPERATORS

Summary

3e.1 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

3e.2 Operator licences will be issued for a period of 5 years.

Application process

3e.3 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 (including the cost of a DBS check, where appropriate) is payable at the time the application is submitted.

3e.4 The application process to licence a private hire operator is the same for a new or renewal application.

3e.5 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);
- the appropriate licence fee;
- a list of the vehicles and drivers which they operate

Criminal record disclosure

3e.6 In addition, 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.

3e.7 Have a satisfactory enhanced DBS check

Enquiries may be made through Staffordshire 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

3e.8 **N.B** For partnerships or companies, the above requirements apply to all partners and directors/company secretaries who are directly involved in the management of drivers. Where there is no direct involvement with the management of drivers, all partners and directors/company secretaries are required to provide a satisfactory basic criminal record disclosure from Disclosure Scotland. Applicants can apply to Disclosure Scotland online at www.disclosurescotland.co.uk or contact them by telephone on 0870 609 6006, by email at info@disclosurescotland.co.uk, by fax 0870 609 6996 or in writing to Disclosure Scotland at PO Box 250, Glasgow, G51 1YU.

- 3e.9 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 drivers licence. In this respect, applicants are required to have due regard, as appropriate, to the requirements and information set out at paragraphs 3a.4 to 3a.16 of this guidance.
- 3e.10 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. 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.

Operator's premises

- 3e.11 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.
- 3e.12 The Council will only grant operator licences applicable to the physical premises from which the operator's business will be run.
- 3e.13 The Council will not grant an operator's licence to apply to any physical premises that falls out of the administrative area of Tamworth Borough Council.
- 3e.14 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.

Insurance

- 3e.15 Any premises that provide access to members of the public must be covered by Public Liability insurance for a minimum of £5,000,000.
- 3e.16 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

- 3e.17 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

Vehicle not fit for the conveyance of passengers

- 3d.18 Where an operator has notified the Council that damage has occurred to a vehicle, otherwise than by an accident that has led to the involvement of the relevant insurance company, 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 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 officer may require the proprietor to arrange for a further MOT test to be undertaken and certificate produced before the vehicle will be permitted to operate; this is at the discretion of the authorised officer.

Closed circuit television (CCTV)

3e.19 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.

Licence conditions

3e.20 Applicable conditions relevant to a private hire operator licence are set out at **Appendix E**. These conditions are in addition to any matters set out within the main body of the Policy.

Main legal requirements

3e.21 Contract

Every contract for the hire of a private hire vehicle is deemed to be made with the operator who accepted the booking for that vehicle whether or not the operator provided the vehicle.

3e.22 Production of records/documents

Any records required to be retained in accordance with the licence must be produced, on request, to any authorised officer of the Council or to any police officer. The operator licence must also be produced if requested.

3e.23 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.

| | Front seat | Rear seat | Who is responsible? |
|----------------------------|--------------------------------------|---|----------------------------|
| Child up to 3 years | Correct child restrains must be used | Correct child restraint must be used. If a restraint is not available in a licensed hackney carriage or private hire vehicle, the child may travel unrestrained. | Driver |

| | | | |
|---|---|--|------------------|
| <p>Child from 3rd birthday up to 135 cm in height or 12th birthday, whichever they reach first</p> | <p>Correct child restrains must be used</p> | <p>Where seat belts are fitted, the correct child restraint must be used. The child must use adult belt if the correct child restraint is not available as follows: in a licensed hackney carriage or private hire vehicle; or for a short distance in an unexpected necessity; or two occupied child restraints prevent fitting of a third.</p> <p>A child 3 years and over may travel unrestrained in the rear seat of a vehicle if seat belts are not fitted in the rear.</p> | <p>Driver</p> |
| <p>Child over 135 cm in height or 12 or 13 years old</p> | <p>Seat belt must be worn if available*</p> | <p>Seat belt must be worn if available.</p> | <p>Driver</p> |
| <p>Passengers aged 14 years and over</p> | <p>Seat belt must be worn if available*</p> | <p>Seat belt must be worn if available.</p> | <p>Passenger</p> |

*Vehicles built before 1965 are not required to have fitted seatbelts.

PART 4 – COMPLIANCE, ENFORCEMENT AND COMPLAINTS

Summary

- 4.0 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

- 4.1 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 Enforcement Policy. In addition, hackney carriage and private hire vehicle drivers and operators must comply with all reasonable requests made by officers of Tamworth Borough Council and the police.
- 4.2 The Council will work closely with other enforcement authorities, particularly Staffordshire Police when dealing with licensed and unlicensed vehicles and drivers, especially concerning cross boundary related issues.

Complaints

- 4.3 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.

Part 5 - CONSULTATION

- 5.0 In determining this Guidance, the views of relevant stakeholders have been taken into consideration.
- 5.2 In order to deliver a transparent, accountable and efficient licensing service the Council is committed to ongoing communicating 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 Guidance, conditions, changes in the law and reviews. The specific methods to achieve this communication and consultation will be determined as required.
- 5.3 The views of relevant stakeholders will be considered in any major changes to this guidance.

PART 6 – LICENSING CONTACT DETAILS

Contact details

For information, advice and guidance relating to hackney carriage and private hire licensing please contact:

Tamworth Borough Council
Marmion House
Lichfield Street
Tamworth
Staffordshire
B79 7BZ

Telephone: 01827 709445

Email: general email:publicprotection@tamworth.gov.uk

www.tamworth.gov.uk

Tamworth Borough Council is open
Monday - Thursday 8.45am - 5.10pm
Friday - 8.45am - 5.05pm

CHILD SEXUAL EXPLOITATION AND TRAFFICKING OF CHILDREN AND YOUNG PEOPLE

Introduction

- A1.0 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 in relation to child sexual exploitation and trafficking.

General information

- A1.1 Tamworth Borough Council's Licensing Service is helping to tackle child sexual exploitation and trafficking by working together with key partners particularly Staffordshire Police, Children and Adult Services within the County Council and the Staffordshire Safeguarding Children Board.
- A1.2 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 Staffordshire Police and Staffordshire Children Social Care First Response Service helps to protect young people from harm. Safeguarding children and young people is everyone's business and everyone's responsibility.
- A1.3 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.
- A1.4 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.

- A1.5 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?

A1.6 If the answers to any of the questions above gives you even the slightest cause for concern, these concerns should be reported in accordance with the relevant provisions relating to the ‘Safety of children and adults at risk’ detailed in the Council’s Hackney Carriage and Private Hire Licensing Guidance.

A1.7 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 Staffordshire Police (Tel: 101) and Staffordshire Children Social Care First Response Service (Tel: 08001313126).

A1.8 If a child is in immediate danger phone 999

A1.9 Further information about Safeguarding Children can be found at:

<http://www.staffsscb.org.uk/Home.aspx>

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

General

- B1.0 The list of conditions set out below is not finite. Additional information regarding all aspects of driver licensing is available in Tamworth Borough Council's Hackney Carriage and Private Hire Licensing Policy. The Policy must be read in conjunction with the specific conditions set out below. Any legal requirements that apply to the operation of a driver's licence are regarded as if they are conditions of the licence, whether specifically listed or referred to below or in the policy or not. Where reference is made to legal requirements either in the conditions below or in the Council's policy, drivers are advised that such references are not exhaustive and it is the driver's responsibility to ensure they are fully aware of all relevant legal requirements with which they must comply.
- B1.1 All references to 'driver' in the conditions set out below mean a driver who holds a driver's licence issued by the Council in accordance with the Council's Hackney Carriage and Private Hire Licensing Policy and relevant legislation.

Fit and proper person

- B1.2 Throughout the currency of the licence, the driver must continue to be a fit and proper person to hold the licence. In this respect, the driver must have due regard to the relevant provisions of the Council's policy, be aware of the checks that will be undertaken by the Council and act in accordance with the responsibilities that being a fit and proper person would reasonably place on a licensed driver.
- B1.3 In particular, during the currency of a licence, the driver must notify the Council, in writing, within 72 hours, if:
- They receive any warnings, cautions, fixed penalties or driving endorsements;
 - Are arrested (whether or not charged with an offence);
 - Are charged with any criminal offence;
 - Are convicted of any criminal offence; or
 - Allegations are made of their involvement in criminal activity.

Driver's badge and licence

- B1.4 Loss of a driver's badge must be reported immediately to the Council and the local police. An incident number must be obtained from the police and the number given to the Council. The driver must immediately obtain a new driver's badge from the Council for which a fee will be charged. If the original badge is then found, it must be returned to the Council.
- B1.5 Drivers must display a photocopy of their driver's badge, issued by the Council, on the inside of the windscreen of the vehicle (where the tax disc used to appear) so as to be plainly visible at all times to fare paying passengers.

Insurance

- B1.6 It is the responsibility of a driver with a drivers licence to ensure they are correctly insured to drive the vehicle.

Conduct

- B1.7 The driver MUST, at all times, when driving a hackney carriage or private hire vehicle:
- Wear their driver's badge around their neck using the council issued lanyard and badge holder ensuring that their photograph and licence details are visible.
 - Be clean and respectable in their dress and person and maintain a high standard of personal hygiene.
 - Behave in a civil and orderly manner towards all persons including, but not limited to, other road users, pedestrians, customers, the general public, other licensed operators and drivers of hackney carriage and private hire vehicles, police officers, officers and elected members of the Council.
 - Be courteous to passengers, e.g. greeting passengers and opening vehicle doors on behalf of passengers.
 - Take all reasonable steps to assist passengers when they are entering or alighting from the vehicle and to convey them, subject to any instructions given by them, to their destination by the shortest practicable route and to ensure their safety.
 - When requested to do so by a passenger, convey a reasonable amount of luggage and afford reasonable assistance in the loading and unloading of any luggage.
 - When, having agreed or been hired to attend a specific location at an appointed time with their vehicle, unless delayed/prevented from doing so by some sufficient/reasonable cause, punctually attend at such appointed time and place.
 - Show due consideration when driving through residential areas.
- B1.8 The driver MUST NOT, at any time, when driving a hackney carriage or private hire vehicle:
- Use offensive, abusive, profane or insulting language or behaviour.
 - Smoke or permit passengers to smoke in their vehicle.
 - Without the express permission of the hirer, eat or drink in the vehicle. (Drivers are only permitted to eat or drink in a vehicle when the vehicle is stationary.)
 - Cause or permit sound emitted from any radio/sound reproducing instrument or equipment in the vehicle to be an annoyance/nuisance to any person, whether inside or outside the vehicle.

- Sound their vehicle's horn to alert passengers of the vehicle's arrival.
- permit persons to be carried in the vehicle unless they have the consent from the person who is actually hiring the vehicle.
- allow any persons to drive a vehicle unless they are authorised to do so by the proprietor and hold an appropriate license to do so.
- leave their vehicle unattended in any street or public place or venue.
- obstruct other drivers/vehicles from undertaking their normal hiring and driving activities.

Animals

- B1.9 When driving a hackney carriage or private hire vehicle, a driver must not carry any animal belonging to them, the proprietor or operator of the vehicle or in their custody whilst fare paying passengers are being conveyed in the vehicle.
- B1.10 In general the transportation of animals belonging to or in the custody of any fare paying passengers is permitted at the discretion of the vehicle owner/company and if undertaken must be in the rear of the vehicle in the foot well or floor pan of the vehicle.
- B1.11 However, assistance dogs (unless the driver holds a medical exemption) **MUST** be transported when requested by a passenger. Drivers **MUST NOT** impose a charge for carrying assistance dogs. Assistance dogs may be permitted to travel in the front of the vehicle.

Medical exemption

- B1.12 Where a driver is exempt on medical grounds from carrying wheelchair bound passengers or assistance dogs, they must carry the Council issued letter confirming the exemption in the vehicle at all times.

Change of particulars

- B1.13 The driver must notify the Council, in writing, of any change of particulars which may occur during the currency of their licence, including any change of address or change of employer/operator. Any such change must be notified within 14 days. Where a change of address occurs, the driver must also amend the address on their driving licence and produce their driving licence showing the new address to the Council within 7 days of receipt from the issuing body, e.g. DVLA. Both the paper and the plastic photo card licence must be produced.

Roof signs

- B1.14 The driver of a hackney carriage must ensure that the roof signs are maintained and kept in such condition that the information is clearly visible to public view at all times and that the light in the sign is connected to the meter switch such that the light is switched on when the hackney carriage is available for hire and switched off when the hackney carriage is not available for hire.

Passengers

B1.15 The driver must not convey or permit to be conveyed in a licensed hackney carriage or private hire vehicle a greater number of passengers than the number prescribed in the relevant vehicle licence.

B1.16 The driver of the licensed vehicle must only carry one person in the front of the vehicle beside the driver unless the vehicle has been specifically designed to carry more.

Transporting children

B1.17 Drivers must inform parents/carers that the decision to permit children to travel in the vehicle, without the correctly sized seat restraints (as permitted by relevant legislation) and with the obvious risks associated with such an action, remains with the parent/carer responsible for the children and not with the driver of the vehicle.

Lost property

B1.18 After fare passengers have alighted from the hackney carriage or private hire vehicle, the driver must, as soon as is practicable, search the vehicle for any property which may have been left. Where such property is found and irrespective of the value, the driver must, if it has not been claimed by or on behalf of the passenger (or their representative) who left it within 24 hours, hand it, in the case of a private hire driver to their operator or in the case of a hackney carriage driver directly to a police station as soon as is practicable.

Parking between bookings

B1.19 Where drivers are driving in the Council's area, they must as soon as they have dropped passengers at their required destination and unless prevented from doing so by another booking, return to a suitably safe place to park.

Meters

B1.20 Where taximeters are fitted to vehicles, the driver must not cause the fare recorded thereon to be cancelled or concealed until the hirer has had an opportunity to examine the meter and has paid the fare (or credit has been given).

B1.21 The driver must ensure:

- the meter is sufficiently illuminated so that when it is in use it is visible to all passengers;
- the meter is used for the whole of any journey;
- the fare or charge is calculated from the point at which the hirer commences the journey and does not exceed that displayed on the meter on the completion of such journey;
- the meter is only brought into action at the commencement of the hirer's journey; and
- the correct tariff for that journey is displayed.

Fares

- B1.22 The driver must not demand from the hirer a fare in excess of any fare previously agreed between the operator and the hirer, or if the vehicle is fitted with a taximeter and no previous agreement as to the fare, the fare shown on the face of the taximeter.
- B1.23 The driver must, if requested by a fare paying passenger, provide a written receipt for any fare paid.

Identification plates

- B1.24 Drivers must not cause or suffer any vehicle plate to be concealed from public view whilst the vehicle is being used for hackney carriage or private hire purposes.

Condition of vehicle

- B1.25 A driver must not drive a licensed vehicle if he has reason to believe that the vehicle is in an unsafe, dangerous or illegal condition. He is advised to inform the operator or proprietor of the vehicle immediately of any defect arising in the vehicle whilst under his control.

Accidents

- B1.26 The driver must, notwithstanding their responsibilities under relevant road traffic legislation, report to the operator or proprietor any accident involving a hackney carriage or private hire vehicle under their control as soon as is practicable. However, where the vehicle has suffered accident damage that materially affects the performance or appearance of the vehicle, or the comfort or convenience of fare paying passengers, the driver must notify the operator or proprietor within 72 hours.

Complaints

- B1.27 A driver must advise passengers of their right to refer any complaint to the Council.

HACKNEY CARRIAGE LICENCE – CONDITIONS OF LICENCE

Council’s Vehicle Licensing Criteria

C1.0 All vehicles presented for licensing as hackney carriages must be purpose built wheelchair accessible London type cabs which comply with the specifications of the Public Carriage Office of the Metropolitan Police.

Conditions of Licence

C1.2 Requirements of the Hackney Carriage Byelaws, the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

C1.3 Hackney Carriage Byelaws

1 Throughout these byelaws "the Council" means the Mayor Aldermen and Burgesses of the Borough of Tamworth, acting by the Council, and "the district" means the Borough of Tamworth.

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 in every way 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;

cause the carriage to be fitted with a "TAXI" sign which shall be capable of illumination and which shall be illuminated during the hours of darkness only when the carriage is standing or plying for hire within the Borough. For the purpose of this Byelaw "the hours of darkness" shall be the hours in which lighting up times operate in the Borough. The sign shall be attached to the roof or rack, and be of overall size not less than 9 inches long and 4 inches high and showing the work "TAXI" to the front of the carriage in letters not less than 3 inches high and of proportionate width;

cause the carriage to be fitted with an interior light of sufficient brightness to reasonably illuminate the interior of the carriage;

cause the carriage to be provided with a spare wheel and tyre in such a condition that it is readily available for use in the case of a punctured or damaged tyre or wheel together with all the necessary tools and equipment for readily effecting the replacement.

- 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 Tamworth 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

- C1.4 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.

Requirement of the Town Police Clauses Act 1847

Employment of Unlicensed Drivers

- C1.5 The licensee may not employ to drive the licensed vehicle any person who does not have a current hackney carriage driver's licence issued by Tamworth Borough Council.

Notification of Change of Address

- C1.6 The licensee shall notify the Council of any change in address during the currency of the licence and shall return the licence to the Offices of the Council for endorsement with the new particulars of address.

Retention of Driver's Licence by Proprietor

- C1.7 The licensee shall retain the hackney driver's licence of any person employed to drive the licensed vehicle for such time as that driver is so employed and upon termination of that employment it shall be returned to him.

Suspension of Licence

- C1.8 The proprietor shall not permit the vehicle to be used as a hackney carriage at any time whilst the licence is suspended or at any time whilst the vehicle's hackney licence plate is not displayed on the vehicle.

Demanding more than the Agreed Fare

- C1.9 A proprietor who by prior arrangement with the hirer agrees to carry out any hiring for less than the rate of fare prescribed by the Council shall not demand more than the agreed fare.

Agreements to Carry Passengers a Discretionary Distance for a Fixed Sum

- C1.10 If the proprietor agrees to carry a hirer a distance at the discretion of the proprietor, for a fixed sum, the proprietor is not permitted to carry the hirer for a distance less than the hirer should have been entitled to travel according to the rates prescribed by the Council, for the sum agreed.

Penalty for Overcharging

- C1.11 Any proprietor convicted of taking from a hirer more than the rate of fare prescribed by the Council shall be liable to a penalty not exceeding level 3 on the standard scale.

Persons Riding with the Consent of the Hirer

- C1.12 The proprietor may not allow any person to ride in the carriage without the consent of the hirer.

Requirements of the Local Government (Miscellaneous Provisions) Act 1976

Transfer of Vehicle

- C1.13 If the licensee transfers his interest in a licensed vehicle to another person he shall within 14 days give notice in writing of the transfer to the Council, specifying the name and address of the person to whom the vehicle has been transferred.

Testing of the Vehicle

- C1.14 The licensee shall present the licensed vehicle for testing at such time and place as may be reasonably required on up to three occasions during any period of 12 months.

Return of Vehicle Identity Plate

- C1.15 On the revocation, expiry or suspension of the vehicle licence, the licence and identification plates provided by the Council shall be returned to the Council within 7 days of the receipt of the request for such return.

Conditions of Licence made under Section 47 Local Government (Miscellaneous Provisions) Act 1976

Vehicle Insurance

- C1.16 The licensee shall notify the Council of any change of details of insurance cover for the vehicle during the currency of the licence.

C1.17 The licensee shall produce to the Council evidence of renewal and continuity of insurance cover throughout the term of the licence.

Accidents

C1.18 All accidents in which the vehicle is involved of any nature, whether resulting in personal injury or damage to the licensed vehicle or not, shall be notified to the Council, on the accident report form provided on request by the Council, within 72 hours of such accident.

Licence Plates

C1.19 The licensed vehicle shall be fitted with the Council licence plate which is to be affixed to the rear of the vehicle at or above bumper height in a vertical plane at or as close to as is practicable the centre line of the vehicle. The plate shall not be in any way obscured by the fitting of a towing bracket, tow ball or any other equipment.

Cleanliness and Safety of the Vehicle

C1.20 The vehicle proprietor shall

- a) Ensure that the external coachwork of the vehicle is maintained at all times in a clean condition and in good repair and free from rust.
- b) Ensure that all fire extinguishers provided in accordance with the byelaws shall be of the general purpose dry powder type with a minimum capacity of 0.9kg to BS EN3 2009.

(Note: Existing extinguishers provided on vehicles currently licensed may be continued to be carried until used or considered no longer serviceable when they must be replaced with one in accordance with the above specification).

- c) Provide and maintain in the vehicle a suitable first aid box the contents of which must be as follows:

| CONTENTS | |
|--|----|
| Guidance Leaflet on First Aid | 1 |
| Sterile Elastoplast Dressings Assorted | 20 |
| Sterile Triangular Bandage - 90cm x 127 cm | 2 |
| Safety Pins | 6 |
| Sterile Lint Dressings - BPC No 8 Medium | 1 |
| Sterile Lint Dressings - BPC No 9 Large | 1 |
| Moist Cleansing Wipes | 10 |
| Scissors, Blunt Ended | 1 |
| Elastoplast Dressing Strip - 6.3cm x 15cm | 1 |
| First Aid Windscreen Sticker | 1 |

The box must be carried in such a position as to be readily visible and available for immediate use.

Interior Identification Sign

C1.21 The licensee shall ensure that the interior notice provided by the Council on which is shown the licence number and seating capacity of the vehicle is at all times displayed in a conspicuous position inside the vehicle.

Citizens Band Radios etc

C1.22 The proprietor shall not permit any radio communications equipment to be fitted in the vehicle other than the apparatus which may be fitted so as to enable the vehicle driver to communicate with the vehicle operating base. In particular the vehicle may not be fitted with a Citizens Band radio and no driver may use such a radio in the licensed vehicle.

Vehicle Specification

C1.23 The licensee shall not during the currency of the licence alter the specification, design or appearance of the vehicle without the prior consent of the Council's authorised officer.

Convictions to Licensees

C1.24 The licensee shall notify the Council of any convictions under the Town Police Clauses Act 1847, The Local Government (Miscellaneous Provisions) Act 1976 or the Road Traffic Acts in relation to Hackney Carriages or involving dishonesty.

The notification which shall be in writing shall include:

- a. Date of Conviction
- b. Court where case heard
- c. Nature of Offence
- d. Penalty imposed

and shall be given to the Council within 7 days of such conviction.

Notices

C1.25 Any notices or notifications required to be given to the Council in accordance with these conditions of licence or required by the Local (Government) Miscellaneous Provisions Act 1976 shall be in writing and handed personally to an officer of the Council at the Ground Floor Reception, Marmion House, Lichfield Street, Tamworth B79 7BZ or left deposited in the Council's official letterbox at that address within the time stated.

Exceptional Age Policy

C1.26 Hackney Carriages vehicles licensed by Tamworth Borough Council can continue to have their licenses renewed until they reach 12 years of age from the date of registration.

C1.27 Private Hire vehicles licensed by Tamworth Borough Council can continue to have their licenses renewed until they reach 8 years of age from the date of registration

C1.28 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 or 8 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. Any failure to provide such notification to the Licensing Authority will exclude the vehicle from being considered under this policy.
- 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: -

C1.29 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 LICENCE - CONDITIONS OF LICENCE

General

- D1.0 The list of conditions set out below is not finite. Additional information regarding all aspects of private hire licensing is available in the Council's Hackney Carriage and Private Hire Licensing Policy and this must be read in conjunction with the specific conditions set out below. Any legal requirements that apply to the operation of a private hire licence are regarded as if they are conditions of the licence, whether specifically listed below or in the policy or not. Where reference is made to legal requirements either in the conditions below or in the Council's policy, proprietors are advised that such references are not exhaustive and it is the proprietor's responsibility to ensure they are fully aware of all relevant legal requirements with which they must comply.

Test requirements

- D1.2 All vehicles must meet the Council's safety and fitness test requirements. Where a vehicle is the subject of any test during the application process or during the currency of any licence and it is determined that the vehicle is not fit for the purpose of conveying passengers the proprietor must notify the Council as soon as is reasonably practicable, and in any case within 72 hours of the occurrence.

LPG converted vehicles

- D1.3 The proprietor must notify the Council, within 7 days, of any LPG conversion and provide the LPG Association Conversion certificate.

External vehicle licence plates

- D1.4 The external plates (front and rear) identifying the vehicle as a private hire vehicle as issued by the Council and required to be exhibited on the vehicle pursuant to Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 shall be:

- securely fixed to the outside front and rear of the vehicle in a conspicuous position;
- maintained, kept clean and in such a condition that the information on the plates is clearly visible to the public at all times;
- displayed at all times and in such a manner as to be easily removable by an authorised officer of the Council or a police officer;
- returned to the Council within 7 days of revocation or expiry (if not renewed) of the vehicle's licence; where the licence is suspended, be returned if required.

- D1.5 **AND** at no time, during the currency of the vehicle licence, is it permitted for the licence plates to be removed from the licensed vehicle.

- D1.6 Any existing licence plates must be returned to the Council before new licence plates for a vehicle will be issued, **Page 105** in licences transfers.

Internal signage

D1.7 Tariff Card

The tariff card must be displayed in a prominent position so that it can be easily viewed by passengers.

D1.8 Interior markings

The proprietor must clearly mark and maintain inside the vehicle, in such a position as to be clearly visible at all times a no smoking sign.

D1.9 In addition a drivers badge must displayed in a prominent position so that it can be easily viewed by passengers.

Advertising

D1.10 Proprietors must obtain approval from the Council prior to carrying advertisements on their private hire vehicle.

D1.11 Materials that are used for advertisements must be of a quality not easily defaced, soiled or detached.

D1.12 Reflective material must not be used.

D1.13 Advertising signs must not be illuminated.

D1.14 Advertisements may be affixed directly onto the exterior and/or internal body of the vehicle in such a position as not to obscure Council issued plates and all other required signs.

D1.15 Advertisements must comply with the relevant conditions set out in the Council's Policy.

D1.16 Private hire vehicles are prohibited from displaying the words 'taxi' or 'cab' in the singular or plural or the word 'hire' unless the word 'hire' forms part of the relevant company name or any word or similar meaning or appearance to any of these words, whether alone or as part of another word.

Closed circuit television (CCTV)

D1.17 Proprietors wishing to install closed circuit television (CCTV) in their private hire vehicle, must notify the Council, in writing, of their intention to do so.

D1.18 The CCTV system must be installed in accordance with the appropriate legal framework.

Trailers

D1.19 Proprietors must ensure any trailer:

- is inspected annually with the vehicle to which it relates;
- has a plate that relates to the towing vehicle(s); and
- complies with the relevant conditions set out in the Council's Policy.

Meters

D1.20 Whilst the fitting of meters is not mandatory in private hire vehicles, if meters are fitted, then the following conditions apply:

- When the machinery of the meter is in action there must be recorded on the face of the meter in figures clearly legible and free from ambiguity, a fare not exceeding the rate of fare which the proprietor or driver is entitled to demand and take for the hire of the vehicle by distance.
- The meter must be so placed that all the letters and figures on the face thereof shall be at all times plainly visible to any person being conveyed in the vehicle and for that purpose the letters and figures must be capable of being illuminated during any period of hiring.
- The meter must be set to reflect the current table of fares approved by the Council, or to an alternative table of fares that is in all cases lower than the Council approved table. Where the meter is set to an alternative table that table must be prominently displayed in addition to the approved table. A lesser fare than that shown on the taximeter at the end of a journey may be charged.
- When hired, a meter must be used for the whole of any journey.

Signs

D1.21 Private hire vehicles must not display a roof sign.

D1.22 All vehicles must display Council issued signs (side plates) on the upper portion of the front driver door and the front passenger door of the vehicle using the adhesive backed signs provided. These signs will carry the Council logo, PHV licence number and the words 'Prebooked Only'. The signs must be kept intact, clean and firmly attached to the vehicle doors as described above. The use of magnetic panels is prohibited. The removal of the signs is prohibited whilst the vehicle is licensed by Tamworth Borough Council. In the event that a side plate is lost it is the responsibility of the proprietor of the vehicle to notify the Council within 72 hours and to obtain a replacement sign.

Change of proprietor/address

D1.23 Any change in the proprietor of a private hire vehicle or the proprietor's address must be notified to the Council, in writing, during the period of the licence within 7 days of such change taking place by the proprietor.

MOT

D1.24 The vehicle must have a valid MOT throughout the licence period.

Insurance

D1.25 Satisfactory evidence must be produced that there is in force, for the use of the vehicle, a policy of insurance covering the carriage of passengers for hire or reward or such security as complies with the requirements of Part VI of the Road Traffic Act 1988.

D1.26 The proprietor must ensure that at all times a list is maintained of all licensed drivers authorised under the policy to drive the vehicle and must make such a list available to an authorised officer of the Council or a police officer at all reasonable times, when so required.

Vehicle Excise Duty (Road Tax)

D1.27 The vehicle must have valid Road Tax throughout the licence period.

Alterations to vehicles

D1.28 No material alteration or change in the mechanical or structural specification, design, condition or appearance of the vehicle is permitted without the written approval of the Council.

Damage to vehicles

D1.29 Notification must be given by the proprietor to the Council as soon as reasonably practicable and in any case within 72 hours of the occurrence of any accident/damage to the vehicle that materially affects the safety, performance or appearance of the vehicle, or the comfort or convenience of persons carried therein.

Inspection/examination

D1.30 The proprietor must permit any authorised officer of the Council or any police officer, at all reasonable times, to inspect and examine the vehicle and to request driver identification and insurance details. A drivers badge, certificate of insurance and MOT must be produced either during the inspection/examination or to an officer of the Council or police officer within 5 days.

Convictions

D1.31 The proprietor or where the proprietor is a partnership or a company, all partners or directors/company secretaries, as appropriate, during the period of the licence must, within 72 hours, disclose to the Council, in writing, if:

- They receive any warnings, cautions, fixed penalties or driving endorsements;
- Are arrested (whether or not charged with an offence);
- Are charged with any criminal offence;
- Are convicted of any criminal offence; or
- Allegations are made of their involvement in criminal activity.

Private Hire Vehicle – Executive Vehicle Supplementary conditions of Licence

Introduction

- E1.1 The Private Hire Vehicle Executive Licence, is granted subject to complying with the following conditions of licence in addition to the standard private hire vehicle conditions.
- E1.2 The 'Licence Holder' is the proprietor of the vehicle.
- E1.3 All references to the "Council" in these conditions mean Tamworth Borough Council, Marmion House, Lichfield Street, Tamworth, Staffordshire, B79 7BZ.

Type of Work

- E1.4 Once a vehicle has been licenced as a Private Hire Executive Licence the vehicle can only be used for work of an Executive nature and not for day to day local usage. The proprietor must be able to produce, when requested by the Licensing Office, information on bookings taken. The Licensing Officer will have the right to remove the Executive Licence and revert it to a normal Private Hire Licence if booking information is supplied on request or it is not felt that at least 90% of work undertaken is of an executive nature.

Vehicle Type

- E1.5 Only vehicles pre-approved by the Licensing Officer will be accepted as executive vehicles.
- E1.6 Executive Vehicles must be, in the opinion of the licensing officer, of such quality and character as to be considered as an executive vehicle.

Seating

- E1.7 Vehicles will be licensed for a maximum of 8 passengers only, regardless of the number of seats available within the vehicle. Proprietors of such vehicles must sign a declaration that they are aware that their vehicle is only licensed for 8 passengers and agree to ensure that no more than 8 people are carried under any circumstances.
- E1.8 Seating must have adequate dimensions and leg room in the opinion of the licensing officer.
- E1.9 On L-shaped seats, only one seat on the right angled corner will be accepted.

Vehicle Testing

- E1.10 All Executive Vehicles under the age of 4 years will attend two vehicle compliance checks per year and one licensing officer check.
- E1.11 All Executive Vehicles over the age of 4 years will attend three vehicle compliance checks per year and one licensing officer check.
- E1.12 Vehicle compliance checks will take place at Tamworth Borough Council's approved garage.

- E1.13 Failure of any of these checks will mean an immediate suspension of the private hire executive vehicles licence, until repairs can be made, the test has been re-taken and the vehicle has been found to be satisfactory.
- E1.14 In addition to this, all proprietors should undertake their own documented monthly checks to the council's specification.
- E1.15 Stretched limousines must have Individual Vehicle Approval (IVA) (<https://www.gov.uk/vehicle-approval/individual-vehicle-approval>) to be registered and licensed. For those built before 29 July 2011 a Certificate of Fitness (COIF) is accepted.
- E1.16 Stretched limousines are still required to undertake the Council's fitness tests. In the event that a stretched limousine cannot be tested at the Council's appointed vehicle testing station then they may be tested at a suitable testing station authorised beforehand by Tamworth Borough Council. A separate inspection form provided by Tamworth Borough Council must be completed by the testing station completing the test.

Electrical Equipment

- E1.17 If applicable, the controls for any driver screen and/or sunroof should be isolated, so the driver alone may operate them

Provisions of Alcohol

- E1.18 Alcoholic drinks provided in the vehicle shall be under the terms of any legislative requirements relating to the sale and supply of alcohol. No persons under 18 years of age shall be permitted to drink alcohol within the vehicle

Spares and Repairs

- E1.19 A spare tyre, of an approved type only, and the appropriate tools to make the repair (or an approved repair kit) must be carried, or a contract be in place with a repairer / recovery company who can supply such parts immediately in the event of a flat tyre.

Licence Plates

- E1.20 All Private hire Executive Vehicles must at all times display the square licence badge in the internal left corner of the vehicles front windscreen. The rectangular licence plate shall be attached to the backing plate supplied by the Council and position either above or below the rear vehicle registration number plate, or as determined by an authorised officer.
- E1.21 The licence plates must not be obstructed from view, inside or outside the vehicle, at any time.
- E1.22 The interior licence plate should be produced on demand by an authorised officer

Revocation and Modification of Conditions

- E1.22 The Council reserves the right (as its own behest and at any time) to revoke, vary, or modify any of these conditions and/or to make sure additional conditions as it may deem requisite, either generally or in respect of any particular licence or occasion.

E1.24 The following sections of the general private hire vehicle conditions ONLY are suspended for Executive Vehicles:

- Type size and Design
- Testing of Vehicles
- Minibus Type Vehicles
- Advertising Signs
- Licence Plates and Identification Signs
- Exception Vehicle Age Policy

PRIVATE HIRE OPERATOR LICENCE - CONDITIONS OF LICENCE

Guidance for Applicants

- F1.0 The proprietor must ensure that at all times a list is maintained of all licensed drivers on 55 of the Local Government (Miscellaneous Provisions) Act 1976 requires that the Local Authority shall not issue an operators licence unless satisfied that the applicant is a fit and proper person to hold a licence.

Submission of Police Record

- F1.1 The applicant is required to submit with any application for grant or renewal of the licence the record of convictions, if any, obtained from the Police under the Subject Access provisions of Data Protection Act 1998.
- F1.2 The envelope containing the reply from the Police must be brought, unopened to the Tamworth Borough Council Offices at Marmion House, Lichfield Street, Tamworth and opened in the presence of a member of the licensing staff.
- F1.3 Should any record reveal unspent convictions involving drug offences, dishonesty, sexual offences or violence, and should the applicant wish the application to proceed, the circumstances will be reported to the Council's Licensing Committee for a decision on the application to be made. The applicant or personal representative of the applicant will be entitled to appear before the Committee and speak in support of the application.

Knowledge of Legislation

- F1.4 New applicants for operator's licences should, on interview, be able to demonstrate a knowledge of the legislation and the restrictions under which private hire vehicles must be operated.

Consent Requirements

- F1.5 The applicant should be able to show that either:
- a. Planning permission has been granted for the operating base

or

 - b. That having regard to the premises and the mode of operation that planning permission is not required

or

 - c. That a formal application has been submitted for planning permission. If a business is operated without the appropriate planning permission in defiance of any planning enforcement notice, then this would be regarded as evidence that the licensee should not be considered a fit and proper person to hold a licence for those premises, and refusal or revocation would ensue.
 - d. If the operating premises specified in the application are owned by the Council, the permission of the department responsible for the letting or

leasing of the property should be obtained prior to submission of the application

Duration of Licence

F1.16 Licences are issued for a period of five years.

Conditions to Private Hire Operators Licences

Change of Address

F1.17 The licensee shall notify the Council of any change of home or business address, within 7 days of any such change.

F1.18 Record of Bookings

F1.19 The licensee shall ensure that the following details of bookings shall be entered in a record book, or loose leaf file system or electronic system) prior to the commencement of the journey in respect of which the booking was made.

- a) Name of the hirer
- b) Time and date of hiring
- c) Pick up point
- d) Destination of passenger(s)
- e) Councils' licence plate number of the vehicle used for the booking.
- f) Council's identification badge number of driver undertaking the booking
- g) If at the time of booking a quotation has been given for the fare to be charged, the amount of that quotation.

Record of Vehicles

F1.20 The licensee shall ensure that the following details be recorded for each vehicle operated:

- a) Vehicle registration mark
- b) Council's licence plate number
- c) Name and address of proprietor of the vehicle.
- d) Date of expiry of the Private Hire or Hackney Carriage licence.
- e) Expiry date of the insurance certificate or cover note for the vehicle together with details of the type of cover provided ie for public or private hire.

Record of Drivers

F1.21 The licensee shall ensure that the following details be recorded for each driver used in connection with the business:

- a) The driver's name
- b) The driver's Council identification badge number
- c) The date of expiry of the driver's Hackney Carriage or Private Hire driver's licence issued by the Council.

Complaints Register

F1.22 The licensee shall ensure that a complaints record book be kept in which are recorded the following details:

- a) Date of complaint
- b) Date and time of incident complained of
- c) Name and, if known, address of complainant
- d) Nature of complaint
- e) Licence number of vehicle if subject of complaint
- f) Licence number of driver if subject of complaint
- g) Any action taken by the operator in respect of the complaint

F1.23 All records required to be kept by conditions 2,3,4 and 5 above shall be made available for inspection by any authorised officer of the Council or any police constable and, if not immediately available for inspection at the operator's premises must, within 72 hours of the making of such a request, be produced for inspection.

F1.24 The licensee must ensure, that when bookings are accepted and a pick-up or response time given to a hirer, that the appropriate vehicle be despatched to fulfil that booking so as to arrive punctually unless such vehicle is delayed due to unforeseen circumstances beyond the control of the operator.

F1.25 Any lost property returned to the operator shall, if it cannot be returned to it's rightful owner within 48 hours, be handed over to the Tamworth Police at Tamworth Police Station, Spinning School Lane, Tamworth.

F1.26 The licensee shall ensure that any waiting/booking rooms provided for customers are kept clean and in good repair.

F1.27 The licensee, if convicted of any offence during the currency of the licence, must disclose any such conviction to the Council within 7 days of conviction. The disclosure must include the date of conviction, the Court where the hearing took place, details of the offence and the penalty imposed.

- F1.28 The licensee shall ensure that any records required to be kept in accordance with these conditions of licence are kept and made available for inspection for a minimum period of 6 months from the date of the last entry in the record book or file.
- F1.29 The licensee shall retain a certified copy of the private hire driver's licence of any driver used about his business, for as long as that driver is so used and shall make such licences available for inspection at all reasonable times at the request of any authorised officer of the Council or any police constable.

PLYING FOR HIRE

G1.0 Only licensed hackney carriages are permitted to ply for hire. 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.

G1.1 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.

RELEVANCE OF CRIMINAL CONVICTIONS AND CAUTIONS

Introduction

- H1.1 The purpose of this appendix is to provide additional guidance to assist determine whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire vehicle drivers and/or an operator licence as it relates specifically to convictions and cautions.
- H1.2 The guidance has been produced to assist the Council in its decision-making and to maintain the consistency of the decisions made. It has also been formulated to provide clearer information to current and potential applicants, with a view to minimising the cost and time spent on the licensing process by both the Council and the applicant.
- H1.3 The aim of the guidance is not to punish the applicant twice for a conviction or caution but to ensure that public safety is not compromised. The Council cannot review the merits of any conviction.
- H1.4 Each case is to be decided on its own individual merits and, where the circumstances demand, the decision making body may depart from the guidance in which case the reasons for this will be made clear.

Legislation

- H1.5 Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 sets out that the Council must not grant a driver's licence or an operator's licence unless they are satisfied that the person is a **fit and proper person** to hold such a licence.
- H1.6 Sections 61 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Council to suspend, revoke or refuse to renew a driver's licence if they have, since the grant of the licence, been convicted of an offence involving dishonesty, indecency or violence; or been convicted of an offence under or failed to comply with the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- H1.7 Sections 62 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Council to suspend, revoke or refuse to renew an operator's licence if they have committed any offence under, or failed to comply with, the provisions of Part II of the Act; where any conduct appears to render the operator unfit to hold a licence; any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or any other reasonable cause.
- H1.8 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.

Defining a ‘fit and proper person’

H1.9 There is no legal definition as to what definitively constitutes a ‘fit and proper person’. However, because of the potentially vulnerability of the passengers that drivers and operators may come into contact with, e.g. elderly people, unaccompanied children, the disabled, those who may have consumed excessive quantities of alcohol, lone females and foreign visitors, it is incumbent on the Council to take a very robust stance when deciding whether or not a person is fit and proper to hold a licence granted by the Council.

H1.10 In essence, a fit and proper person will be:

- Honesty and trustworthy - drivers and operators have, for example, access to a large amount of personal information that could be misused and significant opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars.
- Not abusive, violent or threatening – abusive, violent or threatening behaviour is not acceptable conduct on the part of a driver/operator even when they are subjected to unpleasant or dishonest passenger behaviour.
- A competent and safe driver - they are expected to be professional drivers and must be fully aware of all road traffic legislation, conditions attached to their driving licence, the safety of their passengers and the safety of their vehicles at all times; passengers rely on their driver to get them to their destination safely and using the most direct route, therefore, a good knowledge of the area that they are working in is also appropriate.
- Able to communicate effectively with passengers – in the main this means able to read, speak, write and understand English.
- In good physical and mental health – to ensure they do not put passengers at risk through, for example, suffering a heart attack whilst conveying passengers.

The Council’s approach when considering convictions

H1.11 The disclosure of any convictions or cautions will not necessarily mean an applicant is not a fit and proper person and, therefore, automatically prevented from being issued a licence. However, the Council will have regard to all convictions, spent or live, and they will be assessed accordingly. Consideration will be given, but not restricted to, the following:

- How relevant the offence(s) are to the licence being applied for.
- How serious the offence (s) were.
- When the offence(s) were committed.
- The date of conviction.
- Circumstances of the individual concerned.
- The extent of any mitigating factors.
- Sentence imposed by the court.
- Whether the offence(s) form part of a pattern of offending or indicate a pattern of unacceptable behaviour.
- Any other character check considered reasonable, e.g. personal references.

- Any other factor that may be relevant.

H1.12 **AND** to guide the Council's consideration, the implications of the answer to the following question will also 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?

H1.13 If the Council has any doubts as to the fitness of an applicant/existing licenced driver, then an application must be refused or licence suspended/revoked until those doubts can be effectively allayed through the provision of further adequate evidence.

H1.14 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 will be referred to the Licensing Panel or the Licensing & Safety Sub-committee for a decision as to whether the licence ought to be suspended until such an appeal is heard.

Patterns of behaviour

H1.15 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.

H1.16 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 give significant consideration to refusing to grant a licence or to suspending/revoking an existing licence.

Rehabilitation periods

H1.17 Detailed guidance (effective March 2014) on the Rehabilitation of Offenders Act 1974 is available on the GOV.UK website at <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

H1.18 A person with a conviction for an offence need not be automatically barred from obtaining a licence. However, they would be expected to remain free of conviction for an appropriate period of time (as set out in Tables A and B below) and demonstrate adequate evidence that they are a fit and proper person to hold a licence. The onus is on the person to produce such evidence.

NB Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is a fit and proper person.

Table A

| Sentence | Rehabilitation period (applies from the end date of the sentence, including any licence period) |
|--|---|
| Custodial sentence* of over 48 months, or a public protection sentence** | Never spent |
| Custodial sentence* of over 30 months and up to and including 48 months | 7 years |
| Custodial sentence* of over 6 months and up to and including 30 months | 4 years |
| Custodial sentence of 6 months or less | 2 years |
| Community order | 1 year |

*Custodial sentence includes both an immediate custodial sentence and a suspended sentence.

**Public protection sentence means a sentence of imprisonment imposed for specified sexual and violent offences as set out in Schedule 15 of the Criminal Justice Act 2003. (Equivalent provisions of the Armed Forces Act 2006 are also applicable.)

Table B

| Sentence | Rehabilitation period (applies from the date of conviction) |
|--|--|
| Endorsement for a road traffic offence imposed by the court or a FPN; or if a driving licence is revoked or refused on medical grounds by the DVLA (or other body responsible for issuing the driving licence) | 5 years* |
| Penalty points for a road traffic offence | 3 years |
| Driving disqualification** | when the disqualification ceases to have effect |
| Community order with no specified end date | 2 years |
| Fine | 1 year |
| Conditional discharge | Period of the order |
| Absolute discharge | None |
| Conditional caution | 3 months or when the caution ceases to have effect if earlier |
| Simple caution | Spent immediately |
| Compensation order | On the discharge of the order (i.e. when it is paid in full); individuals must obtain and retain proof of payment from the court |
| Binding over order; Attendance centre order; Hospital order (with or without a restriction order) | Period of the order |

* Where a driving licence is revoked/refused on medical grounds by the DVLA (or other body), the Council will not grant a licence until medical proof of acceptable physical and mental fitness is provided.

**'Disqualified' – refers to the period of disqualification actually served in order to take account of the fact that a court may reduce the period of disqualification; an applicant must provide evidence to prove that the court agreed a reduction in the period of disqualification.

H1.19 Where a person does not satisfy the rehabilitation periods referred to in the tables above, then the Council will refuse to grant a new licence or revoke or suspend an existing licence until the applicant is in a position to satisfy them.

H1.20 The specific periods of rehabilitation are not intended to be taken as definitive time periods by which an applicant/licence holder is automatically granted a licence simply on the basis that the rehabilitation period has elapsed. Rather they are intended to give parameters for consideration when taken with the overall history of an applicant/licence holder in order to assist the Council to determine whether an applicant/existing licence holder is a fit and proper person or not. The rehabilitation periods will not be considered in isolation.

H1.21 The Council will not grant a licence to an applicant who has been convicted of a specified sexual or violent offence unless significant and exceptional circumstances apply.

Licensing offences

H1.22 In addition to the consideration of rehabilitation periods, where an existing licence holder is found guilty of hackney carriage or private hire related offences such as, but not restricted to, plying for hire, over-charging, refusing to carry disabled persons or multiple breaches of licence conditions, licence holders will be referred to the Licensing Panel and/or the Licensing and Safety Sub-committee with a view to determining whether the licence ought to be suspended and/or revoked.

Right of appeal

H1.23 Any applicant refused a driver's or operator's licence on the grounds that they are not a fit and proper person to hold such a licence, or who has had their licence suspended or revoked or had a condition attached with which they disagree has a right of appeal by way of written complaint, to the magistrates' court within 21 days of the notice of decision.

Conclusion

H1.24 Any applicant having a previous or current conviction should not, in principle, debar them from obtaining a hackney carriage or private hire driver's licence. However, previous convictions are a significant factor in the decision making process and it will inevitably be more difficult for such applicants to obtain a licence. It is this Council's policy to consider the protection of the public above all else by ensuring all licensed drivers are honest, will not be a threat to the public, in good health, are safe and competent drivers and are able to maintain their vehicles to a safe standard. In doing so, the Council will focus on the background of an applicant as a whole and will not consider individual offences and their rehabilitation periods identified above in isolation from other factors, in particular patterns of unacceptable or inappropriate behaviour and conduct that may not necessarily be linked to proven convictions.

ADDITIONAL MEDICAL FITNESS GUIDANCE

11.0 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

INTENDED USE AND LICENSING OF HACKNEY CARRIAGES

Reasons for Policy

- J1.0 The Council wishes to ensure that applications for the grant of hackney carriage licences are determined in accordance with the guidance given by the High Court in its judgment, and the declaration made in the case of Newcastle City Council v Berwick upon Tweed Council [2008].

Applications for the grant of a new hackney carriage licence

- J1.2 Applicants for new licences will be expected to demonstrate a bona fide intention to ply for hire within the administrative area of Tamworth Borough Council under the terms of the licence for which application is being made.
- J1.3 There will be a presumption that applicants who do not intend to a material extent to ply for hire within the administrative area of Tamworth Borough Council will not be granted a hackney carriage licence authorising them to do so. Each application will be decided on its individual merits.
- J1.4 Even where the applicant intends to ply for hire to a material extent in the administrative area of Tamworth Borough Council, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

Applications for the renewal of a hackney carriage licence

- J1.5 Applicants for renewals of licences will be required to inform the Council whether they have a bona fide intention to ply for hire within the administrative area of Tamworth Borough Council under the terms of the licence for which application is being made.
- J1.6 There will be a presumption that applicants who do not intend to a material extent to ply for hire within the administrative area of Tamworth Borough Council will not be granted a hackney carriage licence authorising them to do so. Section 60 of Local Government Miscellaneous Provisions Act 1976 gives the Council a broad discretion to refuse to renew a licence for any reasonable cause. Each application will be decided on its merits.
- J1.7 Even where the applicant intends to ply for hire to a material extent in the administrative area of Tamworth Borough Council, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

Transfer of ownership – when a licensed vehicle is transferred from one person to another

- J1.8 Section 49 of the Local Government (Miscellaneous Provisions) Act 1976 requires that the proprietor of the licensed vehicle who transfers his interest to another must, within 14 days of the transfer, give written notice to the Council of the name and address of the transferee of the hackney carriage. The Council has no power to refuse to register the new proprietor: see *R v Weymouth Borough Council, ex p Teletax (Weymouth) Ltd* [1947] KB 583.
- J1.9 Provided requisite notice has been given in accordance with section 49 of the Local Government (Miscellaneous Provisions) Act 1976 the Council will register the transferee of a licensed hackney carriage as the new proprietor. This is a legal requirement.
- J1.10 The transferee of a licensed hackney carriage will be asked to inform the Council whether he has a bona fide intention to use the vehicle to ply for hire within the administrative area of Tamworth Borough Council. In addition, where the transferee resides outside the administrative area of Tamworth Borough Council, the transferee will be required to keep records of all pickups on the Tamworth Borough Council approved record sheets and these records shall be made available for inspection upon request. Transferees should note the obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give to an authorised officer information which may reasonably be required by him for the purpose of carrying out his functions under the legislation. Where there is a failure to provide the requested information or to keep the records, the Council will give serious consideration to exercising its powers of suspension of the licence under section 60 of the 1976 Act until such information is forthcoming, in addition to its powers under section 73.
- J1.11 Transferees of existing licences will be expected to have a bona fide intention to ply for hire within the administrative area of Tamworth Borough Council under the terms of the licence in respect of the vehicle being transferred.
- J1.12 Where the transferee of a licensed hackney carriage is found to have no intention to ply for hire to a material extent within the administrative area of Tamworth Borough Council and/or intends to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular case, consideration will be given (either at renewal or earlier) to the suspension or revocation of the licence under section 60 of the 1976 Act. Where the transferee proposes to operate remotely from the administrative area of Tamworth Borough Council there will be a presumption that his licence will be revoked. Each case will be decided on its merits.
- J1.13 The Council is required to register the name of the new proprietor of a vehicle. It seems to the Council also to open up an obvious route to circumvent the decision of the High Court referred to in paragraph 1.0 above, unless precautionary steps are taken. The paragraphs in this section are intended to put the Council in a position to respond responsibly to the transfer of a Tamworth hackney carriage into the name of someone who operates outside the administrative area of Tamworth Borough Council or remotely from it.
- J1.14 Unless there has been a change in the proprietor's intentions with regard to plying for hire within the administrative area of Tamworth Borough Council, there should be no reason why he should not be granted a licence for a replacement vehicle. On the other hand, an applicant who obtained his first licence on the expressed intention of plying for hire to a material extent within the administrative

area of Tamworth Borough Council, and who on application to replace that vehicle with another discloses that he no longer so intends, effectively engages the presumption against grant that is mentioned earlier.

Change of vehicle – when a proprietor replaces a licensed vehicle

J1.15 Applicants seeking the grant of hackney carriage licence for a vehicle intended to replace another licensed vehicle will be asked to inform the Council of their intended use of the vehicle. There will be a presumption that applicants who no longer intend to ply for hire to a material extent within the administrative area of Tamworth Borough Council will not have the new hackney carriage licence granted. Even where the applicant intends to ply for hire to a material extent in the administrative area of Tamworth, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular case, there will be a presumption that the application will be refused.

Revocation of licence

J1.16 Where a licence has been granted under the terms that the applicant intends to ply for hire to a material extent within the administrative area of Tamworth Borough Council but is subsequently found not to be plying for hire to a material extent in the administrative area of Tamworth Borough Council and/or to be trading in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) there will be a presumption that the licence will be revoked.

Exceptional circumstances

J1.17 Each application will be decided on its merits. However the presumptions that intended use is to ply for hire to a material extent within the administrative area of Tamworth Borough Council will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that it would not frustrate the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.

ADVERTISING ON HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

- K1.0 Advertisements will not be permitted by Tamworth Borough Council if, in Tamworth Borough 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 Tamworth Borough Council;
 - k. contains negative references to Tamworth 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 as a result of flickering or other visual imagery

CONDITIONS APPLICABLE TO THE USE OF TRAILERS

- L1.1 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.
- L1.2 The licensed towing vehicle's insurance must cover the towing of a trailer.
- L1.3 Trailers must not be left unattended anywhere on the highway.
- L1.4 The speed restrictions applicable to trailers must be observed at all times.
- L1.5 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.
- L1.6 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.
- L1.7 The tow bar must comply with the type approval regulations in respect of all tow bars fitted to cars after August 1998.
- L1.8 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.
- L1.9 Trailers must be inspected at initial licensing and annually thereafter by a garage approved by the Council for that purpose.
- L1.10 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.
- L1.11 Un-braked trailers shall be less than 750 KGs gross weight.
- L1.12 Trailers over 750 KGs gross weight shall be braked acting on at least two road wheels.
- L1.13 The towing vehicle must have a kerb weight of at least twice the gross weight of the trailer.
- L1.14 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.
- L1.15 The maximum permissible length of the trailer shall be 7 metres including the drawbar and coupling.
- L1.16 The width of the trailer shall not be greater than the towing vehicle subject to no trailer being wider than 2.3 metres.
- L1.17 The maximum length for braked **Page 129** trailers is 5.54 metres.

- L1.18 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.
- L1.19 The trailer shall not display any form of sign or advertisement not required or approved by the Council or Road Traffic legislation.