

Huntingdonshire District Council

Hackney Carriage and Private Hire Licensing Policy

Reviewed October 2018

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Applicant	Is a person or business who has submitted an application for either a grant or renewal of a licence
Assistance Dog	Is a dog which is trained to assist people with disabilities to help them with their day to day life
Authorised Council Officer	A Council Officer who is authorised by the Council to exercise powers and duties conferred by legislation
Badge	Issued to all licensed drivers and must be worn when working as a licensed driver
Byelaws	Locally adopted laws applicable to hackney carriage proprietors and drivers, breach of which is a criminal offence
CoC	Certificate of Compliance
Conditions	Mean the conditions of licence applied by the Council to a driver's licence, an operator's licence or a vehicle licence.
Date of First Registration	Means the date shown as the date of first registration on the vehicle's V5 logbook issued by DVLA
DBS	Disclosure and Barring Service

Comment [AC(1): Expanded for clarity

DfT	Department for Transport
Door Stickers	Door stickers which must be permanently affixed to doors of vehicles, displaying the Huntingdonshire District Council logo and suitable wording to differentiate between private hire and hackney carriage vehicles
Driving licence	A full GB driving licence issued by DVLA or EEA driving licence or acceptable equivalent as defined by DVLA or appointed agency.
DVLA	Driver and Vehicle Licensing Agency
DVSA	Driver and Vehicle Standards Agency (which replaced VOSA in 2014)
Fare Card	Is a card which must be displayed in vehicles that are fitted with a taximeter which indicates the maximum authorised fare to be charged for distance travelled, waiting time and soilage charge
Hackney Carriage Vehicle Licensed Driver	A vehicle licensed under the 1847 Act commonly referred to as a taxi A driver licensed under the 1847 Act to drive a hackney carriage vehicle or under the 1976 Act to drive a private hire vehicle.
Licensed Vehicle	Is a vehicle which is licensed under the 1847 Act as a hackney carriage or licensed under the 1976 Act as a private hire vehicle
Licence Plate	The plate which licensed vehicles must display which shows the licence number, the maximum amount of persons to be carried, expiry date, vehicle registration number, and make and colour of vehicle.
Licensing and Protection	Is the committee which determine licensing matters as set out in the Council's constitution
Operator	The business which invites and accepts bookings for private hire work
Plying for hire	A hackney carriage which is travelling and available for hire by responding to a request from a prospective passenger
Private Hire Vehicle	A vehicle licensed under the 1976 Act
Proprietor	Is the registered owner or part owner of a vehicle
PSV	Public Service Vehicle
Road Traffic Acts	Including all associated legislation
Standing for hire	A hackney carriage which is stationary at a hackney carriage rank or elsewhere and is available for hire by a prospective passenger
Taximeter	Is the device used for calculating the fare to be charged for the journey by measuring distance travelled plus any time waiting. Fitted in all hackney carriage vehicles and some private hire vehicles
The 1847 Act	The Town and Police Clauses Act 1847 and the provisions within
The 1976 Act	The Local Government (Miscellaneous Provisions) Act 1976 and the provisions within
The Council	Means Huntingdonshire District Council
The Controlled District	Boundary area of a local authority which has adopted the provisions of the 1976 Act
The Equality Act	Means the Equality Act 2010
The Licensing Authority	Means the licensing function within Huntingdonshire District Council
This Policy	Is this policy document and annexes.
WAV	Wheelchair Accessible Vehicle

Licensing policy status

This policy will take effect from 1 January 2019 and will override and supersede all existing Council policy and guidance in relation to Hackney Carriage and Private Hire Licensing. The Authority expects all licence holders to comply with its terms immediately, but it is acknowledged that certain provisions may place financial obligations on existing licence holders and accordingly the Authority is prepared to permit a transitional period for certain aspects of this policy and attached conditions during which time necessary changes must be made.

The published policy will be made available on the Council's website and at the Council's offices at Pathfinder House, St Mary's Street, Huntingdon, PE29 3TN, during office hours.

Section 1 - Introduction

Policy Purpose, Status and Scope

- 1.1 This document sets out Huntingdonshire District Council's Hackney Carriage and Private Hire Licensing Policy on the licensing of Hackney Carriage and Private Hire Drivers, Vehicles and Private Hire Operators. The purpose of the policy is to provide guidance and information on the general approach and expectations taken by Huntingdonshire District Council when administering its functions within the legislative framework of the 1847 and 1976 Acts.
- 1.2 This policy also sets out the legislative framework administered by the Licensing Authority in respect of such licences, however it is not a comprehensive statement of the law. This policy does not override the legal requirements embodied in any legislation in force at the time of adoption or as may be enacted after the adoption of the policy. Where any subsequent changes occur to applicable legislation or its interpretation by the courts that conflict with this policy, the conflicting elements will not apply and will be amended at the earliest opportunity.
- 1.3 The legislation places a duty on the Council as the Licensing Authority for licensing Hackney Carriage and Private Hire vehicles, drivers and operators. Hackney Carriage and Private Hire Vehicles play a vital and integral role in an integrated public system and the importance of a thriving Hackney Carriage and Private Hire trade to the growth and prosperity of Huntingdonshire District's local economy is recognised.
- 1.4 The Licensing Authority understands the importance and responsibility it has in ensuring that licensed vehicles in the district are safe, comfortable, properly insured and available where and when required, and that drivers and operators are "fit and proper" (i.e. safe and suitable) to undertake the role. However the safety and welfare of the public is the overriding principle that will be considered when matters are dealt with under the policy.
- 1.5 This policy is intended to put the Council's licensing requirements into context for all parties in a clear and transparent manner.

Aims

- 1.6 The Department for Transport Best Practice Guide states the aim of the Licensing Authority is to protect the public. In this policy, the Licensing Authority seeks to carry out its licensing functions with a view to promoting the following aims:
 - The safety and protection of the public; to include driver conduct and performance, consideration of their history of convictions cautions and warnings, knowledge of the area, and a general level of competency to be a licensed driver to include English, maths and legislation, along with health and fitness to fulfil the role of a licensed driver and the suitability of operators.
 - Vehicle specifications, safety, comfort and access; to include appearance and accessibility and the suitability of the vehicle proprietor.
 - The prevention of crime and disorder: including working with the Police and other relevant agencies, operation of planned and unplanned compliance and enforcement programmes.
 - The protection of children and vulnerable persons at risk from harm; including safeguarding requirements and training, co-operation with other agencies, robust reporting and determination of fit and proper persons.
- 1.7 This policy recognises that the licensing function is only one means of securing the delivery of the above aims. The Licensing Authority will therefore continue to work in partnership

with the trade, its neighbouring authorities, the police, Government bodies, other enforcement agencies, local businesses and local people toward the promotion of the aims.

- 1.8 Each decision, application or enforcement measure will be considered on its own merits, using the policy as a main guideline. However, where and if considered necessary, the Licensing Authority can depart from the policy, but will provide clear and compelling reasons for doing so.
- 1.9 This policy is not a comprehensive statement of the law and applicants should always obtain their own legal advice if they are unsure of the requirements of legislation.

Powers and duties

- 1.10 This policy has been produced pursuant to the powers conferred by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 which places duties on the Council to carry out its licensing function.
- 1.11 In exercising its discretion in carrying out its regulatory functions, the Licensing Authority will have regard to this policy document and the aims set out above.
- 1.12 In undertaking its licensing function, the Licensing Authority will also have regard to other relevant legislation including:
 - Transport Act 1985 and other associated Road Traffic Acts
 - Road Vehicles (Constructions and use) Regulations 1986
 - Crime and Disorder Act 1998
 - Data Protection Act 1998
 - Human Rights Act 1998
 - Environmental Protection Act 1990
 - Equality Act 2010
 - Health Act 2006 and Smoke-free Regulations 2006/7
 - Immigration Act 2016
 - Policing and Crime Act 2017

Consultation and Revision

- 1.13 This policy and annexes will be kept under review and revised as appropriate, in any event, not less than five years from the date of its last adoption. The Authority will consult, where appropriate, on proposed revisions, to reflect changes in case law and legislation. The Licensing and Protection Committee may make any amendments to the policy and any annexes. Sections may be updated and amended without the whole policy being consulted upon.
- 1.14 Consultation will normally take place with the following:-

Huntingdonshire Hackney Carriage Representatives
Taxi and private hire drivers and proprietors
Huntingdonshire private hire operators
District and Parish councillors
Cambridgeshire County Council Passenger Transport
Local Children's Safeguarding
Cambridgeshire Constabulary – Chief Constable of Police

Huntingdon Chamber of Commerce
Neighbouring Licensing authorities
General public

The above list is not exhaustive and consultations may include some or all of the above along with other persons, bodies or agencies as the Council considers appropriate

- 1.15 The consultation will normally appear on the Council's website advising the nature of the consultation and period.

Implementation

- 1.16 This policy will take effect from 1 January 2019 and will override and supersede all existing Council policy and guidance in relation to Hackney Carriage and Private Hire Licensing. The Authority expects all licence holders to comply with its terms immediately, but it is acknowledged that certain provisions may place financial obligations on existing licence holders and accordingly the Authority is prepared to permit a transitional period, for certain aspects of this policy and attached conditions during which time, necessary changes must be made.
- 1.17 The published policy will be made available on the Council's website and at the Council's offices at Pathfinder House, St Mary's Street, Huntingdon, PE29 3TN, during office hours.

The Licensing Regime

- 1.18 Some activities are considered to be of such a risk to the safety of members of the public that law requires an approval to be in place in the form of a licence to regulate that activity. This is the case for the Hackney Carriage and Private Hire trade, who make themselves available for hire to transport members of the public to their chosen destination in return for reward. The legislation creates five types of licence:
- Hackney carriage driver
 - Private hire driver (note that this Authority issues a dual Hackney Carriage and Private Hire driver's licence which covers both requirements)
 - Hackney carriage proprietor (or vehicle)
 - Private hire proprietor (or vehicle)
 - Private hire operator
- 1.19 A journey not carried out in accordance with the correct licences is not only illegal, but may invalidate the insurance held by the driver/proprietor and could have serious consequences for all parties involved should an accident occur.
- 1.20 A Hackney Carriage is a public transport vehicle with no more than 8 passenger seats, which is licensed to ply for hire. This means it can stand at ranks and be approached by members of the public, or be hailed in the street when plying for hire by members of the public.
- 1.21 Private Hire Vehicles must have no more than 8 passenger seats and must be booked in advance by customers through an operator and cannot stand or ply for hire in the street.
- 1.22 Vehicles that are required to carry more than 8 passengers for hire and reward are classed as Public Service Vehicles (PSV) and the Licensing Authority has no involvement in the licensing of these vehicles or drivers which are the responsibility of the Traffic Commissioners.
- 1.23 Any person who carries out Hackney Carriage or Private Hire work without the correct licences will be breaking the law and committing an offence.
- 1.24 In order to be licensed correctly the licenses must 'match', i.e. issued by the same local authority. A Hackney Carriage vehicle and the driver must be licensed by the same local authority. For Private Hire, the operator, driver and vehicle must be licensed by the same authority. This does not prohibit the operator subcontracting a booking to another operator

Comment [AC(2): Effects case law relating to insurance

Comment [AC(3): Amended for clarity

Comment [AC(4): Added for clarity

Comment [AC(5): Added for clarity

Comment [AC(6): Paragraph amended for clarity and to reflect the law

licensed by a different local authority.

1.25 The legislation places a duty on the local authority to only licence those who are considered to be 'fit and proper'. The term 'fit and proper' is not defined in legislation but 'safe and suitable' is considered an acceptable interpretation and is used by the Council.

Comment [AC(7): Paragraph amended for clarity

1.26 The legislation allows local authorities to set their own conditions, requirements, application processes and fees.

1.27 The aim of the legislation is to ensure that the public are protected and have reasonable access to these services. Public safety is paramount and has a wide scope, including public safeguarding, protecting vulnerable persons and public wellbeing. To achieve this aim and to meet our obligations, the Council have conditions and processes in place to promote well run, safe and responsible businesses.

Comment [AC(8): Reworded to emphasise that public safety is the paramount consideration

Information sharing

1.28 In the interests of protecting public funds, the Council reserve the right to use any information or data submitted as part of an application, renewal, administration or compliance and enforcement process for the prevention and detection of fraud and crime.

1.29 **Data Protection Act 2018 Sharing your information**

Comment [AC(9): Wording altered to cover change in legislation

We only keep your information as long as necessary, for some items this will be dictated by law. You can find out more by looking at the council's Retention Policy on the website.

We do not routinely process any information about you outside the European Economic Area (EEA), except in rare cases, where we use all appropriate safeguards.

Huntingdonshire District Council is a registered Data Controller with the Information Commissioners Office.

You can find out more about how we protect and handle your data by visiting the Council's Privacy Notice page on the web site www.huntingdonshire.gov.uk/privacy. If you have a query regarding your rights please contact the Data Protection Officer who can be contacted by emailing infogov@3csharedservices.org or you can write to the Council and mark your letter for the attention of the Data Protection Officer. Alternatively you can call 01480 388388.

You have the right to lodge a complaint with the Information Commissioner's Office (ICO) should you believe any part of this statement to be unlawful. .

1.30 **Partnership working:** The Licensing Authority works in partnership with many other enforcement agencies such as the Police, HM Revenue and Customs, the Home Office, DVSA, Department of Work and Pensions, border agencies, benefit fraud including the National Anti-fraud network register of suspended, revoked or refused licence applications and other local authorities etc. The Council will share information with other departments or regulatory bodies where appropriate and in line with Data Protection legislation. The Council is legally required to provide information if requested, pursuant to a criminal offence, or to detect fraud, or immigration offences.

Decision making

1.31 The Licensing Authority aims to provide a clear, consistent and responsive service to prospective and current licence holders, members of the public and other stakeholders, including the provision of guidance. The Licensing Authority will be mindful of the needs of the applicant and licence holder, but this will be balanced against the over-riding duty that the Licensing Authority has to protect the safety and welfare of the public.

Comment [AC(10): The Council can provide some guidance but cannot give advice. Any advice should be obtained by the applicant/ licensee at their own expense

1.32 The Council has delegated its taxi licensing functions to the Council's Licensing and Protection Committee which has, in turn, further delegated authority to the Licensing and Protection Sub-Committees and to Officers of the Council who will determine applications and licensing decisions in accordance with this policy.

1.33 Whilst officers and the relevant committees will in the majority of cases follow the policy, there may be specific circumstances that require a departure from the policy. In such circumstances, the reasons for departing from the policy will be made clear.

1.34 The Licensing Authority has the power to refuse to grant or renew licences and also to suspend or revoke existing licences in accordance with relevant legislative provisions. Where the legislative provisions allow, parties aggrieved by a decision have a right of appeal to the Magistrates' Court. Appeals are the responsibility of the applicant/licensee and must be commenced within the statutory timescales which will be explained on any decision notice issued by the Council.

Comment [AC(11): Reworded for clarity

Immigration Act 2016 – implications for all licences

1.35 The Council has a statutory obligation to ensure that applicants have the legal right to work in the UK prior to issuing a licence. The issuing or refusing of licences will be undertaken in accordance with the requirements of the Immigration Act 2016 with due regard to Home Office guidance.

1.36 The Council has checks in place to ensure compliance with the Act, and will liaise where required with relevant Home Office departments. If however, a licence has been issued incorrectly for whatever reason, the licence ceases to have effect if the person does not have the right to work in the UK. Any licence which has expired due to the person's immigration status must be returned to the council within 7 calendar days.

Comment [AC(12): Reworded for clarity. The Council has a statutory duty.

1.37 A licence may be suspended or revoked or refused to be renewed if, since the grant of the licence, where there has been a conviction of an immigration offence or a requirement to pay an immigration penalty.

1.38 Proprietors and operators also have an obligation to ensure that they only utilise persons who have the right to work in the UK. Failure to observe this obligation, or to provide due diligence checks, will be subject to enforcement action by the appropriate Home Office department, which may result in a civil penalty or imprisonment.

Policing and Crime Act 2017

1. The Council will have regard to any guidance issued by the Secretary of State regarding the protection of children, and vulnerable individuals who are 18 or over, from harm.

Comment [AC(13): Reworded for clarity. The requirement is to 'have regard to'

Application procedures

2.1 Applicants must fully complete the specified application forms and provide the relevant accompanying paperwork required and fee before an application will be accepted. Where supporting documentation is required to be submitted, only the original document will be accepted, not photocopies or photographs of the original. Applicants who deliberately fail to declare or who make false statements on the application form or during the application process, may be subject to refusal of a licence and legal action if it constitutes fraud.

2.2 The Licensing Authority will consider all applications on their own merits. An application will not be processed or considered until all documentation, fully completed has been received and the relevant fee (if applicable) has been paid.

Comment [AC(14): Reworded for clarity

2.3 The responsibility for applying or renewing a licence rests solely with the applicant/ licence holder prior to the expiry date of the licence.

2.4 Bad, foul or abusive language by applicants or licensees will not be tolerated. The Licensing Authority will not allow any member of staff to be subjected to threatening, abusive, intimidating or violent behaviour either directly, by telephone or other methods of communication. In any of these circumstances, the Licensing Authority has the right to refuse to process an application. Any person exhibiting any of the above behaviours will have the application refused or licence revoked.

Grant

2.5 Licences will normally be granted for the periods defined in legislation; however the Licensing Authority may exercise discretion and issue a licence of a shorter duration if it considers this to be reasonable given the individual circumstances.

Renewals

2.6 All renewal applications must be submitted before the expiry of the licence. Late or incomplete applications for renewals may render the driver, vehicle or operator unlicensed for a period of time during which licensed activities cannot be undertaken. In most cases, once a licence has lapsed, it will not be eligible to be renewed, and a new application will be required. In those circumstances, all the formalities required for a new application will be required. This would mean that any grandfather rights would be lost.

Comment [AC(15): Reworded for clarity and to reflect the correct legal position

Comment [AC(16): Reworded for clarity and to reflect the correct legal position

Section 3 - Vehicles

General provisions for hackney carriages and private hire vehicles

Definitions, Specifications and Conditions

- 3.1 The main difference between Hackney Carriage and Private Hire vehicles is that a Hackney Carriage can be hailed in a public street or hired from a taxi rank. Private Hire vehicles must be pre-booked in advance through a licensed Private Hire Operator; they cannot stand or ply for hire. Should a private hire vehicle driver accept a fare which has not been pre-booked through an operator he is committing an offence. Anyone being conveyed in a Private Hire vehicle which has not been pre-booked may not be covered by the drivers insurance.
- 3.2 Local Licensing Authorities have a wide range of discretion over the types of vehicle they licence as Hackney Carriage and Private Hire Vehicles. Government guidance recommends that Licensing Authorities adopt a principle of specifying as many different types of vehicle as possible, leaving it open to the trade to put forward vehicles of their own choice that can be shown to meet criteria.
- 3.3 The Licensing Authority will only licence a Hackney Carriage or Private Hire Vehicle that complies with European Whole Vehicle (M1) type approval, M1 Low Volume Type Approval. **UK National Small Series Type Approval and Individual Vehicle Approval (IVA).**
- 3.4 A vehicle will only be licensed as a Private Hire Vehicle if it is not of an appearance or design that is considered likely to lead the public to think it is a licensed purpose built Hackney Carriage Vehicle.
- 3.5 On the grant or renewal of a Hackney Carriage or Private Hire vehicle licence, the Licensing Authority can attach such conditions as it considers reasonably necessary. These vehicles provide a service to the public, so it is appropriate to set criteria for the external and internal conditions of vehicles. Conditions for hackney carriage and private hire vehicles can be found at Annex 2
- 3.6 All vehicles presented to the Licensing Authority for licensing and all vehicles whilst licensed must comply with the Authority's current policy, conditions and vehicle testing standards specification.
- 3.7 Licensed vehicles can only be driven by licensed drivers (except when the vehicle is being tested by a garage mechanic, in these circumstances a private hire vehicle must be driven on "trade plates").

Comment [AC(17): Reworded for clarity

Comment [AC(18): Reworded for clarity

Comment [AC(19): Words added for clarity

Smoking (including electronic cigarettes and vaping)

- 3.8 All licensed vehicles must comply with the requirements of the Health Act 2006. Licensed vehicles must display a no smoking sign in the vehicle which is clearly visible to passengers. It is an offence to smoke or permit a person to smoke in a licensed vehicle at any time, even when being used by the driver for any purposes other than a paid hiring. This policy defines smoking to include the smoking of electronic cigarettes and vaping products.

Signage, Livery and Advertising

- 3.9 It is essential that the public should be able to identify and understand the difference between a Hackney Carriage and a Private Hire Vehicle.
- 3.10 Hackney Carriage Vehicles must have signage on the rear passenger doors of the vehicle bearing the Huntingdonshire District Council logo and the words 'Licensed Hackney Carriage'. They must also display a blue identification plate on the rear of the vehicle and a blue windscreen notice bearing the licence plate number. They will have a roof sign on the top of the vehicle
- 3.11 Private Hire Vehicles must have signage on the rear passenger doors of the vehicle bearing the Huntingdonshire District Council logo and the words 'Private hire vehicle – insurance invalid unless pre-booked with operator'. They must also display a yellow identification plate on the rear of the vehicle and a yellow windscreen notice bearing the licence plate number. They will not have a roof sign or any signs that include the words 'taxi', 'cab', 'taxicab' or 'for hire'.
- 3.12 Signage must be either permanently or magnetically fixed to the vehicle door. The external licence plate must be securely fixed to the outside of the vehicle, no temporary fixing is allowed. All signage must be displayed on the vehicle at all times when in use as a Private Hire. Hackney carriage signage and livery must be displayed on the vehicle at all times whether in use or not. The signage and plates will be provided by the Licensing Authority for a fee.
- 3.13 All plates remain the property of the Council. All expired plates must be returned to the Council.
- 3.14 Further details of signs, notices and advertising on vehicles can be found within the Hackney Carriage and Private Hire Vehicle licence conditions. These can be found in Annex 2.

Age policy

- 3.15 The Council has a maximum age policy restricting the maximum age on the grant of a Hackney Carriage and Private Hire vehicle on **first application to five years**. There is no upper age limit for when we would no longer licence a vehicle as long as the vehicle meets the relevant criteria.

Insurance

- 3.16 It is the responsibility of proprietors, operators and drivers to ensure that they are properly insured at all times. If drivers work for multiple operators, all parties must ensure that appropriate and valid insurance is in place to avoid an inadvertent criminal offence.
- 3.17 Applications for the grant or renewal of a vehicle licence must ensure the Insurance cover is for the use of the vehicle for either hackney carriage or private hire in line with the licence applied for. The vehicle proprietor and the driver must ensure that valid insurance is maintained at all times during the licensed period. It is considered best practice for proprietors and or drivers to keep copies of expired insurance policies for a reasonable period of time in case of any retrospective claims.

Safety equipment

- 3.18 All licensed vehicles must have a suitable and efficient fire extinguisher and first aid kit containing appropriate first aid dressings and appliances. Such equipment must be in date

Comment [AC(20): Reworded for clarity and to reflect the consultation response was in favour of magnetic signage, it is less secure and can easily be lost or stolen. It could also be subject to misuse. However neighbouring authorities use magnetic with very few reported problems, Counter view from trade is that vehicles parked at night with fixed signage are a target for vandalism and theft

Comment [AC(21): Reworded for clarity and to reflect the correct legal position

and carried in such a position in the vehicle as to be readily available for immediate use in an emergency. Both the fire extinguisher and first aid kit must be clearly marked with the licensed plate number. All equipment must be stored in a safe and secure manner within the vehicle

Comment [AC(22): Reworded to tie in with vehicle condition

CCTV in licensed vehicles

- 3.19 The Licensing Authority recognises the importance of driver and passenger safety and encourages ways to reduce risks such as prepayment of fares, driver screens, radio link schemes and CCTV surveillance systems.
- 3.20 The Licensing Authority does not require enhanced security or CCTV measures to be in vehicles at this time. However the Authority wishes to support the trade in taking sensible measures to protect the drivers and passengers in licensed vehicles and does recognise that there are benefits to the trade and public where CCTV is installed in licensed vehicles. It is therefore left to the judgement of the proprietors, drivers and operators to determine the taking of such measures.
- 3.21 Where drivers, proprietors and operators have considered it appropriate to install CCTV in their vehicles as a safeguarding measure, they must notify the council prior to installation. They must be registered with the ICO and comply with all aspects of data protection and CCTV codes of practice. Further information can be found on the following link. <https://ico.org.uk/>
- 3.22 CCTV must be professionally installed to ensure no interference with other equipment, in such a manner that it does not increase the risk of injury or discomfort to the driver and passengers, or affect any other safety system or in any way breach the motor vehicle construction and use regulations. It must be regularly checked and maintained, be openly overt and the vehicle must display the required signage.
- 3.23 CCTV must not be used to record conversations of the travelling public as it is highly intrusive. Some systems have a driver panic button which if activated does record sound, this should only be used in extreme circumstances, such as in response to any disagreements or arguments between driver and the passengers, any situations of verbal abuse or any threat of physical violence.
- 3.24 The Licensing Authority reserves the right to amend CCTV specification from time to time as the need arises, having regard to changes in technical standards, case law, national policy or any other circumstances that make it reasonable to amend the current specification.

Comment [AC(23): Reworded for clarity

Maintenance of vehicles

- 3.25 Licensed vehicles have high usage and mileage and it is in the public interest, as well as the drivers, to ensure that vehicles are properly maintained.
- 3.25 The Council expects commitment from drivers and operators to ensure that a planned preventative maintenance programme is undertaken on vehicles.

Vehicle testing

- 3.27 The Licensing Authority must be satisfied that vehicles which are licensed by them are safe to operate as a hackney carriage or private hire vehicle.
- 3.28 Prior to licensing any vehicle, it must have passed an enhanced test at the Council's appointed testing station.

Comment [AC(24): Reworded for clarity

- 3.29 Once a vehicle has passed this enhanced test and provided all required documentation, a Certificate of Compliance (CoC) will be issued. A CoC replaces the need for an MOT but an MOT may also be issued
- 3.30 The licensing authority may appoint a currently registered MOT station(s) as an Appointed Testing Station(s) who will conduct the tests on its behalf. The authority reserves the right to limit the number of approved garages.
- 3.31 It is the vehicle proprietor's responsibility to ensure all testing and application procedures are adhered to. Proprietors and or drivers must make sure they organise the tests sufficiently in advance to ensure that the vehicle remains compliant with the vehicle testing and licensing requirements set out in the conditions.
- 3.32 Licensed vehicles that fail an authorised examination and test and are deemed non-compliant by the examiner will result in the vehicle proprietor being invited to re-test the vehicle. If a licensed vehicle fails, then it must not work until a compliance test has been passed. Re-tests will only be undertaken in accordance with DVLA M.O.T retest procedures see the website; - <https://www.gov.uk/getting-an-mot/retests> (updated May 2018).

Accidents/Accident replacement vehicles

- 3.33 Proprietors of licensed vehicles are required to inform the Authority as soon as possible and at least within 7 calendar days, of any accident causing damage which materially affects the safety, performance or appearance of the vehicle, or the comfort or convenience of passengers carried. Failure to report an accident within the given timeframe may lead to the suspension or revocation of a licence. Proprietors must also present the vehicle to the Licensing Team for inspection, if requested.
- 3.34 A Council accident report form must be completed and submitted it to the licensing team,
- 3.35 In the case of a replacement vehicle for a temporary period following an accident, vehicles must first be passed as fit for service by the Council's appointed testing station and must meet all the other requirements and standards applicable. Depending upon the nature of the damage, the Licensing Authority retains the right to have the repaired vehicle inspected at the testing station or examined by a Licensing Officer at an officer's discretion.

Vehicle inspections

- 3.36 Licensed vehicles must at all times, be kept in a safe, tidy and clean condition. Compliance with the vehicle specifications and conditions of licence are essential and will be enforced by periodic and/or random vehicle inspections by authorised officers of the Council.

Comment [AC(25): Reworded. No definition of efficient

Taximeters and fares

- 3.37 All hackney carriages licensed by this Authority must have a working taximeter fitted in the vehicle. The meter must be calendar controlled and set to a rate which never exceeds the current tariff as set by the Licensing Authority.
- 3.38 The taximeter and the operating devices must be sealed by the installer and certificated to confirm that the equipment is compliant. The certificate issued must be available for inspection and the vehicle seals must be intact at any time that the vehicle carries a licence plate, except when at an approved installers premises.
- 3.39 Meters must meet the London Taxi and Private Hire Specification.
- 3.40 A table of authorised fares must be displayed in each vehicle so that it is easily visible to all

Comment [AC(26): Reworded for clarity and to reflect the correct legal position

hirers.

3.41 When a hackney carriage is undertaking a journey within district, the fare demanded cannot be more than that shown on the taximeter. If a fare has been quoted and agreed and is less than the fare shown on the taximeter, the quoted lesser fare must be charged. If the journey commences at a hackney carriage stand, but will end outside the district, that must be charged at the metered rate unless an agreement was made for a higher charge before the hiring commenced. The charges levied by hackney carriage vehicles operating outside of Huntingdonshire District Council area, do not have to be subject to the licensing authority's control and form a private contract between the hirer and the operator.

Comment [AC(27): Reworded for clarity and to reflect the correct legal position

3.42 The Licensing Authority cannot set fares for private hire vehicles and these are a matter for agreement between the operator and the hirer.

Comment [AC(28): Reworded for clarity and to reflect the correct legal position

Transfer of ownership of the vehicle

3.43 If a proprietor wishes to transfer ownership of a licensed vehicle, they must provide full details of the new owner of the vehicle as soon as practically possible, and in any case within 7 calendar days. A proprietor who fails to give such notice, without reasonable excuse, is guilty of an offence.

Accessibility and Equality

3.44 All drivers will be required to be trained in accessibility and equality as a part of the application process. A provider will be determined and further details will be added to this section.

3.45 The Licensing Authority takes all complaints of discrimination seriously and will have due regard to its duty to eliminate discrimination, along with the provisions of the Equality Act 2010, when considering the fitness of an individual to hold a Hackney Carriage or Private Hire licence, be it driver, vehicle or operator.

3.46 All new hackney carriages above plate 44 must be wheelchair accessible vehicles (WAV's) and are designated as such. The Licensing Authority will apply any specification for such vehicles as may be provided by regulations under the Equality Act 2010. There is not the same requirement for private hire vehicles to be wheelchair accessible. Existing hackney carriage plates 1-44 also retain protected grandfather rights to use saloon style vehicles provided the licence remains in continuous use. If a renewal application is made late and the licence lapses, the grandfather rights will be lost and a new application for a new WAV vehicle will need to be made.

Comment [AC(29): Reinforces the need for timely renewal applications

3.47 As Hackney Carriages pick up passengers from ranks and the roadside, all new licensed Hackney Carriages must be side **or rear** loading.

3.48 Licensed drivers must not impose extra charges for conveying persons with disabilities or assistance dogs.

3.49 The Equality Act 2010 places certain duties on licensed drivers to provide assistance to people in wheelchairs and to carry them safely. There are similar requirements on drivers in relation to the passengers with an assistance dog. Drivers or operators cannot charge extra or refuse to carry such passengers unless they have applied for and been issued an exemption certificate. Further information on exemption certificates can be found in sections 3.54 – 3.64.

3.50 Drivers must be appropriately trained in the use of relevant belts and other restraint locking mechanisms to ensure the safety of their passengers in the vehicle. It is the driver's responsibility to ensure that they understand fully how to use the equipment.

Exemptions, weddings and funeral vehicles

- 3.51 The DfT issue guidance regarding the types of activities that may require licensing. In general, the following are not currently considered to require licensing. However should DfT guidance change, this authority will reserve the right to amend the information and guidance within the policy
- Child minder vehicles
 - Care transport workers
 - Volunteers
 - Ambulances
 - Courtesy Cars

3.52 Vehicles owned by funeral directors that are used wholly or mainly for the purposes of funerals are exempt from the requirement to be licensed.

3.53 Vehicles used in connection with a wedding are exempt from the requirement to be licensed.

Comment [AC(30): Reworded for clarity and to reflect the correct legal position

Private hire exemption to display licence plate etc

3.54 The displaying of the external identification plate on a licensed vehicle and a drivers badge is important in terms of public safety and reassurance. They indicate to the travelling public that prior to being licensed both the vehicle and the driver have been subjected to checks to assist with public safety issues.

3.55 However there are occasions when the requirement to display an external identification plate may have the opposite effect in the terms of customer safety and could have commercial implications for the operating business. The display of local authority licence plates may also deter some corporate customers from using the service; and in some cases the identification of the vehicle as licensed may allow "high risk" passengers to more readily be targeted putting both them and the driver at risk.

3.56 The Local Government (Miscellaneous Provisions) Act 1976 requires that private hire vehicles display an identification plate (licence plate) and drivers of those vehicles wear a driver's badge. The same legislation also allows Huntingdonshire District Council to exempt vehicles from the need to display an identification plate and, where that exemption applies, the requirement to wear a private hire driver's badge. The ability to exempt a vehicle from displaying the licence plate only applies to private hire vehicles, and any authorisation from the Licensing Authority is vehicle specific.

3.57 It is not intended that a significant number of private hire vehicles licensed by the Council will be exempt from the council's requirement to display an external vehicle identification plate, however the Council recognises that there may be circumstances when it would be appropriate for vehicles operating the type of service to be considered suitable for such an exemption.

3.58 Applications for the exemption from the requirement to display an external identification plate on the rear of a private hire vehicle may be considered where the following requirements are met;

- a. Vehicle models must be either four door saloons, or five door estates or five door hatchbacks and people carrier type vehicles.
- b. Vehicles must be of a standard of comfort and equipped to a level equal to or above luxury brands of vehicles such as "S" and "E" Class Mercedes-Benz, 7 Series BMW, Lexus "GS" or "LS" models, Audi A8 Series, Jaguar, Rolls Royce and Bentley

saloons. (The highest specification executive type cars from other manufacturers may also be considered). This list is not exhaustive and consideration will be given on a case by case basis.

- c. The vehicle must at all times be in pristine condition with minimal defects, dents or blemishes to the external bodywork or internal trim and seating.
- d. The type of work to be undertaken must be “executive” in nature. This means that the vehicle is used specifically and exclusively to provide transport under a written contract to companies or individuals, or by the type of clients who for security or personal safety reasons would not want the vehicle to be identifiable. Proof of contract will be required as part of any request for plate exemption

Comment [AC(31): Reworded for clarity

- 3.60 Vehicles which have been issued with an exemption certificate must not be used for general day to day private hire work. Exempted vehicles found to be carrying out standard private hire work will be subject to enforcement action and the exemption certificate may be revoked.
- 3.61 Exempted vehicles must not display any form of advertisements, signage, logos, or insignias including advertising the operating company inside or outside the vehicle.
- 3.62 Operators and proprietors who wish to apply for an exemption certificate must apply in writing, pay the required fee and provide sufficient supporting documentation to establish the vehicle will be solely used for executive bookings. An exemption certificate will be vehicle specific. Applications for exemptions relating to a fleet of vehicles are not permitted.
- 3.63 There are extra conditions applicable to exempted vehicles, in addition to the standard conditions. Where there is any inconsistency between the standard conditions and these extra conditions, then these extra conditions shall prevail. The extra conditions can be found at Annex 3.
- 3.64 If an exemption certificate has been issued and the vehicle will no longer be utilised solely for executive type bookings, the certificate must be surrendered and returned to the council. If the vehicle is still licensed, it must then display the plate and door stickers as required by the conditions for private hire vehicles.

Stretched Limousines

- 3.65 Stretched Limousines are elongated saloon cars, generally used for private hire work and special occasions.
- 3.66 Limousine vehicles that are designed or adapted to carry 8 or less passengers and are used for the purpose of hire and reward are required to be licensed as private hire vehicles and all bookings must be made via a licensed operator.
- 3.67 These are specialist types of vehicles with their own set of special conditions, in addition to the standard conditions. Where there is any inconsistency between the standard conditions and these specialist conditions, then the specialist conditions shall prevail. The conditions can be found at Annex 5
- 3.68 The Council strongly recommends that anyone wishing to purchase and licence a limousine, contacts the licensing team prior to purchase, to ensure that the vehicle will meet the conditions. Applications will be treated on their individual merits.

Limitation of vehicle numbers

- 3.69 The legal provision on quantity restrictions for Hackney Carriages is set out in the Transport Act 1985, Section 16. Any limit imposed needs to comply with Part 12 of the Equality Act 2010 and any associated regulations in respect of the proportion of the taxi fleet accessible to disabled persons.
- 3.70 Huntingdonshire District Council has not set a limit for the number of Hackney Carriage vehicles it will licence but can reconsider if circumstances change. This ensures that Hackney Carriage and Private Hire vehicles are readily available for passengers in Huntingdonshire district. There are no powers for licensing authorities to limit the number of private hire vehicles.

Section 4 - Hackney Carriage and Private Hire Drivers

General

- 4.1 This Authority has a dual licence for both Hackney Carriage and Private Hire Drivers. The sections below therefore apply equally to Hackney Carriage and Private Hire Drivers unless indicated.
- 4.2 Licensed drivers provide an important public service. This Authority 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 and are not disqualified by reason of their immigration status.

On the grant or renewal of a Hackney Carriage and Private Hire Vehicle Drivers licence, the Licensing Authority can attach such conditions as it considers reasonably necessary. Conditions for Hackney Carriage and Private Hire Vehicle Drivers licences can be found at Annex 1.

- 4.3 This Authority generally grants Drivers licences for a duration of three years, although it may exercise discretion and issue a licence for a shorter duration if it considers this to be reasonable given the individual circumstances e.g. immigration status/ right to work in the UK.
- 4.4 If a licensed driver fails to submit a complete application to renew by the date of expiry of the licence, they will be required to apply as a new driver and meet all the requirements. The Council will only consider a late renewal in exceptional cases R (on the application of Exeter City Council) v Sandle [2011] LLR480, in which case the renewal date will be from the date of expiry of the previous licence.

Fit and proper

- 4.5 There is no specific definition of 'fit and proper' in legislation or case law, but as noted at paragraph 1.25 above, this Council uses the term "safe and suitable" to explain what is meant by fit and proper. In determining whether a person is safe and suitable, the Council will take account of all relevant matters including (but not limited to) documentary evidence, practical criteria and testing mechanisms.
- 4.6 Bad, foul or abusive language by applicants or licensees will not be tolerated. Behaviour of a rude or abusive manner at any stage of the application process will call into question an applicant's 'fit and proper' status and may result in their application being refused.

Comment [AC(32): Reworded for clarity

Suitability of driver

- 4.7 Licensed drivers will come into contact with vulnerable people, drivers are expected to assist passengers with luggage, shopping etc, they will be driving for prolonged periods of time, and will have access to sensitive information, therefore the council must fully assess an applicant's suitability prior to and after issuing a licence.
- 4.8 Consideration of safety and suitability includes consideration of the whole person; their character and patterns of behaviour and is not limited to incidents which occur whilst the driver is 'on duty'. Conduct or behaviour which may indicate that the safety and welfare of the public may be at risk will also be taken into account when assessing their safety and suitability. The onus is on the applicant or licensed driver to satisfy the Council that they are and remain a 'fit and proper' and safe and suitable person.

Comment [AC(33): Reworded to emphasise the concept of safety and suitability

Vehicle driver licences

- 4.9 Applicants must be over 18 years of age and must have held a full driving licence issued in the UK, the European Community (EC) or one of the other countries in the European Economic Area (EEA) for at least 12 months. Exchangeable driving licences will also be accepted when a person has not resided in the UK for 12 months, but must be exchanged for a UK licence after 12 months residence.
- 4.10 This Authority requires drivers to notify the council of any significant changes which occur after their licence has been granted. This includes change of name or address, email address or telephone number, change of immigration status, changes in physical or mental health which may affect driving ability, all convictions cautions or warnings, DVLA penalty points, or any other matter which may question a driver's fit and proper status. This includes any actions taken by other licensing authorities.
- 4.11 All licensed drivers must wear their drivers badge whilst working as a licensed driver. Failure to comply is an offence under the 1976 Act and the byelaws. The driver's badge remains the property of the Council and all expired, surrendered or revoked badges must be returned.

Comment [AC(34): Reworded to reflect the correct legal position

Comment [AC(35): Reworded for clarity

Eligibility to live and work in the UK

- 4.12 This Authority will only issue licences to individuals who have a legal entitlement to live and work in the UK.
- 4.13 Proof of the right to live and work in the UK must be provided by the applicants in accordance with Immigration legislation. As a part of the application process, individuals are required to present original documentation for verification and copies will be made and retained on file. The Home Office has produced Guidance which details the documents that can be used. A link to the Guidance can be found here: <https://www.gov.uk/topic/immigration-operational-guidance>
- 4.14 If an individual is not a UK or EEA national then they will need to obtain permission to live and work in the UK.
- 4.15 Individuals may have a permanent or temporary right to live and work in the UK. Licences will not be issued for a period any longer than the permission given to live and work in the UK.
- 4.16 This Authority will work in conjunction with the Home Office or its appointed agents to ensure immigration offences are minimised. This Authority may exercise discretion to grant or renew a licence, or suspend or revoke an existing licence if an individual is found to be living or working in the UK without the relevant authorisation (driver and operator licences

granted after 1st December 2016 lapse if the right to remain or work in the UK is lost and no action is necessary on the part of the Council).

Comment [AC(36): Reworded to reflect the correct legal position

Disclosure and Barring Service (DBS), Convictions, cautions and other related matters

- 4.17 Under the Town and Police Clauses Act 1847, or under Section 57 of the Local Government (Miscellaneous Provisions) Act 1976, a council may require an applicant for a licence to submit any information that they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.
- 4.18 An enhanced DBS certificate is a mandatory requirement for an applicant for a drivers licence and is an important element used by this Authority to ascertain whether or not the person is fit and proper to hold a licence.
- 4.19 An enhanced DBS check will be required upon application. The DBS check must be dated no more than two months prior to the application/renewal date. This check will detail any criminal convictions and cautions, including those that are spent and other relevant information which will be taken into account.

Comment [AC(37): Reworded for clarity

4.20 This Authority requires applicants to join the DBS Update Service.

- 4.21 The Rehabilitation of Offenders Act 1974 sets out the period after which a conviction would be regarded as 'spent' and would not normally require disclosure of that conviction. However the Act has been amended to add Hackney Carriage and Private Hire drivers to the list of 'excepted occupations'. This means that applicants must disclose all previous convictions for any offences, and there are no 'spent' convictions in relation to hackney carriage or private hire drivers. Only protected convictions or protected cautions can be withheld (see the application form for details).
- 4.22 The existence of a criminal conviction, caution or warning does not necessarily preclude an applicant from obtaining a driver's licence. Conversely, the absence of any convictions or cautions does not mean that an applicant will be licensed. Each application will be determined on its own merits.
- 4.23 Existing licence holders must disclose all new convictions, cautions or warnings including driving convictions, police warnings and reprimands, cautions, community service orders, restraining orders, fixed penalties and any other matters to the licensing authority, in writing within 7 calendar days.
- 4.24 Under Common Law Police Disclosure (CLPD) the police can share information regarding a licensee if there is a 'pressing social need'. This ensures that where there is a public protection risk, the police will pass information onto a regulatory body to allow swift actions to mitigate any serious safeguarding risk.
- 4.25 If it comes to the attention of the Council that a licensed driver has failed to notify the council of relevant matters which occur during the licence period, this will be taken particularly seriously. It shows a propensity towards dishonesty and questions the safety and suitability status of the licence holder.

Comment [AC(38): Reworded for clarity and to reflect the correct legal position

Certificates of Good Conduct

- 4.26 Applicants who have worked or have been resident overseas in the 5 years preceding the date of application must obtain a certificate of good conduct from the relevant embassy or consulate covering that period.

- 4.27 The certificate of good conduct must be authenticated, translated and sealed by the relevant embassy or consulate.
- 4.28 Any costs associated with obtaining a certificate of good conduct are the responsibility of the applicant or driver.

DVLA

- 4.29 As driving is the predominant aspect of a licensed driver, the council needs to ensure that applicants hold a valid driving licence and to ascertain whether the licence holder has been issued with any penalty points.
- 4.30 This Authority will carry out a check of DVLA records to ensure that the information submitted by the applicant is in accordance with the information held by the DVLA.
- 4.31 Applicants are therefore required to complete a DVLA mandate form on application and at three yearly intervals thereafter to permit the Council to access their driving record. The mandate and DVLA result will be retained and recorded.
- 4.32 Consideration of penalty points and driving offences will be made in accordance with the guidelines relating to the relevance and treatment of convictions available on request from the Licensing Team or on the Council website. This can be found at Annex 7.

Medical Requirements

- 4.33 As it is essential that licensed drivers are in good health, applicants are required to undertake a medical examination on first application and at certain times thereafter (see paragraph 4.38 below). This is necessary because the Council must be satisfied that licensed drivers are sufficiently healthy to undertake the tasks expected of them.
- 4.34 In acknowledging the importance of a driver's good physical and mental health in protecting the public, this Authority requires that all new and renewal drivers meet the DVLA Group 2 medical standards.
- 4.35 The DVLA group 2 medical is a recognised national standard developed by DVLA for bus and lorry drivers. The DVLA, The Royal Society of Medicine and the DfT recommend and consider it best practice for licensed drivers (hackney carriage and private hire) to be subject to the DVLA group 2 medical requirements.
- 4.36 Medicals are required for all new applicants and also every 6 yrs. (to coincide with the renewal of licence) thereafter. On reaching the age of 65 medicals are required annually thereafter. For new applicants the medical must be no older than four months at the time of submission with the relevant application. Applicants must pay any fees to the registered medical practitioner for completing the medical and report.
- 4.37 The medical examination must be undertaken by a registered general practitioner licensed to practice in the UK or registered within the EU, and will preferably be the applicants own GP. The Group 2 medical report must be submitted with the application, to enable the council to consider their fitness to hold a licence.
- 4.38 If, once licensed, a driver's medical circumstances change during the period of the licence, the driver must notify the Licensing Authority within 7 calendar days. If there is any doubt as to the medical fitness of an individual, this Authority may require the individual to undergo a further group 2 medical examination by their GP or an approved practitioner at the drivers' own expense. Each case will be assessed on its individual merits. This includes any deterioration in physical or mental health which may affect a driver's ability to drive or complete tasks required of a licensed driver.

Comment [AC(39): Reworded for clarity

Comment [AC(40): Reworded for clarity

Comment [AC(41): Reworded for clarification

Local Knowledge and Competency test

- 4.39 Hackney Carriage and Private Hire drivers need a good working knowledge of the district and surrounding area, because vehicles can be hired immediately, directly with the driver at hackney carriage stands or on the street for Hackney Carriages and by prior booking through a Private Hire Operator in the case of Private Hire Vehicles. All applicants must first complete and pass the Council's hackney carriage and private hire driver's local knowledge and competency test.

Comment [AC(42): Reworded for clarity

Comment [AC(43): Added following the result of public consultation

Driving Proficiency

- 4.40 This Authority needs to be satisfied that a driver's driving ability is competent and of a sufficiently high standard to safely and comfortably convey members of the public. In addition to the mandatory DVLA driving licence, it is therefore a requirement that a further appropriate formal driving qualification be undertaken and obtained for all new applicants and for cases where there are serious concerns as to the fitness of an existing driver to hold a licence due to driving problems a list of approved assessors is available on the Council website.

Council Byelaws

- 4.41 Hackney Carriage Drivers are subject to the Council's Byelaws and breach of these is a criminal offence. The Byelaws can be found at Annex 6

Code of Conduct

- 4.42 This Authority considers that the Hackney Carriage and Private Hire trade is a key front line transport service for residents and visitors to our district and has set down the standards which must be adopted in maintaining a safe, professional and efficient approach to transport members of the public. The standards of behaviour are set out in the licence conditions and should be read in conjunction with the other statutory and policy requirements set out in this document.
- 4.43 This Authority and the travelling public expect licensed drivers to provide good customer service and to behave in a civil and courteous manner. They are expected to be clean and smart in their appearance. The vehicle must also be clean, presentable and roadworthy. They are expected to provide reasonable assistance with luggage or shopping and provide a written receipt if requested with no extra charge. Arrive at the appointed time and not prolong any journey. As professional occupational drivers, they are expected to drive with consideration to their passengers, other road users and local conditions.
- 4.44 Drivers must not operate any equipment which may distract them whilst driving. Drivers must not cause annoyance to passengers during the journey by playing music or constantly talking on a hands free mobile phone.
- 4.45 Drivers must be aware of their obligations under the Equality Act to provide a service and assistance to passengers with mobility problems, disabilities and to take assistance dogs, without extra charge.
- 4.46 This Council condemns discriminatory behaviour which is harassing, racist, religiously motivated, homophobic, sexist, or in any way offensive to disability or gender. Complaints of this nature are taken particularly seriously. The Council does not however have any power over passengers who use licensed vehicles. Drivers who experience any of the above behaviour should report it to the police.

4.47 Licensed drivers must ensure that they fully consider the safety of the passenger, other road users, parking restrictions, street furniture and other hazards when stopping to allow a passenger to alight the vehicle.

4.48 Licensed drivers have a duty to make a conscious decision to take regular rest periods, to ensure their own safety and the safety of the travelling and general public. Licensed drivers must not drive if they are taking medication which impairs their judgement or driving ability.

Complaints against drivers

4.49 In the interests of public safety, this Authority has a duty to ensure that licensed drivers remain fit and proper as well as safe and suitable and will intervene where appropriate. Complaints made to the Council are recorded and monitored.

4.50 Where serious complaints which question a driver's fit and proper status are received, they are investigated and appropriate action is taken. Similarly, the accumulation of several complaints of a less serious nature about the same driver could highlight that there is cause for concern. Each case will be considered on its individual merits. Where this occurs it may be necessary to contact the driver concerned and/ or proprietor or operator. The driver may be asked to attend the council offices to determine an appropriate course of action that reflects Huntingdonshire District Councils Corporate Enforcement Policy. This could be that no action is required, or that appropriate enforcement action needs to be undertaken.

Equality Act requirements and Exemption certificates

4.51 This Authority has implemented Sections 165 and 167 of the Equality Act 2010, which sets out the duties placed on drivers of designated WAV's, which are:

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

Mobility assistance means providing assistance:

- to enable the passenger to get into or out of the vehicle
- if the passenger wishes to remain in the wheelchair. To enable the passenger to get into and out of the vehicle while in the wheelchair;
- to load the passenger's luggage into or out of the vehicle;
- if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle

Comment [AC(44): Added for clarity and certainty

Sections 168 and 170 of the Equality Act 2010 also lays out requirements for the conveyance of assistance dogs:

- To carry the disabled person's dog and allow it to remain with that person
- Not to make any additional charge for doing so.

4.52 The driver will commit an offence if they fail to comply with the above duties

New paragraph – Drivers who refuse to or fail to take assistance dogs without an exemption certificate may be prosecuted by the passenger and may be subject to enforcement action by the Council, including prosecution or revocation of a licence

Comment [AC(45): Added for clarity and certainty

Comment [AC(46): Move elsewhere?

4.53 All new driver (and operator) applicants will be required to undertake mandatory safeguarding training as prescribed by the licensing authority before submitting an

application. Existing drivers will also be required to undertake mandatory training and will have a period until 31 March 2020 to complete the training. A licence will not be renewed if the training has not been completed within this timeframe.

Comment [AC(47): Reworded to reflect the result of the consultation

4.54 Drivers may apply in writing for an exemption certificate if a medical condition or disability or physical condition makes it unreasonably difficult for them to provide the sort of physical assistance these duties require, or provide physical assistance to passengers in wheelchairs or if they are unable to convey assistance dogs due to a medical condition which is aggravated by exposure to dogs..

Comment [AC(48): Added following consultation

4.55 The Council will only consider exemption applications which are accompanied with a medical report signed by a specifically trained professional that is independent of the applicant i.e. a registered medical practitioner or independent Occupational Health practitioner. The period of the exemption certificate will be individually determined based on the medical practitioner's recommendation. The Council may request applicants to be assessed by the council's professional qualified medical assessor, particularly where the period of exemption is likely to be long term.

4.56 Where an exemption application has been considered and approved by the Council, the driver will be issued with an exemption certificate and an exemption notice. The exemption notice must be displayed in the vehicle on the nearside of and immediately behind the windscreen of the vehicle, in a manner that readily permits its removal, so that its front is clearly visible from the outside of the vehicle and its back is clearly visible from the driver's seat of the vehicle, when driving. The exemption notice must be removed prior to another licensed driver driving the vehicle. Failure to display the notice could leave the driver open to prosecution, if they do not then comply with the requirements of the Equality Act. Only one exemption notice should be displayed in a vehicle at any one time.

4.57 If an exemption application is refused, the applicant will be informed in writing providing reasons for the decision to refuse. Applicants who have been refused an exemption can appeal to the Magistrates Court within 21 calendar days.

4.58 Drivers who have been issued with an exemption certificate must inform proprietors or operators that they have the exemption, to avoid any unnecessary distress or delay to passengers.

4.59 Licensed drivers of designated WAV vehicles who fail to comply with the duties under the Act will be subject to enforcement action. Drivers who are the subject of complaints or who are convicted of failure to comply with this section are unlikely to be considered a 'fit and proper' person.

Comment [AC(49): Wording reinforces that action will be taken even where there has not been a conviction

Idling offence - environmental impact

4.60 Drivers are reminded that stationary idling is an offence under section 42 of the Road Traffic Act 1988.

Plying for Hire – Private Hire Vehicles

4.61 If a private hire driver is parked and is approached directly by a member of the public, the driver must refuse to carry the passenger unless and until a booking has been made by the passenger, or someone acting on the passengers behalf who is not the driver, with the operator. A driver commits an offence under s45 Town Police Clauses Act 1847, if they take an active part in the 'booking' process, eg by contacting the operator directly by radio or mobile phone to make that booking for his own vehicle there and then.

Comment [AC(50): Reworded for clarity and certainty

Hackney Carriage drivers

- 4.62 Hackney Carriage drivers waiting on taxi ranks, generally operate a first in the queue system. When a customer approaches, the taxi at the front of the rank will expect to take that passenger. Whilst this etiquette generally works without incident, drivers are advised that the customer may, for whatever reason, choose not to take the first taxi at the rank.
- 4.63 Drivers who, whilst waiting on a rank, refuse or neglect to accept a fare without reasonable cause are committing an offence.
- 4.64 A driver must not leave a Hackney Carriage vehicle unattended on a rank for whatever reason. Hackney carriage ranks are solely for hackney carriages to wait for the next hiring.

Comment [AC(51): Reworded for clarity and certainty

Section 5 - Operators

General

- 5.1 Any person who operates a Private Hire service (who is not a Hackney Carriage Proprietor who permits Hackney Carriages to be used for pre-booked hackney carriage work) must apply to the Licensing Authority for a Private Hire Operator's Licence. The legislation requires any person, who in the course of business makes provision for the invitation or acceptance of bookings for a private hire vehicle, must be licensed as a private hire operator. The aim is to promote the safety of the public using the operator's premises, vehicles and drivers arranged through them.
- 5.2 A Private Hire vehicle can only be dispatched to a customer by a Private Hire Operator who holds an operators' licence. The licence permits the operator to make provision for the invitation or acceptance of bookings for a Private Hire vehicle. The acceptance of bookings may be provided for by a variety of methods, such as, in person, by telephone, text, email, internet, smart phone app, in writing, or by any other communication means.
- 5.3 The legislation requires the authority to only licence operators who are considered to be fit and proper to hold an operator's licence and who are not disqualified by reason of their immigration status.
- 5.4 A Private Hire operator must ensure that every Private Hire vehicle is driven by a person who holds a Private Hire driver's licence.
- 5.5 All work undertaken by private hire vehicles (and drivers), must be pre-booked via a licensed operator. All three licences (private hire vehicle, private hire driver and operator) must be issued by the same Licensing Authority. Operators will be committing an offence if this provision is not strictly adhered to.
- 5.6 An operator's licence is usually granted for a five year duration, but may be granted for a lesser duration if requested to do so in writing or if the applicant's immigration status limits it to a shorter duration.
- 5.7 Proof of the right to live and work in the UK must be provided by the applicant in accordance with Immigration legislation. As a part of the application process, individuals are required to present original documentation for verification and copies will be made and retained on file. The Home Office has produced Guidance which details the documents that can be used. A link to the Guidance can be found here: <https://www.gov.uk/topic/immigration-operational-guidance>
- 5.8 There is no provision within the legislation to transfer an operator's licence. New applicants must be subject to the fit and proper test and new premises must also be assessed for suitability.

Comment [AC(52): Reworded for clarity and certainty.

Comment [AC(53): Same paragraph added for operators as for drivers

5.9 An operator's licence cannot be issued to persons who do not have the right to work in the UK. A licence lapses (i.e. is no longer a valid licence) if the person to whom it was granted becomes disqualified by reason of their immigration status. Where this applies, the person must immediately cease to operate and return their operator's licence to the council within 7 calendar days.

Comment [AC(54): Reworded for clarity

5.10 Licensed operators can accept bookings and can subcontract these bookings, but only to another licensed operator. However, the operator who accepted the initial booking remains responsible for that booking.

5.11 Operators are required by law to keep a record of bookings and records relating to each and every vehicle operated by the operator. Records of bookings must be made before the commencement of the journey. This includes records of all journeys that are subsequently sub-contracted to another operator, as well as those received as a sub-contract from another operator. All such records must be made available to an authorised officer for inspection.

Comment [AC(55): Reworded for clarity and certainty

5.12 The Licensing Authority has power to impose such conditions on an operator's licence, as it considers reasonably necessary. Huntingdonshire District Council's Schedule of Conditions for Operators is available on request from the Licensing Team or on the Council website. This can be found at Annex 4.

5.13 Licenses for Private Hire operators will only be granted to Operators with a base situated within the Huntingdonshire District boundaries, satellite offices will also only be licensed within the district boundaries.

Suitability of applicant

5.14 Operators are generally the owners of the private hire business. They have access to private information, are responsible for ensuring they only utilise properly licensed, insured and safe vehicles and drivers.

5.15 The council requires applicants to complete the application and submit it with the appropriate fee, and supporting documentation, which will be used to decide whether the applicant is a fit and proper person to hold an operator's licence.

5.16 As Operators have access to personal information and to promote public safety, before an application for a Private Hire Operators licence will be considered, Operators that are existing drivers will undertake enhanced DBS checks in accordance with the requirements of their Hackney Carriage and Private Hire Driver's licence.

5.17 All new Private Hire Operators must submit as part of the application process a basic DBS disclosure, less than 2 months old, if they are not already a licensed driver. The Council will require a further basic DBS disclosure on renewal of a Private Hire Operators Licence, dated within two months from the date of application.

Comment [AC(56): Amended. The Council is only permitted to obtain a basic disclosure in respect of an operator.

5.18 The legislation does not allow the Council to grant a licence to an operator whose premises are located outside our area. Existing operators already holding an Operator's licence beyond the boundary of the district will be permitted to continue under grandfather rights provided the licence remains in continuous use. If a renewal application is made late and the licence lapses, the grandfather rights will be lost.

Comment [AC(57): Reworded for clarity and certainty

Suitability of premises

5.19 When considering an application for an operator's licence at a new premises, consideration will be given to the location, the vicinity, facilities, parking arrangements, etc to ensure that

the grant of a licence will not negatively impact on the surrounding area, including businesses, residents and the general public.

- 5.20 Operators intending to operate from new premises must satisfy themselves that they have obtained any relevant planning permission, or confirmed that planning permission is not required. Where planning permission is required, operators must comply with any condition attached to such permission. Whilst any breach of planning legislation will be enforced by the planning department, it may also be used in consideration of an operator's fit and proper status. The grant of an Operator's licence will not imply that planning consent has been given.
- 5.21 If the business is in a Council property, Housing Association or rented privately, any applicants should seek the written permission from the landlord to operate a private hire business from the premises.
- 5.22 Where the operator has premises open to the public, the operator must ensure that they have taken out Public Liability insurance.

Operators' responsibilities and obligations

- 5.23 The responsibility for applying to renew an Operator's licence, and to ensure that all documentation, checks and associated criteria is up to date, rests solely with the licence holder. The licence fees payable are subject to review and any increase or reduction will be published as required by legislation.
- 5.24 This Licensing Authority will only accept complete applications comprising all the necessary information and documentation. A late application (i.e. one made after the expiry of the current licence), or an incomplete application which is not rectified before the expiry of the current licence is a new application, not a renewal and all formalities connected with a new application must be in place before any such application is processed. Late or incomplete applications may render an operator being unlicensed for a period of time during which they will be unable to work as a licensed operator.

Comment [AC(58): The Council will not be introducing a sliding scale for operator fees. S70 of the 1976 act only allows for the recovery of costs associated with the issue and administration of the licence. The number of vehicles is immaterial.

Comment [AC(59): Reworded for clarity and certainty

Record keeping

- 5.25 The Local Government (Miscellaneous Provisions) Act 1976, S 56 (2) requires Operators to keep records of each booking. Information must include the date and time of the booking, the name of the hirer, how the booking was made, the date, time and point of pick-up, the destination, the name and badge number of the driver and the licence number of the vehicle allocated and any other remarks e.g. reference to contract or sub-contract work. Records can be kept in a suitable book or on a computer or any other recordable device and be available for inspection at the address licensed by the Licensing Authority. If using a book the pages must be numbered consecutively. Records must be retained for a period of not less than six months.
- 5.26 If an operator subcontracts a booking to another licensed operator, both operators must keep a record of the booking. The operator who accepted the initial booking remains fully responsible for that journey even though it has been subcontracted to another licensed operator. The initial operator must record the checks they made to ensure that the operator they passed the booking onto is correctly licensed.
- 5.27 Regardless of which operator fulfils the booking, the operator can only dispatch a vehicle licensed by the same authority that licenses the operator and driven by a driver also licensed by that same authority.
- 5.28 The customer has the choice of which operator they book through. This means that the customer may choose an operator licensed by a neighbouring authority, known as cross

border hiring. The legislation permits these bookings and the council cannot get involved in these private hire contracts. Operators should aspire to ensure that their drivers and vehicles provide the highest standard of service, so that they are the operator of choice.

- 5.29 Operators need to be aware of their obligations when it comes to data protection. Where databases containing personal information, such as records of bookings are maintained electronically or if they have CCTV, they are required to be registered with the Information Commissioner's Office (ICO). Further information including a self-assessment, can be found on the following links;
<https://ico.org.uk/for-organisations/register/>
<https://ico.org.uk/for-organisations/register/self-assessment/>
<https://ico.org.uk/for-organisations/guide-to-data-protection/cctv/>
- 5.30 The Operator must hold records of insurance and licence expiry dates of drivers and vehicles. Journeys allocated to uninsured or unlicensed drivers and vehicles will be an offence.
- 5.31 The Operator must allow an Authorised Officer of the Council access to records required by their licence at all reasonable times.
- 5.32 Operators must make customers fully aware of any additional charges which may be applied, e.g. for waiting time and for cleaning a soiled vehicle. These additional charges must be clearly displayed in the operator's office and website where available.

Cleanliness & maintenance

- 5.33 Operators have a responsibility along with the driver and proprietor to ensure that the vehicles utilised are clean, fit for the purpose of the booking and comply with the conditions applied by this council. It is expected that where operators have a dedicated fleet, they have a planned maintenance programme in place for all vehicles.

Sub-Contracting

- 5.34 Section 55a of the Local Government (Miscellaneous Provisions) Act 1976, inserted by the Deregulation Act 2015, permits Operators licences by the council to sub-contract a private hire booking to another operator licensed by the Council or to any other licensed private hire operator holding a private hire licence granted by another licensing authority.
- 5.35 Regardless of which operator fulfils a booking, the operator can only dispatch a vehicle licensed by the same Council that licenses the operator and driven by a driver licensed by that same Council.
- 5.36 Operators that accept a booking remain legally responsible for that booking even if they sub-contract the booking to another Operator and should record the booking as usual and note the fact that it was sub-contracted.

Cross-border hiring

- 5.37 In relation to Private Hire vehicles, the Local Government (Miscellaneous Provisions) Act 1976 permits members of the public to contact and book a private hire vehicle through any licensed Private Hire Operator regardless of the district they are licensed. Private Hire bookings are private contracts between the hirer and the operator and are not a matter for the Licensing Authority to regulate. In this regard, the Act leaves the selection of an Operator entirely to market forces and the freedom of choice to the customer.
- 5.38 The Council encourages all private hire operators to include wheelchair accessible vehicles

amongst their fleet. They must ensure that no additional costs or charges are levied by them or their drivers for conveying disabled passengers or assistance dogs.

Other obligations

- 5.39 Operators must ensure that only licensed drivers carry out bookings and are appropriately trained for their role. Operators must be able to demonstrate how they will achieve this by way of a policy to include any training (or checks) provided by the operator, customer service company policies and practices, including disability equality.
- 5.40 Operators must be aware of their obligations under the Immigration Act and only utilise persons who have the right to work in the UK. Failure to observe this requirement or to provide due diligence checks may be subject to enforcement action by the relevant Home Office department.

Complaints policy

- 5.41 As responsible business owners, operators will understand that the drivers and vehicles they utilise represent their business when undertaking bookings. Operators will want to ensure good customer service, as this builds a respected reputation, resulting with repeat bookings and a successful business. Where vehicles or drivers fail to provide a good service, the operators business can suffer. Where complaints are received it is expected that the operator will attempt to find an amicable resolution to the complaint without intervention by the Council.
- 5.42 Complainants must be dealt with in a respectful timely manner in an open and transparent way. To ensure this is achieved, operators are required to have a formal complaints policy and procedure which is made freely available to all customers, and maintain records of complaints received.
- 5.43 A copy of the complaints policy and procedure must be given to the council and will be required with all new and renewal applications.
- 5.44 The complaint records must detail specific information, be monitored, and be made available to authorised officers upon request.
- 5.45 The specified information to be recorded must include, where possible the following information as a minimum:
- the name of the complainant and how they can be contacted,
 - the date the complaint was made and the time and date of the journey,
 - If the booking was subcontracted the details of the licensed operator who fulfilled the booking and any action taken by the subcontractor regarding the complaint or concern
 - the name of the driver and vehicle being reported,
 - the nature of the complaint or concern,
 - The date by which the operator will respond to the complaint, which must not exceed 72 hours from time of receipt,
 - The action taken if any, by the operator to resolve the complaint or concern.
- 5.46 Operators must also inform the complainant, that they can further their complaint to the council if they remain dissatisfied with the outcome of their complaint.
- 5.47 If an operator is made aware of a serious complaint concerning the fitness of a driver, they must notify the licensing section immediately or as soon as practically possible and provide details of the actions taken by the operator.

Section 6 - Safeguarding

- 6.1. Safety, security and welfare applies to passengers and licensed drivers.
- 6.2 This Authority is committed to safeguarding and promoting the welfare of children, young people and adults at risk. We take our responsibilities seriously and expect all our licensed drivers, proprietors and operators to share this commitment.
- 6.3 Safeguarding is the process of protecting children, adults at risk and the general population from harm, preventing impairment to their health and development, which includes keeping them safe from neglect and physical, emotional and sexual abuse.
- 6.4 Licensed drivers deal with strangers, they work alone often late at night, carry cash and may be at risk of violence, non-payment of fares, verbal abuse etc. Proprietors and operators must consider these factors when determining what safeguarding measures should be in place. The council encourages the use of CCTV in licensed vehicles, but has not made it a condition of licences due to the financial burden involved. However, proprietors and operators should consider the benefits of safeguarding measures such as, CCTV, cashless payment systems, communication systems, etc in licensed vehicles in their risk assessments.
- 6.5 Drivers and operators may refuse to carry any passenger, but only if they have good cause, eg a customer's behaviour or demeanour is threatening, offensive or abusive or has previously refused payment. Where this occurs drivers and operators should keep records of why the service was refused.
- 6.6 All new driver and operator applicants will be required to undertake mandatory safeguarding training as prescribed by the licensing authority before submitting an application. Existing drivers will also be required to undertake mandatory training and will have a period until 31 March 2020 to complete the training. A licence will not be renewed if the training has not been completed within this timeframe.

Comment [AC(60): Reworded for clarity and certainty

Comment [AC(61): Reworded to reflect the result of the consultation

Section 7 - Enforcement, Compliance and Range of Powers

- 7.1 The Council has a responsibility to ensure that all licence holders adhere to the standards and conditions applied by this authority and the legislation. It is recognised that a well-directed, risk based approach to enforcement activity by the Licensing Authority benefits not only the public but also the responsible members of the Hackney Carriage and Private Hire trades.
- 7.2 This Authority will operate a firm but fair disciplinary and enforcement regime. In order to balance the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference, this Authority will only intervene where it is necessary and proportionate to do so.
- 7.3 Complaints from the public and/ or any routine enforcement that identifies significant breaches of conduct will be subject to investigation by Officers. .
- 7.4 In addition to the investigation of complaints, the Licensing Authority will also take appropriate action in accordance with our Corporate Enforcement Policy, this policy and the regulators code of practice against licence holders upon receipt of evidence that an offence has been committed. An offence may be a breach of the legislation or condition imposed on a licence, byelaw, or this policy.
- 7.6 The Council will undertake overt and covert targeted enforcement operations as well as ad hoc compliance checks on licence holders. These operations and compliance checks may

be inside and outside normal office hours and may involve partner agencies.

- 7.7 Some breaches of legislation cannot be enforced by the council, but may be enforced where appropriate, by other partner agencies, e.g. the Police, DVSA, the Home Office etc.
- 7.9 There are a range of sanctions and actions which may be taken by the council, e.g. prosecution, suspension, revocation, refusal to renew, formal written warning, caution, verbal warning, advisory letter, note on records and no action. The course of action will depend on the severity of the offence committed, the evidence available and the risk to public safety.

Prosecution

- 7.10 Prosecutions will be taken where it is in the public interest.

Suspension of a licence

- 7.11 Where a licence is suspended, unless suspended under powers of "immediate suspension", the licensee may appeal the decision to the Magistrates Court and may continue to work until the appeal is determined.
- 7.12 A driver's licence may be suspended with immediate effect where it is in the interests of public safety to do so. The driver may appeal this decision to the Magistrates' Court but this will not affect the suspension starting with immediate effect.

Refusal to grant

- 7.13 This Licensing Authority has the discretion to decide that a licence will not be granted if the vehicle, driver or operator does not meet the requirements of the policy or conditions of licensing. There is a right of appeal to the Magistrates' Court and thereafter to the Crown Court. In the case of a refusal to grant a hackney carriage proprietors (vehicle) licence, the right of appeal is directly to the Crown Court.

Comment [AC(62): Reworded for clarity and certainty

Revocation of a licence

- 7.14 Where a licence holder has had a licence revoked other than under powers of "immediate revocation" they may appeal this decision to a Magistrates Court and may continue to work until the appeal is determined.
- 7.15 A driver's licence may be revoked with immediate effect where it is in the interests of public safety to do so. The driver may appeal this decision to the Magistrates' Court but this will not affect the suspension starting with immediate effect.

Refusal to renew

- 7.16 This Licensing Authority has the discretion to decide that, especially in the circumstances where a licence is due to expire, it would be more appropriate to refuse to renew the licence as an alternative to revocation. Drivers have the right of appeal to the Magistrates' Court.

Compliance

- 7.17 For minor breaches of licence conditions this Authority will consider offering advice and guidance to promote compliance or issue warnings as appropriate to the circumstances. A warning may be used for minor, technical or first time transgressions where it may not be in the public interest to prosecute.

Complaints, compliments and comments

- 7.18 Complaints compliments or comments about the licensing service may be made via the Licensing address at licensing@huntingdonshire.gov.uk . All complaints will be investigated and responded to. Should this not resolve your complaint it can be escalated via the corporate complaints policy at <http://www.huntingdonshire.gov.uk/council-democracy/have-your-say/complaints-and-feedback/> or by e-mail at Huntingdonshire.gov.uk

Right of appeal

- 7.19 Where an applicant or licence holder is aggrieved by the Council's decision to refuse to grant or refuse to renew a licence, revoke or suspend a licence, or impose conditions on a licence, the applicant or licence holder has a right of appeal to the Magistrates Court.
- 7.20 Any appeal must be lodged at the Court within 21 calendar days of the applicant/licence holder receiving written notification of the Council's decision. The appeal must state the grounds on which the appeal is based.

Section 8 - Fees, Charges and Refunds

- 8.1 There is a statutory power for the Licensing Authority to charge fees associated with the Hackney Carriage and Private Hire licensing regime. Licences surrendered prior to their expiry, or licences that are suspended or revoked shall not be eligible for a refund.
- 8.2 The licence fees applied by this council are set on a cost recovery basis. They are regularly reviewed and any increase or reduction will be published and consulted upon as required by the legislation.