



Meeting	Licensing & Regulation Committee
Date and Time	Thursday, 6th June, 2019 at 6.30 pm.
Venue	Walton Suite, Guildhall, Winchester

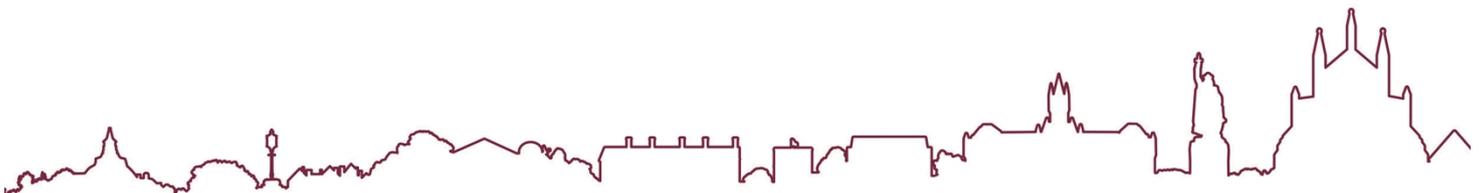
AGENDA

PROCEDURAL ITEMS

- 1. Apologies and Deputy Members**
To record the names of apologies given and Deputy Members who are attending the meeting.
- 2. Appointment of Vice Chairman for the 2019/20 Municipal Year**
- 3. Membership of Sub-Committees etc**
To give consideration to the approval of alternative arrangements for appointments to bodies set up by the Committee or the making or terminating of such appointments.
- 4. Disclosures of Interests**
To receive any disclosure of interests from Members and Officers in matters to be discussed.

Note: Councillors are reminded of their obligations to declare disclosable pecuniary interests, personal and/or prejudicial interests in accordance with legislation and the Council's Code of Conduct.

If you require advice, please contact the appropriate Democratic Services Officer, prior to the meeting.



5. **To note the time of future meetings of the Committee (currently approved dates are published as follows).**
 - Thursday 6 June 2019
 - Thursday 19 September 2019 (previously Thursday 5 September 2019)
 - Thursday 5 December 2019
 - Thursday 20 February 2020

6. **Minutes** (Pages 5 - 10)
Minutes of the previous meeting held on 21 February 2019.

BUSINESS ITEMS

7. **Public Participation**
To receive and note questions asked and statements made from members of the public on issues relating to the responsibility of this Committee.

8. **Review of Hackney Carriage and Private Hire Licensing Policy - Phase One Tip Top Taxis (LR520)** (Pages 11 - 54)

9. **Minutes of the Licensing Sub Committee held on 18 March 2019** (Pages 55 - 58)

Lisa Kirkman
Corporate Head of Resources and Monitoring Officer

Members of the public are able to easily access all of the papers for this meeting by opening the QR Code reader on your phone or tablet. Hold your device over the QR Code below so that it's clearly visible within your screen and you will be redirected to the agenda pack.



29 May 2019

Agenda Contact: Claire Buchanan, Senior Democratic Services Officer
Tel: 01962 848438 Email: cbuchanan@winchester.gov.uk

**With the exception of exempt items, Agenda, reports and previous minutes are available on the Council's Website www.winchester.gov.uk*

MEMBERSHIP:

Councillors

Chairman: Bentote (Liberal Democrats)

Vice Chairman: To be appointed

Conservatives

Clementson
Cook
Gemmell
Mather

Liberal Democrats

Achwal
Fern
Gordon-Smith
Green
Laming
Williams

Deputy Members

McLean and Read

Clear and Power

Quorum = 4 members

Meetings commence at 6.30pm in The Walton Suite Guildhall, Winchester, unless otherwise stated.

PUBLIC PARTICIPATION

A public question and comment session on the general procedure of the Committee is available at the start of the meeting for a 15 minute period. There are a few limitations on the questions you can ask. These mainly relate to current applications, personal cases and confidential matters. Please contact the Democratic Services Officer in advance for further details. If there are no members of the public present at the start of the meeting who wish to ask questions or make statements, then the meeting will commence.

DISABLED ACCESS:

Disabled access is normally available, but please phone Democratic Services on 01962 848 264 or email democracy@winchester.gov.uk to ensure that the necessary arrangements are in place.

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Public Document Pack Agenda Item 6

LICENSING & REGULATION COMMITTEE

Thursday, 21 February 2019

Attendance:

Councillors

Mather (Chairman)

Izard
Bentote
Berry
Burns
Cook

Green
Laming
McLean
Read

Others in attendance who addressed the meeting:

Councillors Horrill (Leader) and Porter

Others in attendance who did not address the meeting:

Councillor Warwick (Portfolio Holder for Environment)

Apologies for Absence:

Councillors Becker

1. **MINUTES**

RESOLVED:

That the minutes of the additional meeting of the Committee, held on 29 January 2019, be approved and adopted.

2. **PUBLIC PARTICIPATION**

At the invitation of the Chairman, Councillors Horrill and Porter addressed the Committee during consideration of Item 3 and their comments are summarised in the relevant item below.

3. **PRESENTATION - TAXI AND PRIVATE HIRE LICENSING POLICY** (Presentation and Oral Update)

The Chairman announced that she had agreed for a supplementary agenda to be issued in respect of this presentation, due to its urgent consideration by the Committee

Prior to the presentation, the Licensing Manager provided an update on the case in the press recently regarding a Private Hire Driver, Mr Ferham Khan, who had been jailed for the rape of a female passenger that he had picked up from the Broadway, Winchester on 30 September 2017. The Licensing Manager clarified that the driver and the vehicle were licensed by the City of Wolverhampton Council and that the driver was working for Wessex Cars at the time of the offence and was not licensed by Winchester City Council.

It was noted that the Leader had previously written to the City of Wolverhampton Council (and also copied to Steve Brine, MP) regarding private hire vehicles licensed in their area which were operating in Winchester and other areas and recognised that this practice was currently permitted under the Local Government (Miscellaneous Provisions) Act 1976 .

In addition, the Licensing Manager provided assurance to the Committee that, despite a review of the Policy, the existing Policy did not put the public at risk in any way and this point of safety was stressed.

In response to Member's questions, the Licensing Manager confirmed that the current legislation allowed for a Private Hire Driver to be licensed by another authority and to work for another operator while working in the Winchester district. The Government were looking to introduce minimum standards nationally and the Council have been supportive of this change for many years. In respect of questions regarding Uber, it was noted that a licence to operate in Winchester was required and that Uber do not have an operator licence to do so.

A paper had been circulated to the Committee which set out an update for February 2019 as part of the Department for Transport Task and Finish Group final recommendations to Government to lobby for a change in legislation.

The Committee received a presentation from the Council's Licensing Team which set out the proposals for the Council's new Taxi Licensing Policy following discussions at the previous meeting held on 29 January 2019. It was noted that there were many matters expected to improve and enhance the taxi regime to raise the standard in Winchester.

The presentation focussed on the specific improvements the Council were proposing to adopt in order to achieve this vision, locally known as 'Tip Top Taxis', this included improvements to vehicles and changes for drivers/operators which the Committee considered in detail.

The Committee were informed that mandatory safeguarding training was in progress which all drivers were required to attend. Wheelchair safety training would be recommended moving forward for a small fee and Driver Forum meetings were held on a regular basis to ensure all were involved in the changes coming forward with the submission of ideas for consideration. Furthermore, officers were liaising with other local authorities that have introduced CCTV and adopted a livery of vehicles approach in their areas.

In summary, Councillor Porter addressed the Committee in support of the new Policy coming forward and welcomed the mandatory safeguarding training which

offered an increased confidence to members of the public. She made reference to the significantly high level of taxis that were licensed by Wolverhampton whilst only a small proportion (approximately 200) actually operated in that area. Councillor Porter considered that this matter needed to be addressed by the Local Government Association (LGA) to enable an immediate remedy to the issue ahead of any change that could be made to legislation and also suggested that the City of Wolverhampton Council be contacted again directly on this matter.

In addition, to wheelchair access and training, Councillor Porter suggested that the same consideration be shown to public transport users other disabilities (i.e. adults with learning difficulties).

In summary, Councillor Horrill addressed the Committee and welcomed the opportunity the new taxi licensing policy provided for all parties to come together and noted the extensive but important list of tasks to reassure the public that their safety was paramount. Councillor Horrill reported that she had written to the City of Wolverhampton Council in April 2018 in respect of the licensing of over 6,000 drivers and their approach to licensing in contrast to other local authorities. In response, a lengthy rebuttal was received and this matter had since been taken up with Steve Brine, MP to lobby in Government to request a change to this Policy.

As a result of the recent offence, Councillor Horrill stated that she would contact Wolverhampton again, setting out the crime that had been committed in Winchester by one of their licensed drivers and endeavour to secure an immediate change in respect of Wolverhampton's licensing practices.

Furthermore, Councillor Horrill stated that Wessex Cars, who currently permit drivers licensed elsewhere to operate in the Winchester area (along with Wintax Cars) also be contacted and made aware that the Council are dissatisfied with the approach they were taking and the lack of reassurance this was providing residents of the District.

In conclusion, Councillor Horrill summarised that was a need to engage with the community, that safeguarding was recognised as a huge responsibility with great significance for the Council and that she fully endorsed the proposals for the livery of and upgrade to the general standard of licensed vehicles.

The Committee raised a number of detailed questions, which officers present responded to accordingly, in relation to the following points:

- Safeguarding Training – It was reported that it would be mandatory for drivers to take and pass this training in order to retain a renewal of their licence with the Council going forward. It was reported that it was anticipated that safeguarding training would need to be repeated on a three yearly basis and that all staff going forward, including call operators, would need to be Disclosure and Barring Service (DBS) checked;
- Educate the public to recognise the difference between Hackney Carriage taxis and Private Hire vehicles that are pre-booked and to ensure a

distinction between the two with the inclusion of the display of certificates (i.e. safeguarding certificate) to offer increased certainty of public safety when using taxi services in future;

- That work be undertaken to address language barriers with drivers to improve communication with the public in some instances; and.
- Research into the cost implications of CCTV installation/monitoring and the livery of vehicles be progressed and considered further in due course;

At the conclusion and discussion and debate, the Chairman summed up the following points that had been noted and supported by the Committee:

- (i) That operators Wessex Cars, Wintax Cars and the City of Wolverhampton Council, as the licensing authority, be contacted regarding the recent offence to seek a change to their practices for licensed vehicles;
- (ii) That the Local Government Association (LGA) also be contacted about this matter;
- (iii) That the Leader, Councillor Horrill, be supported in continuing to lobby the Government for a change to the legislation that currently allows drivers to be licensed in one District and to work in another;
- (iv) That the work of the Task and Finish Group on Taxi and Private Hire Licensing be commended and the recommendations with the proposed changes to the Policy be supported; and
- (v) That communication with customers of the taxi and private hire service also be progressed through different media sources (i.e. Hampshire Chronicle).

RESOLVED:

That the presentation be received and the points raised by the Committee, as set out above, be noted.

4. **REVIEW OF LICENSING POLICY UNDER THE LICENSING ACT 2003 - UPDATE FOLLOWING CONSULTATION**
(Report LR517 refers)

The Committee considered the Report which outlined the comments received during the consultation period (20 December 2018 to 20 January 2019) for the review of the Licensing Policy under the Licensing Act 2003 ("the Policy"). The Committee had agreed the Policy for consultation at its previous meeting held on 6 December 2018.

The Licensing Manager reported that the comments received during the consultation period had now been adequately addressed and it was proposed that the revised Policy be taken to Council at its meeting on 28 February 2019, for adoption.

RESOLVED:

1. That the revised Licensing Policy be recommended to Council for adoption.

The meeting commenced at 6.30pm and concluded at 7.50pm

Chairman

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REPORT TITLE: REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE
LICENSING POLICY - PHASE ONE TIP TOP TAXIS

6 JUNE 2019

REPORT OF PORTFOLIO HOLDER: Cllr Lynda Murphy, Portfolio Holder for
Environment

Contact Officer: Graham Wren Tel No: 01962 848188 Email:
gwren@winchester.gov.uk

WARD(S): ALL

PURPOSE

This report is to review the Statement of Licensing Policy with respect to Hackney and Private Hire Drivers, Vehicles and Operators.

The Tip Top Taxi project commenced in 2018 with its main objective being to make positive changes to the licensed taxi regime. The policy changes submitted for consideration is “phase one” of the ongoing project.

RECOMMENDATIONS:

1. That the amended version of the Statement of Licensing Policy with respect to Hackney and Private Hire Drivers, Vehicles and Private Hire Operators be approved for consultation with the taxi and private hire trade.
2. That if no comments are received following consultation, the Policy is referred for consideration of adoption by Cabinet.

IMPLICATIONS:

1 COUNCIL STRATEGY OUTCOME

- 1.1 This report relates to ensuring the safety of the public using taxis and private hire vehicles licensed by the Council.

2 FINANCIAL IMPLICATIONS

- 2.1 The changes to the policy and implementation do not require any additional resource implications. The cost of implementation will be covered by the existing Tip Top Taxi project budget.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 No additional resource implications are anticipated

4 WORKFORCE IMPLICATIONS

- 4.1 Two members of the licensing team have been seconded to the Tip Top Taxi project to undertake the review of the Policy.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None

6 CONSULTATION AND COMMUNICATION

- 6.1 In advance of this report, Officers have met with the Hackney Carriage and Private Hire Forum members to provide a summary of the suggested changes to the Policy. The main area of interest from the trade relates to changes to vehicles, which will be considered in phase 2 of the Policy review later in the year.

- 6.2 Following approval by Members, all licence holders will be directly consulted. The consultation will be held from 17 June 2019 to 31 July 2019.

7 ENVIRONMENTAL CONSIDERATIONS

- 8 The Council's Clean Air Policy will be considered as part of phase 2 of the Policy review which will propose to reduce the size of vehicles and offer incentives to licence environmentally friendly vehicles.

9 EQUALITY IMPACT ASSESSEMENT

- 9.1 The Council is committed to offering a range of vehicles for all customers. The current Policy requires all new hackney carriage vehicles to be wheelchair accessible; there is no proposal to change this.

10 DATA PROTECTION IMPACT ASSESSMENT

10.1 Information and personal details of licensed drivers and operators are kept on a secure system and no changes are proposed.

11 RISK MANAGEMENT

11.1

Risk	Mitigation	Opportunities
<i>Property</i>	N/A	
<i>Community Support</i>	There is a Tip Top Taxi working party involving the Portfolio Holder for Environment and the Chairman of the Licensing and Regulation Committee.	
<i>Timescales</i>	The reviewed Policy will take effect once adopted by Cabinet.	
<i>Project capacity</i>	N/A	
<i>Financial / VfM</i>	N/A	
<i>Legal</i>	The Policy could be challenged by Judicial Review, but as the Council's decision-making process is believed to be lawful, a challenge is considered to be unlikely.	
<i>Innovation</i>	N/A	
<i>Reputation</i>	The Council's paramount consideration is to protect the public. This Policy sets out what is required of new applicants and current licence holders in line with relevant legislation.	
<i>Other</i>	N/A	

12 SUPPORTING INFORMATION:

12.1 Introduction

12.2 The Statement of Licensing Policy with respect to Hackney and Private Hire Vehicles, Drivers and Private Hire Operators ("the Policy") came into effect

from 1 April 2011 following full consultation and approval by the Licensing and Regulation Committee.

- 12.3 The Policy was last reviewed in January 2017.
- 12.4 Hackney Carriage and Private Hire Drivers, Vehicles and Private Hire Operators are licensed under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847. Authorised officers administer and enforce the provisions of this legislation.
- 12.5 The Tip Top Taxi project commenced in 2018 and was placed in the Council's Corporate Strategy, with its main objective being to make positive changes to the licensed taxi regime further enhance public safety. The project has been split into two phases. The policy changes put forward for consideration in this report are Phase 1 of the project.
- 12.6 Proposed deletions
- 12.7 (5.c) & (6.b) The vehicle inspections at six years and inspections prior to licensing is to be removed because this is now being covered by our appointed garages. This was a condition that caused Officers to inspect all licensed vehicles 'prior' to relicensing which caused extra appointments and extra staff commitment. Any new vehicle will always be inspected by Officers prior to licensing. Officers currently check garage reports and will call vehicles into the council for a further inspection if concerns are noted by our appointed garages in addition to this the licensing team carry out roadside compliance checks.
- 12.8 (7.6)Basic Discloser deletion, this is replaced by an amendment. This was changed as a service improvement, the application process now uses an approved outside company and has been a major success saving driver and staff much time.
- 12.9 (8.4) Removal of references upon application. This is being removed because the references are always chosen by the applicant therefore the reference is always exceptional and never ever bad. In addition to this companies do not give references and either don't reply or refuse to complete or form. Considering the staff time to write letters etc and the overall effectiveness of any reference we propose to remove this condition.
- 12.10 (8.1a) The written knowledge test was removed approx. 2 years ago and currently the test is in a classroom on a computer with an officer present.
- 12.11 (8.4b) Removal of good conduct certificate being over 2 months old. This is being removed in fairness to the applicant. If a person from another country enters this country with a good conduct certificate and never re-enters that country the details within that certificate will never change so asking them to get a new one is unfair to that applicant.

- 12.12 (8.7c) Removing Licensing sub committee and Head of Environmental Health and replacing it with Authorised Officer. This is because Officers can deal with a range of enforcement matters and its to allow the lower end of the offence scale to be dealt with by Officers saving the need for a manager or Committee to be concerned.
- 12.13 (8.10,b,c,d) Knowledge Tests , The detail has been removed to enable a working party to be more flexible and not stuck to this prescriptive format and will be part of ongoing improvements to this area.
- 12.14 (8.h) We feel that an applicant attempting to pass the knowledge test should be able to continue to apply if classroom spaces permit, therefore we are requesting that any restriction to the number of attempts is removed.
- 12.15 (8.12) Medical fitness condition; To remove ALL eye related testing within our policy. This is quite simply because The DVLA Level 2 covers all of this within its testing and therefore updates itself with any improvements. It is not necessary to include any extra medical information in our policy outside of DVLA Level 2 requirements as they have it covered.
- 12.16 (9.23) Regarding cautions etc, this is taken out because the old days of thinking a caution is not that important has totally changed for example you may be refused entry to America with a Caution on your record. Also the charging standards have changed and fixed penalty tickets can be given for drug possession and disorder.
- 12.17 (10) Offence chart has been completely changed with an up to date improvement approved and suggested by The Institute of Licensing.
- 12.18 Penalty points scale ; Removal of fire extinguisher and first aid kit. This was removed approximately 2 years ago because the Officers were being put in the position of having to check supplies with any first aid kit and the level of any fire extinguisher. For example if a plaster was missing the licence wouldn't be renewed so a practical approach was taken. Although many drivers do still carry these items and its not discouraged at all.

Proposed amendments

- 12.19 The amended Policy can be found at Appendix 1 with the amendments shown underlined and deletions struck through. Below is a summary of the main changes.
- 12.20 All new applicants, current drivers, operators and their employees must attend and pass the Council's approved Safeguarding Awareness training before a driver or operator licence is granted in respect to new applicants and before 31st October 2019 for current drivers, operators and their employees.
- 12.21 All licensed drivers who drive a wheelchair accessible vehicle and transport passengers in wheelchairs must complete and pass an approved Wheelchair

Safety Assessment; this must be completed by a training provider approved by the Licensing Authority.

- 12.22 All driver applicants must apply for an enhanced DBS check (Criminal Records Check) using the Council's approved provider. It is also a recommendation from The Institute of Licensing (which Licensing Officers endorse) to request that all staff employed by private hire operators taking bookings must provide to the council with a basic DBS check. It is recognised that members of the public provide personal information such as their home will be vacant for a holiday. This new addition will enhance safety of all customers.
- 12.23 The vehicle Insurance write off categories have changed within the insurance industry and part of these policy changes is simply to replicate these changes. A vehicle that has been 'written off' may be repaired and legally put into use. The changes relevant to this policy are Category C changes to S and Category D becomes N.
- 12.24 These changes also propose new amendments to ensure the applicant provides documentary evidence of correct repair plus inspections at Council approved garages. A detailed vehicle inspectors report may be requested to ensure safety of all licensed vehicles.
- 12.25 Applicants that have lived outside of the UK for up to ten years continually are already required to supply good conduct certificates. All documentation is produced in English or authenticated by a translation service.
- 12.26 The licensing of temporary vehicles occurs normally when a licensed vehicle is involved in an accident, a specialist hire company then supplies a temporary vehicle. Historically the licensing team have licensed the vehicle for one year. A temporary licence option of 2 months is proposed to be added to the Policy. It is believed this is a fair amendment as repairs are normally complete within this time frame.
- 12.27 Safeguarding: All drivers and operators have been requested by the Licensing department to participate and pass Council approved Safeguarding training. Officers request that the licensing policy is amended to formally endorse this change which would ensure compliance in this very importance area of responsibility.
- 12.28 Medical: If a medical condition has or suspected to have occurred to a licensed driver the driver may have to attend a Council approved medical practitioner for examination. The driver's licence may be suspended or revoked depending on each circumstance. This is to protect the safety of the licensed driver and subsequently the passengers.
- 12.29 Criminal Offences Including Motoring Offences: A complete change has been placed within this area. The new offences lists suggested into the policy are

recommended nationally by The Institute of Licensing, they simplify the assessment process but also broaden the coverage of offences.

- 12.30 The police should advise the authority on any DBS application of any police investigation involving the applicant deemed relevant to the taxi trade, even if there wasn't any formal charging. Therefore this authority intends to request the same at point of application.

In addition to this, a police caution, a Fixed Penalty ticket or Community resolution are requested to be disclosed, this is so that the officers can assess the character of the applicant or current licence holder. For example a Fixed Penalty Notice can be given for Shoplifting, Possession of Cannabis and being drunk and disorderly.

- 12.31 The Policy also includes several administrative changes which are considered important for the Officers to carry out their role day-to-day. These are also shown tracked changed in Appendix 1.

13 OTHER OPTIONS CONSIDERED AND REJECTED

- 13.1 Not applicable.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

LR 495 - Review of Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators – consultation comments – 16 March 2017

LR 490 - Review of Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators – 19 January 2017

LR 454 - Review of Statement of Licensing Policy with respect to Hackney and Private Hire Vehicles, Drivers and Private Hire Operators – 8 October 2015

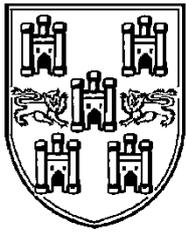
Other Background Documents:-

Report of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing.

Institute of Licensing Guidance of determining the suitability of applicants and licensees in the hackney and private hire trades – April 2018

APPENDICES:

- Appendix 1 Draft Statement of Licensing Policy with respect to Hackney and Private Hire Vehicles, Drivers and Private Hire Operators.



Winchester

City Council

Statement of Licensing Policy
with respect to
Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire
Operators

Version 8 – reviewed June 2019

Winchester City Council
City Offices
Colebrook Street
Winchester
SO23 9LJ

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1 Introduction

- 1.1 This information is intended to provide guidance on the licensing requirements in the Winchester City Council district under the Town Police Clauses Act 1847, as amended, and Part II of the Local Government (Miscellaneous Provisions) Act 1976. Attention is also drawn to certain provisions of the Transport Acts 1980, 1981 and 1985, and Regulations made under the Road Traffic Acts.
- 1.2 It is not intended to be an exhaustive or definitive statement of the law and all drivers, operators and proprietors ~~should~~ **must** familiarise themselves with the provisions of the relevant Acts, local byelaws and conditions.
- 1.3 -Winchester City Council is the Licensing Authority for hackney carriages, private hire vehicles, their drivers and private hire operators.
- 1.4 Winchester City Council reserves the right to depart from this Policy if there are, in its reasonable opinion, exceptional or compelling reasons to do so. In addition, the Council may follow any current or subsequent recommendations made by the Institute of Licensing or any other national guidance issued.

2 Enquiries

- 2.1 All correspondence, applications and enquiries should be addressed to the Licensing Manager, Winchester City Council, City Offices, Colebrook Street, Winchester, SO23 9LJ. If you wish to see a licensing officer, an appointment can be made by telephoning ~~01962 848 179 / 848 443.~~ 01962 848 188

3 Types of Licences

- 3.1 A hackney carriage (taxi) may be used to ply for hire at an authorised taxi rank, pick up passengers when “flagged down” in the street, and when pre-booked.
- 3.2 A hackney carriage may be licensed to carry up to a maximum of 8 passengers.
- 3.3 The number of saloon vehicles is limited. All other hackney carriages must be capable of carrying a wheelchair and passenger. In these cases the number of passengers which may be carried is reduced.
- 3.4 A hackney carriage driver’s licence is a combined licence allowing the holder to drive both hackney and private hire vehicles.

- 3.5 Hackney carriages are also regulated by Byelaws with respect to hackney carriages and conditions made by the Licensing Authority.
- 3.6 A private hire vehicle may only be pre-booked via a private hire operator. Such vehicles may not ply for hire or take bookings other than via an operator.
- 3.7 A private hire vehicle may be licensed to carry up to a maximum of 8 passengers. There is no requirement for such vehicles to be able to carry wheelchair bound passengers, although many do.

4 Licence Fees

- 4.1 The fees charged by the Council for licences cover Licensing Authority's costs of administering the licensing process. Hackney Carriage and Private Hire Driver licences are issued annually for the first three years and then can be renewed for one year or three years. New Private hire Operator licenses are issued for one year and then can be renewed for one or for five years. All other licences are renewed annually. The fees are periodically reviewed. The Current fees can be found on the Council's website at:

www.winchester.gov.uk/licensing

5 Hackney Carriage Vehicles

- 5.1 When first presented for licensing as a hackney carriage, the vehicle must be within certain age limits:
- a All vehicles, both saloon and purpose built, when licensed for the first time must be less than three years from the date of first registration. ~~The Vehicle can remain in use for six years from the date of first registration after which it may~~The vehicle must be renewed on a year by year basis at the discretion of an Authorised Officer.
 - b All hackney carriage vehicles presented for licensing for the first time must be wheelchair accessible vehicles (WAV), except in cases where the vehicle is to replace an existing saloon vehicle which is already licensed.
 - c ~~Once the Vehicle is six years old and every year thereafter, the vehicle^[LT1] must be presented to an Authorised Officer for an inspection for its appearance and suitability prior to testing at the nominated garage and renewal of the licence. Any vehicle that is not to the satisfaction of an Authorised Officer must be repaired, prior to the expiry date, or replaced, subject to the age limits above.~~
- 5.2 Purpose built and conversion vehicles should also be capable of carrying a wheelchair securely with seats that slide on rails, or individual seats that can be removed, or flip down seats, to allow more room for luggage and wheelchairs or both. The first row of seats behind the driver must not be a bench seat.
- 5.3 All vehicles, other than saloons, must be capable of carrying a wheelchair and its passenger, and a minimum of three other passengers, and at least five passengers at any other time.
- 5.4 A converted vehicle must meet “M1” specification and should have a certificate of conversion from a reputable company and a voluntary Individual Vehicle Approval (IVA) application must be submitted to the DVLA. A converted vehicle will not be licensed without confirmation of this. Wheelchair accessible vehicles over 10 years of age from date of first registration do not require an IVA.
- 5.5 Wheelchairs must be capable of being secured in the vehicle with the passenger in a forward or rearward facing position.
- 5.6 Saloon vehicles must be capable of carrying four passengers.
- 5.7 Prior to licensing, and annually the vehicle must undergo a mechanical inspection and all vehicles over three years old from the date of first registration must be tested and pass an MOT. If the vehicle is under 3 years old it will require a mechanical and condition test. These must be

carried out at a testing station specified by the Licensing Authority.

5.8 The Vehicle may be called in for inspection at any time by an Authorised Officer to ensure compliance. Failure to attend and show any documentation as requested may lead to suspension or revocation of licence under Section 68 of the Act.

5.9 All vehicles must have at least four doors. Saloon vehicles must have four doors in addition to any tailgate.

5.10 The engine capacity must be not less than 15600 cc. The Head of Licensing may depart from this section of the Policy where an applicant can produce evidence of a vehicle that has a similar power to weight ratio to a 15600cc vehicle, or, where the vehicle is environmentally friendly.

5.11 All vehicles must be right hand drive. In exceptional circumstances a licence may be granted for a left hand drive vehicle.

5.12 Where a licensed vehicle is involved in an accident and classes as a 'write off' under Category G S or D N, all vehicles must pass a further mechanical inspection check by a nominated testing station or nominated vehicle inspector and all paperwork relating to the vehicle repair must be provided to the nominated garage or inspector. If the repair is likely to have affected the steering then a full steering alignment check must be completed prior to any inspection and -all paperwork must be presented to any inspecting agent and to the licensing section before the vehicle is returned for use to carry passengers for hire.

5.13 A temporary licensed vehicle may be required in cases where a licensed vehicle has been involved in an accident or is unusable for mechanical reasons. All temporary vehicles must be of the same type/category of vehicle that it is temporarily replacing and must comply with this section of the Policy. Any licence shall be granted for a maximum of two months.

5.12—

6 Private Hire Vehicles

~~a6.1~~ When first presented for licensing as a private hire vehicle, ~~the vehicle must be within certain age limits:~~ all vehicles, both saloon and purpose built, when licensed for the first time must be less than five years from the date of first registration. The Vehicle can remain in use for six years from the date of first registration after which it may be renewed on a year by year basis at the discretion of an Authorised Officer.

~~b~~ ~~Once the Vehicle is six years old and every year thereafter, the vehicle must be presented to an Authorised Officer for an inspection for its appearance and suitability prior to testing at the nominated garage and renewal of the licence. Any vehicle that is not to the satisfaction of an Authorised Officer must be repaired, prior to the expiry date, or replaced, subject to the age limits above.~~

~~e6.2~~ A converted vehicle should have a certificate of conversion from a reputable company and will not be accepted without such a document.

~~da~~ In exceptional circumstances these age limits may be waived. For example, a classic car ~~or executive vehicle~~ in excellent condition which will be used for special events.

6.3 A converted vehicle must meet "M1" specification and should have a certificate of conversion from a reputable company and a voluntary Individual Vehicle Approval (IVA) application must be submitted to the DVLA. A converted vehicle will not be licensed without confirmation of this. Wheelchair accessible vehicles over 10 years of age from date of first registration do not require an IVA.

6.4 Wheelchairs must be capable of being secured in the vehicle with the passenger in a forward or rearward facing position.

6.5 All vehicles must have at least four doors. Saloon vehicles must have four doors in addition to any tailgate.

6-26.6 Prior to licensing, and annually the vehicle must undergo a mechanical inspection and all vehicles over three years old from the date of first registration must be tested and pass an MOT. If the vehicle is under 3 years old it will require a mechanical and condition test These must be carried out at a testing station specified by the Licensing Authority.

~~6-36.7~~ The engine capacity must be not less than ~~4600~~ 1500cc. The ~~Head of Licensing Council or Authorised officer~~ may depart from this section of the Policy where an applicant can produce evidence of a vehicle that has a similar power to weight ratio to a ~~4600cc~~ 1500 cc vehicle, or, where the vehicle is environmentally friendly.

~~6-46.8~~ In exceptional circumstances, an exemption certificate may be granted to dispense with the requirement to display the licence plate. This will

only be granted where satisfactory proof of “executive hiring” has been received by the Licensing Authority. Satisfactory proof must be provided to the licensing department at application and thereafter when requested by an Authorised Officer. Failure to provide such proof will result in the exemption to display a plate being refused or withdrawn.

~~6.56.9~~ All vehicles must be right hand drive. In exceptional circumstances a licence may be granted for a left hand drive vehicle.

~~6.10~~ Where a licensed vehicle is involved in an accident and classed as a ‘write off’ under Category C or D, all vehicles must pass a further mechanical inspection check by a nominated testing station and paperwork provided to the Licensing section before the vehicle is returned for use to carry passengers for hire. Where a licensed vehicle is involved in an accident and classed as a ‘write off’ under Category S or N, all vehicles must pass a further mechanical inspection check by a nominated testing station or nominated vehicle inspector and all paperwork relating to the vehicle repair must be provided to the nominated garage or inspector. If the repair is likely to have affected the steering then a full steering alignment check must be completed prior to any inspection and all paperwork must be presented to any inspecting agent and to the licensing section before the vehicle is returned for use to carry passengers for hire.

6.11 A temporary licensed vehicle may be required in cases where a licensed vehicle has been involved in an accident or is unusable for mechanical reasons. All temporary vehicles must be of the same type/category of vehicle that it is temporarily replacing and must comply with this section of the Policy. A licence shall be granted for a maximum of two months.

7 Private Hire Operators

- 7.1 A private hire operator dispatches a private hire vehicle to a customer. An operator may have just one or a fleet of vehicles under his their control.
- 7.2 An applicant for a private hire operator licence must be a “fit and proper person” to hold such a licence.
- 7.3 Pursuant to the Immigration Act 2016, applicants must prove that they have a “right to work” in the UK. Failure to provide satisfactory documentation will result in the application being refused.
- 7.4 The Licensing Authority reserves the right to provide documentation or information to the Home Office where it is considered appropriate to do so in the interests of complying with legislation or to protect the public.

7.5 An applicant must supply a Basic Disclosure from the Disclosure and Barring Service (DBS). The disclosure is required on application for the grant of a licence and every three years thereafter.

~~7.6 A Basic Disclosure can be obtained either online at :-
www.disclosurescotland.co.uk or an application form can be requested
 by telephone — 0870 609 6006 or by writing to :-
 Disclosure Scotland
 PO Box 250
 Glasgow
 G51 1YU~~ A basic disclosure can be obtained from Personnel Checks

~~7.6~~ www.personnelchecks.co.uk Telephone 01264 355679
 Alternatively through www.gov.uk Telephone 0300 0200 190.

7.7 An applicant for a private hire operator licence who also holds, or is applying for a private hire driver licence, is required to have an enhanced DBS check when applying for the driver licence. Therefore it will not be necessary for the applicant to have a further check for the operator application.

7.8 All private hire operators must provide to the Licensing Authority, names and addresses of any staff employed to make the provision for bookings on their behalf. These staff (non licensed drivers) must provide a basic disclosure DBS certificate to the Licensing Authority section prior to the start of employment.

~~7.7.9~~ All new applicants must provide a copy of their complaints procedure which must be to the satisfaction of the Licensing Authority prior to any **licence being issued**. A complaint procedure may be recorded on paper or computer and must show the Date, Name, Contact details, nature of complaint, how rectified and date and by what staff member.

~~7.8.7.10~~ In order for the Licensing Authority to review the conduct of new private hire operator licence holders, new applicants will be granted a licence for one or five years. ~~On renewal, a licence may be granted for one year or five years, depending on the case.~~ The Council reserves the right to withhold issuing a five year licence where there are reasonable grounds to do so.

8 Hackney Carriage and Private Hire Driver Licences

8.1 Ability to Communicate in English

- a Licence holders will need to be able to ~~deal~~ engage with passengers and must therefore be able to understand and converse in English to an adequate standard for this purpose. This is assessed by means of ~~the written knowledge test and an~~ interview with a licensing officer and any test the Licensing Authority deem appropriate to ensure that the applicant is a 'fit and proper' person to hold a licence.

8.2 Driving Licence

- a Applicants must be 21 years of age or more and have held a full driving licence for at least 12 months, granted by a country which belongs to the European Union or is within the European Economic Area (Iceland, Liechtenstein, and Norway are not in the EU, but are members of the EEA). An applicant from any country outside of these is required to pass a U.K. driving test and hold a full driving licence for at least 12 months before re-applying. The Council reserve the right to assess every driving licence in line with Government or Institute of Licensing recommendations or national guidance.
- b All applicants must ~~sign the Licensing Authority's~~ consent form to allow ~~Officers the Licensing Authority~~ to check their Driving Licence online: - The Authority will check vehicles the applicant is entitled to drive and any penalty points or disqualifications. Failure to consent to Officers obtaining this information shall result in the application being refused or current Hackney Carriage/Private Hire driver's licence being suspended or revoked.

8.3 Entitlement to Work in UK

- a Pursuant to the Immigration Act 2016, applicants must prove that they have a "right to work" in the UK. Failure to provide satisfactory documentation will result in the application being refused.
- b The Licensing Authority reserves the right to provide documentation or information to the Home Office where it is considered appropriate to do so in the interests of complying with legislation or to protect the public.

8.4 Assessing Applicants' Fitness and Propriety

- a ~~All new applicants must supply details of two referees from whom references may be obtained by the Licensing Authority. Referees must not be a member of the applicant's family or connected with the taxi trade. At least one reference should be from a previous employer.~~

~~b~~ Applicants who were not born in the U.K. and/or have not lived in the U.K. for past 10 years continuously -must supply a certificate of good conduct from their embassy, ~~or~~ home country or from the country in which they have been living. ~~This certificate must be no more than two months old when submitted to this Council. This may result in more than one certificate being required; for example if the applicant has lived in multiple Countries within the past 10 years. All Certificates must be written in English. If this is not possible from the suppling country the applicant must employ the services of a translation service. This service must authenticate the certificate in English by confirming in writing to the Council with full details of any certificate supplied.~~

8.5 Disclosure and Barring Service (DBS) Check

~~a~~ All applicants must apply for an enhanced DBS check using the Council's approved provider only. ~~complete and submit with their application a Disclosure and Barring Service application form for an enhanced check. Full information on how to apply for an enhanced DBS can be found on the Council's website. A basic or standard DBS certificate will not be accepted.~~

~~b~~ ~~This form is submitted to the DBS by the countersignature for the Council, Authorised Officers will review any convictions disclosed and this will be taken into account in when deciding whether or not to grant the application in accordance with the Policy on Criminal Convictions. ~~The Head of Environmental Health & Licensing~~ Any Authorised Officer may also contact the Police for further information surrounding a conviction, ~~or~~ caution, arrest or any other police investigation that has involved the applicant ~~and use this~~ This information will be used when deciding whether an applicant is a "fit and proper person". Such checks shall be carried out on initial application and during the course of a licence where there are sufficient grounds to do so ~~and on renewal every three years.~~~~

~~ac~~ Notwithstanding the Licensing Authority's requirements for a Disclosure and Barring Service check, applicants **MUST** disclose full details of any criminal convictions (including any "spent" convictions under the Rehabilitation of Offenders Act 1974), ~~or~~ cautions, arrest or any other police investigation on the application form. ~~An applicant's f~~Failure to disclose this information convictions or cautions which are that is subsequently disclosed under the Disclosure and Barring Service check or discovered by any other means will be taken into account when considering their application. Failure to notify a conviction on an application form is also a criminal offence and is likely to result in the application being refused.

- d The Licensing Authority strongly encourages drivers to register with the DBS online system, ~~which allows, with the applicant's permission~~ The applicant and any current driver must permit, Officers an Authorised Officer to check their DBS status at regular intervals at the discretion of the Council and in line with national guidance. every three years, without the requirement to complete a new DBS application form. The Council may also authorise their current DBS provider to carry out status checks of any Council licensed driver's DBS at regular intervals. A refusal by any applicant, current driver, Operator or Operator's member of staff to permit regular checks of any DBS will cause the licence to be refused, suspended or revoked.
- be Where the DBS online system shows that there has been a change to the applicant's record, a new enhanced DBS application will be required. must be completed and countersigned by a Licensing Officer.
- e In the case of renewals, where an applicant is unable to produce a satisfactory DBS certificate or online equivalent using the DBS update service, within one month prior to the expiry date of their current licence, the licence will not be renewed.

8.6 Safeguarding

- da All applicants must pass the Council's approved Safeguarding Awareness training before a Driver or Operator Licence is granted. The pass certificate must be submitted to the Council as part of the application process.
- eb All Hackney Carriage or Private Hire Drivers licensed before 25 February 2019 must pass the Council's approved Safeguarding Awareness training no later than 31 October 2019. Failure to do so will result in their Licence not being renewed, suspended or revoked. The pass certificate must be provided with the application to renew a hackney carriage and/or private hire driver's licence.
- f All Operators licensed before 25 February 2019 and their employees who act as an operator on their behalf must pass the Council's approved safeguarding training no later than 31 October 2019. Failure to do so will result in their Licence not being renewed, suspended or revoked. The pass certificate must be provided with the application to renew a hackney carriage and/or private hire driver's licence.
- c
- d All Drivers, Operators and their employees will be required to update their safeguarding training upon the Council's request using a Safeguarding Training Provider/assessment approved by the Council.

8.68.7 Driving Standards

- a In addition to possessing a driving licence issued by a relevant country, all new applicants are required to undertake the Blue Lamp Trust taxi driving assessment test (or any other driving assessment or training, which the Licensing Authority considers appropriate) and produce a pass certificate.
- b Contract drivers licensed for Schools and Disabled Contracts are exempt from 8.7a above, where the contracting authority carries out its own assessment of driving standards, ~~are exempt from this requirement which is to the satisfaction of the Licensing Department.~~
- ~~ac~~ The Licensing Sub-Committee and the Head of Environmental Health & Licensing are authorised to An Authorised Officer may require any licensed hackney carriage or private hire driver to undergo and pass a driving assessment test, or training, which is considered appropriate e.g. Blue Lamp Trust, where satisfied that the driver's standard of driving or general conduct are such that an assessment is desirable.

8.78.8 Wheelchair Assessment

- a Any Licensed driver who drives a Wheelchair Accessible Vehicle must complete and pass an approved Wheelchair Safety Assessment with a training provider approved by the Licensing Authority e.g. The Blue Lamp Assessment. A pass certificate must be presented to the Licensing Authority Department.

8.9 Wheelchair exemptions

- a A wheelchair exemption may be granted to drivers who provide written evidence issued by a medical professional, that they are unable to safely secure a wheelchair bound passenger into their vehicle, to the satisfaction of the Licensing Authority.

8.88.10 Knowledge Test.

- a All applicants are required to take and pass the Private Hire and Hackney Carriage Knowledge Tests. Tests are conducted by the Licensing Authority on a regular basis, ~~usually once a month.~~ The test will be conducted in English only. Payment for the test will be made in advance and failure to attend without prior notice shall mean forfeiture of any monies paid. Information regarding the Knowledge Test can be found on the Council's website at www.winchester.gov.uk/licensing.
- ~~b Private Hire Knowledge Tests are used to examine an applicant's knowledge of streets, public houses, hotels and other important locations within the Winchester Town area (i.e the six Town Wards~~

- ~~together with Oliver's Battery and Badger Farm, Kings Worthy, Headbourne Worthy and Littleton and Harestock) — in addition to the other town and villages within the Council's district.~~
- c ~~Hackney Carriage Knowledge Tests are used to examine an applicant's knowledge of the whole of the Winchester City Council area which runs from Sutton Scotney to the north, Portsdown Hill to the south, Hursley to the west and West Meon to the east.~~
- d ~~In relation to 8.7 a and b above, applicants must detail the shortest available route.~~
- e ~~The test may contain a basic numeracy element to ensure that the driver can give the correct change for a fare. The test may also include questions about Hackney Carriage and Private Hire legislation; the Council's Policy and Conditions; safeguarding and disability awareness.~~
- f The Head of Environmental Health & Licensing An Authorised Officer may include additional modules to the knowledge test where it is considered appropriate or necessary to ensure that the applicant is a 'fit and proper person' and in the interests of public safety.
- g The pass mark for all tests is 80% in each section.
- ~~h — If an applicant fails the private hire and/or hackney carriage knowledge test three times, the applicant must wait a period of no less than 6 months from the date of the third test before taking another test.~~
- ih ~~Where an applicant applies to work for an operator who does not primarily provide a service in the Winchester Town area (i.e the five six Town Wards together with Oliver's Battery & Badger Farm, Kings Worthy, Headbourne Worthy and Littleton and Harestock and the The Worthys), certain modules of the test may not be required, ~~i.e. shortest routes, but will be required to do so if they transfer to a Winchester operator.~~~~
- ji ~~Where an applicant or current driver opts to amend their working practices in order to work for, or as, a Winchester Operator primarily in the Winchester Town area then they shall notify the Licensing Authority and pass the relevant knowledge test prior to commencement.~~
- kj Drivers licensed for School contracts and Disabled passengers only will only be required to pass modules which are relevant to the work that they will be undertaking. Where the contracting authority carries out its own assessment of the required knowledge, applicants are exempt from the requirement to undergo a knowledge test.
- hk In circumstances where a licensed driver's knowledge or conduct is in question, such as following a complaint, an Authorised Officer or

Licensing Sub-Committee may require a driver to complete relevant modules of the knowledge test within a time specified.

- m) ~~The Head of Environmental Health & Licensing An Authorised Officer~~ may require current licence holders to pass relevant modules of the knowledge test where it is considered necessary to ensure that they are a fit and proper person and/or in the interests of public safety.
- n) An applicant who was previously licensed with this Council less than three years from the date of application who originally passed the knowledge test will not be required to re-take the knowledge test.

~~8.98.11~~ Practical Knowledge Test

- a) All new applicants who have passed ~~the DSA Taxian approved Driving~~ Assessment Test and knowledge test, ~~may~~ prior to, ~~or after,~~ a licence being issued ~~be required~~ to ~~take~~ a practical knowledge test. This test allows the applicant to prove that they have a ~~good-practical~~ knowledge of the area, ~~whilst driving their vehicle~~. Should the applicant demonstrate a poor knowledge of the area, they will not be issued with a licence and are advised to spend a reasonable amount of time driving around Winchester and surrounding areas, before making a further appointment to demonstrate their increased knowledge.
- b) The licensing officer will determine whether an applicant has demonstrated a ~~goodpractical~~ knowledge of the area ~~to which the application applies~~.

~~8.108.12~~ Medical Fitness

- a) All applicants ~~must~~ undergo ~~and pass~~ a medical examination ~~that meets the DVLA Group 2 Medical Standard of fitness to drive with regard to their fitness to carry fare paying passengers and~~ must provide a medical assessment form completed by the examining doctor. This must be provided to the Licensing Authority no later than 28 days from the date of the examination.
- b) ~~Such A medical~~ examination is to be carried out on initial application and every fifth year thereafter until the age of ~~63 years and~~ 65 years; and every year thereafter.
- c) The examination must take place at the surgery where the applicant is registered in order that the examining doctor has access to their medical records, or at another surgery provided that the examining doctor has access to the applicant's medical records.
- d) ~~The Licensing Sub-Committee and the Head of Environmental Health & Licensing Any Authorised Officer~~ ~~have~~ ~~has the discretion to may~~ require any licensed ~~driver hackney carriage or private hire driver~~ to

undergo a medical examination with an the Council's approved medical provider, where satisfied that a condition has arisen which might affect the person's fitness to drive a licensed vehicle, as a licenced Taxi driver to hold a licence. This may result in the current driver's licence being suspended or revoked.

e ~~The Drivers Medical Group of the Driver and Vehicle Licensing Agency recommends that the DVLA Group 2 medical standards should be applied by local authorities to taxi and private hire drivers. This recommendation has been adopted by the Council. Therefore, all hackney carriage and/or private hire drivers licensed by Winchester City Council must meet the Group 2 medical standards.~~

f Where the applicant has been diagnosed with Diabetes Mellitus, other than treatment by diet only, applicants must provide on renewal of their hackney carriage and/or private hire driver licence, or every 12 months in the case of a driver with a 3 years driver licence (when a medical report is not due) confirmation that they meet the Group 2 medical standards of fitness to drive in the form prescribed by the Licensing Authority. This must be signed by the applicant's registered GP or a diabetic consultant.

~~g A new applicant's standard of acuity of vision, using corrective lenses if necessary, is considered unsatisfactory if it is below 6/9 in the better eye or 6/12 in the other eye. Also, the uncorrected acuity in each eye must be at least 3/60.~~

~~h complete loss of vision in one eye or corrected acuity of less than 3/60 in one eye will the applicantionbeing refused current 's licence being from holding a hackney carriage or private hire driver licence.~~

~~i Persons who have held a hackney carriage or private hire driver licence prior to 5 February 2008 must have a visual acuity of at least 6/12 in one eye and 6/36 in the other.~~

~~j Persons who have held a hackney carriage or private hire driver licence prior to 1 January 1991, AND where the licensing officer was aware of the loss of sight in one eye before that date are exempt from "h" above.~~

8.118.13 New applicants

a If an applicant has not fulfilled all of the above criteria within 12 months of submitting an application to driver a hackney carriage and/or private hire vehicle, the application will be refused.

b Where an applicant has been refused a licence due to failing the knowledge test three times and not completing the above criteria within 12 months, applicants must wait no fewer than 3 months from the date

of refusal before re-submitting an application for a licence to drive a hackney carriage and/or private hire vehicle.

| 8.128.14 Duration of licence

- a In order for the Licensing Authority to review the conduct of new hackney carriage and/or private hire drivers, new licences are granted annually for the first three years. After the initial three year period, on renewal, a licence may be granted for one or three years, depending on the case. The Licensing Authority reserves the right to withhold issuing a three year licence where there are reasonable grounds to do so.

9 Hackney Carriage and Private Hire Driver's Licences and Operators

9 Criminal Convictions Policy

9.1 This Policy applies to the following:-

- a Applications for a Hackney Carriage or Private Hire Driver's Licence;
- b Revocation of an existing Hackney Carriage or Private Hire Driver's Licence;
- c Suspension of an existing Hackney Carriage or Private Hire Driver's Licence.

9.2 Each case will be decided on its own merits. All decisions will be in the interests of ~~ensuring the safety of the public.~~ public safety.

9.29.3 **A Caution, Fixed Penalty or Community Resolution must be disclosed and will be assessed under the character of applicant or current licence holder if deemed appropriate.**

~~9.39.4~~ A person with a conviction for certain crimes will not normally be permanently barred from obtaining a licence but is expected to remain free of conviction for between ~~35~~ and 10 years, depending on the seriousness of the offence and the relevant circumstances, before an application is considered. However, persons with convictions of a sexual or child-related nature or other very serious crime will not normally be issued with a licence. (See table at Appendix A)

~~9.49.5~~ Winchester City Council reserves the right to extend the number of years free from conviction or caution depending on the severity and/or the number of offences.

~~9.59.6~~ Offences will not necessarily be disregarded on the basis that they are "spent" convictions according to the relevant provisions of the Rehabilitation of Offenders Act 1974. These provisions do not apply to Hackney Carriage and Private Hire Drivers but whether or not Winchester City Council considers that the safety of the public may be put at risk if a licence was granted.

Offences resulting in Death

~~9.69.7~~ Where an applicant or current 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 or will have their current licence revoked.

Exploitation

9.79.8 Where an applicant or current 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 or will have their current licence revoked. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence

9.89.9 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. Any current driver convicted of a violent offence can expect their licence to be revoked.

Possession of a weapon

9.99.10 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. Any current driver convicted of this offence can expect their licence to be revoked.

Sex and indecency offences

9.109.11 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. Any current driver convicted of this offence can expect their licence to be revoked.

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

Dishonesty

9.129.13 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. Any current driver convicted of this offence can expect their licence to be revoked.

Drugs

9.139.14 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. Any current driver convicted of this offence can expect their licence to be revoked.

9.149.15 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. Any current driver convicted of this offence can expect their licence to be revoked.

Discrimination

9.159.16 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. Any current driver convicted of this offence can expect their licence to be revoked.

Motoring convictions

9.169.17 Hackney carriage and 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 licence holder 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

9.179.18 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. Any current driver convicted of this offence can expect their licence to be revoked.

9.19 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. Any current driver convicted of this offence can expect their licence to be revoked.

Other motoring offences

9.189.20 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 **nine** or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least **three** years have elapsed since the completion of any sentence imposed.

9.199.21 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 **seven** years have elapsed since the completion of any sentence imposed. Any current driver convicted of this offence can expect their licence to be revoked.

Hackney carriage and private hire offences

9.209.22 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 **seven** years have elapsed since the completion of any sentence imposed. Any current driver convicted of this offence can expect their licence to be revoked.

Vehicle use offences

9.23 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 **seven** years have elapsed since the completion of any sentence imposed. Any current driver convicted of this offence can expect their licence to be revoked.

9.21

9.229.24 Applications would not normally be approved from licensed drivers who had been convicted of an offence **specified in Appendix A, Tables 2 to 5, of the Policy. This was** where the offence was carried out whilst the applicant was acting as a hackney carriage or private hire driver, or where commissioning of the offence related to the applicant's

driver's licence

~~9.23 A person who has received a caution for certain crimes will not normally be barred from obtaining a licence but each case will be considered on its merits in accordance with this policy. As cautions are administered for the less serious offences and the person will have admitted the offence and agreed to receive a caution, a licence may be issued but strict warnings will be given as to future behaviour.~~

9.249.25 The Licensing Authority may exercise discretion where an offence is isolated and there are mitigating circumstances. However, the overriding consideration in all cases is the protection of the public.

~~9.259.26 The Head of Environmental Health & Licensing An Authorised Officer~~ may contact the Police for further information surrounding a conviction or caution and use this information when deciding whether an applicant is a "fit and proper person".

~~9.269.27 The Head of Environmental Health & Licensing An Authorised Officer~~ has delegated authority to issue Drivers' Licences. In any case where he or she considers it appropriate, he or she may refer the application to the Licensing Sub-Committee for a determination as to whether or not an application for a licence should be granted or, where a licence has already been granted, whether that licence should be suspended or revoked.

9.279.28 The Licensing Authority accepts that where an applicant or licence holder has been found guilty of a criminal offence, the Court will have imposed what it considers to be an appropriate penalty for that offence. Accordingly, in considering convictions for such offences, the Sub-Committee dealing with a case should not 're-try' any offence for which the applicant or licence holder has pleaded guilty or been found guilty by a court of law. However, it should take into account the type and nature of the offence, and the penalty imposed, and should bear in mind the fact that the paramount consideration is the protection of the public.

9.289.29 For the same reason, offences will not be disregarded simply on the basis that the offender has served his or her sentence, and has therefore paid the appropriate penalty for his or her crime. In considering whether to grant an application for a licence, or to revoke an existing licence, the Sub-Committee will be determining whether or not the public would be adequately protected should a licence be granted or not revoked, rather than whether to impose a penalty.

9.299.30 The Licensing Authority considers that in determining applications for Hackney Carriage and Private Hire licences, or deciding whether to revoke or suspend such licences, the Sub-Committee proceedings constitute "proceedings before a quasi-judicial

authority” within the meaning of Section 4(6) of the Rehabilitation of Offenders Act 1974, and therefore, where the Sub-Committee hearing a case considers that justice cannot be done except by admitting evidence relating to spent convictions, such evidence may be admitted in accordance with Section 7 of that Act. Given the need to protect the public, it is likely that in the case of spent convictions involving serious offences. (e.g. death by dangerous driving, drugs, violence, sexual offences or offences of an habitual nature), evidence of such convictions will be admitted.

~~9.30 A table of offences and the number of years an applicant is required to be free of conviction before an application will be considered is shown at Appendix A. This list is not exhaustive and individual cases will be judged on their own merits.~~

9.31 It is an offence, punishable by up to seven years imprisonment upon conviction, for any person knowingly or recklessly to make a false statement or to omit any material details when giving information required in an application for a licence. With regard to questions concerning previous convictions, the applicant’s attention is drawn to the provisions of section 4(2) of the Rehabilitation of Offenders Act 1974. This, in summary, provides that any such question shall be treated as not relating to “spent” convictions as defined in that Act. Applicants, applicants are also notified that Sections 4 (2), and 6 and 7 of this Act provide that the Local Authority may admit evidence of “spent” convictions which are relevant in determining whether an applicant is a fit and proper person to hold a licence.

~~10 Specific Examples Of Offences (See Appendix B)~~

~~10.1 Minor Traffic Offences~~

~~a An applicant with one conviction or fixed penalty notice for a minor traffic offence e.g. obstruction, waiting in a restricted street, speeding, etc would not normally be prevented from proceeding with an application. If an applicant has two or more convictions or fixed penalty notices for minor driving offences, the application may be refused. Any new applicant must have held a full driver’s licence for a period of 12 months without any period of suspension during those 12 months.~~

~~b An existing licence holder convicted of such offences may be warned as to future conduct, and informed that any disqualification may lead to revocation of any hackney carriage or private hire licence issued by the Licensing Authority. In addition, an existing licence holder may be required to take (or retake) a driving assessment test or training, which is considered appropriate e.g. Blue Lamp Trust.~~

~~10.2 Major Traffic Offences~~

- a — ~~An applicant with one conviction for a major traffic offence in the past will not normally be prevented from proceeding with an application. At least three years should elapse from conviction or restoration of the DVLA driving licence, whichever is the longer, before an application is considered for a hackney carriage or private hire licence and strict warnings will be given as to future behaviour. More than one conviction or caution for such offences will raise doubts as to an applicant's fitness to hold a hackney carriage or private hire driver's licence. Such applications will normally be refused.~~
- b — ~~An existing licence holder may be required to take (or retake) a driving assessment test or training, which is considered appropriate e.g. Blue Lamp Trust. In serious cases, the licence may be revoked. No further application will then be considered for at least three years from the time of the conviction, or restoration of the DVLA driver licence, (whichever is longer).~~

~~10.3 Driving Under Influence of Drink or Drugs~~

- a — ~~A serious view is taken of convictions of driving or being in charge of a vehicle under the influence of drink or drugs. An isolated incident in the past will not necessarily debar an applicant. At least five years should elapse after the restoration of the DVLA driving licence before an application is considered for a hackney carriage or private hire licence and strict warnings will be given as to future behaviour. More than one conviction or caution for such offences will raise grave doubts as to an applicant's fitness to hold a hackney carriage or private hire driver's licence. Such applications will normally be refused.~~
- b — ~~An existing licensed driver found guilty of driving with excess alcohol, or under the influence of drugs, will have his/her hackney carriage or private hire drivers licence revoked immediately and will be banned from holding a hackney carriage or private hire drivers licence with the Council for a minimum of five years from conviction or restoration of the DVLA driver licence, whichever is the longer. This applies regardless of whether or not the driver was carrying passengers for hire or reward when the offence was committed.~~

~~10.4 Insurance Offences~~

- a — ~~A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An applicant with one offence in the past will not necessarily prevent the issue of a licence to an applicant provided at least three years have elapsed since the conviction, or the restoration of the DVLA driver licence, whichever is the longer, but strict warnings will be given as to future behaviour.~~
- b — ~~More than one insurance related conviction will raise grave doubts as to the applicant's fitness to hold a hackney or private hire licence. At least~~

~~five years should elapse after conviction or the restoration of the DVLA driving licence, whichever is the longer, before an applicant is considered for hackney carriage or private hire licence.~~

- ~~c — Any applicant with three insurance offences or more will not be considered fit and proper to hold a hackney carriage or private hire licence with the Council. Such applications will normally be refused or in the case of an existing driver, the licence may be revoked.~~
- ~~d — An existing driver found guilty of driving passengers for hire and reward whilst without insurance will have his/her driving licence revoked immediately and be banned from holding a hackney carriage or private hire driver licence with the Council for five years from conviction or restoration of the DVLA driver licence whichever is the longer.~~

~~10.5 — Drugs~~

- ~~a — An applicant with a conviction for a drug related offence is required to show a period of between four and six years free of convictions depending on the circumstances before any application is entertained.~~
- ~~b — An existing driver found guilty of a drug related offence may have his/her driving licence revoked immediately and no application will be considered until a period of between four and six years free of conviction has elapsed, depending on the circumstances.~~

~~10.6 — Violence~~

- ~~a — As hackney carriage and private hire drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for assault. Depending on the circumstances a minimum of between three and eight years free of conviction should be shown before an application is considered and even then a strict warning will be administered. An existing licence holder can expect his/her licence to be revoked if convicted of these offences.~~

~~10.7 — Serious Offences~~

- ~~a — Any applicant with a conviction for a serious offence listed in Appendix A, Table 1 will not be considered fit and proper to hold a hackney carriage or private hire driver licence with the Council.~~
- ~~b — An existing licence will be revoked if the holder is convicted of any of these offences.~~

~~10.8 — Indecency~~

- ~~a — As hackney carriage and private hire drivers often carry unaccompanied passengers, licence holders with a conviction for~~

~~indecenty will have their licence revoked and applicants will not be considered for the grant of a licence until a period of between five and eight years has elapsed since conviction depending on the circumstances. A strict warning of future conduct will be given if a licence is subsequently granted.~~

~~10.9 Dishonesty~~

~~a Licence holders are expected to be trustworthy. The widespread practice of unaccompanied deliveries for companies, taking unaccompanied children to school, and being aware of empty homes when driving passenger to the airport when going away on holiday, demonstrates the degree of trust placed on drivers. It would be easy for dishonest drivers to defraud passengers by taking them by other than the shortest route or foreign visitors when giving change. Lost property could be kept by unscrupulous drivers. For these reasons a serious view is taken of any convictions involving dishonesty. In general, a period of between three and up to six years for some offences free of conviction will be required before an application for a hackney carriage or private hire drivers licence is considered by the Licensing Authority. Any existing driver convicted of dishonesty may expect any licence held to be revoked.~~

~~10.10 Drunkenness~~

~~a An isolated conviction for drunkenness need not debar an applicant from being granted a licence, nor will it automatically be a ground for revoking or suspending an existing licence. However, two or more convictions for drunkenness could indicate a medical problem necessitating a clinical examination. (Convictions for drunkenness should not be confused with the more serious offence of driving while under the influence of alcohol).~~

~~10.11 Scanners~~

~~a Anyone convicted of an offence involving the unlawful use of a radio scanner will be banned from holding any licence for a minimum of five years.~~

4110 Enforcement and Compliance

41.410.1 Holders of Hackney Carriage and Private Hire Operators, Drivers and Vehicles licences are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, the Council's Byelaws and Conditions.

41.210.2 If Operators, Drivers or Proprietors of Vehicles commit an offence or breach of those rules, regulations or conditions of licence, persons involved may be asked to attend the Council offices for an interview and, when investigations are completed, may receive a letter detailing the outcome. A copy is placed on the person's file. The outcome of investigations may result in immediate revocation or suspension of any licence, no further action, being taken, penalty points being awarded, a formal warning or being given, referral to the Licensing Sub-Committee and/or prosecution.

41.310.3 The aim of a penalty points scheme is that it should work in conjunction with other enforcement options. It provides a formalised, stepped, enforcement plan. The purpose of the scheme is to record misdemeanours and to act as a record of a licence holder's behaviour and conduct so as to ascertain whether they are a fit and proper person to hold a licence. It does not prejudice the Council's ability to take other action.

41.410.4 The primary objective of the penalty points scheme is to improve the levels of compliance and help improve standards, and to ensure the safety and protection of the travelling public.

41.510.5 Any penalty points imposed remain on a person's record for a twelve month period. This period is on a roll-forward basis, so as to allow any points imposed 12 months or more earlier to be considered as spent and therefore excluded from the running total recorded against any individual licence holder.

41.610.6 In the event that a driver/owner/operator commits an offence or breaches a condition as listed in the penalty points table below he/she may be awarded the number of points applicable to the circumstances as shown in the table for the breach/offence.

4211 Issue of Penalty Points

42.411.1 ~~Complaints by the public concerning breaches of conduct will be subject to investigation by Authorised Officers and may be reported to the Licensing Sub-Committee. Penalty points may be issued by an Authorised Officer. Alternatively, the Licensing Sub-Committee can impose between 1 and 12 for the imposition of discretionary points. These are the offences shown in the table where the points which may be awarded are 1-12 as shown in the table. The points table is to be used as a guide only, the Licensing Manager Authorised Officer or Licensing Sub-Committee can depart from this table to award points for any offence or behaviour that is not covered.~~

- 42.211.2 Where a licence holder accumulates 12 or more penalty points in any 12 month period, the matter will be referred to the Council's Licensing Sub-Committee to decide whether the licence holder is a fit and proper person. The Licensing Sub-Committee may then revoke a licence, or issue a warning to the licence holder, depending on the circumstances. The Licensing Manager will have the discretion to revoke or suspend any licence immediately following receipt of information regarding a serious driving incident that involves any licence holder.
- 42.311.3 Penalty Points will remain current for 12 months from the date the penalty points are issued. Points issued to either the proprietor of a vehicle, operator or a driver will be confirmed in writing within 10 working days from the discovery of the contravention.
- 42.411.4 The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, byelaws and regulations.
- 42.511.5 Any disputes regarding the issuing of penalty points will be referred to the Licensing Sub-Committee who will have the discretion to vary the points. However, in appealing to the Sub-Committee, drivers should be made aware that if the complaint is upheld, the Sub-Committee may decide to award more points than had been originally awarded.
- 42.611.6 Where a driver wishes to appeal the issue of penalty points to a Licensing Sub-Committee they must inform the Licensing Authority, in writing, within 21 days from the date of issue.
- 42.711.7 If points are issued to a proprietor/driver for a matter which is also a criminal offence, eg bald tyres, no badge, those person(s) will not then be the subject of a prosecution by the Council.
- 42.811.8 If a licence is revoked under this procedure, no new application will be considered until a period of 12 months has elapsed since the revocation.

PENALTY POINTS TABLE				
Offence/Breach of Condition		Maximum Points Applicable	Driver	Vehicle Owner or Operator
1	Providing false or misleading information on licence application form/failing to provide relevant information or the relevant fee (including dishonoured cheques).	6	✓	✓
2	Failure to notify, in writing, the Licensing Authority of change of address within 7 calendar days.	3	✓	✓

Offence/Breach of Condition		Maximum Points Applicable	Driver	Vehicle Owner or Operator
3	Refusal to accept hiring without reasonable cause eg drunk or rude customer	1-12	✓	
4	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares.	6	✓	
5	Plying for hire by Private Hire drivers.	9	✓	✓
6	Failure to hold a current vehicle excise licence (road tax).	9	✓	✓
7	Using unlicensed vehicle or vehicle without insurance.	12		✓
8	Failure to produce relevant documents within timescale when requested by an authorised officer.	4	✓	✓
9	Unsatisfactory condition of vehicle, interior or exterior.	4	✓	✓
10	Failure to produce MOT certificate when requested.	6	✓	✓
11	Failure to produce Hackney Carriage or Private Hire vehicle for testing when required	6	✓	✓
12	Failure to provide proof of insurance cover when requested.	4		✓
13	Using a vehicle subject to a suspension order issued by an authorised officer or a police officer.	12	✓	✓
14	Using a vehicle for which the licence has been suspended or revoked.	12	✓	✓
15	Failure to report, in writing, within 72 hours accident or damage to licensed vehicle, which would cause the vehicle to breach licence conditions.	4	✓	✓
16	Carrying more passengers than stated on the vehicle licence.	6	✓	
17	Failure to display external/internal licence plate or signs as required.	4	✓	✓
18	Carrying an offensive weapon in the vehicle.	12	✓	
19	Failure to notify transfer of Private Hire or Hackney Carriage vehicle licence.	4		✓

Offence/Breach of Condition		Maximum Points Applicable	Driver	Vehicle Owner or Operator
20	Failure to carry fire extinguisher.	4	✓	✓✓
21	Failure to carry first aid kit. <u>Unnecessarily Idling of Hackney Carriage or Private Hire vehicle</u>	3	✓	
22	Displaying unsuitable or inappropriate sited signs or advertisements in the vehicle.	3		✓
23	Failure to use authorised roof light	4	✓	
24	Failure to maintain records in a suitable form of the commencement and cessation of work of each driver each day.	4		✓
25	Failure to produce on request records of drivers work activity.	4		✓
26	Using a non approved or non-calibrated taximeter.	6	✓	✓
27	Obstruction of an authorised officer or police officer wishing to examine a licensed vehicle.	12	✓	✓
28	Displaying any feature on private hire vehicle that may suggest that it is a taxi.	6		✓
29	Failure to carry an assistance dog without requisite exemption.	12	✓	✓
30	Driver not holding a current DVLA Licence.	12	✓	✓
31	Failure to wear driver's badge.	4	✓	
32	Failure to notify, in writing, a change in medical circumstances.	6	✓	✓
33	Unsatisfactory appearance of driver.	3	✓	
34	Failure to observe rank discipline. (Hackney Carriage)	3	✓	
35	Leaving an unattended Hackney Carriage on a taxi rank	3	✓	
36	Failure to maintain proper records of private hire vehicle.	3		✓
37	Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced.	6		✓
38	Misleading use of the words 'Taxi' or 'Cab' on advertising materials.	3		✓
39	Failure to issue receipt on request.	1-12	✓	✓

Offence/Breach of Condition		Maximum Points Applicable	Driver	Vehicle Owner or Operator
40	Failure to return vehicle licence plate within 7 days after due notice following revocation or suspension of such licence.	4		✓
41	Unsatisfactory behaviour or conduct <u>of driver</u> .	1-12	✓	✓
42	Failure to notify the Licensing Authority, in writing, of any motoring or criminal convictions within 21 day of conviction or cautions during period of current licence.	6	✓	✓
43	Failure to give assistance with loading/unloading.	1-12	✓	✓
44	Failure to display fare card.	3	✓	✓
45	Failure to carry legal spare wheel and tools, or suitable tyre reinflation device.	4	✓	✓
46	Failure to attend punctually at appointed time and place without sufficient cause.	4	✓	✓
47	A licensed vehicle with a bald tyre.	4 per tyre	✓	✓
48	Failure to submit licence renewal application including documents and attendance at a vehicle inspection.	6	✓	✓
49	Failure to comply with any other conditions	3	✓	✓
50	Waiting or stopping on a double yellow line area, <u>restricted parking</u> , bus stop or private land (without the owner's permission) unless requested by a paying customer present in the vehicle.	3	✓	
51	Use of hand held mobile device (eg mobile phone) whilst driving licensed vehicle	<u>6</u> 3	✓	
52	Smoking in licensed vehicle	3	✓	
53	Points awarded by Licensing Sub-Committee where matters referred to them for decision.	4-12	✓	✓
54	Private hire vehicles stopped or waiting on a taxi rank	3	✓	

APPENDIX A**Hackney Carriage and Private Hire Driver's Licences Criminal Convictions Table of Offences**

The table below lists certain offences which may be taken into consideration when considering applications for hackney and private hire driver licences.

It shows the number of years that an applicant should be free of conviction before an application can be considered. This list is not exhaustive and each case will be judged on its own merits.

Table 1. Offences where a licence will automatically be refused or a current licence will be revoked

Murder
Manslaughter
Manslaughter or Culpable Homicide while Driving
Grievous Bodily Harm with intent - Section 18
Robbery
Criminal Damage with intent
Arson with intent
Rape
Indecent Assault on a Child Under 16 yrs

Table 2. Offences where a licence will automatically be refused, or a current licence will be revoked and no further application entertainment until the requisite number of years have elapsed

Offences Involving Dishonesty	Years since conviction
Theft	3
Theft—Shoplifting	3
Theft—Employee	3
Theft—From Vehicle	3
Burglary & Theft—Dwelling	4
Burglary & Theft—Non Dwelling	4
Burglary & Theft—Aggravated	6
Fraudulent Use of VEL	3
Handling	3
Receiving	3
Forgery	3
Conspiracy to Defraud	3
Obtain Money by Deception	3
Obtain Money by Forged Instrument	3
Deception	3
False Accounting	3
False Statement to Obtain Benefit	3
Going Equipped	3
Perverting Course of Justice	4

Table 3. Offences Involving Drugs	Years since conviction
Possessing Controlled Drug	4
Possessing Controlled Drug with Intent to Supply	6
Producing Controlled Drug	4
Import Drugs	5

Table 4. Offences Involving Violence	Years since conviction
Common Assault	3
Actual Bodily Harm (Assault) - Section 47	5
Grievous Bodily Harm - Section 20	6
Common Assault - Aggravated	4
Assault Police	3
Affray	3
Riot	4
Obstruct Police officer	3
Possess Offensive Weapon	5
Possess Firearm without licence	3
Possess Firearm with intent	8
Criminal Damage	3
Violent Disorder	3
Resist Arrest	3
Arson	5

Table 5. Offences Involving Indecency	Years since conviction
Indecent Exposure	8
Importuning	6
Indecent Assault on a Person over 16 yrs	8
Living Off Immoral Earnings	7
Prostitution	7
Possessing or Distributing Obscene Material	8
Indecent or Nuisance Telephone Calls	5

Table 6. A licence may be issued (or not revoked) following the offences below. However a strict warning may be given regarding future conduct. More than one offence may result in refusal or revocation.
Using Threatening, Abusive Words or Behaviour
Breach of the Peace
Drunk and Disorderly / Drunk and Incapable

Offences covered under minor traffic convictions (See Paragraph 10.1)

- AC10 — Failing to stop after an accident
- AC20 — Failing to give particulars or report an accident within 24 hours.
- AC30 — Undefined accident offence
- CU10 — Using vehicle with defective brakes.
- CU20 — Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.
- CU30 — Using a vehicle with defective tyres.
- CU40 — Using a vehicle with defective steering.
- CU50 — Causing or likely to cause danger by reason of load or passengers.
- CU60 — Undefined failure to comply with Construction and Use Regulations.
- CU80 — Using a mobile phone whilst driving
- LC10 — Driving without a licence.
- MS10 — Leaving a vehicle in a dangerous position.
- MS20 — Unlawful pillion riding.
- MS30 — Playstreet Offences.
- MS40 — Driving with uncorrected defective eyesight or refusing to submit to a test.
- MS50 — Motor racing on the highway.
- MS60 — Offences not covered by other codes.
- MS70 — Driving with uncorrected defective eyesight.
- MS80 — Refusing to submit to an eyesight test.
- MW10 — Contravention of Special Road Regulations (excluding speed limits).
- PC10 — Undefined Contravention of Pedestrian Crossing Regulations.
- PC20 — Contravention of Pedestrian Crossing Regulations with moving vehicle.
- PC30 — Contravention of Pedestrian Crossing Regulations with stationary vehicle.
- PL10 — Driving without 'L' plates.
- PL20 — Not accompanied by a qualified person.
- PL30 — Carrying a person not qualified.
- PL40 — Drawing an unauthorised trailer.
- PL50 — Undefined failure to comply with conditions of a Provisional Licence.
- SP10 — Exceeding goods vehicle speed limit.
- SP20 — Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles).
- SP30 — Exceeding statutory speed limit on a public road
- SP40 — Exceeding passenger vehicle speed limit.
- SP50 — Exceeding speed limit on a motorway.
- SP60 — Undefined speed limit offence.

- TS10 — Failing to comply with traffic light signals.
- TS20 — Failing to comply with double white lines.
- TS30 — Failing to comply with a 'Stop' sign.
- TS40 — Failing to comply with direction of a constable or traffic warden.
- TS50 — Failing to comply with traffic sign (excluding 'Stop' sign, traffic lights or double white lines).
- TS60 — Failing to comply with school crossing patrol sign.
- TS70 — Undefined failure to comply with a traffic direction or sign.

Offences covered under major traffic convictions (See Paragraph 10.2)

- CD10 — Driving without due care and attention.
- CD20 — Driving without reasonable consideration for other road users.
- CD30 — Driving without due care and attention or without reasonable consideration for other road users.
- DD40 — Dangerous driving
- IN10 — Using a vehicle uninsured against third party risks.
(see paragraph 10.4)
- BA10 — Driving while disqualified by order of Court.
- BA20 — Driving while disqualified as under age.

Offences where a licence will automatically be refused or a current licence suspended or revoked

- DD60 — Manslaughter or culpable homicide while driving a vehicle.(see under violence)
- DD70 — Causing death by reckless driving.
- UT10 — Taking or driving away a vehicle without consent or an attempt thereat
- UT20 — Stealing or attempting to steal a vehicle
- UT30 — Going equipped for stealing or taking a vehicle
- UT40 — Taking or attempting to take a vehicle without consent, driving or attempting to drive a vehicle knowing it to have been taken without consent, allowing oneself to be carried in or on a vehicle knowing it to have been taken without consent

Offences for driving a motor vehicle under the influence of drink or drugs (See Paragraph 10.3)

- DR10 — Driving or attempting to drive with alcohol level above limit.
- DR20 — Driving or attempting to drive while unfit through drink or drugs.
- DR30 — Driving or attempting to drive then refusing to supply a specimen for analysis.
- DR40 — In charge of a vehicle while alcohol level above limit.
- DR50 — In charge of a vehicle while unfit through drink or drugs.
- DR60 — In charge of a vehicle then refusing to supply a specimen for analysis.
- DR70 — Failing to provide a specimen for breath test.

These lists are not exhaustive and individual cases may be judged on their own merits. Where a conviction is so old and it is considered that there is little likelihood of re-offending, the above time limits may be reduced.

Glossary

“Authorised Officer” means any officer of the Council authorised in writing by the Council for the purpose of these conditions.

“Hackney Carriage” has the same meaning as in the Town Police Clauses Act 1847.

“Private Hire Vehicle” means a motor vehicle constructed or adapted to seat fewer than eight passengers, other than a Hackney Carriage or public service vehicle, which is provided for hire with the services of a Driver for the purpose of carrying passengers.

“Taximeter” means any device for calculating the fare to be charged in respect of any journey in a Hackney Carriage or Private Hire vehicle by reference to the distance travelled or time elapsed since the start of the journey, or a combination of both.

“the Act” means Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.

“the Council” means Winchester City Council.

“the Driver” means a person licensed to drive a Hackney Carriage and Private Hire vehicle under Section 51 of the Act.

“the Licence Holder” means the holder of the Hackney Carriage and/or Private Hire Driver’s or vehicle licence.

“the Licensing Authority” means the licensing section of Winchester City Council.

“the Operator” means the person(s) or company directors whom the Council has granted the Private Hire Operator’s Licence under Section 55 of the Act.

“Winchester District” – the administrative area of Winchester City Council

“Winchester Town” - the ~~six~~Five Town Wards ~~together with~~ Plus Oliver’s Battery ~~&and~~ Badger Farm, and The Worthys. ~~Kings Worthy, Headbourne Worthy and Littleton and Harestock.~~

Public Document Pack Agenda Item 9

LICENSING SUB-COMMITTEE

Monday, 18 March 2019

Attendance:

Councillors

Mather (Chairman)

Green

Izard

Officers in attendance:

Miss B Appletree – Licensing Officer
Mr G Wren – Senior Licensing Officer
Ms C Tetstall – Licensing Solicitor

Others in attendance who did not address the meeting:

Councillor Warwick (Portfolio Holder for Environment)

1. **NEW CLUB PREMISES CERTIFICATE - OAKWOOD PARK RECREATION GROUND, OAKWOOD AVENUE, OTTERBOURNE (LR518)**

(Report LR518 refers)

The Chairman welcomed to the meeting:

Representing the Applicant – Colden Common Football Club

- Mr Stephen Twamley
- Ms Karen Davies

Other Interested Parties:

- Mr Richard Emery (also representing the following people who had made written representations: Mr James Gilbert, Mr and Mrs Fisher, Mr and Mrs McCosker and Mr Keith Smith)

Miss Appletree introduced the Report which set out the details of the application. In summary, she explained that an application for a new club premises certificate for Oakwood Park Recreation Ground, Oakwood Avenue, Otterbourne had been made by Colden Common Football Club under Section 71 of the Licensing Act 2003. The application was to specifically licence the pavilion building on the Oakwood Park Recreation Ground site (as shown in Appendix 3 of the Report) and the purpose of the application was to provide regulated entertainment and the supply of alcohol to members and their guests only.

However, it was noted that since the initial application, the applicant had removed live music from the application and had reduced the proposed terminal hour for the supply of alcohol on Christmas Eve and New Year's Eve from 0030hrs to 2300hrs, in an effort to minimise disturbance to local residents. The application was set out in Appendix 1 to the Report.

A representation had initially been received by Hampshire Constabulary relating to the prevention of crime and disorder licensing objective but this representation had since been withdrawn after conditions were agreed with the applicant, as set out on Pages 14 and 15 of the Report. It was reported that Environmental Health had received no recent record of any noise complaints relating to this premises.

18 valid representations had been received from local residents and other members of the public, and all raised objections to the application. These representations related to the licensing objectives of the prevention of crime and disorder, prevention of public nuisance and the protection of children from harm, as set out in Appendix 2 to the Report.

No further representations had been received from any other responsible authorities.

In response to questions, Miss Appletree clarified that, the premises had been previously licensed by Otterbourne Sports Club for the supply of alcohol and regulated entertainment since November 2006. This licence was surrendered in November 2016.

At the invitation of the Chairman, Mr Twamley, speaking on behalf of the applicant, Colden Common Football Club, addressed the Sub-Committee and outlined the background to the new club premises certificate for the provision of regulated entertainment and the supply of alcohol to members and their guests only. Mr Twamley clarified that it was not the Club's intention to use all the licensed hours that had been applied for from Monday to Saturday, as set out in the application and that on days of use, club members and their guests would usually have left by 9pm as the ground would usually be cleared by 6.30pm.

At the invitation of the Chairman, Mr Emery, one of the other interested parties who had submitted a relevant representation to the application, addressed the meeting, also speaking on behalf of a number of other residents who had submitted written representations (details set out above). A summary of his comments are outlined below.

Mr Emery queried the licensable area of the application and raised concerns regarding the consumption of alcohol outside of the premises and the disturbance this would cause to the local community. In addition, Mr Emery expressed concerns regarding the loss of public amenity of the pavilion building and specifically the recreation ground which was utilised by children and the wider community and the existing parking concerns in Oakwood Avenue and the single track entry into the premises, which could cause an accident and be further exacerbated over longer periods of time.

In response to the points raised by Mr Emery, the Sub-Committee were reminded that road safety, parking and drink driving offences were not a material consideration under the Licensing regime and were issues to be addressed with the appropriate authority.

To address the concerns raised regarding the consumption of alcohol outside of the building, Miss Appletree confirmed that the application was for the supply of alcohol for consumption on the premises only and not outside the curtilage of the pavilion building, as outlined in red on the plan in Appendix 1 and the map in Appendix 3.

In summing up, Mr Twamley stated that he had endeavoured to engage with the community and would continue to do so to allay concerns. Parking issues had been taken on board and alternative ideas to move traffic away were being investigated. In conclusion, Mr Twamley, welcomed a representative of the local community to participate on the Football Club committee meetings, particularly to address matters surrounding the licence going forwards.

The Sub-Committee retired to deliberate in private.

In her closing remarks, the Chairman stated that the Sub-Committee had carefully considered the Application and the representations made by interested parties, including those related to the prevention of public nuisance and the protection of children from harm. It had taken into account the duties under the Crime and Disorder Act 1998 and the rights set out in the Human Rights Act 1998.

The Sub-Committee noted that the applicant had agreed conditions with Hampshire Constabulary to promote the prevention of crime and disorder licensing objective and offered to comply with the Challenge 25 policy to protect children from harm.

To promote the prevention of public nuisance objective, the applicant had reduced the original opening hours applied for Christmas Eve and New Year's Eve to 2300hrs

In regard to the matters raised in relation to parking, drink driving and road safety, these matters are covered by other legislation and cannot be considered by the Licensing Sub-Committee.

The Sub-Committee concluded that the application should be granted, with the conditions agreed between the applicant and Hampshire Constabulary, set out in Pages 11 to 15 of the Report. The Chairman advised that any breach of the licence conditions could lead to a review of this licence in future years.

The Chairman thanked all those present for attending the meeting and explained to all parties that they would be formally notified of the decision in writing in due course and of their right to appeal to the Magistrates' Court within 21 days from the date of the decision letter.

RESOLVED:

1. That the application for a new Club Premises Certificate for the provision of regulated entertainment and the supply of alcohol for consumption on the premises only to members and their guests at Oakwood Park Recreation Ground, Oakwood Avenue, Otterbourne, be granted to Colden Common Football Club, subject to the amended conditions agreed by the applicant with Hampshire Constabulary, set out in Pages 11 to 15 of the Report.

REASON

The applicant had addressed the licensing objectives and taken reasonable steps to mitigate the concerns of persons making relevant representations, including the prevention of public nuisance and protection of children from harm objectives..

The meeting commenced at 10.00 am and concluded at 11.00 am

Chairman