

**Democratic Services**

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Date: 30 December 2013

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**To: All Members of the Licensing Committee**

**Councillors:** Manda Rigby (Chair), Patrick Anketell-Jones, Rob Appleyard, Gabriel Batt, Cherry Beath, Bryan Chalker, Anthony Clarke, Gerry Curran, Andrew Furse, Roger Symonds, Chris Watt and Brian Webber

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Licensing Committee: Tuesday, 7th January, 2014**

You are invited to attend a meeting of the **Licensing Committee**, to be held on **Tuesday, 7th January, 2014 at 12.00 pm** in the **Kaposvar Room - Guildhall, Bath.**

The agenda is set out overleaf.

Yours sincerely



Sean O'Neill  
for Chief Executive

**If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.**

*This Agenda and all accompanying reports are printed on recycled paper*

## NOTES:

- 1. Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact Sean O'Neill who is available by telephoning Bath 01225 395090 or by calling at the Riverside Offices Keynsham (during normal office hours).
- 2. Public Speaking at Meetings:** The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. Advance notice is required not less than two full working days before the meeting (this means that for meetings held on Wednesdays notice must be received in Democratic Services by 4.30pm the previous Friday)

The public may also ask a question to which a written answer will be given. Questions must be submitted in writing to Democratic Services at least two full working days in advance of the meeting (this means that for meetings held on Wednesdays, notice must be received in Democratic Services by 4.30pm the previous Friday). If an answer cannot be prepared in time for the meeting it will be sent out within five days afterwards. Further details of the scheme can be obtained by contacting Sean O'Neill as above.

- 3. Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting Sean O'Neill as above.

Appendices to reports are available for inspection as follows:-

**Public Access points** - Riverside - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

**For Councillors and Officers** papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

- 4. Attendance Register:** Members should sign the Register which will be circulated at the meeting.
- 5. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.**
- 6. Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

**Licensing Committee - Tuesday, 7th January, 2014**  
**at 12.00 pm in the Kaposvar Room - Guildhall, Bath**

**A G E N D A**

1. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 7.

2. ELECTION OF VICE-CHAIR (IF DESIRED)

3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* an **other interest**, (as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

6. ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

7. MINUTES: 14 NOVEMBER 2013 (Pages 5 - 14)

8. TAXI POLICY AND CONDITIONS (Pages 15 - 98)

9. SCRAP METAL DEALERS (Pages 99 - 110)

The Committee Administrator for this meeting is Sean O'Neill who can be contacted on 01225 395090.

## **Protocol for Decision-making**

## **Guidance for Members when making decisions**

When making decisions, the Cabinet/Committee must ensure it has regard only to relevant considerations and disregards those that are not material.

The Cabinet/Committee must ensure that it bears in mind the following legal duties when making its decisions:

- Equalities considerations
- Risk Management considerations
- Crime and Disorder considerations
- Sustainability considerations
- Natural Environment considerations
- Planning Act 2008 considerations
- Human Rights Act 1998 considerations
- Children Act 2004 considerations
- Public Health & Inequalities considerations

Whilst it is the responsibility of the report author and the Council's Monitoring Officer and Chief Financial Officer to assess the applicability of the legal requirements, decision makers should ensure they are satisfied that the information presented to them is consistent with and takes due regard of them.

**BATH AND NORTH EAST SOMERSET**

**LICENSING COMMITTEE**

Thursday, 14th November, 2013

**Present:-** Councillors Manda Rigby (Chair), Patrick Anketell-Jones, Rob Appleyard, Bryan Chalker, Anthony Clarke, Gerry Curran, Andrew Furse, Ian Gilchrist (In place of Roger Symonds), Martin Veal (In place of Gabriel Batt), Chris Watt and Brian Webber

**Also in attendance:** Andrew Jones (Environmental Monitoring and Licensing Manager), Francesca Smith (Senior Legal Adviser) and Philip Kolvin QC

**36 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

**37 ELECTION OF VICE-CHAIR (IF DESIRED)**

**RESOLVED** that a Vice-Chair was not required on this occasion.

**38 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Cllr Gabriel Batt, for whom Cllr Martin Veal substituted, and from Cllr Roger Symonds, for whom Cllr Ian Gilchrist substituted.

**39 DECLARATIONS OF INTEREST**

There were none.

**40 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

**41 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS**

There were none.

**42 MINUTES: 16 APRIL 2013**

The public and exempt minutes of the meeting of 16 April 2013 were approved as a correct record and signed by the Chair.

**43 MINUTES: TAXI SUB-COMMITTEE 7 MAY 2013**

These were approved as a correct record and signed by the Chair.

**44 STAGE 2 CASINO PREMISES LICENCE: APPLICATION BY GLOBAL GAMING VENTURES LIMITED TO EXTEND THE DURATION OF A PROVISIONAL**

## STATEMENT

The Environmental and Licensing Manager summarised the application. He said that Tony Wollenberg of GGV had sent his apologies. He reminded members that GGV had been granted a provisional statement for twelve months in August 2012. At the meeting of the Committee held on 16<sup>th</sup> April 2013 GGV had been granted a six-month extension, which would have expired in February 2014. GGV were now seeking a further extension of one year until February 2015.

By leave of the Chair, Mr Andrew Maltby of Deeley Freed Estates addressed the Committee. He explained that Deeley Freed owned part of the development site and that the rest was owned by the Council. He stressed that it is a complicated scheme but significant progress had been made, with the submission of a planning application. It has entered into a planning performance agreement, and is confident that it can meet planning concerns raised. He expected to achieve planning permission and a section 106 agreement by July 2014 at the latest, and possibly significantly earlier. Deeley Freed had extended agreements for a lease with restaurant operators; and has exchanged heads of terms with GGV and Groupe Partouche, and Heads of Terms with Z Hotels and the scheme funders, the National Grid Pension Scheme. The next milestone was the conversion of heads of terms into legally binding agreements, which was being undertaken. There had been a public exhibition which was well attended, and Deeley Freed had held further consultations with other stakeholders, including the Bath Preservation Trust. Subject to receiving planning permission, enabling works were expected to start in August 2014, with a view to starting the main contract in November 2014, and handing over the shell in November 2015. Programmes are subject to slippage, but subject to getting to planning on time, Mr Maltby stated that his company ought to be able to keep to the timetable.

Mr Maltby was asked questions. He explained that there had been significant archaeological investigations, and piling locations have been agreed with English Heritage; this is part of the planning process. He said that the period for fit out is 9 months from hand over of the shell. He said areas of risk included finding an unanticipated archaeological constraint or a new planning objection. He said that they were in train, and were motivated to get on with the scheme.

He was asked what hurdles stood between converting heads of terms into agreements for lease with GGV. He said that there were no specific hurdles. There were guarantors in place. All the agreements would have to come together at the same time, which was a potential hurdle but all prospective tenants have guarantors. The main risk was the amount of documentation to get through. There may be differences of custom and practice between the UK and France, but that was not seen as insuperable. He explained that there was some gamble for the casino operator in that all agreements for lease had to come together unconditionally.

Having heard Mr Maltby, and having been satisfied that the public interest would be better served by not disclosing relevant information, the Committee **RESOLVED** in accordance with the provisions of section 100(A)(4) of the Local Government Act 1972, that the public be excluded from the meeting for this item of business because of the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of

Schedule 12A of the Act as amended. The Environmental and Licensing Manager was also asked to leave the room.

Following discussion, it was **RESOLVED** that the provisional statement be extended to 28<sup>th</sup> February 2015.

The meeting ended at 11.20 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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<b>Bath &amp; North East Somerset Council</b>		
MEETING/ DECISION MAKER:	<b>Licensing Committee</b>	
MEETING/ DECISION DATE:	<b>7<sup>th</sup> January 2014</b>	
TITLE:	<b>General conditions to be attached to hackney carriage and private hire licences.</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<p><b>List of attachments to this report:</b></p> <p><b>Appendix A – Policy for hackney carriage and private hire licensing standards.</b></p> <p><b>Appendix B – Conditions and byelaws applicable to licensed drivers.</b></p> <p><b>Appendix C – Conditions applicable to hackney carriage vehicles.</b></p> <p><b>Appendix D – Conditions applicable to private hire vehicles</b></p> <p><b>Appendix E – Conditions applicable to private hire operators</b></p> <p><b>Appendix F – Consultation replies and Officer responses.</b></p>		

**1 THE ISSUE**

- 1.1 This report seeks to update and amend the general conditions for hackney carriage and private hire drivers, hackney carriage vehicles, private hire vehicles and private hire operators' licences.

**2 RECOMMENDATION**

- 2.1 That the general conditions relating to hackney carriage and private hire drivers, specified in Appendices B, C, D, E and F are adopted.
- 2.2 That the Committee note the revised policy in Appendix A.

**3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 3.1 Financial:                   None arising directly from this report.
- 3.2 Staffing:                   None arising directly from this report.

- 3.3 Equalities: None arising directly from this report.
- 3.4 Economic: None arising directly from this report.
- 3.5 Environment: None arising directly from this report.
- 3.6 Council Wide Impacts: Comments where applicable, have been included in the body of the report.

#### **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

- 4.1 The Town Police Clauses Act 1847 (as amended) and the Local Government (Miscellaneous Provisions) Act 1976, give local authorities powers in relation to placing conditions on licences. Both Acts also, provide provision for any person aggrieved by any conditions attached to a licence the right of appeal to the courts.
- 4.2 In July 2000 the Housing and Public Protection Committee adopted a policy relating to hackney carriage and private hire licensing standards.
- 4.3 At the same meeting the Committee also considered and adopted conditions of licence to be attached to the standard grant of private hire/hackney carriage drivers, proprietors and operators licenses.

#### **5 THE REPORT**

- 5.1 Appendix A shows the updated recommended policy for hackney carriage and private hire licensing standards. (Amendments and additions are shown in bold). The key changes are:-
- (1) A commitment to carry out an unmet demand survey every three years and the findings of the survey will be taking into account for any application for a hackney carriage in Zone 1 (Bath).
  - (2) Any new Hackney Carriage licence in Zone 1 will require a fully accessible vehicle.
  - (3) All vehicles will be required to undergo an annual mechanical test at an approved garage.
  - (4) All vehicles will normally be less than 5 years old when first licensed.
  - (5) Additional requirements from non UK applicants regarding translated copies of relevant documents.
  - (6) The requirement to provide an appropriate driving licence issued by the DVLA.
  - (7) All new drivers to have completed a B&NES assessment course.
  - (8) Changes to the DBS (CRB) procedures following changes by the Disclosure and Baring Service.
- 5.2 Appendices B, C, D and E show the updated conditions to be attached to the standard grant of licenses of private hire/hackney carriage drivers, proprietors and operators' licenses. (Amendments and additions are shown in bold). The key changes are:-

- (1) Additional requirements over the conduct of the driver to ensure the safety of the passengers and that they do not discriminate against any person.
  - (2) Additional requirements over the driver regarding smoking, noise, standards of dress, and notification of criminal convictions.
  - (3) Changes to the vehicle requirements to allow for 1400cc engines, that vehicles should be less than five years old when first licensed and vehicles over ten years old are subject to a review of its suitability to continue in service.
  - (4) All vehicles should be European Community M1 type approved and should not have been modified or converted.
  - (5) Additional requirements over the certification of use for alternative fuels.
  - (6) The use of satellite or GPS navigation systems to be restricted in Hackney Carriages for hire within the boundaries of B&NES.
  - (7) Additional requirements over the capability of accessible vehicles.
  - (8) Clarification over the use of permitted CCTV systems.
  - (9) Additional requirements over the use of stretch limousines.
  - (10) Exemptions from the requirement to display licence plates by certain executive hire/chauffeur hire.
- 5.3 The aim of the policy and conditions is to ensure, as far as reasonably practicable, the safety and comfort of members of the public travelling in licensed private hire and hackney carriages in the area of Bath & North East Somerset Council.
- 5.4 The policy and conditions aim to further enhance the reliability of the existing service provided and the overall standards of vehicles and drivers licensed by the Council whilst not being prohibitive to any person seeking to obtain a private hire/hackney carriage driver, proprietor or operator licence.
- 5.5 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provide that the functions of imposing any condition, limitation or other restriction on hackney carriage and private hire licences and determining the terms under which any such licence is subject are not Cabinet functions. They are therefore Council functions and the Council has delegated its authority in relation to licensing to the Licensing Committee.
- 5.6 Under the Regulations, the matter of adopting a policy with regard to hackney carriages and private hire is a function of the Council's Cabinet. The policy provided in Appendix A was adopted by the Council's Cabinet at the meeting on the 13<sup>th</sup> November 2013 and is included in this report to provide the Committee with all the relevant changes to the hackney carriage and private hire licensing.
- 5.7 The Committee are being asked to adopt the conditions in Appendices B, C, D, E, and F. and to note the revised policy in Appendix A.

**6 RATIONALE**

6.1 The previous conditions adopted by the Council have been updated and amended to take into account changes in technology, procedures and legislation that have come into force since they were originally adopted by the Housing and Public Protection Committee in 2000.

**7 OTHER OPTIONS CONSIDERED**

7.1 None

**8 CONSULTATION**

8.1 This report has not been sent to the Trades Unions because there are no staffing issues.

8.2 In the process of compiling this report the following have been consulted:- All currently licensed members of the Hackney Carriage and Private Hire trade including drivers, vehicle owners and operators.

Council Officers:- Transportation Planning Manager, Group Manager, Planning Policy & Transport, Public Transport Team Leader, Service Manager Transport and Performance Improvement, Senior Legal Advisor, Principal Solicitor, Equalities Team and all the Members of the Council’s Licensing Committee.

Comments were received from:- *Transportation Policy Manager (B&NES), John Law (taxi driver), Mark Charlesworth (Managing Director Chauffeur Link), Rod Finlay (Managing Director Bath Chauffeur Services), Leslie Banks (Managing Director Leslie Banks Executive Hire), Nick Kingwell (Managing Director A-Class Travel), Martin Smith (Managing Director Executive Hire, Former Director/Operations Manager Abbey Taxis Bath), Harold Demski (taxi driver)*

Consultation replies and Officer responses can be found at Appendix C.

**9 RISK MANAGEMENT**

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

<b>Contact person</b>	<i>John Dowding 01225 477689</i>
<b>Background papers</b>	<i>Previous Policy and Licence Conditions available on request.</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

## APPENDIX A

### **Policy on Hackney Carriage and Private Hire Licensing Standards Driver's, Vehicles and Operators.**

**The Council's vision is to provide a comprehensive, high-quality, integrated public transport system that is accessible, affordable, clean, comfortable, inclusive, reliable, safe and sustainable.**

**The Council recognises that the taxi and private hire trade are an integral part of the transport network across the whole of the district and recognises the important part that they play especially with regard to the night time economy and providing accessible transport.**

**The Council will work with the taxi and private hire trade, the general public, local businesses and other interested parties to seek to maintain the existing excellent level of service. The Council will continually review the level of service provided and how this can be developed in the future to meet changing needs.**

The following policy sets out the context within which Hackney Carriage and Private Hire vehicles operate and outlines the standards required by the Council for Hackney Carriage and Private Hire vehicles, driver and operators: -

1. Each application for a licence will be treated on its own merits. Where however, applications fall outside this Policy they will be referred to the relevant Licensing Sub-Committee for consideration.
2. The district of Bath and North East Somerset is zoned, for the purpose of Hackney Carriage licensing, into the two areas: - Bath (zone 1) and North East Somerset (zone 2).
3. **Bath & North East Somerset Council regulate the number of Hackney Carriage Proprietors Licenses it issues in Bath (zone 1). When the Council determines any application for new hackney Carriage Proprietors Licence it will do so having regard to the recommendations of an independent Unmet Demand Survey. All such applications shall be determined by the relevant Licensing Sub-Committee.**
4. **An Unmet Demand Survey (for zone 1) will be carried out at regular intervals and no more than three years will elapse between each survey.**
5. **That any new Hackney Carriage Proprietors licenses issued in zone 1 in light of the results of a survey will be issued on condition that the vehicle is fully accessible and has side loading capability. To be deemed fully accessible a vehicle shall cater for a range of disabilities for example visual, aural and ambulant disabilities. Any replacement vehicle shall be to the same or higher specification.**
6. **That all vehicles, including new ones, shall be visually and mechanically inspected prior to being licensed and thereafter mechanically inspected on an annual basis at garages approved by the Licensing Officer.**
7. That all vehicles will normally be less than **five years old** when first licensed.
8. That the engine size of vehicles to be licensed shall be at least **1400cc**

## APPENDIX A

9. That only roof signs approved by the Licensing Officer are permitted on the vehicle. Hackney Carriage signs shall be fitted across the width of the vehicle and Private Hire signs shall be fitted along the length of the vehicle.
10. That the vehicle licence plates are issued annually and display the registration number of the vehicle, licence number, number of seats, colour of vehicle, date of expiry of licence and make of vehicle.
11. That the vehicle licence plates remain the property of the Council and shall be returned to the Council in the event that the vehicle is no longer used for Hackney Carriage or Private Hire work or the licence expires.
12. That Hackney Carriage vehicle licenses are renewed annually and expire on the 31<sup>st</sup> May.
13. That Private Hire vehicle licenses are renewed annually and expire on the 31<sup>st</sup> October.
14. That Hackney Carriage and Private Hire Driver's licenses are renewed annually and expire on the 28<sup>th</sup> February.
15. That an Operator's licence is issued for a maximum five year period, **and shall expire on the 30<sup>th</sup> September.**
16. The Council reserves the right to issue licenses for a lesser period should it see fit.
17. That all Drivers' licenses are issued as joint Hackney Carriage/Private Hire licences.
18. That the following checks are carried out on all new applications and that a licence will not be issued until all the relevant documents are presented and are correct: -

Operators Licences; receipt of a satisfactory application form, 3 references, **Disclosure & Barring Services check** and the appropriate fee.

Vehicle Licences; receipt of satisfactory application form, vehicle registration document, insurance for hire and reward (public for hackney carriages and private for private hire), MOT certificate **for all vehicles over 1 year old, Inspection Certificate**, Meter Test Certificate, (where applicable) and the appropriate fee.

Driver's Licences; receipt of a satisfactory application form, birth certificate, **Group 2 Vocational Driver** Medical Certificate, check with the DVLA as to motoring offences, check with the **Disclosure & Barring Services**, 3 references, and the appropriate fee.

**All non UK applicants will be required to produce original and certified translations of birth certificate, driving history, and certificate of good conduct or similar check of criminal convictions. All documents must have been obtained in the month prior to the application being submitted. Photocopies or scans of documents will not be accepted.**



## APPENDIX A

In order to be licensed as a Hackney Carriage or Private Hire driver, an applicant must hold a full driving licence issued in the United Kingdom,(UK) the European Community (EC), one of the other countries listed in the European Economic Area (EEA) or an exchangeable licence as defined in s108 of the Road Traffic Act 1988 and provide a certified and translated driving history from the country of issue.

From 1<sup>st</sup> January 2014 the Council will require all current Hackney Carriage and Private Hire drivers who currently hold an EC/EEA or exchangeable driving licence to have a UK DVLA issued Driving Licence.

An individual with an EC/EEA or exchangeable driving licence making an application for a Hackney Carriage or Private Hire drivers licence on or after the 1<sup>st</sup> January 2014 shall obtain a UK DVLA Driving Licence prior to the Hackney Carriage/Private Hire Drivers Licence being issued.

If a licensed driver cannot obtain a UK Driving Licence before their existing Hackney Carriage or Private Hire drivers licence expires the new licence will be issued on the condition that a UK Driving Licence is obtained and produced to the Council within three months.

All non UK, EC/EEA, exchangeable licence holders will be required to submit their original EC/EEA driving licence on application for a Hackney Carriage/Private Hire driver's licence.

19. That all applicants for combined Hackney Carriage/Private Hire driver's licence have held a **UK full driving licence (or an EU equivalent or exchangeable driver's licence)** for a minimum of three years, and must normally have attained the age of 21.
20. **All new applicants for a combined Hackney Carriage/Private Hire Drivers Licence must have completed a Bath & North East Somerset Council Drivers Assessment Course training prior to submitting an application for a combined Hackney Carriage/Private Hire Drivers Licence. This course will be completed at the expense of the applicant and a certificate of completion must be produced at the time of application.**
21. That all driver's submit a Group 2 Vocational Driver Medical Certificate, on the prescribed form, on first application and on the first application after the 45<sup>th</sup> birthday and every 5 years thereafter until the age of 65 and every year thereafter. **If so required the applicant shall, whether or not medical evidence is presented by the applicant, submit to an examination by a Council appointed Medical/Occupational Health professional to assess the applicant's fitness to drive a licensed vehicle.**
22. That all new applicants for a combined Hackney Carriage/Private Hire drivers licence produce to the Council the original Enhanced Disclosure & Barring Services Certificate obtained as part of the application process. This Certificate must be produced to the Council no later than 30 days from the date of the certificate. Applicants who are unable or unwilling to produce the certificate within 30 day of issue will have their applications referred to the relevant Council Sub-Committee for determination.

## APPENDIX A

23. That all holders of a combined Hackney Carriage/Private Hire drivers licenses will be subject to an Enhanced Disclosure & Barring Service check every three years from the date of the first licence issued. It shall be the responsibility of the Licensee to ensure that they are registered with the Disclosure & Barring Service's online checking service and to keep the registration current as long as they continue to hold a combined Hackney Carriage/Private Hire drivers licence issued by the Council.
24. Renewal applications will be delayed for existing Licensees if at the time of a renewal application for a combined Hackney Carriage/Private Hire drivers licence the Council is unable to check the status of the last Disclosure & Barring Service Certificate issued in respect of the applicant using the online checking facility, due to the applicant not being registered with the Disclosure and Barring Service. If an online check is not available due to the applicant not being registered a new Enhanced Disclosure & Barring Service Certificate will need to be obtained by the applicant prior to a licence being issued. No licence will be issued until the applicant produces the valid Enhanced Certificate to the Licensing Office.
25. That all new applicants for combined Hackney Carriage/Private Hire driver's licences undergo a local area knowledge test which will include questions on the law pertaining to licensed vehicles and drivers, local licensing conditions and the highway code and will include a practical route test taken in a vehicle supplied by the applicant. Applicants who fail any part of the knowledge test may retake the knowledge test, however, should the applicant fail a second test a minimum period of three months shall elapse before a third test can be taken. Applicants who fail the knowledge test three times will have their application terminated and any refundable portion of the fee refunded. Any applicant who has failed the test for a third time may not reapply for a driver's licence until a period of not less than 12 months has elapsed whereupon they may submit a new application.
26. That all Operators, Private Hire Driver and Vehicle licenses issued by Council are subject to a penalty point scheme as detailed in the section below.
27. That all Hackney Carriage Driver licenses issued by the Council are subject to byelaws made by the Council.

**That any application which falls outside of this Policy, which includes applications for driver's licences from applicants where criminal convictions, formal cautions or fixed penalty notices are disclosed, or have been "objected to," is referred to the relevant Licensing Sub Committee for determination.**

The Council recognises that the taxi and private hire trade are an integral part of the night time economy across the whole of the district and the Council will look at various ways to maintain the existing good level of service and will work with the trade and other interested parties to see how this service can be developed further.

October 2013

## APPENDIX A

### Penalty Point Scheme

#### Introduction

1. Licensed Vehicles, Driver's and Operators are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, and conditions attached to a licence by the Council.
2. The primary objective of the penalty point scheme is to improve levels of compliance and help improve the standards, safety and protection of the travelling public.
3. The penalty point scheme works in conjunction with other enforcement options. It provides a formalised stepped enforcement plan designed to record incidences of bad behaviour so as to ascertain whether the licensee continues to be a fit and proper person to hold a licence. It does not prejudice the Council's ability to take other actions.
4. Penalty points remain on a licence for a period of twelve months from date of imposition. As older points become spent by passage of time they are excluded from the running total recorded on a licence.

#### Issue of Penalty Points

1. Where concerns about a licensee's conduct or the condition of the vehicle are brought to the Council's attention or the Council becomes aware that a Licensee has committed an offence, been given a formal caution, received a Fixed Penalty Notice, breached the conditions of the licence or is the subject of a complaint the Licensee will be asked to attend the Council offices for an interview, with the vehicle if appropriate. Once investigations are completed, letters will be sent out detailing the outcome of the investigation and a permanent record kept on the licensing file. The outcome of the investigation may result in one or more of the following:- the Officer may take no further action, issue a formal warning, attach penalty points, issue a s68 Local Government (Miscellaneous Provisions) Act 1976 stop notice, issue prosecution proceedings and or refer the matter to the relevant Licensing Committee for the consideration of a warning as to future conduct, suspension, revocation or refusal to renew a licence.
2. Where a licensee accumulates more than 12 penalty points in any twelve month period, the matter will be referred to the relevant Licensing Committee for determination as to a licensee's fitness to continue to be licensed. The Committee may issue a warning, suspend, revoke or refuse to renew a licence in accordance with this Policy depending on the individual circumstances. The determination will take into account all the circumstance including previous conduct of the licensee.
3. Penalty points issued to a licensee will be confirmed in writing within 14 days of the decision to issue points.

## APPENDIX A

4. The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, byelaws or regulations.

Any disputes regarding the issuing of penalty points will be referred to the Service Manager who will have the discretion to award a greater or lesser number of points than is displayed on the tariff, if the complaint or breach is upheld. Licensees' shall have twenty one days from the date of issue of penalty points to appeal against the decision. An appeal must be made in writing.

### **POLICY RELATING TO PREVIOUS CONVICTIONS, CAUTIONS, AND FIXED PENALTY NOTICES IN RELATION TO FITNESS TO HOLD LICENCES**

#### **INTRODUCTION**

Each application will be determined on its own merits bearing in mind all the circumstances of the application.

Hackney Carriage and Private Hire drivers are listed occupations under the Rehabilitation of Offenders Act 1974. This means that a conviction is never spent and can therefore be taken into consideration in the determination of an application.

In terms of this policy any reference to conviction includes formal police cautions and fixed penalty notices issued by a police constable, whether for driving or any other offence.

This policy shall apply to all new applicants and any application by a current holder for a renewal of a licence. Any reference to an applicant shall also mean any person currently holding a combined Hackney Carriage/ Private Hire driver's licence, or Private Hire Operator's licence.

The Council must be satisfied that all those it licenses are fit and proper persons. A criminal record check is an important tool in the fit and proper person assessment process. This policy gives guidance on the extent to which an applicant's criminal and driving records can be used when assessing an applicant's/licensee's fitness to hold a licence issued by the Council. The policy also sets out the minimum period of time the Council expects an applicant to remain free from conviction, caution or fixed penalty notice before he/she may be considered fit and proper.

The policy will apply in the following situations:- when a criminal record check discloses an applicant has received any conviction or caution. When the Council is informed that a licensee has received any conviction, caution or fixed penalty notice and when a subsequent criminal record check discloses a conviction or caution has been obtained during the period of an existing licence.

Applications from applicants disclosing an history of offending showing convictions and or formal police cautions falling within or outside of this policy will be referred to the relevant Licensing Sub-Committee for determination.

## APPENDIX A

### GENERAL POLICY

1. Each case will be decided on its own merits. Although an applicant may have convictions falling within the guidance set out in this policy, the Council may depart from this policy having had regard to the full facts of the case and having taken account of any mitigating or other circumstances put forward by the applicant. Should the Council depart from this policy it will give reasons for so doing.
2. An applicant with convictions is not permanently barred from obtaining a licence but would be expected to have remained free of conviction for the period of time set out in this policy. However, the overriding consideration in determining whether or not to grant a licence will be the protection of the public.
3. Where any conviction has resulted in a term of imprisonment, the time periods set out in this policy run from the date of conviction.
4. Notwithstanding the periods set out below, during which an applicant is expected to remain free from conviction, the nature, seriousness, frequency of offending and any mitigating circumstances put forward will always be taken into consideration when determining whether an applicant is a fit and proper person to hold a licence.
5. Bath & North East Somerset Council will expect that an applicant will not -
  - (a) have been convicted of three or more minor motoring offences during the previous three years;
  - (b) have been convicted of a serious motoring offence during the previous five years;
  - (c) have been refused or had revoked by the Traffic Commissioners an HGV or PSV Licence within the previous three years.
  - (d) have been cautioned by the police for an offence during the previous two years;
  - (e) have been convicted of an offence during the previous three years;
  - (f) have been convicted of a serious offence for five years
  - (g) have been convicted of a sexual offence within the previous five years;
6. A serious view will be taken of any conviction occurring whilst the person holds a current licence.

A serious view will be taken of any conviction obtained by a licensee whilst he or she is acting in the course of their employment as a licensed Driver or Operator.

## APPENDIX A

7. Where there is evidence suggesting that the safety of the travelling public is at risk and it is in the interests of public safety a driver's licence may be suspended immediately by an authorised officer. The matter will then be referred to the appropriate Committee for consideration. Immediate suspension should be expected in any case involving assault or involving indecency of any description.
8. The above examples are not exhaustive and the Council may depart from this policy in exceptional circumstances if it is just and reasonable to do so. Should the Council depart from this policy it will give reasons for so doing.
9. The following examples may afford a general guide on the action to be taken where convictions or police cautions are revealed:–

### SEXUAL OFFENCES

Drivers of licensed vehicles frequently carry lone children, women and vulnerable persons. Applicants with convictions for sexual offences or convictions of a sexual nature must show a period of at least 5 years free of conviction before their application can be considered.

A conviction for a sexual offence or of a sexual nature will be viewed seriously. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

An application from an applicant who is the subject of a notification requirement or notification order under the Sexual Offences Act 2003 shall be referred to the relevant Licensing Sub-Committee for determination.

Where there is more than one conviction for this type of offence a period of 10 years should elapse before an application is considered. Any such application shall be referred to the relevant Licensing Sub-Committee.

An application from a current licensee with one such conviction or where the offence occurred whilst acting in the course of their employment as a Council licensee shall be referred to the relevant Licensing Sub-Committee for determination.

### DRUG OFFENCES

Any conviction involving the misuse of drugs will be viewed seriously. An applicant with such a conviction will be expected to show at least 3 years free of conviction before being considered for the grant of a licence. Where a course of rehabilitation has been ordered or undertaken an applicant will be expected to show a period of at least 5 years free of conviction before being considered for the grant of a licence.

Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

## APPENDIX A

An application from a current licensee with one such conviction or where the offence occurred whilst acting in the course of their employment as a licensee shall be referred to the relevant Licensing Sub-Committee for determination.

### VIOLENCE AGAINST THE PERSON

Drivers are often placed in confrontational situations with their passengers. It is important that they have the ability to deal with such situations in a calm and polite manner.

Where an applicant has a conviction for an offence of violence against the person such as wounding with intent, grievous bodily harm or assault occasioning actual bodily harm they should have remained free from conviction for a period of 5 years. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

Where an applicant has a conviction for an offence such as assault or common assault they should have remained free from conviction for a period of 3 years. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

An application from a current licensee with one such conviction or where the offence occurred whilst acting in the course of their employment as a Council licensee shall be referred to the relevant Licensing Sub-Committee for determination.

### DISHONESTY

Licensed drivers are in a position of trust. They often carry unaccompanied goods and are aware of empty properties, for example after taking its occupant to the airport or railway station. Moreover, it is comparatively easy for an unscrupulous driver to exaggerate a fare by taking an unusual route or demand more than the legal fare as overseas/out of town visitors are often unfamiliar with a city's layout and or confused by the change in currency becoming "fair game." For these reasons the honesty of an individual is of paramount importance when determining the grant of a licence.

Where an applicant has a conviction for offences involving an element of dishonesty they should have remained free from conviction for a period of 3 -5 years. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

An application from a current licensee with one such conviction, or where the offence occurred whilst acting in the course of their employment under a Council licence, shall be referred to the relevant Licensing Sub-Committee for determination.

## APPENDIX A

### INTOXICATION THROUGH DRINK OR DRUGS

An isolated conviction for an offence aggravated by drink or drugs should not necessarily preclude the grant of a licence although the Council must be satisfied that it was an isolated occurrence.

Should, however, an applicant have more than one conviction for an offence aggravated by drink or drugs, particularly if close together and within the preceding three years, the Council will take a more serious view of the matter.

If there is any history of alcoholism or drug addiction, or a suggestion that the applicant has been or is in recovery from such an addiction, then a period of 5 years should have elapsed since the last conviction for an offence aggravated by drink or drugs.

An application from a current licensee with such convictions, or where the offence occurred whilst acting in the course of their employment under a Council licence, shall be referred to the relevant Licensing Sub-Committee for determination.

If so required the applicant shall, whether or not medical evidence is presented by the applicant, submit to an examination by a Council appointed Medical/Occupational Health professional to assess the applicant's fitness to drive a licensed vehicle.

### TRAFFIC OFFENCES

A serious view will be taken of convictions of driving or being in charge of a motor vehicle while under the influence of drink or drugs

Where an applicant has been convicted of a serious motoring offence, for example driving or being in charge of a motor vehicle while under the influence of drink or drugs, dangerous driving, failing to stop or report an accident then a period of 5 years should have elapsed since the last conviction. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

Where an applicant has been convicted of more than one serious motoring offence in the preceding 5 years grave concerns will arise about the applicant's fitness to be licensed and the Council would expect a period of 5 years should have elapsed since the last conviction. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

Where the applicant was ordered to re-sit a driving test or an extended driving test after disqualification, the period of 5 years should have elapsed since the last conviction and any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

An application from a current licensee with one serious motoring conviction or where the offence occurred whilst acting in the course of their employment as a licensee shall be referred to the relevant Licensing Sub-Committee for determination.



## APPENDIX A

Applications will not normally be entertained from applicants who have more than one previous conviction for driving with excess alcohol, especially where they have been ordered by the court to undertake any form of rehabilitation. Any application in these circumstances will be referred to the relevant Licensing Sub-Committee for determination.

Where an applicant has been convicted of minor traffic offences, for example obstruction, parking or speeding offences, which are dealt with by way of driver awareness courses, fixed penalty notices, fine and or endorsement this will not normally be a bar to the grant of a licence provided there have not been more than 3 offences within the three years immediately preceding the application. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

Where sufficient penalty points have been endorsed on an applicant's driving licence requiring a period of disqualification from holding or obtaining a driving licence the Council would expect a period of at least six months should have elapsed since the restoration of the combined Hackney Carriage/Private Hire driving licence.

## APPENDIX B

### PRIVATE HIRE DRIVER'S GENERAL CONDITIONS & HACKNEY CARRIAGE DRIVER BYELAWS

#### EXPLANATORY NOTES.

Bath & North East Somerset Council issues a combined Hackney Carriage/Private Hire driver's licence and badge. This means that once the licence is issued you are legally entitled to drive both a Hackney Carriage and a Private Hire vehicle.

Both categories of licence are subject to regulatory schemes that provide a framework of rules and regulations which you must comply with at all times whilst acting as a licensed driver.

The Council issues a combined Hackney Carriage/Private Hire driver's licence. Licensees must comply with the Local Government (Miscellaneous Provisions) Act 1976 and Conditions attached to the license. These conditions are found in Section 1 of this document.

Hackney Carriage licensees must comply with the Town Police Clauses Act 1847 and byelaws. The byelaws can be found in Section 2 of this document.

The Council does not attach Conditions to a Hackney Carriage driver's licence. Hackney Carriage drivers are, however, required to familiarise themselves with the Private Hire drivers' Conditions set out in Section 1 of this document as they form part of the combined licence they hold. In the interests of public safety and security the Council will expect Hackney Carriage drivers to advise the Council of any conviction or caution they may obtain, any change of address or application details and any matter affecting their medical fitness to drive. Guidance for such disclosure can be found in Section 1 of this document headed as follows: - Criminal Charges, Convictions, Cautions and Fixed Penalty Notices, Medical Fitness, Changes in Application Details.

Any failure to comply with a requirement may result in enforcement action being taken under the byelaws, conditions and or the appropriate statutory regime.

If you are unsure how this affects you and would like further clarification of any of the conditions and byelaws please contact the Licensing Office at Locksbrook Road, Bath, BA1 3EL or telephone 01225 477689.

## APPENDIX B

### **PRIVATE HIRE DRIVER'S GENERAL CONDITIONS & HACKNEY CARRIAGE DRIVER BYELAWS**

A combined Private Hire/Hackney Carriage Drivers Licence is issued on condition that the driver fully accepts and understands the byelaws, conditions and penalty point scheme set out below.

#### **INTERPRETATION**

In these conditions and byelaws:-

- (a) "the Council" means Bath & North East Somerset Council.
- (b) "Authorised Officer" means any Officer of the Council authorised in writing by the Council for the purposes of the Local Government (Miscellaneous Provisions) Act 1976.
- (c) "Driver's Licence" means in relation to the driver of a Hackney Carriage, a licence issued under section 46 of the Town Police Clauses Act 1847 and, in relation to the driver of a Private Hire vehicle, a licence under section 51 of the Local Government (Miscellaneous Provisions) Act 1976 .
- (d) "Vehicle Licence" means in relation to a Hackney Carriage a licence under sections 37 to 45 or the Town Police Clauses Act 1847 and in relation to a Private Hire vehicle means a licence issued under section 48 of this Act.

#### **SECTION 1 - PRIVATE HIRE DRIVER'S CONDITIONS**

The following conditions are applicable to all holders of a combined Hackney Carriage/Private Hire driver's licence Issued by Bath & North East Somerset Council.

#### **BADGES**

On being granted a Private Hire driver's Licence the driver will be issued with two identification badges. The driver shall wear one badge on his/her upper body in such position and manner as to be plainly visible at all times whilst hired or available for hire **unless specifically exempted in writing by the Council**. The driver shall display the other badge in the vehicle in such a position as to be plainly visible to any passenger. The driver shall not permit the use of the badges by any other person.

## **APPENDIX B**

### **RETURN OF BADGES**

The holder of a Private Hire driver's Licences must return the badges issued by the Council to an Authorised Officer immediately upon suspension, revocation or ceasing to be so licensed.

### **NUMBER OF PERSONS CONVEYED**

The driver shall not convey in any vehicle licensed for Private Hire a greater number of persons than that specified in the Licence for that vehicle.

### **TAXIMETERS**

- (a) The driver of a vehicle fitted with a taximeter shall bring the meter into operation as soon as the vehicle is hired until termination of the hiring. The vehicle shall be deemed to be hired when the passenger is seated safely inside the vehicle. Where the vehicle is in attendance and is requested to wait, or proceed to another destination, the vehicle shall be deemed to be hired from that point.
- (b) The driver of a Private Hire vehicle fitted with a taximeter shall not cause the fare recorded thereon to be cancelled or concealed until the hirer has had a reasonable opportunity of examining it and has paid the fare.
- (c) The driver of a Private Hire vehicle shall not tamper with or permit any person, other than an authorised Officer of the Council or an authorised taximeter dealer to make any alterations to the taximeter or tamper with the taximeter seal.

### **AGREED FARES FOR VEHICLES**

The driver shall not demand from the hirer a fare in excess of any previously agreed for that hiring between the hirer and the Operator, and shall adhere to the Operators tariff at all times unless specifically instructed by the Operator to the contrary.

If the vehicle is a Private Hire vehicle fitted with a taximeter and there has been no previous agreement as to the fare, the driver shall not demand from the hirer a fare in excess of the fare shown on the face of the taximeter.

### **RECEIPT FOR FARE**

If requested by the hirer of the Private Hire vehicle the driver shall provide a written receipt for the fare paid. The receipt shall include the first name, the surname and badge number of the driver and the name of the Operator (if any).

## APPENDIX B

If a company receipt is given, the driver must be working for the company named on the receipt.

### **ACCIDENTS**

The driver of a Private Hire vehicle involved in any accident shall report to the Proprietor of the Private Hire vehicle the details of the accident within 24 hours of its occurrence.

### **CONDUCT**

The Licensee driver shall:

- (a) ensure that any Private Hire vehicle driven by him/her is in a roadworthy and clean condition.
- (b) at all times whilst hired or available for hire behave in a civil and orderly manner to members of the public, passengers **and other road users.**
- (c) **take all reasonable precautions to ensure the safety of persons conveyed including when such person are entering and or alighting from the vehicle;**
- (d) **not discriminate against any person on the basis of race, colour, creed, gender or disability.**

### **DRESS**

The driver shall at all times when acting as a Private Hire driver be respectably dressed and be clean and tidy in his/her appearance.

### **EXAMPLES OF NON ACCEPTABLE STANDARDS OF DRESS**

**Clothing that is ripped, torn or holed.**

**Words or graphics on any clothing that is suggestive or offensive.**

**Sports shirts such as football, rugby or cricket shirts.**

**Track Suits.**

## **APPENDIX B**

### **PUNCTUAL ATTENDANCE**

The driver of a Private Hire vehicle who has agreed or has been hired to be in attendance with a vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such a vehicle at the appointed time and place.

### **EATING and DRINKING**

The driver shall not at any time whilst hired, eat or drink.

### **SMOKING**

The Smoke free legislation under the Health Act 2006 which came into effect on 1<sup>st</sup> July 2007, makes smoking a criminal offence in licensed Private Hire vehicles.

**Smoking in the vehicle is prohibited at all times including when the vehicle is not being used for hire and reward and when the driver is off duty.**

### **RADIOS**

No radio or musical apparatus shall be used other than for the purpose of sending or receiving messages in connection with the operation of the vehicle without the consent of any passenger.

### **NOISE POLLUTION**

**The driver of a Private Hire vehicle shall not sound the vehicle's horn to alert passengers of his arrival at a pre-arranged pick up point.**

**The driver shall not cause or permit noise to be emitted from the vehicle at any time so as to cause a nuisance or annoyance to any person, whether inside or outside the vehicle.**

### **ASSISTANCE TO PASSENGERS**

The driver shall, when requested by any person hiring or seeking to hire his/her Private Hire vehicle:

- (a) convey a reasonable quantity of luggage,
- (b) afford reasonable assistance in loading and unloading,

## APPENDIX B

- (c) afford reasonable assistance in carrying the luggage to or from the entrance of any building, station or other place at which he/she may take up or set down such a person,
- (d) afford all reasonable assistance to wheelchair bound, disabled and elderly persons,

The driver shall not be obliged to convey any noxious, odorous, foul, offensive or dangerous substance.

### **CONVEYANCE OF LUGGAGE**

No luggage shall be conveyed on the exterior of the vehicle.

### **SHORTEST ROUTE**

The driver, when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.

### **SEAT BELTS**

The driver shall point out to passengers that seat belts shall be worn in accordance the legislation regarding the use of seatbelts.

It is the driver's responsibility to ensure that **children over 3 but under 14 years of age are suitably secured.**

### **PETS**

The driver shall not refuse to carry within the vehicle any household pets providing they are accompanied by an adult and providing such pets are suitably restrained or contained so as not to cause a nuisance or damage.

**Persons with pets may be refused if the driver is allergic to such animals. A certificate to that effect, signed by the driver's General Practitioner must be produced to an Authorised Officer of the Council on request.**

**A driver shall not carry in the vehicle any animal that belongs to the driver or is being looked after by the driver which belongs to the Proprietor, Operator of the vehicle or any other person.**

## **APPENDIX B**

### **GUIDE DOGS AND OTHER ASSISTANCE ANIMALS**

Persons with guide dogs or other assistance animals, may only be refused if the driver of a Private Hire vehicle is allergic to such animals. A certificate to that effect, signed by the driver's General Practitioner must be produced to an Authorised Officer of the Council on request.

### **LOST PROPERTY**

The driver shall immediately after termination of any hiring or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left therein and if any such property is found the driver shall take it as soon as possible and in any event within 24 hours to a Police station and then leave it in the charge of a Police Officer on his/her giving the driver a receipt for it.

### **CONDITION OF VEHICLE**

The driver shall at all times ensure that the vehicle's lights are fully operative, its tyres are within legal limits and that the vehicle is clean and tidy.

The driver shall ensure that there is available and ready for use, in the vehicle a torch, a jack, a tool kit, a full set of spare light bulbs and a fire extinguisher.

### **RECORDS**

The driver of a Private Hire vehicle shall keep an up to date record containing the following information: -

- (a) name of hirer
- (b) time of pick-up
- (c) pick-up point
- (d) destination
- (e) fare charged

**The record shall be available for inspection by an Authorised Officer of the Council at all reasonable times on request without notice. Records must be kept for a period of three months.**



## APPENDIX B

### **PLYING FOR HIRE**

The driver shall not, at any time whilst driving or in charge of a vehicle licensed for Private Hire: -

- (a) station his/her vehicle for hire or ply for hire or solicit any person to hire or to be carried for hire or reward on any road or in any public place readily accessible and visible from a road;
- (b) the driver shall not call out or otherwise importune any person to hire the vehicle or use anyone else to do so;
- (c) the driver shall not accept a booking from the roadside or contact the Operator on behalf of a potential hirer.
- (d) all hiring's must be communicated to the driver by or on behalf of the licensed Private Hire Operator for that vehicle by use of telephone or by a two way radio system fitted to that vehicle. At no time can a hiring be accepted other than a prearranged booking.
- (e) the driver shall not illuminate the roof sign.**
- (f) the driver shall at no time station his/her vehicle on or near a Hackney Carriage rank.

### **CRIMINAL CHARGES, CONVICTIONS, CAUTIONS, AND FIXED PENALTY NOTICES**

**Should the Licence holder be charged with any offence which has not yet been concluded he/she shall notify the Council of the charge in writing within 7 days.**

**Should the Licence holder receive any conviction, caution or Fixed Penalty Notice during the period of the Licence he/she shall within 7 days give the Council written notice of the conviction, formal caution or Fixed Penalty Notice together with providing the details.**

**Any charge, conviction, caution and fixed penalty notice also includes motoring offences**

## APPENDIX B

### **MEDICAL FITNESS**

Any change in a Licensee's medical condition that may affect his/her ability to drive shall be notified to the Authorised Officer of the Council within 48 hours or as soon as practicable.

The Licensee shall if required produce to the Council a certificate signed by his/her registered medical practitioner certifying that the Licensee meets the standards of a Group 2 (Vocational) driver as set by the Driver and Vehicle Licensing Agency (DVLA).

If so required the Licensee shall, whether or not such certificate has been produced, submit to an examination by a Council appointed Occupational Health Advisor to assess the Licensee's fitness to drive a licensed vehicle.

**Should a change in medical fitness render the Licensee unfit to meet the Group 2 Vocational Driver standards set by the DVLA and the criteria recommends that driving should cease then the license shall be revoked immediately on the grounds of public safety.**

### **CHANGE OF ADDRESS**

Should the Licensee change address during the period of the license written notice shall be given to the Council of that change within seven days.

### **CHANGES IN APPLICATION DETAILS**

If during the currency of the Licence any of the particulars supplied in the driver's application changes, details of those changes shall be notified in writing to an Authorised Officer of the Council within 7 days of the change.

### **SERVICE OF NOTICES**

Any notice required to be served by the Council relating to this Licence under any of the provisions of, Part II of the Local Government (Miscellaneous Provisions) Act 1976 or any other enactment shall be deemed properly served if it is served personally on the Licensee, left at his/her last known address or sent by way of pre-paid post.

### **PENALTY POINT SCHEME**

Breach of any of the conditions may be enforced by the Penalty Point system as shown on the attached table.

## APPENDIX B

### **SUSPENSION, REVOCATION OR REFUSAL TO RENEW LICENCE**

The Licence may be suspended revoked or not renewed by the Council: -

- (a) if the driver is convicted of an offence under or otherwise fails to comply with any of the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976;
- (b) if the driver has been convicted of an offence involving dishonesty, indecency or violence;
- (c) if the driver becomes disqualified from driving the Licence shall be automatically revoked; or
- (d) any other reasonable cause.

**This is not an exhaustive list but examples of any other reasonable cause may include formal cautions, fixed penalty notices and matters where a Licence holder has been charged with an offence which has yet to be concluded.**

### **LICENSEE'S DUTY TOWARDS AUTHORISED OFFICERS**

Any person who:-

- (a) wilfully obstructs an Authorised Officer or constable acting, in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976.
- (b) without reasonable excuse fails to comply with any of the requirements properly made to him by an Authorised Officer or constable, in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976.
- (c) without reasonable cause fails to give an Authorised Officer or constable any other assistance or information which he may require for the performance of his functions in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976.

Shall be guilty of an offence.

**These conditions shall apply to Private Hire driver's licensed by the Bath & North East Somerset District Council.**

The Council reserves the right to waive any requirements of these conditions.

## APPENDIX B

The Council reserves the right to amend or add to any of these conditions on notice to the licensees.

OCTOBER 2013

<b>Penalty Points System Relating to Private Hire Driver's Licence Conditions</b>
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Cause	Points
Demanding more than displayed on taximeter	6
Failing to wear ID badge	4
Failing to display ID badge in interior of vehicle	4
Refusing to carry guide dogs, hearing dogs or service dogs for the disabled	4
Failing to notify conviction/formal cautions/fixed penalty notices within 7 days	4
Failing to notify change of details e.g. address within 7 days	3
Failing to afford all reasonable assistance with luggage when requested	3
Failing to convey a reasonable quantity of luggage in the vehicle when requested	3
Failing to meet required standards of conduct/dress	4
Failing to provide written receipt when requested	4
Failing to notify accident to Proprietor within 24 hours	4

## APPENDIX B

Carrying excess passengers	6
Failing to keep records	3
Failing to produce records	3
Parking on or near a Hackney Carriage rank	6
Travelling with roof sign illuminated	6
Demanding more than agreed fare	6
Failing to attend at time and place without sufficient cause	3
Breach of any other condition not specified above	1 - 6

Where 12 or more points are issued to a Driver within any period of 1 year, a report will be submitted to the relevant Licensing Committee who may following a hearing suspend, revoke or refusal to renew such a Licence.



## APPENDIX B

- (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
  - (d) cause the seats to be properly cushioned or covered;
  - (e) cause the floor to be provided with a proper carpet, mat or other suitable covering;
  - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
  - (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
  - (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use; and
  - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. The Proprietor of a Hackney Carriage shall cause the same to be provided with a taximeter so constructed, attached and maintained as to comply with the following requirements, that is to say
- (a) the taximeter shall be fitted with a key, flag or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
  - (b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
  - (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures, a fare not exceeding the rate or fare which the Proprietor or driver is entitled to demand and take for the hire of the carriage by time as well as for distance in pursuance of the tariff fixed by the Council;
  - (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
  - (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and

## APPENDIX B

figures shall be capable of being suitably illuminated during any period of hiring; and

- (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

**Provisions regulating the conduct of the Proprietors and drivers of Hackney Carriages plying within the district in their several employments, and determining whether such driver's shall wear any and what badges**

5. The driver of a Hackney Carriage provided with a taximeter shall:-
  - (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the bylaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
  - (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
  - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half-an-hour after sunset and half-an-hour before sunrise, and also at any other time at the request of the hirer.
6. A Proprietor or driver of a Hackney Carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
7. The driver of a Hackney Carriage shall, when plying for hire in any street and not actually hired:-
  - (a) proceed with reasonable speed to one of the stands appointed by the Council;
  - (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
  - (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and



## APPENDIX B

- (d) from time to time, when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
8. A Proprietor or driver of a Hackney Carriage, when standing or plying for hire shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.
  9. The driver of a Hackney Carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
  10. The Proprietor or driver of a Hackney Carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
  11. A Proprietor or driver of a Hackney Carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
  12. If a badge has been provided by the Council and delivered to the driver of a Hackney Carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
  13. The driver of a Hackney Carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:-
    - (a) convey a reasonable quantity of luggage;
    - (b) afford reasonable assistance in loading and unloading; and
    - (c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

### **Provisions fixing the rates or fares to be paid for Hackney Carriages within the district and securing the due publication of such fares**

14. The Proprietor or driver of a Hackney Carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by a combination of distance and time unless the hirer express at the commencement of the hiring his desire to engage by time.

## APPENDIX B

Provided always that where a Hackney Carriage furnished with a taximeter shall be hired by distance and time the Proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.

15. The Proprietor of a Hackney Carriage shall cause a statement of the fares fixed by Council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures
  - (b) The Proprietor or driver of a Hackney Carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.
  - (f) Provisions securing the safe custody and re-delivery of any property accidentally left in Hackney Carriages, and fixing the charges to be made in respect thereof
16. The Proprietor or driver of a Hackney Carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
17. The Proprietor or driver of a Hackney Carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:-
  - (a) carry it as soon as possible and in any event within 48 hours if not sooner claimed by or on behalf of its owner, to the office of a Police Station in the District and leave it in the custody of the Officer in charge of the office on his giving a receipt for it; and
  - (b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

### **Penalties**

18. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction therefor.

**APPENDIX B**

**Repeal of Byelaws**

19. The byelaws relating to Hackney Carriages which were made by Bath City Council on the 15<sup>th</sup> day of May 1975. and which were confirmed by .The Secretary of State on the 1st day of November 1975 are hereby repealed.

**SUSPENSION, REVOCATION OR REFUSAL TO RENEW LICENCE**

**Without prejudice to the Model Byelaws the Licence may be suspended revoked or not renewed by the Council: -**

- (a) if the driver is convicted of an offence under or otherwise fails to comply with any of the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976;**
- (b) if the driver has been convicted of an offence involving dishonesty, indecency or violence;**
- (c) if the driver becomes disqualified from driving the Licence shall be automatically revoked; or**
- (d) any other reasonable cause.**

**This is not an exhaustive list but examples of any other reasonable cause may include formal cautions, fixed penalty notices and matters where a Licence holder has been charged with an offence which has yet to be concluded.**

**I, the undersigned certify that the byelaws, conditions and penalty points scheme have been fully explained to me and that I fully understand them. I further certify that I agree to abide by and be bound by the byelaws, conditions and penalty point scheme.**

Signed .....

Full Name .....

Date .....

**Witness signed .....**

**Full Name.....**

**Date .....**

## APPENDIX C

### HACKNEY CARRIAGE VEHICLE (PROPRIETORS) LICENCE GENERAL CONDITIONS

These conditions are based on the legislation, regulations and byelaws currently in force.

#### Hackney Carriages are subject to byelaws made by the Council

Copies of the byelaws are available from the B&NES Taxi Licensing Office, Locksbrook Road, Bath BA1 3EL

#### INTERPRETATION

In these conditions:

"The Council" means Bath & North East Somerset Council.

"Authorised Officer" means an officer of the Council authorised in writing by the Council for the purpose of these conditions.

"Hackney Carriage" has the same meaning as in section 38 of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 Part II.

"Licence Plate" means the plate issued by the Council for the purpose of identifying the vehicle as a Hackney Carriage duly licensed by the Council.

"Proprietor" includes a part-proprietor and, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement.

"Vehicle" means the Hackney Carriage vehicle in respect of which this licence is issued.

#### VEHICLE SPECIFICATIONS

The engine size of the vehicle shall be at least 1400cc.

The vehicle shall normally be less than 5 years old when first licensed by the Council. Any vehicle presented for licensing, which is older than 5 years at the date of application will be referred to the relevant Council Licensing Sub-Committee for determination.

Vehicles that have dented or damaged bodywork are unsuitable for licensing as a Hackney Carriage.

A licensed vehicle which becomes 10 years old may be subject to a review of its suitability to continue in service. Vehicles that are considered to be unfit for service will be referred to the relevant Council Licensing Sub Committee for a final decision as to suitability to continue to be licenced as a Hackney Carriage. Factors that may render a licensed vehicle unfit may include (but not be limited to) general condition of exterior and interior, such as accident damage, rust, poor paintwork; ripped, torn or stained interior carpets, seats and trims; a history of failing an MOT test or Council Vehicle Inspection. The

## APPENDIX C

**Vehicle Operator Services Agency (VOSA) MOT database and the individual vehicle licensing file will be used to ascertain this data for individual vehicles.**

A current MOT certificate is required on all vehicles over 1 year old at the time of application for a Hackney Carriage vehicle licence. This is in addition to the Council Vehicle Inspection Test carried out as part of the application process. The proprietor shall produce to the Licensing Section a new M.O.T certificate within seven working days of the expiry of the current certificate.

**The vehicle must be fitted with a right-hand drive and shall have a minimum of four doors. At least three of these doors must be accessible for passengers to enter and exit the vehicle without the need to move, adjust, or climb over any seating.**

All passenger seats must allow not less than 406mm (16in) per passenger along the narrowest part of the seat. In addition the leg room between rows of seats should allow for a minimum 255mm (10in).

### **TYPE APPROVAL**

**Vehicles shall comply with the European Community M1 type approval for passenger carrying vehicles. The definition of category M1 type approval is any motor vehicle with at least four wheels designed and constructed for the carriage of passengers.**

**Vehicles that have been originally classified as complying with M1 type approval but have undergone modifications or conversions since original manufacture will be considered suitable provided they are presented with the relevant Individual Vehicle Approval (IVA) or Single Vehicle Approval (SVA) certificate (or equivalent) issued by the VOSA.**

**Any vehicle submitted for licensing originally given European Community N type approval will be considered unfit for the purpose and will not be licensable as a Hackney Carriage vehicle. The definition of category N type approval is any motor vehicle with at least four wheels designed and constructed for the carriage of goods.**

### **ALTERNATIVE FUELS**

**Any conversion of a Hackney Carriage to run on Liquid Petroleum Gas, any alternative fuel or combination of fuels must be carried out by a fully qualified and certified installation engineer. A certificate of installation must be produced to the Licensing Section before the vehicle can be used for the purpose of hire and reward.**

### **SATELITE GPS NAVIGATION SYSTEMS**

**Satellite or GPS Navigation systems are prohibited from use in a Hackney Carriage vehicle whilst on hire or available for hire within the zone for which they are licensed to operate. At no time shall any satellite navigation system be situated within the swept area of the windscreen of a licensed vehicle.**

## APPENDIX C

### **ACCESSIBLE VEHICLES**

Accessible vehicles will be classed as those vehicles capable of allowing a passenger seated in a wheelchair to enter and exit the vehicle from the pavement through a side entry door. The vehicle must allow the hirer to remain seated in the wheelchair during the journey.

Accessible vehicles should cater for a range of disabilities including visual, audible and ambulant.

### **TINTED GLASS WINDOWS**

DIY window tint film kits are not permissible

Tinted glass windows are permissible provided that they are only those supplied as standard by the original vehicle manufacturer and comply with current vehicle Construction and Use Regulations.

### **LICENCE RENEWALS**

Hackney carriage vehicle licences must be renewed annually and the renewal applied for prior to the expiration of the current licence. A licence will only be issued following a satisfactory vehicle inspection and measured mile taximeter test.

Where the licence cannot be renewed before the expiry of the current licence due to mechanical failure of the vehicle, the proprietor shall notify the Licensing Section in writing that the renewal application will be delayed and may with the consent of an Authorised Officer submit an application for renewal of the licence after the expiry date, and the renewal fee in force at that time will be payable.

### **WORK ASSURANCE**

The Hackney Carriage licence must be used on a full-time basis for a reasonable working week, at least 25 hours of which shall be during the period Monday to Thursday inclusive.

### **THIRD PARTY ADVERTISING**

Discreet third party advertising will be permitted on the front door panels of vehicles, subject to the written consent of the Council.

Where the vehicle is constructed or adapted for use by wheelchair users, applications for full livery third party advertising will be considered. Such applications to be made in writing to the Environmental Monitoring and Licensing Manager or such successor post. Approval for advertising may be given by the Environmental Monitoring and Licensing Manager or such successor post. Where such approval is withheld, the applicant may appeal to the relevant Council Licensing Sub Committee.

Where the vehicle is constructed or adapted for use by wheelchair users, discreet third party advertising will be permitted in the interior passenger compartment of the vehicle subject to the written consent of the Licensing Manager.

## APPENDIX C

### COMPANY LIVERIES

Company liveries will be permitted provided that the only lettering displayed on the vehicle is the name, telephone number and website address of the Hackney Carriage or Private Hire Company. No other wording is permitted.

Applications for company liveries must be submitted in writing to the Licensing Section and the design must be authorised by the Licensing Section before the livery is used. Any liveries which are considered unacceptable by the Licensing Section will be referred to the relevant Council Licensing Sub Committee for determination.

Liveries are not permitted on any of the vehicles side or rear windows.

No reflective materials should be used in the lettering, graphics or background materials.

The name of the operating company and telephone number may be displayed on the windscreen of the vehicle. Such a sign must be of the "sunvisor" type, and must not exceed 330mm x 228mm (13in x 9in) in size.

### HACKNEY CARRIAGE PLATES

When a Hackney Carriage Licence is issued and on payment of a 'plate deposit,' the Council will issue a Hackney Carriage plate. There shall be marked on that Hackney Carriage plate the number of the licence for the hackney carriage, the registration number of the vehicle, manufacturer and model of vehicle, date of expiry of licence and the number of persons that may be carried. The number of passengers that may be carried by a Hackney Carriage vehicle is determined by the type of vehicle and is stated on the licence plates. In any event the maximum number of passengers allowed is eight.

At all times when plying for hire, or hired, there shall be affixed to the rear of the exterior of the vehicle and the front exterior of the vehicle, the Hackney Carriage plates provided by the Council,

An interior plate provided by the Council shall be fixed inside the hackney carriage so as to be plainly visible to any passenger.

In the case of a 'London' style Hackney Carriage the exterior rear Hackney Carriage plate shall be mounted upon the rear luggage compartment door and the front exterior plate shall be mounted on the front grill of the vehicle. The interior plate shall be mounted on the interior glass compartment partition in such a position as to be plainly visible to any passenger.

The Hackney Carriage licence plates shall be at all times clearly visible and maintained in a clean, tidy and legible condition. **It is not permissible to alter the size of the issued licence plate by trimming or cutting.**

No other plates, fittings, signs or printed matter shall be displayed on the exterior or interior of the vehicle without the approval of the Council or unless required by these conditions.

## APPENDIX C

The licence plates shall remain the property of the Council and shall be returned to the Council on expiry, or within seven days of a notice of suspension, revocation or refusal to renew the licence having been served on the vehicle proprietor. **The plate deposit shall be refunded upon the plate being returned to the Council.**

### **SELLING OR SUBSTITUTING A VEHICLE**

**Any vehicle substituted for the vehicle in respect of which this licence is issued must be authorised by the Council. A vehicle substitution fee will be payable.**

**Any vehicle proprietor who sells a licensed Hackney Carriage must notify the Council in writing within fourteen days of the sale specifying the name and address of the new owner and the date of sale.**

### **ROOF SIGNS**

At all times when a saloon or estate type vehicle is in use as a Hackney Carriage vehicle there shall be affixed to the roof of the vehicle a magnetic roof sign which is capable of being illuminated and is of a type **supplied by** the Council. There shall be marked on the roof sign the logo of the Council. The roof sign should be capable of indicating whether or not the vehicle is for hire **and shall be fitted across the width of the vehicle's roof.**

The roof sign must be kept illuminated at all times when the Hackney Carriage is available for hire. The sign should be connected to the taximeter and the illumination should automatically extinguish when the Hackney Carriage vehicle is hired and the taximeter is set to hired.

### **TAXIMETERS**

At all times when the vehicle is in use as a Hackney Carriage vehicle it shall be fitted with a clock calendar controlled taximeter approved by the Council.

**All taximeters must be programmed with the current authorised tariff. Taximeters must be re-programmed with the current tariff within one month of the proprietor being notified of the new tariff.**

Only one tariff shall be allowed at any one time and once set the taximeter shall be sealed by the Authorised Officer of the Council. The vehicle shall not be used for hire and reward unless the taximeter is sealed.

In the event of an emergency requiring an authorised taximeter dealer to break the taximeter seal, the vehicle may be used for hire and reward providing the driver is in possession of a certificate from the dealer indicating why the seal was broken and **the date the seal was broken.** In any event the taximeter is to be re-sealed within three working days of the date of the notice.

The taximeter shall be sealed in such a way that it shall not be practicable for any person to tamper with the taximeter except by breaking, damaging or permanently displacing the seals.

**All taximeters must be capable of being sealed by permanent lead or plastic seals. Paper seals are not suitable for use. Existing meters that are not**



## APPENDIX C

**capable of authorised sealing methods should be replaced no later than twelve months from the date these conditions come into force.**

### **FARECARD**

At all times when the vehicle is in use as a Hackney Carriage a current statement of fares which may be lawfully charged shall be carried in the interior of the vehicle, **and shall be made available to any person being conveyed in the Hackney Carriage on request.**

### **CCTV**

CCTV will only be permitted for use within the vehicle subject to the written consent of the Council's Licensing Section.

**If an approved CCTV system is fitted a sign must be displayed in the interior of the vehicle, plainly visible to passengers stating "CCTV in Operation". Similar signs shall be displayed to the exterior of the vehicle to warn prospective customers of the use of CCTV.**

**Dummy CCTV equipment is permissible subject to the written consent of the Council.**

**Any signs indicating that CCTV is in operation must be approved by the Council's Licensing Section.**

**It shall be the vehicle proprietor's responsibility to ensure that he/she is fully aware of the provisions of the Data Protection Act 1988 and fully complies with the relevant requirements of the Act and the CCTV Code of Practise published by the Information Commissioners Office.**

### **SMOKING**

**The Smoke free legislation under the Health Act 2006 which came into effect on 1<sup>st</sup> July 2007, makes smoking a criminal offence in a licensed Hackney Carriage. Smoking is prohibited at all times including when the vehicle is not being used for hire and reward or the driver is off duty. It is the vehicle proprietors' responsibility to ensure that the legislation is complied with at all times and any licensed drivers permitted to drive the vehicle are fully aware of the law.**

### **PROPRIETOR'S RESPONSIBILITIES**

Every proprietor of a Hackney Carriage vehicle shall:

- (a) ensure that all windows and window handles are maintained in good repair and condition and operate correctly
- (b) keep the seats properly cushioned and covered, the seats should be kept free from unsightly repairs stains and burns.
- (c) provide proper and sufficient accommodation for luggage and a means of securing such luggage
- (d) provide and maintain an electric light in the interior of the vehicle for use of any person entering or alighting from the vehicle

## APPENDIX C

- (e) carry a spare wheel, tyre, and suitable tools for the replacement of damaged or punctured tyres. **If the vehicle is fitted with an LPG conversion and there is no room for a spare wheel then an alternative method of re inflating a punctured tyre must be carried. (It is acceptable not to carry a spare wheel if the vehicle is not fitted with a spare wheel as standard manufacturers' equipment and is provided with a suitable means of emergency puncture repair).**
- (f) carry a fire extinguisher with a valid expiration date readily available for use. The fire extinguisher must comply with the requirements relating to fire extinguishing appliances for use in public service vehicles, which may include dry powder type.
- (g) keep the vehicle properly painted in one of the manufacturer's standard range of colours
- (h) keep the interior and exterior of the vehicle in a clean and tidy condition and all body work should be sound and reasonably well maintained, free from major dents and other distortions/damage. Any repairs and cosmetic improvements must be of professional quality and a good paint match achieved.
- (i) **carry a full set of replacement bulbs, to include headlight, taillights, sidelights and indicators. (vehicles fitted with Xenon and LED lighting systems are excluded from this requirement, but should carry standard replacement bulbs if appropriate)**

The vehicle shall display discreet signs advising passengers that seatbelts should be worn.

**The vehicle shall display a "No Smoking" sign so as to be plainly visible to anyone entering the vehicle.**

**The vehicle shall be fitted with sufficient seat belts to correspond with the seating capacity of the vehicle.**

Where the vehicle is an estate car, a rack must be fitted to prevent luggage entering the passenger compartment in an emergency stop.

### **INSURANCE**

The vehicle proprietor shall ensure that a valid certificate of insurance which complies with the requirements of the road traffic legislation is kept in force in respect of each driver of the Hackney Carriage and in relation to its use as a Hackney Carriage. On being required to do so by an Authorised Officer of the Council or constable the certificate of insurance shall be produced for examination.

**Named drivers included on the insurance certificate must hold a Hackney Carriage drivers licence issued by the Council. Certificates will not be accepted if they include named drivers that are not the holder of a Hackney Carriage drivers licence issued by the Council.**

The proprietor shall produce to the Licensing Section a new insurance certificate or cover note within seven working days of the expiry of the current certificate or cover note.

## APPENDIX C

### **VEHICLE INSPECTIONS**

The proprietor shall permit an Authorised Officer of the Council or constable to inspect the vehicle at all reasonable times, and where an Authorised Officer or constable is not satisfied with the condition of the vehicle for use as a Hackney Carriage the vehicle licence may be suspended until such time as an Authorised Officer or constable is so satisfied.

Without prejudice to the conditions set out above the proprietor of a Hackney Carriage vehicle shall present the vehicle for inspection at such time and at such place within the area of Bath and North East Somerset Council as specified in written notice served on the proprietor by the Council.

### **ACCIDENTS & ALTERATIONS**

The Hackney Carriage proprietor shall report to the Licensing Section as soon as reasonably practicable, and in any case within 72 hours of the accident's occurrence in accordance with the Local Government (Miscellaneous Provisions) Act 1976. Any damage to the Hackney Carriage vehicle must be repaired as soon as is practicable. An Authorised Officer of the Council may require the Hackney Carriage vehicle to be presented for a formal mechanical inspection **(at the licensees expense)** after completion of the repairs.

The proprietor of a vehicle shall report to the Licensing Section of the Council, any material alteration in the design of the vehicle (either to the machinery or construction of the body) as soon as practicable, and the Authorised Officer of the Council may require the vehicle to be presented for an inspection.

### **CHANGE OF ADDRESS**

The proprietor or part proprietor of the vehicle shall:

within seven days of any change of address during the period of the licence disclose to the Council the details of the change in writing.

### **PENALTY POINT SCHEME**

Breach of any of these conditions may be enforced by the Penalty Point scheme as shown on the attached table.

### **SUSPENSION, REVOCATION OR REFUSAL TO RENEW LICENCE**

**The Hackney Carriage licence may be suspended, revoked or not renewed by the Council on any of the following grounds:**

- a) that the hackney carriage vehicle is unfit for use as a hackney carriage vehicle**
- b) any offence under or non-compliance with the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976, on the part of the vehicle proprietor or driver**
- c) any other reasonable cause.**

## APPENDIX C

**The Licence may be immediately suspended where an Authorised Officer is not satisfied as to the fitness of the vehicle or its taximeter where the provisions of section 68 of the Local Government (Miscellaneous Provisions) Act 1976 apply.**

### **MISCELLANEOUS**

The vehicle proprietor is required to be familiar with the Council's requirements for Hackney Carriage vehicles, and to ensure that these are complied with and that any driver of the vehicle is made aware of his/her responsibilities thereunder.

If the vehicle proprietor permits or employs any other person to drive the vehicle as a Hackney Carriage vehicle he shall, before that person commences to drive the vehicle, cause the driver to deliver to the vehicle proprietor, the Hackney Carriage drivers licence for retention, until such time as the driver ceases to be permitted or employed to drive the vehicle, or any other vehicle of his.

### **SERVICE OF NOTICES**

Any notice required to be served by the Council under this licence, or under any of the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976, shall be deemed to have been properly served if served personally on him/her, or sent by pre-paid post to or left at the last known address of the holder of the licence.

### **GENERAL**

A person who.

- (a) wilfully obstructs an Authorised Officer or constable acting, in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976, or the Town Police Clauses Act 1847;
- (b) without reasonable excuse fails to comply with any of the requirements properly made to him by such officer or constable in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976, or the Town Police Clauses Act 1847;
- (c) without reasonable cause fails to give such an officer or constable any other assistance or information which he may require for the performance of his functions in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976, or the Town Police Clauses Act 1847;

shall be guilty of an offence.

These conditions shall apply to Hackney Carriages licensed by Bath & North East Somerset Council.

The Council reserves the right to waive any requirements of these conditions at its absolute discretion.

The Council reserves the right to amend or add to any of the foregoing conditions and notice thereof will be served on all licensees.

OCTOBER 2013.

## APPENDIX C

### Penalty Points System Relating to Hackney Carriage Vehicles

Offence	Points	Person Responsible
Carrying more passengers than specified in licence for vehicle	6	Driver
Licensed vehicle failing to display exterior plates	6/Stop Notice	Driver/Proprietor
Failing to have current insurance certificate	6/Stop Notice	Proprietor
Failing to have current MOT certificate	6/Stop Notice	Proprietor
Tyres, windscreen wipers/washers, exhaust, lights, reflectors, spare wheel and tyre, brakes, not maintained in good condition	6 Stop Notice	Driver/Proprietor
No tools to change spare wheel and tyre, or defective or unsuitable tools / no spare bulbs	4/Stop Notice	Driver/Proprietor
No fire extinguisher/fire extinguisher not in good working order/not of correct type	4/Stop Notice	Driver/Proprietor
Vehicle displaying signs not authorised	4/Stop Notice	Proprietor
Dirty interior/exterior of vehicle	4/Stop Notice	Driver/Proprietor
Failing to report accident within 72 hours	4	Proprietor
Failing to produce insurance or MOT certificate on expiry of certificate.	4	Proprietor
Interior comment plate missing/not visible to passengers	4	Driver/Proprietor
Unauthorised CCTV System	Stop Notice	Proprietor
Any breach of condition not specified above	4	Driver/Proprietor
<b><u>METERS</u></b>	Points	Person Responsible
Taximeter not sealed or seal broken	6/Stop Notice	Driver/Proprietor
<u>Taximeter not displaying current tariff</u>	4/Stop Notice	Proprietor
<u>Taximeter obscured or not visible to passengers</u>	4 Stop Notice	Driver/Proprietor

Where 12 or more points are issued to a Driver/Proprietor/Operator within any twelve month period, a report will be submitted to the relevant Council Sub Committee with a view to the suspension, revocation or refusal to renew such a licence.

**APPENDIX C**

**I, the undersigned certify that the preceding conditions and penalty points scheme have been fully explained to me and that I fully understand them. I further certify that I agree to abide by and be bound by the conditions and penalty point scheme.**

Signed .....

Full Name.....

Date .....

**Witness signed .....**

**Full Name.....**

**Date .....**

## APPENDIX D

### PRIVATE HIRE VEHICLE LICENCE GENERAL CONDITIONS

These conditions are based on the legislation currently in force.

#### INTERPRETATION

In these conditions:

"The Council" means Bath & North East Somerset Council.

"Authorised Officer" means an officer of the Council authorised in writing by the Council for the purpose of these conditions.

"Private Hire Vehicle" has the same meaning as defined in section 80 of the Local Government (Miscellaneous Provisions) Act 1976 Part II.

"Licence Plate" means the plate issued by the Council for the purpose of identifying the vehicle as a Private Hire vehicle licensed by the Council.

"Proprietor" includes a part-proprietor and, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement.

"Vehicle" means the Private Hire vehicle in respect of which this licence is issued.

#### VEHICLE SPECIFICATIONS.

The vehicle may not be of a design or appearance so as to lead any person to believe that the vehicle is a Hackney Carriage and therefore available for immediate hire.

The engine size of the vehicle shall be at least **1400cc**.

The vehicle shall normally be less than **5** years old when first licensed by the Council. **Any vehicle presented for licensing which is older than 5 years at the date of application will be referred to the relevant Council Licensing Sub-Committee for determination.**

**Vehicles that have dented or damaged bodywork are unsuitable for licensing.**

A licensed vehicle which becomes **10** years old may be subject to a review of suitability to continue in service. Vehicles that are considered to be unfit for service will be referred to the relevant Council Licensing Sub Committee for a final decision as to suitability to continue to be licensed as a Private Hire vehicle. Factors that may render a licensed vehicle unfit may include (but not be limited to) general condition of exterior and interior, such as accident damage, rust, poor paintwork; ripped, torn or stained interior carpets, seats and trims; a history of failing an MOT test or Council Vehicle Inspection. The Vehicle Operator Services Agency (VOSA) MOT database and the individual vehicle licensing file will be used to ascertain this data for individual vehicles.

## APPENDIX D

A current M.O.T. certificate is required on all vehicles over 1 year old at the time of application for a Private Hire vehicle licence. This is in addition to the Council's vehicle inspection test carried out as part of the application process. The proprietor shall produce to the Licensing Section a new M.O.T certificate within seven working days of the expiry of the current certificate.

The vehicle must be fitted with a right-hand drive and shall have a minimum of four doors. **At least three of these doors must be accessible for passengers to enter and exit the vehicle without the need to move, adjust, or climb over any seating.**

All passenger seats must allow not less than 406mm (16in) per passenger along the narrowest part of the seat. In addition the leg room between rows of seats should allow for a minimum 255mm (10in).

### **TYPE APPROVAL**

Vehicles shall comply with the European Community M1 type approval for passenger carrying vehicles. The definition of category M1 type approval is any motor vehicle with at least four wheels designed and constructed for the carriage of passengers.

Vehicles that have been originally classified as complying with M1 type approval but have undergone modifications or conversions since original manufacture will be considered suitable provided they are presented with the relevant Individual Vehicle Approval (IVA) or Single Vehicle Approval (SVA) certificate issued by the VOSA.

Any vehicle submitted for licensing originally given European Community N type approval will be considered unfit for the purpose and will not be licensable as a Private Hire vehicle. The definition of category N type approval is any motor vehicle with at least four wheels designed and constructed for the carriage of goods.

### **STRETCH LIMOUSINES**

Stretch limousines may be licensed as a Private Hire vehicle provided that the vehicle is either a standard production model, or alternatively the vehicle has been stretched as part of a recognised programme approved by the original vehicle manufacturer. American limousines must have been approved under the Qualified Vehicle Modifier (QVM) programme for Ford/Lincoln or the Cadillac Master Coachbuilder (CMC) program for Cadillac vehicles. Limousines will only be licensed if the vehicle seating capacity does not exceed eight passengers in total.

A current IVA certificate issued by the VOSA in respect of the prospective stretched limousine must be submitted on application for a Private Hire vehicle licence. Imported Stretch Limousines may be left hand drive.



## APPENDIX D

Any supply of alcohol intended in the course of a limousine hiring is only permissible if the relevant premises licenses have been obtained, under the Licensing Act 2003, where applicable.

### ALTERNATIVE FUELS

Any conversion of a Private Hire vehicle to run on Liquid Petroleum Gas, any alternative fuel or combination of fuels must be carried out by a fully qualified and certified installation engineer. A certificate of installation must be produced to the Licensing Section before the vehicle can be used for the purpose of hire and reward.

### SATELITE GPS NAVIGATION SYSTEMS

Satellite or GPS Navigation systems are prohibited from use in a Private Hire vehicle for the purposes of hire and reward whilst on hire or available for hire within the boundaries of the city of Bath. At no time shall any satellite navigation system be situated within the swept area of the windscreen of a licensed vehicle.

### TINTED GLASS WINDOWS

DIY window tint film kits are not permissible.

Tinted glass windows are permissible provided that they are only those supplied as standard by the original vehicle manufacturer and comply with current vehicle Construction and Use Regulations.

### LICENCE RENEWALS

A Private Hire vehicle licence must be renewed annually and the renewal applied for prior to the expiration of the current licence. A licence will only be issued following a satisfactory vehicle inspection and measured mile taximeter test if applicable.

**Where the licence cannot be renewed due to mechanical failure of the vehicle the proprietor shall notify the Licensing Section in writing that the renewal application will be delayed and he may, with the consent of an Authorised Officer submit an application for renewal of the licence after the expiry date, and the renewal fee in force at that time will be payable.**

### THIRD PARTY ADVERTISING

Discreet **third party** advertising will be permitted on the front door panels of vehicles, subject to the written consent of the Council.

### COMPANY LIVERIES

Company liveries will be permitted provided that the only lettering displayed on the vehicle is the name, telephone number and website address of the Private Hire Company. No other wording is permitted. The words "TAXI" and "CABS" are prohibited from use as part of a livery on a Private Hire vehicle.

## APPENDIX D

**Applications for company liveries must be submitted in writing to the Licensing Section and the design must be authorised by the Licensing Section before the livery is used. Any liveries which are considered unacceptable by the Licensing Section will be referred to the relevant Council Licensing Sub Committee for determination.**

**Liveries are not permitted on any of the vehicles side, front or rear windows.**

**No reflective materials should be used in the lettering, graphics or background materials.**

The name of the operating company and telephone number is permitted to be displayed on the windscreen of the vehicle. Such a sign must be of the "sunvisor" type, and must not exceed 330mm x 228mm (13in x 9in).

### **ROOF SIGNS**

A Roof sign as prescribed by the Council shall be fitted to the vehicle at all times whilst hired or available for hire. **The roof sign shall be fitted along the length of the vehicle's roof, illumination of the roof sign is not permitted.**

**Roof signs may be removed for vehicles travelling on long journeys involving motorways but should be replaced on exiting the motorway.**

### **PRIVATE HIRE PLATES**

**When a Private Hire Licence is issued and on payment of a 'plate deposit' the Council will issue a Private Hire plate.** There shall be marked on the Private Hire plates the number of the licence for the Private Hire vehicle, the registration number of the vehicle, manufacturer and model of the vehicle, date of expiry of the licence and the number of persons that may be carried. The number of passengers that may be carried by a Private Hire vehicle is determined by the type of vehicle and is stated on the licence plates. In any event the maximum number is eight.

At all times, there shall be affixed to the rear of the exterior of the vehicle and the front exterior of the vehicle, the Private Hire plates provided by the Council.

An interior plate provided by the Council shall be fixed to the inside of the Private Hire vehicle so as to be plainly visible to any passenger.

The plates shall be at all times clearly visible and maintained in a clean, tidy and legible condition. **It is not permissible to alter the size of the issued licence plate by trimming or cutting.**

No other plates, fittings, signs or printed matter shall be displayed on the exterior or interior of the vehicle without the approval of an Authorised Officer of the Council or unless required by these conditions. At no time shall the word "TAXI" or "CAB" be used or any other wording leading any person to believe that the vehicle is a Hackney Carriage.

The licence plates shall remain the property of the Council and shall be returned to the Council on expiry, or within seven days of the notice of suspension, revocation or refusal to renew the vehicle licence having been served on the proprietor. **The plate deposit shall be refunded upon the plates being returned to the Council.**

## APPENDIX D

### EXECUTIVE HIRE/CHAUFFEUR HIRE

Exemptions from the requirement to display standard identification plates and roof signs will only be granted to vehicles that are exclusively supplied by an Operator for Executive Chauffeur hire on a full time basis and are not fitted with a taximeter. Executive Chauffeur vehicles will be required to display a discreet licence disc above the road fund licence (tax disc) on the left hand interior of the windscreen and a “letterbox” style identification plate on the rear exterior of the vehicle. This plate shall be 24.5cm x 9cm in size. There shall be marked on the Private Hire plates the number of the licence for the Private Hire vehicle, the registration number of the vehicle, date of expiry of the licence and the number of persons that may be carried.

Executive Chauffeur vehicles will be required to display an Interior identification plate issued by the Council and such plate shall be mounted so as to be plainly visible to any passenger travelling in the vehicle.

### SELLING OR SUBSTITUTING A VEHICLE

Any vehicle substituted for the vehicle in respect of which this licence is issued must be authorised by the Council. A vehicle substitution fee will be payable.

Any vehicle proprietor who sells a licensed Private Hire vehicle must notify the Council in writing within fourteen days of the sale specifying the name and address of the new owner and the date of sale.

### TAXIMETERS

If the Private Hire vehicle is fitted with a taximeter:

The taximeter will be programmed with the authorised tariff as set by the licensed Private Hire operator. No other tariff shall be permitted.

**All tariffs shall be clock calendar controlled.**

The word “FARE” shall be printed on the face of the taximeter in plain letters.

The taximeter shall be positioned so as to be clearly and easily visible at all times to any person conveyed in the Private Hire vehicle.

The taximeter shall be sealed in such a way that it shall not be practicable for any person to tamper with the taximeter except by breaking, damaging or permanently displacing the seals.

The taximeter must be sealed by an Authorised Officer of the Council.

The vehicle shall not be used for hire or reward unless the taximeter is properly sealed.

## APPENDIX D

In the event of an emergency requiring an authorised taximeter dealer to break the taximeter seal, the vehicle may be used for hire and reward providing the driver is in possession of a certificate from the dealer indicating why the seal was broken and the date the seal was broken. In any event the taximeter is to be re-sealed within three working days of the date of the notice.

**All taximeters must be capable of being sealed by permanent lead or plastic seals. Paper seals are not suitable for use. Existing meters that are not capable of authorised sealing methods should be replaced no later than twelve months from the date these conditions come into force.**

**All taximeters must be clock calendar controlled. Existing taximeters that are not capable of being clock calendar controlled should be replaced no later than twelve months from the date these conditions come into force.**

### **FARECARD**

If the vehicle is fitted with a taximeter a current table of fares as set by the Private Hire Operator shall be carried the interior of the vehicle at all times and shall be made available to any person being conveyed in the Private Hire vehicle on request.

### **CLOSE CIRCUIT TELEVISION (CCTV)**

CCTV will only be permitted for use within the vehicle subject to the written consent of the Council's Licensing Section.

**If an approved CCTV system is fitted, a sign must be displayed in the interior of the vehicle, plainly visible to passengers stating "CCTV in Operation". Similar signs shall be displayed on the exterior of the vehicle to warn prospective customers of the use of CCTV in the vehicle.**

**The use of dummy CCTV equipment is permissible subject to the written consent of the Council.**

**Any signs indicating that CCTV is in operation must be approved by the Councils Licensing Section.**

**It shall be the vehicle proprietor's responsibility to ensure that he/she is fully aware of the provisions of the Data Protection Act 1988, and fully complies with the relevant requirements of the Act and the CCTV Code of Practice published by the Information Commissioners Office.**

### **SMOKING**

**The Smoke free legislation under the Health Act 2006 which came into effect on 1<sup>st</sup> July 2007, makes smoking a criminal offence in a licensed private hire vehicle. Smoking is prohibited at all times including when the vehicle is not being used for hire and reward or the driver is off duty. It is the vehicle proprietor's responsibility to ensure that the legislation is complied with at all times and to ensure that any licensed drivers permitted to drive the vehicle are fully aware of the law.**

## APPENDIX D

### PROPRIETORS RESPONSIBILITIES

Every proprietor of a Private Hire vehicle shall:

- (a) ensure that all windows and window handles are maintained in good repair and condition and operate correctly.
- (b) keep the seats properly cushioned and covered, and ensure that they are kept free from unsightly repairs stains and burns.
- (c) provide proper and sufficient accommodation for luggage and a means of securing such luggage
- (d) provide and maintain an electric light in the interior of the vehicle for use of any person entering or alighting from the vehicle
- (e) carry a spare wheel and tyre and suitable tools for the replacement of damaged or punctured tyres. **If the vehicle is fitted with an LPG conversion and there is no room for a spare wheel, then an alternative method of re inflating a punctured tyre must be carried. (It is acceptable not to carry a spare wheel if the vehicle is not fitted with a spare wheel as standard manufacturers' equipment and is provided with a suitable means of emergency puncture repair).**
- (f) carry a fire extinguisher with a valid expiration date readily available for use. The fire extinguisher must comply with the requirements relating to fire extinguishing appliances for use in public service vehicles, which may include dry powder type
- (g) keep the vehicle properly painted in one of the manufacturer's standard range of colours
- (h) keep the interior and exterior of the vehicle in a clean and tidy condition and all body work should be sound and reasonably well maintained, free from major dents and other distortions/damage. Any repairs and cosmetic improvements must be of professional quality and a good paint match achieved
- (i) **Carry a full set of replacement bulbs, to include headlight, taillights, sidelights and indicators. (vehicles fitted with Xenon and LED lighting systems are excluded from this requirement, but should carry standard replacement bulbs if appropriate)**

The vehicle shall display in both rear passenger door windows a discreet sticker advising passengers that seatbelts should be worn.

**The vehicle shall display a "No Smoking" sign so as to be plainly visible to anyone entering the vehicle.**

The vehicle shall be fitted with sufficient seat belts to correspond with the seating capacity of the vehicle.

## APPENDIX D

Where the vehicle is an estate car a rack must be fitted to prevent luggage entering the passenger compartment during an emergency stop.

### **INSURANCE**

The vehicle proprietor shall ensure that a valid certificate of insurance, which complies with the requirements of the road traffic legislation currently in force, is kept in respect of each driver of the Private Hire vehicle and in relation to its use as a Private Hire vehicle. On being required to do so by an Authorised Officer of the Council or constable the certificate of insurance shall be produced for examination.

The proprietor shall produce a new insurance certificate or cover note within seven days of the expiry of the current certificate, or cover note.

**Named drivers included on the insurance certificate must hold a Private Hire driver's licence issued by the Council. Certificates will not be accepted if they include named drivers that are not the holder of a Private Hire driver's licence issued by the Council.**

### **VEHICLE INSPECTIONS**

The proprietor shall permit an Authorised Officer of the Council or constable to inspect the vehicle at all reasonable times, and where an Authorised Officer or constable is not satisfied with the condition of the vehicle for use as a Private Hire vehicle the vehicle licence may be suspended until such time as an Authorised Officer or constable is so satisfied.

Without prejudice to the provisions of the conditions set out above, the proprietor of a Private Hire vehicle shall present the vehicle for inspection at such time and at such place within the area of Bath and North East Somerset Council as is specified in written notice in writing served upon the proprietor by the Council.

### **ACCIDENTS & ALTERATIONS**

The proprietor of a Private Hire vehicle shall report to the Licensing Section of the Council any accident to any such vehicle within 72 hours of the occurrence in accordance with the Local Government (Miscellaneous Provisions) Act 1976. Any damage to the Private Hire vehicle must be repaired as soon as is practicable. The Authorised Officer of the Council may require the Private Hire vehicle to be presented for a formal mechanical inspection at the licensee's expense after completion of the repairs.

The proprietor of a Private Hire vehicle shall report to the Licensing Section of the Council, any material alteration in the design of the vehicle (either to the machinery or construction of the body) as soon as practicable, and the Authorised Officer of the Council may require the vehicle to be presented for an inspection.

## APPENDIX D

### **CHANGE OF ADDRESS**

The proprietor or part proprietor of the vehicle shall;

- within seven days of any change of address during the period of the licence disclose to the Council the details of the change in writing.

### **PENALTY POINT SCHEME**

Breach of any of these conditions may be enforced by the Penalty Point scheme as shown on the attached table.

### **SUSPENSION, REVOCATION OR REFUSAL TO RENEW LICENCE**

**The Private Hire vehicle licence may be suspended, revoked or not renewed by the Council on any of the following grounds:-**

- a) that the vehicle is unfit for use as a Private Hire vehicle**
- b) any offence under or non-compliance with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976, on the part of the vehicle proprietor or driver**
- c) any other reasonable cause.**

**The Licence may be immediately suspended where an Authorised Officer is not satisfied as to the fitness of the vehicle or its taximeter where fitted, the provisions of section 68 of the Local Government (Miscellaneous Provisions) Act 1976 apply.**

### **MISCELLANEOUS**

The vehicle proprietor is required to be familiar with the Council's requirements for Private Hire vehicles, and to ensure that these are complied with and that any driver of the vehicle is made aware of his/her responsibilities.

If the vehicle proprietor permits or employs any other person to drive the vehicle as a Private Hire vehicle he shall, before that person commences to drive the vehicle, cause the driver to deliver to the vehicle proprietor, the Private Hire vehicle drivers licence for retention, until such time as the driver ceases to be permitted or employed to drive the vehicle, or any other vehicle of his.

### **SERVICE OF NOTICES**

Any notice required to be served by the Council under this licence, or under any of the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976, shall be deemed to have been properly served if served personally on him/her, or sent by pre-paid post to or left at the last known address of the holder of the licence.

## APPENDIX D

### GENERAL

#### Any person who:

- (a) wilfully obstructs an Authorised Officer or constable acting, in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976
- (b) without reasonable excuse fails to comply with any of the requirements properly made to him by such officer or constable in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976
- (c) without reasonable cause fails to give such an officer or constable any other assistance or information which he may require for the performance of his functions in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976

shall be guilty of an offence.

These conditions shall apply to Private Hire vehicles licensed by Bath & North East Somerset Council.

The Council reserves the right to waive any requirements of these conditions at its absolute discretion.

The Council reserves the right to amend or add to any of the foregoing conditions and notice thereof will be served on all licensees.

OCTOBER 2013

#### **Penalty Points Scheme Relating to Private Hire Vehicles**

<b>Offence</b>	<b><u>Points</u></b>	<b>Person Responsible</b>
Carrying more passengers than specified in licence for vehicle	6	Driver
Licensed vehicle failing to display exterior plates	6/Stop Notice	Driver/Proprietor
Failing to have current insurance certificate	6/Stop Notice	Driver/Proprietor
Failing to have current MOT certificate	6/Stop Notice	Driver/Proprietor
Tyres, windscreen wipers/washers, exhaust, lights, reflectors, spare wheel and tyre, brakes, not maintained in good condition	4 6 points each defect or Stop Notice	Driver/Proprietor
No tools to change spare wheel and tyre, or defective or unsuitable tools / no spare bulbs	4/Stop Notice	Driver/Proprietor
No fire extinguisher/fire extinguisher not in good working order/not of correct type	4/Stop Notice	Driver/Proprietor



**APPENDIX D**

Vehicle displaying signs not authorised	4/Stop Notice	Proprietor
Vehicle failing to display compulsory roof sign	4/Stop Notice	Driver/Proprietor
Dirty interior/exterior of vehicle	4/Stop Notice	Driver/Proprietor
Failing to report accident within 72 hours	4	Proprietor
Failing to produce insurance certificate or MOT certificate on expiry of certificate.	4	Proprietor
Interior comment plate missing/not visible to passengers	3	Driver/Proprietor
Any breach of condition not specified above	1 – 4	Driver/Proprietor
Unauthorised CCTV System	Stop Notice	Proprietor
<b>METERS (IF FITTED)</b>	<b>Points</b>	<b>Person Responsible</b>
Taximeter not sealed or seal broken	6/Stop Notice	Driver/Proprietor
Taximeter not displaying current operators tariff	4/Stop Notice	Driver/Proprietor
Taximeter obscured visible to passengers	4 Stop Notice	Driver/Proprietor

Where 12 or more points are issued to a Driver/Proprietor/Operator within any period of 1 year, a report will be submitted to the relevant Council Licensing Sub Committee with a view to the suspension, revocation or refusal to renew such a licence.

**I, the undersigned certify that the preceding conditions and penalty point scheme have been fully explained to me and that I fully understand them. I further certify that I agree to abide by and be bound by the conditions and penalty point scheme.**

Signed .....

Full Name.....

Date .....

**Witness signed .....**

**Full Name.....**

**Date .....**

## APPENDIX E

### PRIVATE HIRE OPERATOR'S GENERAL CONDITIONS

A Private Hire Operator's Licence is issued on condition that the Operator fully understands and accepts the conditions and penalty point scheme as set out below.

#### INTERPRETATION

In these conditions:-

- (a) "the Council" means Bath & North East Somerset Council.
- (b) "Authorised Officer" means any Officer of the Council authorised in writing by the Council for the purposes of the Local Government (Miscellaneous Provisions) Act 1976.
- (c) "Operate" means in the course of business to make provision for the invitation and or acceptance of bookings for a Private Hire vehicle.

#### THE LICENCE

The Private Hire Operator's Licence is granted to the person named on the application form, and allows the Licensee to make provision for the invitation and acceptance of bookings for Private Hire vehicles at the premise's address specified on the Licence application form.

Operator's Licences shall not be transferable between premises. Any change of premises will require a new Licence which must be applied for prior to the change of premises.

It is an offence to operate from any premises other than that specified on the Operator's Licence.

#### FIT AND PROPER PERSON

Before the Council will grant a Private Hire Operator's Licence, they must be satisfied that the applicant is fit and proper. All applicants will be required to submit to the Council such information as is considered necessary to enable them to determine whether or not a Licence should be granted.

#### CRIMINAL RECORDS DISCLOSURE

A Standard Disclosure & Barring Services Check will be required on first application for an Operator's licence and subsequently on all future application to renew the licence.

A Certificate of Good Conduct will be required for applicants who have not been resident in the UK for the previous 10 years. The applicant should obtain this from the appropriate Embassy or Legation, and a certified translation will be required if it is not provided in English.

## APPENDIX E

### CONDITIONS OF LICENCE

#### INSURANCE

The Licensed Operator shall at all times have in force a current public and employees' liability insurance policy. The current certificate of insurance shall be displayed on the premises at all times and a copy of the certificate of insurance shall also be sent to the Licensing Authority annually on renewal.

#### RECORDS

Under Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976, Private Hire Operators are required to keep a record giving particulars of every booking of any Private Hire vehicle invited or accepted by the Operator before the commencement of each journey.

Such record shall be kept either in a ledger with consecutively numbered pages, or on a computer database/spreadsheet in an identifiable format. All such records shall be produced on request at all reasonable times for inspection by an Authorised Officer of the Council or a Police Officer.

Where records of bookings are stored electronically, the Operator shall ensure that such data is collected, stored and disposed of in accordance with the Data Protection Act 1998.

#### BOOKINGS

The booking record shall contain the following details:-

- (a) the name of the driver
- (b) the date and time of the booking
- (c) the name of the hirer
- (d) the method of booking (e.g. by telephone, in person etc.)
- (e) time of pick up
- (f) point of pick up
- (g) destination
- (h) details of vehicle allocated for booking
- (i) remarks (including details of any sub-contract).

#### SUB-CONTRACTING

An Operator accepting a booking remains liable for that booking, even if they sub-contract to another Operator.

Bookings can only be sub-contracted to an Operator licensed by the Council. At no time can a booking be sub-contracted to an Operator who is not licensed by the Council.

It is an offence for an Operator licensed by the Council to sub-contract a booking to an Operator from a different Licensing Authority.

## **APPENDIX E**

### **VEHICLE RECORD**

The Operator shall maintain a record of all vehicles used in connection with the Operator's business.

The vehicle record shall contain the following details:-

- (a) name of proprietor
- (b) registration number
- (c) plate number
- (d) any radio call sign used
- (e) date of expiry of Private Hire vehicle Licence

### **DRIVER'S RECORD**

The Operator shall maintain a record of all driver's undertaking Private Hire bookings.

The driver's record shall contain the following details:-

- (a) driver's full name
- (b) driver's current full address
- (c) driver's badge number
- (d) expiry date of Private Hire driver's Licence

### **RECORDS TO BE KEPT FOR 12 MONTHS**

All records shall be kept for a period of not less than 12 months following the date of the last entry.

### **INSPECTION OF RECORDS**

Records shall be available for inspection by an Authorised Officer of the Council or any Police Officer at the licensed premises at all reasonable times on request without notice.

### **SERVICE STANDARD**

The Operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times in particular the Operator shall ensure that: -

- (a) each vehicle shall attend punctually at the appointed time and place unless delayed or prevented by sufficient cause;
- (b) any premises to which the public has access are kept clean, adequately heated, ventilated and lit;
- (c) any waiting area provided by the Operator has adequate seating facilities
- (d) any telephone facilities and radio equipment are maintained in a sound condition and any defects repaired promptly;
- (e) any radio equipment provided by the Operator is licensed by the Home Office. The Operator shall produce this Licence to the Council on request.

## APPENDIX E

- (f) **The Operator shall be responsible for the conduct, appearance and actions of controllers operating under the Operator's Licence.**

### **TABLE OF FARES**

The Operator shall be responsible for informing the Council of the Operator's current table of fares.

### **COMPLAINTS**

The Operator shall keep a record of complaints received. The record shall contain:

- (a) Date of complaint.
- (b) Name of complainant
- (c) Form of complaint (letter, telephone)
- (d) Nature of complaint (summary of complaint)
- (e) Vehicle and driver Licence numbers
- (f) Action taken by Operator

### **CONVICTIONS, FORMAL CAUTIONS AND FIXED PENALTY NOTICES**

Should the Operator receive any conviction, caution **or Fixed Penalty Notice** during the period of the Licence the Licensee shall within 7 days give the Council written notice of the conviction, formal caution **or Fixed Penalty Notice**. This includes any motoring offences.

If the Operator is a limited company, the Operator shall in writing, within seven days, give to the Council the details on any conviction, formal caution **or Fixed Penalty Notice** imposed on the company or any director thereof during the period of the Licence.

If the Operator is a partnership, the Operator shall in writing, within seven days, give to the Council the details on any conviction, formal caution **or Fixed Penalty Notice** imposed on the partnership or any partner thereof during the period of the Licence.

### **PLANNING PERMISSION/LANDLORDS CONSENT**

**The grant of an Operator's Licence does not permit the use of premises as a Private Hire Operator's base in the absence of planning permission or any other necessary consent.** Operators shall ensure that all necessary permissions and consents have been obtained for the premises from which they operate.

### **NUISANCE**

The Operator shall not cause or allow to be caused any nuisance or annoyance to the owners or occupiers of nearby premises, by the conduct of the business to which this Licence relates.

## APPENDIX E

### **PENALTY POINT SCHEME**

Breach of any of these conditions may be enforced by the Penalty Point system as shown on the attached table.

### **SUSPENSION, REVOCATION OR REFUSAL TO RENEW LICENCE**

The Council may suspend, revoke or refuse to renew an operator's licence on any of the following grounds: -

- (a) if the Operator is convicted of an offence under or otherwise fails to comply with any of the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976;
- (b) if the Operator has been convicted of an offence involving dishonesty, indecency or violence;
- (c) any other reasonable cause.

This is not an exhaustive list but examples of any other reasonable cause may include formal cautions, fixed penalty notices and matters where a Licence holder has been charged with an offence which has yet to be concluded.

### **LICENSEE'S DUTY TOWARDS AUTHORISED OFFICERS**

Any person who:-

- (a) wilfully obstructs an Authorised Officer or constable acting, in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976,
- (b) without reasonable excuse fails to comply with any of the requirements properly made to him by an Authorised Officer or constable under Part II of the Local Government (Miscellaneous Provisions) Act 1976
- (c) without reasonable cause fails to give an Authorised Officer or constable any other assistance or information which he may require for the performance of his functions under Part II of the Local Government (Miscellaneous Provisions) Act 1976

shall be guilty of an offence.

The Council reserves the right to waive any requirements of these conditions.

The Council reserves the right to amend or add to any of these conditions on notice to the licensees.

OCTOBER 2013

**APPENDIX E**

**Penalty Points System Relating to Private Hire Operator's Conditions**

<b>Cause</b>	<b>Points</b>
Failing to produce or allow inspection of any records register	6
Failing to keep records of bookings in the prescribed form	4
Failing to keep vehicle records	4
Failing to keep driver records	4
Vehicle failing to attend or not attending on time	3
Failing to notify any conviction/formal caution/fixed penalty	3
Failing to keep public part of premises clean, tidy and comfortable	3
Breach of any condition not specified above	1 - 4

Where 12 or more points are issued to an Operator within any period of 1 year, a report will be submitted to the relevant Licensing Sub- Committee who may following a hearing suspend, revoke or refusal to renew such a Licence.

**I, the undersigned certify that the conditions and penalty points scheme have been fully explained to me and that I fully understand them. I further certify that I agree to abide by and be bound by the conditions and penalty point scheme set out above.**

**Signed** .....

**Full Name**.....

**Date** .....

**Witness signed** .....

**Full Name**.....

**Date** .....

**APPENDIX F**

No	Respondent	Comments	Officer Comment	Recommendation
1.	<p><b>Adrian Clarke</b>  <b>Transportation Policy Manager (B&amp;NES)</b></p>	<p><i>Thanks for forwarding the council's policy on taxis. As we move towards a low emission zone in the city centre we should consider the following:</i></p> <ul style="list-style-type: none"> <li>• <i>All newly licensed private hire vehicles must, as a minimum, meet Euro 4 standards for emissions and be no older than 5 years and all newly licensed taxis must, as a minimum, meet Euro 5 standards for emissions</i></li> <li>• <i>B&amp;NES will work with both the taxi and private hire industry to introduce ecodriving training from 2014 and to promote efficient driving techniques to reduce emissions with Eco driving elements being required for all new taxi drivers before becoming licensed</i></li> <li>• <i>By April 2014 changing the taxi licensing regime from one combined mechanical and licensing inspection to two MOTs per annum with a basic annual taxi-related inspection undertaken by</i></li> </ul>	<p>As it is stipulated within the vehicle conditions that all vehicles must be less than five years old then Euro 4 is the type approved standard (since 2005) all new vehicles will therefore comply with this, and as Euro 5 was introduced in 2009 then from 2014 all new vehicles on will be Euro 5 compliant.</p> <p>As B&amp;NES does not have a mandatory "Black Cab" Hackney requirement it would be inequitable to insist on Euro 5 for one category of vehicle and not another.</p> <p>By stating an age policy rather than specific Euro standards the conditions remain relevant as new emissions standards are introduced.</p> <p>Eco driver training will be a stipulation for all new drivers from 2014 and the training will also be made available to existing drivers.</p> <p>There is no evidence to support that this action will improve the emissions from vehicles which are below 5 years old. This will also place a further financial</p>	<p>No change to Conditions.</p>



**APPENDIX F**

		<p align="center"><i>B&amp;NES</i></p> <p><i>The above is taken from TfL's air quality strategy.</i></p>	<p>burden on the licensee and an administrative resource burden on the Licensing Team.</p>	
<p align="center">Page 77</p>	<p><b>2. John Law (taxi driver)</b></p>	<p><i>Why can we not have different badges for hackney and private hire drivers and why do private hire need roof signs they only confuse the public?</i></p>	<p>The dual badge system allows for drivers to easily change from driving a Hackney Carriage to a Private Hire vehicle without the need to apply for a further licence, incur an extra cost and be delayed in being able to work. There is no evidence that the dual badge system does anything other than to provide value for money and flexibility for the vast majority of the licensed drivers.</p> <p>There is no clear evidence that roof signs confuse the public, it is up to the individual driver and his actions to ensure that any approach made is refused. The roof signs are an excellent visual display of legitimacy and ensure that any potential hirer is reassured that the vehicle is a genuine licensed vehicle and is safe and comfortable. This is a particularly important aspect for visitors to the City and residents and students who may be worse for wear after enjoying our night time economy. The</p>	<p>No change to Conditions</p>

APPENDIX F

			<p>roof signs perform an important job in providing an important visual reassurance that the vehicle is a genuine licensed vehicle.</p> <p>It is also worth noting that from an enforcement angle the signs give a clear indication of the licence number of the vehicle which can easily be noted by hirers in the event of a complaint.</p> <p>The roof signs make it extremely difficult for any rogue unlicensed vehicles to operate in the City and surrounding areas as the lack of appropriate signage ensures that any rogue vehicle stands out and is recognisable due to the absence of expected signage.</p> <p>As stated there is no evidence that the roof signs “confuse the public” the Roof Signs have been established in Bath for over 20 years and there is not a large scale problem with plying for hire in the City and an almost non-existent record of rogue unlicensed vehicles. This can be contrasted with other Authorities that do not allow roof signs on Private</p>	
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**APPENDIX F**

			<p>Hire vehicles that have huge problems with unlicensed vehicles and large scale plying for hire.</p>	
<p>3.</p> <p>Page 79</p>	<p><b>Mark Charlesworth, Managing Director, Chauffeurlink Ltd</b></p>	<p><i>Thank you for your letter dated 17th July, I have read the proposed policy and conditions and am responding on behalf of Chauffeurlink Ltd (PH 12/1536/PHOP)</i></p> <p><i>Chauffeurlink Ltd operates exclusively as a chauffeur service using LWB Audi A8 saloons. Our client base is made up primarily of corporate clients, we do also have a number of private clients and we are often asked to provide our vehicles for weddings. Our clients use us because we provide a high quality and discreet service.</i></p> <p><i>I would like to register my concern about the proposal to introduce the requirement for clear signage in the vehicle and on the rear of the vehicle for vehicles used exclusively for chauffeur hire. I believe that being required to carry such visible signage would significantly degrade the up market impression we are currently able to present, I fear that we</i></p>	<p>See comments below applicable to Mr Charlesworth and Mr Finlay's representations.</p> <p>An alternative method of identification to the one originally suggested will be produced at the meeting for Cllrs to examine.</p>	<p>Following change to Conditions proposed:-</p> <p>Executive Chauffeur hire vehicles will be required to display an identification disk on the interior of both the front windscreen and rear window so as to be plainly visible to any passenger travelling in the vehicle.</p>

**APPENDIX F**

		<p><i>would be viewed as an up market taxi. I am sure that in the wedding car market we would be disadvantaged against vehicles that are not currently licensed for PH and would lose business. I am also concerned about potential damage to inside of the vehicle where the sign needs to be attached, any damage would reduce the resale value of these expensive vehicles.</i></p>		
<p>4.  Page 80</p>	<p><b>Rod Finlay Proprietor and MD Bath Chauffeur Services</b></p>	<p><i>Dear Sirs</i></p> <p><i>I would like to make my observations on the proposed changes to the Private Hire Vehicles Conditions in relation to identification plate to the rear and an interior identification plate.</i></p> <p><i>Whilst I feel that it is important for the Authorities and our clients to be able to recognize our vehicles as being licensed as PHV, our clients expect us to provide a discreet service and at the top level of Chauffeur Hire.</i></p> <p><i>I also think that it is important to be able to compete on a level platform with other companies in adjoining authorities, as they are able to source work within our</i></p>	<p>There is no differentiation in law between an “Executive Chauffeur Hire” vehicle and any other vehicle licensed as a private hire vehicle under s48 of the Local Government (Miscellaneous Provisions) Act 1976. Essentially there is no difference between the business that is carried out by normal private hire vehicle costing £5000 and a private hire vehicle costing £50,000. Both vehicles are licensed by the Council under the same legal framework, both vehicles are supplied to a member of the public by a licensed Private Hire Operator and both vehicles are driven by the holder of a private hire drivers licence. However the Council accepts that the “Executive Chauffeur Hire” market exists and has</p>	<p>Following change to Conditions proposed:-</p> <p>Executive Chauffeur hire vehicles will be required to display an identification disk on the interior of both the front windscreen and rear window so as to be plainly visible to any passenger travelling in the vehicle.</p>

**APPENDIX F**

<p>Page 81</p>		<p>area.</p> <p><i>My initial thoughts on reading the proposed changes was that I was not happy with the thought of having a letter box size plate attached to the rear of my cars, with a similar plate inside the vehicle. Most of my work takes me outside of the Council area and I see all sorts of plates and discs and felt that there must be a better way of showing that we are licensed. I have always thought that the printed disc that we display was insufficient to prove to other authorities that we were licensed if stopped and would be easy to re-produce.</i></p> <p><i>I have emailed and spoken personally with John Dowding and he has showed me an alternative double sided disc to go in the front windscreen which looks professional and give all the details to the authorities and my clients inside the car. A similar single sided disc for the rear screen would also make us identifiable to all other road users and cameras and is the type that is used by a lot of authorities including the City of London.</i></p>	<p>different working practises that require a certain amount of discretion and accordingly provides exemptions from the requirement to display the same amount of identification signage and an exemption from the requirement to display a roof sign.</p> <p>Under the existing regime the identification that clearly marks an “Executive Chauffeur Hire” vehicle as being licensed is practically unidentifiable to any member of the public, Police Officer or indeed Licensing Officer. The current private hire vehicle conditions do not specify the identification requirements for “Executive Chauffeur Hire “ and the current crude windscreen disc is not only unrecognisable it is not tamper proof and could effectively be reproduced by any one with basic software.</p> <p>It is essential that any signage displayed on any licensed vehicle is easily recognisable and tamper proof and clearly marks the vehicle as a legitimate licensed vehicle. This is clearly essential not only for the purposes of enforcement</p>	
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**APPENDIX F**

<p>Page 82</p>		<p><i>I would like to ask the BANES Executive committee to look at this alternative means of identification and I would give full support to them and John Dowding if these discs were to be implemented.</i></p> <p><i>I would be happy to appear before the Executive Committee if they wanted to question me further about the type of work we do and the importance of this decision to our sector of this business.</i></p>	<p>but also so that a member of the public travelling in a vehicle they have hired can be reassured that the vehicle supplied is part of a legitimate licensing regime.</p> <p>The current windscreen disc is clearly unfit for purpose as it is not easily recognisable, is not visible from the inside of the vehicle and therefore visible to a passenger, and is easily tampered with or reproduced using basic software. The fact that there is no signage visible inside the vehicle means that any person who is not happy with the service they receive has no means of making a legitimate complaint to the licensing authority and this is clearly undesirable. The lack of recognisable signage also means that "Executive Chauffeur Hire" vehicles fly under the radar of licensing authority road safety checks as they cannot be clearly identified as a licensed vehicle.</p> <p>The aim of the proposed conditions is to ensure that "Executive Chauffeur Hire" vehicles can be clearly recognised as licensed vehicles to both the Police,</p>	
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APPENDIX F

<p>Page 83</p>			<p>Licensing Officers and the members of public who hire them, and importantly provide a mechanism for a member of the public who has a problem with a journey a clear avenue of complaint to the licensing authority. The Council recognises the requirement for a certain amount of discretion; however this does not override the primary role of the licensing regime which is public protection.</p> <p>As such the Council is seeking to impose a minimum amount of recognisable signage which maintains a certain amount of discretion whilst allowing a vehicle to be easily identified in the case of a problem. comments regarding screwing plates and damaging vehicles are rather alarmist as there are many methods of fixing licence plates to vehicles that do not require screws to be used or require any permanent marks or damage to a vehicle.</p> <p>However I have also sourced a more effective and visible form of windscreen disc which is visible to both the exterior of the vehicle and the</p>	
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**APPENDIX F**

			interior of the vehicle which I shall present to the Councillors as part of my report.	
5.	<p><b>Leslie Banks</b>  <b>PH Operator (Executive Hire)</b></p>	<p><i>Dear Sirs</i></p> <p><i>I feel the current system of displaying a discreet disc is appropriate. However, the introduction of a plate displayed on the rear is against the wishes of companies and high profile individuals who want this type of service. The customers want a quality car and chauffer service otherwise they would just order a taxi. Moreover, the introduction of such plates would not affect those that are not correctly licensed or those whose plates are on/off because they would simply carry on as before. Those that obey the rules would display the plates thus putting themselves at a disadvantage particularly when doing weddings which can be done by cars that are not licensed at all. If identification of a licensed vehicle is the worry then I venture to suggest that we have 2 discs, 1 displayed in the front nearside windscreen and 1 in the rear offside. It would also be less confusing if operators were in one camp</i></p>	Comments as above.	<p>Following change to Conditions proposed:-</p> <p>Executive Chauffeur hire vehicles will be required to display an identification disk on the interior of both the front windscreen and rear window so as to be plainly visible to any passenger travelling in the vehicle.</p>



**APPENDIX F**

		<p><i>or the other i.e. they are either operating with a radio and meter for general work or they are not and do executive/chauffeur work with that vehicle.</i></p> <p><i>Yours sincerely</i></p> <p><i>Leslie Banks</i></p>		
<p>6.</p> <p>Page 85</p>	<p><b>Nick Kingwell</b> <b>Private Hire Operator (Executive Hire)</b></p>	<p><i>To Whom it may concern</i></p> <p><b><u>Executive Hire/ Chauffeur Hire</u></b></p> <p><i>I have always thought that it would be a good idea to have another disc in the back window to identify the vehicle as Private Hire. However, I would very unhappy if we have to fix on external plates as this in my opinion takes away part of the prestige of being collected in an executive vehicle. I have invested heavily in prestige cars and people carriers to provide the highest levels of comfort, service and (perhaps perceived) prestige. I am very positive towards identification of some sort though, as it would be of benefit to myself, my drivers and the public to know that</i></p>	<p>Comments as above.</p>	<p>Following change to Conditions proposed:-</p> <p>Executive Chauffeur hire vehicles will be required to display an identification disk on the interior of both the front windscreen and rear window so as to be plainly visible to any passenger travelling in the vehicle.</p>

**APPENDIX F**

		<p><i>they are in a licensed vehicle.</i></p> <p><i>London PCO vehicles have a disc in the back window, would it be possible to have something similar?</i></p> <p><i>Many thanks</i></p> <p><i>Nick</i></p>		
<p align="center">7 Page 86</p>	<p><b>Martin Smith</b>  <b>Executive Hire PH Operator</b>  <b>Former Director/Operations Manager of Abbey Taxis Bath</b></p>	<p><i>I write with reference to your letter of July 17th regarding the above mentioned subject. Thank you for your letter detailing the location of the proposed policy and inviting comments by August 31st.</i></p> <p><i>I have been around the Taxi and Private Hire trade in Bath since 2004 when I first acquired a combined Hackney and Private Hire License, since which time I have been constantly involved in various guises. As I have not had any previous dealings with you it feels appropriate to give a brief history of my experience: from 2004 I was an owner driver of a PH vehicle, in 2005 I became a Director Shareholder, and the Company Secretary of Abbey</i></p>	<p>Comments as above with regard to executive vehicles displaying identification.</p>	<p>Following change to Conditions proposed:-</p> <p>Executive Chauffeur hire vehicles will be required to display an identification disk on the interior of both the front windscreen and rear window so as to be plainly visible to any passenger travelling in the vehicle.</p>

**APPENDIX F**

<p>Page 87</p>		<p><i>Taxis, from 2006 to 2012 I also held the position of Operations Manager (break in service of nine months during 2008. Currently I operate a private hire vehicle with exemption to display plates and also regularly drive a Hackney in Zone 1</i></p> <p><i>I have read through the proposed documents with interest and would like to exercise your invitation to comment; my comments are based on copies of these documents downloaded on August 18th that I note are slightly different to those I initially viewed during a brief look soon after receipt of your letter.</i></p> <p><i>In my opinion some positive updates are being proposed that accommodate changes in vehicles, technology and generally changing times with all that this entails; whilst also maintaining many of the standards and conditions familiar to us. Below I have commented on some items that from experience 'jumped out'.</i></p> <p><i>The reduction in required engine capacity must be a positive 'green' move as well</i></p>		
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**APPENDIX F**

<p>Page 88</p>		<p><i>opening up a better range of vehicles to licence holders. The increased attention to bodywork damage should help to lift the standard of vehicles we see on the road.</i></p> <p><i>Maintaining the annual expirations dates for vehicle and driver licences is good news, having worked with a system of 'rolling years' under other councils I know that the B&amp;NES approach throws up less surprises and oversights.</i></p> <p><i>The introduction of tighter rules with regards to the issuing of driver licences can only help to improve the standard of drivers and therefore provide a better service to the public.</i></p> <p><i>I personally found (while employed at Abbey Taxis) that one of the great technologies helping the general motorists these days was a constant issue - the 'Sat Nav', absolute agreement a local driver should not be using one to get around the immediate area.</i></p> <p><i>I am not personally a smoker and welcomed the rules regards no smoking in</i></p>		
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**APPENDIX F**

*business premises. Again referring to my time at Abbey Taxis I had to deal with reports of drivers smoking in cars on occasions. The stock response from a driver would be that it was a 'fake cigarette' if reported as having been seen smoking in his vehicle - I only mention this as with the increased availability of these products it is worth being aware of the 'stock excuse'.*

*The final general observation I would like to mention is regards Taxi Meters and the need for them to be clock calendar controlled; a condition I agree with fully. At Abbey Taxis we always required this both for ease of use and the correct charging of customers, however where this fell down was with multi-seat vehicles. While only appropriate to PH licensed vehicles, generally a multi-seat uses a different tariff once they have a fifth passenger, this is achieved by being able to change the tariff manually; consequently this meant the meters in these vehicles were not clock calendar controlled. I am not aware of a meter that provides a 'halfway house'. I*

**APPENDIX F**

*do not personally operate a multi-seat vehicle but knowing taxi drivers can foresee potential for a dispute.*

*My personal interest is currently more centred around Executive Hire/ Chauffeur Hire; I currently operate a car with exemption to display plates. I feel the 'difficulties' generally arise as we are providing what we (and our clients) view as a different service to that provided by some operators, for example the Abbey Taxis although under the same general license requirements.*

*I think that I speak for various of my associates when I say that the current discretionary exemption to display plates is much appreciated and I for one know that this is a privilege not to be abused.*

*Probably needless to say I do have some concerns regards the display of a 'letterbox plate' on the rear of my vehicle and the internal plate inside, not from the point of view of attaching these (there are many good solutions on the market) more from the perception by clients who*

**APPENDIX F**

<p>Page 91</p>		<p><i>want to book an executive style car.</i></p> <p><i>I am hoping there may be a compromise that can be found here, I can see the council need to identify the vehicles and it is fair to say the current paper disc could do with an upgrade; these were historically better when Mr Dowding had access to a colour printer. Also that some details are visible inside the vehicle.</i></p> <p><i>I have enclosed on a separate sheet a photograph of a disc used in the London area that is more detailed than our current ones, I believe it has details on the reverse to be viewed from inside the vehicle. I apologise for the quality of the image it was raining on the day I took photograph.</i></p> <p><i>Also on this subject I am very much in favour of the point that vehicle needs to be firmly in one camp either as an exempt vehicle or one that displays plates, this avoids confusion and should help to maintain standards of the cars with exemption.</i></p> <p><i>Earlier in my letter I</i></p>		
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**APPENDIX F**

<p>Page 92</p>		<p><i>expressed my agreement that Sat Nav system should not be employed by drivers working locally, I do not use one when hackney driving locally. I do however use one some of the time in my executive car, not as I do not know the way but to benefit from the traffic updates; will it still be acceptable to use one on longer journeys either starting or terminating locally?</i></p> <p><i>While these policies are under review and discussions taking place I would like to take the opportunity to raise one point regards the use of an Operator's Licence by people supplying executive cars. As I acknowledge the same rules apply to all private hire companies, although currently we (suppliers of Executive Cars) gratefully receive exemption from displaying plates at the council's discretion. Could consideration be given with regard to the rules of accepting bookings while out of the office?</i></p> <p><i>The rule that a booking can only be taken while at the premises the licence pertains to makes absolute sense in</i></p>	<p>In regard to Sat Navs it is not the intention of the Council to prohibit the use of Sat Navs for journeys that terminate outside of the Councils area, merely to restrict the use of Sat Navs for local traditional "HC and PH" jobs. Sat Navs do not look after the interests of the paying customer.</p> <p>The Council has no ability to allow Operators to accept phone calls away from premises. Case law is clear</p>	<p>No Change to Conditions</p>
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**APPENDIX F**

<p>Page 93</p>		<p><i>many ways; for example to stop a private hire driver taking essentially immediate bookings (maybe at the car window or via a mobile telephone) and operating not dissimilar to a hackney vehicle.</i></p> <p><i>Speaking now from experience that I have gained in the last twelve months since I have been providing an executive car service under a private hire licence. As I drive myself there are occasions when clients contact me and I am away from the office, clearly I cannot book jobs at these times and can only arrange to make contact when I am back in the office. Is there any opportunity for some discretion to be given in accepting a booking for an executive car (as recognised by the council) while out of the office? Perhaps only for jobs that start or terminate beyond the city limits or are not due to commence within a certain timeframe? In the event that a job could be only booked under the aforementioned conditions I do not think that this would give unfair advantage over other licence holders; while</i></p>	<p>that where the telephone is answered is where the licence to Operate is required.</p>	
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**APPENDIX F**

Page 94		<p><i>making potentially improving our service, efficiency and green credentials.</i></p> <p><i>In closing I thank you for the opportunity to comment, apologise for my long winded letter and repeat my earlier comment that it appears some well thought out changes are being proposed that should help to maintain and improve the quality of service to the public.</i></p> <p><i>I appreciate you are likely to have received comments from other parties and may not have the time to reply. Please feel free to contact me if I can be of any assistance</i></p>		
8.	<b>Harald Demski (Taxi Driver)</b>	<p><i>As discussed at the meeting on the 14 August 2013 at Lewis House I would be obliged if you could forward a full and detailed explanation of the changes involved with proposed condition no 24 together with any resultant effects this may have on condition no 25.</i></p>	<p>Due to changes in the DBS Local Authorities no longer receive copies of the required criminal records certificate as they did in the past.</p> <p>There is an online checking facility that allows registered bodies such as a Local Authority (LA) to instantly check whether or not the information contained on the DBS database has changed since the last DBS check carried out. This check is instant but requires that the</p>	No change to Policy.

APPENDIX F

<p>Page 95</p>			<p>holder of the DBS certificate (the Driver) registers and keeps the registration up to date.</p> <p>The local authority must not grant a licence unless they are satisfied that the applicant is fit and proper. Under the old regime of the CRB there was not so much of an issue as the LA always received a copy of the certificate at the same time as the applicant and therefore any issues that arose could be dealt with immediately and public safety was not compromised as the system delivered the information into the LA's hands where any issues could be brought to the attention of the LA immediately.</p> <p>This is no longer the case and the onus is on the applicant to produce the information to the LA, the simplest method is by the online checking system and will allow for real time checks on an applicant who submits an application to renew his driver's licence. The online check does not give access to criminal records it merely indicates that there have</p>	
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APPENDIX F

<p>Page 96</p>			<p>been no changes since the last certificate was issued, (if a further criminal conviction or caution has been obtained it will indicate that there has been a change)</p> <p>For any driver who does not subscribe to the online system the LA will not be in a position to obtain an immediate check and will subsequently be relying on the driver to produce his certificate when he receives it. Clearly this is not acceptable as any driver who has something to hide (and a small proportion of drivers always fail to disclose convictions or cautions) will be reluctant to produce a certificate as it may have an impact on his/her licence. The LA is not in a position resource wise to chase some 200 (give or take) DBS certificates every renewal period to ensure that we have had sight of a "clean" certificate.</p> <p>So essentially it's up to the driver either register online (licence fees will be reduced to offset the annual registration cost so that drivers who register are not financially disadvantaged)</p>	
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APPENDIX F

<p>Page 97</p>			<p>and allow the LA to obtain an instant check and have a licence issued immediately.</p> <p>Or choose not to register online and be subject to an individual paper DBS check with the full fee payable (equal to the 3 years registration fee) and the subsequent delay in obtaining a paper certificate and producing it to the LA. In the meantime no licence will be issued until a DBS certificate has been produced to the LA and the LA can satisfy itself that there has been no change in the criminal records status of the applicant.</p> <p>There is a further benefit in registering online for a DBS certificate holder as once registered they should never have to have a further DBS check and any registered body can check the online status, so DBS checks become portable should a driver wish to work for another LA or obtain work in a sector that requires a DBS check without the need for multiple DBS applications.</p>	
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<b>Bath &amp; North East Somerset Council</b>		
MEETING/ DECISION MAKER:	<b>Licensing Committee</b>	
MEETING/ DECISION DATE:	<b>7<sup>th</sup> January 2014</b>	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	<b>Policy and Delegations for the Scrap Metal Dealers Act 2013</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
Appendix A – Scrap Metal Dealers Licensing Policy		

## **1 THE ISSUE**

- 1.1 The Scrap Metal Dealers Act 2013 introduces a new licensing scheme from 1 October 2013, replacing the previous simple registration requirements for Scrap Metal Dealers and Motor Salvage Operators. The function of delegation has been deemed to fall to the Cabinet pending anticipated changes to the Local Authorities (Functions and Responsibilities) Regulations 2000.
- 1.2 This report has been brought before the Council's Licensing Committee for information only.

## **2 RECOMMENDATION**

- 2.1 The Committee are asked to note the report, the proposed fees, the proposed delegations and the Scrap Metal Dealers Policy provided in Appendix A.

## **3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 3.1 Financial: The proposed licence fees have been calculated to ensure that the full cost of carrying out the function are met, in respect of administration and compliance in their entirety.
- 3.2 Staffing: The administration and compliance will be met from existing resources.
- 3.3 Equalities: An Equalities Impact Assessment has been completed and there are no implications with regard to the implementation of this new legislation.
- 3.4 Economic: None arising directly from this report.

3.5 Environment: None arising directly from this report.

3.6 Council Wide Impacts: None arising directly from this report.

#### **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

4.1 The Scrap metal Dealers Act 2013 gives the Council new statutory licensing powers replacing existing powers with effect from 1 October 2013.

4.2 The Council is required to carry out the function, although, at the date of this report, it has not been made clear whether this will be an executive or non-executive function.

4.3 Section 17 of the Crime and Disorder Act 1998 requires that: "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all it reasonably can prevent crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local environment) ..."  
The licensing of scrap metal dealers clearly engages with this requirement and it is considered that the requirement will be met if the course of action indicated in this report is followed.

#### **5 THE REPORT**

5.1 In recent years scrap metal theft has been one of the fastest growing crimes in the UK. It affects communities; businesses, and Councils themselves, and a Local Government Association (LGA) survey showed that metal theft had cost Councils more than £5.25 million in 2010/2011.

5.2 Since 2011 a number of organisations including the Police, Councils and the Environment Agency through "Operation Tornado" have been successful in reducing the amount of metal theft in the UK. This led to the LGA along with other bodies pressing the Government to update the Regulations relating to scrap metal dealers.

5.3 Scrap Metal is defined in the Act as "any old, waste or discarded metal or metallic material or any product, article or assembly which is made from or contains metal and is broken, worn out, or regarded by its last holder as having reached the end of its useful life. But gold, silver and any alloy of which 2 per cent or more by weight is attributable to gold or silver is not considered scrap metal".

5.4 The Scrap Metal Dealers Act 2013 came into force from 1 October 2013 and repealed the Scrap Metal Dealers Act 1964, and Part 1 of the Vehicles (Crime) Act 2001 (Motor Salvage Operators), replacing them with a new system of licensing to be administered by Local Authorities.

5.5 Significant differences between this and the previous scrap metal dealer and Motor Salvage Operator functions are as follows:

- Licences, as opposed to registrations, with a consequent power to consider suitability of applicants.
- Scrap metal dealer and motor salvage operators are now both regulated by the same legislation.



- Requirement not to issue a licence unless the Council is satisfied as to the applicant's suitability, and power to revoke a licence.
- Power to impose licence conditions in case of conviction as to the times when scrap may be received, and that scrap metal must be kept in its original form for a specified period following receipt.
- Two categories of licence – sites and collectors.
- No cash payments for scrap metal, although an exception remains for the purchase of vehicles in limited circumstances.
- Power to give notice to close unauthorised sites.
- Licences are for a three year period.
- The holder of a licence can only hold one licence in each Local Authority's area, but may hold licences in multiple Local Authority areas. Thus the holder of a site licence in one area might hold a collector's licence in another.
- The legislation requires that an application for a licence is accompanied by a fee set by the Local Authority.
- Specific compliance and enforcement powers for the Council and police.

5.6 The following fees have been calculated in accordance with the legal requirements and recent Home Office guidance to ensure, so far as is possible, that the costs of administering the function and ensuring compliance by licence holders can be met:

Site Licence - grant	£630.00
Site Licence - renewal	£592.00
Site Licence variation	£102.00
Collector's Licence - grant	£542.00
Collector's Licence – renewal	£475.00
Collector's Licence variation	£102.00
Replacement Licence	£ 22.00
Change of Details	£ 22.00

5.7 Currently, because the Government has yet to amend the Local Authorities (Functions and Responsibilities) Regulations 2000, the default responsibility for this function is with the Council's Executive. When these Regulations have been amended, it is recommended that the Council should delegate the function to the Licensing Committee as a non-executive matter.

5.8 Under the scheme of delegation, it is proposed that the Council's Executive delegate the function to the Divisional Director Environmental Services, save that where it is proposed that an application should be refused; a licence revoked, or conditions imposed and the applicant or licence holder exercises their right to make representations. These representations should be dealt with by the Licensing Sub-Committee, when the legal power to delegate the function to that sub-committee is available.

5.9 Determinations of applications will be subject to the policy provided in Appendix A and guidance by the Home Office.

5.10 Where an application is refused or a licence revoked, there will be a right of appeal to the Magistrates' Court against the decision.

## **6 RATIONALE**

6.1 Given the statutory nature of the function, there are no other alternative options.

## **7 OTHER OPTIONS CONSIDERED**

7.1 Given the statutory nature of the function, there are no other alternative options.

## **8 CONSULTATION**

8.1 This report has not been sent to the Trades Unions because there are no staffing issues.

## **9 RISK MANAGEMENT**

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

<b>Contact person</b>	Alan Bartlett, Team Leader, Public Protection Tel: 01225 477563
<b>Background papers</b>	Scrap Metal Dealers Act 2013
<b>Please contact the report author if you need to access this report in an alternative format</b>	

# **SCRAP METAL DEALERS**

**DRAFT**  
Licensing Policy

# Index

	Page
1 Introduction and General Principles	1
2 Suitability of Applicants	3
2.1 Criminal Records Disclosure	4
2.2 Relevance of Convictions and Cautions	4
3 Enforcement Measures	4
4 General Arrangements	5
4.1 Licensing Committee and Hearings	5
4.2 Licence Applications	5
4.3 Licence Fees	6
4.4 Service Standards	6
4.5 Complaints	6
Appendices	7
A Scrap Metal Dealers Guidance & Procedures	
B DBS Handling and Storage Policy	

### 1 INTRODUCTION AND GENERAL PRINCIPLES

Bath & North East Somerset Council (the Council) is the Licensing Authority under the Scrap Metal Dealers Act 2013 which received Royal Assent on 28 February 2013.

The Act repeals the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of the Vehicles (Crime) Act 2001 creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries.

The Act maintains Local Authorities as the principal regulator and gives them the power to better regulate these industries by allowing them to refuse to grant a licence to “unsuitable” applicants and a power to revoke licences if the dealer becomes “unsuitable”.

The Act requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealer.

In setting out its policy, the Licensing Authority shall promote the following objectives:

- (i) Protection of the public through the reduction of metal theft;
- (ii) Promotion of effective scrap metal recycling and vehicle dismantling;
- (iii) Delivery of a regulatory service proportionate to the risks involved.

In exercising its discretion in carrying out its licensing functions, the Licensing Authority shall have regard to this procedure document, the objectives set out above, and legislative requirements outlined in Appendix A

Despite the existence of this procedure document, each application or enforcement measure shall be considered on its own merits. Where it is necessary for the Licensing Authority to depart from its procedures, reasons shall be given for so doing.

The aim of the licensing process is to regulate scrap metal trade in order to promote the above objectives. It is the Licensing Authority’s wish to facilitate well-run and responsible businesses that are responsive to the wishes and needs of the general public.

The Council, in undertaking its licensing functions, shall have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

The following principles will be adhered to when carrying out enforcement activities:

**Openness:** The Council shall be open about how it enforces the legislation in relation to scrap metal licensing.

**Helpfulness:** The Council will work with people to advise them on and assist with compliance of the relevant legislation. It will also strive to provide a courteous and efficient service to its customers.

**Proportionality:** The Council will minimise the cost of compliance for businesses and individuals by ensuring that any action taken is proportionate to the risk

or wider public benefit. Officers shall have regard to the human rights of all parties involved in its enforcement activities.

**Consistency:** The Council shall carry out its duties in a fair, equitable and consistent manner. Officers shall have regard to national legislation and guidance; local byelaws; corporate policies and procedures: the contents of this document.

This policy shall take effect from 1 October 2013 and shall remain in existence during which it shall be kept under review and revised as appropriate.

### Definition of a Scrap Metal Dealer

A person carries on a business as a scrap metal dealer if:

- (a) They wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought); or
- (b) They carry on business as a motor salvage operator

People selling scrap metal as surplus materials or as a by-product of manufacturing articles, is NOT regarded as a scrap metal dealer.

Motor salvage operation is defined in the Act as a business that consists wholly or mainly of:

- (a) Recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap.
- (b) Buying written-off vehicles, repairing and reselling them.
- (c) Buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b).
- (d) Wholly or mainly in activities falling within paragraphs (b) and (c).

Scrap metal includes:

- (a) Any old, waste or discarded metal or metallic material, and
- (b) Any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life.

Scrap metal does not include:

- (a) Gold.
- (b) Silver.
- (c) Any alloy of which 2% or more by weight is attributable to gold or silver.

### 1.16 Types of Licence

Anyone wishing to operate a business as a scrap metal dealer will require a site licence or a collector's licence. The licence is valid for three years and permits the licence holder to operate within the boundaries of the issuing Authority.

A person may hold more than one licence issued by different Local Authorities but may not hold more than one licence issued by any one Authority.

### Site Licence

The site licence authorises the licensee to carry on business at the site(s) identified in the licence.

The site licence must include:

- (a) The name of the licensee.
- (b) The name of the local Authority.
- (c) Identify all the sites in the Authority's area at which the licensee is authorised to carry on business.
- (d) The name of the site manager of each site.
- (e) The date of expiry.

The site licence also permits the licence holder to act as a collector.

### Collector's Licence

The collector's licence authorises the licensee to carry on business as a mobile collector within the Authority's area.

The collector's licence must include:

- (a) The name of the licensee.
- (b) The name of the Authority.
- (c) The date of expiry.

## 2 SUITABILITY OF APPLICANTS

The Council shall determine whether the applicant is a suitable person to carry on business as a scrap metal dealer.

In determining this, the Authority may have regard to any information which it considers to be relevant, in particular:

- (a) Whether the applicant or site manager has been convicted of any relevant offence.
- (b) Whether the applicant or site manager has been the subject of any relevant enforcement action.
- (c) Any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal).
- (d) Any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal).
- (e) Any previous revocation of a scrap metal licence (and the reasons for the revocation).
- (f) Whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.

### 2.1 Criminal Records Disclosures

Applicants shall be required to submit as part of any application a criminal records check from the Disclosure Barring Service. Applicants shall be charged an appropriate fee determined by the Disclosure Barring Service.

The Council is bound by rules of confidentiality, and shall not divulge information obtained to any third parties. The applicant for a DBS disclosure shall be sent a disclosure report to their home address; this must be shown to the Council prior to the issue or continuation of a licence.

The Council shall operate policies and procedures in accordance with Guidance and Codes of Practice issued by The Disclosure Barring Service.

### 2.2 Relevance of Convictions and Cautions

In assessing whether the applicant is a fit and proper person to hold a licence, the Licensing Authority shall take account of cautions and convictions, whether spent or unspent, but only in so far as they are relevant to an application for a licence.

Upon receipt of a disclosure from an applicant, an Officer of the Licensing Authority shall assess whether any or all of the convictions are capable of having a relevance as to whether the applicant is a fit and proper person to hold a licence.

## 3 ENFORCEMENT MEASURES

In order to encourage responsible licensed businesses, the Licensing Authority shall operate a firm but fair enforcement regime. To balance the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference, the Licensing Authority as a general principle shall only intervene where it is necessary and proportionate to do so.

The Council shall, in order to discharge its role as the Licensing Authority, carry out routine and unannounced inspections of individuals, vehicles and businesses to ensure compliance with the relevant legislation.

The Licensing Authority may take any of the steps below upon receipt of evidence that an offence has been committed in relation to legislation enforced by the Council:

1. Informal verbal or written advice.
2. Service of Notice.
3. Revocation of the licence.
4. Refusal to renew.
5. Prosecution of an individual or company.

Minor or first-time transgressions are likely to attract either an oral or written warning.

A licence holder shall be referred to the appropriate Licensing Committee when either he/she has been found to be in breach of a licence issued or convicted of a serious criminal offence. The Committee shall consider the evidence and may either take no action, or revoke the licence.

The Licensing Authority shall consider the prosecution of licence holders for relevant offences where the allegation is of a serious nature or for alleged repeated offenders.



### **4 GENERAL ARRANGEMENTS**

#### **4.1 Licensing Committee and Hearings**

The Committee has delegated its functions in the following way:

1. A licensing sub-committee shall deal with applications and disciplinary matters referred to it by Licensing Officers.
2. Licensing Officers have delegated powers to grant or refuse licences; to revoke licences in situations requiring immediate action; to issue oral and written warnings, notices, & formal cautions; and to instigate prosecutions where appropriate.

Licensing Hearings in relation to applicants and licensees shall be carried out to an agreed procedure that allows an individual the ability to present his/her case to the Committee; be represented, and ask questions. In certain circumstances the Committee shall hold licensing hearings without the public being present, where it is legally allowed to do so, for cases where personal matters are to be considered.

#### **4.2 Licence Applications**

An application for a Scrap Metal Dealer site licence and/or collectors licence shall be made on the specified application form issued by the Licensing Authority.

Applications will not be processed unless all the required documentation is produced and the licence fees have been paid.

No refunds will be given for unsuccessful licence applications, for unsuccessful licence renewal applications, or for applications where the process has begun and the applicant withdraws their application.

Holders of existing licences shall be reminded two months preceding the expiry, when their licences are due to be renewed. However, it is the responsibility of the individual licensee to renew an existing licence and the absence of a reminder letter will not discharge the licensee of his/her individual responsibility.

Application forms, appropriate fees, and supporting documentation should be submitted in sufficient time to allow processing of the application. It is recommended that applications are made at least 21 days prior to the expiry of the previous licence.

A licence that is not renewed by its expiry date will be deemed to have not been renewed and a fresh application for a new licence will be required, unless exceptional circumstances can be demonstrated to the satisfaction of the Licensing Authority.

#### **4.3 Table of Tariffs and Licence Fees**

The Licensing Authority shall annually review its licence fees and charges and implement any changes on 1 April each year.

### **4.4 Service Standards**

Tacit consent will not apply in relation to scrap metal dealer licence applications as there is an overriding public interest in ensuring that the suitability of applicants is assessed before the licence is issued.

### **4.5 Complaints**

The Council will investigate complaints against licensed or unlicensed, persons or businesses and take action proportionate to the matter being investigated. Complainants shall be encouraged in the first instance to raise their concerns directly with the licensee to seek a local resolution.

If a person making a complaint is not satisfied with the investigation of a complaint, the Council's formal complaint procedure shall be followed.