

21 September 2007

Our Ref: IG/L&A/2.10.07  
Your Ref:  
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To: The Members of the Licensing and Appeals Committee of North  
Hertfordshire District Council

(Councillors: P.C.W. Burt (Chairman), A. Bardett, D.J. Barnard, Simon  
Bloxham, Tom Brindley, Paul Clark, J. Cunningham, Melissa Davey,  
Lee Downie, Gary Grindal, Lorna Kercher, Joan Kirby, Marilyn  
Kirkland, and Michael Weeks)

You are invited to attend a meeting of the

## **LICENSING AND APPEALS COMMITTEE**

to be held at

**COMMITTEE ROOM 1, COUNCIL OFFICES, GERONON  
ROAD, LETCHWORTH GARDEN CITY**

on

**TUESDAY, 2 OCTOBER 2007**

at

**7.30 p.m.**

Yours sincerely,



David Miley  
Democratic Services Manager

**AGENDA**  
**PART I**

<b>ITEM</b>	<b>PAGE</b>
<b>1. APOLOGIES FOR ABSENCE</b>	-
<b>2. MINUTES</b> To take as read and approve as a true record the Minutes of the meeting of the Committee held on the 24 October 2006.	-
<b>3. DECLARATIONS OF INTEREST</b> To receive from Members of the Council any declarations of interest in respect of any business set out in the agenda. Members should either declare a prejudicial or personal interest and are required to notify the Chairman of the nature of any interest declared. Members declaring a prejudicial interest should leave the room and not seek to influence the decision during that particular item of interest.	-
<b>4. LICENSING ACT 2003 – UPDATE ON IMPACT IN NORTH HERTFORDSHIRE</b> ORAL REPORT OF THE LICENSING & ENFORCEMENT OFFICER <i>To receive an oral update from the Licensing &amp; Enforcement officer on the impact in North Hertfordshire of the Licensing Act 2003.</i>	<b>1</b>
<b>5. LICENSING ACT 2003 – PROPOSED STATEMENT OF LICENSING POLICY 2008-2010</b> REPORT OF THE STRATEGIC DIRECTOR OF FINANCIAL & REGULATORY SERVICES <i>To consider the public consultation responses to the public consultation in respect of the Council's proposed Statement of Licensing Policy 2008-2010, and to recommend the Policy to Council for approval.</i>	<b>3</b>
<b>6. PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2008-2010</b> REPORT OF THE STRATEGIC DIRECTOR OF FINANCIAL & REGULATORY SERVICES <i>To consider the public consultation responses to the Council's proposed Hackney Carriage and Private Hire Licensing Policy 2008-2010, and to recommend the Policy to Cabinet for approval.</i>	<b>33</b>

**LICENSING AND APPEALS COMMITTEE**  
**2 OCTOBER 2007**

**\*PART 1 – PUBLIC DOCUMENT**

**AGENDA ITEM No.**

**4**

**TITLE OF REPORT: LICENSING ACT 2003 – UPDATE ON IMPACT IN NORTH  
HERTFORDSHIRE**

ORAL REPORT OF THE LICENSING & ENFORCEMENT OFFICER

To receive an oral update from the Licensing & Enforcement officer on the impact in North Hertfordshire of the Licensing Act 2003.

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**TITLE OF REPORT: LICENSING ACT 2003  
PROPOSED STATEMENT OF LICENSING POLICY 2008-10**

REPORT OF THE STRATEGIC DIRECTOR OF FINANCIAL AND REGULATORY SERVICES

**1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to summarise the responses to the public consultation in respect of the Council's Statement of Licensing Policy.
- 1.2 The Licensing and Appeals Committee, having considered this report, can make a recommendation to Council in respect of the Policy.

**2. FORWARD PLAN**

- 2.1 This report contains a recommendation on a key decision that was first notified in the Forward Plan in October 2007.

**3. BACKGROUND**

- 3.1 The responsibility for the licensing of the retail sale of alcohol, the supply of alcohol to members and guests in members clubs, the provision of regulated entertainment and the provision of late night refreshment was transferred to local authorities on 24<sup>th</sup> November 2005 by way of the Licensing Act 2003.
- 3.2 In preparation for this new responsibility, local authorities had to publish a Statement of Licensing Policy by 7<sup>th</sup> January 2005 in accordance with Section 5 of the Act.
- 3.3 It is a requirement under Section 5 of the Act that this Policy is kept under regular review and that the Policy is formally reviewed and published every three years.
- 3.4 The Statement of Licensing Policy seeks to strike a balance between the interests of licence holders and residents in the promotion of the four licensing objectives defined by the Act. It outlines the Council's expectations of licence holders in promoting the licensing objectives, whilst advising on the Council's obligations under the Act.
- 3.5 In administering the Licensing Act 2003, the local authority are deemed to also be the Licensing Authority.

**4. APPROACH TO THE STATEMENT OF LICENSING POLICY**

- 4.1 The development of the Statement of Licensing Policy has been based upon a consultation process undertaken by the Licensing and Enforcement Team, with consideration to the recommended national policy template published by LACORS (Local Authorities Coordinators of Regulatory Services) and the Guidance issued by the Secretary of State under Section 182 of the Act.
- 4.2 The consultation process was undertaken between Monday 18<sup>th</sup> June 2007 and Friday 7<sup>th</sup> September 2007. A policy consultation page was created on

the Council's website including the current policy and an explanation of the process for making a representation.

4.3 A letter advising of the consultation process was sent to each of the following consultees:

- Hertfordshire Constabulary
- Hertfordshire Fire & Rescue Service
- Hertfordshire Trading Standards
- Hertfordshire Safeguarding Children Board
- NHDC Environmental Protection Team
- NHDC Environmental Health Team
- NHDC Building Control Team
- NHDC Planning Team
- All current premises licence holders, club premises certificate holders and personal licence holders
- Town Centre Managers
- NHDC Councillors
- Town Pubwatch / Shopwatch Schemes
- Neighbourhood Policing Panels
- Parish / Town Councils
- Local MP's
- Local Trade Associations

4.4 It was felt that due to the extensive consultation exercise undertaken for the initial policy and the fact that the policy appeared to be working well, no significant changes should be proposed.

## **5. LEGAL IMPLICATIONS**

5.1 The Act requires the Licensing Authority to publish a three year Statement of Licensing Policy by 7<sup>th</sup> January 2005 and at three yearly intervals thereafter.

5.2 In preparing the Statement of Licensing Policy, the Council must consult:

- the chief officer of police for the licensing authority's area,
- the fire authority for that area,
- such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
- such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
- such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- such other persons as the licensing authority considers to be representative of businesses and residents in its area

5.3 Section 4 of the Licensing Act 2003 states that in carrying out its licensing functions, a licensing authority must have regard to its Statement of Licensing Policy and any guidance issued by the Secretary of State under Section 182.

5.4 The Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 states that in determining applications a licensing authority may depart from its own policy if the individual circumstances of the case merit such a decision, however, they should give full reasons in their decision for such a departure.

5.5 The Statement of Licensing Policy should make it clear that each application will:

- be determined on its own merits,
- only have necessary, reasonable, proportionate and enforceable conditions imposed if relevant representations are received in relation to the licensing objectives,
- be granted as applied for, save conditions volunteered in the operating schedule, if no relevant representations are received

5.6 It is important to be aware that there is case law in respect of a successful Judicial Review of the Statement of Licensing Policy of Canterbury City Council by the British Beer & Pub Association and others. (BBPA and others V Canterbury City Council, 25/06/2005). Mr Justice Richards made it clear that local policies should not:

*“prescribe or dictate the contents of an application, or give the impression that the Council will assess, and exercise substantive discretionary powers in relation to, all applications and not just to those that come through for a decision under section 18(3).....”*

*The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or to exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision making function under section 18(3) is engaged.*

*If a policy creates a different impression, and in particular if it misleads an applicant into believing that he must meet certain requirements in relation to his application and that he lacks the freedom accorded to him by the Act and Regulations, the policy is contrary to the legislative scheme and is unlawful.....”*

## **6. FINANCIAL AND HUMAN RESOURCE IMPLICATIONS**

6.1 The Government has indicated that they expect the centrally set fees of the Licensing Act 2003 to cover the cost to the Council of administering the licensing regime.

6.2 This Statement of Licensing Policy will not place any new financial or human resource implications on the Council.

## **7. CONSULTATION WITH EXTERNAL AND INTERNAL STAKEHOLDERS**

7.1 The Licensing Authority have consulted with all statutory consultees as defined by the Act and listed in 5.2 above.

7.2 The full list of consultees is contained in 4.3 above.

7.3 The current Statement of Licensing Policy, as used for the consultation, is available on the Council’s website. A hard copy can be forwarded on request.

7.4 A schedule of comments received and the action taken in respect of these comments is attached as **Appendix A of this report**.

7.5 The proposed new Statement of Licensing Policy, incorporating amendments, is attached as **Appendix B of this report**.

## **8. RECOMMENDATIONS**

- 8.1 That the proposed Statement of Licensing Policy in respect of the Licensing Act 2003, as attached at Appendix B to the report incorporating the results of the public consultation exercise, be supported by the Licensing and Appeals Committee.
- 8.2 That the Licensing and Appeals Committee recommend the adoption of the Statement of Licensing Policy to Council

## **9. REASONS FOR RECOMMENDATIONS**

- 9.1 Licensing Authorities are required to publish a Statement of Licensing Policy every three years in accordance with Section 5 of the Licensing Act 2003. A new policy must be published by 7<sup>th</sup> January 2008.

## **10. ALTERNATIVE OPTIONS CONSIDERED**

- 10.1 There are no alternative options other than a Statement of Licensing Policy that may differ in content and extent. The proposed Statement of Licensing Policy, whilst comprehensive, aims to strike a balance between the minimum legal requirements and being overly prescriptive and open to challenge.

## **11. APPENDICES**

- 11.1 Appendix A – Schedule of comments received during the consultation, including recommendations
- 11.2 Appendix B – Proposed Statement of Licensing Policy

## **12. CONTACT OFFICERS**

- 12.1 Andy Godman, Head of Housing and Environmental Health, 01462 474293
- 12.2 Giovanna Silverio, Licensing and Enforcement Manager, 01462 474478
- 12.3 Steve Cobb (Report Author)  
Licensing and Enforcement Officer, 01462 474833

## **13. BACKGROUND PAPERS**

- 13.1 Licensing Act 2003
- 13.2 Guidance issued by Secretary of State under Section 182 of the Act

<b>Summary of Responses to Statement of Licensing Policy</b>
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Consultee	Observations (inc. Section )	Comment / Action Taken	Amendments to Licensing Policy
Royston Town Council	Policy doesn't address the increased public nuisance due to outdoor smoking areas	Cannot include standardised requirements; each application must be considered on it's own merits	None
	More focus needed on protecting residents	Policy adequately reflects the legislation in respect of the promotion of the licensing objectives	None
Lilley Parish Council	No objections to the policy		None
Sandon Parish Council	Concerns that to ensure flexibility for premises such as Sandon Sports Club a 7 day midday to midnight licence was sought. Could such a licence be restricted to being used on a limited number of occasions per year, or could TEN's be made cheaper to remove the need for a premises licence ?	The licensing process is designed to build in flexibility for applicants. Restrictions can be imposed by way of condition if necessary to promote the licensing objectives. Fees for TEN's are set by statute.	None
Mrs S Shelly	General comments on the need for a consultation when the main problem is legislation that the Council cannot change		None
Cllr Lorna Kercher	Can the policy address the problem of pubs applying for TEN's as an ancillary to a nearby premises licence, for example during Rhythms of the World ?	Any person is entitled to apply for a TEN and only the police can object on the crime prevention objective. Policy would be ultra vires if it were to restrict this entitlement.	None
Putteridge Bury	Policy doesn't address the needs of those who work in the licensed trade; could there be a fifth licensing objective which takes into account the livelihood of those in the trade ?	Policy adequately reflects the legislation in respect of the promotion of the licensing objectives. Licensing objectives are defined within the legislation and cannot be amended.	None
Steve Cobb (NHDC Licensing Officer)	Various cosmetic changes (such as contact details, formatting and adoption date)	All changes necessary	Policy amended
	1.2 Clarification needed that retail sale includes internet and mail order sales	Change recommended by LACORS	Paragraph amended
	1.3 Reference to applications being determined by reference to our policy needs to be extended to include reference to National Guidance	This is a requirement of the Act	Paragraph amended
	2.2 Need to emphasise the importance of the licensing objectives as the main consideration when determining an application	Latest National Guidance emphasises this point	Paragraph amended
	4.2 Redefine this section to reflect the latest National Guidance		Paragraph amended
	4.3 Redefine this section to reflect the latest National Guidance		Paragraph amended
	Need to add a paragraph defining the Council's interpretation of 'vicinity'	Change recommended by LACORS	Para 4.4 added

<b>Summary of Responses to Statement of Licensing Policy</b>
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Consultee	Observations (inc. Section )	Comment / Action Taken	Amendments to Licensing Policy
Steve Cobb (NHDC Licensing Officer)	Need to update our 'off sales' policy to reflect the latest National Guidance	Change recommended by LACORS	Para 7.4 added
	Need to state that the Council cannot make representations or impose conditions if no representations are received	Change recommended by LACORS	Para 4.5 added
	5.1 Redefine the paragraph about conditions to state that standard conditions will be avoided and conditions will not be disproportionate or over burdensome	Latest National Guidance emphasises this point	Paragraph amended
	Need to state our current view on a special cumulative impact policy		Para 6.9 added
	7.1 Need to update paragraph to reflect the latest National Guidance		Paragraph amended
	7.3 Need to emphasise the need to determine each application on it's own merits	Latest National Guidance emphasises this point	Paragraph amended
	8.5 Need to state our policy in respect of films without a BBFC classification	Change recommended by LACORS	Paragraph amended
	9.2 Need to include a reference to smoking shelters		Paragraph amended
	Need to include a reference to unnecessary noise conditions in small venues	Latest National Guidance emphasises this point	Para 9.4 added
	Need to amend our policy to reflect the latest National Guidance in respect of noise nuisance conditions	Latest National Guidance emphasises this point	Para 9.5 added
	Need to include a reference to the licensing of NHDC owned public spaces	Change recommended by LACORS	Para 10.4 added
	11.1 Need to amend to reflect the latest National Guidance's definition of public safety	Change recommended by LACORS	Paragraph amended
	Need to include a reference to the new Fire Safety Order in terms of public safety	Latest National Guidance emphasises this point	Paras 11.2 / 11.3 added
	Need to include a reference to avoiding capacity figures unless exceptional circumstances	Latest National Guidance emphasises this point	Paras 11.4 / 11.5 added
	Need to add a reference to the Council's risk-rating based scheme of inspections	Change recommended by LACORS	Para 14.3 added
	Need to add a section clearly defining the Council's interpretation of working days under the TEN's legislation. In addition, include a reference to the Council's Safety Advisory Team when planning events	Change recommended by LACORS	Section 17 added
	Need to include a reference to community events and how adjacent licensed premises should assist with the licensing objectives	Experience of Rhythms of the World 2007 suggests that this would be useful.	Section 18 added
Need to include a section explaining the review procedure and how the council will work with partner agencies and licence holders wherever possible in the event of problems	Change recommended by LACORS	Section 19 added	

<b>Summary of Responses to Statement of Licensing Policy</b>
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<b>Consultee</b>	<b>Observations (inc. Section )</b>	<b>Comment / Action Taken</b>	<b>Amendments to Licensing Policy</b>
Steve Cobb (NHDC Licensing Officer)	Need to include a section on the expected requirements for applications including the provision of adult entertainment	Policy needs to include this section, should an application for adult entertainment be received	Section 20 added

# **NORTH HERTFORDSHIRE DISTRICT COUNCIL**

## **STATEMENT OF LICENSING POLICY**

(adopted by Full Council on 29 November 2007)

as required by

## **THE LICENSING ACT 2003**

For further information please contact:

Licensing and Enforcement Team  
North Hertfordshire District Council  
Gernon Road  
Letchworth Garden City  
SG6 3JF

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Web: [www.north-herts.gov.uk](http://www.north-herts.gov.uk)

Any questions can be made to the above Team in writing or to the email address quoted above.

18th September 2007

# NORTH HERTFORDSHIRE DISTRICT COUNCIL

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## Statement of Licensing Policy

This Licensing Policy Statement was adopted by the Council on 29 November 2007 and is effective from 7 January 2008.

### **1. Introduction**

1.1 This Licensing Policy Statement ("The Policy") has been produced in accordance with the Licensing Act 2003 ("The Act") and has been drafted with regard to the Department of Culture Media and Sport Guidance issued on 28 June 2007. Its purpose is to give guidance to North Hertfordshire District Council ("The Council") when carrying out its functions and responsibilities under the Act.

1.2 This Policy applies to all those licensable activities identified as falling within the provisions of the Act , namely:

- Retail sale of alcohol (including via the internet or mail order).
- Supply of alcohol by or on behalf of a club member, or the order of a member of a club.
- The provision of late night refreshment, which includes the supply of hot food and/or drink on or from any premises between 11pm and 5am to members of the public.
- The provision of 'regulated entertainment', as defined by the Act, which may include:
  1. A performance of a play
  2. An exhibition of a film
  3. An indoor sporting event
  4. Boxing or wrestling entertainment (indoor or outdoor)
  5. A performance of live music
  6. Any playing of recorded music
  7. A performance of dance
  8. Provision of facilities for making music
  9. Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance

1.3 Each licence application will be decided by reference to this Policy, the National Guidance issued by the Secretary of State and to the individual circumstances of the particular application. The Council may depart from the Policy where the individual circumstances of any application merit such a decision in the interests of the promotion of the Licensing Objectives. Full reasons will be given for decisions taken by the Council when undertaking its licensing functions.

## **2. The Licensing Objectives**

- 2.1 The Council has a duty under the Act to carry out its functions and responsibilities with a view to promoting the 'Licensing Objectives' which are as follows:
- the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm.
- 2.2 Each licensing objective has equal importance. The Council are aware that there are no other licensing objectives, so the four objectives mentioned in 2.1 above are paramount considerations at all times.
- 2.3 The Council recognises that the exercise of its licensing functions are only one of a number of means of securing the above objectives. The exercise, by the Council, of its licensing functions should not be seen as a panacea for all problems within the community. The Council will continue to work in partnership with other people and organisations towards the promotion of the Licensing Objectives.
- 2.4 The Council will carry out its licensing functions in the promotion of the Licensing Objectives and, in addition, will support the stated aims of the Act which are as follows:
- the introduction of better and more proportionate regulation to give businesses greater freedom and flexibility to meet their customers' expectations;
  - greater choice for consumers, including tourists, about where, when and how, they spend their leisure time;
  - the encouragement of more family friendly premises where younger children can be free to go with the family;
  - the further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns;
  - the regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring; and
  - the necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment.

## **3. Consultation and Review**

- 3.1 In preparing and reviewing this Policy the Council has consulted with:
- The Police;
  - The Fire Authority;
  - persons/bodies representing local holders of premises licences;
  - persons/bodies representing local businesses;
  - persons bodies representing local residents;
  - Strategic Partners;
  - The North Herts Community Safety Partnership;

- Neighbouring Councils
  - Town/Parish Councils; and
  - other representatives of the wider community.
- 3.2 Appropriate weight has been given to the views of all those consulted prior to the adoption of this Policy.
- 3.3 The Council will keep this Policy under review and continue to work in partnership with neighbouring local authorities, local Police, local businesses and local people, towards the promotion of the Licensing Objectives. The Policy will also be integrated with the community, rural and town centre development briefs and strategies.
- 3.4 The Council will publish its Policy every three years and it will be kept under review in the intervening period. The Council may make such revisions as it considers appropriate, for instance in the light of feedback from the local community on whether the Licensing Objectives are being met.

#### **4. Regulating Licensing**

- 4.1 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. The Council may attach conditions to licences issued under the Act and these must be focussed on matters which are within the control of the individual licence holders and others in possession of relevant authorisations.
- 4.2 The Council recognises that licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and, therefore, beyond the direct control of the licensee(s) or certificate holder(s). Beyond the vicinity of the premises, an individual who engages in anti-social behaviour is accountable under law in their own right. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in North Hertfordshire.
- 4.3 In addressing these matters the Council will primarily focus on the direct impact of the activities taking place on, or in the immediate vicinity of, the licensed premises on members of the public living, working or otherwise engaged in activities in the vicinity.
- 4.4 The Council do not consider that the term “vicinity” can be generically defined and will consider its definition in the specific circumstances of each application. To be considered in the vicinity of a premises, an interested party must be able to demonstrate a causal link to activities on or in the immediate vicinity of the premises in relation to the licensing objectives. For example, an interested party may be able to hear music from the premises within their property or they may see patrons leaving the premises and causing a nuisance near their property.
- 4.5 The Council recognise that unless relevant representations are received from responsible authorities or interested parties, there is no provision for a licensing authority to impose conditions on a licence other than those

volunteered by the applicant as part of the operating schedule included in the application. In addition, there is no provision for a licensing authority itself to make representations. If no relevant representations are received in respect of an application, the licensing authority must issue the licence on the terms sought.

## **5. Licence Conditions**

- 5.1 The Council recognise that each application must be considered on its own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and activities concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises. Standardised conditions must be avoided and will only be lawful where they are deemed necessary to promote the licensing objectives in response to relevant representations.
- 5.2 Conditions will only be imposed when they are necessary for the promotion of the Licensing Objectives and will focus upon matters within the control of the individual licensee such as the premises, places or events being used for licensable activities. Conditions are likely to be focused towards the direct impact of those activities on persons living, working or otherwise engaged in activities in the vicinity.
- 5.3 Where appropriate the Council will draw upon the pool of model conditions issued under the Act. A copy of the current pool of model conditions can be found on the Council's website at [www.north-herts.gov.uk](http://www.north-herts.gov.uk). The pool of model conditions relate to:
- the prevention of crime and disorder;
  - public safety (including fire safety);
  - the promotion of public safety in theatres, cinemas, concert halls and similar places;
  - the prevention of public nuisance; and
  - the protection of children from harm.
- 5.4 Any conditions drawn from the pool of model conditions will be tailored to the individual premises and events concerned and determined at the time the application is being considered.

## **6. Cumulative Impact**

- 6.1 'Cumulative Impact' means the potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area. An example of this impact would be the increase in crime and disorder or public nuisance in a town centre resulting from a large concentration of licensed premises in one area over and above the impact of the individual premises themselves.
- 6.2 The Cumulative Impact of a licensed premises on the promotion of the Licensing Objectives is a matter which the Council can properly consider in developing its Licensing Policy Statement.

- 6.3 The Council recognises that there is a difference between the commercial need and the Cumulative Impact of premises in an area. Commercial need is the commercial demand for another pub or restaurant or hotel and is a matter for planning consideration and market forces. It does not form part of this Licensing Policy Statement.
- 6.4 The Council will not operate a quota of any kind, nor will it seek to impose general limitations on trading hours in particular areas.
- 6.5 In considering issues of Cumulative Impact the Council will be mindful that, in addition to the licensing functions, there are a number of other mechanisms, both within and outside the licensing regime, for addressing nuisance and disorder. These include:
- planning controls;
  - ongoing measures to provide a safer and cleaner environment in partnership with local businesses, transport operators and others;
  - the provision of CCTV;
  - the provision of sufficient taxi ranks and transport facilities;
  - the power to designate parts of the District as places where alcohol may not be consumed publicly;
  - the confiscation of alcohol in designated areas;
  - Police law enforcement with regard to disorder and anti-social behaviour;
  - Police powers to close premises for a period of up to 24 hours on grounds of disorder or imminent disorder, or public nuisance;
  - the powers of the Police, local businesses or residents to seek a review of the licence or certificate; and
  - enforcement action against those selling alcohol to people who are drunk.
- 6.6 The Council will also address the issue of crime and disorder through the District Community Safety Partnership in line with strategic objectives for crime and disorder reduction within the District. The success of these measures in reducing nuisance and disorder will be subject to ongoing review.

#### **6.7 'Special Policies' relating to cumulative impact**

Where, after considering the available evidence and consulting relevant people and organisations, the Council is satisfied that it is appropriate to introduce an approach to Cumulative Impact, it may introduce a Special Policy to combat the Cumulative Impact of licensed premises in a particular area.

Where such a policy is implemented in respect of any particular area it would create a presumption that new licence applications should be refused, where relevant representations are received, unless it could be shown that the new premises would not increase the Cumulative Impact already being experienced in that area.

In determining whether to introduce a Special Policy the Council will take the following steps:

- identify evidence of concerns about the crime and disorder or public nuisance;
- consider whether it can be demonstrated that the crime and disorder or public nuisance are arising and are being caused by customers of licensed premises and, if so,
  - identify the area from which the problems are arising and the boundaries of that area; or
  - that the risk factors are such that the area is reaching a point when a Cumulative Impact is imminent;
- undertake consultation as required; and
- where a Special Policy is adopted by the Council, publish the Special Policy as part of this Licensing Policy Statement.

6.8 As with any other application under the Act the Council will take account of all the relevant circumstances surrounding any application and may depart from the Policy where the individual circumstances merit such a decision in the interests of the promotion of the Licensing Objectives. No Special Policy for a specific area will be absolute, each application will be considered on its own merits.

6.9 The Council do not consider it necessary at this time to have any Special Policies in relation to cumulative impact.

## **7. Licensing Hours**

7.1 The Council recognises that fixed and artificially early closing times previously established under the Licensing Act 1964 were one of the main causes of rapid binge drinking prior to closing times and one of the causes of disorder and disturbance when large numbers of customers were required to leave premises simultaneously. These concentrations of people leaving can result in friction at places such as late night food outlets, taxi ranks and other sources of transport. The aim through the promotion of the licensing objectives will be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times. The Council recognise that arbitrary restrictions would undermine the principle of flexibility and should be avoided. The licensing objectives will be the paramount consideration at all times.

7.2. The Council also recognises that licensing hours should not inhibit the development of a thriving and safe evening and night time economy, which is important for local investment, employment and tourism. The Council will not seek to restrict the trading hours of any particular premises unless this is necessary to promote one or more of the Licensing Objectives.

7.3 The Council has no intention to introduce the zoning of licensing hours. Experience in other areas has shown that this can lead to significant movement of people across boundaries in search of premises opening later and places greater pressure on town centres than is necessary. In addition, the Council recognise that zoning of licensing hours would undermine the principle of determining each application on it's own merits.

7.4 With regards to shops, stores and supermarkets that provide sales of alcohol for consumption off the premises, the Council would normally expect to grant

the sale of alcohol at any time the premises is open to the public, unless representations give good reason to restrict the hours in relation to the licensing objectives.

## **8. Children and Licensed Premises**

- 8.1 The Council recognises the diversity of premises that will be licensed under the Act. The premises will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-away shops, community halls and schools. The Council will not ordinarily seek to limit the access by children to any premises will not be limited unless it is considered necessary for the prevention of physical, moral or psychological harm to them.
- 8.2 When deciding whether to limit access by children to premises, the Council will judge each application on its individual merits.
- 8.3 Premises where concern for the protection of children may arise, include:
- where entertainment of an adult or sexual nature are commonly provided;
  - where there is a strong element of gambling on the premises;
  - where there is a known association with drug taking or dealing;
  - where current staff members have been convicted for serving alcohol to minors;
  - where there is evidence of underage drinking; and
  - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 8.4 There are a range of alternatives which the Council may consider for limiting the access of children, which include:
- a limit on the hours when children may be present;
  - a limitation or exclusion when certain activities are taking place;
  - the requirement to be accompanied by an adult;
  - limited access to parts of the premises; and
  - full exclusion of those people under 18 from the premises when any licensable activities are taking place.
- 8.5 Any licensed premises used for film exhibitions will be subject to conditions restricting children from viewing age restricted films in accordance with recommendations given by the British Board of Film Classification. Where a BBFC classification does not exist, the Council will classify the film in accordance with BBFC guidelines.
- 8.6 Conditions requiring the admission of children to premises cannot be attached to licences or certificates. Where no restriction or limitation is imposed the issue of access will remain a matter of discretion of the individual licensee or club or holder of a temporary event notice.
- 8.7 The Council recognises the Hertfordshire Area Child Protection Committee as being competent to advise on matters relating to the protection of children from harm.

8.8 The Council supports the Portman Group Code of Practice on the naming, packaging and promotion of alcoholic drinks. Alcohol should be packaged and promoted in a socially responsible manner so as not to encourage drinking amongst those who are under 18 years old. A copy of the Code can be found at [www.portman-group.co.uk](http://www.portman-group.co.uk).

## **9. The Prevention of Public Nuisance**

9.1 Licensed premises may have significant potential to impact adversely on communities through public nuisances that arise from their operation. The Council interprets 'Public Nuisance' in its widest sense and takes it to include such things as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in activities in the vicinity of a particular premises.

9.2 The Council may impose conditions on licences to prevent unnecessary Public Nuisance to local residents. The conditions may include:

- sound proofing requirements;
- restrictions on times when music or other licensable activities may take place;
- technical restrictions on sound levels at the premises, by the use of sound limiting devices;
- limiting the hours of regulated entertainment;
- limiting the hours of open-air entertainment and the use of outdoor areas, gardens, patios, and smoking shelters; or
- requiring the display of signs both inside and outside the premises reminding customers to leave the premises quietly and to respect the rights of nearby residents.

9.3 The following examples of control measures are given to assist applicants when preparing their Operating Schedules, having regard to their particular type of premises and/or activities. These are not exhaustive but include:

- effective and responsible management of the premises;
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of Public Nuisance;
- adoption of best practice guidance such as the Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics; Safer Clubbing and the National Alcohol Harm Reduction Strategy Toolkit;
- management of arrangements for the collection and disposal of litter; and
- effective ventilation systems.

9.4 Conditions relating to noise nuisance will normally concern steps necessary to control the levels of noise emanating from premises. The Council are aware of the need to avoid unnecessary or disproportionate measures that could deter valuable community activities such as live music. Conditions that are likely to be a significant financial burden will be avoided, where possible, for smaller venues.

9.5 The Council recognise that conditions relating to noise nuisance may not be necessary in certain circumstances where the provisions of the Environmental

Protection Act 1990, the Noise Act 1996, or the Clean Neighbourhoods and Environment Act 2005 adequately protect those living in the vicinity of the premises. That said, the approach of the Council will be one of prevention and will consider each application on its own merits.

## **10. Live Music, Dancing and Theatre**

- 10.1 The Council recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community.
- 10.2 Only necessary, proportionate and reasonable licensing conditions will be imposed on relevant licences so as not to discourage the promotion of entertainment. Conditions will relate to the promotion of the Licensing Objectives.
- 10.3 The Council will avoid any measure which deters live music, dancing and theatre by imposing indirect costs of a substantial nature.
- 10.4 The Council will seek to encourage cultural and community events by licensing its own public spaces. The following public spaces are currently licensed for regulated entertainment:

Butts Close, Hitchin  
Howard Gardens, Letchworth  
Broadway Gardens, Letchworth

## **11. Fire Safety and Capacity**

- 11.1 The Council recognise that the public safety objective is concerned with the physical safety of the people using the relevant premises and not with public health, which is dealt with in other legislation.
- 11.2 From 1<sup>st</sup> October 2006, the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. Article 43 of this Order states that any licensing authority conditions that could be imposed by the Order would automatically cease to have effect. The Council will not, therefore, seek to impose fire safety conditions where the Order applies.
- 11.3 Responsibility for complying with the Order rests with the 'responsible person', which may be the licence holder, employer, or any other person who may have control of the premises.
- 11.4 "Safe capacities" should only be imposed on licences where necessary for the promotion of public safety or the prevention of disorder. If a capacity has been imposed through other legislation it would be unnecessary to reproduce it as a licence condition. It would also be wrong to impose conditions that conflict with other legislation. If no safe capacity has been imposed by other legislation, however, a responsible authority may consider it necessary for a new capacity to be attached. For example, a capacity limit may be necessary to prevent disorder as overcrowded premises can increase the risk of crowds becoming frustrated and hostile.

- 11.5 Ordinarily, a capacity limit should not be imposed as a condition of the licence on fire safety grounds since, due to Article 43 of the Regulatory Reform (Fire Safety) Order 2005, it would have no effect and so would not be enforceable.

## **12. Door Supervisors**

- 12.1 All persons employed at licensed premises to carry out any security activity must be licensed with the Security Industry Authority.
- 12.2 Conditions may be imposed on premises licences requiring supervision by door supervisors in order to reduce crime and disorder or public nuisance. The conditions may provide that door supervisors must be employed at the premises at all times or at such times when certain licensable activities are being carried out.

## **13. Drugs**

- 13.1 The Council recognises that drug use is more prevalent in a dance and nightclub environment. Conditions may be imposed to control the use and consumption of drugs and alcohol and to create a safer environment for patrons that may have taken them. When imposing conditions, the Council will have regard to the publication "Safer Clubbing" issued by the Home Office and may seek advice from the local Drugs Action Team and the Police.

## **14. Enforcement**

- 14.1 The Council has established enforcement protocols with the Police and other enforcing authorities. The enforcement protocols focus upon agreed problem and high risk premises that fall short of the Licensing Objectives while providing a lighter touch to low risk premises that are shown to be well managed and maintained.
- 14.2 Enforcement action will be taken in accordance with the Council's Environmental Health Enforcement Policy. Enforcement action will follow the five guiding principles of consistency, transparency, proportionality, fairness and objectivity. A copy of the Environmental Health Enforcement Policy can be found on the Council's website at [www.north-herts.gov.uk](http://www.north-herts.gov.uk).
- 14.3 Programmed inspections of all licensed premises will be undertaken in accordance with a risk-rating system. This will ensure that enforcement is proportionate and targeted at higher risk premises which require greater attention, thus allowing a lighter touch in relation to lower risk premises.

## **15. Integrating Strategies and the Avoidance of Duplication**

- 15.1 The Council through consultation will endeavour to secure integration with local crime prevention, planning, transport, tourism, cultural and community strategies.

- 15.2 The Council may give due consideration to wider strategic issues when dealing with applications. The Council's Licensing and Appeals Committee may receive reports, when appropriate, on the:
- needs of the local tourist economy;
  - cultural strategies for the area;
  - employment situation and the need for local investment; and
  - planning considerations that may affect licensed premises.
- 15.3 The Council recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation between the planning and licensing regimes to avoid duplication and inefficiency.
- 15.4 In order to avoid duplication with other regulatory regimes the Council will not, as far as reasonably possible, attach conditions to licences unless they are in promotion of the Licensing Objectives and inadequately covered by other legislation. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

## **16. The Licensing Process**

- 16.1 The powers of the Council under the Act will be carried out by the Licensing and Appeals Committee, by a Sub-Committee of the Licensing and Appeals Committee, or by one or more officers acting under delegated authority.
- 16.2 It is considered that many of the functions will be largely administrative with no perceived areas of contention. In the interests of efficiency most functions will be carried out by officers with delegated authority.
- 16.3 The Licensing and Appeals Committee consists of 14 Members of the Council. The Committee may delegate its powers to a Sub-Committee of the Licensing and Appeals Committee consisting of 3 Members. The Licensing and Appeals Committee, or its Sub-Committee, will deal with all applications and applications to vary when relevant representations are received from a responsible authority or interested party.
- 16.4 When determining applications the Council will have regard to this Statement of Licensing Policy and any Guidance issued by the Department of Culture, Media and Sport. If relevant representations are made, the Licensing and Appeals Committee or its Sub-Committee, will balance its decision against the wider benefits to the community.
- 16.5 The Council expects individual applicants to address the Licensing Objectives in their Operational Plan having regard to:
- the type of premises;
  - the licensable activities to be provided;
  - the operational procedures;
  - the nature of the location;
  - the needs of the local community; and
  - this Statement of Licensing Policy.

## **17. Temporary Event Notices**

- 17.1 A temporary event notice must be given in duplicate to the licensing authority with the appropriate fee and to the Licensing Department at Hitchin Police Station with a minimum of ten working days notice.
- 17.2 The ten working days do not include Saturdays, Sundays, Public Holidays, the day of the event, and the first working day that the Council receive the notice. If the ten working days notice is not given to both the Council and the police, the law prevents the temporary event notice from being authorised; the Council have no discretion in the matter.
- 17.3 The vast majority of these events will not present any problems, for example special occasions in a pub or community hall or charitable fundraising events. A temporary event notice is a light-touch approach to these events as only the police can raise objections on the grounds of crime and disorder.
- 17.4 For anything other than small-scale events, the Council recommends at least two month's notice to ensure that the event can be properly planned. This is only a recommendation, as the law only requires a period of ten working days notice.
- 17.5 The Council has established a Safety Advisory Team consisting of the emergency services and other strategic partner agencies to advise and co-ordinate planning for public events. Event organisers are encouraged to use this Team as part of their event planning process and the Council strongly advise that initial contact is made at the earliest opportunity.

## **18. Community Events**

- 18.1 The Council will seek to encourage cultural and community events in the District.
- 18.2 The Council recognise that conditions cannot be imposed on licences in relation to cultural or community events taking place in the District, however, all relevant licence holders would be expected to assist with the promotion of the licensing objectives in such circumstances. For example, if a large scale community event was taking place in a town, other licensed premises would be expected to assist wherever practicable, i.e. off licences could employ door supervisors to control underage access to alcohol and pubs could supply alcohol in plastic containers.

## **19. Reviews**

- 19.1 Any interested party or responsible authority have the right to ask the Council for a review of a premises licence or club premises certificate, using a Government prescribed application form, if they believe that one or more of the four licensing objectives are not being met.
- 19.2 In determining whether or not an application for a review is relevant, the Council will have due regard to the Secretary of State's Guidance in relation

to frivolous, vexatious or repetitious.

- 19.3 At a review hearing, the options available to the Sub-Committee are:
- a) to modify the conditions of the licence,
  - b) to exclude a licensable activity from the scope of the licence,
  - c) to remove the designated premises supervisor,
  - d) to suspend the licence for a period not exceeding three months, or
  - e) to revoke the licence
- 19.4 The Council recognise that the licensing authority itself cannot initiate the review process. The licensing authority's role will be to administer the process and determine the application at a hearing where an evidential-basis for the allegations made will need to be submitted.
- 19.5 The Council recognise the importance of partnership working between the licensing authority, licence holders, responsible authorities and interested parties in achieving the promotion of the licensing objectives. The Council will endeavour to give licence holders an early warning of any potential problems at premises in order to resolve them informally where possible.
- 19.6 When a review is requested in circumstances where the crime prevention objective is not being met, revocation of the licence may be considered as the first step if the seriousness of the evidence is such that the other options may prove inadequate.

## **20. Adult Entertainment**

- 20.1 Whilst the Council recognise that standard conditions cannot be applied in respect of licence applications, it considers that special circumstances apply to applications for adult entertainment in relation to the licensing objectives.
- 20.2 Applications will be expected to suitably address issues such as:
- i) external displays of indecent material,
  - ii) changing facilities for performers,
  - iii) restrictions on performer / audience contact
  - iv) recordings of performances
  - v) age, welfare and security of performers
- 20.3 Licence holders will be expected to ensure that the premises are conducted in a decent and orderly manner at all times. In particular, the licence holder will be expected to take whatever steps are necessary to ensure that none of the following take place:
- i) indecent behaviour including sexual intercourse,
  - ii) the offer of any sexual or other indecent service for reward, or
  - iii) any acts of violence against persons or property and/or the attempt or threat of such acts likely to cause a breach of the peace

## 21. Delegation of Function

21.1 The delegation of licensing functions are as follows:

<b><u>Matter to be dealt with</u></b>	<b><u>Full Committee (14 Councillors)</u></b>	<b><u>Sub Committee (3 Councillors)</u></b>	<b><u>Officers</u></b>
Application for personal licence		If a Police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed as designated premises supervisor			All cases

<b><u>Matter to be dealt with</u></b>	<b><u>Full Committee (14 Councillors)</u></b>	<b><u>Sub Committee (3 Councillors)</u></b>	<b><u>Officers</u></b>
Application for transfer of premises licence		If a Police objection	All other cases
Applications for Interim Authorities		If Police objection	All other cases
Application to review premises licence/club certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application			All cases
Determination of a Police representation to a temporary event notice		All cases	

**TITLE OF REPORT: PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2008-10**

REPORT OF THE STRATEGIC DIRECTOR OF FINANCIAL AND REGULATORY SERVICES

**1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to summarise the responses to the public consultation in respect of the Council's Hackney Carriage and Private Hire Licensing Policy.
- 1.2 The Licensing and Appeals Committee, having considered this report, can make a recommendation to Cabinet (for onward recommendation to Council) in respect of the Policy.

**2. FORWARD PLAN**

- 2.1 This report contains a recommendation on a key decision that was first notified in the Forward Plan in October 2007.

**3. BACKGROUND**

- 3.1 North Hertfordshire District Council has traditionally exercised the responsibility of licensing hackney carriages and private hire vehicles through a number of different policies, conditions and procedures that have been developed over a number of years.
- 3.2 Whilst these policies and conditions have been approved by Councillors, they have been introduced independently in a piecemeal format.
- 3.3 The legislation regulating hackney carriages dates back to the Town Police Clauses Act 1847, whilst private hire vehicles are regulated by the Local Government (Miscellaneous Provisions) Act 1976.
- 3.4 Given the age of the regulating legislation and the piecemeal format of policies and conditions, it is necessary to re-evaluate the whole licensing process in relation to hackney carriages and private hire vehicles.
- 3.5 A modern, effective policy document will ensure that the trade and the public will have a document that fully explains the licensing process. It will also ensure consistency of approach by Officers ensuring fairness to the trade.

**4. APPROACH TO THE LICENSING POLICY**

- 4.1 The development of the Statement of Licensing Policy has been based upon a consultation process undertaken by the Licensing and Enforcement Team. The policy format was devised having considered a range of Local Authority policies across the country, but with particular reference to our neighbouring Hertfordshire Authorities to help achieve consistency across the County.

4.2 The consolation process was undertaken between 18<sup>th</sup> July 2007 and 14<sup>th</sup> September 2007. A policy consultation page was created on the Council's website including the draft policy and an explanation of the process for making a representation.

4.3 A letter advising of the consultation process was sent to each of the following consultees:

- Hertfordshire Constabulary
- Hertfordshire Highways
- Hertfordshire County Council
- NHDC Legal Team
- NHDC Community Safety Team
- All current hackney carriage vehicle or driver licence holders
- All current private hire vehicle, driver or operators licence holders
- Town Centre Managers (representing Trade Associations)
- NHDC Councillors
- North Hertfordshire Homes
- Local Authorities in Hertfordshire and Bedfordshire
- General Public

## **5. LEGAL IMPLICATIONS**

5.1 There is no legal requirement for a policy, as with the Licensing Act 2003 and the Gambling Act 2005.

5.2 A policy would ensure a transparent and consistent approach to licensing that would reduce the opportunity for challenge through the Courts.

5.3 Whilst there is always a right of appeal through the Courts to a decision of the local authority in respect of their licensing function, challenges to a particular decision are more likely to fail if we can demonstrate that we have adhered to our published policy and there is no justifiable reason to depart from it.

## **6. FINANCIAL AND HUMAN RESOURCE IMPLICATIONS**

6.1 This Licensing Policy will not place any new financial or human resource implications on the Council.

## **7. CONSULTATION WITH EXTERNAL AND INTERNAL STAKEHOLDERS**

7.1 The Licensing Authority have consulted with all relevant parties as listed in 4.3 above.

7.2 The draft Licensing Policy, as used for the consultation, is not attached to this report due to it's size, however, it is available on the Council website. Hard copies can be forwarded if required.

7.3 A schedule of comments received and the action taken in respect of these comments is attached as **Appendix A of this report**.

7.4 The proposed new Licensing Policy, incorporating amendments, is attached as **Appendix B of this report**.

## **8. RECOMMENDATIONS**

- 8.1 That the proposed Hackney Carriage and Private Hire Licensing Policy, as attached at Appendix B to the report incorporating the results of the public consultation exercise, be supported by the Licensing and Appeals Committee.
- 8.2 That the Licensing and Appeals Committee recommend the adoption of the Hackney Carriage and Private Hire Licensing Policy to Cabinet, for onward recommendation to Council.

## **9. REASONS FOR RECOMMENDATIONS**

- 9.1 A modern, effective policy will ensure that the trade and the public will have a document that fully explains the licensing process. It will also ensure consistency of approach by Officers ensuring fairness to the trade.
- 9.2 The proposed policy, whilst comprehensive, aims to strike a balance that will be of benefit to the trade, the public and the Licensing Authority .
- 9.3 The proposed policy will ensure the continuation of the high standards currently offered by the trade.

## **10. ALTERNATIVE OPTIONS CONSIDERED**

- 10.1 An alternative option would be a Hackney Carriage and Private Hire Licensing Policy that may differ in content and extent, based on the consultation exercise.
- 10.2 An alternative option would be to continue with the current system of a number of policies, conditions and procedures that have been developed over a number of years.

## **11. APPENDICES**

- 11.1 Appendix A – Schedule of comments received during the consultation, including recommendations
- 11.2 Appendix B – Proposed Hackney Carriage and Private Hire Licensing Policy

## **12. CONTACT OFFICERS**

- 12.1 Andy Godman, Head of Housing and Environmental Health, 01462 474293
- 12.2 Giovanna Silverio, Licensing and Enforcement Manager, 01462 474478
- 12.3 Steve Cobb (Report Author)  
Licensing and Enforcement Officer, 01462 474833
- 12.4 Colin Broadhurst, Licensing and Enforcement Officer, 01462 474381

## **13. BACKGROUND PAPERS**

- 13.1 Town Police Clauses Act 1847
- 13.2 Local Government (Miscellaneous Provisions) Act 1976

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<b>Summary of Responses to Hackney Carriage and Private Hire Licensing Policy</b>
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<b>Consultee</b>	<b>Observations (inc. Section )</b>	<b>Comment / Action Taken</b>	<b>Amendments to Licensing Policy</b>
The National Private Hire Association	Thirty six questions regarding the implementation of a Penalty Points system, specifically concerns over double-jeopardy and fairness of the system	Penalty points system has worked well to date and is used by many LA's. Our policy builds in safeguards regarding standards of evidence and the right to an appeal to the Head of Service.	None
	1.5.2 Tone is too arbitrary	Wording is acceptable	None
	2.5.2 / 2.5.3 LA's cannot modify MOT requirements	Agreed that we should only require MOT standards.	Paragraph amended
	2.11.2 Conflicts with C1.1	Agreed, both should agree	C.1.1 amended
	2.11.2 / 2.11.3 Why would it take up to 10 days to issue a licence ?	This would be the worst-case scenario not normal procedure.	2.11.3 amended to include a commitment to try to ensure continuity of trade
	2.17.1 Queries our policy on courtesy cars	Policy 2.17.2 states correct legal position	None
	2.23 Queries our policy on dual plating	Our policy has not changed and is consistent with other LA's in Herts	None
	3.1.2 Queries why we offer dual badging of HC and PH	Dual badging was requested by the trade and is consistent with other LA's in Herts	None
	3.2.5 Queries the legality of requiring a UK licence	Agreed. DVLA offer backing sheets that can be attached to non-UK licences to monitor penalty points	Paragraph amended to reflect 'backing sheets'
	3.3.3 / 3.3.6 Queries additional cost of new verbal test	New verbal test is an additional part of the existing test and will have no additional cost to the trade	None
	3.4.4 Queries the length of time an applicant must wait if they fail the DSA test	Agreed. Time-span is too long.	Paragraph amended to reduce time-span.
	3.6.8 Suggests too many additional requirements	Disagree, but better wording could clarify the situation.	Paragraph amended
	3.7.5 Suggests policy is too strict in stating 9pts on DVLA may prevent a licence from being granted.	Agree. Courts take action on 12pts.	Paragraph removed.
	3.10.3 Queries requirement for penalty point system	see above	None
	3.13.3 Queries legality of paragraph	Agree, cannot be attached as a licence condition.	Paragraph removed.
4.2.1 Suggests consideration given to 'offence' vs 'disciplinary' measures	Policy makes the distinction clear.	None	
7.6.1 Suggest paragraph is ultra vires	Agree, wording is incorrect.	Paragraph amended	

<b>Summary of Responses to Hackney Carriage and Private Hire Licensing Policy</b>
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<b>Consultee</b>	<b>Observations (inc. Section )</b>	<b>Comment / Action Taken</b>	<b>Amendments to Licensing Policy</b>
The National Private Hire Association	10.2.1 Queries what will happen if drivers leave their vehicle for legitimate reasons.	Policy states the provisions of the law, however, discretion could be given.	Paragraph amended to include discretion
	A8.1 Queries source of this part of policy as it is contra to DfT Best Practice	Policy confirms current requirements of Council. No reason to change policy as each vehicle is assessed on its own merits.	None
	A12.1 Queries why a first aid kit is carried due to lack of driver training	Wording in policy does not explain reason why and the responsibility of the driver	Paragraph amended
	A14 Queries restrictions on storage of luggage	Agree. Policy is too harsh given current practice	Paragraph amended
	A15.3 / A15.4 Suggests lack of clarity for s68 Stop Notices (needs to be stricter)	Agree. Seriousness under emphasised	Paragraph amended
	A17.2 Suggests policy does not reflect current legislation	Agree. Wording needs changing to reflect law	Paragraph amended
	A22 Suggests that the Council cannot legislate for trailers.	Disagree. Policy requires certain standards to ensure safety of road users/passengers.	None
	A23.1 Suggests that case law is contra to our policy	Wording needs to be changed to state that this is our preferred option, however, each vehicle assessed on its own merits.	Paragraph amended
	C3.2.2 Queries why no pass mark for verbal test	Agree, too subjective if left to Officer's discretion	Paragraph amended
	D4 Queries why all spent conviction periods are listed	Policy needs to contain all necessary information to be a single point of reference	None
	F Queries legality of this section	Policy reflects the standards we will apply to assess the 'fit and proper' test	None
	F3 Suggest section is ultra vires	Agree, wording needs amending	Paragraph amended
	H7 Suggests that operators cannot enforce legislation on their employees	Agree, offence is actually committed by the driver	Paragraph amended
	I8 Suggests Simple Cautions are a matter for the police	LA's have the ability to offer Simple Cautions as an alternative to a prosecution	None
	J2.6 Suggests wording is unclear	Policy states the legal requirements	None
J2.9 / J2.10 Suggests improper use of s68 Stop Notices	Agree, s68 Stop Notices can only be issued in certain circumstances	Paragraph amended	

<b>Summary of Responses to Hackney Carriage and Private Hire Licensing Policy</b>
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<b>Consultee</b>	<b>Observations (inc. Section )</b>	<b>Comment / Action Taken</b>	<b>Amendments to Licensing Policy</b>
The National Private Hire Association	J2.12 Suggests cannot send driver home for breach of dress code	Agree, may lead to claims of loss of earnings	Paragraph amended
	J3 Queries necessity for this section as too harsh	Policy needs to contain all necessary information to be a single point of reference	None
	K Queries requirement of penalty points system	System is an integral part of the 'fit and proper' test	None
	TPCA Offences Queries s48	s48 is the law as drafted	None
	Policy Offences Suggests clearer delineation between offences and disciplinary matters	Policy is clear	None
	Policy Offences Suggests section is subjective	Disagree, policy is clear	None
	Policy Offences Suggests impractical	Agree, too restrictive	Paragraph amended
	Q Suggests that this section is an exhaustive list	Policy is clear that this section is only indicative and each vehicle will be assessed on its own merits	
	General comment that policy suggest that the standard of the trade in N Herts is poor	Agree but policy is designed to maintain existing high standards	Paragraph 1.3.3 added
Cygnus Automotive	Advising of the new EU requirements for taximeters by way of a 'sales pitch'	Agree, EU requirements should be stated but not a specific company name	EU regulations added
Bryan Roland on behalf of the British Ambulance Association	General circular to all LA's about the forthcoming removal of the contract vehicle exemption and how it may affect patient transport services	Policy clearly addresses this issue and meets the legal requirements	None
John's Taxis	Requests that hackney carriages be allowed to use trailers; states should not be restricted to private hire only	Agree, but restrictions must be imposed	Paragraph amended
Shamriz Khan on behalf of the Hitchin Independent Drivers	Requests that the maximum age of saloon / estate vehicles be increased	Policy confirms our current requirements and maintains our commitment to green issues by ensuring that older vehicles are removed from the fleet	None
	Queries the requirements for our approved garage inspecting vehicles after an accident	Policy is too restrictive and needs to make provision for cosmetic repairs	Paragraph amended
	Asks about funding for cameras	Not a policy-related issue	None, but letter will be sent
	Queries the current seating plans allowed by the Council, especially why we do not allow Ford Galaxy and Vauxhall Zafiras to be used as 6 or 7 seaters	Policy contains a minimum seat space requirements that restricts these vehicles. Other LA's also have a minimum seat space requirement.	None

<b>Summary of Responses to Hackney Carriage and Private Hire Licensing Policy</b>
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<b>Consultee</b>	<b>Observations (inc. Section )</b>	<b>Comment / Action Taken</b>	<b>Amendments to Licensing Policy</b>
Shamriz Khan on behalf of the Hitchin Independent Drivers	Queries if there is any discretion if no smoking signage is removed by a passenger without driver's knowledge	Law states that the driver is responsible for ensuring signage is displayed	None
	Can tariff be displayed on ranks ?	Not a policy-related issue	None, but letter will be sent
	Can the Council's fees be challenged ?	Not a policy-related issue	None, but letter will be sent
	Will police and taxi marshals be regularly attending Forums ?	Not a policy-related issue	None, but letter will be sent
	Where is the local Magistrates Court ?	Policy needs to state which Court for appeals	Policy amended
	Can there be any exemptions for using space-saver tyres if bookings have been taken ?	No, policy is clear that only the current journey can be completed	None
	Policy relating to fire extinguishers is over burdensome	Agree, policy needs to be more practical	Paragraph amended
	Why are application fees not refundable ?	Policy needs to reflect that refunds may be given less an administrative charge	Paragraph amended
	Dress code is too restrictive	Disagree, standards must be maintained and guidelines are needed to ensure consistent application by Officers	None
	Why do non-residents have to pay more ?	Not a policy-related issue	None, but letter will be sent
Cllr Julian Cunningham	Various grammatical errors	Agree, policy needs amending	Errors corrected
	Would like to see a date set whereby all vehicles provide disabled access	Council Equalities Officer confirms that the percentage of disabled access vehicles is acceptable and there is no requirement for a complete fleet offering disabled access. Cost implications would also potentially reduce the fleet.	None, however, percentage will be regularly monitored
	Would like to see a clearer emissions standard set for all new vehicles	Policy can only require a vehicle to meet current MOT standards for emissions, plus age policy removes older vehicles from fleet	None
	Does section 2.8.3 need to be in policy ?	If funding is obtained we need to have a policy of distributing in-car cameras	None

<b>Summary of Responses to Hackney Carriage and Private Hire Licensing Policy</b>
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<b>Consultee</b>	<b>Observations (inc. Section )</b>	<b>Comment / Action Taken</b>	<b>Amendments to Licensing Policy</b>
Cllr Julian Cunningham	Section 2.11.1 implies a licence can continue after a MOT expires	All licences require a valid MOT to be in place during the lifetime of a licence	None
	Do we have any residual liability for unlicensed vehicles when the contract exemption ends ?	No, the law requires the vehicle operator to comply with the respective legislation. We will proactively seek to ensure companies obtain licences where necessary.	None
	Suggests that a dress code is unnecessary	Guidelines are needed to ensure consistency of approach to ensure current standards are maintained	None
	Are age limits discriminatory ?	Our policy reflects that of all other Herts LA's	None
	Would like to see the DSA test as a pre-requisite of a licence	Historically have allowed a 6-month period of grace due to recruitment difficulties for proprietors. Trade opposed to any change.	None
	Why does a Council Officer make decisions on medical evidence ?	Head of Service would follow medical advice	None
	Can you have a reason for a random test ?	Agree, policy needs wording amending from random to additional, with an explanation	Paragraph amended
	Presumption should be against certain offenders being granted a licence	Agree, however, cannot state this in a policy. Must treat every application on its merits within certain guidelines	None
	Section 3.10 is unclear	Agree wording is confusing, however, it is understood by the trade	None
	Why are disabled access vehicles licensed longer than ordinary vehicles ?	Specifically designed for purpose and subject to increased testing.	None
	Is there a case to remove zoning ?	Zoning ensures an even spread of vehicles across the District. Removing zoning would have adverse affects on both availability and control	None
Liz Green (Head Of PPP, NHDC)	Should first aid kit requirements include lint dressings to provide for allergy sufferers ?	It is not a requirement of driver's to provide first aid so only basics need to be carried	None
	Should the display of national flags be covered by the policy ?	Agree, policy should cover this	Paragraph added
	Should the policy restrict religious symbolism in vehicles ?	Passengers are free to choose which vehicle to use and can avoid such symbolism if they wish	None

<b>Summary of Responses to Hackney Carriage and Private Hire Licensing Policy</b>
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<b>Consultee</b>	<b>Observations (inc. Section )</b>	<b>Comment / Action Taken</b>	<b>Amendments to Licensing Policy</b>
Liz Green (Head Of PPP, NHDC)	Various grammatical errors	Agree, policy needs amending	Errors corrected
	Add a commitment to licensing sufficient disabled access vehicles	Agree, commitment should be given	Sentence added
	Include a reference to the Nottingham Declaration on climate change	Agree, reference should be made	Sentence added
	Clarify that if proprietors install their own in-car cameras, they will be responsible for data handling	Agree, clarity needed	Sentence added
	Clarify that Council funded in-car cameras will be distributed by CDRP	Agree, clarity needed	Sentence added
	Clarify that proprietors and drivers are responsible for no smoking signage in vehicles	Agree, clarity needed	Paragraph amended
Steve Cobb / Colin Broadhurst (NHDC Licensing Officers)	Various grammatical errors	Agree, policy needs amending	Errors corrected
	3.2.2 amend to reflect other Herts LA's policies on medicals	Agree, consistency needed	Paragraph amended
	7.2.2 amend to exempt existing driver's licence holders	Agree, over burdensome	Paragraph amended
	9.3 provision for refunds required	Agree, fees should only cover cost of administration as stated in legislation	Paragraph added
	A14.2 include compartment covers as an alternative to grilles	Agree, reflects current requirements	Paragraph amended
	A21.1.1 reference to EU legislation required	Agree, clarity needed	Paragraph amended
	C2.3(iii) provision for refunds required	Agree, fees should only cover cost of administration as stated in legislation	Paragraph added
	D3.5.1 proposed policy is more lenient than existing requirements	Agree, no reason to reduce current requirements as will send out the wrong message	Paragraph amended
	D3.6 proposed policy is more lenient than existing requirements	Agree, no reason to reduce current requirements as will send out the wrong message	Paragraph amended
	D3.8 proposed policy is more lenient than existing requirements	Agree, no reason to reduce current requirements as will send out the wrong message	Paragraph amended
P Perryman on behalf of Butlers Car Services	Can there be a delay in implementation for existing vehicles to ensure realistic compliance ?	Policy will not require any vehicles to be immediately replaced	None
	Dual plating should be allowed	Disagree, other Herts LA's do not allow it	None

<b>Summary of Responses to Hackney Carriage and Private Hire Licensing Policy</b>
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<b>Consultee</b>	<b>Observations (inc. Section )</b>	<b>Comment / Action Taken</b>	<b>Amendments to Licensing Policy</b>
P Perryman on behalf of Butlers Car Services	Tougher emissions testing would be unfair	Agree, only MOT standards can be required	Paragraph amended
	Private hire vehicles exempt from displaying a plate should have some form of unobtrusive licence on display for enforcement purposes	Agree, some form of visible identification should be required	New paragraph added
	How will Council monitor contract car exemptions ?	Policy states the approach proposed by the Council	None
	Recommends the return to dual-licensing (HC and PHV)	Policy allows for this	None
	Section 3.2.5 is over burdensome against non-UK citizens and affects recruitment	Agree, policy is over burdensome	Paragraph amended
	Concerns over cost of new verbal test	No cost implication for a verbal test for private hire drivers	None
	Concerns over the time-span that failed DSA applicants are precluded from licensing	Agree, time-span is overly restrictive	Paragraph amended
	Concerns over additional CRB checks	Policy wording is unclear as to reasoning	Paragraph amended
	Overly burdensome condition for Private Hire Operators that are licensed drivers	Agree, exemption should be given for licensed drivers	Paragraph amended
	10.2.1 Queries what will happen if drivers leave their vehicle for legitimate reasons.	Policy states the provisions of the law, however, discretion could be given.	Paragraph amended to include discretion
	No mention of minutes being produced for Taxi Forums	Minutes should be taken at all meetings and distributed	Paragraph amended
	Fire extinguishers requirements too burdensome	Agree, policy is over burdensome	Paragraph amended
	Concerns that luggage cannot be stored in passenger compartments will limit the number of passengers carried	Agree, policy is too restrictive. Safe storage in passenger compartment should be allowed	Paragraph amended
	Concerns that vehicles are supplied with tinted glass that will not comply with policy	Agree, manufacturer's specification 'light tint' glass is acceptable	Paragraph amended
	Why should only private hire vehicles be allowed tinted glass in the rear ?	Safety reasons. Passengers are pre-booked and logs kept for private hire. No such records available for hackney carriage.	None
	Steam cleaning is unnecessary	Agree	Paragraph amended
Concerns over Appendix K Section 48	Policy reflects legal requirement	None	

<b>Summary of Responses to Hackney Carriage and Private Hire Licensing Policy</b>
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<b>Consultee</b>	<b>Observations (inc. Section )</b>	<b>Comment / Action Taken</b>	<b>Amendments to Licensing Policy</b>
P Perryman on behalf of Butlers Car Services	Searching vehicle after every journey for lost property is not practical	Agree, should be at proprietor's discretion	Paragraph amended
	Suggests an additional MPV seat layout for Appendix O	Agree, vehicles currently licensed in accordance with suggested layout.	Appendix amended
M Day on behalf of Tiny's Taxis Ltd	1.5.2 Can there be a delay in implementation for existing vehicles to ensure realistic compliance ?	Policy will not require any vehicles to be immediately replaced	None
	2.6.3 Can there be exemptions for minor points at the approved examiner's discretion ?	If an MOT is failed for whatever reason, the vehicle should not be used	None
	2.6.5 Too onerous	Policy amended to allow Officer discretion for cosmetic damage	Paragraph amended
	2.7.1 Does not agree with A18.1.1	Both sections should contain the same requirements	Paragraph amended
	2.7.5 Should allow for top or bottom of windscreen	Agree, current requirements allow this	Paragraph amended
	Various grammatical errors	Agree, policy needs amending	Errors corrected
	2.11.1 Include an option for a full year's licence if an MOT is obtained	Agree, policy should allow flexibility where possible	New paragraph added
	2.11.5 Exemption should be allowed for exceptional circumstances	Agree, may prove harsh in times of hospitalisation, etc	Paragraph amended
	2.13.8 Concerns over manufacturer's specification tinted glass	Agree, manufacturer's specification 'light tint' should be allowed	Paragraph amended
	2.22.2 Automatic approval for MPV's to allow for manufacturer's seating capacity	Licensed vehicles must provide a greater degree of safety than a normal family car	None
	3.1.2 Return to dual-licensing (HC and PHV)	Policy allows for this	None
	3.4.3 / 3.4.4 Suggested alternative to DSA	All driver's should meet the same standards	None
	3.4.4 Waiting time after DSA refusal too long	Agree, flexibility should be given where possible	Paragraph amended
	3.9.3 Exemption should be allowed for exceptional circumstances	Agree, may prove harsh in times of hospitalisation, etc	Paragraph amended
	7.5.1 Operators' Licences should be five years as DfT recommendation	Five years is too long in our opinion due to constantly changing society	None
8.1.4 / 8.2.1 Fare cards should be available not on display	Fare cards need to be readily accessible; passengers shouldn't have to ask	None	
A1.4 Class seven vehicles will not be licensed	Each vehicle should be assessed on its own merits	None	

<b>Summary of Responses to Hackney Carriage and Private Hire Licensing Policy</b>
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<b>Consultee</b>	<b>Observations (inc. Section )</b>	<b>Comment / Action Taken</b>	<b>Amendments to Licensing Policy</b>
M Day on behalf of Tiny's Taxis Ltd	A8.1 Council's seating requirements are too restrictive	Disagree, we have a duty to ensure public safety	None
	A11.1 Fire extinguishers requirement too burdensome	Agree, policy is over burdensome	Paragraph amended
	A11.3 Extinguishers should be marked with plate number not registration number	Agree, option should be given	Paragraph amended
	A17.1 Is a plate fixed below a bumper acceptable	Policy is clear	None
	A17.2 Notice requirement is too short	Disagree, seven days should normally be workable	None
	A18.1.3 Policy should allow for non-centrally located top boxes	Agree, current requirements allow this	Paragraph amended
	A19.1 Increased advertising permission	Disagree, detracts from the main purpose of the vehicle	None
	A20.30 Delete single operator frequency radios	Agree, restricts inter-company co-operation	Paragraph amended
	A21.1.5 Off meter journeys allowed outside of zones	All journeys within the District should be on-meter to ensure consistency	None
	A22 Hackney carriages should be allowed to use trailers for specific journeys	Agree, subject to restrictions	Paragraph amended
	A25.1 Concerns over manufacturer's specification tinted glass	Agree, manufacturer's specification 'light tint' should be allowed	Paragraph amended
	A28.2 Notice period is too short	Disagree, seven days should normally be workable	None
	C1.5 Steam cleaning of chassis and engine is not necessary	Agree, unless required by inspecting engineer	Paragraph amended
	C3.2 Time-span before re-testing is too long and restrictive	Agree, time-span can be reduced	Paragraph amended
	E1.7 Should state shortest route or cheapest route depending on local factors i.e. roadworks, etc	Agree, driver knowledge should be allowed	Paragraph amended
	E4.5 Why return licence when temporarily not working ?	Agree, only permanent break from working should require a licence to be returned	Paragraph amended
	E4.6 Notice period too short	Disagree, seven days should normally be workable	None
	E5.1 Policy is not practical	Agree, proprietor discretion should be allowed	Paragraph amended
	F3(f)(i) Is this legal where planning permission is granted ?	Agree, wording to be changed to allow if planning permission has been obtained	Paragraph amended
	G3 Allow continued working pending an appeal	Disagree, Officer can make decision	None

<b>Summary of Responses to Hackney Carriage and Private Hire Licensing Policy</b>
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<b>Consultee</b>	<b>Observations (inc. Section )</b>	<b>Comment / Action Taken</b>	<b>Amendments to Licensing Policy</b>
M Day on behalf of Tiny's Taxis Ltd	H3 Too burdensome, discretion should be allowed	Agree, no legal requirement for this	Paragraph amended
	H5 Notice period too short	Disagree, seven days should normally be workable	None
	K48 Too burdensome	Legal requirement	None
	K58 Amend points range to allow for small mistakes	No overcharging should occur so no sliding scale	None
	K62 Too burdensome	Legal requirement but Officer discretion will be allowed	Paragraph amended
	Policy Offences Remove failure to notify complaint	Agree, not necessary	Removed
	Can the Council charge more for non-NHDC residents	Not policy-related	None, but letter will be sent
	No justification for a dual-licence charge	Policy rectifies this issue	None
	Appendix O Add Queen Street	Agree, should be added	Paragraph amended
	Appendix P Delete Great Ashby	Disagree, as part of Great Ashby is North Herts	None
	Appendix Q Automatic approval for MPV's based on manufacturer's seating plan	Licensed vehicles must provide a greater degree of safety than a normal family car	None



North Hertfordshire District Council

# Hackney Carriage and Private Hire Licensing Policy

Effective from: 7<sup>th</sup> January 2008



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## **1 INTRODUCTION**

### **1.1 Powers and Duties**

1.1.1 This Statement of Licensing Policy is written pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on North Hertfordshire District Council the duty to carry out its licensing functions in respect of hackney carriages and private hire vehicles.

### **1.2 Background to Policy**

1.2.1 North Hertfordshire District Council has traditionally exercised the responsibility of licensing hackney carriages and private hire vehicles through a number of different policies, conditions and procedures that have been developed over a number of years.

1.2.2 Some of these policies and procedures have, however, now become rather historic and do not adequately assist the trade or the public, or reflect the increased requirements of society today. Best Practice Guidance has now been issued for the first time by the Department for Transport, however, a full written policy does not currently exist.

1.2.3 In light of this and in order for North Hertfordshire District Council to maintain a modern, forward thinking licensing function, a full review of all procedures has been undertaken. This new Hackney Carriage and Private Hire Vehicle Licensing Policy is intended to ensure that both the trade and the public have a document that fully explains the licensing procedures.

### **1.3 Objectives**

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

In setting out its policy, North Hertfordshire District Council seeks to promote the following objectives:

- (i) The protection of the health and safety of the public;
- (ii) The protection of the environment
- (iii) Assistance with public access to an efficient and effective public transport service, as part of the Council’s integrated transport policy;
- (iv) To provide a professional and respected hackney carriage and private hire trade, by continued monitoring and improvement of their required standards of service.

The aim of the licensing process, in this context, is to regulate the hackney carriage and private hire trade in order to promote the above objectives. It is North Hertfordshire District Council's wish to facilitate professional and responsible businesses, which display sensitivity to the wishes and needs of the general public.

- 1.3.2 When considering each of the sections/appendices detailed in this document, the Council have tried to ensure that each requirement is properly justified by the risk it seeks to address, balancing the cost of the requirement against the benefit to the public. When considering each section/appendix, the following question has been asked:

*“Are the costs of implementation commensurate with the benefits the policy is endeavouring to achieve?”*

- 1.3.3 The Council acknowledges that the current fleet of hackney carriages and private hire vehicles and drivers set a very high standard of appearance and performance of which the Council is proud. Whilst the number of occasions where suspension, revocation or prosecution are very rare, this Policy seeks to reinforce the existing high standards for all new licence holders joining the trade in North Hertfordshire and emphasise the full range enforcement options available should they be needed.

## 1.4 **Best Practice Guidance**

In formulating this policy, advice contained in the Taxi And Private Hire Vehicle Licensing Best Practice Guidance issued by the Department for Transport has been taken into account. There is a recognition within the Guidance that unduly stringent licensing requirements are likely to unreasonably restrict the supply of hackney carriages and private hire vehicles by increasing the cost of their operation, or by restricting access to the trade. North Hertfordshire District Council is aware, therefore, that a too restrictive approach may be detrimental to the public interest and could have adverse safety implications.

## 1.5 **Implementation**

- 1.5.1 It is anticipated that, subject to the consultation process, this policy will take effect from 7<sup>th</sup> January 2008 and will remain in existence for a period of three years, during which it shall be kept under review and revised as appropriate.
- 1.5.2 Upon implementation of this policy, the Authority expects licence-holders to comply with its terms immediately.

## 1.6 **Licensing Profile**

North Hertfordshire District Council currently licences 225 hackney carriages, 74 private hire vehicles and 25 private hire operators.

It has 398 drivers licensed to drive hackney carriages and/or private hire vehicles.

## **1.7 Departure from the Policy**

- 1.7.1 In exercising its discretion in carrying out its regulatory functions, North Hertfordshire District Council will have regard to this policy document and the objectives set out therein.
- 1.7.2 Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits.
- 1.7.3 Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons for doing so will be given. The Head of Housing and Environmental Health may authorise a departure from the policy in accordance with this section if he considers it necessary in the specific circumstances.

## **2 VEHICLES**

### **2.1 Zoning**

- 2.1.1 Due to the large geographical area of North Hertfordshire, with considerable rural areas surrounding four main towns, hackney carriage vehicle licences have historically been issued in zones. Despite the licensing of five separate zones, all vehicles are licensed by the Licensing Authority of North Hertfordshire District Council.
- 2.1.2 The historical zones have been the towns of Baldock, Hitchin, Knebworth, Letchworth and Royston, with the surrounding villages added to the appropriate zone.
- 2.1.3 Hackney carriages may only ply for hire within the zone in which they are licensed.
- 2.1.4 The zoning system of licensing hackney carriages has operated successfully and will, therefore, continue. A summary of the zones, including rural villages, is included in **Appendix P**. This appendix is not exhaustive and can be amended to include other rural areas as necessary.
- 2.1.5 The zoning system does not apply to private hire vehicles which are licensed to operate in the District of North Hertfordshire.

### **2.2 Limitation of Numbers**

- 2.2.1 No powers exist for licensing authorities to limit the number of private hire vehicles that they licence.
- 2.2.2 The grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed hackney carriages, if the Licensing Authority is satisfied that there is no significant unmet demand for the services of hackney carriages (within the zone or district to which the licence would apply).
- In the event of a challenge to a decision to refuse a licence, it would, therefore, have to be established that the Licensing Authority had reasonably been satisfied that there was no significant unmet demand.
- 2.2.3 In the event that North Hertfordshire District Council believed there to be unmet demand, they would undertake extensive consultation with all sections of the community prior to implementing any restrictions.
- 2.2.4 North Hertfordshire District Council currently has no policy to limit the number of hackney carriages which may be licensed within the District. This does not, however, imply that there is to be no regulation of hackney carriages, as the Council intends that quality controls shall be rigorously maintained in relation to both the drivers and the vehicles.

## 2.3 Specifications and Conditions

2.3.1 Licensing Authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriages or private hire vehicles.

2.3.2 The Best Practice Guidance suggests that local Licensing Authorities should adopt the principle of specifying as many different types of vehicle as possible. They are, however, encouraged to make use of the “type approval” rules within any specifications they determine.

2.3.3 The Council is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a hackney carriage or private hire vehicle licence. Hackney carriages and private hire vehicles provide a necessary service to the public, however, it is appropriate to set standards for the external and internal condition of the vehicle, provided that the standards are reasonable and proportionate.

**Appendix A** sets out the minimum standards of vehicle specification, which apply in respect of all licensed vehicle applications.

2.3.4 In general, vehicles will be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be accepted, provided that there is compliance with the specifications applicable to such vehicles. Purpose-built vehicles are amongst those which the Council will licence as hackney carriages.

## 2.4 Accessibility

2.4.1 North Hertfordshire District Council currently licences 225 hackney carriages of which 27 are wheelchair accessible. The Council is aware of the government’s proposals to implement the provisions of the Disability Discrimination Act 1995 in relation to hackney carriages, however, does not consider it necessary at this stage to require all vehicles to comply.

North Hertfordshire District Council will keep this section of the policy under review through periodic Disability Impact Assessments.

2.4.2 North Hertfordshire District Council is committed to social inclusion and ensuring a wide variety of opportunities is available to disabled residents to enjoy a high quality of life.

Without the ability to travel, people with disabilities are denied access to life opportunities. Their access to education, shopping, employment, healthcare as well as social and family life is significantly improved when journeys become accessible. For this reason, the Council considers it important that people with disabilities have access to all forms of public transportation. Accessibility is, therefore an important consideration in respect of vehicles licensed as hackney carriages.

Drivers who, for medical reasons are unable to accept wheelchair passengers, or guide/hearing dogs are able to apply to the Council for an exemption certificate. Such a certificate will only be issued on production of medical evidence. Exemption certificates, which show the photograph of the driver must be displayed in the vehicle at all times the driver is working.

2.4.3 It is arguable that different accessibility considerations should apply between hackney carriages and private hire vehicles in that hackney carriages can be hired in the street or at a rank, by the customer dealing directly with a driver. Private hire vehicles, however, can only be booked through an operator. It is considered particularly important that a person with a disability should be able to hire a hackney carriage with the minimum delay or inconvenience. Having an acceptable proportion of accessible hackney carriages available helps ensure that this is possible. The Council will, therefore, actively encourage the licensing of sufficient accessible vehicles.

## 2.5 Maximum Age of Vehicles

2.5.1 The Best Practice Guidance reminds Licensing Authorities that it is perfectly possible for an older vehicle to be in good condition and that the setting of an age limit beyond which they will not licence vehicles may be arbitrary and disproportionate. It is, nevertheless, accepted that a greater frequency of testing may be appropriate for older vehicles. Details of testing requirements are specified in **Appendix A** of this Policy.

2.5.2 Local licensing authorities are, however, also advised to consider how far their vehicle licensing policies can and should support any local environmental initiatives by, perhaps, setting vehicle emissions standards or promoting cleaner fuels.

2.5.3 Consideration needs to be given as to whether, in the interests of the environment, tougher emissions standards should be introduced for all licensed vehicles. The Council currently have no plans to introduce any stricter emission test than that required for an MOT.

2.5.4 North Hertfordshire District Council considers it's responsibility in protecting the environment to be a predominate factor within licensing policy and as a corporate body has signed up to the Nottingham Declaration to tackle climate change. Emission testing is an integral part of the Engineer's Report and the maximum age of vehicles reflects the need to ensure vehicles meet the latest environmental standards.

## 2.6 Vehicle Testing

2.6.1 An MOT pass certificate, from an inspection carried out by the Council's nominated garage, must be produced for all vehicles that are over one year old. Subsequent MOT pass certificates must be produced annually.

2.6.2 In addition to the MOT testing, the vehicle must also be mechanically tested and inspected by the Council's nominated garage. This process is referred to as "the Engineer's Report" or "Certificate of Compliance".

When required to produce an MOT pass certificate, an Engineer's Report pass certificate must also be produced.

- 2.6.3 The licence of any vehicle which fails its inspection requirements will be automatically suspended until such time as the vehicle has been re-examined and the necessary pass certificates obtained.
- 2.6.4 Vehicle testing arrangements are currently exclusively through the North Hertfordshire Homes vehicle inspection facility. This appears to be working well and it is not proposed, at this stage, to make any changes to these vehicle-testing arrangements. Any amendment to the Council's nominated garage will be advised to all licence holders in writing.
- 2.6.5 With the safety of the public being a predominate factor of this Policy, all vehicles involved in an accident, however minor, will be required to obtain the Council's nominated garage's approval to continue operating.

## **2.7 Signage and Advertising**

- 2.7.1 Within the District of North Hertfordshire, hackney vehicles are required to display licence plates externally on the rear of the vehicle. This is a key feature in helping to identify vehicles that are properly licensed.
- All hackney vehicles, except for those with built-in roof signs, should carry illuminated roof-mounted signs indicating that they are a hackney carriage (see Section A18.1.1).
- 2.7.2 Similarly, and in order to differentiate between the two types of licensed vehicle, private hire vehicles will not be able to carry roof-mounted signs of any kind or display any references to the words "Taxi" or "Hackney Carriage".
- In the case of the word Taxi being part of the company name, for example "XYZ Taxis", the company name may be displayed on the vehicle provided that there is also reference to the fact that the vehicle is a private hire vehicle and must be pre-booked.
- 2.7.3 Private hire vehicles are required to display licence plates externally on the rear of the vehicle. Exemptions may be given for certain types of private hire vehicle not to display the plate, however, a letter of exemption from the Council must be carried in the vehicle at all times. In the absence of a letter of exemption in the vehicle, a plate must be displayed on the rear of the vehicle.
- When permission not to display a plate has been given, an unobtrusive 'tax disc' style licence must be displayed on the front windscreen.
- 2.7.4 External advertising is permitted on both hackney carriages and private hire vehicles, but with the exception of Section 2.7.5 of this Policy, shall be confined to the doors of the vehicle and shall not exceed in size what can be reasonably accommodated on each door panel. All advertisements on the doors of private hire vehicles must contain a reference to the fact that the vehicle can only be pre-booked.
- 2.7.5 The only advertisement permitted on the windscreen or rear window of a vehicle must be in the form of a strip no wider than 10cm, positioned at the top or bottom of window so that it does not obstruct the driver's view in any way.

2.7.6 All advertisements shall be in good taste and shall not contain any material that may be considered offensive.

2.7.7 For the avoidance of any doubt, all proposed advertising should be advised to the Council in order to seek approval prior to the advert being placed on the vehicle.

## **2.8 Security/CCTV**

2.8.1 The hackney carriage and private hire trade provide a valuable public service, especially late at night when other forms of public transport are no longer available. Security for drivers and passengers is of paramount importance. CCTV cameras can be a valuable deterrent as well as protecting the driver from unjustified complaints.

2.8.2 It is not proposed that measures such as CCTV cameras should be required, as part of the licensing regime, as it is considered that they are best left to the judgement of the owners and drivers themselves. The hackney carriage and private hire vehicle trades are, however, encouraged to consider the installation of CCTV cameras in their vehicles on a voluntary basis and it will then be incumbent upon the operator to handle relevant data gathered in an appropriate and secure manner.

2.8.3 Where funding is obtained by the Council for the installation of in-vehicle CCTV cameras, preference will be given to those operating in the most vulnerable circumstances determined by the Crime and Disorder Reduction Partnership.

## **2.9 Application Procedures**

2.9.1 The application procedures for a hackney carriage or private hire vehicle licence are prescribed by North Hertfordshire District Council. Applications must be made on the specified application form in accordance with the application procedure set out in **Appendix C**.

## **2.10 Consideration of Applications**

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

## **2.11 Grant and Renewal of Vehicle Licences**

2.11.1 Hackney carriage or private hire vehicle licences will continue to be issued for a one-year period from the date of grant, subject to the power to grant a licence for a shorter period, should this be appropriate in the circumstances.

The initial vehicle licence for vehicles less than one year old will usually be issued for the period up to the end of the month preceding the first anniversary of the date of first registration. All subsequent renewals will expire on the anniversary of this date.

Alternatively, a full one year licence may be issued at the proprietor's request if the appropriate fee is paid and the vehicle passes an MOT and Engineer's Report inspection.

The initial vehicle licence for vehicles one year old or more will be issued for a period up to the end of the month of expiry of the MOT certificate. All subsequent renewals will expire on the anniversary of this date.

- 2.11.2 Holders of existing hackney carriage or private hire vehicle licence will be reminded, in the month preceding their expiry, when their licences are due to be renewed. Application forms and appropriate fees must be submitted at least twenty eight days prior to the expiry of the previous licence. Supporting documentation, as detailed in **Appendix C**, may be received as it becomes available, but no later than ten working days prior to the expiry of the existing licence. A licence will not be renewed without all supporting documentation being received and satisfying the requirements of this Policy.
- 2.11.3 When submitting renewal applications, applicants should be aware that it may take up to ten working days to process and issue a licence. If a licence has not been issued at the point when an existing licence expires, the licence holder must cease operating until the new licence has been received. Every effort will be made to ensure continuity of trade, however, it would assist if applications are received at the earliest opportunity.
- 2.11.4 To assist owners who wish to be able to change vehicles half way through the licence period, they will be able to transfer the unexpired portion of the annual licence from one vehicle to another, however, the new vehicle must continue to be tested in accordance with the current procedure.
- 2.11.5 Only under exceptional circumstances will a licence be renewed once the expiry date has been reached. All expired licences will be required to apply as a new licence application and meet all requirements of a new vehicle.

## 2.12 Environmental Considerations

- 2.12.1 Hackney carriages and private hire vehicles are an essential form of transport in North Hertfordshire . Many people depend on hackney carriages or private hire vehicles for trips that buses or cars are incapable of making. They are able to achieve higher occupancy rates than a private car and so, to some extent, already play their part in helping to achieve environmental improvements in the District. It is, however, clearly important that emissions from hackney carriages and private hire vehicles are reduced as far as possible.
- 2.12.2 **Appendix A** makes it clear that LPG conversions to vehicles are acceptable. The policy detailed at Section 2.4 of this Policy will, furthermore, assist in this respect by ensuring that older and therefore less efficient vehicles will not be licensed.

2.12.4 Clearly emissions from hackney carriages and private hire vehicles could be reduced further, by encouraging better maintenance of vehicles and by switching off engines when stationary or idling, particularly at hackney carriage ranks. It is, however, proposed that this aspect be tackled through education and promotion.

## **2.13 Stretched Limousines**

2.13.1 Stretched limousines are elongated saloon cars that have been increasingly used for mainstream private hire work. The number of stretched limousines being imported, particularly from the United States, has been increasing. Their use generally includes all private hire work plus special occasions such as days at the races, stag/hen parties and children's birthday parties.

2.13.2 Licensing Authorities have generally considered there to be some problems preventing stretched limousines from being licensed including:

- many of the vehicles are capable of carrying more than eight passengers;
- many of them are left hand drive;
- many are fitted with all round darkened glass;
- most originate from the United States;
- many have been converted or modified after manufacture;
- due to their origin many parts may not be available making adequate maintenance difficult.

2.13.3 Most limousines are imported for commercial purposes and are, therefore, required to take a Single Vehicle Type Approval (SVA) test. They cannot be approved as Passenger Carrying Vehicles (PCV) because they cannot meet the required standards for the door arrangements and means of escape in an emergency. The SVA Scheme is an Inspection Scheme for vehicles that are not approved to British and European Standards and its purpose is to ensure that these vehicles meet modern safety standards and environmental standards before being used on public roads. When presented for SVA the vehicle is produced with a declaration that it will never carry more than eight passengers. The importer must inform any person who may use it of this restriction. Any subsequent purchasers must also be informed of the restriction.

2.13.4 The Local Government (Miscellaneous Provisions) Act 1976 defines a private hire vehicle as a motor vehicle constructed or adapted to carry fewer than eight passengers, other than the hackney carriage or public service vehicle, which is provided for hire with the services of the driver for the purposes of carrying customers. Section 48 of the 1976 Act requires that before a licence is granted the Authority must be satisfied that the vehicle is:

- (i) suitable in type, size and design for the use as a private hire vehicle;
- (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
- (iii) in a suitable mechanical condition;
- (iv) safe;
- (v) and comfortable.

- 2.13.5 Stretched limousines can be licensed for private hire work providing they may carry no more than eight passengers and meet the requirements of the Act. Possible exemptions under the Local Government (Miscellaneous Provisions) 1976 provide that nothing should:
- (i) apply to a vehicle used for bringing passengers or goods within a controlled district in pursuance of a contract for the hire of the vehicle made outside the district if the vehicle is not made available for hire within the district;
  - (ii) apply to a vehicle while it is being used in connection with a funeral or a vehicle used wholly or mainly, by a person carrying on the business of a funeral director, for the purpose of funerals;
  - (iii) apply to a vehicle being used in connection with a wedding.
- 2.13.6 Any stretched limousines, which are offered for private hire or which are not used for funeral and weddings do, of course, require a licence. Some operators of these vehicles have a wedding car licence insurance policy on the basis that the vehicle will be used largely during daylight hours, once or twice per week. Before licensing for private hire, therefore, a full policy for private hire purposes will be required.
- 2.13.7 In accordance with the Best Practice Guidance, all applications to licence stretched limousines as private hire vehicles will be treated on their own merits. It is, however, proposed that imported stretched limousine type vehicles:
- be granted an exemption from the requirement under the conditions of licence for private hire vehicles to be right hand drive; and
  - be approved for licensing as private hire vehicles subject to the additional conditions detailed in **Appendix B**;
- 2.13.8 There are obviously concerns regarding the use of darkened glass in stretch limousines. It is, accordingly, considered that the glass in any windows surrounding the driver must be clear and the rearmost window must allow a minimum of 70% light transmission.

## 2.14 Contract Vehicles

- 2.14.1 Previously, there was no requirement for a vehicle to be licensed where it was used for a contract with an organisation/firm for a period more than seven days for carrying passengers for hire or reward under a contract for the hire of the vehicle. This exemption only applied to the vehicle and driver subject to the contract and then only during the period of the contract. Any vehicle being used for a contract with one firm could not be used for any other contract or purpose during the period of that contract.

The Road Safety Act 2006 requires vehicles previously taking advantage of this exemption to become licensed private hire vehicles.

## **2.15 Funeral Vehicles**

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

## **2.16 Wedding Vehicles**

- 2.16.1 A vehicle does not need to be licensed while it is being used in connection with a wedding.
- 2.16.2 Written certification from the Council of the relevant exemption claimed is not currently required and it is not proposed to change this arrangement.

## **2.17 Courtesy Cars**

- 2.17.1 North Hertfordshire District Council takes the view that vehicles, which are used as “courtesy cars”, i.e. for transporting customers to and from garages, hotels and night-clubs, without charge, do not necessarily need to be licensed under the private hire licensing scheme. Whilst it is clear that, the vehicles are being provided in the course of business, it is less clear that such provision can be defined as operating a private hire business.
- 2.17.2 North Hertfordshire District Council will, however, seek to enforce against unlicensed businesses where it can be proven that the business obtains a benefit and the Council considers that private hire vehicle licensing is necessary. In all such circumstances, the business will first be advised by the Council that they consider licensing as necessary.
- 2.17.3 In the event that the Council consider that a business within this section needs licensing, the Special Event Vehicle policy detailed at section 2.20 will apply.

## **2.18 Ambulances and Other Patient Transport**

### **2.18.1 Ambulances**

All ambulances registered with the British Ambulance Association will be exempt from private hire vehicle licensing.

### **2.18.2 Other Patient Transport**

Other patient transport services provided by either:

- i) Primary Care Trusts, or
- ii) voluntary services,

that are registered with the British Ambulance Association will be exempt from private hire licensing.

2.18.3 All ambulance or patient transport services that are not registered with the British Ambulance Association will be required to conform to private hire licensing requirements. In the event that the Council consider that a business within this section needs licensing, the Special Event Vehicle policy detailed at section 2.20 will apply.

## **2.19 Voluntary Sector Transport**

2.19.1 North Hertfordshire District Council will assess each individual organisation on its own merits to determine whether or not it will require licensing as a private hire business. Whilst it is clear that the organisation is providing a service, it is less clear that such provision can be defined as operating a private hire business.

2.19.2 North Hertfordshire District Council will, however, seek to enforce against unlicensed businesses where it can be proven that the business obtains a benefit and the Council considers that private hire vehicle licensing is necessary. In all such circumstances, the business will first be advised by the Council that they consider licensing as necessary.

2.19.3 In the event that the Council consider that an organisation within this section needs licensing, the Special Event Vehicle policy detailed at section 2.20 will apply.

## **2.20 Special Event Vehicles**

2.20.1 Any vehicle defined by this Policy as a Special Event Vehicle will be assessed on its own individual merits. Under certain circumstances, some or all of the requirements of this Policy may be waived.

2.20.2 Under circumstances where any requirement of this Policy is waived, written authority of exemption will be given by the Council. Unless such authority is given, all requirements of this Policy will apply.

## **2.21 Livery**

2.21.1 Historically, North Hertfordshire District Council have not required hackney carriages and private hire vehicles to conform to a Council Livery Policy.

2.21.2 The Council believe that the requirements of Section 2 of this policy ensure that hackney carriages and private hire vehicles are easily identifiable and that there is no current requirement for such a policy.

## **2.22 Seating in Multi-Passenger Vehicles**

2.22.1 North Hertfordshire District Council will licence vehicles for seating arrangements of up to eight passengers where all licensing requirements are satisfied.

2.22.2 All vehicles licensed to carry in excess of four passengers will only be licensed in accordance with the seating layouts detailed in **Appendix Q**, unless the Original Manufacturer's Specification provides an alternative arrangement.

All seating arrangements not illustrated in **Appendix Q** will be considered by the Council in relation to safety requirements, however, it should not be assumed that permission will automatically be granted.

## **2.23 Dual Plating**

2.23.1 North Hertfordshire District Council will not grant a hackney carriage or private hire vehicle licence for any vehicle already licensed by another Licensing Authority.

## **2.24 National Flags**

2.24.1 On the occasion of major sporting or non-sporting events (for example, a world cup, coronation, royal wedding, etc.), one national flag may be flown on a licensed vehicle. The flag must be of a size and manufacture that will not obstruct the driver's view in anyway, nor endanger the safety of other road users or pedestrians. All flags are flown at the proprietor's own risk.

### **3 DRIVERS**

#### **3.1 Licences**

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

3.1.2 North Hertfordshire District Council has always required that separate driver's licences be held in respect of hackney carriage and private hire vehicles.

North Hertfordshire District Council will offer drivers of either discipline the other type of driver's licence for an administrative cost only, providing all licensing requirements are satisfied.

#### **3.2 Age and Experience**

3.2.1 A licence to drive a hackney carriage or private hire vehicle will not be granted to a person who is under twenty-one years of age, however, no upper age limit is proposed.

3.2.2 In order to maintain the high standards required by North Hertfordshire District Council, it will be a requirement to produce a prescribed certificate from a registered medical practitioner confirming the applicant/licence holder's fitness to drive if:

- The applicant is a new driver; or
- The licence holder is over seventy years of age; or
- The applicant/licence holder has a health condition that may impact upon their ability to drive a hackney carriage or private hire vehicle

3.2.3 Applicants required to comply with Section 3.2.2 of this Policy may still apply for a three year licence, however, must produce further medical certification annually or at a shorter period where recommended by the medical practitioner.

3.2.4 In addition, a licence will not be granted to anyone over twenty-one years of age who has not held a full driving licence, issued in accordance with Part III of the Road Traffic Act 1972 (as amended), for a period of at least twelve months immediately prior to the application.

An applicant who meets the licensing requirements by virtue of an acceptable non-UK driving licence must either:

- obtain a full UK driving licence within twelve months of the issue of the hackney carriage or private hire driver's licence, or
- obtain a 'backing sheet' from the DVLA within twelve months of the issue of the hackney carriage or private hire driver's licence, which can be attached to the non-UK driving licence and used by the DVLA to monitor penalty points obtained whilst driving in the UK.

Where this requirement is not satisfied, the hackney carriage or private hire driver's licence will be automatically suspended pending compliance.

This policy requirement is to ensure appropriate regulation of any penalty points issued by the courts in relation to road traffic offences. The Council consider this to be an integral part of the 'fit and proper person' test.

### **3.3 Driver Knowledge Tests**

3.3.1 Hackney carriage drivers clearly need a good working knowledge of the zone for which they are licensed, because hackney carriages can be hired immediately, directly with the driver at ranks or on the street.

3.3.2 In order to determine fitness to hold a licence, applicants for a hackney carriage driver's licence are required to undertake a written test as to their knowledge of the local geography. This test will also test the driver's knowledge of the highway code and the Council's Licensing Policy.

3.3.3 In addition, applicants are required to take a short verbal test of their knowledge in relation to customer care, the Council's Licensing Policy and basic numeracy.

3.3.4 The procedures in relation to the above are set out in **Appendix C**.

3.3.5 North Hertfordshire District Council recognise that private hire drivers also require a working knowledge of the district as a whole. As private hire vehicles must be pre-booked, however, the Council acknowledges that the same instant knowledge is not required as there would be an opportunity to research the required route.

3.3.6 Accordingly, there is no requirement for an applicant for a private hire driver's licence to undertake a written geography test. The applicant will, however, be required to undertake a short verbal test in relation to customer care, the Council's Licensing Policy and basic numeracy.

### **3.4 Driving Proficiency and Qualifications**

3.4.1 The Driving Standards Agency (DSA) first introduced a practical driving test specifically designed for hackney carriage and private hire drivers in 1999. Many authorities require the above-mentioned DSA test or some further driving test to be taken before a driver's licence is issued.

3.4.2 North Hertfordshire District Council believes that as a profession, hackney carriage and private hire drivers have a special responsibility for the safe transportation of fare paying passengers. An assessment of a driver's ability should, therefore, be obtained by all new applicants.

3.4.3 All new applicants for hackney carriage and private hire driving licences should be required to produce evidence that they have successfully completed the DSA practical driving test within six months of the initial issue of the licence.

- 3.4.4 All new applicants will be issued with an initial licence for six months only. Failure to obtain successful completion of the DSA practical driving test within this initial six month period will result in the initial licence not being renewed and preclude any further application until the DSA test has been passed. The applicant must then re-apply as a new applicant.

### **3.5 Medical Examination**

- 3.5.1 If required to obtain a medical certificate as required by Section 3.2.2 of this Policy, the applicant will be responsible for paying the fee for the examination to the relevant surgery. On completion of the examination, a confidential report will be submitted to the Licensing Officer. The applicant may have a copy of the report upon request.
- 3.5.2 Holders of current PSV and/or HGV Licences, where the holder is able to produce proof of current medical examination, will not be required to undergo a further medical examination as required by Section 3.2.2 of this Policy.
- 3.5.3 Licence holders must advise the Council of any deterioration in their health that may affect their driving capabilities.
- 3.5.4 Where there is any doubt as to the medical fitness of the Applicant, the Council may require the Applicant to undergo further medical examination by a Doctor appointed by the Council, at the Applicant's own expense.
- 3.5.5 Where there remains any doubt about the fitness of any applicant, the Head of Housing and Environmental Health will review the medical evidence and make any final decision in light of the medical evidence available.

### **3.6 Criminal Record Bureau (CRB) Disclosures**

- 3.6.1 A criminal record check on a driver is seen as an essential safety measure in assessing whether or not an applicant is suitable to hold a licence. An Enhanced Disclosure provided by the Criminal Records Bureau is required by all applicants, whether new or renewal applications. These disclosures include details of spent convictions and police cautions.
- 3.6.2 The Rehabilitation of Offenders Act 1974 does not apply to applicants for both hackney and private hire driving licences. They are required to disclose all convictions, including those that would normally be regarded as spent.
- 3.6.3 Before an application for a driver's licence will be considered, the applicant must provide a current (less than 3 months old) Enhanced CRB Disclosure Certificate (issued specifically for North Hertfordshire District Council), or a certificate of good conduct from the relevant Embassy in the case of an overseas applicant.
- 3.6.4 North Hertfordshire District Council is an accredited Criminal Records Bureau body, therefore, applicants can deal with the Criminal Records Bureau through the Council. The applicant will be responsible for the payment of the appropriate fee.

- 3.6.5 If a driver can satisfy the authority that they have been conviction, caution, fixed penalty notice or warning free for a minimum period of five years, CRB checks will be required once in every three-year period, usually upon renewal of their licence. A conviction, caution or warning imposed after the licence has been issued or renewed may result in a requirement to obtain annual CRB checks.
- 3.6.6 Licensed drivers are obliged to notify the council without delay of any criminal convictions. Where CRB certificates are not required every 12 months, it is essential that this requirement is strictly adhered to and accordingly any breaches of this requirement will immediately become the subject of disciplinary action by the Head of Housing and Environmental Health.
- 3.6.7 North Hertfordshire District Council may consider any warning letter or other disciplinary sanction issued by the Head of Housing and Environmental Health to be of equal concern to a conviction or warning on a CRB. Accordingly, the requirement to obtain annual CRB certificates may apply in such cases until the requirements of 3.6.5 are met.
- 3.6.8 It is proposed that some additional controls will be introduced. These may include the introduction of a system of additional CRB checks on drivers or the licence holder be required to formally confirm, by signing a declaration, both their licence details and the fact that they have not been convicted of any offence. In the case of the requirement for a additional CRB check, the Council must have good reason prior to making this request, for example, reasonable belief that the licence holder has a criminal conviction not notified to the Council.
- 3.6.9 The Council is bound by rules of confidentiality, and will not divulge information obtained to any third parties. The Applicant for a CRB certificate will be sent a separate certificate to their home address, while the Council will also receive a copy of the report. Once the Council have obtained the necessary information from a CRB certificate, the certificate will be destroyed and no information from the CRB will be retained by the Council.

### **3.7 Relevance of Convictions and Cautions**

- 3.7.1 In relation to the consideration of convictions and cautions recorded against applicants, North Hertfordshire District Council will adopt the policy set out in **Appendix D** under Relevance of Convictions.
- 3.7.2 In assessing whether the applicant is a 'fit and proper person' to hold a licence, the Council will consider each case on its own merit. They will 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 certificate from the Criminal Records Bureau, the Licensing and Enforcement Manager will assess whether any or all of the spent convictions are capable of having real relevance to the issue of whether or not the applicant is a fit and proper person to hold a licence.
- 3.7.3 In relation to cautions, the Council will have regard to the class and age of the offence and the age of the applicant when the offence occurred, when considering their relevance to an application.

3.7.4 In relation to previous convictions, the Council will have regard to the following:

- (i) Whether the convictions are spent or unspent;
- (ii) The class of the offences;
- (iii) The age of the offences;
- (iv) The apparent seriousness, as gauged by the penalty.

3.7.5 Applications will be referred to the Head of Housing and Environmental Health where the applicant's record includes one or more of the following:

- Any term of imprisonment or custody;
- Any conviction for a violent or sexual offence, or dishonesty;
- Any serious motoring offence, such as dangerous driving, driving whilst disqualified, or drink driving;
- Any drug related offence.

### **3.8 Application Procedure**

3.8.1 An application for a hackney carriage or private hire driver's licence must be made on the specified application form. The application procedure is set out in **Appendix C**.

### **3.9 Grant and Renewal of Drivers Licences**

3.9.1 Holders of existing hackney carriage or private hire licences will be reminded when their licences are due to be renewed, in the month preceding the month of expiry. Application forms and appropriate fees must be submitted at least twenty eight days prior to the expiry of the previous licence. Supporting documentation, as detailed in **Appendix C**, may be received as it becomes available, but no later than ten working days prior to the expiry of the existing licence. A licence will not be renewed without all supporting documentation being received and satisfying the requirements of this Policy.

3.9.2 When submitting renewal applications, applicants should be aware that it may take up to ten working days to process and issue a licence. If a licence has not been issued at the point when an existing licence expires, the licence holder must cease operating until the new licence has been received.

3.9.3 Only under exceptional circumstances will a licence be renewed once the expiry date has been reached. All expired licences will be required to apply as a new licence application and meet all requirements of a new applicant.

### **3.10 Conditions of Licence**

3.10.1 The Council is not permitted to attach conditions to a hackney carriage driver's licence. It is, however, empowered to attach such conditions to a private hire driver's licence as are considered necessary.

- 3.10.2 It is considered that the conditions set out in **Appendix E** are reasonable, necessary and proportionate for all licensed drivers but accepted that they may only be legally imposed in respect of private hire drivers.
- 3.10.3 In accordance with Section 3.10.2 of this Policy, the penalty point system detailed in **Appendix K** is not a condition of the licence. It is, however, a transparent and consistent method for the Council to determine whether or not a driver meets the “fit and proper person” test.

### **3.11 Convictions during period of licence**

- 3.11.1 Where offences resulting in conviction are committed by licensed drivers, it is important, in the interests of consistency and transparency, that a procedure should be in place to consider what effect this should have on their hackney carriage or private hire driver’s licence.
- 3.11.2 Driver’s licence holders, who are convicted of any criminal or motoring offence during the period covered by their existing licence, must disclose the conviction and the penalty involved to the Council within seven days of the conviction. For these purposes, any offence resulting in the acceptance of a fixed penalty notice will be considered to be a conviction.
- 3.11.3 Any breaches of relevant legislation or conditions attached to driver, operator and vehicle licences which may come to light following complaints, enforcement action, notification or investigations should be dealt with following the general principals detailed in **Appendix J**.
- 3.11.4 Any action taken in relation to the general procedure detailed in **Appendix J** does not compromise the ability to supplement this action with the use of the penalty points system detailed in **Appendix K**.

### **3.12 Code of Good Conduct**

- 3.12.1 Adopting a Code of Good Conduct for hackney carriage and private hire licence holders serves to promote the Council’s licensing objectives in respect of the hackney carriage and private hire trades.
- 3.12.2 The standards expected of licence holders are detailed in the Code of Good conduct included in this policy document as **Appendix F**. This appendix should be read in conjunction with the other statutory and policy requirements detailed in this document.
- 3.12.3 By accepting a licence from the Council, licence holders will be deemed to have read and accepted the Code of Good Conduct, thereby agreeing to adhere to it.
- 3.12.4 Failure to adhere to the Council’s ‘Code of Good Conduct’ will be dealt with in accordance with the principles of **Appendix J**, primarily through the use of the penalty points system detailed in **Appendix K**.

**3.13 Driver's Dress Code**

- 3.13.1 Any reasonable requirement that serves to enhance the professional image of the hackney carriage and private hire trade is to be welcomed.
- 3.13.2 Accordingly, North Hertfordshire District Council have introduced a Code of Dress for Licensed Drivers, detailed at **Appendix G**.
- 3.13.3 Failure to adhere to the Council's 'Driver's Dress Code' will be dealt with in accordance with the principles of **Appendix J**, primarily through the use of the penalty points system detailed in **Appendix K**.

## **4 DISCIPLINARY AND ENFORCEMENT MEASURES**

### **4.1 Enforcement**

4.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the hackney carriage and private hire vehicle trades.

4.1.2 In pursuing its objective to encourage responsible hackney carriage and private hire businesses, the Council will operate a proportionate disciplinary and enforcement regime. In order to balance the promotion of public safety with the need to prevent unnecessary interference in a licence holder's business, the Council will only intervene where it is necessary and proportionate to do so, having regard to the objectives outlined in section 1.3.1 of this document.

Where defects are such that vehicles need to be immediately prohibited livelihood interference is inevitable.

4.1.3 North Hertfordshire District Council will adhere to the Enforcement Policy and Practice set out at **Appendix I** to ensure that its enforcement is reasonable, transparent and proportionate.

4.1.4 Notwithstanding Section 4.1.3 of this Policy, the Council will also consider the Housing and Environmental Health Enforcement Policy.

### **4.2 Disciplinary Hearings**

4.2.1 Whilst the day to day enforcement of hackney carriage and private hire licensing, including the issuing of penalty points, is a function carried out by Licensing Officers under the supervision of the Licensing and Enforcement Manager, serious disciplinary matters will be referred to the Head of Housing and Environmental Health. Further details are given in **Appendix J**.

4.2.2 For the purpose of Section 4.2.1, serious disciplinary matters will include:

- an accumulation of twelve or more penalty points as detailed in **Appendix K**
- an offence detailed in section 3 of **Appendix J**
- any other incident or circumstance that may lead to the suspension of, revocation of, or refusal to renew a licence

4.2.3 The Head of Housing and Environmental Health will consider the impact of transgressions of the law, or an accumulation of penalty points, on the fitness of an individual to hold a hackney carriage or private hire licence and take appropriate action.

4.2.4 The proposed procedure in respect of Disciplinary Hearings is set out in section 3.9 of **Appendix J**.

### 4.3 Penalty Points Scheme

- 4.3.1 North Hertfordshire District Council has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to basic minimum standards. The Council must do this in a reasonable, consistent and transparent manner.
- 4.3.2 These standards are defined by legislation and the Council's Hackney Carriage and Private Hire Licensing Policy. Together they identify the Council's requirements of the trade and help to ensure consistent application of these standards by Council Officers.
- 4.3.3 In order to ensure compliance with the Council's Hackney Carriage and Private Hire Licensing Policy and to monitor licence holders ability to fulfil the 'fit and proper' test, a penalty points system will be utilised.
- 4.3.4 The system, as described in **Appendix K**, will serve both as an early warning system to licence holders who fail to meet the Council's required standards and as a consistent and transparent method of enforcement,
- 4.3.5 Penalty points remain on a licence for a period of two years from the date on which they are imposed. If a licence holder accumulates twelve or more penalty points within a period of twenty four months, commencing from the date of imposition of the earliest 'live' penalty points on the licence, they will be referred to the Head of Housing and Environmental Health.
- 4.3.6 The Head of Housing and Environmental Health will follow the procedure detailed in section 3.9 of **Appendix J** and have a range of sanctions available, including suspension or revocation of the licence.
- 4.3.7 The adoption of the Penalty Points System will not, however, compromise the Council's ability to enforce breaches of statute or the Council's Licensing Policy in the Courts should an offence necessitate such action.

### 4.4 Range of Powers

#### 4.4.1 Issuing of Warnings and Cautions

As a method of dealing with less serious matters, the Council will issue warnings and cautions where appropriate to the circumstances. Minor or first-time transgressions are likely to attract either an oral or written warning. Repeated or more serious conduct is likely to lead to the issuing of a formal caution, provided:

- There is sufficient evidence to justify a prosecution;
- The licence holder admits his/her guilt;
- The licence holder agrees to be cautioned.

#### 4.4.2 Suspension

##### (i) Vehicles

Hackney carriage and private hire vehicles must be kept in an efficient, safe, tidy and clean condition at all times. Compliance with the vehicle specifications and conditions is essential and will be enforced by

periodic, random vehicle inspections by the Council. Where it is found that any vehicle is not being properly maintained, a defect(s) notice will be served on the licence holder setting out the defect(s) and the required action.

Where there is a risk to public safety the further use of the vehicle will be suspended until the defects have been remedied. The suspension will then not be lifted until the vehicle has undergone a further test, at the licence holder's expense, and been passed as fit for use as a hackney carriage or private hire vehicle by a Licensing Officer.

(ii) Drivers

The Council may exercise its discretion to suspend the operation of a driver's licence for a specified period. Such action will, however, only be taken by the Head of Housing and Environmental Health in conjunction with section 3.9 of **Appendix J**.

(iii) General

Where a licence holder has been referred to the Head of Housing and Environmental Health because they have been convicted of a serious criminal offence, or have accumulated 12 or more penalty points under the Council's penalty points system, the Head of Housing and Environmental Health may order the suspension of the licence.

#### 4.4.3 Revocation

Where a licence holder has been referred to the Head of Housing and Environmental Health because they have been convicted of a serious criminal offence, or have accumulated 12 or more penalty points under the Council's penalty points system, the Head of Housing and Environmental Health may order the revocation of the licence.

#### 4.4.4 Refusal to Renew

As an alternative to revocation, the Head of Housing and Environmental Health may decide that the appropriate action, in a situation where the licence is shortly to expire, is to order that the licence shall not be renewed.

#### 4.4.5 Prosecution

When considering whether to authorise a prosecution in accordance with the Council's Hackney Carriage and Private Hire Licensing Policy, the Head of Housing and Environmental Health will also have regard to the Housing and Environmental Health Enforcement Policy.

## **5 OFFENCES**

5.1 Offences in relation to hackney carriages and private hire vehicles are derived from the following sources:

- Town Police Clauses Act 1847  
(hackney carriages only);
- Local Government (Miscellaneous Provisions) 1976  
(hackney carriages and private hire vehicles);
- Transport Act 1980  
(private hire vehicles only);
- the Council's Hackney Carriage and Private Hire Licensing Policy  
(hackney carriages and private hire vehicles)

The relevant offences under the 1847 Act, the 1976 and the 1980 Act are set out in **Appendix L**.

5.2 It is also an offence to smoke, to allow a person to smoke, or fail to display appropriate signage in a licensed hackney carriage or private hire vehicle. Further details can be found in the Health Act 2006.

## **6. DELEGATED POWERS**

- 6.1 Authorised Officers
- 6.1.1 All Officers of North Hertfordshire District Council, duly authorised under the Council's Scheme of Delegation, are responsible for the day to day operation of the Council's Hackney Carriage and Private Hire Vehicle Licensing Policy.
- 6.2 Licensing and Enforcement Manager
- 6.2.1 The Licensing and Enforcement Manager is responsible for the management of the Council's Authorised Officers as detailed in Section 6.1.1 of this Policy.
- 6.3 Head of Housing and Environmental Health
- 6.3.1 The Head of Housing and Environmental Health is responsible for the overall management of hackney carriage and private hire licensing.
- 6.3.2 The following powers are specifically reserved to the Head of Housing and Environmental Health:
- i) suspension or revocation of existing licences
  - ii) refusal to renew existing licences
  - iii) refusal of new applications
  - iv) amendments to this Policy
- 6.4 Elected Members
- 6.4.1 The formulation and adoption of North Hertfordshire District Council's Hackney Carriage and Private Hire Licensing Policy is the responsibility of the elected members.

## **7 PRIVATE HIRE OPERATORS**

### **7.1 Requirements and Obligations**

7.1.1 Any person who operates a private hire service utilising one or more private hire vehicles must apply to the Council for a Private Hire Operator's Licence.

7.1.2 The primary objective in licensing private hire operators is the safety of the public, both in the vehicles and at the operator's premises. In addition, the objectives detailed in Section 1.3 of this policy apply.

7.1.3 A private hire vehicle may only be despatched to a customer by a private hire operator who holds a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.

7.1.4 A private hire operator must ensure that every private hire vehicle is driven by a person who holds a private hire driver's licence.

7.1.5 All three licences:

- private hire operator's licence,
- private hire driver's licence and
- private hire vehicle licence

must be issued by the same Licensing Authority.

7.1.6 Applications for operator's licences must be made on the prescribed form, together with the appropriate fee. The Council will then decide whether the applicant is a fit and proper person to hold an operator's licence.

### **7.2 Criminal Record Checks**

7.2.1 Private hire operators, that are not licensed drivers, cannot be required to produce an enhanced CRB disclosure. A Basic Disclosure from the Criminal Records Bureau, or a certificate of good conduct from the relevant embassy for overseas applicants, is, however, considered appropriate in promoting the objective of public safety.

A reference covering, for example, the applicant's financial record and/or business history, could also be considered appropriate as well as, or instead of, the requirements outlined above in some instances.

7.2.2 Before an application for a private hire operators licence will be considered, the applicant must provide a current (less than 3 months old) Basic CRB Disclosure of Criminal Convictions (issued specifically for North Hertfordshire District Council), or a Certificate of Good Conduct from the relevant embassy in the case of an overseas applicant. Applicants that hold a current Drivers Licence with the Council will be exempt from this requirement.

A reference, as detailed in Section 7.2.1 of this Policy, may be requested where appropriate in promoting the public safety objective.

### 7.3 Conditions

- 7.3.1 The Council has power to impose such conditions on a private hire operator's licence as it considers reasonable, necessary and proportionate.
- 7.3.2 North Hertfordshire District Council consider the conditions detailed in **Appendix H** to be reasonable, necessary and proportionate. All private hire operator's licences will be issued with these conditions attached.

### 7.4 Insurance

- 7.4.1 It is considered appropriate for a Licensing Authority to check that appropriate public liability insurance has been taken out for premises that are open to the public.
- 7.4.2 Before an application for a private hire operator's licence is granted, the applicant must produce evidence that they have taken out appropriate public liability insurance for the premises to be licensed.
- 7.4.3 The conditions applicable to Private Hire Operator's Licences, as detailed in **Appendix H**, require that the operator produces an appropriate certificate of motor insurance which covers every private hire vehicle they operate as well as appropriate public liability insurance for their premises.

### 7.5 Licence Duration

- 7.5.1 The Department for Transport considers that annual licence renewal is not necessary or appropriate for private hire operators. They recommend, as good practice, that a licence period of five years would be reasonable.
- 7.5.2 North Hertfordshire District Council consider, however, that five years is a considerable period of time in the context of the life of this type of business
- The Council will, therefore, issue a successful applicant for a Private Hire Operator's Licence with a three-year licence from the date of grant, subject to the power to grant a licence for a shorter period of time should this be appropriate in the circumstances.
- 7.5.3 The licence period for a Private Hire Operator's Licence will run from 1<sup>st</sup> January to 31<sup>st</sup> December each year. New applicants' initial licences will run from the date of grant until two years after the 31<sup>st</sup> December of the year of initial grant.
- 7.5.4 Holders of existing Private Hire Operator's Licences will be reminded, in the month preceding their expiry, when their licences are due to be renewed.

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

- 7.6.1 Upon the grant of an operator's licence, the Council will specify on the licence the address from which the operator may operate. This address will be the address stated on the application form. The operator must notify the Council in writing of any change of address during the period of the licence, whether this is a home address or the operating address, within seven days of such a change taking place.

## **7.7 Bases outside the North Hertfordshire District Council Area**

- 7.7.1 North Hertfordshire District Council will not grant a private hire operator's licence for an operator with an operating base that is outside the District of North Hertfordshire District Council. This is to ensure that proper regulation and enforcement measures may be taken by the Council and is in no way intended to be a restraint of trade.

## **7.8 Bases inside the North Hertfordshire District Council Area**

- 7.8.1 A private hire operator's licence issued by North Hertfordshire District Council will be required for any operator with an operating base that is inside the District of North Hertfordshire District Council. Accordingly, all vehicles and drivers operating from that base will require appropriate licences issued by North Hertfordshire District Council. This is to ensure that proper regulation and enforcement measures may be taken by the Council and that all vehicles operating with North Hertfordshire meet the Council's licensing requirements. This is in no way intended to be a restraint of trade.

## **8** FARES

### **8.1** **General**

- 8.1.1 Hackney Carriage Fares, set by the Council, are a maximum and can be negotiated downwards by the hirer. North Hertfordshire District Council considers it good practice to review the fare scales at regular intervals, and will, therefore, consider the fare scales on an annual basis.
- 8.1.2 When determining the level of fares, consideration will be given to what it is reasonable to expect the travelling public to pay as well as the need to give the drivers an incentive to provide a cost-effective service at the times it is needed.
- 8.1.3 Out of District journeys can be negotiated prior to the commencement of the journey in both Private Hire Vehicles and Hackney Carriages.
- 8.1.4 One of the main complaints relating to hackney carriages concerns overcharging. To protect the fare paying public from overcharging, as well as to protect the drivers from complaints, North Hertfordshire District Council will operate a simple fare tariff that must be displayed in all hackney carriages.
- 8.1.5 In reviewing the fares tariff on an annual basis, North Hertfordshire District Council will consult with the trade and follow the appropriate procedures detailed in the Local Government (Miscellaneous Provisions) Act 1976.
- 8.1.6 These regulations in relation to fares do not apply to private hire vehicles.

### **8.2** **Table of Fares**

- 8.2.1 The maximum fares currently prescribed by the Authority are set out in **Appendix M**. A table of authorised fares will be provided to each hackney carriage licence holder, which must then be displayed in each vehicle so that it is easily visible to all hirers.
- 8.2.2 All licence holders will be notified of any changes to the table of authorised fares by way of an addendum to **Appendix M**.

### **8.3** **Receipts**

- 8.3.1 A hackney carriage driver must, if requested by the passenger, provide a written receipt for the fare paid.

## **9 FEES**

### **9.1 Fee Structure**

- 9.1.1 The legislation provides that these should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands, and administering the control and supervision of hackney carriages and private hire vehicles.
- 9.1.2 The fees currently payable for the grant and renewal of hackney carriage and private hire licences are set out in **Appendix N**. The fee structure is reviewed annually as part of the Council's budgetary process and all licence holders will be notified of any changes as an addendum to **Appendix N**.
- 9.1.3 The setting of fees is the responsibility of the Elected Members

### **9.2 Payments**

- 9.2.1 Cheques or postal orders for licence applications must be made payable to North Hertfordshire District Council. The Council is also able to accept payment by debit or credit card.
- 9.2.2 North Hertfordshire District Council is unable to accept cash payments.

### **9.3 Refunds, Transfers and Duplicate Copies**

- 9.3.1 In the case of any licence where the licence holder surrenders their licence prior to the expiry date, the Council will make a refund in respect of the whole months of the unexpired portion of the licence fee.
- 9.3.2 In common with most types of licence, an appropriate fee will be paid to cover the administrative costs associated with the transfer of a licence
- 9.3.3 Where the Council receives a request for a duplicate copy of any previously issued licence, an appropriate fee will be paid to cover the associated administrative costs.
- 9.3.4 In the case of a licence application that has been refused, the application fee may be refunded less an appropriate administrative charge to cover the cost of the application process.

## **10 TAXI RANKS**

### **10.1 Appointed Ranks**

- 10.1.1 North Hertfordshire District Council will periodically review the provision of hackney carriage ranks within the District. In the event that there is evidence of the need to amend the existing provisions, a full consultation would be undertaken prior to any amendments.
- 10.1.2 Comments are welcomed from either the trade or the public on the need for additional ranks in specific locations, the potential for re-locating or extending existing ranks or indeed arguments for the removal of ranks, which no longer fulfil a useful purpose.

### **10.2 Waiting on Stands**

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

Whilst the law states it is an offence to leave a vehicle unattended on a hackney stand, discretion will be allowed for drivers leaving their vehicles in acceptable circumstances, for example 'comfort breaks'.

## **11 TAXI FORUM**

- 11.1 North Hertfordshire District Council wish to encourage discussions between the trade and the Licensing Authority, in order to promote a successful working relationship. To assist in this process, taxi forum meetings will be arranged quarterly, or at an alternative period as deemed necessary, for discussions between all parties.
- 11.2 Representatives of the police and the taxi marshalling company will be invited to attend.
- 11.3 Licensing Officers will attend all forum meetings; the Head of Housing and Environmental Health and the Portfolio Holder for Hackney Carriage and Private Hire Licensing will attend where appropriate.
- 11.4 Licence holders may ask for topics of discussion to be included on the agenda for the next forum by advanced written request.
- 11.5 A separate taxi forum meeting will be held each year to discuss the setting of the following year's fares, prior to the prescribed consultation process.
- 11.6 Minutes will be taken of all forum meetings and distributed to all licence holders as soon as practicable.

## **12 AMENDMENTS TO THE POLICY**

12.1 Where there are specific provisions within the policy for making amendments, for example section 8.2.2 that provides for an annual addendum to be published detailing the revised table of authorised fares, the Head of Housing and Environmental Health may authorise that amendment without further consultation.

This does not compromise, however, any other consultation that may be undertaken by the Council in relation to such amendments, for example the consultation process in determining the new table of fares.

12.2 Any substantial amendment to this policy, not specifically provided for as detailed in Section 11.1 of this Policy, will only be implemented after further consultation with the trade and the public. All substantial amendments must be authorised by the Elected Members.

For the purpose of this section, any substantial amendment is defined as one that:

- will have a significant financial effect on licence holders, or
- will have a significant procedural effect on licence holders, or
- may not be perceived by the trade or the public to be consistent with the published objectives detailed in section 1.3 of this policy

12.3 Any minor amendment to this policy, not specifically provided for as detailed in Section 11.1 of this Policy, may be authorised by the Head of Housing and Environmental Health.

For the purpose of this section, any minor amendment is an amendment not defined as substantial in Section 11.2 of this Policy.

**13** **RIGHTS OF APPEAL**

- 13.1 The Local Government (Miscellaneous Provisions) Act 1976 sections 48, 52 and 77 detail an applicant's right of appeal.
- 13.2 In general terms, where an applicant is aggrieved by the Council's decision to refuse to grant, refuse to renew, suspend or revoke a licence, the applicant has a right of appeal to the local Magistrates' Court, which is based in Stevenage.
- 13.3 Any appeal must be lodged at the Court within twenty-one days of the applicant receiving notification of the Council's decision. The appeal must state the grounds upon which the appeal is based.

## **14** **DEFINITIONS**

14.1 All references in this policy document to the following terms imply the definition contained below:

<b>Term</b>	<b>Definition</b>
'the Council'	North Hertfordshire District Council
'the District'	the geographical region contained within the boundaries of North Hertfordshire District Council
'the Licensing Authority'	North Hertfordshire District Council
'he', 'his', or 'him'	all references to 'he', 'his', or 'him' expressly also imply the definition of 'she', 'hers', or 'her'
'the Elected Members'	all elected members of North Hertfordshire District Council sitting as The Council
'the licence plate' or 'the plate'	the vehicle licence plate issued to all vehicles and required to be displayed externally at the rear of all licensed vehicles
'Best Practice Guidance'	Best Practice Guidance issued by the Department for Transport
'this Policy'	North Hertfordshire District Council's Hackney Carriage and Private Hire Licensing Policy
'the Head of Housing and Environmental Health'	the current post-holder (or the Head of Service of the appropriate Service Area following any subsequent restructure), or any nominated Deputy authorised by the Council's Scheme of Delegation.
'proprietor's licence'	either a hackney carriage or private hire vehicle licence

## APPENDIX A

### VEHICLE SPECIFICATION

#### **A1 General**

A1.1 All hackney carriage or private hire vehicles shall comply in all respects with the requirements detailed in Appendix A of this Policy. This is in addition to all requirements of road traffic regulations and legislation relating to all motor vehicles, including any Council byelaws where appropriate.

A1.2 All vehicles shall have an appropriate “type approval” which is either a :-

- i) European Whole Vehicle Type approval;
- ii) British National Type approval; or
- iii) British Single Vehicle Approval.

It is also recommended that vehicles with Euro NCAP star ratings of four or more should be considered when purchasing a new vehicle.

A1.3 All vehicles shall:

- be capable of carrying not less than four passengers,
- be fitted with a right hand drive (special conditions apply to stretched limousines) and
- shall have an engine size not less than 1400cc.

A1.4 All vehicles shall comply with all construction and use/ type approval requirements applicable to it. The maximum permitted length is eighteen feet; the maximum permitted weight is three thousand and five hundred kilograms.

A1.5 Vehicles should have no damage affecting the structural safety of the vehicle and must not have been written off for insurance purposes at any time.

A1.6 Sufficient means shall be provided by which any person in the vehicle may communicate with the driver.

A1.7 All vehicles shall be maintained in sound and roadworthy condition at all times and serviced according to the manufacturer’s recommendations.

A1.8 No vehicle must be fitted with ‘bull bars’ or other modification that increases the risk to passengers, pedestrians or other road users.

#### **A2 Vehicle Type**

A2.1 General (all applications)

A2.1.1 Left-hand drive vehicles will not be considered for licensing, with the exception of stretched limousines as detailed in **Appendix B**.

## A2.2 New Applications

A2.2.1 All vehicles for new hackney carriage licence applications must be either:

- i) a "London" type hackney carriage, or
- ii) a suitable wheelchair accessible vehicle, approved by the Council

A2.2.2 All vehicles for new private hire licence applications must be either:

- i) a saloon, estate or hatchback type vehicle with at least four side doors, or
- ii) a purpose-built mini-bus designed to carry not less than four nor more than eight passengers

## A2.3 Renewal Applications

A2.3.1 Any hackney carriage vehicle licence plate in existence on 1<sup>st</sup> February 2003 may be renewed or transferred to a new vehicle without having to meet the new vehicle requirements of section 2.2.1 of Appendix A of this Policy.

A2.3.2 All vehicles for private hire licence renewal applications must be either:

- i) a saloon, estate or hatchback type vehicle with at least four side doors, or
- ii) a purpose-built mini-bus designed to carry not less than four nor more than eight passengers

## A3 Vehicle Age

### A3.1 Hackney Carriages

A3.1.1 When first licensed, all vehicles must be less than five years old from the date of first registration.

A3.1.2 "London" type hackney carriages may be licensed to a maximum of fifteen years old from the date of first registration, subject to six-monthly testing by the council's authorised garage upon reaching the age of eight years old from the date of first registration. Each six-monthly test requires the vehicle to obtain an Engineer's Report pass certificate.

Vehicles meeting this requirement may be licensed until such time as a mechanical defect is found and the above requirements cannot be achieved. At such a time, the vehicle will no longer be licensed.

These requirements are in addition to the general testing requirements of section 2.6 of section 2 of this Policy.

A3.1.3 Approved "wheelchair accessible" type hackney carriages may be licensed to a maximum of ten years old from the date of first registration, subject to six-monthly testing by the council's authorised garage upon reaching the age of five years old from the date of first registration. Each six-monthly test requires the vehicle to obtain an Engineer's Report pass certificate.

Vehicles meeting this requirement may be licensed until such time as a mechanical defect is found and the above requirements cannot be achieved. At such a time, the vehicle will no longer be licensed.

These requirements are in addition to the general testing requirements of section 2.6 of Section 2 of this Policy.

- A3.1.4 Saloon, estate, hatchback, or multi-passenger type hackney carriages, licensed in accordance with section 2.3.1 of Appendix A of this Policy, may be licensed to a maximum of seven years old from the date of first registration, subject to six-monthly testing by the council's authorised garage upon reaching the age of five years old from the date of first registration. Each six-monthly test requires the vehicle to obtain an Engineer's Report pass certificate.

Vehicles meeting this requirement may be licensed until such time as a mechanical defect is found and the above requirements cannot be achieved. At such a time, the vehicle will no longer be licensed.

These requirements are in addition to the general testing requirements of Section 2.6 of Section 2 of this Policy.

#### A3.2 Private Hire Vehicles

- A3.2.1 When first licensed, all vehicles must be less than five years old from the date of first registration.

- A3.2.2 Vehicles five years old or more from the date of first registration may apply for Exceptional Quality Status. To be granted Exceptional Quality Status, a private hire vehicle must:

- i) be in exceptionally good mechanical condition, and
- ii) be mechanically tested by the Council's authorised garage every six months and obtain a MOT pass certificate and an Engineer's Report pass certificate

A private hire vehicle granted Exceptional Quality Status may be licensed until such time as a mechanical defect is found and the above requirements cannot be achieved. At such a time, the vehicle will no longer be licensed.

#### **A4 Doors**

- A4.1 All saloon, estate, hatchback, or "London" hackney carriage and private hire vehicles shall have at least four side-opening doors, which may be opened from the inside and the outside.

Minibuses, transits and multi-passenger vehicles shall have at least 3 doors not including any tailgate or rear doors. There must be a minimum of fifty-four inches width between door handles.

- A4.2 All vehicles shall be constructed so that the doors open sufficiently wide as to allow easy access into and egress from the vehicle.

A4.3 All vehicles must have sufficient safe and suitable access and egress from the vehicle for the driver and all passengers, excluding the rear exit and the driver's front door.

## **A5 Tyres**

A5.1 The licensed vehicle must be fitted with either all radial or all cross-ply tyres, including the spare wheel.

A5.2 All tyres, including the spare wheel, must be suitable for use on the vehicle and conform to the requirements of the Original Manufacturers' Specification.

A5.3 Run-flat tyres are acceptable on licensed vehicles.

A5.4 'Space-saver' spare tyres are acceptable on licensed vehicles if they conform to the Original Manufacturers' Specification.

If a 'space-saver' spare tyre is used on a licensed vehicle it must only be for the duration of completing the current fare and returning to a garage to obtain a suitable replacement. No further fares may be taken whilst the 'space-saver' spare tyre is being used on the vehicle.

## **A6 Drivers' Vehicle Mirrors**

A6.1 External rear view mirrors must be fitted to both sides of all licensed vehicles.

A6.2 All licensed vehicles must have an internal rear view mirror appropriately fitted in accordance with appropriate legislation and/or manufacturers' specification.

## **A7 Interior Dimensions**

A7.1 There must be sufficient space between the seat cushions and the lowest part of the roof to safely accommodate the driver and passengers in reasonable comfort. Thirty four inches, or the metric equivalent, is the minimum recommended.

A7.2 There must be sufficient space between the front and back seats to safely accommodate the driver and passengers in reasonable comfort. There must be at least seven inches, or the metric equivalent, between the back of the front seat and the front of the next row of rear seats.

## **A8 Seats**

A8.1 Access to every passenger seat must be unobstructed and be easily accessible to passengers without the need for seats to be folded or removed and without the need for more than one passenger to move.

A8.2 Passenger seats must be at least sixteen inches, or the metric equivalent, wide per passenger with no significant intrusion by wheel arches, armrests or other parts of the vehicle. Measurements are to be taken laterally along the widest part of the seat.

A8.3 Unless the Original Manufacturers' Specification states otherwise, the front seat of the vehicle next to the driver will be regarded as a seat for one passenger only.

## **A9 Seat Belts**

A9.1 All vehicles must be fitted with fully operational seat belts, one for each passenger to be carried, fully compliant with the relevant British Standard, except where legislation specifically provides an exemption.

A9.2 In relation to the carriage of all passengers, including children, the requirements of all relevant legislation must be complied with.

## **A10 Passenger Capacity**

A10.1 All licensed vehicles should be capable of carrying not less than four and not more than eight passengers.

A10.2 The seating capacity for each licensed vehicle will be determined by the Council in accordance with the requirements of Appendix A of this Policy.

The vehicle licence plate will state the number of passengers applicable to the vehicle.

## **A11 Fire Extinguishers**

A11.1 An appliance for extinguishing fires must be carried in all licensed vehicles. Such an appliance must be either:

- i) ABC General Purpose Powder, or
- ii) AFFF Foam

and conform to BSEN 3, showing the appropriate kite-mark.

A11.2 The appliance must be securely fixed in a position readily accessible to the driver. It is acceptable for the appliance to be carried inside the vehicle's luggage compartment, however, it is preferable that the appliance is carried in the passenger compartment and visible to the passengers.

A11.3 All extinguishers must be certified in accordance with the appropriate British Standard. The date of expiry must be clearly visible on the extinguisher. The extinguisher must be marked with the vehicle registration number or licence plate number.

## **A12 First Aid Kit**

A12.1 All licensed vehicles must carry a first aid kit suitable for treating minor injuries. There is no requirement for a driver to administer first aid treatment, however, the first aid kit should be made available to passengers or appropriate persons if appropriate.

- A12.2 The first aid kit should be stored in such a position so as to be readily available to the driver at all times.
- A12.3 The first aid kit should be marked with the registration number of the vehicle and replenished as necessary to conform with any product expiry date.
- A12.4 North Hertfordshire District Council will not specify a required list of products for the first aid kit, however, as a minimum it is recommended that this kit contains:
- (i) individually wrapped sterile adhesive dressings (assorted sizes)
  - (ii) sterile eye pads
  - (iii) individually wrapped sterile triangular bandages
  - (iv) safety pins
  - (v) medium sized individually wrapped sterile wound dressings (approximately 12cm x 12cm)
  - (vi) large individually wrapped sterile wound dressings (approximately 18cm x 18cm)
  - (vii) pair of disposable gloves

### **A13 Ventilation**

- A13.1 Windows must be provided to all passenger compartments along with adequate means of opening and closing not less than one window on either side of the vehicle, in both the front and rear passenger compartments.
- A13.2 Rear passenger windows must be capable of being opened by passengers when seated unless air conditioning is available, in which case the air conditioning must be operated by the driver upon request.

### **A14 Luggage**

- A14.1 Adequate storage for passenger luggage must be available. Luggage carried must be suitably secured in place without obstructing any emergency exits.
- A14.2 If the licensed vehicle is an estate, hatchback, or multi-passenger type vehicle, it must be fitted with a guard-rail or manufacturer's specification compartment cover, approved by the Council, to prevent luggage from entering the rear passenger compartments.

Exemption from this requirement will only be given where the construction of the vehicle, in the council's opinion, does not require such a rail.

**A15 Maintenance and Condition of the Vehicle**

- A15.1 The exterior of all licensed vehicles shall be maintained in a clean, safe and proper manner at all times. In particular, the exterior of the vehicle shall:
- i) be free of large and/or sharp-edged dents,
  - ii) be free of visible rust,
  - iii) be free of unrepaired accident damage (except where a Licensing Officer has agreed a time period for cosmetic repairs under Section A30.2),
  - iv) have uniform paintwork equivalent to that applied by the manufacturer, and
  - v) be maintained in an acceptable state of cleanliness, (discretion may be given during periods of adverse weather)
- A15.2 The interior of all licensed vehicles shall be maintained in a clean, safe and proper manner at all times. In particular, the interior of the vehicle shall:
- i) be free of all stains to the upholstery,
  - ii) be free of all splits and tears to the seats,
  - iii) be maintained in an acceptable state of cleanliness, and
  - iv) provide seats functioning in accordance with the Original Manufacturers' Specification.
- A15.3 All licensed vehicles shall be liable to be randomly inspected and tested by Authorised Council Officers or the Police. If it is discovered during an inspection that a vehicle is not being properly maintained, an Improvement Notice may be served on the owner under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976. This notice will specify the defects and the action required to remedy the problem.
- If public safety is compromised in any way by the defects, the further use of the vehicle may be prohibited until the action required by the Improvement Notice has been carried out and the vehicle has successfully undergone a further inspection, which could result in loss of earnings.
- Improvement Notices will be used for defects such as:
- construction and use faults
  - faulty brakes
  - bald tyres
  - missing light bulbs
- A15.4 Failure to comply with the requirements of an Improvement Notice will be considered as a serious breach of licensing requirements and dealt with accordingly. If the requirements of an Improvement Notice are not rectified within two months, the vehicle licence can be revoked.

**A16 Modifications**

A16.1 No material alteration or change in the specification, design, condition or appearance of any licensed vehicle may be made without:

- i) compliance with road traffic legislation,
- ii) compliance with insurance requirements, and
- iii) obtaining approval for the change(s) from the Council

It is unlikely that anything, not of the Manufacturers' Original Specification, will be permitted.

**A17 Licence Plates**

A17.1 At all times when a vehicle is being used as a hackney carriage or private hire vehicle, unless an exemption has been granted under Section A17.3 of this Policy, the vehicle must:

- display the licence plate provided by the Council, securely fixed externally in a prominent position on or above the rear bumper of the vehicle

A17.2 The licence plate remains the property of the Council and must be returned within seven days when:

- i) the vehicle ceases to be licensed as a hackney carriage or private hire vehicle, or
- ii) requested to do so by an Authorised Officer of the Council in writing when the plate is suspended, revoked, or has expired.

A17.3 Exemption to the requirements of Section A17.1 of this Policy may be given in certain circumstances to private hire vehicles. In order to qualify for exemption, a written letter of exemption must be obtained from the council and carried in the vehicle at all times. The licence plate must still be carried in the vehicle in these circumstances.

In the absence of an exemption letter in the vehicle, the requirements of Section A17.1 above must be complied with.

**A18 Signage**

A18.1 Hackney Carriage Vehicle Markings

A18.1.1 Hackney carriage vehicles, other than those with built-in roof signs, must be fitted with an illuminated external sign on and above the roof of the vehicle. The sign must display either:

- i) the word "TAXI", or
- ii) the name and telephone number of the hackney carriage company, or
- iii) the words "FOR HIRE", or
- iv) a combination of the above

The roof sign and lettering shall be of an appropriate size to enable it to be clearly identifiable to the public.

- A18.1.2 The illuminated external roof sign, including built-in roof signs, must be switched off when the vehicle has been hired.
- A18.1.3 The roof sign, other than those built-in to the vehicle, must be mounted on the forward half of the vehicle roof and be adequately secured.
- A18.1.4 An internal illuminated "FOR HIRE" sign may be fitted in licensed hackney carriages, in a position approved by the council. The sign's illumination must be switched off when the vehicle has been hired.

## A18.2 Private Hire Vehicle Markings

- A18.2.1 A private hire vehicle must not carry any roof sign or any markings that may give the impression that it is a hackney carriage.
- A18.2.2 Any advertising or signage on the vehicle must not include the words "taxi", "cab", "hackney carriage" or "hire".

In the case of the word Taxi being part of the company name, for example "XYZ Taxis", the company name may be displayed on the vehicle provided that there is also reference to the fact that the vehicle is a private hire vehicle and must be pre-booked.

## A19 Advertising

- A19.1 No more than four external advertisements shall be permitted on hackney carriages or private hire vehicles. The roof sign on hackney carriages is not included as an advertisement for the purpose of this section.
- A19.2 External advertisements shall be confined to the doors of the vehicle and shall not exceed in size what can be reasonably accommodated on each door panel.
- A19.3 Any advertisement on the front door panels of the vehicle must be restricted to the name, logo or insignia, telephone number, or other contact details of the owner or operator of the vehicle. No other advertisement is permitted on the front door panels.
- A19.4 Advertising of other businesses, products or services is only permitted on the rear door panels of the vehicle.
- A19.5 No advertisement shall obliterate, obscure or be confused with the vehicle's licence plate.
- A19.6 In addition, internal advertisements are permitted on the windscreen or rear window but must be:
- i) no wider than ten centimetres and
  - ii) positioned so that they do not obstruct the driver's view in any way.

- A19.7 For the purpose of this section, the display of 'no smoking' signage, as required by legislation, is not considered to be advertising.
- A19.8 For the purpose of this section, a sign indicating that the vehicle is able to convey passengers in wheelchairs (provided that the vehicle has been manufactured or properly adapted for that purpose) is not considered to be advertising.
- A19.9 All advertisements shall be in good taste and contain no material that may be considered to be offensive to any section of the community.
- A19.10 The owner of any vehicle displaying an advertisement that does not conform to this section of the Policy will be required to remove the offending advertisement. Until such time as the offending advertisement has been removed, the vehicle licence will be suspended.

## **A20 Communications Devices**

- A20.1 All two-way radio equipment must be of a type currently approved by the Radio Communications Agency.
- A20.2 All radio equipment fitted to the vehicle must be fitted securely and safely and in accordance with guidelines for the time being published by the Radio Communications Agency.
- A20.3 Only one two-way radio may be operational in the vehicle at any one time and this shall be an approved licensed radio used exclusively for the hackney carriage or private hire vehicle.
- A20.4 The use of a Citizen Band (CB) transmitter or receiver is prohibited.
- A20.5 The use of radio scanning devices is prohibited and such devices must not be fitted or carried in the vehicle.

## **A21 Meters**

- A21.1 Hackney carriages
- A21.1.1 An approved taximeter must be fitted in all hackney carriages and must be correctly calibrated, sealed and fully functional in accordance with the current Council approved fare structure.
- All taximeters must be appropriately stamped to ensure compliance with The Measuring Instruments (Taximeters) Regulations 2006, or any subsequent legislation.
- A21.1.2 The taximeter shall be positioned so that the display on the face of the meter may clearly visible to any person being conveyed in the vehicle at all times. The dial of the taximeter shall be kept properly illuminated throughout any part of the hiring which is during the hours of darkness, as defined for the purposes of the Road Transport Licensing Act 1957, and also at any time at the request of the hirer.

- A21.1.3 When the meter is operating there shall be recorded on the face of the meter in clearly legible figures a fare not exceeding the maximum fare that may be charged for a journey.
- A21.1.4 An official copy of the Council's fare tariff shall be clearly displayed in the vehicle so as to be plainly visible to passengers carried therein.
- A21.1.5 The vehicle taximeter shall be brought into operation at the commencement of the journey and the fare demanded by the driver shall not be greater than that fixed by this Council in connection with the fare tariff for the hire of hackney carriages.

In the event of such a journey commencing in but ending outside North Hertfordshire, there may be charged for the journey such fare as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that fixed by the Council in connection with the fare tariff for the hire of hackney carriages.

## A21.2 Private Hire

- A21.2.1 Private hire vehicles are not required to be fitted with a taximeter. Where a taximeter or other device for recording fares is fitted, however, it must be of a type approved by the Council.
- A21.2.2 Private hire vehicle driver's should agree the cost of the journey with the passenger(s) prior to undertaking the journey. At the conclusion of the journey, the fare charged should not exceed the amount previously agreed.

## A22 Trailers

- A22.1 Trailers may only be used with the prior approval of the Council and subject to the following requirements:
- (i) The driver's DVLA driving licence must cover the categories that allow the towing of trailers, currently 'BE' for cars and 'D1E' for a minibus, as amended by any subsequent legislation;
  - (ii) The trailer must at all times comply with all requirements of road traffic legislation, in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986;
  - (iii) The vehicle insurance must include cover for towing a trailer;
  - (iv) Trailers must not be left unattended anywhere on the highway;
  - (v) The speed restrictions applicable to trailers must be observed at all times;
  - (vi) A suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use;
  - (vii) Trailers must be approved by the Council;

- (viii) Trailers must undergo any inspection required by the Council;
- (ix) Trailers must display an identical licence plate to the licensed vehicle. The Council may charge an administrative fee for the duplicate plate;
- (x) Trailers cannot be used on a hackney carriage rank and should only be used for specific pre-booked journeys.

## **A23 Disability Access**

- A23.1 In the case of all hackney vehicles, which are built or adapted for disabled passengers, the design of the vehicle should preferably ensure that any wheelchair is loaded from the side rather than the rear of the vehicle. Whilst the Council prefer vehicles to be loaded from the side, each vehicle will be assessed on its own merits.
- A23.2 Where a vehicle is utilised for the carriage of passengers in a wheelchair, the following conditions shall apply:
- (i) Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus.
  - (ii) Wheelchair internal anchorage must be of the manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit.
  - (iii) A suitable restraint must be available for the occupant of a wheelchair.
  - (iv) Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper.
  - (v) Ramps and lifts must be securely stored in the vehicle before it may move off.
- A23.3 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times.
- A23.4 Where a vehicle is designed or adapted to carry a wheelchair, the proprietor shall ensure that the driver has received sufficient training to safely load and convey wheelchair bound passengers.

**A24 Vehicles Powered by Liquid Petroleum Gas (LPG)**

- A24.1 An applicant for a licence involving a vehicle that has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming satisfactory installation, examination and testing of the vehicle in accordance with LPG Association Code of Practice. This certification is required to ensure that the vehicle is considered safe by an approved inspector.
- A24.2 If an LPG conversion involves installation of an LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Alternatively, if the vehicle is fitted with 'run-flat' tyres, exemption from carrying a spare wheel will be granted.

**A25 Tinted Windows**

- A25.1 The front windscreen, front driver's side window and front passenger's side window must be clear glass. Exemption from this requirement will be given for original manufacturer's specification 'light tint' glass.
- A25.2 The rear windscreens of any vehicle shall not have been treated so that less than 75% of light is transmitted through it, and the rear passenger compartment side windows of any vehicle so that less than 70% of light is transmitted through them unless the following criteria can be met:
- (i) The vehicle is licensed as private hire vehicle only;
  - (ii) The vehicle is a stretched limousine vehicle (see separate additional conditions for limousines at Appendix B);
  - (iii) The vehicle will not be engaged at any time in any contract for the carriage of school children;
  - (iv) The Private Hire Operator must, unless such a vehicle has been specifically requested, inform a hirer that such a vehicle will be supplied.

This section does not preclude any requirements provided for in any relevant legislation relating to road traffic vehicles.

**A26 Insurance**

- A26.1 There shall be a policy of insurance, or such security as complies with the requirements of Part IV of the Road Traffic Act 1972, during the duration of the vehicle licence. Under no circumstances will a vehicle licence be issued or renewed without proof that this section has been complied with.
- A26.2 The registered owner of the licensed vehicle shall ensure that it is adequately insured to the satisfaction of the Council and all relevant legislation at all times that it is available for the carrying of passengers.

A26.3 At any time when the requirements of this section of the Policy have not been satisfied, the vehicle licence will be automatically suspended until such time as adequate insurance has been obtained..

## **A27 Changes**

A27.1 Any change affecting this vehicle licence must be notified within fourteen days of such change, to the Licensing Officer.

A27.2 When the holder of a vehicle licence wishes to transfer the licence to another person he must notify the Council, in writing, using the prescribed application form and paying the appropriate fee before such change takes place.

Transfer of the licence will not be granted until such time as the prescribed procedure has been completed and a new vehicle licence has been issued.

## **A28 Inspection**

A28.1 All hackney carriage and private hire vehicles must be available for inspection at all times when requested by an Authorised Officer of the Council or a Police Officer.

A28.2 All vehicle documentation must be produced within twenty four hours when requested by an Authorised Officer of the Council or a Police Officer.

## **A29 Unauthorised Use**

A29.1 The proprietor of a hackney carriage or private hire vehicle shall not allow the vehicle to be driven and used for hire by any person who does not hold an appropriate current hackney carriage or private hire driver's licence issued by North Hertfordshire District Council.

## **A30 Accident Reporting**

A30.1 In accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976, any accident to a hackney carriage or private hire vehicle causing damage materially affecting:

- i) the safety, performance or appearance of the vehicle, or
- ii) the comfort or convenience of the passengers,

must be reported to the Council as soon as reasonably practicable, and in any case within seventy-two hours of the occurrence thereof.

A30.2 Where, following an accident or damage to a licensed vehicle as defined in Section A30.1, and it is the intention of the owner or operator to continue licensed use, the vehicle must immediately be inspected by the Council's approved garage (at the owner's or operator's expense) to determine its fitness for continued use. It is the responsibility of the licence holder to notify the Council that this requirement has been satisfied.

If the Council's approved garage determines that the vehicle is fit for continued use, the time-scale for cosmetic repairs must be agreed with a Council Licensing Officer.

The Council may suspend the use of a licensed vehicle until it is suitably repaired and conforms to the requirements of section 15 of this Appendix.

A30.3 A licensed vehicle which has suffered major accident damage or requires substantial mechanical repair may be temporarily replaced by a hire vehicle, provided:

- (i) the damage to, or defect in, the vehicle has been reported;
- (ii) an application is made in the prescribed manner for a vehicle licence transfer;
- (iii) the replacement vehicle meets the requirements of the Council's Hackney Carriage and Private Hire Licensing Policy and is suitable to be used for hire purposes;
- (iv) the hiring of the hire vehicle is organised and paid for by the affected licensed owner or operator.

### **A31 Miscellaneous**

A31.1 The proprietor of a hackney carriage or private hire vehicle shall not knowingly cause or permit the vehicle to be used for any illegal or immoral purpose.

A31.2 Nothing in Appendix A of this Policy shall be interpreted as overriding the provisions of:

- i) the Town Police Clauses Act 1847, as amended;
- ii) the Local Government (Miscellaneous Provisions) Act 1976, as amended;
- iii) the Transport Act 1986, as amended.

### **A32 Health Act 2006**

A32.1 It is the responsibility of both the driver and the proprietor to ensure no smoking signage, as prescribed by the Health Act 2006, is displayed in all licensed hackney carriages or private hire vehicles at all times.

### **A33 Dispensation**

A33.1 The Head of Housing and Environmental Health may, in exceptional circumstances, dispense with or amend any of the requirements detailed within Appendix A of this Policy. In doing so, the reasons for granting such a dispensation must be fully explained and the requirements of Section 11 of this Policy must be satisfied.

## APPENDIX B

### ADDITIONAL CONDITIONS FOR LICENSING STRETCHED LIMOUSINES

#### **B1 Definition**

B1.1 For the purposes of this Policy, a stretch limousine is defined as follows: -

*A stretch limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures that;*

- i) is capable of carrying up to but not exceeding 8 passengers;*
- ii) prior to the introduction of this Policy could not currently be licensed by the Council as a private hire vehicle; and*
- iii) is not a decommissioned military or emergency service vehicle.*

All references to limousine within this Policy assume compliance with the above definition.

#### **B2 Licensing Conditions**

B2.1 Unless specifically stated otherwise below, all requirements relating to the licensing of private hire vehicles apply to limousines.

The requirements below are additional requirements specifically for limousines licensed as private hire vehicles.

B2.2 Left-Hand Drive

B2.2.1 Left-hand drive limousines will be permitted as private hire vehicles

B2.3 Seating

B2.3.1 Sideways facing seating will be permitted in limousines providing that it conforms with all relevant road traffic vehicle legislation.

B2.4 Roadworthiness

B2.4.1 All limousines licensed as private hire vehicles must hold a valid Single Vehicle Approval (SVA) Certificate.

B2.5 Insurance

B2.5.1 All limousines licensed as private hire vehicles must have appropriate insurance to cover the provision of a service to the public for hire and reward, taking into account the specification of the vehicle.

- B2.6 Tyres
- B2.6.1 Given the increased weight of the vehicle, the vehicle must be fitted with tyres of appropriate size and grade to conform with the Original Manufacturers' Specification.
- B2.7 Vehicle Testing
- B2.7.1 All limousines licensed as private hire vehicles must obtain six-monthly test certificates showing that the vehicle has satisfied the standards of the appropriate MOT Class. The vehicle licence holder is responsible for sourcing a garage approved to carry out such tests and providing documentation attesting to the garage's compliance with the requirements of Section B4 of Appendix B below.
- B2.8 Carrying of Passengers
- B2.8.1 All limousines licensed as private hire vehicles must reduce their seating capacity to a maximum of eight passengers.
- B2.8.2 Passengers shall not be permitted to be carried in any seats in the driver's compartment.
- B2.8.3 The vehicle must not carry more than eight passengers at any time. For the purpose of counting passengers, a child of any age will be classed as a passenger.
- B2.9 Advertising
- B2.9.1 In any advertisement publicising a limousine service, the advertisement must state that the vehicle is only licensed to carry eight passengers.
- B2.10 Seat Belts
- B2.10.1 Seatbelts complying to all relevant legislation must be fitted to all forward and rear facing seats and must be worn by passengers at all times the vehicle is in motion.
- There is no legal requirement for seatbelts to be fitted on sideways facing seats, however, if they are fitted they must be worn by passengers at all times the vehicle is in motion.
- B2.11 Provision of Alcohol
- B2.11.1 Alcoholic drinks may only be provided in the vehicle when the vehicle is complying with all relevant requirements of the Licensing Act 2003.
- B2.11.2 Alcohol shall only be served whilst the vehicle is stationary. Whilst the vehicle is in motion, all receptacles containing alcohol shall be securely stored.
- B2.11.3 If any occupants of the vehicle are below the age of eighteen years old, the vehicle must not contain any alcohol.
- B2.11.4 All glassware used in the vehicle must be made of shatterproof glass, or alternatively be made of plastic.

- B2.12 Provision of Entertainment
- B2.12.1 The driver shall not play or permit the performance of any media that, given it's age classification or content, is unsuitable for the age of the youngest passenger in the vehicle.
- B2.12.2 The limousine proprietor shall ensure that a Performing Rights Society (PRS) Licence and Phonographic Performance Licence (PPL) are held for the vehicle, where appropriate.
- B2.12.3 If the limousine parks to provide some form of licensable entertainment for it's passengers, only entertainment complying with the relevant requirements of the Licensing Act 2003 shall be permitted.
- B2.13 Luggage
- B2.13.1 Limousines licensed as private hire vehicles are not permitted to carry luggage within the passenger compartment of the vehicle.
- B2.14 Safety Hammer
- B2.14.1 Limousines licensed as private hire vehicles must carry a safety hammer capable of being used to break the window glass of the vehicle. The hammer must be securely located within the driver's compartment.

### **B3 Driver and Operator Licensing Requirements**

- B3.1 A proprietor offering limousines licensed as private hire vehicles for hire in North Hertfordshire must hold a private hire operators' licence with North Hertfordshire District Council.
- B3.2 All bookings for a limousine licensed as a private hire vehicle must be booked through the licensed private hire operator.
- B3.3 Once licensed in North Hertfordshire as a private hire vehicle the limousine can only be driven by a private hire driver licensed by North Hertfordshire District Council. This applies at all times whilst the vehicle holds a private hire vehicle licence.
- B3.4 All drivers and operators of limousines licensed as private hire vehicles are required to satisfy all appropriate requirements of this Policy.

### **B4 Vehicle Testing Stations**

- B4.1 Limousines licensed as private hire vehicles will required to provide six-monthly MOT certificates from a VOSA goods vehicle testing station, or alternatively a VOSA approved class 5 testing station, that has appropriate facilities.

- B4.2 If you propose to obtain an MOT from any vehicle testing station other than those listed in Section B4.1 of this Policy, you are advised to contact the Council before submitting the vehicle for an MOT, otherwise you may find that the certificate cannot be accepted.

## APPENDIX C

### APPLICATION PROCEDURES

#### **C1 Vehicles**

- C1.1 When presenting an application, the following documents **MUST** accompany the prescribed application form, the application will not be considered complete until all documentation has been received (see Section 2.11.2):
- (i) **REGISTRATION DOCUMENT**  
(which must show the vehicle as belonging to the applicant either wholly or jointly with any other person(s) hereinafter described as proprietor(s) thereof);
  - (ii) **INSURANCE CERTIFICATE**  
(if a cover note, licence holders will be required to produce further insurance certificates on or before the expiry of the cover note. )
  - (iii) **MOT CERTIFICATE**
  - (iv) **ENGINEER'S REPORT**  
(also known as a compliance certificate)
- C1.2 The application form, fee and original documentation must be provided to the Council either by post, or by hand delivery to the Customer Service Centre at Gernon Road, Letchworth Garden City.
- C1.3 Appointments with an Officer can only be made on Wednesday's between 10:00hrs and 16:00hrs, except in exceptional circumstances.
- C1.4 Plates and paper licences can be collected from the Customer Service Centre by prior arrangement or sent in the post.
- Documentation may be left at the Customer Service Centre for forwarding to an Officer without an appointment.
- C1.5 Prior to submitting the vehicle for testing, owners must ensure that the vehicle is in good condition, i.e., mechanically sound, bodywork in a satisfactory condition. The Council's approved garage may ask for the engine and/or full chassis to be steam cleaned if the vehicle is presented in a state whereby the components are too dirty to inspect.
- C1.6 Owners of vehicles will be subject to a re-charge fee in respect of vehicles that have to be re-submitted for a second inspection test on the grounds of mechanical/M.O.T. related re-inspections pertaining to the specified requirements for hackney carriage or private hire vehicles.

**C2. Drivers**

C2.1 Applications for Hackney Carriage or Private Hire Drivers' Licences may be made at any time of the year. This is subject to the requirements of Section 3 of this Policy.

C2.2 Applications are to be made on the prescribed application form.

C2.3 In support of a completed application form, the Applicant must provide the following original documentation:

- (i) a current full driving licence;
- (ii) enhanced disclosure from the CRB, which may be obtained through the Council;
- (iii) the specified fee, which may be refundable in the event of refusal of the licence, less an appropriate administrative charge (see Section 9.3.4);
- (iv) a medical certificate (if applicable)
- (v) a DSA pass certificate (if required)
- (vi) two passport-sized photographs of the applicant

**C3 New Driver Knowledge Tests**

C3.1 Introduction

C3.1.1 In order to maintain the high standards that the Council expects of its hackney carriage drivers operating within the District, all new drivers are required to pass a knowledge test.

The test will consist of two parts, one written and one verbal, and both parts must be passed to be considered for a hackney carriage driver's licence.

C3.1.2 North Hertfordshire District Council acknowledge that the same level of instant geographical knowledge of the District is not as necessary for private hire vehicle driver's. All private hire is pre-booked and so the driver has the opportunity to research the destination prior to departure.

An applicant will only be required to pass the verbal part of the knowledge test in order to be considered for a private hire driver's licence.

### C3.2 Test Composition

C3.2.1 Applicants will be tested on their knowledge of the relevant zone of North Hertfordshire in which they intend to operate. Questions for the written test may include:

- i) the shortest route between locations,
- ii) the locations of prominent buildings, such as hotels, Surgeries, schools, place of interest, etc.,
- iii) the highway code
- iv) the Council's Hackney Carriage and Private Hire Licensing Policy,
- vi) customer care, including calculation of change for a given fare, and basic conversation, etc.

Questions for the verbal test may include geographical questions as detailed in i) and ii) above, and will include highway code, this Policy and customer care.

C3.2.2 Thirty minutes is allowed for the thirty question written test and fifteen minutes for the verbal test.

The pass mark for the written test is twenty-five out of thirty, whilst the pass mark for the verbal test is twelve out of fifteen.

C3.2.3 Both parts of the test will be taken on the same day and constitute one Driver Knowledge Test. A pass must be achieved in both the written and verbal tests to satisfy the Driver Knowledge Test.

### C3.3 Driver Test Failure

C3.3.1 Applicants who fail to achieve a pass in either of the written or verbal tests shall fail the Driver Knowledge Test and be invited to take a different test on another occasion.

C3.3.2 Three attempts to pass the tests are permitted in any one twelve month period. After a third failure, no further tests will be permitted until the period of six months from the date of the first test has elapsed.

A fee will be charged for each test attempt.

## **C4 The consideration of applications**

C4.1 Upon receipt of a completed application form, including the fee and all supporting documentation, the Council will consider the application. Where the application is incomplete, it will not be considered until all the missing details or documents are supplied.

C4.2 If satisfied that an applicant is a 'fit and proper person' to hold a hackney carriage or private hire licence, having satisfied all the licensing requirements, the application will be granted under delegated powers as provided for by the Council's Scheme of Delegation.

- C4.3 Successful applicants will be notified in writing and issued with the appropriate paper licence.
- Those who are granted drivers' licences shall be issued with a Drivers' Badge, which shall remain the property of the Council and must be surrendered when the driver ceases employment as a driver.
- Those who are granted vehicle licences shall be issued with a Licence Plate, which shall remain the property of the Council and must be surrendered when the driver ceases employment as a driver.
- C4.4 Where the Licensing Officer is not satisfied that the applicant should be granted a licence, the matter must be referred to the Head of Housing and Environmental Health. The applicant will be advised of the date, time and venue of the meeting at which the application will be considered.
- C4.5 In preparation for the meeting with the Head of Housing and Environmental Health, all parties in attendance will receive a report in advance from the Licensing Officer.
- At the meeting, the Head of Housing and Environmental Health shall hear representations from the applicant and may ask any pertinent questions, before deciding upon whether a licence should be granted. The applicant will be told of the outcome at the conclusion of the meeting and this will be confirmed in writing within seven days.
- C4.6 Unsuccessful applicants will be informed of their right to appeal against the decision to the magistrates' court within twenty one days of receipt of the formal notice of refusal of the application.
- C5 Criminal Conviction Certificate's (Criminal Records Bureau checks)**
- C5.1 New Applicants
- C5.1.1 No application for a new hackney carriage or private hire driver's licence will be considered without a CRB Certificate satisfying the requirements of this Policy.
- C5.2 Applications for Renewal
- C5.2.1 Applications for the renewal of a hackney carriage or private hire driver's licence will be considered in the absence of a CRB Certificate providing that:
- i) the CRB certificate has been applied for, and
  - ii) the applicant has signed a Disclosure of Convictions Declaration that states that the applicant has not received any relevant convictions, cautions or fixed penalty notices.
- C5.2.2 If the subsequent CRB certificate highlights a relevant conviction, the driver's licence may be suspended or revoked in accordance with this Policy. In addition, the driver may be prosecuted for failing to advise of the relevant conviction and for making a false declaration as part of the application process.

## APPENDIX D

### RELEVANCE OF CONVICTIONS TO APPLICATIONS

#### **D1 Introduction**

The following guidelines will be used to determine the relevance of criminal convictions in relation to applications for hackney carriage and private hire driver's licences. In so stating, North Hertfordshire District Council has adopted the guidelines set out in the Department for Transport Circular 2/92 and Home Office Circular 13/92, subject to certain limited modifications.

#### **D2 General Policy**

D2.1 Each application will be determined on its own merits.

D2.2 A person with a current conviction for serious crime need not be permanently barred from obtaining a licence. Before an application will be considered, an applicant will be expected to remain free of conviction for three to five years, depending on the circumstances of the offence.

Discretion may be given if the offence is isolated and there are mitigating circumstances, however, the predominate consideration will be the protection of the public.

#### **D3 General Principles**

D3.1 General

Listed below are some general principles relating to the determination of applications for drivers and operators of hackney carriages and private hire vehicles. These are indications of North Hertfordshire District Council's policy in relation to the relevance of convictions, however, each individual application will be considered on its own merits.

D3.2 Minor Traffic Offences

D3.2.1 Convictions for minor traffic offences such as obstruction, waiting in a restricted area, speeding, etc. will not automatically preclude a person from obtaining a hackney carriage or private hire driver's licence.

D3.2.2 Multiple occurrences of similar current offences, however, may result in the issue of a warning as to future driving standards.

D3.2.3 If sufficient DVLA penalty points have been accrued to require a period of disqualification of the applicant's DVLA driving licence, then a hackney carriage or private hire vehicle driver's licence may be granted after the restoration of the driving licence.

A period of twelve months will be required since the expiry of the disqualification, or from the date of any subsequent conviction, before a hackney carriage or private hire driver's licence can be obtained. A warning will also be given about future driving standards.

- D3.2.4 In circumstances where a driver acquires twelve or more penalty points on his DVLA driving licence, but is not disqualified from driving because of mitigating circumstances put before the magistrates' court, the driver's hackney carriage or private hire licence may still be revoked or suspended.

Such a matter will always be dealt with by way of a disciplinary hearing (see **Appendix M**).

### D3.3 Major Motoring Offences

- D3.3.1 An isolated conviction for a major motoring offence such as reckless driving or driving without due care and attention will normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers.

- D3.3.2 More than one conviction for this type of offence within the last two years will normally result in the application being refused, with no further application then being considered until a period of one to three years free from convictions has elapsed.

- D3.3.3 A single conviction for causing death by careless driving or death by dangerous driving will be referred to the Head of Housing and Environmental Health for determination on the merits of the case.

### D3.4 Applications where Minor Traffic Offences are not Declared

Where an applicant has failed to disclose one or more of the above offences on their application form, but such offences are subsequently uncovered during a DVLA check, or by any other means, the Council may still issue the licence subject to a warning regarding future conduct.

If, however, the Council considers that there was a premeditated intention to deceive, the matter will be referred to the Head of Housing and Environmental Health to be dealt with by way of a disciplinary hearing (see **Appendix M**).

### D3.5 Drunkenness

#### D3.5.1 In charge of a motor vehicle

North Hertfordshire District Council regard convictions for driving, or being in charge of, a motor vehicle whilst under the influence of drink as a serious obstacle to obtaining a hackney carriage or private hire vehicle driver's licence.

An isolated incident may not automatically preclude the issue of a licence, however, final warnings would be given as to future behaviour should a licence be issued.

More than one conviction for these offences will result in the matter being referred to the Head of Housing and Environmental Health to be dealt with by way of a disciplinary hearing (see **Appendix M**). At least five years from the date of conviction must have elapsed before such an applicant is considered for a licence.

If there is any suggestion that the applicant is an alcoholic, a special medical examination may be required before the application is considered. If the applicant is found to be an alcoholic, a period of three years must elapse after treatment is complete before a licence application can be considered.

#### D3.5.2 Not in charge of a motor vehicle

An isolated conviction for drunkenness need not preclude an applicant from obtaining a hackney carriage or private hire vehicle driver's licence. A number of convictions for drunkenness, however, could indicate a medical problem and a special medical examination may be required before an application is considered.

#### D3.6 Drugs

An applicant with a conviction for a Class A or Class B drug related offence is required to show a period of at least five years free of convictions before an application is considered.

An applicant with a conviction for a Class C drug related offence is required to show a period of at least three years free of convictions before an application is considered.

If the applicant was considered an addict, a period of five years after detoxification treatment has been completed is required before an application is considered..

#### D3.7 Sexual or Indecency Offences

As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, will not normally be considered until they can show a substantial period (normally five years) free of such offences.

More than one conviction of this kind will preclude consideration for at least five years. In either case, if a licence is granted a final warning as to future conduct will be issued.

#### D3.8 Violence

As hackney carriage and private hire vehicle drivers maintain close contact with the public, careful consideration will be given to applicants who have convictions for grievous bodily harm, wounding, or assault. At least five years free of such convictions must be shown before an application is considered and a final warning as to future conduct will be administered if a licence is issued.

### D3.9 Dishonesty

Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for dishonest drivers to defraud the public, for example, by demanding more than the legal fare. Overseas visitors can be confused by the change in currency and become vulnerable to an unscrupulous driver.

For these reasons, careful consideration will be given to any convictions involving dishonesty. Generally, a period of three to five years free of convictions will be required before an application is considered.

### D3.10 Other Offences and Special Circumstances

D3.10.1 If the applicant has declared any other offences not listed above, or the specific circumstances of the application justify it, the application will be referred to the Head of Housing and Environmental Health for determination.

D3.10.2 Receipt of any of the following may result in the licence holder being required to provide annual Enhanced CRB Certificates until a period of five years has expired:

- i) criminal conviction or a warning letter,
- ii) Council final warning letter, or
- iii) period of suspension of a licence.

## **D4 Principles of The Rehabilitation of Offenders Act 1974**

D4.1 Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely.

D4.2 The possibility of rehabilitation and the length of time before rehabilitation occurs depends on the sentence imposed, and not the offence committed.

D4.3 Where a person is sentenced to imprisonment for a period exceeding thirty months, the conviction can never become spent.

D4.4 Despite the above, the principles of the Act do not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of these vehicles is listed as a "Regulated Occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

D4.5 Although the Act does not prevent any judicial authorities, including the Licensing Authority, from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a 'fit and proper person' to hold a licence.

D4.6 The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.

D4.7 The rehabilitation periods to which reference is most commonly made are set out below. For further details on the periods of rehabilitation applicable to all sentencing options, reference will need to be made to a specialist textbook on the Act.

Sentence	Rehabilitation Period
(a) Sentence of imprisonment or detention exceeding six months but not exceeding thirty months	Ten years
(b) Sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's Service	Ten years
(c) Sentence of imprisonment not exceeding six months	Seven years
(d) Sentence of dismissal from Her Majesty's Service	Seven years
(e) Sentence of detention in respect of a conviction in service disciplinary proceedings	Five years
(f) A fine, compensation, probation, community service or combination order	Five years
(g) Absolute discharge	Six months
(h) Conditional discharge	One year or date of expiry of order
(i) Action plan, curfew, drug treatment and testing order, or reparation order	Five years

## APPENDIX E

### PRIVATE HIRE DRIVER'S LICENCE CONDITIONS

#### **E1 Conduct of Driver**

- E1.1 The holder of a private hire driver's licence (hereafter known in this Appendix as the driver) shall comply with the following conditions, which should be read in conjunction with the Code of Good Conduct set out in **Appendix F**.
- E1.2 The driver shall be respectably dressed, clean and tidy in appearance at all times whilst his vehicle is being made available for hire..
- E1.3 The driver shall at all times, when acting in accordance with the drivers licence granted to him, wear such badge as supplied by the Council in such position and manner as to be plainly and distinctly visible at all times.
- The driver shall not lend the badge to any other person, or cause or permit any other person to wear it.
- On termination or surrender of a driver's licence, the driver shall return the badge to the Council immediately.
- E1.4 The driver shall behave in a civil, polite and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in, or entering or alighting from, the vehicle.
- E1.5 The driver shall not wilfully or negligently cause or permit the vehicle licence plate to be concealed from public view, or allow the licence plate to be so defaced as to make any figure or information illegible.
- E1.6 The driver who has agreed to, or has been hired to, be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle at such appointed time and place.
- E1.7 The driver, when hired to drive to a particular destination, shall proceed to that destination by either the shortest available route, or the believed cheapest route considering all known factors such as roadworks, delays, etc.
- E1.8 The driver shall not convey, or permit to be conveyed, in such vehicle any greater number of persons than the number of persons specified on the Vehicle Licence.
- E1.9 The driver shall convey a reasonable amount of luggage and afford reasonable assistance in loading and unloading luggage.
- E1.10 The driver must not solicit, by calling out or otherwise importune, any person to hire or be carried for hire and must not accept an offer for the hire of the vehicle except where that is first communicated to the driver by telephone.
- E1.11 The vehicle shall be presented in a clean and tidy condition for each journey.

- E1.12 The private hire vehicle must only be driven with the consent of the proprietor of the vehicle.
- E1.13 The driver must comply with any hirer's request not to smoke, drink or eat in the vehicle, or play any radio or sound equipment, which is not connected with the operation of the business.
- E1.14 The driver must ensure that the noise emitted from any sound equipment in the vehicle does not cause annoyance to any persons, whether inside or outside the vehicle.
- E1.15 The driver shall not operate the horn as a means of signalling that the vehicle has arrived.
- E1.16 The driver must not cause or permit the vehicle to stand on a public road, on a hackney carriage rank, or in a public place so as to suggest that it is plying for, or available for, hire.
- E1.17 Drivers must not use a mobile phone whilst driving unless it is designed for hands-free operation.

## **E2 Fitness of Driver**

- E2.1 The driver of a private hire vehicle must at any time, or at such intervals as the Council may reasonably require, produce a certificate issued by a Registered Medical Practitioner to the effect that he is, or continues to be, physically fit to be a driver of a private hire vehicle.
- E2.2 Whether or not such a Certificate is produced, the driver must, if required by the Council at any time, undergo a medical examination by a Registered Medical Practitioner selected by the Council.
- E2.3 The driver must cease driving any private hire vehicle and contact the Council immediately if they know of any medical condition which may affect their:
- i) driving ability or
  - ii) the health and safety of themselves or any passengers.

## **E3 Fares and Journeys**

- E3.1 The driver/operator of a private hire vehicle may make their own agreement with the hirer as to the fare for a particular journey.
- E3.2 The driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.
- E3.3 If the private hire vehicle is fitted with a taxi-meter, then the driver of a private hire vehicle must:
- (i) unless the hirer expresses at the commencement of the journey his desire to engage by time, bring the meter into operation at the commencement of the journey, and

- (ii) bring the machinery of the taxi-meter into action by moving the said key, flag or other device, so that the word 'HIRED' is legible on the face of the taxi-meter before beginning a journey and keep the machinery of the taxi-meter in action until the termination of the hiring.
- (iii) when standing, keep the key, flag or other device fitted for that purpose locked in the position in which no fare is recorded on the face of the meter.
- (iv) cause the dial of the taxi-meter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972, and also at any other time at the request of the hirer.
- (v) not demand from any hirer of a private hire vehicle a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a fare meter, the fare shown on the face of the taxi-meter.

E3.4 In the event of a journey commencing in but ending outside the District of North Hertfordshire there may be charged, for the journey, such fare or rate (if any) as was agreed before the hiring was affected. If no such agreement was made then the fare to be charged should be no greater than that determined by the taxi-meter.

#### **E4 Duties of Licence Holder**

E4.1 Any change affecting this licence must be notified to the Council. Notification should be as soon as reasonably practicable and in any event, no later than seven days after the change was effected.

E4.2 The private hire driver's licence must be made available for inspection, on request, by any Authorised Officer of the Council or any Police Officer.

E4.3 The driver must notify the Council, within seven days of starting or terminating employment, as to the name and address of the proprietor concerned and the date when the employment either started or ended.

E4.4 The private hire driver's licence must be presented to the proprietor concerned at the beginning of an employment.

E4.5 All licences, badges and plates remain the property of the Council at all times. They must be returned forthwith when employment as a licensed driver permanently ceases, the licence expires and is not renewed, or where the licence is suspended or revoked.

E4.6 The driver must notify the Council within a period of seven days of:

- i) any conviction for an offence, or
- ii) any receipt of a fixed penalty imposed on him

whilst the licence is in force.

**E5 Lost Property**

- E5.1 A driver of a private hire vehicle shall diligently search the vehicle periodically for any property which may have been accidentally left therein. Any property found should be carried as soon as possible, and in any event within forty-eight hours, to the nearest Police Station and leave it in the custody of an authorised officer after obtaining a receipt.

**E6 Accident Reporting**

- E6.1 In accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976, any accident to a private hire vehicle causing damage materially affecting:

- i) the safety, performance or appearance of the vehicle, or
- ii) the comfort or convenience of the passengers,

must be reported to the Council as soon as reasonably practicable, and in any case within seventy-two hours of the occurrence thereof.

**E7 The Carriage of Animals**

- E7.1 A driver must not carry in a private hire vehicle any animal whilst it is being used as a private hire vehicle, save for the exemptions detailed in Sections E7.2 and E7.3 of this Policy.

- E7.2 Animals in the custody of passengers may be carried, at the driver's discretion, provided they are restrained in a safe manner.

- E7.3 A driver must carry assistance dogs when required. Assistance dogs include guide dogs for the blind or partially sighted, hearing dogs for the hard of hearing, and other assistance dogs which assist disabled people with a physical impairment.

- E7.4 Any driver with a medical condition, which may be exacerbated by dogs, may apply for exemption from this condition. On production of suitable medical evidence, a certificate of exemption will be issued which must be carried in the vehicle at all times. Unless the certificate of exemption is available in the vehicle, the exemption will not apply.

**E8 Wheelchair Accessible Vehicles**

- E8.1 All drivers of wheelchair accessible vehicles must:

- (i) be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle.
- (ii) before any movement of the vehicle takes place, ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and the brakes of the wheelchair have been applied.

- (iii) ensure that any wheelchairs, equipment and passengers are carried in such a manner that no danger is likely to be caused to those passengers, or to anyone else, in accordance with the regulations detailed in section 100 of the Road Vehicles (Construction and Use) Regulations 1986.

## APPENDIX F

### **CODE OF GOOD CONDUCT FOR LICENSED DRIVERS**

This Code of Good Conduct should be read in conjunction with the other statutory and policy requirements set out in this document. Ordinarily, but without prejudice to any other disciplinary procedures detailed in this Policy, breaches of the Code of Good Conduct will be dealt with by use of the Penalty Points System contained within **Appendix K**.

#### **F1 Responsibility to the Trade**

Licence holders shall endeavour to promote the image of the hackney carriage and private hire trade by:

- (i) complying with this Code of Good Conduct;
- (ii) complying with the Council's Hackney Carriage and Private Hire Licensing Policy;
- (iii) behaving in a civil, orderly and responsible manner at all times.

#### **F2 Responsibility to Clients**

Licence holders shall:

- (a) maintain their vehicles in a safe and satisfactory condition at all times;
- (b) keep their vehicles clean and suitable for hire to the public at all times;
- (c) attend punctually when undertaking pre-booked hiring;
- (d) assist, where necessary, passengers' ingress to and egress from vehicles;
- (e) offer passengers reasonable assistance with luggage.

#### **F3 Responsibility to Residents**

To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:

- (a) not sound the vehicle's horn illegally;
- (b) keep the volume of all audio equipment and two-way radios to a minimum;
- (c) switch off the engine if required to wait;

- (d) take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.
- (e) at hackney carriage ranks, in addition to the requirements above:
  - (i) rank in an orderly manner and proceed along the rank in order and promptly;
  - (ii) remain in the vehicle.
- (f) at private hire offices:
  - (i) not undertake servicing or repairs of vehicles, unless the property has the appropriate planning permission;
  - (ii) not allow volume of all audio equipment and two-way radios to unduly disturb residents of the neighbourhood;
  - (iii) take whatever additional action is necessary to avoid disturbance to residents of the neighbourhood, which might arise from the conduct of their business.

#### **F4 General**

Drivers shall:

- (a) pay attention to personal hygiene and dress, so as to present a professional image to the public;
- (b) be polite, helpful and fair to passengers;
- (c) drive with care and due consideration for other road users and pedestrians and, in particular, shall not use a hand held mobile phone whilst driving;
- (d) obey all Traffic Regulation Orders and directions at all time;
- (e) not smoke at any time when inside the vehicle;
- (f) not consume alcohol\* immediately before, or at any time whilst, driving or being in charge of a hackney carriage or private hire vehicle;
- (g) not drive while having misused legal or illegal drugs\*;
- (h) fulfil their responsibility to ensure compliance with legislation regarding the length of working hours.
- (i) not eat in the vehicle in the presence of customers.

**F5 Disciplinary Hearings**

Drivers should be aware of the powers the Council has to take action, by way of suspension, revocation or refusal to renew a driver's licences where:

- (i) the driver has been convicted, since the grant of the licence, of an offence involving dishonesty, indecency or violence
- (ii) the driver has been convicted of an offence under any legislation relating to hackney carriage or private hire vehicle regulation
- (iii) the driver has breached any requirements of the Council's Hackney Carriage and Private Hire Licensing Policy
- (iii) there is a breach of condition of this code

Details of the workings of the disciplinary hearings are set out in **Appendix M**.

**\*ANY AMOUNT OF ALCOHOL OR DRUGS CAN AFFECT A DRIVER'S JUDGEMENT**

**F6 Special Policy relating to Bancroft Rank in Hitchin**

Due to the nature of Bancroft during the working day, it has been previously agreed with Hitchin drivers that no U-turns will be allowed in Bancroft between the hours of 07:00hrs and 20:00hrs. The Council consider that this restriction is still necessary, however, will review the restriction if circumstances change.

## APPENDIX G

### DRESS CODE FOR LICENSED DRIVERS

North Hertfordshire District Council is committed to encouraging the professional image of the trade. The Council considers that drivers should conform to a minimum standard of dress, as set out below, in order to raise and maintain the profile of the licensed trade.

The Council does not impose such standards by way of conditions to any licence. It is expected, however, that such standards will be maintained at all times.

Ordinarily, but without prejudice to any other disciplinary procedures detailed in this Policy, breaches of the Dress Code for Licensed Drivers will be dealt with by use of the Penalty Points System contained within **Appendix K**.

#### **G1 Acceptable Standards of Dress within this Code**

##### G1.1 Tops

- (i) Shirts, blouses, T-shirts, or sweat tops should cover the shoulders and be capable of being worn inside trousers or shorts.
- (ii) Shirts or blouses can be worn with a tie or open-necked.

##### G1.2 Trousers/Shorts/Skirts

- (i) Trousers may be either full length or shorts.
- (ii) Shorts should be tailored.

##### G1.3 Footwear

- (i) Footwear should fit around the heel of the foot.

#### **G2 Unacceptable Standards of Dress within this Code**

The following are deemed to be unacceptable:

- (i) Bare chests
- (ii) Clothing or footwear which is unclean or damaged
- (iii) Clothing printed with words, logos or graphics which might offend
- (iv) Sports shirts e.g. football, rugby or cricket tops or track suits
- (v) Studs or sharp-edged clothing
- (vi) Beach-type footwear (e.g. flip-flops or mules)
- (vii) Footwear with pronounced heels
- (viii) Baseball caps
- (ix) Sports shorts

**G3            General**

The above lists are not exhaustive and Authorised Officers of the Council will assess whether standards of dress are acceptable or not. In such instances, the Officer's decision will have effect as though it were included in the above lists and the driver will be required to comply accordingly.

## APPENDIX H

### PRIVATE HIRE OPERATOR'S LICENCE CONDITIONS

#### H1 Standards of Service

The operator shall:

- (a) provide a prompt, efficient and reliable service to members of the public at all reasonable times.
- (b) ensure that their office staff act in a civil and courteous manner at all times.
- (c) ensure that when a vehicle has been hired, it arrives punctually at the appointed place, unless delayed by unforeseen circumstances.
- (d) ensure that premises provided for the purpose of booking or waiting are kept clean and are adequately lit, heated and ventilated.
- (e) ensure that any waiting area provided has adequate seating facilities and that telephone facilities are in good working order.
- (f) fulfil his responsibilities to ensure compliance with legislation regarding the length of working hours.

#### H2 Records

Records, which must be kept by private hire operators under the Local Government (Miscellaneous Provisions) Act 1976, shall be kept in a non-erasable form in a suitable log or book, the pages of which are numbered consecutively.

##### H2.1 Bookings

H2.1.1 Prior to each journey, the operator shall enter the following particulars of every booking of a private hire vehicle accepted, pursuant to section 56 (2) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:

- (i) date of the booking
- (ii) name and address of the hirer
- (iii) time of pick-up
- (iv) address of the point of pick-up
- (v) destination
- (vi) time at which a driver was allocated to the booking  
plate number (or other identification) of the vehicle allocated  
fare (if agreed between the operator and hirer at the time of booking)

## H2.2 Vehicles

H2.2.1 The operator shall keep records of the particulars of all private hire vehicles operated by him, pursuant to section 56 (3) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:

- (i) type, make, model, colour and engine size of vehicles
- (ii) year when the vehicle was first licensed for private hire
- (iii) vehicle registration numbers
- (iv) number of seats for passengers
- (v) owners of the vehicles
- (vi) insurance details of vehicles
- (vii) method of charging, i.e. whether or not a meter is fitted
- (viii) private hire vehicle plate numbers

## H2.3 Drivers

H2.3.1 The operator shall keep records of the particulars of all drivers of private hire vehicles operated by him, pursuant to section 56 (3) of the Local Government (Miscellaneous Provisions) Act 1976, namely details:

- (i) as to the drivers of the vehicles, and their call signs
- (ii) of when any new driver begins service
- (iii) of when any driver's service ceases
- (iv) of any change of address of any driver in service
- (v) of any illness, disability or condition which may affect the driver's ability to safely carry out his duties, if the operator becomes aware of any such condition
- (vi) of expiry dates of driver's badges and vehicle licences

H2.4 All records maintained by the operator shall be kept for at least twelve months after entry and shall be produced for inspection, on request, by any Authorised Officer of the Council or any Police Officer.

## H3 Complaints

The operator shall notify the Council in writing of any complaints concerning a contract for hire arising from his business that he feels prudent to do so, for example for his own protection against frivolous or vexatious complaints. Such notification must include the action taken, or proposed, as a result of the complaint.

## H4 Change of Details

The operator shall notify the Council in writing of any change affecting this licence including change of personal or business address which takes place during the period of duration of the licence. Such notice shall be given as soon as reasonable practicable and, in any case, no later than seven days of the change.

**H5 Disclosure of Convictions**

The operator shall, within seven days of conviction, notify the Council in writing of any conviction or fixed penalty imposed on him during the period of duration of his operator's licence.

If the operator is a company or partnership, this requirement shall equally apply if any of the directors or partners receives a conviction or fixed penalty.

**H6 Insurance**

The operator shall ensure that a certificate of motor insurance covers every private hire vehicle operated by him under the operator's licence, which is compliant with the Road Traffic Act 1988 as regards the carriage of passengers for hire or reward.

If the private hire operator has premises to which the public have access, in connection with the hiring of vehicles, he shall ensure that there is public liability insurance in force, which indemnifies him against any claim for loss, damage or personal injury by any person using those premises.

**H7 Private Hire Drivers' Licences**

The operator shall ensure that every driver engaged by him has obtained a private hire driver's licence from the same Licensing Authority which issued the private hire operator's licence. The operator shall use their best endeavours to ensure that all drivers have a badge issued by the Council and that the drivers wear the badge at all times whilst available for hire.

**H8 Display of Terms and Conditions**

The operator shall, at all times, keep a copy of these conditions at any premises used by him for a private hire business and shall make the same available for inspection by fare-paying passengers.

**H9 Inspection of Licence**

The private hire operator's licence shall be available for inspection on request by any Authorised Officer of the Council or any Police Officer.

**NOTE: PLANNING CONSENT**

To operate a private hire business from home, planning permission will normally be required. A private hire operator's licence will not be granted without evidence that either planning permission has been issued for the premises concerned, or planning permission is not required for the limited use proposed

## APPENDIX I

### **HACKNEY CARRIAGE AND PRIVATE HIRE ENFORCEMENT POLICY AND PRACTICE**

#### **I1 Enforcement Policy Statement**

I1.1 It is the policy of North Hertfordshire District Council to ensure that all drivers, vehicles and operators are licensed correctly and carry out their trade in accordance with both the relevant legislation and the Council's Hackney Carriage and Private Hire Licensing Policy.

All enforcement action is carried out in compliance with the Housing and Environmental Health Enforcement Policy, which is available on the Council's website.

I1.2 Primarily, all enforcement action will be based upon the seriousness of the breach and the possible consequences arising from it. Enforcement action will not normally, therefore, constitute a punitive response to minor technical contraventions of legislation. Repeated minor technical contraventions, however, will be subject to appropriate action.

I1.3 Specific advice on the issue of licences and enforcement action is contained elsewhere in the Council's Hackney Carriage and Private Hire Licensing Policy, which sets out the general principles to be followed in taking enforcement decisions.

I1.4 Authorised officers, when making enforcement decisions, will adhere to the requirements and guidance contained within this policy.

Any departure from the policy must be capable of justification, following careful consideration in exceptional circumstances, and authorised by the Head of Housing and Environmental Health.

I1.5 Authorised Officers must be fully conversant with the requirements of the Policy and appropriately trained as necessary.

I1.6 Officers will be authorised by the Head of Housing and Environmental Health to take enforcement actions relevant and appropriate to their status. All enforcement action will be undertaken by an Authorised Officer of appropriate status.

#### **I2 Enforcement Options**

I2.1 North Hertfordshire District Council consider consistency of approach in all enforcement action relating to hackney carriage and private hire licensing to be essential. To achieve and maintain consistency, it is vital that the requirements of this Policy are always considered and read in conjunction with the Housing and Environmental Health Enforcement Policy.

I2.2 Enforcement action must always be consistent, proportionate and reasonable whilst ensuring that the public receive adequate protection. Determination of enforcement action may consider, but will not be limited to, the following:

- (i) seriousness of any offence(s);
- (ii) driver's or operator's past history;
- (iii) consequence of non-compliance;
- (iv) likely effectiveness of the various enforcement options;
- (v) risk to the public.

I2.3 Having considered all relevant information and evidence, the choices for enforcement action are:

I2.3.1 Driver, Vehicle, or Operator Licence Applications

- (i) grant licence subject to the Council's Hackney Carriage and Private Hire Licensing Policy requirements
- (ii) refuse to grant or renew a licence.

I2.3.2 Enforcement Action

- (i) take no action;
- (ii) take informal action (either verbal or written);
- (iii) use statutory notices, (s68 stop notices, etc.);
- (iv) suspend a licence;
- (v) revoke a licence;
- (vi) issue formal cautions;
- (vii) prosecute;
- (viii) a combination of any of the above.

I2.4 This policy document provides detailed guidance applicable to the various options for enforcement action.

### **I3 Informal Action**

I3.1 Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and requests for action and the use of letters in accordance with the Housing and Environmental Health Enforcement Policy.

I3.2 Such informal enforcement action may be appropriate in, but not limited to, any of the following circumstances:

- (i) the act or omission is not serious enough to warrant more formal action;
- (ii) it can be reasonably expected that informal action will achieve future compliance;
- (iii) confidence in the operator's management is high;
- (iv) the consequences of non-compliance will not pose a significant risk to the safety of the public.

Even where some of the above criteria are not met, there may be circumstances in which informal action will be more effective than a formal approach.

#### **14 Appearance before the Head of Housing and Environmental Health**

- 14.1 An offending individual or company may be required to attend a meeting with the Head of Housing and Environmental Health to answer allegations of breaches of relevant legislation, byelaws or requirements of this Policy.
- 14.2 The criteria for bringing applicants for licences before the Head of Housing and Environmental Health is detailed in **Appendix D** of this Policy.
- 14.3 Current licence holders who report convictions or breach relevant legislation during the period of their licence may be required to attend a meeting with the Head of Housing and Environmental Health. The criteria for such action is also detailed in **Appendix D** of this Policy.
- 14.4 The Head of Housing and Environmental Health may decide to take one or more of the following actions:
- (i) no action;
  - (ii) a written warning;
  - (iii) require the production of driving licences or other specified documentation at the Council Offices;
  - (iv) suspend a licence;
  - (v) revoke a licence;
  - (vi) authorise prosecution action;
  - (vii) other appropriate action as deemed necessary.

#### **15 Section 68 Notices (Stop Notices)**

- 15.1 An Authorised Officer of the Council, or a Police Officer, may serve notice in writing for a hackney carriage or private hire vehicle, or the taxi-meter affixed to such vehicle, to be examined at the Council's appointed garage at a time specified in the notice. This notice must only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taxi-meter.
- 15.2 An Authorised Officer of the Council or a Police Officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he is satisfied with the condition of the hackney carriage or private hire vehicle.
- 15.3 This action will only be taken when the Officer has reasonable grounds to suspect that the condition of the vehicle or taxi-meter does not meet the requirements of this Policy or any appropriate road traffic legislation.

15.4 The suspension notice will remain in place until such time as the Officer issuing the notice is satisfied that the grounds for suspension have been satisfactorily resolved. Written confirmation of the lifting of the suspension notice will be given. Until such time as written confirmation has been received, the suspension notification will be remain active.

15.5 If the Authorised Officer of the Council or the Police Officer who issued the suspension notice is not satisfied that the appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from date of issue, the vehicle licence shall be deemed to be revoked.

## **16 Appeals**

16.1 Appeals against decisions of the Head of Housing and Environmental Health may be made to the Magistrates' Court.

16.2 Any notifications of enforcement actions will include written information on how to appeal. This will explain how, where and within what period an appeal may be brought and on what grounds. The notification will also confirm whether or not the enforcement action is suspended pending the outcome of the appeal.

## **17 Prosecution**

17.1 The decision to prosecute is a very significant one as it may impact on the licence holder's future employability. Generally, prosecution will be restricted to those circumstances where the law is blatantly disregarded, legitimate requirements of the Council are not complied with and / or there is serious risk to the public.

17.2 The circumstances which may warrant prosecution may include, but will not be restricted to, one or more of the following:

- (i) blatant disregard for legislation or this Policy, particularly where the economic benefits of breaking the law are substantial and provide significant advantage over those licence holders who are law-abiding;
- (ii) when there appears to have been blatant and / or reckless disregard for the safety of passengers or other road users;
- (iii) where there have been repeated breaches of legislation or requirements of this Policy;
- (iv) where a particular type of offence is prevalent;
- (v) where a particular contravention has caused serious public concern.

17.3 When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered to enable a consistent, proportionate and reasonable decision to be reached.

- 17.4 In addition to being satisfied that there is sufficient evidence to provide a realistic prospect of conviction, it must be established that it is in the public's interest to prosecute. The Code for Crown Prosecutors (January 1992), issued by the Crown Prosecution Service, provides guidance which will be considered, including relevant public interest criteria.
- 17.5 A decision on whether to prosecute may consider, but not be limited to, the following:
- (i) the seriousness of the alleged offence;
  - (ii) the risk or harm to the public;
  - (iii) identifiable victims;
  - (iv) failure to comply with a statutory notice;
  - (v) disregard of safety for financial reward;
  - (vi) the previous history of the party concerned;
  - (vii) repeated offences leading to a history of similar offences;
  - (viii) failure to respond positively to previous enforcement action;
  - (ix) the ability and willingness of any important witnesses to co-operate;
  - (x) the willingness of the party to prevent a recurrence of the problem;
  - (xi) the probable public benefit of a prosecution and the importance of the case, for example, establishing legal precedent;
  - (xii) whether other action, such as issuing a simple caution in accordance with the Home Office Circular 30/2005, would be more appropriate or effective.

## **18 Simple Cautions**

- 18.1 A caution may be used as an alternative to a prosecution in certain circumstances.
- 18.2 The purposes of a caution are to:
- (i) deal quickly and simply with less serious offences;
  - (ii) divert less serious offences away from the Courts;
  - (iii) reduce the chances of repeat offences.

- 18.3 To safeguard the alleged offender's interests, the following conditions should be fulfilled before a caution is administered:
- (i) there must be evidence of the alleged offender's guilt, sufficient to give a realistic prospect of conviction;
  - (ii) the alleged offender must admit the offence;
  - (iii) the alleged offender must understand the significance of a simple caution and give informed consent to being cautioned.
- 18.4 If there is insufficient evidence to consider taking a prosecution then, by implication, the criteria for the use of a caution is not satisfied. Furthermore, a caution should not be used where the alleged offender does not make a clear and reliable admission of the offence.
- (It should be noted that there is no legal obligation for any person to accept the offer of a caution and no pressure should be applied to the person to do so).
- 18.5 Where a person declines the offer of a simple caution, it will be necessary to consider taking alternative enforcement action. Whilst this will probably mean prosecution, this is not necessarily inevitable. The Head of Housing and Environmental Health will consider the most appropriate enforcement action on the individual merits of the case.

## **19 Transparency**

- 19.1 Following the receipt of a notification of a conviction, or an adverse vehicle inspection, the licence holder will be informed of the action intended to be taken as soon as reasonably practicable.
- 19.2 Following the completion of an investigation into a complaint, or any enforcement activity, the licence holder will be informed of the action intended to be taken.
- 19.3 Any written documentation issued will-
- (i) contain all the information necessary to understand the offence and what needs to be done to rectify it. Where works are required, the period allowed for them to be completed will be indicated;
  - (ii) indicate the legislation or section of this Policy contravened and measures which will enable compliance. Where appropriate, it will also indicate alternative means of achieving the same effect; and
  - (iii) clearly indicate any recommendations of good practice under an appropriate heading to differentiate them from legal requirements.

- 19.4 The clear distinction in all enforcement action between legal requirements and good practice recommendations, even if only given as verbal advice, is of considerable importance.

## APPENDIX J

### **DEALING WITH OFFENCES COMMITTED DURING THE TERM OF A LICENCE**

#### **J1 General Policy**

Each case will be determined on its own merits, however, listed below are some general principles relating to the determination of applications for drivers and operators of hackney carriages and private hire vehicles.

The holders of hackney carriage or private hire vehicle driver's licences must report all criminal convictions and driving offences that occur during the duration of their licence to the Council as soon as is reasonably practicable.

In addition, breaches of any relevant legislation or requirements of this Policy in relation to driver, operator and vehicle licences may come to light following complaints, enforcement action or investigations. The action to be followed in response to such matters will be determined on its own merits, however, set out below are some general principles which may be followed.

Any action taken will be without prejudice to any penalty points which may be assigned to a driver's record in accordance with the policy detailed at ***Appendix K***.

#### **J2 Matters Normally Dealt With by an Authorised Officer of the Council under Delegated Powers**

J2.1 The Licensing and Enforcement Manager may deal directly with less serious first offences without referring the matter to the Head of Housing and Environmental Health. Options available in this instance are to take no further action or issue warnings (verbal or written) as to future conduct.

J2.2 Convictions for minor traffic offences

In the case of a single conviction, further action will normally be unnecessary. If more than one offence is committed, however, a written warning as to future driving standards will normally be issued.

J2.3 Failure to report a conviction

The failure to report a conviction to the Council within a reasonable time will normally be dealt with by issuing a written warning, in addition to any further actions that may be warranted by the nature of the offence.

J2.4 Failure to report an accident

The failure to report an accident to the Council within a reasonable time will normally be dealt with, in the first instance, by issuing a written warning.

## J2.5 Defective Vehicles

If during routine inspections, or following the investigation of a complaint, a defect is identified on a licensed vehicle that could affect safety, an Authorised Officer will issue a stop notice with immediate effect. This will stop the vehicle being used as a hackney carriage or private hire vehicle until the defect is remedied and the repair certified by the Council's appointed garage.

## J2.6 Refusal to carry a passenger in a hackney carriage

In these circumstances the driver will be invited to state the reasons for his actions and if the Licensing and Enforcement Manager is satisfied that the driver had a justifiable reason, then no action will be taken.

If, however, there appears to be no acceptable justification for the refusal, or if the refusal involves a person deemed to be vulnerable, elderly, disabled or a minority group, the case will be referred to the Head of Housing and Environmental Health as an offence has been committed.

## J2.7 Unauthorised ranking

Unauthorised ranking will normally be dealt with by an Authorised Officer using the penalty points system detailed in **Appendix K** of this Policy. If there is a persistent problem in a particular area, alternative enforcement action may be considered by the Head of Housing and Environmental Health.

## J2.8 Touting for business

This will initially result in the issue of a written warning as to future conduct and may also be dealt with under the penalty points system detailed in **Appendix K** of this Policy. If there is a persistent problem in a particular area, alternative enforcement action may be considered by the Head of Housing and Environmental Health.

## J2.9 Illegal advertising on vehicle

This will normally result in the issue of penalty points by an Authorised Officer of the Council, as detailed in **Appendix K**, and a time-scale will be issued for the advertising to be removed. Subsequent contraventions, or refusal to comply with the time-scale for removal, will result in referral to the Head of Housing and Environmental Health.

## J2.10 Failure to display plates or badges

This will normally result in the issue of penalty points by an Authorised Officer of the Council as detailed in **Appendix K**. Subsequent contraventions may result in referral to the Head of Housing and Environmental Health.

## J2.11 Confirmed complaints of rude or aggressive behaviour

All complaints will be documented and investigated by an Authorised Officer of the Council. More than two complaints of a similar nature within a twelve month period will result in referral to the Head of Housing and Environmental Health.

In less serious cases, a warning as to future conduct will be given by the Licensing and Enforcement Manager. If the nature or level of aggression leads to concerns about public safety, however, the matter will be referred to the Head of Housing and Environmental Health.

J2.12 Complaints against breaches of the Drivers' Dress Code

Depending on circumstances, contraventions of the Drivers' Dress Codes may result in a written warning as to future conduct being issued to repeat offenders. Any breach will also be dealt with under the penalty points system detailed in **Appendix K** of this Policy.

J2.15 Presence in the vehicle of unauthorised telecommunication apparatus

This will normally result in the issue of a written warning as to future conduct by an Authorised Officer of the Council. Subsequent contraventions will result in referral to the Head of Housing and Environmental Health.

**J3 Matters to be Dealt with by The Head of Housing and Environmental Health**

The Head of Housing and Environmental Health will be asked to deal with the more serious offences and to determine the most appropriate action where further offences occur within two years of the issue of a warning or other informal action.

Whilst it is not possible to cover every conceivable offence, listed below are specific matters, which will always be referred to the Head of Housing and Environmental Health and an indication of the level of enforcement action that may be taken. The Head of Housing and Environmental Health may decide to take any of the actions open to him, dependent on the facts of each particular case.

J3.1 Conviction of a major traffic offence or insurance offences

Each case will be considered on its own merits, however, the Council will not generally seek to punish an offender twice. Measures will be taken, however, to ensure that the licensee is aware of the importance of maintaining a high standard of driving.

A written warning will generally be an appropriate decision, however, a short suspension of the licence may be imposed if the offence is particularly serious or the circumstances dictate.

J3.2 Conviction for drunkenness not in a motor vehicle

A single isolated offence may be dealt with by a written warning as to future conduct. If the circumstances of the case, however, establish that violence has been involved, or that the licensee drinks excessively, a suspension of the licence may be considered along with a recommendation that some help be obtained to deal with the problem.

If the Head of Housing and Environmental Health is not satisfied with the response of the licensee to this suggestion, he may consider revocation of the licence to be appropriate.

J3.3 Conviction for drug related offences and for indecency

The nature of such offences is such that public safety is always going to be of concern. Whilst any decision will be made having regard to the facts of the case, such a conviction may result in the licence being revoked.

J3.4 Convictions for violence

The Head of Housing and Environmental Health must carefully consider the facts of the case and decide whether the offender's actions are likely to be repeated or whether the offence was out of character. The aim should not be to punish twice but to ensure that public safety is not compromised.

If, after due consideration it is thought that there is a possibility of further offences being committed, then a revocation of the licence may be justified. On the other hand if the offence was thought to be isolated and out of character a lesser penalty may be imposed.

J3.5 Convictions for dishonesty

The penalty imposed for such contraventions must be proportionate to the gravity of the offence. The purpose is not to punish an individual twice but to ensure that the licensee is made absolutely clear as to the level of trust expected of licensed drivers and operators.

In serious cases, a suspension or revocation may be justified particularly if the offence was connected with his work. If the offence was less serious or an isolated incident, a lesser penalty including a shorter suspension or even a warning may be sufficient to make a driver realise the importance of honesty in his chosen profession.

J3.6 Overcharging a passenger

It is relatively easy for a driver to defraud the public because of the nature and complexity of the tariff system. Overcharging should, therefore, be considered a serious breach of trust, which should be dealt with by imposing a significant penalty. A suspension, or even revocation of a licence may, therefore, be justified.

J3.7 Failure to comply with a lawful requirement or instruction from an Authorised Officer of the Council or a Police Officer, or Obstructing an Officer in the execution of his duty

Licence holders are legally obliged under relevant legislation to comply with various requirements or instructions given to them by an authorised Officer of the Council or a Police Officer.

In circumstances where an offender has failed to comply with a lawful requirement of an Officer, despite all reasonable attempts to make him do so, or obstructed an Officer in the execution of his duties, the Head of Housing and Environmental Health will decide what action to take having regard to any mitigation. This may involve either a suspension or revocation of a licence, in addition to possible prosecution.

### J3.8 Other contraventions

Any offence which, in the opinion of an Authorised Officer of the Council, is best dealt with by the Head of Housing and Environmental Health may be brought before him. Such cases, which may include those where requirements have been persistently breached and where warnings have not been heeded, will be decided in the light of the facts of the case and any mitigation. Any penalty imposed must be proportionate to the seriousness of the offence and the overriding requirement to ensure public safety.

Examples of such offences may include, but not be limited to:

- i) exceeding the permitted number of passengers;
- ii) private hire vehicles plying for hire;
- iii) driving a licensed vehicle without the appropriate driver's licence

### J3.9 Hearings before the Head of Housing and Environmental Health

#### J3.9.1 Introduction

A meeting with the Head of Housing and Environmental Health will be convened to consider appropriate disciplinary measures involving proprietors, operators and drivers, whenever:

- i) they have been convicted of offences before the courts, or
- ii) where action has been taken as a result of breaches of the law, or
- iii) requirements of this Policy dictate.

The purpose of such meetings shall be for the Head of Housing and Environmental Health to consider any mitigation and which, if any, of the options available to him should be implemented.

#### J3.9.2 The Options Available

The Head of Housing and Environmental Health may, after the details of the referral have been presented and the licence holder has been given the opportunity to offer any mitigation, determine one or more of the following options:

- (i) suspension of the licence;
- (ii) revocation of the licence;
- (iii) refusal to renew the licence;
- (iv) the issue of penalty points in accordance with **Appendix K** of this Policy;
- (v) no further action to be taken.

The Head of Housing and Environmental Health may also recommend the cautioning or prosecution of licence holders, in circumstances where there are persistent or serious offences.

#### J3.9.3 Penalty Points System

Subject to the general discretion of the Head of Housing and Environmental Health to take whatever action he deems appropriate, the 'penalty points system' detailed at Appendix K shall be operated and used as a framework for the Head of Housing and Environmental Health's decision-making.

The fundamental principle of the system is that, if a licence holder accumulates twelve or more penalty points in any rolling two-year period, his licence shall be considered for suspension or revocation on the basis that he has ceased to be a fit and proper person to hold such a licence.

#### J3.9.4 Penalty Points Applicable

The offences that will ordinarily give rise to the Head of Housing and Environmental Health attaching penalty points to a licence holder's record are listed at **Appendix K** of this Policy. The list is not exhaustive and offences not on the list may nonetheless give rise to the consideration of penalty points if sufficiently relevant and serious. Where a range of points is indicated, the Head of Housing and Environmental Health shall decide on the number merited by the offence, taking account of the circumstances of the offence and the sentence imposed by the Court.

### **J4 Without Prejudice**

J4.1 The actions detailed above are without prejudice to any enforcement action provided for within this Policy or by the Council's Housing and Environmental Health Enforcement Policy.

## APPENDIX K

### PENALTY POINTS SYSTEM

The Penalty Points Scheme will operate as follows:

- K1 The Council's Housing and Environmental Health Enforcement Policy will be fully considered by the enforcing Officer when determining the manner in which any breach of legislation or the requirements of this Policy are dealt with. Where it is decided that the use of the penalty points system is appropriate, the points will be issued in accordance with this appendix. If this appendix allows a range of points for the particular incident, the enforcing Officer will determine the appropriate number of points proportionate to the offence.
- K2 Before penalty points are issued, there must be sufficient evidence to prove the offence or breach of licensing requirements. If the licence holder disputes the offence or breach of licensing requirements, the matter will be resolved by reverting to the procedures detailed in this Policy..
- K3 A maximum of twelve penalty points will be issued on any one occasion. This means that if on any occasion when it is proposed to impose penalty points, a licence holder has committed more than one offence or breach of licence conditions, no more than twelve points will be imposed.
- K4 Points issued to either a proprietor or driver will be confirmed in writing within ten working days from the discovery of the contravention.
- K5 When issued, the penalty points will remain "live" for a period of two years from the date they are imposed so that only points accumulated in a rolling twenty four months period will be taken into account.
- If a driver, proprietor or operator accumulates twelve or more points within a period of two years from the date they are imposed, he will be required to attend a disciplinary meeting with the Head of Housing and Environmental Health, where the appropriate action to be taken in accordance with this Policy.
- K6 Where a driver is brought before the Head of Housing and Environmental Health, the options available to him will include suspension or revocation of the driver's licence, where appropriate. If the Head of Housing and Environmental Health does not feel that the matter warrants suspension or revocation of the licence, he may extend the period for which the points are to remain "live" or issue a written warning to the driver as to his future conduct.
- K7 Periods of suspension of a licence will be dependant on the nature of the breaches of the legislation or the requirements of this Policy and the compliance history of the licence holder.
- More than one accumulation of penalty points in excess of the twelve point threshold in any three year period will result in the Head of Housing and Environmental Health reviewing whether or not the individual is a 'fit and proper person' to continue holding licences with the Council.

- K8 Once the matter has been dealt with, the points will be removed if a suspension or revocation is imposed. If the “live” period is extended or a written warning given, however, the points will remain "live" for the normal two-year period.
- K9 A driver will retain the right to be represented at any meeting with the Head of Housing and Environmental Health, either legally or otherwise, and to state any mitigating circumstances he deems necessary.
- K10 Even though penalty points have been issued by an Authorised Officer of the Council, if it is subsequently found that the driver has previously been issued with penalty points, or has been formally cautioned, for similar offences, the Council reserve the right to cancel the penalty points and deal with the matter in accordance with the Housing and Environmental Health Enforcement Policy.
- K11 The penalty points system will operate without prejudice to the Council’s ability to take other action under appropriate legislation or as provided for by this Policy.

#### PENALTY POINTS RELATING TO OFFENCES IN RESPECT OF LEGISLATION

<b>Town Police Clauses Act 1847</b>		
<b>Section</b>	<b>Offence</b>	<b>Points</b>
40	Giving false information on a hackney carriage licence application	5-10
44	Failure to notify change of address of a hackney carriage licence	2
45	Plying for hire without a hackney carriage licence	8-12
47	Driving a hackney carriage without a hackney carriage driver’s licence	8-12
47	Lending or parting with a hackney carriage driver’s licence	4
47	Proprietor employing an unlicensed hackney carriage driver	8
48	Failure of a proprietor to hold a hackney carriage driver’s licence	6
48	Failure of a proprietor to produce a hackney carriage driver’s licence	3
52	Failure to display a hackney carriage plate	4
53	Refusal to take a fare without a reasonable excuse	6-12
54	Charging more than the agreed fare	6-12
55	Obtaining more than the legal fare (including failure to refund)	6-12
56	Travelling less than the lawful distance for an agreed fare	6
57	Failure to wait after a deposit to wait has been paid	6
58	Charging more than the legal fare	12
59	Carrying persons other than the hirer without the hirer’s consent	8
60	Driving a hackney carriage without the proprietor’s consent	6-12
60	Allowing a person to drive a hackney carriage without the proprietor’s consent	4
62	Driver leaving a hackney carriage unattended	2
64	Hackney carriage driver obstructing other hackney carriages	3

**PENALTY POINTS RELATING TO OFFENCES IN RESPECT OF LEGISLATION**

<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
<b>Section</b>	<b>Offence</b>	<b>Points</b>
46(1)(a)	Using an unlicensed private hire vehicle	12
46(1)(b)	Driving a private hire vehicle without a private hire driver's licence	12
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver	8
46(1)(d)	Operating a private hire vehicle without a private hire operator's licence	8
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle	12
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire driver	8
48(6)	Failure to display a private hire vehicle plate	4
49	Failure to notify the transfer of a vehicle licence	3
50(1)	Failure to present a hackney carriage or private hire vehicle for inspection upon request	6-12
50(2)	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested	3
50(3)	Failure to report an accident to the Council within seventy two hours	6
50(4)	Failure to produce the vehicle licence and insurance upon request	8-12
53(3)	Failure to produce a driver's licence upon request	3
54(2)	Failure to wear a private hire driver's badge	4-6
56(2)	Failure of a private hire operator to keep proper records of all bookings, or failure to produce them on request of an Authorised Officer of the Council or a Police Officer	6
56(3)	Failure of a private hire operator to keep records of all private hire vehicles, or failure to produce them on request of an Authorised Officer of the Council or a Police Officer	6
56(4)	Failure of a private hire operator to produce his licence on request	4
57	Making a false statement or withholding information to obtain a hackney carriage or private hire driver's licence	10
58(2)	Failure to return a plate after notice has been given following expiry, revocation, or suspension of a hackney carriage or private hire vehicle licence	6-12
61(2)	Failure to surrender a driver's licence after suspension, revocation, or refusal to renew	6
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank	6
66	Charging more than the meter fare for a journey ending outside the District, without prior agreement	6
67	Charging more than the meter fare when hackney carriage is used as a private hire vehicle	6
69	Unnecessarily prolonging a journey	6-12
71	Interfering with a taxi-meter with intent to mislead	12
73(1)(a)	Obstruction of an Authorised Officer of the Council or a Police Officer	12
73(1)(b)	Failure to comply with a requirement of an Authorised Officer or Police Officer	8-12
73(1)(c)	Failure to give information or assistance to an Authorised Officer or Police Officer	6

<b>Disability Discrimination Act 1995</b>		
<b>Section</b>	<b>Offence</b>	<b>Points</b>
37	Refusal to carry a guide, hearing, or other assistance dog in a hackney carriage without a valid certificate of exemption	8-12
37	Charging an additional cost for the carrying of an assistance dog in a hackney carriage	8-12
37a	Refusal to carry a guide, hearing, or other assistance dog in a private hire vehicle without a valid certificate of exemption	8-12
37a	Charging an additional cost for the carrying of an assistance dog in a private hire vehicle	8-12

<b>Hackney Carriage and Private Hire Licensing Policy</b>		
<b>Section or Appendix</b>	<b>Breach of policy requirement</b>	<b>Points</b>
	Failure to adhere to the Dress Code for Licensed Drivers	2
	Failure to wear a driver's badge	4-6
	Failure to adhere to the Code of Good Conduct for Licensed Drivers where not mentioned below	2-6
	Failure to ensure the safety of passengers	4
	Concealing or defacing a vehicle licence plate	4
	Failure to attend on time for a pre-arranged booking without reasonable cause	3
	Conveying a greater number of passengers than permitted	6
	Failure to give reasonable assistance with passenger's luggage	3
	Private hire vehicle soliciting for hire or accepting a fare that is not pre-booked	6-12
	Operating a vehicle that is not clean and tidy	2
	Driving without the consent of the proprietor	5
	Drinking or eating in the vehicle whilst carrying passengers	3
	Smoking in a licensed vehicle at any time	4
	Cause excessive noise from any radio or sound-reproducing equipment	2
	Operating the horn as a means of signalling that the vehicle has arrived	3
	Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand	6
	Allowing a hackney carriage vehicle to stand in a position, not being a hackney carriage stand, that suggest that it is plying for hire	4
	Using a non-hands free mobile telephone whilst driving	4
	Failure to advise of a relevant medical condition	6-12
	Failure to provide a receipt for a fare when requested	2
	Failure to operate the meter from the commencement of the journey and/or charging more than the fixed charge for hire of hackney carriages	6
	Failure to notify the Council of any amendment to the details of a licence within fourteen days	3
	Failure to produce a licence upon request	4
	Failure to notify within seven days of starting or terminating employment, the name and address of the proprietor and the term of employment	3

	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment	2
	Failure to surrender a driver's licence, badge or plate upon request	6-12
	Failure of a licence holder to disclose convictions within seven days of conviction	12
	Failure to take found property to the Police within forty eight hours of finding	3
	Failure to report an accident within seventy two hours	3
	Carrying an animal other than one belonging to the passenger(s)	2
	Carrying an animal not safely restrained	3
	Failure to comply with the requirements for the safe carrying of a wheelchair	6
	Operating a vehicle that does not comply with the Council's licensing policy where such a breach of policy requirements is not otherwise specified herein	2-6
	Operating a vehicle which is not maintained in a sound and roadworthy condition	6-12
	Failure to carry an approved fire extinguisher	3
	Failure to carry an approved first aid kit	3
	Operating a vehicle which is not maintained in a clean and/or safe condition internally or externally	3
	Modifying a vehicle without the consent of the Council	3
	Failure to display or maintain external licence plates as issued by the Council	4
	Hackney carriage vehicle signage not in accordance with the Council's requirements	4
	Affixing or displaying a roof sign on a private hire vehicle	4
	Displaying a sign or advertisement on a licensed vehicle that does not satisfy the Policy requirements or has not been approved by the Council	4
	Carrying radio equipment or similar devices not in accordance with Council requirements	2
	Taxi-meter does not conform to the Council's requirements	6
	Trailer does not comply with the Council's requirements	3
	Operating an LPG vehicle which does not comply with the Council's LPG vehicle requirements	3
	Operating a vehicle which does not comply with the Council's requirements in relation to tinted windows	4
	Driving with no insurance or inadequate insurance for the vehicle	12
	Allowing a vehicle to be used for hire by a person who does not hold a current driver's licence	8
	Permitting the vehicle to be used for any illegal or immoral purposes	6-12
	Failure of a private hire operator to provide a prompt, efficient and reliable service	3
	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times	3
	Failure of a private hire operator to ensure that vehicles attend bookings punctually	4
	Failure of a private hire operator to keep the operating premises in accordance with the Council's requirements	3
	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	6

	Failure of a private hire operator to keep and display public liability for the operating premises if the public are allowed access	4
	Failure of a private hire operator to ensure that every driver employed by him has a private hire licence and badge	4
	Failure of a private hire operator to keep a copy of the Council's Hackney Carriage and Private Hire Licensing Policy to be made available for inspection by passengers upon request	4
	Performing a U-turn in Bancroft, Hitchin between the hours of 07:00hrs and 20:00hrs	4

## APPENDIX L

### LEGISLATIVE OFFENCES AND PENALTIES

#### L1 Introduction

Two statutes principally create offences relating to hackney carriages and private hire vehicles:

- i) Town Police Clauses Act 1847.
- ii) Local Government (Miscellaneous Provisions) Act 1976.

The offences are set out below under the relevant statute

In relation to the maximum penalties specified, the levels of fine are currently as follows:

- Level 1 - £200;
- Level 2 - £500;
- Level 3 - £1,000;
- Level 4 - £2,500.

Any subsequent amendments to the legislation will supersede the tables below and this appendix may be amended to reflect the revised legislation by way of an addendum to this Policy.

#### L2 Town Police Clauses Act 1847

Section	Offence	Maximum Penalty
40	Giving false information on an application for a hackney carriage licence.	Level 1
44	Failure to notify a change of address of a hackney carriage proprietor	Level 1
45	Plying for hire without a hackney carriage proprietor's licence	Level 4
47	Driving a hackney carriage without a hackney carriage driver's licence	Level 3
47	Lending or parting with a hackney carriage driver's licence	Level 3
47	Hackney carriage proprietor employing an unlicensed driver	Level 3
48	Failure by a hackney carriage proprietor to hold a hackney carriage driver's licence	Level 1
48	Failure by a hackney carriage proprietor to produce a hackney carriage driver's licence	Level 1
52	Failure to display a hackney carriage plate	Level 1
53	Refusal to take a hackney carriage fare	Level 2
54	Charging more than the agreed hackney carriage fare	Level 1
55	Obtaining more than the legal hackney carriage fare	Level 3 and 1 month's imprisonment

56	Travelling less than the lawful distance for an agreed hackney carriage fare	Level 1
57	Failing to wait after a deposit to wait has been paid	Level 1
58	Charging more than the legal hackney carriage fare	Level 3
59	Carrying other persons in a hackney carriage other than with the consent of the hirer	Level 1
60	Driving a hackney carriage without the proprietor's consent	Level 1
60	Allowing another to drive a hackney carriage without the proprietor's consent	Level 1
61	Drunken driving of a hackney carriage	Level 1
61	Wanton or furious driving of a hackney carriage leading to injury or danger	Level 1
62	Driver leaving a hackney carriage unattended	Level 1
64	Hackney carriage driver obstructing other hackney carriages	Level 1

### L3 Local Government (Miscellaneous Provisions) Act 1976

Section	Offence	Maximum Penalty
46(1)(a)	Using an unlicensed private hire vehicle	Level 3 by virtue of s76
46(1)(b)	Driving a private hire vehicle without a private hire driver's licence	Level 3 by virtue of s76
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver	Level 3 by virtue of s76
46(1)(d)	Operating a private hire vehicle without a private hire operator's licence	Level 3 by virtue of s76
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle	Level 3 by virtue of s76
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire driver	Level 3 by virtue of s76
48(6)	Failure to display a private hire vehicle plate	Level 3 by virtue of s76
49	Failure to notify the Council of the transfer of a hackney carriage or private hire proprietor's licence	Level 3 by virtue of s76
50(1)	Failure to present a hackney carriage or private hire vehicle for inspection, as required	Level 3 by virtue of s76
50(2)	Failure to inform the Council where the hackney carriage or private hire vehicle is stored, if requested	Level 3 by virtue of s76
50(3)	Failure to report an accident to the Council involving a hackney carriage or private hire vehicle	Level 3 by virtue of s76
50(4)	Failure to produce the hackney carriage or private hire vehicle proprietor's licence and insurance certificate	Level 3 by virtue of s76
53(3)	Failure to produce the hackney carriage or private hire driver's licence	Level 3 by virtue of s76

54(2)	Failure to wear a private hire driver's badge	Level 3 by virtue of s76
56(2)	Failure by a private hire operator to keep records of bookings	Level 3 by virtue of s76
56(3)	Failure by a private hire operator to keep records of private hire vehicles operated by him	Level 3 by virtue of s76
56(4)	Failure to produce a private hire operator's licence on request	Level 3 by virtue of s76
57	Making a false statement or withholding information to obtain a hackney carriage or private hire driver's licence	Level 3 + £10/day fine
58(2)	Failure to return a plate after notice given following expiry, revocation or suspension of a hackney carriage or private hire proprietor's licence	Level 3 by virtue of s76
61(2)	Failure to surrender a hackney carriage or private hire driver's licence after suspension, revocation, or refusal to renew	Level 3 by virtue of s76
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank	Level 3 by virtue of s76
66	Charging more than the meter fare for a hackney carriage journey ending outside the District, without prior agreement	Level 3 by virtue of s76
67	Charging more than the meter fare when a hackney carriage is used as a private hire vehicle	Level 3 by virtue of s76
69	Unnecessarily prolonging a journey	Level 3 by virtue of s76
71	Interfering with a taxi-meter	Level 3 by virtue of s76
73(1)(a)	Obstruction of an Authorised Officer of the Council or a Police Officer	Level 3 by virtue of s76
73(1)(b)	Failure to comply with a requirement of an Authorised Officer of the Council or a Police Officer	Level 3 by virtue of s76
73(1)(c)	Failure to give information or assistance to an Authorised Officer of the Council or a Police Officer	Level 3 by virtue of s76

#### **L4 Transport Act 1980**

Section	Offence	Maximum Penalty
64(2)(a)	Driving a private hire vehicle with a roof sign which contravenes s64(1)	Level 3
64(2)(b)	Causing or permitting a private hire vehicle to be driven with a roof sign which contravenes s64(1)	Level 3

**APPENDIX M****FARE TARIFF****MAXIMUM FARES FOR HACKNEY CARRIAGES**

(Correct as at 1st November 2006)

**DISTANCE**

For the first 1,410 yards, or part thereof.....£3.00  
 After the first 1,410 yards, for every 103 yards or part thereof.....£0.10

**ADDITIONAL CHARGES (for the whole journey)**

For hirings begun between:

- (a) midnight and 02:00hrs, or  
 05:30hrs and 07:00hrs, or  
 all day Sunday, or  
 all day on Bank Holidays including Good Friday and Boxing Day.....above  
 rate +  
 50%
- (b) 02:00hrs and 05:30hrs, or  
 all day Christmas Day.....above  
 rate +  
 100%

For spoiling the inside of the hackney carriage.....£50.00

**WAITING TIME**

For each thirty seconds, or incomplete part thereof.....£0.10

**GENERAL**

- (a) A vehicle licensed to carry more than four persons cannot charge extra for the number of passengers carried.
- (b) All fares recorded by the taxi-meter are inclusive of value added tax.

**APPENDIX N****LICENCE FEES - HACKNEY CARRIAGE / PRIVATE HIRE**(Correct as at 1<sup>st</sup> April 2007)

Description	2007/08 £
<b>Taxi and Private Hire Vehicle Licences</b>	
Annual vehicle licence under five years old (Resident)	262.00
Annual vehicle licence under five years old (Non-resident)	283.00
Six-month vehicle licence (Resident) (only on HC over 5 years and under 7 years old, and on PH vehicles over 5 years old)	157.00
Six-month vehicle licence (Non-resident) (only on HC over 5 years and under 7 years old, and on PH vehicles over 5 years old)	189.00
<b>*Transfer of plate</b>	<b>52.50</b>
<b>*Transfer of vehicle ownership (payable by buyer)</b>	<b>157.00</b>
<b>Private Hire Operators (3 years)</b>	<b>315.00</b>
<b>Hackney Carriage Drivers Licences</b>	
Driver licences (3 years) Resident	157.00
Drivers licence (3 years) Non-resident	168.00
Drivers licence (2 years)	105.00
Drivers licence (2years)	115.00
Driver licence (1 year)	53.00
Drivers licence (1year)	63.00
<b>Private Hire Drivers Licences</b>	
Driver licences (3 years) Resident	157.00
Drivers licence (3 years) Non-resident	168.00
Drivers licence (2 years)	105.00
Drivers licence (2years)	115.00
Driver licence (1 year)	53.00
Drivers licence (1year)	63.00
Dual drivers licence (applied for at the same time) Resident	262.00
Non-resident	315.00
Theory Knowledge Test – including an English Test (each attempt)	32.00
Failure to turn up for geography test	30.00
Refresher Theory Test	30.00

Description	2007/08 £
CRB Check (as specified by outside agency)	36.00
DVLA Check (as specified by outside agency)	5.00
Medical examination	As charged by doctor
Replacement Mogo brackets	10.50
Replacement vehicle plates	32.00
Replacement drivers badges	21.00
Duplicate documents	16.00

- \* Transfer fee will allow plate to end of existing expiry date, e.g. plate expires 31/10/06, transfer applied for 15/10/06, fee paid £50.00, plate issued 31/10/06.  
1/11/06 renewal fee due for one year or six months dependant on age of vehicle.

NB: Pro rata refunds will only be given on the remainder of unexpired plates and only upon surrender of the said plate.

## APPENDIX O

### TAXI RANKS IN NORTH HERTFORDSHIRE

Currently, the hackney carriage ranks provided within the District of North Hertfordshire are:

BALDOCK:	High Street (outside Goldcrest Inn) Railway Station
HITCHIN:	Bancroft Railway Station St. Mary's Car Park Sun Street (evening only)
KNEBWORTH:	Railway Station
LETCHWORTH:	Eastcheap (outside the Broadway Cinema) Railway Station
ROYSTON:	Junction of High Street and King Street (evening only) Railway Station

Should the provision of ranks within North Hertfordshire subsequently change, this appendix may be updated by the issue of an addendum to this Policy.

## APPENDIX P

### VEHICLE LICENCE ZONING

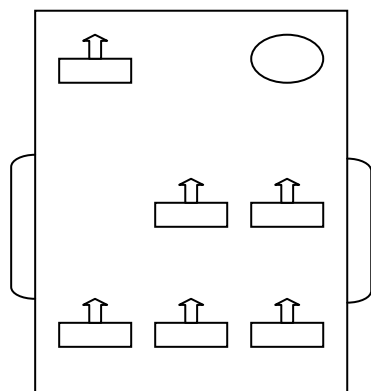
As stated in Section 2.1.4 of this Policy, North Hertfordshire District Council issue hackney carriage vehicle licences for one of five zones within North Hertfordshire. Licensed vehicles must only ply for hire within the zone in which they are licensed.

The following lists allocate the rural villages to each of the five zones, although these lists are not exhaustive. This appendix may be updated by the issue of an addendum to this Policy

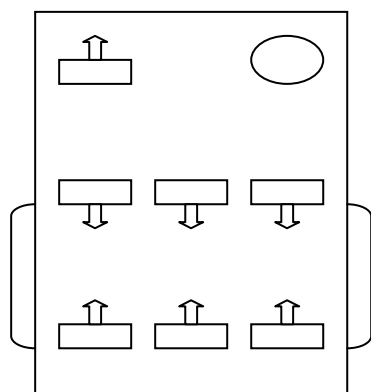
BALDOCK:	Ashwell, Bygrave, Hinxworth, Redhill, Rushden, Sandon, Wallington
HITCHIN:	Bendish, Breachwood Green, Cockernhoe, Codicote, Gosmore, Great Ashby, Great Wymondley, Hexton, Holwell, Ickleford, Kimpton, Kings Walden, Ley Green, Lilley, Little Wymondley, Offley, Pirton, Preston, St Ippolyts, St Paul's Walden, Tea Green, Whitwell
KNEBWORTH:	None
LETCHWORTH:	Graveley, Halls Green, Weston, Willian
ROYSTON:	Barley, Barkway, Kelshall, Nuthampstead, Reed, Therfield

**APPENDIX Q**

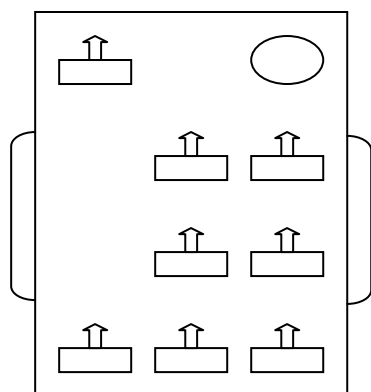
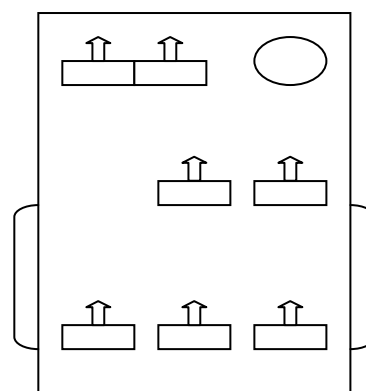
**SEATING CONFIGURATIONS IN MULTI-PASSENGER VEHICLES**



Six-seater vehicle



Seven-seater vehicle



Eight-seater vehicle

○ Driver

□ Passenger Seat

↑ Passenger facing

⌈ Door