



SOUTH DERBYSHIRE DISTRICT COUNCIL

PRIVATE HIRE LICENSING POLICY

**LOCAL GOVERNMENT (MISCELLANEOUS
PROVISIONS) ACT 1976**

Issue **109**: **December 2019#**

1 INTRODUCTION

Powers and Duties

- 1.1 This Statement of Licensing Policy (“the Policy”) is written pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976 (“the Act”), as amended, which places on South Derbyshire District Council (“the Council”) the duty to carry out its licensing functions in respect of private hire vehicles, drivers, and operators.

Objectives

- 1.2 The private hire trade has a specific role to play in an integrated transport system. The trade 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.
- 1.3 In setting out this Policy, the Council seeks to promote the following objectives:
- the protection of the health and safety of the public;
 - the maintenance of a professional and respected private hire trade;
 - access to an efficient and effective local transport service;
 - the protection of our local environment.
- 1.4 It is the aim of the Council in this context, to use the licensing powers available to ensure that licensed vehicles in the district are safe, comfortable, properly insured and available where and when required, and that operators and drivers of these vehicles have been sufficiently vetted so as to be considered “fit and proper”.
- 1.5 The Council in composing this Policy has been mindful of the need to justify each requirement against the risk it seeks to address, or objective it seeks to promote. Where the cost of implementing a proposed requirement was not commensurate with the perceived benefit in either of these areas, the introduction of the requirement was not pursued.
- 1.6 In carrying out their regulatory functions, the Council will have regard to this Policy and in particular, the objectives set out above. Notwithstanding the existence of this Policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart substantially from this Policy, clear and compelling reasons will be given for doing so.
- 1.7 The Policy refers to guidance that is available to applicants, drivers and operators to assist them with the application processes and the running of the service. This Policy, relevant application forms and the current fees are available on the Council’s website.

Background to Policy

- 1.8 The Council gave a commitment to subject the Policy to regular review. Statutory Guidance for Licensing Authorities (“the Guidance”) has been issued by the Department for Transport under Section 177 of the Policing and Crime Act 2017, and internal procedures have been further revised.
- 1.9 There is recognition within the Guidance that unduly stringent licensing requirements are likely to unreasonably restrict the supply of private hire vehicles by increasing the

cost of their operation, or by restricting access to the trade. The Council is aware, therefore, that a too restrictive approach may be detrimental to the public interest and could have adverse safety implications.

- 1.10 In light of this and in order for the Council to maintain a modern, forward thinking licensing function, the Policy was initially in place in 2014 with a full review completed in 2017. The Policy was further amended in 2019 to incorporate changes introduced by legislation and amendments to criminal record checks and the Conviction Policy. This Policy is intended to ensure that both the trade, public and Officers have a document that fully explains the licensing procedures in a clear and transparent manner. The Policy was amended in 2020 to make changes in line with the Secretary of State's Taxi and Private Hire Standards.

Policy Duration

- 1.11 This Policy will take effect from ~~1st July 2019~~ for a period of ~~three~~ five years.
- 1.12 Prior to the end of the ~~three-five~~-year period, a full consultation will be undertaken with a view to publishing a new Policy to take effect no later than the date of expiry of the existing Policy.
- 1.13 The Policy will be kept under constant review and amended as and when necessary to reflect changes in legislation and case law.

2 VEHICLES

Specifications and Conditions

- 2.1 The Council has a wide range of discretion over the types of vehicle that they can license as private hire vehicles.
- 2.2 The Council is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a private hire vehicle licence. 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 and the mechanical fitness of the vehicle.
- 2.3 All private hire vehicles must meet the standards as laid down by the Council with regard to standard of appearance. Vehicles shall be right hand drive, be able to carry no more than 8 passengers, have a minimum of 4 doors and shall not have an engine capacity of less than 1250cc. Vehicles with any unrepaired accident damage, panels of a different colour to the rest of the vehicle, missing trims, dirty or damaged upholstery or generally shabby appearance will not be licensed.

Appearance of the Vehicles

- 2.4 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 dents;
 - (ii) be free of visible rust;
 - (iii) be free of any scratches over 10cm in length;
 - (iv) be free of unrepaired accident damage;
 - (v) have uniform paintwork equivalent to that applied by the manufacturer;
 - (vi) not be missing any exterior trim;

- (vii) have all 4 hub caps (if part of the original specification) present, matching and scuff free; and
 - (viii) be maintained in an acceptable state of cleanliness.
- 2.5 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 stains to the upholstery including carpets, and door trim;
 - (ii) be free of splits and tears to the passenger seats;
 - (iii) be maintained in an acceptable state of cleanliness;
 - (iv) have no edges or damaged items likely to cause injury to a passenger;
 - (v) be free from damp and odour that may cause passenger discomfort; and
 - (vi) provide seats functioning in accordance with the manufacturers' specification.

Liquid Petroleum Gas (LPG)

- 2.6 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 the LPG Association's Code of Practice. This certification is required to ensure that the vehicle is considered safe by an approved inspector.
- 2.7 Any licence holder wishing to convert their licensed vehicle to run on LPG must notify the Council prior to any conversion taking place. Once the conversion has taken place, the licence holder must provide the Council with 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. The licence will be suspended until the changes have been made. The licence plate must be returned to the Council.
- 2.8 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.

Wheelchair Accessible

- 2.9 The Council is committed to social inclusion and ensuring a wide variety of opportunities is available to those with mobility difficulties in order to enjoy a high quality of life. It fully supports the view of the Equality and Human Rights Commission that:

"Making successful journeys is critical to the social inclusion of disabled people. Without the ability to travel, disabled people 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."

- 2.10 The Council maintains a designated list of wheelchair accessible private hire vehicles placing duties on the drivers of these vehicles under section 165 of the Equality Act 2010 in relation to wheelchair users.

- 2.11 The private hire trade should be aware of a good practice guide produced by the Equality and Human Rights Commission, as private hire operators also have a duty under the Equality Act 2010 to ensure disabled people are not discriminated against or treated less favourably.
- 2.12 The licence holder and all other drivers of wheelchair accessible vehicles must be suitably trained on how to use the equipment in the licensed vehicle and how to handle a person in a wheelchair. A Wheelchair Test Assessment pass certificate will be required for all drivers of the wheelchair accessible vehicle. The pass certificates must be provided to the Council on application and before any additional driver drives the wheelchair accessible vehicle.
- 2.13 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must be tested every 6 months in accordance with the requirements of the relevant legislation. Any such equipment must be maintained in good working order and be available for use at all times. The certificate must be provided to the Council. Failure to provide an updated certificate before the expiry of the current document will result in the licence being suspended until such a time as a new satisfactory document has been received.
- 2.14 Wheelchair accessible vehicles must be less than 8 years old from the date of registration on initial grant of a private hire vehicle licence. A wheelchair accessible vehicle may continue to be licensed until it reaches 15 years of age provided the vehicle complies with the list at 2.16 below except for (ii) as a MOT pass certificate is required every 6 months for a wheelchair accessible vehicle.

Age of Vehicles

- 2.15 On the initial grant of a private hire vehicle licence, all vehicles must be less than 8 years old from the date of first registration. The date will be taken from the V5C logbook.
- 2.16 A licensed vehicle may continue to be licensed until it reaches ten years of age from the date of first registration provided that it:
- (i) is mechanically tested by the Council Depot every 6 months,
 - (ii) obtains a MOT pass certificate; and
 - (iii) is compliant with the standards of appearance for a private hire vehicle (detailed at 2.3, 2.4 and 2.5 above).
- 2.17 Any vehicle aged between 8 years and 10 years (or 15 years if wheelchair accessible vehicle) may have their renewal application refused or their vehicle licence revoked if the vehicle fails its Depot re-test on any issues which could undermine the public safety objective. If the vehicle proprietor is aggrieved by the decision of the Depot then any concerns can be raised with a Licensing Officer to determine whether the requirements of the Council have been met or not.
- 2.18 Once a licensed vehicle reaches ten years old, the licence will not be renewed.

Vehicle Testing

- 2.19 All vehicles over 3 years of age must have a valid MOT pass certificate upon first application and annually thereafter.

- 2.20 In addition to the MOT testing, the vehicle must also be mechanically tested and inspected by the Council's depot every 6 months.
- 2.21 A valid MOT certificate and compliance test pass sheet must continuously be in place throughout the course of the licence. Failure to provide an updated MOT certificate or compliance test pass sheet before the expiry of the current documents will result in the licence being suspended until such a time as new satisfactory documents have been received.
- 2.22 The licence of any vehicle which fails its inspection requirements will be immediately suspended on public safety grounds until such time as the vehicle has been re-examined and the necessary pass certificates obtained. The licence plate must be returned to the Authorised Officer within 7 days of receipt of the suspension notice. The licence holder must not use the vehicle after they have been served this suspension notice until such time as the inspection requirements are met, the relevant fee paid and the licence holder is in receipt of a letter confirming that the suspension has been lifted by an Authorised Officer.
- 2.23 Any vehicle licence suspended due to failing to meet its inspection requirements will automatically be revoked two months after the date of suspension in line with the legislative requirements.
- 2.24 In addition to the above testing requirements, all licensed vehicles shall be liable to be randomly inspected and tested by an Authorised Officer. These tests will be undertaken at the Council Offices, or any other location. The tests may be conducted in conjunction with the Police and/or DVSA inspectors. If it is discovered during an inspection that a vehicle is not being properly maintained, a suspension notice may be served under section 68 of the Act on public safety grounds. This notice will specify the defects and the action required to remedy the problem. The vehicle may not be used for private hire work until an Authorised Officer lifts the suspension. The licence plate must be returned to the Authorised Officer within 7 days of receipt of the suspension notice.
- 2.25 Failure to comply with the requirements of a section 68 notice will be considered a serious breach of licensing requirements and dealt with accordingly. If the requirements of a section 68 notice are not rectified within two months, the vehicle licence will be revoked in accordance with the Act.
- 2.26 A re-test fee is payable if the vehicle fails the compliance test at the Depot. A test fee is payable if any test is carried out at the Depot in addition to the two tests included in the vehicle licence fee.

Alteration of Vehicle

- 2.27 If a licence holder wishes to make any material alteration or change in the specification, design, condition or appearance of the vehicle then they must notify the Council in writing before any changes are made.
- 2.28 If the vehicle is already licensed, the licence will be suspended while the changes to the vehicle are being made. The licence plate must be returned to the Council.
- 2.29 Once any changes have been made, the licence holder will need to provide the Council with a Confirmation of Compliance notification from the Driver and Vehicle Standards Agency (DVSA).

Tinted Windows

- 2.30 For safety reasons, it must be possible to be able to observe the driver and the passenger(s) being carried in a licensed vehicle. Many licensed vehicles are used for the carriage of children and vulnerable adults and for this reason vehicles which have tinted windows which prevent clear vision into the vehicle will not be licensed. The minimum light transmission permitted for the wind screen is 75% and all other windows in the licensed vehicle shall be 70%.
- 2.31 The only exception to this requirement is for executive type vehicles being used exclusively for executive hire, corporate contracts or work of a similar nature. A request for exemption should be submitted in writing with supporting evidence.
- 2.32 When purchasing new or used vehicles for use as a private hire vehicle, vehicle proprietors are advised to contact the Licensing Department to ensure the vehicle is compliant with the required light transmission values.
- 2.33 The above requirement for tinted windows will only apply to private hire vehicle licences issued after 1st July 2019. Existing private hire vehicle licences may continue to have tinted windows that do not meet the required light transmission values as long as the tints are manufacture fitted. Any licensed vehicle with retro fitted tinted windows will have to remove the additional tints.

Insurance

- 2.34 A valid insurance certificate must continuously be in place throughout the course of the licence. The insurance policy must cover the licence holder for hire and reward purposes and all drivers of the vehicle for that purpose. Failure to provide an updated insurance certificate before the expiry of the current documents will result in the licence being suspended until such a time as new satisfactory documents have been received.
- 2.35 Any person named on an insurance certificate must be a licensed private hire driver with this Council. The Council will not accept any insurance certificates that name any person other than a licensed private hire driver.
- 2.36 If a licensed driver is added to the insurance policy during the term of the licence, an updated insurance certificate must be sent to the Council as soon as possible.

Taximeters

- 2.37 It is not compulsory to have a taximeter installed in a private hire vehicle. Where a taximeter is fitted, the licence holder must provide the Council with:
- (i) a calibration certificate;
 - (ii) details of the fare that the meter is set to.
- 2.38 A tariff card must be displayed in the vehicle showing the current fares payable.
- 2.39 The Council will require a new calibration certificate and new fare details each time a licence holder changes the private hire operator that they work for or the fare table changes.

Accidents

- 2.40 With the safety of the public being a predominate factor of this Policy, all vehicles involved in an accident, collision or damage, however minor, will be required to complete the Council's accident report form and submit to the Council within 72 hours of the accident. On receipt of an accident report form, the Authorised Officer will carry out an inspection of the damaged vehicle and decide the course of action to be taken in respect of the vehicle.
- 2.41 If the vehicle is not fit for purpose due to accident damage, the vehicle licence will be suspended with immediate effect. The licence holder must not use this vehicle after they have been served this suspension notice until such time as the inspection requirements are met, the relevant fee paid and the licence holder is in receipt of a letter confirming that the suspension has been lifted by an Authorised Officer.
- 2.42 Any vehicle licence suspended due to accident damage will automatically be revoked two months after the date of suspension in line with the legislative requirements.

Signage and Advertising

- 2.43 No licensed vehicle will be permitted to have a roof sign or any other kind of fixing on the roof.
- 2.44 All licensed vehicles must display signs stating the name of the private hire operator, their telephone number, and the statement, "Advanced Bookings Only" on both external sides of the vehicle. The signs should be legible for members of the public to read easily. The signs must be displayed on the licensed vehicle at all times during the period of the licence.
- 2.45 For any signage in addition to the above, approval must first be obtained from the Council in writing.
- 2.46 Where a licensed vehicle is used by more than one operator the licence holder must ensure that the correct identifying signs are attached to the vehicle when fulfilling any booking.
- 2.47 No signage shall include the word "TAXI", "CAB" or the words "FOR HIRE" or combinations of the above, or any other words that are likely to cause a person to believe that the vehicle is a hackney carriage and available for instant hire.
- 2.48 Written permission must be obtained from the Council prior to any commercial advertising being placed on or in the vehicle.
- 2.49 No signage must be placed in or on any of the windows of the licensed vehicle so as to avoid the driver's view from being obscured.

Plate exemption

- 2.50 Licensed vehicles are required to display licence plates externally on the rear of the vehicle and a plate in the front windscreen and rear passenger windows. Exemptions may be given for certain types of private hire vehicle not to display the rear plate, however, a letter of exemption from the Council and the licence plate must be carried in the vehicle at all times.
- 2.51 Exemption requests must be submitted in writing. Exemptions will only be granted to licensed vehicles used for executive hire, corporate contracts, or work of a similar nature. Evidence will be required before any exemption is granted by the Council.

Vehicles that are used for a combination of 'exempt' work and normal private hire work will be required to display the licence plate at all times when the exemption does not apply.

Trailers

- 2.52 The Council permits the use of trailers for private hire vehicles. The trailer must meet the requirements set out in the private hire vehicle licence conditions. An application form must be submitted to the Council with the required documentation. The trailer must be tested by the depot. A fee is payable.
- 2.53 Once the application has been received, a plate and licence will be issued. The plate must be displayed on the rear of the trailer at all times that the trailer is in use. The trailer must only be used with the licensed vehicle that it was presented with at the Depot test.

Hire Vehicles

- 2.54 A hire vehicle is a vehicle provided to a licensed driver when their own vehicle cannot be used for private hire purposes usually after an accident. This vehicle must be licensed as a private hire vehicle in order to be used for private hire purposes. Hire vehicle companies license vehicles as private hire and/or hackney carriage with different Licensing Authorities throughout the country.
- 2.55 As a hire vehicle is only used for a short period of time and to avoid any offences being committed under the private hire legislation, a private hire vehicle licence issued to a hire company will be issued for a period of 3 months only.
- 2.56 The Council must be notified in writing as soon as the nominated licensed driver is no longer using the hire vehicle. On receipt of this notice, the private hire vehicle licence will be suspended until notification is received of any new driver. The licence plate must be returned to the Council within 7 days of the date of the suspension notice. The vehicle should not be used for private hire purposes until the licence holder has received written confirmation that the suspension has been lifted and that the proposed driver is a licensed driver with this Authority.
- 2.57 Before any hire vehicle is licensed with any other Licensing Authority, the licence must be surrendered and the plate returned to the Council.

Application Procedures

- 2.58 The application procedures for a private hire vehicle licence are prescribed by the Council. Applications must be made on the specified application form in accordance with the application procedure set out in Appendix 1.
- 2.59 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.
- 2.60 Private hire vehicle licences will be issued for a maximum 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.

- 2.61 A private hire vehicle licence is issued to a specific vehicle, and proprietor, therefore, any change of vehicle or proprietor during the period of the licence would require the relevant application process to be completed.
- 2.62 The Council will undertake to send a renewal reminder to a licence holder's registered address 1 month prior to the expiry date. However, licence holders are reminded that the responsibility to renew a licence in accordance with this Policy remains their responsibility.
- 2.63 An application will not be validated until all of the relevant documentation and the fee have been received. Once a valid application has been received, the Council will determine the application within **five** working days.
- 2.64 If the renewal application has not been determined when the existing licence expires, the licence holder must not use the vehicle for private hire purposes until the new licence has been received.
- 2.65 Once the date of expiry of an existing licence has passed and a valid renewal application has not been received, the licence automatically expires. Expired licences cannot be re-instated. A new licence application will be required.

Conditions of Licence

- 2.66 The Council is empowered to attach such conditions to a private hire vehicle licence as are considered reasonably necessary. All private hire vehicle licences will be issued with the private hire vehicle licence conditions attached.

Non-Standard Private Hire Vehicles (Limousines, Novelty Vehicles and Vintage and Classic Cars)

- 2.67 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.
- 2.68 A novelty vehicle is a vehicle that has been specially adapted, or converted by a low volume specialist vehicle manufacturer or modifier, and has been specially modified from its original design or specification. For the avoidance of doubt, any vehicle capable of being licensed as a standard private hire vehicle would not be considered a novelty vehicle.
- 2.69 Due to the nature of the work undertaken by limousines and novelty vehicles, both can be licensed for private hire work providing they carry no more than eight passengers and meet the requirements of the Act. This Council requires that all limousines and novelty cars are licensed if they undertake private hire work. In addition to the requirements for a standard private hire vehicle, the Council will require the following:
- (i) there are no more than 8 seats provided for customers and there is no facility for seats to be added after the licence has been granted;
 - (ii) proof of an Individual Vehicle Type Approval (IVA) test;
 - (iii) MOT certificate every 6 months.

- 2.70 All applications to license stretched limousines, or novelty vehicles as private hire vehicles will be treated on their own merits. It is, however, proposed that imported stretched limousines, and novelty type vehicles be granted an exemption from the requirement to be right hand drive and from the age restrictions relating to standard private hire vehicles.
- 2.71 Classic and vintage cars will be exempt from the age restrictions relating to standard private hire vehicles so long as they meet the relevant criteria to be licensed as a private hire vehicle.
- 2.72 Once granted, limousines, novelty vehicles, classic and vintage cars will automatically receive an exemption from displaying the external plate. The letter of exemption and plate should be carried in the vehicle at all times. The internal badge should be displayed in the interior of the vehicle at all times.
- 2.73 It would be an offence under the Licensing Act 2003 to provide facilities for the sale of alcohol within a limousine, or novelty vehicle. If a limousine is to be provided whereby part of the booking includes “free alcohol”, the premises which accepts the booking and supplies the alcohol within the vehicle would need an appropriate licence under the Licensing Act 2003, otherwise a criminal offence would be committed. Further information on this matter can be obtained from the Licensing Department.

Dual Plating

- 2.74 The Council will not grant a private hire vehicle licence for any vehicle already licensed by another licensing authority.

Air Quality Taxi and Private Hire Vehicles Database

- 2.75 The Council provides data to DEFRA in line with the Air Quality (Taxi and Private Hire Vehicles Database) Regulations 2019. The 2019 Regulations have been introduced to assist authorities that are introducing charging Clean Air Zones to differentiate between taxis, private hire vehicles and normal private vehicles in order to charge the correct fee if a vehicle enters their Clean Air Zone.
- 2.76 It is mandatory for Licensing Authorities to share this data and the data is shared with DEFRA on a minimum weekly basis via a secured portal. The data sent to DEFRA is limited to:
- the vehicle registration mark of the vehicle;
 - the issue date of the licence;
 - the expiry date of the licence;
 - confirmation that the vehicle is a private hire vehicle;
 - licence number;
 - whether the vehicle is a wheelchair accessible vehicle.
- 2.77 At the introduction of the 2019 Regulations, all existing private hire vehicle licence holders were notified that their data would be shared with DEFRA in line with the 2019 Regulations. All new applicants for a private hire vehicle licence are notified via a privacy statement on the application form.
- 2.78 Information will be processed in accordance with the Data Protection Act 2018 (DPA) and General Data Protection Regulation (GDPR). Any provision of data to DEFRA is necessary to comply with the statutory obligation placed on the Council by the 2019

Regulations. Data will be retained by DEFRA for a period of seven years and will not be transferred outside of the UK.

- 2.79 Details of how the Council will deal with requests by other Licensing Authorities for further information about entries on the database will be processed in line with the NR3 Policy (except information will be held for a period of seven years rather than 25 years) which can be found at Appendix 3 of this Policy. As the Council does not have a Clean Air Zone, the Licensing Authority will not be requesting further information from other Licensing Authorities.

Criminal Record Checks

- 2.81 All vehicle licence holders who are not licensed as a private hire driver or operator with the Council will be required to undertake a basic DBS check on an annual basis. The certificate must be less than one month old when the application is submitted to the Council.

3 DRIVERS

Licences

- 3.1 Under the Act, the Council must be satisfied that an applicant is a fit and proper person to hold a private hire driver's licence.
- 3.2 Private hire drivers are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Private hire drivers should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances, should private hire drivers take the law into their own hands. Private hire drivers are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.3 All private hire driver licences will be issued for a period of three years. A private hire driver's licence may be issued for a lesser period if the Licensing and Appeals Sub-Committee think it is appropriate in the circumstances of the case or the applicant has a time-limited right to work in the UK. In addition, a private hire driver's licence may be issued for a lesser period on request of the applicant.

Age and Experience

- 3.4 A licence will not be granted to anyone who has not held a full DVLA driving licence for a period of at least twelve months immediately prior to the application.
- 3.5 Driving licences issued by another Member State of the European Community (EC) or one of the countries in the European Economic Area (EEA) are acceptable providing the applicant has held the licence for at least 12 months. An applicant who meets the licensing requirements by virtue of an acceptable non-UK driving licence must obtain a confirmation of registration document (D91) from the DVLA prior to the issue of the 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.
- 3.6 All private hire drivers are required to demonstrate a good level of English in order to fulfil their duties including in any emergency or challenging situations. A good level of English is required for passengers and the driver's safety.

- 3.7 An applicant's level of English will be assessed during the initial application appointment by assessing their ability to hold a conversation with the Licensing Officer. If there are any concerns, the applicant will be advised to take steps to improve their English language proficiency. If any concerns are raised by the Licensing Officer then a further assessment will be carried out at the knowledge test to assess if their English has improved. This will be in the format of a conversation with the Licensing Officer. If there are still concerns over an applicant's level of English when a full application has been submitted then their application will be referred to the Licensing and Appeals Sub-Committee for determination.

Driver Knowledge Tests

- 3.8 The Council recognises that private hire drivers require a working knowledge of the District as a whole, and an understanding of the laws and conditions they are required to comply with. To this extent, the Council requires all applicants to undertake a knowledge test.
- 3.9 The knowledge test will consist of:
- (i) Writing a receipt;
 - (ii) Questions on giving the correct change to customers;
 - (iii) Questions on the Council's private hire conditions and Policy;
 - (iv) Questions on the highway code;
 - (v) Questions on the legislation relating to private hire;
 - (vi) Shortest route questions;
 - (vii) Identifying the location of places of interest;
 - (viii) Road signs
- 3.10 A fee will be payable for each test taken. The test fee will be non-refundable and subject to regular review. If an applicant fails to attend the knowledge test without notifying the Council, the fee paid will be forfeited. A further fee will be required to book on to another test date.
- 3.11 An applicant must achieve an 80% pass rate. An applicant will have 3 attempts to pass the knowledge test. Failure to pass the test on the 3rd attempt will result in the application for a private hire driver's licence being rejected and the applicant will not be permitted to sit the knowledge test for one year from the date of the 3rd failure.
- 3.12 Any person found to be cheating on the knowledge test will be disqualified from that test and the test paper will not be marked. However, the test will count towards the total of 3 attempts.
- 3.13 The Senior Licensing Officer, in consultation with the Legal and Democratic Services Manager, shall be authorised to amend the administration of the knowledge test and to add/delete questions to reflect any changes in legislation or local issues. The administration of the knowledge test will be transparent and all applicants will be made aware of the current criteria and applicable fees on application.

Driving Practical Test

- 3.14 All applicants must complete and pass a taxi/private hire assessment course prior to application to ensure they are aware of the hazards of driving. The requirement to take a driving course helps raise the standard of driving and ensure persons are aware of other road users. The applicant must provide a signed copy of the assessment pass

certificate before their application can be considered. The pass certificate must be less than 12 months old when submitted to the Council.

- 3.15 With regards to existing licensed drivers, there is no requirement to pass the taxi/private hire assessment test. However, where a driver obtains 6 points or more in a two year period on their DVLA driving licence, there will be the requirement to pass the test. A maximum time limit of 6 months is allowed to pass the test. A copy of the pass certificate must be provided to the Council. Failure to pass the test within the 6 month period will result in the suspension of the private hire driver's licence until a certificate has been submitted.

Disability Awareness Training

- 3.16 To ensure compliance with the Equality Act 2010, the Council requires all drivers to undertake disability awareness training. The training will be provided by an external provider and will be arranged by the applicant. A fee will be payable. If the applicant as undertaken an equivalent training course, they will not need to complete the training as long as a certificate has been provided to the Council.
- 3.17 Existing drivers were required to have completed the disability awareness training by November 2016.
- 3.18 For all new applicants, the training certificate must be provided by the applicant before their application can be considered.

Medical and Eyesight Examination

- 3.19 All drivers are required to provide a prescribed certificate signed by a registered medical practitioner, and a registered ophthalmic practitioner to the effect that they are physically fit to be the driver of a private hire vehicle:
- (i) on initial application;
 - (ii) for medicals, every 5 years* until the age of 65, and every 12 months thereafter;
 - (ii) for eye tests, every 2 years* until the age of 65, and every 12 months thereafter.

* unless the driver is restricted to a shorter period for medical reasons.

- 3.20 The applicant is responsible for the payment of all fees required for any medical or eye examination.
- 3.21 The Council will follow the DVLA Group 2 medical standards when considering the medical fitness of new applicants with insulin dependent diabetes and other illnesses or existing licence holders diagnosed with insulin dependent diabetes or other illnesses during the period of their licence.
- 3.22 A medical and eye test document required under section 3.15 above must be no older than 3 months at the time a valid new driver or renewal application is submitted.
- 3.23 Where there is reasonable doubt over a driver's fitness, the Council may direct the driver for a medical examination by a specified registered medical practitioner at any time. The licence holder will be responsible for the payment of all fees required for any medical examination.

- 3.24 The Council requires all licence holders, who have an illness or injury that affects their fitness to drive, to notify the Council of this fact in writing within 72 hours.

Medical Exemption Certificates

- 3.25 Private hire drivers must allow assistance dogs to be carried in their vehicles. Drivers of private hire vehicles on the designated list of wheelchair accessible vehicles must provide assistance to wheelchair users. However, it is possible to apply for an exemption from carrying assistance dogs and/or providing physical assistance to wheelchair users on medical grounds. To request an exemption, the driver must complete an application form. Medical evidence will be required to support the exemption request.
- 3.26 Once an exemption has been granted, the driver will be issued with a medical exemption certificate. The driver must display a notice of exemption on the nearside of and immediately behind the windscreen of the vehicle. The notice must be displayed in a manner that readily permits its removal. The notice must be displayed so that its front is clearly visible from the outside of the vehicle and its back is clearly visible from the driver's seat of the vehicle.
- 3.27 In the absence of a medical exemption certificate from the Council, it would be a criminal offence for a private hire driver to refuse to carry an assistance dog, to refuse to allow the assistance dog to remain with the passenger throughout the journey, or to make any additional charge for the carriage of the assistance dog. It would be an offence for a private hire driver to refuse the carriage of wheelchair users, fail to provide them with assistance or to charge them extra. This Council takes complaints of this nature very seriously and will look to take action against a private hire driver and/or operator on any complaint received.

Disclosure and Barring Service (DBS) Disclosures

- 3.28 Under the Rehabilitation of Offenders Act 1974, private hire drivers are an exempt occupation therefore all convictions even if they are considered spent can be taken into consideration when determining an applicant's fitness and propriety. All convictions, except protected cautions and convictions must be declared on the application form and failure to do so will be treated as a dishonest act.
- 3.29 All applicants are required to obtain a Disclosure and Barring Service (DBS) Enhanced Disclosure upon first application. A check of the barred lists is also carried out by this Council. The applicant or licence holder will be responsible for any associated fees. Please note that the Council will not receive a copy of the DBS certificate therefore the applicant must submit their copy to the Council. No application will be granted until a DBS certificate has been received.
- 3.30 Any applicant who has lived overseas for more than a period of six continuous months since the age of 18 will be required to submit a certificate of good conduct or similar document from the relevant embassy before an application will be considered valid. This certificate must be in English and the applicant will be responsible for any fees incurred in obtaining the certificate.
- 3.31 It is mandatory for all private hire drivers to be signed up to the DBS online checking service. The private hire driver will be responsible for any associated fees.

- 3.32 As all private hire drivers will be signed up to the DBS online checking service, the Council will carry out a criminal record check every 6 months. The Council may carry out further checks if they have reasonable cause to do so.
- 3.33 In order to carry out an online check, the Council will require the following:
- (i) confirmation of ID in line with a DBS check;
 - (ii) original DBS certificate to an enhanced level including a check of the barred lists and checked to the required workforce;
 - (iii) consent form signed by the driver permitting the Council to carry out an online check.
- 3.34 Please note that if the online check shows that the licence holder has received any convictions or cautions since the issue of the DBS certificate then a new DBS certificate will have to be applied for and obtained. The licence holder will be responsible for any associated fees. The Council may suspend the private hire driver's licence pending the receipt of the DBS certificate.
- 3.35 If the Council is unable to carry out online criminal record check prior to the due date then notification will be sent to the driver so a new DBS certificate can be obtained. The private hire driver's licence will be suspended if a satisfactory check cannot be carried out before the due date.
- 3.36 The licence holder must notify the Council immediately if their subscription to the DBS online checking service lapses. A new DBS certificate will have to be applied for. If the online check is due then the private hire driver's licence will be suspended until a satisfactory check can be carried out

Relevance of Convictions and Cautions upon initial application

- 3.37 Any application containing convictions, cautions, or information considered relevant to the application by the Police will be considered at the time of application in accordance with the Relevance of Convictions section of this Policy in Appendix 2.
- 3.38 In assessing whether the applicant is a 'fit and proper person' to hold a licence, the Council will consider each case on its own merits.
- 3.39 All applications will be referred to the Licensing and Appeals Sub-Committee for determination if an applicant has any convictions.

Convictions during any period of licence

- 3.40 The Council requires all licence holders who are arrested, receive a summons or a postal requisition notice to report this fact to the Council within ~~48~~72 hours. A representative may fulfil this requirement if the licence holder is unable to.
- 3.41 The Council requires all licence holders who are charged or convicted of a sexual offence, offence involving dishonesty or violence or any motoring offence to report this information to the Council within 48 hours of being convicted or cautioned. The Council requires all licence holders who are subsequently convicted or cautioned for any other criminal ~~or motoring~~ offence during the period covered by their existing licence to report this information to the Council within 7 days of being convicted, or cautioned, or receiving a fixed penalty notice.

- 3.42 In the case of a deferred sentence, the penalty must be disclosed to the Council within 7 days of sentencing. Any fixed penalty notice should be reported to the Council upon acceptance of the notice as opposed to when the driving licence has been updated.

Right to work

- 3.43 All applicants will be required to submit proof of right to work on initial application. The proof should be submitted along with the identification at the DBS appointment. A list of acceptable documents can be found on the Council's website. If an applicant is not able to provide proof of right to work then they will not be permitted to apply for a private hire driver's licence.
- 3.44 From October 2016, all existing drivers were required to submit proof of their right to work in the UK. All right to work checks on existing drivers were completed within one year of October 2016.
- 3.45 Please note that proof of an applicant's and licence holder's right to work will be stored securely on file by the Council as evidence that the right to work check has been completed.
- 3.46 If the right to work is for a limited period then the licence will only be issued up until the expiry of the right to work. The licence holder will be required to submit a renewal application if they wish to continue to work as a private hire driver after this date. Proof of their right to work will be required as part of the renewal application.
- 3.47 If a licence holder's right to work is withdrawn at any time, the licence holder is required to notify the Council immediately. In addition, the Home Office will notify the Council that the right to work has been withdrawn. If the right to work is withdrawn then the private hire driver's licence will lapse. It is an offence to work as a private hire driver without a valid private hire driver's licence.

Child Sexual Exploitation Awareness Training

- 3.48 The Council requires all drivers to undertake child sexual exploitation awareness training. The training will be arranged by the Council. No fee will be payable. If a driver has undertaken an equivalent training course, they will not need to complete the training as long as a certificate has been provided to the Council.
- 3.49 Existing drivers will have until 1st November 2019 to complete the child sexual exploitation training. If a driver has not completed the training by this date, their private hire driver's licence will be suspended until the training has been completed.
- 3.50 For all new applicants, the training must be completed prior to the grant of a private hire driver's licence.
- 3.51 Every licence holder will have to complete refresher training every 3 years in line with the renewal of their private hire driver's licence. An application to renew the private hire driver's licence will not be determined until the refresher training has been completed.

DVLA Licence Checking

- 3.52 It will be necessary for a DVLA mandate to be signed which enables the Council to obtain a driver's complete driving history from the DVLA upon initial application and

annually during the period of the licence. The cost of this check is included in the application fee.

National Register of Taxi Licence Refusals and Revocations (NR3)

- 3.53 The Council provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or private hire driver's licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority; that is, assessing whether an individual is a fit and proper person to hold a private hire driver's licence.
- 3.54 The Council will provide information to NR3 in the following circumstances:
- when a private hire driver's licence application is refused;
 - when a private hire driver's licence is revoked.
- 3.55 All applications for the grant or renewal of a private hire driver's licence will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the Council will seek further information about the entry on the register from the Licensing Authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific licence application and will not be retained beyond the determination of that application.
- 3.56 The information recorded on NR3 itself will be limited to:
- name;
 - date of birth;
 - address and contact details;
 - national insurance number;
 - driving licence number;
 - decision taken;
 - date of decision;
 - date decision effective.
- 3.57 Information will be retained on NR3 for a period of 25 years.
- 3.58 Details of how the Council will deal with requests by other Licensing Authorities for further information about entries on NR3, and about the use it will make of any further information provided to it can be found at Appendix 3 of this Policy.
- 3.59 Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision or receipt of information of or under NR3 are necessary to the Council's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

Application Procedure

- 3.60 The application procedures for a private hire driver's licence are prescribed by the Council. Applications must be made on the specified application form in accordance with the application procedure set out in Appendix 1.

- 3.61 The Council will undertake to send a renewal reminder to a licence holder's registered address 3 months prior to the expiry date. However, licence holders are reminded that the responsibility to renew a licence in accordance with this Policy remains their responsibility.
- 3.62 An application will not be validated until all of the relevant documentation and the fee have been received. Once a valid application has been received, the Council will determine the application within **ten** working days.
- 3.63 If the renewal application has not been determined when the existing licence expires, the licence holder must not work as a private hire driver until the new licence has been received.
- 3.64 Once the date of expiry of an existing licence has passed and a valid renewal application has not been received, the licence automatically expires. Expired licences cannot be re-instated. A new licence application will be required.

Conditions of Licence

- 3.65 The Council is empowered to attach such conditions to a private hire driver's licence as are considered reasonably necessary. All private hire driver's licences will be issued with the private hire driver's licence conditions attached.

4 PRIVATE HIRE OPERATORS

Requirements and Obligations

- 4.1 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.
- 4.2 A private hire vehicle may only be dispatched 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.
- 4.3 A private hire operator must ensure that every private hire vehicle has a current private hire vehicle licence and is driven by a person who holds a current private hire driver's licence, and that the vehicle is fit for purpose before being used to fulfil a booking. The operator must ensure that all drivers of a licensed vehicle are named on the insurance policy in place for that vehicle.
- 4.4 An operator must also be able to demonstrate what steps he is taking to ensure that any licensed driver remains a fit and proper person. The operator shall be able to demonstrate that they are taking steps to ensure that all private hire vehicles operated by the operator remain fit for purpose to continue to hold a private hire vehicle licence.
- 4.5 All three licences; private hire operator's licence, private hire driver's licence and private hire vehicle licence must be issued by the same Council.
- 4.6 Sub-contracting to other operators licensed by this Council and other Councils is permitted under the Act. It is advised that an operator takes steps to ensure that the operator is licensed along with the driver and vehicle dispatched to carry out the sub-contracted booking. The operator must be able to demonstrate that he has taken steps to ensure that the operator, vehicle and driver are licensed.

- 4.7 Applications for a private hire operator's licence must be made on the prescribed form, together with the appropriate fee. The Council will decide whether the applicant is a fit and proper person to hold an operator's licence.
- 4.8 Applicants for an operator licence must provide proof that planning permission has been obtained, or that it is not required for the location they wish to license before an application will be considered.
- 4.9 All private hire operator licences will be issued for a period of five years. A private hire operator's licence may be issued for a lesser period if the Licensing and Appeals Sub-Committee think it is appropriate in the circumstances of the case or the applicant has a time-limited right to work in the UK.

Criminal Record Checks

- 4.10 Private hire operators, that are not licensed drivers, cannot be required to produce an enhanced DBS disclosure. In order to satisfy the public safety objective, the Council will require a basic disclosure certificate and a certificate of good conduct from the relevant embassy where the applicant has lived overseas for more than six continuous months. The certificate must be less than one month old and be submitted with the application form. Applicants that hold a current private hire driver's licence with the Council will be exempt from this requirement.
- 4.11 A basic disclosure certificate will be required annually from any operator who is not a licensed private hire driver.
- 4.12 If the operator is a limited company, a basic disclosure certificate will be required from all directors and partners of the company on initial application and on an annual basis if these individuals are not a licensed private hire driver. It is a requirement that the Council is notified of any change of director and/or partner within a company in order that a basic disclosure certificate can be obtained from any new individuals. If any of the individuals are not fit and proper to hold a private hire operator's licence then the licence will be referred to the Licensing and Appeals Sub-Committee for consideration.
- 4.13 If the operator employs any ancillary staff to take bookings in person or over the telephone or to dispatch any bookings, a register of all staff that will take bookings or dispatch vehicles must be kept. A basic disclosure certificate will be required from all members of staff who take bookings or dispatch vehicles. These members of staff have access to information about customers that needs to be protected by way of ensuring that the people in these positions do not impose an undue risk to the public and are not liable to be exploited by criminals. The register of members of staff must be updated by the operator when someone joins or leaves the operator's employment. A basic disclosure certificate should be obtained and provided to the Council on request.
- 4.14 An operator must produce and maintain a policy on employing ex-offenders in roles that are required to be on the register at 4.12 above.

DVLA Licence Checking

- 4.15 It will be necessary for a DVLA mandate to be signed which enables the Council to obtain an operator's complete driving history from the DVLA upon initial application and annually during the period of the licence. The cost of this check is included in the application fee.

Right to work

- 4.16 All applicants will be required to submit proof of right to work on initial application. A list of acceptable documents can be found on the Council's website. If an applicant is not able to provide proof of right to work then they will not be permitted to apply for a private hire operator licence.
- 4.17 Please note that proof of an applicant's and licence holder's right to work will be stored securely on file by the Council as evidence that the right to work check has been completed.
- 4.18 If the right to work is for a limited period then the licence will only be issued up until the expiry of the right to work. The licence holder will be required to submit a renewal application if they wish to continue to work as a private hire operator after this date. Proof of their right to work will be required as part of the renewal application.
- 4.19 If a licence holder's right to work is withdrawn at any time, the licence holder is required to notify the Council immediately. In addition, the Home Office will notify the Council that the right to work has been withdrawn. If the right to work is withdrawn then the private hire operator licence will lapse. It is an offence to work as a private hire operator without a valid private hire operator licence.

Insurance

- 4.20 Where an applicant has indicated that members of the public will be allowed to enter the bookings office/waiting area, the applicant must produce evidence that they have taken out appropriate public liability insurance for the premises to be licensed before a private hire operator's licence can be granted.
- 4.21 Adequate employee liability insurance must be taken out for any operator who will employ any licensed driver or any other member of staff prior to any application being determined.

Address from which an operator may operate

- 4.22 Upon the grant of a private hire 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. Proof of ownership or contract of use must be provided to the Council with the application form.
- 4.23 The operator must notify the Council in writing of any change of trading or home address during the period of the licence by submitting the necessary form within 7 days of such a change taking place. The operator must also provide proof of public liability insurance for the new premises, if members of the public will be allowed to enter, proof of ownership or contract of use and proof of planning permission status. A fee will be payable for the change of address.

Note: Operators are reminded that it is their responsibility to obtain appropriate planning, building control or any other relevant permissions in respect of the premises.

Bases outside the South Derbyshire District Council Area

- 4.24 The Council will not grant a private hire operator's licence for an operator with an operating base that is outside the South Derbyshire District. This is to ensure that proper regulation and enforcement measures may be taken by the Council.

Renewal of Operator's Licence

- 4.25 The Council will undertake to send a renewal reminder to an operators' registered address 2 months prior to the expiry date. However, operators are reminded that the responsibility to renew a licence in accordance with this Policy remains their responsibility.
- 4.26 An application will not be validated until all of the relevant documentation and the fee have been received. Once a valid application has been received, the Council will determine the application within **five** working days.
- 4.27 If the renewal application has not been determined when the existing licence expires, the licence holder must not work as a private hire operator until the new licence has been received.
- 4.28 Once the date of expiry of an existing licence has passed and a valid renewal application has not been received, the licence automatically expires. Expired licences cannot be re-instated. A new licence application will be required.

Conditions

- 4.29 The Council has power to impose such conditions on a private hire operator's licence as is reasonably necessary. All private hire operators' licences will be issued with the private hire operator's licence conditions attached.

5 ENFORCEMENT

- 5.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the private hire trade.
- 5.2 The Council will adhere to the Corporate Enforcement Policy and Associated Guidance to ensure that its enforcement is reasonable, transparent and proportionate.

6 FEES

Fee Structure

- 6.1 The legislation provides that the fees charged should only cover the cost of administering the private hire licence scheme. This will include the cost of determining and issuing the licences and ensuring compliance with the relevant legislation and conditions attached to the relevant licences.
- 6.2 The fees currently payable for the grant and renewal of private hire licences are set out on the Council's website. The fee structure is reviewed annually as part of the Council's budgetary process.
- 6.3 The setting of fees is the responsibility of the Finance and Management Committee or its equivalent Committee.

Refunds and Duplicate Copies

- 6.4 In the case of any licence where the licence holder voluntarily surrenders their licence prior to the expiry date, the Council may make a refund in respect of the whole months of the unexpired portion of the licence fee less an appropriate administrative charge.
- 6.5 Any request for a refund must be made in writing and the licence, plate and badge returned to the Council.
- 6.6 In the case of a licence that has been suspended, or revoked, no refund will be made by the Council.
- 6.7 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.

7 AMENDMENTS TO THE POLICY

- 7.1 Any substantial amendment to 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 of the Environmental and Developmental Services Committee, or its equivalent Policy Committee.

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

- will have a significant financial impact on licence holders or the public, or
- will have a significant procedural impact on licence holders or the public, or
- may not be perceived by the trade or the public to be consistent with the published objectives detailed in this Policy.

- 7.2 Any minor amendment to this Policy may be authorised by the Legal and Democratic Services Manager and approved by the Chairman of the Environmental and Developmental Services Committee or its equivalent Policy Committee and the Chairman of the Licensing Committee. For the purpose of this section, any minor amendment is an amendment not defined as substantial in section 7.1 of this Policy.

8 RIGHTS OF APPEAL

- 8.1 The Local Government (Miscellaneous Provisions) Act 1976 details an applicant's right of appeal.
- 8.2 In general terms, where an applicant is aggrieved by the Council's decision to refuse to grant, or refuse to renew a licence, or the Council's decision to suspend or revoke a licence, the applicant has a right of appeal to the local Magistrates' Court.
- 8.3 Any appeal must be lodged at the Magistrates Court within twenty-one days of the applicant receiving written notification of the Council's decision. The appeal must state the grounds upon which the appeal is based.

9 CONTACT DETAILS

The Licensing Department can be contacted on the following details:

In writing: South Derbyshire District Council
Council Offices
Civic Way
Swadlincote
Derbyshire

DE11 0AH

Telephone: 01283 595 716 / 890 / 724

Email: licensing@southderbyshire.gov.uk

DOCUMENT HISTORY

Issue No	Issue Date	Approved by
1	January 2009	Council
2	April 2012	Council
3	November 2014	Council
4	October 2015	Council
5	November 2015	Chairman of the Environmental and Developmental Services Committee and the Chairman of the Licensing Committee by way of a minor amendment
6	October 2016	Council
7	November 2017	Council
8	July 2019	Council
9	December 2019	Chairman of the Environmental and Developmental Services Committee and the Chairman of the Licensing Committee by way of a minor amendment
<u>10</u>	<u>#</u>	<u>Council</u>

APPLICATION PROCEDURES

PRIVATE HIRE DRIVERS

1 New Drivers

- 1.1 An application for a private hire driver's licence may be made at any time of the year.
- 1.2 Applications must be made on the form called New Driver's Licence Application Form.
- 1.3 In support of a completed application form, the applicant must provide the following original documentation:
- (i) a current full UK or EU driving licence;
 - (ii) proof of right to work;
 - (iii) an enhanced DBS disclosure application form, obtained via the Council or DBS online checking service to the required level with consent form;
 - (iv) identification for the completion of the DBS form (3 required);
 - (v) the specified fee;
 - (vi) a medical certificate (no older than 3 months);
 - (vii) an eye examination certificate (no older than 3 months);
 - (viii) a completed DVLA mandate form;
 - (ix) a passport style colour photo which must reflect current image;
 - (x) a driving assessment certificate;
 - (xi) safeguarding training certificate, arranged through the Council;
 - (xii) disability discrimination awareness training certificate;
 - (xiii) a local knowledge test pass, arranged through the Council.
- 1.4 In order to apply for a private hire driver's licence, an appointment must be made with the Licensing Department to submit the DBS application form or DBS certificate for the DBS online checking service. The application form will be provided by the Licensing Department at the appointment. The applicant must provide three pieces of identification and the fee for the DBS. At the appointment, the applicant will be provided with details of the next available knowledge test date. The right to work check will be carried out at this initial appointment.
- 1.5 Once the DBS has been returned to the applicant and the knowledge test has been passed, the application form with all the remaining documentation and fee can be submitted to the Licensing Authority.
- 1.6 An application will not be validated until all of the above documents have been received. Once a valid application has been received, the Licensing Department will determine the application within 10 working days.

2 Renewals

- 2.1 Applicants are advised to submit their renewal no less than 28 days before the expiry date to ensure continuity. Any applicant with new adverse information on their application form may have their renewal application referred to the Licensing and Appeals Sub-Committee for determination, therefore, the applicant is advised to apply for their renewal at least two months prior to their expiry date.

- 2.2 Applications must be made on the form called Renewal of a Driver's Licence Application Form.
- 2.3 In support of a completed renewal application form, the applicant must provide the following original documentation:
- (i) a current full UK or EU driving licence
 - (ii) the specified fee;
 - (iii) a completed DVLA mandate form;
 - (iv) a Passport style colour photo which must reflect your current image;
 - (v) DBS online checking service consent form.
- 2.4 A new medical certificate and eye examination certificate (no older than 3 months) will be required prior to the expiry of the current documents. Reminders will be sent out 2 months prior to the expiry of the documents. If the documents are not received then the private hire driver's licence will be suspended until satisfactory documents have been received by the Council.
- 2.5 An application will not be validated until all of the above documents have been received. Once a valid application has been received, the Licensing Department will determine the application within 10 working days.
- 2.6 A private hire driver will still be able to act as a private hire driver whilst their application is being determined as long as their current licence is in force. If the private hire driver's licence has expired and the renewal application has not been determined, the applicant is not permitted to act as a private hire driver until he is in possession of the new licence and badge.

PRIVATE HIRE VEHICLES

3 New Vehicles

- 3.1 An application for a private hire vehicle licence may be made at any time of the year.
- 3.2 Applications must be made on the relevant form called New Private Hire Vehicle Licence Application Form.
- 3.3 In support of a completed application form, the applicant must provide the following **original** documentation:
- (i) the full V5C registration document. (If the vehicle is not registered in the applicant's name, proof of proprietorship for the proposed vehicle will be required);
 - (ii) proof of road tax;
 - (iii) insurance certificate for hire and reward purposes for all proposed drivers;
 - (iv) depot pass certificate;
 - (v) the specified fee;
 - (vi) SVA or IVA certificate (limousines and novelty vehicles only);
 - (vii) MOT certificate (if more than 3 years old);
 - (viii) Meter certificate (if applicable);
 - (ix) LPG certificate (if applicable);
 - (x) Tailgate certificate (if applicable);
 - (xi) Wheelchair Test Assessment pass certificate for all drivers (if applicable);
 - (xii) Basic DBS certificate dated less than one month old if not already licensed driver or operator.-

3.4 An application will not be validated until all of the above documents have been received. Once a valid application has been received, the Licensing Department will determine the application within 5 working days.

4 Renewals

4.1 Applicants are advised to submit their renewal application at least 28 days before the expiry date to ensure the new licence will be ready before your old licence expires, in order to ensure continuity.

4.2 Applications must be made on the form called Renewal Private Hire Vehicle Licence Application Form.

4.3 If the vehicle is aged between 8 years old and 10 years old (or 15 years for a wheelchair accessible vehicle), the applicant must contact the Licensing Department prior to submitting an application so a check of the vehicle can be carried out and a decision made as to whether a renewal application will be accepted.

4.4 In support of a completed renewal application form, the applicant must provide the following **original** documentation:

- (i) the specified fee;
- (ii) depot pass certificate;
- (iii) insurance certificate for hire and reward purposes for all proposed drivers;
- (iv) MOT certificate (if more than 3 years old);

(v) Basic DBS certificate dated less than one month old if not already licensed driver or operator.

(iv)(vi) -

4.5 No faxes or emails from the applicant will be accepted in place of original documents. Faxes and emails will be accepted for insurance if sent direct from the insurance company.

4.6 An application will not be validated until all of the above documents have been received. Once a valid application has been received, the Licensing Department will determine the application within 5 working days.

4.7 With regards to the expiry of any documents during the term of the licence, the Council will notify the licence holder 5 days before the date of expiry via text message. The licence holder must then submit up to date documents to the Council within 5 days of this notification. Failure to submit the documents within this period will result in the vehicle licence being suspended until the documents are received.

4.8 A vehicle will still be able to be used as a private hire vehicle whilst the renewal application is being determined as long as their current licence is in force. If the private hire vehicle licence has expired and the renewal application has not been determined, the applicant is not permitted to use the vehicle as a private hire vehicle until he is in possession of the new licence and plate.

5 Transfer of Vehicle Ownership

5.1 Applications must be made on the form called Transfer of Vehicle Ownership Application Form.

- 5.2 In support of a completed transfer application form, the applicant must provide the same documentation as per a new vehicle application.
- 5.3 A fee is payable.
- 5.4 An application will not be validated until all of the above documents have been received. Once a valid application has been received, the Licensing Department will determine the application within 5 working days.

6 Replacing a vehicle

- 6.1 If you wish to replace the existing vehicle with a new vehicle, you must surrender the old vehicle licence. This must be in writing and the old plate returned to the Council.
- 6.2 A refund will be issued for the remaining full months remaining on the licence minus reasonable administration costs incurred in granting the licence.
- 6.3 A new vehicle application will be required with all the supporting documentation and relevant fee.

7 Hire Vehicles

- 7.1 The application process is the same as a new vehicle licence application as detailed above.

PRIVATE HIRE OPERATORS

8 New Operators

- 8.1 An application for a private hire operator's licence may be made at any time of the year.
- 8.2 Applications must be made on the form called New Private Hire Operator Licence.
- 8.3 In support of a completed application form, the applicant must provide the following original documentation:
- (i) Relevant basic disclosure certificates (if not a private hire driver. The certificate must be less than one month old);
 - (ii) completed DVLA mandate form;
 - (iii) the specified fee;
 - (iv) proof of right to work;
 - (v) proof of planning permission for the proposed operator base;
 - (vi) proof of ownership or a contract of use for the proposed operator base;
 - (vii) public liability insurance (if applicable);
 - (viii) employees liability insurance (if applicable).
- 8.4 Original documents should be submitted for the right to work and these can be sent through the post or presented at the Customer Contact Centre for verified copies to be taken. The Council accepts no responsibility for original documents sent through the post.
- 8.5 An application will not be validated until all of the above documents have been received. Once a valid application has been received, the Licensing Department will determine the application within 5 working days.

9 Renewals

- 9.1 Applicants are advised to submit their renewal no less than 28 days before the expiry date to ensure continuity. Any applicant with new adverse information on their application form may have their renewal application referred to the Licensing and Appeals Sub-Committee for determination, therefore, the applicant is advised to apply for their renewal at least two months prior to their expiry date.
- 9.2 Applications must be made on the form called Renewal of a Private Hire Operator Licence.
- 9.3 In support of a completed renewal application form, the applicant must provide the following original documentation:
- (i) Basic disclosure certificate (if not a private hire driver. The certificate must be less than one month old);
 - (ii) completed DVLA mandate form;
 - (iii) the specified fee;
 - (iv) public liability insurance (if applicable);
 - (v) employees liability insurance (if applicable).
- 9.4 An operator will still be able to take private hire bookings whilst the renewal application is being determined, as long as their current licence is in force. If the private hire operator licence has expired and the renewal application has not been determined, the applicant is not permitted to act as a private hire operator until he is in possession of the new licence.

10 GENERAL PROCEDURES

- 10.1 All required paperwork with the exception of DBS application forms must be provided to the Council either by post or by hand at the Council Offices.
- 10.2 An appointment must be made with the Licensing Department to submit all DBS application forms as the original documentation must be checked and copies taken. DBS application forms will not be completed without an appointment.
- 10.3 In order to carry out an online check, the Council will still require the following:
- (i) confirmation of ID in line with a DBS check;
 - (ii) original DBS certificate to an enhanced level including the barred lists check and checked to the required workforce;
 - (iii) consent form signed by the driver permitting the Council to carry out an online check.
- 10.4 Local knowledge tests are run on a monthly basis and all new applicants must contact the Licensing Department to book a place. A fee is payable.
- 10.5 Depot tests are completed on an appointment basis. Prior to submitting vehicles for testing at the depot, applicants must obtain an appointment and ensure that the vehicle is clean enough to be inspected and is mechanically sound. The initial test and the six monthly inspection is included in the application fee but any further re-inspections i.e. re-test following failure or test after an accident will be charged at the specified fee. Appointments are booked directly with the depot on 01283 595991 or by calling the Licensing Department at any time during normal office hours. A fee may be chargeable if the appointment is cancelled with less than 24 hours' notice or if the appointment is missed.

- 10.6 Plates, badges and licences may be collected from the Council Offices during office hours. All licence holders will be notified by phone or text once their documents are ready to collect. Existing licence holders must return their old plates and/or badges to collect their new ones.

11 CONSIDERING APPLICATIONS

- 11.1 The Council will only consider complete applications with all the necessary documentation and fee.
- 11.2 When submitting applications, applicants should be aware that it may take up to **ten** working days to process and issue a licence.
- 11.3 Renewal applications must be submitted before the existing licence expires. Failure to do so will result in the old licence expiring and the applicant will need to comply with the entry requirements for a new application.

DRAFT

GUIDANCE ON DETERMINING THE SUITABILITY OF APPLICANTS AND LICENSED DRIVERS IN THE PRIVATE HIRE TRADES

1 General

1.1 For the purposes of this Guidance, a conviction is defined as:

- A sentence imposed by a Court;
- A formal caution;
- A fixed penalty notice;
- Community resolution.

Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime.

1.2 In all the cases, the Council will consider the conviction or behavior in question and what weight should be attached to it and each case will be determined on its own merits having regard to this Guidance.

1.3 This Guidance is the baseline for acceptability and it shall only be departed from in exceptional circumstances. Where it is appropriate for the Council to depart from this Guidance, clear and compelling reasons will be given for doing so. The purpose of this Guidance is to formulate guidelines, consistent with national guidance, which detail the Council's position on the relevance of convictions and cautions in respect of applications for the grant of new licences, and the renewal of existing licences, for private hire driver and operator licences. As the Council has the power to suspend or revoke a licence, this Guidance will also relate to the consideration of convictions and/or cautions received during the course of a licence.

1.4 The legislation states that the Council may grant a licence only if it is satisfied that the applicant is a 'fit and proper' person.

1.5 'Fit and proper' means that the individual (or in the case of a private hire operator's licence, the limited company together with its directors and secretary, or all members of a partnership) is 'safe and suitable' to hold the licence.

1.6 In determining safety and suitability, the Council is entitled to take into account all matters concerning that applicant or licensed driver. They are not simply concerned with that person's behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual's attitude and temperament.

1.7 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to

prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the Council. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.

1.8 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.

1.9 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

2. Crimes resulting in death

2.1 Where an applicant or licensed driver has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

3. Exploitation

3.1 Where an applicant or licensed driver has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

4. Offences involving violence

4.1 Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

5. Possession of a weapon

5.1 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

6. Sex and indecency offences

6.1 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.

6.2 In addition to the above, the Council will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

7. Dishonesty

7.1 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

8. Drugs

- 8.1 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 8.2 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

9. Discrimination

- 9.1 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

10. Motoring convictions

- 10.1 Private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensed driver does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

- 10.2 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 10.3 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

- 10.4 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

- 10.5 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

11. Hackney carriage and private hire offences

- 11.1 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Vehicle use offences

- 11.2 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

APPENDIX 3

Policy for in respect of requests for information, disclosure of information, and use of information as a result of an entry on NR3

In this Policy, the 'first authority' refers to a licensing authority which made a specific entry onto the National Register of Refusals and Revocations; the 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

Overarching principles

This Policy covers the use that the Council will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, renew or revocation of a hackney carriage or private hire driver's licence. This information is important in the context of a subsequent application to another Licensing Authority for a drivers' licence by a person who has had their licence refused or revoked in the past.

The Council has signed up to the NR3. This means that when an application for a private hire drivers' licence is refused, or when an existing private hire drivers' licence is revoked, that information will be placed upon the register.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, the Council will make a search of the NR3. The search will only be made by an Officer who has been trained in the use of the NR3 and who is acting in accordance with this Policy. If details are found that appear to relate to the applicant, a request will be made to the Licensing Authority that entered that information for further details.

Any information that is received from any other Licensing Authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application. Where an appeal to the Magistrates' Court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the Magistrates' Court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the Magistrates' Court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the Magistrates' Court or the Crown Court, it is possible to appeal the decision by way of case stated. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the Magistrates' Court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

The data will be held securely in accordance with the Council's general policy on the secure retention of personal data which is available at www.southderbyshire.gov.uk. At the end of

the retention period, the data will be erased and/or destroyed in accordance with Council's general policy on the erasure and destruction of personal data which is available at #.

Making a request for further information regarding an entry on NR3

When an application is made to the Council for the grant of a new or renewal of a private hire driver's licence, the Council will check the NR3.

The Council will make and retain a clear written record of every search that is made of the register. This will detail:

- the date of the search;
- the name or names searched;
- the reason for the search (new application or renewal);
- the results of the search; and
- the use made of the results of the search (this information will be entered to the register at a later date).

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

If the Council discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the Licensing Authority that entered those details (the first authority) for further information about that entry. That request will also include details of Council's data protection policy in relation to the use of any data that is obtained as a result of this process.

This request will be made in writing in accordance with the prescribed form. It will be posted or emailed to the contact address of the Licensing Authority that entered those details (the first authority) which will be detailed in the register.

Responding to a request made for further information regarding an entry on NR3

When the Council receives a request for further information from another Licensing Authority, a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

The Council will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request.

The Council will conduct a Data Protection Impact Assessment. This will consider how the other Licensing Authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

If Council is satisfied that the other authority's (the second authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed. This will be determined by an officer who has been trained to discharge this function.

Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a licensed driver. Data is held on the NR3 register for a period of 25 years, but Council (the first authority) may not disclose information relating to every entry. Each application will be considered on its own merits.

The Council will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained within the Conviction Policy detailed at Appendix 2 above. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined) which is within the timescales determined in those guidelines, the information will be disclosed. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this Policy.

Any information about convictions will be shared in accordance with this Policy under part 2 of Schedule 1 of the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.

The officer will record what action was taken and why. The Council will make and retain a clear written record of every decision that is made as a result of a request from another Licensing Authority. This will detail:

- the date the request was received;
- how the data protection impact assessment was conducted and its conclusions;
- the name or names searched;
- whether any information was provided;
- if information was provided, why it was provided (and details of any further advice obtained before the decision was made);
- if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
- how and when the decision (and any information) was communicated to the requesting Licensing Authority.

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

Using any information obtained as a result of a request to another Licensing Authority

When the Council receives information as a result of a request that has been made to another Licensing Authority, it will take that information into account when determining the application for the grant or renewal of a private hire drivers' licence. This will be in accordance with the usual process for determining applications as detailed above.

The Council will make and retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above).

Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that the Council will make in relation to the application.