

Private Hire Operator Licence Pack



PRIVATE HIRE OPERATOR LICENCE APPLICATION PACK

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Introduction

Please ensure that you read, and understand, this application pack in full before applying for a Private Hire Operator Licence. You should keep this pack for future reference on order that you are fully aware of all procedures involved in obtaining or renewing your licence, and the guidelines, criteria, conditions and regulations of the licence.

Woking Borough Council licences Hackney Carriage and Private Hire drivers, vehicles and Private Hire Operators. Woking Borough Council has the authority for issuing said licences under the adoption of the Local Government (Miscellaneous Provisions) Act 1976, Part 2, together with the Town Police Clauses Act 1847, and the Public Health Act 1875.

The objective in licensing Private Hire Operators is the safety of the public who will be using Operators premises and vehicles, and drivers arranged through them.

The application for a new or renewal of a Private Hire Operators licence can be completed online at www.woking.gov.uk/taxi

Licence

Operator licences are issued for a maximum duration of 1 year. In all cases the licence will only be granted subject to the Licensing Authority being satisfied that the applicant is “fit and proper” to be issued with the licence.

Fit and Proper Person: A person who is deemed to be of no threat to the general public, has a good character and is therefore deemed fit and able to hold a licence. Legislation states that the Council may grant a licence **ONLY** if it is satisfied that the person is fit and proper - **the onus is on the applicant to prove this, NOT the Council to demonstrate that they are not.**

Renewal of Licence

It is the responsibility of the licence holder to apply for the renewal of the licence at the appropriate time. Licence renewals will not be granted until any relevant checks have been completed. To avoid delay, applicants are advised to submit an application 2 - 3 weeks before the expiry of their current licence.

Suitability

The Council reserves the right to require any applicant or existing licence holder to provide additional information if the Licensing Department has reason to believe that circumstances have changed since the application was made.

The Licensing Authority may obtain information about you from third parties, or provide them with information so as to check the accuracy of information. This is to prevent or detect crime, or to protect public funds in other ways, permitted by legislation. These third parties include other Local Authorities and Government departments.

Issuing / Suspending / Revoking / Withdrawing or Refusing to Renew a Licence

A Private Hire Operators Licence is issued in good faith on the basis of information provided and, should any information supplied by the applicant prove to be false or misleading, the licence may be suspended. Any cautions, convictions or pending prosecutions **of any nature** must be reported to the Licensing Department, regardless of nature, penalty or outcome, **immediately**. The Council reserves the right to take into consideration any other information that is likely to be relevant concerning an applicant being deemed fit and proper person to hold a licence. These considerations apply to both new **and** renewal applications

Having previous convictions, for either criminal or motoring offences, will not necessarily prevent a person from obtaining a licence. The nature and time of said offences are of significance in the considerations of the Council. **It is an offence to not declare such matters on your application to the Council.**

Ability to Work in the UK

From 1 December 2016, the Immigration Act 2016 has introduced legislation that requires any person applying for the following to provide evidence of their right to work in the UK.

Woking Borough Council has a duty to ensure that only those persons who are entitled to work in the UK are issued a licence to drive a licensed vehicle.

Hackney Carriage or Private Hire drivers who have previously renewed their licences must provide evidence of their right to work in the UK on the first occasion when they submit a renewal application.

Applications for Hackney Carriage or Private Hire drivers' licences requiring evidence of the applicant's right to work in the UK, must be seen at a pre-booked appointment with the Licensing Department. All relevant documentation will be checked in the applicant's presence, copied and returned during the appointment.

If the Home Office grants an applicant full entitlement to work for 12 months at a time, the applicant will be required to resubmit documents every 12 months demonstrating that the entitlement has been renewed / extended. If, at any point, the entitlement is removed, the licence will be revoked.

Further information regarding what documents can be submitted with an application to show entitlement to work in the UK can be found later in this pack, or from the following websites:

www.woking.gov.uk/taxi or www.bia.homeoffice.gov.uk

Nothing in this document shall be interpreted as over riding the provisions of the Part II of the Local Government (Miscellaneous Provisions) Act 1976 or the Town Police Clauses Act 1847, The Transport Act 1985 and the byelaws made thereunder.

A licence holder has a right of appeal to a Magistrate's Court against the imposition of the Conditions attached to a licence, by virtue of Section 300 – 302 of the Public Health Act 1936

Licensing Department Contact Details:

Woking Borough Council Licensing Department
Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL.

Tel: 01483 755855 / 01483 763823

Email: licensing@woking.gov.uk

Website: www.woking.gov.uk/taxi

Fees and Charges

Private Hire Operator Licence (for 1 year)	£280
Disclosure and Barring Service Check (if required)	£44
Amendment to Existing Licence	£10.50
Duplicate / Replacement Paper Licence	£10.50
Operators Knowledge Test	£15

Private Hire Operator Licence Criteria

Through the completion of a Basic Disclosure & Barring Services (DBS) Check the applicant shall provide evidence that they are of good character.

If the applicant is already a Woking Borough Council licensed driver, the current DBS Check can be used.

Should an application for a Private Hire Operator licence propose the use of a home address, or alternative office space, applicants are advised to contact Woking Borough Council's Planning Department to ascertain as to whether or not any restrictions exist with regard to taxi-related business use.

How to Apply for a New Private Hire Operator Licence

This procedure relates to a person or persons who have never before held a Private Hire Operators Licence within Woking Borough, or who have held such a licence longer than 12 months ago.

1. If you **do not have** a current Disclosure and Barring Service Check (as a result of being a currently licensed driver with Woking Borough Council), you will need to book an appointment with the Licensing Department at the Council offices. To this appointment you must bring:

- **Evidence that you are entitled to work in the UK (unrestricted) - usually passport or visa**
- **Driving Licence**
- **National Insurance card (or something else with your National Insurance Number on)**

If you do have a current Disclosure and Barring Service Check, go straight to step 2.

2. Access the application and payment form at www.woking.gov.uk/taxi

3. Complete the Operators Knowledge Test

Grant of a New Private Hire Operator Licence

Upon receipt of a satisfactory Application Form, Basic Disclosure & Barring Services Check, any Planning Permissions and full fee, you will be issued with a licence (posted to your registered address).

If any information that you have not previously declared on your application form is discovered through the Basic Disclosure & Barring Services Check, you may be refused a licence.

What happens if I have not completed my application 3 months after starting it?

You will have to apply for another Basic Disclosure & Barring Services Report at your own expense.

What happens if I have not completed my application 6 months after starting it?

Your application will be null and void and you will need to reapply.

How to Renew a Private Hire Operator Licence

This procedure applies where the application is for the renewal of an existing Operators Licence.

1. Woking Borough endeavours to send '**Reminder Letters**' approximately 1 month before the expiry of your current Operators licence, by the Licensing Department. The letter will include instructions regarding how to renew the licence. However, it is ultimately the responsibility of the licence holder to ensure the licence is renewed in time.

2. Access the application and payment form at www.woking.gov.uk/taxi

3. Upon receipt of a satisfactory Application Form, and full payment, you will be issued with a licence (posted to your registered address).

How to Amend a Private Hire Operator Licence

This procedure applies should you need to amend any details or records relevant to an existing Private Hire Operator Licence.

1. You will need to put your request in writing it to the Licensing Department, and make the required payment of £10.50 at www.woking.gov.uk/taxi

2. Upon receipt and approval of the requested amendment(s), and the fee, your amended licence will be sent to your registered address.

Private Hire Operator Licence Conditions

1. STANDARDS OF SERVICE

1. **The Operator shall keep (in permanent and easily legible form) a record of the following particulars in respect of every booking of a Private Hire vehicle operated by him, whether the booking is effected directly with the hirer or undertaken at the request of another Operator:**

- (a) the date and time of the booking;
- (b) the date and time of commencement of the journey;
- (c) the name of the hirer;
- (d) the place or places at which the passenger or passengers were collected;
- (e) the place or places at which the passenger or passengers were set down;
- (f) the Private Hire vehicle licence number of the vehicle used;
- (g) the name and licence number of the driver;
- (h) the fare charged and whether or not calculated by means of a meter.

2. **The Operator shall keep (in permanent and easily legible form) a record of the following particulars of every Private Hire vehicle operated by him:**

- (a) the make;
- (b) the model;
- (c) the registration mark;
- (d) the Private Hire vehicle licence number;
- (e) the expiry date of the Private Hire vehicle;
- (f) the District Council who issued the Private Hire vehicle licence;
- (g) the proprietor of the vehicle;
- (h) a service history of each vehicle including details of any modifications thereto and details of all accident repairs.

3. **The Operator shall notify Woking Borough Council of any material change in the circumstances on the basis of which the licence was granted. In particular the Operator must inform the Council of:**
- (a) any change of place of business or any additional place of business;
 - (b) if the Operator is a Company, any change in the address of the registered office;
 - (c) any change in the nature of the business carried on by him;
 - (d) any change in the composition of the firm if a partnership;
 - (e) any convictions recorded against the Operator or a partner of his;
 - (f) any other change in the information given by the Operator to the Council at the time of granting the current licence;
 - (g) details of all staff connected with running of Operator's licence.

Notification must be given in writing within fourteen days of the event.

- 4. No advertising material, letter headings or other stationery, or any business name used by the Operator, shall include the words 'Taxi' or 'Cab' whether in the singular or plural and whether they form part of another word or not.
- 5. When a booking is accepted for a Private Hire vehicle to be present at a particular time and place, the Operator shall take all reasonable steps to ensure that such a vehicle is so present.
- 6. The Operator shall ensure that all vehicles used by him and all drivers employed by or contracted to him are properly licensed, and the conditions attached to those licences are complied with at all times.
- 7. The Operator shall keep a copy of driver and vehicle licences and insurance details.

Important note

The above conditions are additional to the requirements of the LGMPA Act 1976. Licence holders are required to be fully conversant with the relevant requirements of this Act, but the most important are summarised below:

- (i) no Operator shall operate any vehicle in a controlled district as a Private Hire vehicle unless both vehicle and driver are correctly licensed under the Act. (Section 46)
- (ii) an Operator who accepts a booking for a Private Hire vehicle is liable under the contract for its hire whether or not he himself provides the vehicle. (Section 56(1))
- (iii) the particulars required to be kept under conditions 1 and 2 must be produced to an Authorised Officer of the Council or to a Police Officer when required (Section 56(2) and (3), as must this licence. Section 56(4))

2. Conditions attached to the display of door signs on Private Hire vehicles

It shall be the responsibility of the Operator to ensure that all Private Hire vehicles under his control display the door signs in accordance with the conditions below:

- (i) the sign shall be displayed on the front doors of the Private Hire vehicle only.
- (ii) the sign shall only give details of the name, address and telephone number of the Private Hire company from which the licensee obtains his clients.
- (iii) the word 'Taxi' or 'cab' whether in the singular or the plural should not form part of the sign.
- (iv) the proprietor should be able to easily remove the sign should the vehicle's licence be suspended, revoked or not renewed, and he shall be responsible for its removal.
- (v) the proprietor shall submit for the approval of the Council the proposals for the sign prior to its display.
- (vi) these signs are compulsory.

You are further advised that:

- (a) to operate a Private Hire vehicle is to make provision in the course of business for the invitation or acceptance of bookings for it.
- (b) this licence is granted to a particular person and cannot be sold or transferred. Therefore, for example, a new owner of the business must apply for a new licence.
- (c) the carrying on of a business may need planning permission. Operators must comply with all relevant legislation.

Audio and Visual Recording Equipment in Licensed Vehicles

Should you wish to fit Audio and Visual Recording Equipment in your licensed vehicle, such a decision will be of your own choice.

Woking Borough Council has no mandatory scheme in relation to such equipment.

If you do fit such a system to your vehicle, please notify the Licensing Authority (either in writing or by email) to enable the Licensing Department to update licence records. The information provided below is intended to assist you should you consider fitting any system to your vehicle.

1. **Should you wish to fit such equipment you should ensure that any system fitted to your vehicle complies with the Information Commissioners Office "CCTV Code of Practice", which states:**
 - a. CCTV must not be used to record conversations between members of the public as this is highly intrusive and unlikely to be justified. You should choose a system without this facility if possible. If your system comes equipped with a sound recording facility then you should turn this off or disable it in some other way. There are limited circumstances in which audio recording may be justified, subject to sufficient safeguards. These could include:
 - i. Audio based alert systems (such as those triggered by changes in noise patterns such as sudden shouting). Conversations must not be recorded, and operators should not listen in.
 - ii. Two-way audio feeds from 'help points' covered by CCTV cameras, where these are activated by the person requiring assistance.
 - iii. Conversations between staff and particular individuals where a reliable record is needed of what was said, such as in the charging area of a police custody suite.
 - iv. Where recording is triggered due to a specific threat, e.g. a 'panic button' in a taxi cab.
2. **In the limited circumstances where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out.**
3. **Transport for London has adopted the ICO's advice in relation to audio recording in its Guidelines for CCTV Systems in Licensed London Taxis and Private Hire Vehicles, and we recommend that, should you wish to fit such a system with audio recording enabled, you follow the Transport for London model which states:**
 - a. Where recording is triggered due to a specific threat, e.g. a 'panic button' is utilised. Where this audio recording facility is utilised a reset function must be installed which automatically disables audio recording and returns the system to normal default operation after a specified time period has elapsed.
 - b. The time period that audio recording may be active should be the minimum possible and should be declared at the time of submission for approval of the equipment.

Notification to the Information Commissioner's Office

The Information Commissioner's Office (ICO) is the official regulator for all matters relating to the use of personal data.

The ICO defines a "data controller" as the body which has legal responsibility under the Data Protection Act (DPA) 1998 for all matters concerning the use of personal data. For the purpose of the installation and operation of in-vehicle CCTV, the "data controller" is the specified company, organisation or individual which has decided to have CCTV installed. The data controller has the final decision on how the images are stored and used and determines in what circumstances the images should be disclosed.

Notification is the process by which a data controller informs the ICO of certain details about their processing of personal information. These details are used to make an entry in the public register of data controllers.

This means that any specified company, organisation or individual vehicle owner who has a CCTV system installed in a TPH licensed vehicle must register with the ICO (Notification) and obtain documented evidence of that registration. This documentary evidence may be required to be presented to an official of the TPH at any time during the term of the TPH vehicle licence.

The Notification requires renewal on an annual basis, and payment of the appropriate fee.

Using a Third Party Service Provider (Data Processor)

Where a service provider is used for the remote storage of CCTV data they will act as a 'data processor'. A data processor, in relation to personal data, means any person (other than an employee of the data controller) who processes data on behalf of the data controller, in response to specific instructions. The data controller retains full responsibility for the actions of the data processor.

Signage for Internal Audio and Visual Recording Equipment

All Taxis and Private Hire Vehicles fitted with Audio and Visual Recording Equipment must display signage informing passengers that the vehicle is equipped with such a system. The driver may also wish to verbally bring to the attention of the passengers that such equipment is in operation within the vehicle, if it is felt appropriate.

The signage must be displayed in such positions so as to minimise obstruction of vision and to make it as visible as possible to passengers, before and after entering the vehicle. In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out. The name and the contact telephone number of the Data Controller must be included on the sign.

Signage for External Facing Audio and Visual Recording Systems

Where a system is installed in order to record incidents outside the vehicle, it will not be practical to display a sign. Instead, when the system is activated in response to an incident, the driver of the vehicle must inform the person(s) recorded that their personal data was captured - as soon as practicable after the incident. They should also be informed the purpose for which the device has been installed, for example to facilitate their insurance company's investigation of insurance claims.

Dispensation Discs - Criteria, Procedure and Conditions

Some customers prefer to be driven in executive vehicles that are low profile and represent their organisation, especially when meeting a client. Many chauffeur companies, and some Private Hire Operators, employ section 75(3) of the Act. Using this section of the law, allows for **specific vehicles** to be granted dispensation from displaying their Private Hire plate and door stickers. The work undertaken **must not be conventional Private Hire work** but regarded as **specific 'chauffeur-driven' work**, and the vehicle to be used for such work must be an **“executive and prestigious” type vehicle** of a higher standard than that of a 'normal' vehicle used for private hire work.

1. Dispensation from displaying vehicle licence plates can only be applied for by the holder of a Private Hire Operators Licence, for a vehicle that currently carries out work on behalf of that Operator.
2. Exemptions from displaying external identification plates (vehicle licence plates) may be in respect of individual vehicles only. Applications for exemptions relating to a fleet of vehicles will not be allowed.
3. Each application will be assessed on its own merit, and each vehicle may be inspected by an authorised Council Officer to ensure that it is fit for purpose.
4. Applications for exemption from the requirement to display an external identification plate will only be considered where **at least 90%** of the work undertaken are hiring's, where the driver and vehicle are specifically hired to provide transport to a company or person by corporate or account holders only and where the safety of the public is not compromised. The operator will be required to satisfy the Licensing Department, prior to licensing, that the use of the vehicle is by corporate and account holders and must be able to provide evidence to enable the Licensing Department to determine the genuine requirement for plate exemption. This will typically be through reference to the three most recent months of operator records, showing the account and corporate work carried out. **At least 90% of this work must be Account work**, i.e. it must be contracted work, not cash jobs or school runs. Details of what the Operator records should contain are included as a Condition on the Operators Licence.
5. The vehicle will benefit executive status (i.e. a high range or top end of the market vehicles). Vehicles must be in pristine condition with no visible defects, dents or blemishes to the external bodywork, wheels or internal trim and seating. They must comply with the current Woking Borough Council conditions relating to Private Hire vehicles.
6. The Council will require, as evidence, a recent letter from a company, or companies, who wish to use that particular vehicle. Necessary information within the letter includes:
 - a. **Why exemption from display is necessary**
 - b. **The frequency of intended use**
 - c. **Details of the vehicle(s) that relate to the application**

The company, or companies, may be contacted to confirm these details as reasonably necessary to allow the Council to make an informed decision. A decision will then be made as to whether the dispensation is granted. Where such documentation is not provided to the satisfaction of the Council the application will be refused. The Council will maintain commercial confidentiality.

7. Only Operators who have a good compliance record, including a good complaints record of their drivers, will be considered.
8. It is both the Operator and the holder of the Dispensation Discs duty to notify the Licensing Authority if the holder of the Dispensation Disc ceases to work for the Operator, or carries out work for other operators.
9. The proprietor shall not use the vehicle for more than 10% of their work where the work is for Private Hire purposes other than for contract use (i.e. for routine airport journeys, school runs or daily Private Hire use).
10. The exemption will cease to have effect on selling or transferring the vehicle to another party. The person to whom the exemption is granted must inform the Council of the sale / transfer of ownership immediately, and in writing, and provide details of the new owner. The Dispensation Discs must be removed and returned to the Council within 48 hours of sale or transfer.

Enforcement

It is Woking Borough Council's policy to deal with enforcement matters relating to an applicant or existing licence holders by means of Licensing Officers, Legal Services Manager, Head of Legal and Democratic Services, the Licensing Committee and the Courts.

The expectation of the Licensing Authority is that any person who seeks the grant of a licence, or who holds a licence, meets with our definition of a "fit and proper" person.

Hackney Carriage and Private Hire drivers maintain close contact with the public and are therefore not expected to behave or act in a manner that may:

- **cause any person to take offence at their actions**
- **cause any person to believe their actions are inappropriate**
- **cause any person to fear of their physical safety**
- **cause any person to doubt their integrity**
- **bring the integrity of the Council in to disrepute for having granted such a person a licence**
- **fail to adhere to the conditions and regulations pertaining to the licence**

Enforcement Statement

1. It is the practice of Woking Borough Council to ensure that Taxi drivers and Operators are licensed correctly, and carry out their trade in accordance with both the relevant Law and the conditions attached to the licences.
2. All enforcement action, be it the issue of verbal warnings, written warnings, statutory notices, appearance before the Sub-Committee or prosecution, will primarily be based upon the seriousness of the breach and the possible consequences arising from it. Enforcement action will not be used as a punitive response to minor technical contraventions of legislation, but will be used as a means of ensuring the safety and protection of the travelling public and others affected by the licensee's actions.
3. Specific advice on the issue of licences and enforcement action where the applicant or licensee has convictions or cautions for specific offences is contained elsewhere in this guidance.
4. Authorised Officers, when making enforcement decisions, will abide by this policy. Any departure from the policy must be exceptional, capable of justification, fully considered and agreed by the Senior Licensing Officer or above before the decision is taken (unless it is considered that there is significant risk to the public in delaying the decision).
5. Authorised Officers must be fully acquainted with the requirements of the policy and appropriate training will be provided where required.
6. Officers will be authorised by the Legal Services Manager to take enforcement action relevant and appropriate to their level of competence. Competency will be assessed individually by reference to qualifications and experience.

Enforcement Options

Achieving and maintaining a consistency of approach in the making of all decisions that concern Taxi Licensing and enforcement action, including prosecution, is of paramount importance. To achieve and maintain consistency, it is vital that the policy guidelines are always considered and followed where appropriate.

1. Licence application and enforcement decisions must always be consistent, balanced and fair, and relate to common standards, which ensure that the public are adequately protected. In reaching any decision many criteria must be considered including the:

- seriousness of any offences;
- driver or Operator's past history;
- consequence(s) of non-compliance;
- likely effectiveness of the various enforcement options;
- danger to the public.

2. Having considered all relevant information and evidence, the choices for action are:-

2.1 Taxi and Private Hire Licence Applications:

- grant a licence subject to the Council's Standard Conditions;
- grant a licence subject to additional conditions;
- refuse to grant a licence.

2.2 Enforcement Action:

- take no action;
- take informal action;
- use statutory notices, (stop notices etc.);
- suspend a licence;
- revoke a licence;
- prosecution

Any complaints or enforcement measures are dealt with, in the first instance, by the Licensing Department by way of a "Warning" system. Any failures on the part of an applicant or existing licence holder to uphold the Licensing Objectives or to adhere to their Licence Conditions may result in any of the following actions:

- **the issue of a warning appropriate to the incident reported**
- **the issue of a higher level of warning appropriate to the incident reported and taking the history of the licence holder into consideration**
- **the request for an Interview Under Caution to be held in accordance with the Police and Criminal Evidence Act 1984**
- **the issue of a Formal Caution**
- **the referral of the matter to the Legal Services Manager and / or Head of Legal and Democratic Services**
- **the referral of the matter to the Licensing Committee**
- **the referral of the matter to the Legal Services Department for consideration of prosecution**

More details of the Hackney Carriage and Private Hire Licensing Enforcement Policy are contained within Woking Borough Council's Hackney Carriage and Private Hire Licensing Handbook, accessible at www.woking.gov.uk/taxi

Offences

Offences Under Local Government (Miscellaneous Provisions) Act

1. Owning unlicensed vehicle used as Private Hire vehicle.
2. Driving a Private Hire vehicle without a Private Hire driver's licence.
3. Owning licensed Private Hire vehicle driven by unlicensed driver.
4. Operating Private Hire vehicles without operator licence.
5. Operating unlicensed Private Hire vehicles.
6. Operating unlicensed Private Hire vehicles driven by unlicensed drivers.
7. Failure to exhibit vehicle licence plate.
8. Failure to notify (in writing within 14 days) transfer of Hackney Carriage or Private Hire vehicle.
9. Failure to produce Hackney Carriage or Private Hire vehicle for testing when required.
10. Failure to report (within 72 hours) accident involving Hackney Carriage or Private Hire vehicle.
11. Failure to produce Hackney Carriage or Private Hire vehicle licence and insurance when requested.
12. Failure to produce Hackney Carriage or Private Hire driver's licence when requested.
13. Failure to wear Private Hire driver's badge.
14. Failure of Private Hire operator to keep record of bookings.
15. Failure to produce such record when requested.
16. Failure of Private Hire operator to keep records required by local authority.
17. Failure to produce such records when requested.
18. Failure to produce Private Hire operator's licence when requested.
19. Making of false statement or omission of material information in application for any licence.
20. Failure to return, after due notice, licence plate issued in respect of revoked, expired or suspended Hackney Carriage or Private Hire vehicle licence.
21. Failure to return, after due notice, driver's badge issued in respect of suspended or revoked Hackney Carriage or Private Hire drivers licence.
22. Unauthorised parking on Hackney Carriage stand.
23. Unreasonable prolongation of journeys.
24. Misuse of taximeters.
25. Obstruction of authorised officers.

Safeguarding - Child Sexual Exploitation and Human Trafficking

Everyone is becoming more aware of issues relating to Child Sexual Exploitation and Human Trafficking that have occurred throughout the country. These are abhorrent crimes, and the Licensing Authority has a duty to assist the Taxi and Private Hire Trade and the public in tackling this issue, and to protect those who are vulnerable and / or being exploited.

We need the help of Taxi and Private Hire Trade, including Private Hire Operators to identify those who commit these crimes, and protect those who most need our help.

However, there is always more that can be done by everyone to help promote a better understanding of this subject. This page and our website will assist you in being able to identify those at risk, how to protect those who may be vulnerable or being exploited, how to ensure that your actions do not negatively contribute to such persons becoming victims, and to whom to report your concerns.

It is of vital importance that a Private Hire Operator:

- is aware of what good safeguarding practice looks like
- is able to recognise and report a vulnerable child/person at risk
- understands how Child Sexual Exploitation (CSE) and Human Trafficking relates to the business
- knows how to protect their employees and demonstrate due diligence

Who can be vulnerable passengers?

- Under the influence of alcohol and or drugs
- Age (very old or young)
- Disability (physical or learning)
- Illness (mental/physical)
- Unfamiliar with the area
- If they become separated from carer, friend or travel companion
- Communication issues (deaf, blind, speak a different language, stroke)
- Vulnerable adults can be any age from 18 years upwards and also need safeguarding. This may include someone with learning or physical disability, mental health, substance dependence or an older person who might be frail or have dementia.

It is important to be aware that some people make unwise choices but they may have **'capacity'** to do this. In these cases social care might not be able to assist, but it is important that you still report your concerns to professionals who can help; it is not safe for you or your passenger if you attempt to make an assessment yourself – always report your concerns to the authorities.

What are your responsibilities to a vulnerable child/person?

- A Private Hire Operator, and their drivers, have a duty of care to passengers using their service
- A Private Hire Operator, and their drivers, have a moral/social responsibility to report a concern about a vulnerable child
- You are the eyes and ears of the local community
- Reporting a concern could save a life; you are a public service, ambassadors of the Borough.
- You need to know who to contact if you have a concern.
- Police 101 or 999 in an emergency.

What does Safeguarding mean?

- Safeguarding is the action that is taken to promote the welfare of children and protect them from harm.
- Safeguarding means:
 - i. protecting children from abuse and maltreatment
 - ii. preventing harm to children's health or development
 - iii. ensuring children grow up with the provision of safe and effective care
 - iv. taking action to enable all children and young people to have the best outcomes.
- Safeguarding children means to safeguard anybody under the age of 18 years.

What is Child Sexual Exploitation (CSE)?

- CSE is a form of child abuse
- It occurs if somebody manipulates or deceives a child under the age of 18 into sexual activity
 - In exchange for something the victim needs or wants and/or
 - For the financial advantage or increases status of the perpetrator or facilitator
- CSE can appear consensual, but it never is
- CSE does not always involve physical contact - it can occur through the use of technology (internet, mobiles)
- Manipulation / deception is described as **grooming** (this can take place over a short or longer time period)

How are children targeted?

- Befriended by the offender
- By being vulnerable and less able to protect themselves
- Grooming process
- Blackmail
- Threats
- Isolation from support
- Lonely and without a support network
- Has a learning or physical disability
- Have low self esteem
- Have problems at home

Signs of CSE for a Private Hire Operator and their Drivers to look out for

- Passenger
 - Child/young person being afraid
 - Child/young person being under the influence
 - Child/young person being controlled by an adult
 - Child/young person making a long journey that is pre-paid
- Location
 - Any concerns about the location you pick/up drop off a child/young person
 - Child/young person regularly using taxi to go to same location
- Time of day
 - Child/young person entering taxi late at night
 - Child/young person entering taxi during school hours

What is Human Trafficking?

Human Trafficking is the crime of moving a person (adult or child) from one place to another into conditions of exploitation, using deception, coercion, the abuse of power or the abuse of someone's vulnerability. Unfortunately vulnerable persons can be "moved" by criminals who chose to have the journeys carried out in licensed vehicles, without the drivers having any reason to believe that such a person is a victim of such a crime.

There are three main elements involved with Human Trafficking:

- **Movement:** recruitment, transportation, transfer, harbouring or receipt of people (adults or children).
- **Control:** threat, use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or the giving of payments or benefits to a person in control of the victim.
- **Purpose:** exploitation of a person (adult or child), which includes prostitution and other sexual exploitation, forced labour, slavery or similar practices, street crime, forced marriage and the removal of organs forced to work, beaten, abused and too scared to escape.

How can you spot if someone may be vulnerable and being exploited and trafficked?

There are various tell-tale signals to look for. One sign on its own does not mean someone has been trafficked, but several signs together should give you cause for concern. Perhaps the person shows signs of the following:

- Does not know their home or work address
- Allows others to speak for them when addressed directly
- Live or travel in a group, sometimes with other persons who do not speak the same language
- They are collected very early and/or returned late at night on a regular basis
- May have inappropriate clothing for the work they are performing, and/or a lack of safety equipment
- Their physical appearance may show signs of injury, malnourishment, unkempt
- They may be isolated from the local community and/or appear to be under the control or influence of others
- Have no cash of their own
- Be known to work at a brothel and be frequently moved from one site to another

Reporting a Concern

- Pass on any information / concerns you have by:
 - Contacting **Police 101** and explaining your concerns. Quote '**Makesafe**' as this will help identify the concerns and protect children from exploitation.
 - In an emergency call **Police 999**.
 - Contacting **Woking Borough Council** or **Surrey County Council Licensing Departments**
 - Contacting the **Multi-agency Safeguarding Hub (MASH)** on **0300 470 9100**, or the out of hours service on **01483 517898**.
- If you feel very strongly about not giving your name you need not do so. Your concerns about a child will still be investigated.
- You are a public service and the eyes and ears of the local community.
- Reporting a concern could save a life, protect a child from abuse or stop abuse.
- Be aware of risk indicators.
- **Always keep a record**, either in your vehicle or at your control, of **ANY** incidents or situations you were not happy with - the record should include a description of what happened and what you did to keep yourself and your passenger safe.
- Ensure that your drivers **always keep a record**, either in their vehicle or at control, of **ANY** incidents or situations they were not happy with.

Allegations

- Any allegation of abuse made against you is likely to cause a great deal of anxiety and concern.
- Information regarding allegations against adults who work with children can be obtained at www.surreyscb.org.uk/professionals/dealing-with-allegations-against-people-who-work-with-children/
- If you are concerned that another driver or escort may be acting in an inappropriate way towards a child they transport you must immediately make a referral to the appropriate person.

For more detailed information on Woking Borough Council's Safeguarding and Child and Sexual Exploitation Policy visit www.woking.gov.uk/taxi

Right to Work Documentation

The Immigration Act 2016 requires any person who is applying for a Taxi or Private Hire Drivers' Licence (either for the first time or for a renewal) to provide evidence of his/her right to work in the UK. As such, any applicants who do not hold a current valid UK or EU passport will be required to provide evidence of their leave to remain and/or right to work in the UK.

LIST A - ONGOING RIGHT TO WORK IN THE UK

Any documents provided from List A demonstrate that an individual has the right to work in the UK with no restrictions. If documents from List A are presented, no further checks relating to that person's eligibility to work in the UK need to be carried out.

- i) A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
- ii) A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- iii) A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office, to a national of a European Economic Area country or Switzerland.
- iv) A Permanent Residence Card issued by the Home Office, to the family member of a national of a European Economic Area country or Switzerland.
- v) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- vi) A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- vii) A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- viii) A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- ix) A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- x) A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- xi) A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

LIST B - TIME LIMITED RIGHT TO WORK IN THE UK

Documents from List B indicate that the person has limitations on their eligibility to work in the UK (normally time limits).

If documents from List B are presented, then further Evidence and Enquiry Checks will be carried out in line with Home Office Guidance.

(Complete **either Group 1 OR Group 2**. If the individual cannot provide any of the documents listed in Group 1 then one of the combinations of documents listed in Group 2 can be provided as alternatives)

Group 1 – Documents where a time-limited statutory excuse lasts until the expiry date of leave

- i) A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
- ii) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
- iii) A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
- iv) A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

Group 2 – Documents where a time-limited statutory excuse lasts for 6 months

- i) A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with a Positive Verification Notice from the Home Office Employer Checking Service. The licence may be granted for six months from the date of the Certificate of Application.
- ii) A Verification issued by the Home Office Evidence and Enquiry Unit to the Licensing Authority, which indicates that the named person may stay in the UK because they have an in time application, appeal or administrative review and which is outstanding. The licence may be issued for six months from the date of the licence decision.

Woking Borough Council Taxi and Private Hire Licensing Criminal Conviction Policy 2017

(Adopted by Council 8 February 2018)

1. Introduction

- 1.1 This policy sets out the criteria to be taken into account by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to be granted, have renewed or continue to hold a Hackney Carriage and/or Private Hire Driver Licence. In addition to criminal convictions the Council will also take into account other factors such as demeanour, attitude, general character, non-criminal behaviour and police or other relevant records or information from a reliable source.
- 1.2 Whilst this policy primarily applies to the determination of driver licences, where a conviction (as defined below) is considered relevant to the fitness and propriety/suitability of an individual to hold or be granted a Private Hire Operator Licence or vehicle licence, then this policy must be referred to in the determination of that licence/application.
- 1.3 The Council is mindful that each case must be considered on its merits and where exceptional circumstances demand, the Council may depart from this policy.
- 1.4 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
- Applicants for a driver's, vehicle or private hire operator licence
 - Existing licensees whose licences are being reviewed or renewed
 - Licensing officers
 - Members of the licensing committee/sub-committee
 - Magistrates and Judges hearing appeals against local authority decisions
- 1.5 For renewal applications and current licence holders the policy will not be applied retrospectively. However the policy will be applied if any additional convictions are incurred or brought to the attention of the Council that would call into question a person's suitability to hold a licence.
- 1.6 It is the responsibility of Woking Borough Council (referred to as the Council) to issue Hackney Carriage and Private Hire licences under the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Act 1847 and the Hackney Carriage Byelaws. In exercising this duty the Council must consider the need to ensure the safety of the public its primary consideration. Licences cannot be issued unless the person is considered to be 'fit and proper'.
- 1.7 In seeking to safeguard the safety of the public. The council will be concerned to ensure:
- That a person/applicant is fit and proper in accordance with Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II)
 - That the person does not pose a threat to the public
 - That the public are safeguarded from dishonest persons
 - The safety of children, young persons and vulnerable adults
- 1.8 There is no judicially approved test of fitness and propriety and, accordingly, a number of local tests have

developed. These tend to be based on a test similar to the following:

‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get in to a vehicle with this person alone?’

If the answer to this question (or a similar test) is an unqualified ‘Yes’ then the test is probably satisfied. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether this person is a fit and proper person to hold a hackney carriage driver’s licence.

1.9 The Council will undertake whatever checks it considers necessary to ensure that licences are not issued to unsuitable people. In assessing the suitability of an applicant or licence holder, the council will take into consideration the following factors:

- Criminality
- Number of endorsed DVLA driving licence penalty points
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process).
- The previous licensing history of existing / former licence holders.

In addition, the Council will also consider further information from sources such as, but not limited to, the Police (including abduction notices), Children and Adult Safeguarding Boards, Multi Agency Safeguarding Hub, Social Services other licensing authorities, other departments within the Council, and statutory agencies.

1.10 In this policy, the word “applicant” refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders who are being considered by the Council by virtue of offending activity having recently come to light.

1.11 In this policy, the word “conviction” is to be defined as including convictions, cautions, warnings, reprimands and other relevant information.

1.12 The Council reserves the right to overturn or annul a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

1.13 As licensed drivers often carry unaccompanied and vulnerable passengers, the council will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. A licensed PHV or taxi driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern, The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered carefully. As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public.

2 General Policy

2.1 Whilst the Council may consider that an applicant with a conviction for a serious offence may not need to

be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:

- a. Remain free of conviction for an appropriate period as detailed below; and
- b. Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that an applicant is a fit and proper person to hold a licence.

2.2 The standards and criteria set out in paragraphs 4 to 18 below are those that would normally be applied to applications and licences. The Council may depart from these criteria, however it will only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

3 Powers

3.1 Section 61 of the Local Government Miscellaneous Provisions Act 1976 allow the council to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence, of failure to comply with the provisions of the Town Police Clauses Act 1847 or of failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976, or if he/she has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty, or for any other reasonable cause.

3.2 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the council to take into account all convictions recorded against an applicant or the holder of a Private Hire or Hackney Carriage driver's licence, whether spent or not. Therefore the council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.

4 Consideration of disclosed criminal history

4.1 Under the provisions of Sections 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the council is required to ensure that an applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire Operator or Vehicle driver's licence is a "fit and proper" person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the council will look at:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of the conviction, warning, caution etc.
- Circumstances of the individual concerned
- Any sentence imposed by the court
- The applicant's age at the time of offence / incident leading to the conviction, warning, caution etc.
- Whether they form part of a pattern of offending
- The applicant's attitude
- Any other character check considered reasonable (e.g. personal references if requested by the Council)

- Any other factors that might be relevant, for example:
 - The previous conduct of an existing or former licence holder,
 - Whether the applicant has intentionally misled the council or lied as part of the application process,
 - Information provided by other agencies/council departments.

Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)].

- 4.2 In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.
- 4.3 Existing holders of driver's licences are required to notify the council in writing within five working days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the council within 3 working days of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.
- 4.4 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence (s57 Local Government (Miscellaneous Provisions) Act 1976). Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 4.5 Any offences or behaviour not expressly covered by this Policy may still be taken into account.

5 Options when determining an application/licence

- 5.1 When determining an application or reviewing an existing licence in relation to convictions or other relevant information the Council have the following options:
- grant the licence or take no further action
 - grant the licence with additional conditions
 - refuse, revoke, or suspend the licence
 - issue a warning
- 5.2 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

6. Offences involving violence

- 6.1 Licensed drivers have close regular contact with the public. A licence will not normally be granted if the applicant has a conviction for an offence that involved the loss of life such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

6.2 A licence will not normally be granted until at least 10 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm
- Assault occasioning actual bodily harm
- Grievous bodily harm
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Violent disorder
- Common assault
- Resisting arrest
- Any racially-aggravated offence against a person or property
- Affray
- Any offence that may be categorised as domestic violence
- Harassment, alarm or distress, intentional harassment or fear of provocation of violence
- Any offence (including attempted or conspiracy to commit offences) similar to those above.

6.3 A licence will not normally be granted until at least 5 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Obstruction
- Criminal damage
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

6.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

7. Offences involving a weapon (not a firearm)

7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public. For firearms offences see 6.2.

7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 5 years (or at least 5 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

7.3 2 or more convictions for a violent offence will normally result in an application being refused.

8. Sexual and indecency offences

8.1 All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will normally be refused. Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
- Making or distributing obscene material
- Possession of indecent photographs depicting child pornography.
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Soliciting (kerb crawling)
- Any sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Making obscene / indecent telephone calls
- Indecent exposure
- Any similar offences (including attempted or conspiracy to commit) or offences which replace the above

8.2 In addition to the above the council will not normally grant a licence to any applicant who is or has ever been on the Sex Offenders Register or similar register.

9. Dishonesty

9.1 A serious view is taken of any conviction involving dishonesty.

9.2 A minimum period of 5 years free of conviction or at least 5 years since the completion of sentence (whichever is longer) is required to have passed before a licence is granted. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery

- conspiracy to defraud
- false representation
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- fare overcharging
- or any similar offences (including attempted or conspiracy to commit) or offences which replace the above

9.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

9.4 Applicants or existing licence holders that are found to have intentionally misled the council, or lied as part of the application process, will normally be rejected or refused.

10. Alcohol and Drugs

10.1 A serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs or where the driver has been found to be under the influence of psychoactive substances.

10.2 At least 5 years, after the restoration of the DVLA driving licence following a drink drive or driving when under the influence of drugs conviction should elapse before an application will be granted.

10.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 10 years or at least 10 years have passed since the completion of any sentence and/or licence period, whichever is the greater. There will then be full consideration of the nature of the offence and the quantity /type of drugs involved.

10.4 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs.

10.5 If there is evidence of persistent drugs or alcohol use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) and a satisfactory medical report may be required before the licence is granted. If the applicant was an addict (drug or alcohol) then they would be required to show evidence of 8 years free from drug taking after detoxification treatment.

10.6 A licence will not normally be granted for drunkenness offences not involving a motor vehicle for a period of one year after a single conviction and 2 years after 2 or more convictions within 2 years of each other.

11. Driving offences involving the loss of life

11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

11.2 A licence will not normally be granted if an applicant has a conviction for:

- Causing death by dangerous driving

- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

12 Other traffic offences

- 12.1 Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a court), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least 1 year free of such convictions. For applicants with more than one offence this should normally be increased to 2 years.
- 12.2 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would be granted for a Hackney Carriage or Private Hire drivers licence.
- 12.3 Traffic offences such as obstruction, some speeding offences (usually dealt with by means of a fixed penalty), pedestrian crossing offences, traffic light offences waiting in a restricted area, or offences of a similar nature may not ordinarily merit refusal.
- 12.4 In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above should normally commence from the date of the restoration of the licence.
- 12.5 In this policy, the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.
- 12.6 In "totting up" cases where disqualification is considered by the Court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver, the licensing authority is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply. An applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

13 Outstanding Charges or Summonses

- 13.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.
- 13.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

14 People banned from working with children and vulnerable adults

- 14.1 A serious view is to be taken of any applicant or licence holder who has been banned from working with children or vulnerable adults. A licence will not be normally be granted if an applicant has been found unfit to work with children or vulnerable adults.

15 Non-conviction information

- 15.1 The Council will take into account intelligence which has not led to a conviction. This may include but not be limited to information regarding acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, civil penalties and complaints from the public. In considering the most appropriate action to take following the receipt of information, the credibility of both the witness / complainant and the licence holder will be taken into account.
- 15.2 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application or revoking an existing licence.
- 15.3 In assessing the action to take, public safety will be the paramount concern. Decisions will be taken on balance of probability.
- 15.4 A licence will not normally be granted until at least 1 year has elapsed since a Criminal Behaviour Order.

16 Licensing Offences

- 16.1 Offences under taxi and private hire and associated legislation such as plying for hire without a licence, overcharging and refusing to carry disabled persons will prevent a licence being granted or renewed until a period of 3 years has passed since conviction.

17 Insurance Offences

- 17.1 A serious view will be taken of convictions for driving, being in charge of a vehicle without insurance, or allowing person to drive whilst uninsured. A previous isolated incident will not necessarily stop a licence being granted provided an individual has been free of conviction for 3 years. However strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.
- 17.2 An operator found guilty of aiding and abetting the driving of passengers for hire and reward without insurance will have his Operator's Licence reviewed with a view to revocation and will not be permitted to hold a licence for a period of at least 3 years from the date of any revocation.
- 17.3 Where a specific offence is not mentioned, a suitable period of time will be determined by reference to offences described. The Council reserves the right to refuse a licence where there are aggravating circumstances, even where these guidelines would otherwise indicate that a licence might be granted.

18 Applicants with periods of residency outside the UK

- 18.1 Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU nationals a disclosure that is similar to the UK DBS will be required, for those countries for which checks are not available, the council will require a certificate of good conduct authenticated by the relevant embassy.
- 18.2 If an applicant has spent six continuous months or more overseas (since the age of 16) the council will expect to see evidence of a criminal record check from the country / countries visited covering the period.

19 Summary

- 19.1 Whilst a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed, in most cases, an applicant would be expected to have remained free from conviction for 3 to 10 years (detailed above), before an application is likely to be successful. If there is any doubt about the suitability of an individual to be licensed, the Council will be mindful of the need to protect the public and caution will be exercised.
- 19.2 While it is possible that an applicant may have a number of convictions that, individually, do not prevent a licence from being granted, the overall offending history will be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Some discretion may be afforded if an offence is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

Summary of points an Operator should know

This is not an exhaustive list, but is intended as a crib sheet to guide you on various points.

Responsibility

This is at the top of the list due to the importance of it. Operators are required to ensure that all vehicles used by them and all drivers employed by or contracted to them are properly licensed and the conditions attached to those licences are complied with at all times. This means that you are required to take an element of responsibility in ensuring that the vehicles and drivers, that you are giving jobs to, are compliant with their licences also.

Address Changes

Licence Holders (Operators, Drivers, and Vehicles) must notify the Licensing Authority in writing of any address change within fourteen days.

Assistance Dogs

Drivers cannot refuse to take assistance dogs. As an Operator, if you know an assistance dog is accompanying the passenger, it is prudent to notify the driver that you are giving the job to and ensure that you send someone suitable to carry out the job.

Charging the customer

When a booking is taken, you should make sure you inform the customer how much the job is going to be, as this information will be provided to the driver. If you do not advise the customer of the cost of the job, this can cause problems down the line if they think the price for the job is different from what you think it is.

Convictions

Licence holders must notify Woking Borough Council, in writing, of any conviction or caution recorded against them by any Court within five days of such conviction or caution being imposed.

Customers - not pre booked

Customers who approach a Private Hire vehicle should be advised by the driver to book with their Operator. They cannot make the booking for the customer (i.e. by radioing it through for them) as this is an offence.

Drivers Badge

Drivers must wear their badges at all times they are working. This should be round their neck.

Endorsements of Drivers

Any driver who gets points on their DVLA driving Licence, must notify the Licensing Authority within five days. The easiest way to do this is for them to email us with the information (such as date, offence, points etc).

Enforcement

As much of the actions of an Operator are governed by Law, failing to comply with the licence, the legislation or the Licensing Conditions, can this result in the issuing of a Formal Caution, the suspension of the Operator's Licence or the revocation of the Operator's Licence

Hackney Carriages

Hackney Carriages licenced by Woking Borough can be used by you as a Private Hire Operator. They cannot use the meter and do not need to the door signs.

Hackney Carriages licenced by other authorities can be given work by you as a Woking Operator (for example you can give work to a Guildford Hackney Carriage). Again, they must NOT use their meters. It is worth noting that they should intend to carry out the majority of the work in which they are licenced in, so be careful as to how much work you actually give them.

Licence – Duration

A Vehicle Licence must be renewed annually.

An Operators Licence must be renewed annually.

A Drivers Licence usually lasts for three years. (Though drivers over the age of sixty will be issued annual licences).

Licence

Once a licence is issued, the licence holder should read it fully to ensure that they understand it and understand the conditions on the licence. It is a legal requirement to comply with these conditions.

An operator should renew their licence before it expires (not on the day it expires, not the day after it expires!) Once any licence expires, the licence holder must STOP using it unless given express permission to continue. As such – a driver must not drive unless they have a valid Private Hire or Hackney Drivers Badge and a valid Vehicle Licence. An Operator must NOT give out or accept any jobs or give out any work to any drivers unless they have a valid licence. To do otherwise is to commit a criminal offence.

Licence - required documents

All Operator Licence Holders are required to have a current valid Disclosure and Barring Service Check.

Mobile Phones and PDA's

It is a criminal offence for your drivers to use a mobile phone whilst driving. Whilst hands free is acceptable generally, Woking Borough Council does not allow the use of hands free whilst there is a passenger in the car. WBC expects drivers to be professional and be paying their fullest attention to the passenger, and not chatting on the phone.

It is also worth noting that some Police Forces consider the use of PDA / touch screen phones on the dashboard to be "use of a mobile phone" and in some cases, Private Hire Drivers accepting a job on their PDA have been considered to be not driving with due care and attention. The Police recommend drivers pull over safely before using any touch screen device that may distract the driver's attention away from the road.

Operators Logs

It is a legal requirement that you keep a log of every journey you accept. This includes corporate work, this includes school work and this includes any jobs passed to another Operator. These logs must include all the information as listed on Condition 1 of your Operators Licence. These logs should be kept for at least 1 year. If the Licensing Authority or a Police Officer asks for these logs, it is your legal requirement to provide them – and a failure to provide these logs (or keep the correct logs) can result in a criminal offence being committed.

Operators Premises

Operators should always check that they have the suitable planning permission at any property they intend to make use of for running a business from. Some Planning Conditions restrict what can be carried out from a site.

The law states that jobs should only be accepted and passed on to drivers from the address listed on your Operators Licence. Accepting jobs and passing on jobs from anywhere else (i.e. in another premises in the borough, from your car on the road, or from a call centre abroad) is an offence and to do so may jeopardise the continuation of your licence.

Smoking

It is an offence to smoke in a place of work or a licenced vehicle. This means that drivers cannot smoke in their vehicles (as they are licenced 24/7, whether carrying a passenger or not). This also means that if you employ any staff at your office, this area will also be a non smoking area, and to smoke in it is to commit an offence under the Smoke Free Regulations and can result in financial penalties and bring your licence into question.

Staff at your business

It is good business practice to advise the council of any staff you use. Furthermore, as a responsible employer it is good practice to ensure that your staff are safe and suitable to carry out the job required. Being

a Private Hire Operator requires you and your staff to be responsible for handling personal data and as such it is important to be sure that you familiarise yourself with the GDPR / Data Protection Regulations. Failure to comply with GDPR can result in huge financial penalties from the Information Commissioners Office.

Sub Contracting

If you accept a job, but you are too busy or do not have a driver available, you can legally sub-contract that job to another Operator – either inside or outside the borough, as long as they are a legally licenced operator somewhere – you can pass that job on to them.

It is often questioned as to who should retain the information about the job on their logs – the initial Operator, or the Operator who was passed the work. It is our suggestion that both Operators keep a record of the job – noting that it was subcontracted from/to another Operator. When subcontracting – it is important that the Operators involved pass on the information required, such as the persons name, their location, and the amount that has been quoted for the journey. The Second operator cannot then change the amount they are charging.

Vehicle - Accidents

Licence Holders of Vehicles must report any accident involving a licenced vehicle to the Council within 72 hours (or when reasonably practicable). The Licensing Authority will ask for photos showing the damage to the vehicle and will usually ask for the return of the Plates until such time that they can be satisfied the vehicle is repaired.

Vehicle – Plates

Vehicles must have their Private Hire or Hackney Carriage Plates on at all times they are licenced, not just when they are working.

Vehicles - Door Signs

Private Hire Vehicles are required to have Operators Door Signs on the front left and front right doors of the vehicle. As the Operator, it is your responsibility to ensure that all vehicles you give work to, have these signs on their vehicles as required. It is your responsibility to provide these to your drivers, and make sure you have them available for immediate use for any new drivers. If you allow drivers to go around and work or drive without the door signs on, then you are facilitating an offence being committed.

Vehicles - Information provided

When you or your staff accept a job, they should get the customers name, where they are being picked up from, where they are going to, and the customer should be provided with a quote for the amount the journey will cost.

When you provide the information to the driver who is going to carry out the job, you should inform them of the customers name, where they are being picked up from, where they are going to, and how much you have told the customer the journey is going to cost. The driver should not charge anything other than what has been quoted by yourself to the customer, and to do otherwise is an offence!

Vehicles - keeping records of

It is a condition of the Operators Licence that the operator shall keep in permanent and easily legible form a record of particulars of every private hire vehicle operated by him. This includes basic vehicle information such as the make and model, but also requires the Operator to keep details of the vehicles licence, expiry date and more. For the full details, you can see Condition 2 of the Operators Licence.

Some Operators go above and beyond, taking extra responsibility for their drivers and vehicles. They also keep details of Insurance Certificates and expiry dates. This is to assist the driver and prevent any jobs being

carried out by uninsured drivers.

Vehicles - licenced by other authorities

Can you give work to a Private Hire Vehicle licenced by another Authority? Absolutely not. Whilst you are allowed to give a job to another Operator, you cannot give work direct to a Private Hire Driver licenced by another Authority. These drivers will be unlicenced and uninsured and again, to do so would result in your licence being reviewed and possibly revoked.

Vehicles – required

The following items are required to be in a Private Hire Vehicle, and as the Operator you should have a hand in making sure your drivers understand this and comply with the requirements.

- “No Smoking” sign in each seating area
- First Aid Kit
- Operators Door Signs on the front left and front right doors
- Front & Rear Licence Plates
- Fire Extinguisher

Vehicles – Waiting

When your Private Hire Vehicles are not working or not picking up, they should not wait in busy areas. For example, sitting outside a busy nightclub or in a town centre.

Vehicles - who can drive

A Licenced Vehicle remains licenced at all times. Its licence does not magically stop when the driver is not working, and as such it can only be driven by someone who holds a valid licence, has the correct insurance and has the owners permission. This usually means that the drivers friends and family cannot drive their vehicle, even if they have the correct insurance, and if a driver allows someone who does not hold a Private Hire or Hackney Licence to drive their Licenced vehicle, they will be committing an offence.

Wheelchairs

You cannot charge extra for a passenger in a wheelchair.