



# 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 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 848 188

## **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](http://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 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.
- 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 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 1500 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 1500cc 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 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.
- 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.

## **6 Private Hire Vehicles**

- 6.1 When first presented for licensing as a private hire vehicle, 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.
- 6.2 A converted vehicle should have a certificate of conversion from a reputable company and will not be accepted without such a document.
  - a In exceptional circumstances these age limits may be waived. For example, a classic car 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.
- 6.6 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.
- 6.7 The engine capacity must be not less than 1500cc. The 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 cc 1500 cc vehicle, or, where the vehicle is environmentally friendly.
- 6.8 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.

- 6.9 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 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 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 from Personnel Checks [www.personnelchecks.co.uk](http://www.personnelchecks.co.uk) Telephone 01264 355679. Alternatively through [www.gov.uk](http://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 prior to the start of employment.
- 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.
- 7.10 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. . 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 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 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 consent to allow 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 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, home country or from the country in which they have been living. 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 supplying 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. 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 Authorised Officers will review any convictions disclosed and this will be taken into account when deciding whether or not to grant the application in accordance with the Policy on Criminal Convictions. Any Authorised Officer may also contact the Police for further information surrounding a conviction, caution, arrest or any other police investigation that has involved the applicant. 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.
- c 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), cautions, arrest or any other police investigation on the application form. Failure to disclose this information 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. The applicant and any current driver must permit an Authorised Officer to check their DBS status at regular intervals at the discretion of the Council and in line with national guidance. 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.
- e 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.

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

- a 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.
- b 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.
- c All Operators licensed before 25 February 2019 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.
- d All Drivers and Operators will be required to update their safeguarding training upon the Council's request using a Safeguarding Training Provider/assessment approved by the Council.

## 8.7 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 which is to the satisfaction of the Licensing Department.
- c 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.

## 8.8 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.

#### 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.

#### 8.10 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. 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](http://www.winchester.gov.uk/licensing).
- b 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.
- c The pass mark for all tests is 80% in each section.
- d 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 Town Wards together with Oliver's Battery & Badger Farm, and the The Worthys), certain modules of the test may not be required.
- e Where an applicant or current driver opts to amend their working practices in order to work primarily in the Winchester Town area they shall notify the Licensing Authority and pass the relevant knowledge test prior to commencement.
- f 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.
- g 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.
- h 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.

- i 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.

#### 8.11 Practical Knowledge Test

- a All new applicants who have passed an 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 practical knowledge of the area. 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 'practical knowledge of the area to which the application applies'.

#### 8.12 Medical Fitness

- a All applicants must undergo and pass a medical examination that meets the DVLA Group 2 Medical Standard of fitness to drive 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 A medical examination is to be carried out on initial application and every fifth year thereafter until the age of 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 Any Authorised Officer may require any licensed driver to undergo a medical examination with an approved medical provider, where satisfied that a condition has arisen which might affect the person's fitness to drive a licensed vehicle. This may result in the current driver's licence being suspended or revoked.
- e 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.

#### 8.13 New applicants

- a If an applicant has not fulfilled all of the above criteria within 12 months of submitting an application to drive 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.

#### 8.14 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 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 public safety.

**9.3 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.**

9.4 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 5 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.

9.5 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.

9.6 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

9.7 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

9.8 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

- 9.9 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

- 9.10 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

- 9.11 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.
- 9.12 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

- 9.13 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

- 9.14 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.

- 9.15 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

- 9.16 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

- 9.17 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

- 9.18 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

- 9.20 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.

- 9.21 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

- 9.22 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.
- 9.24 Applications would not normally be approved from licensed drivers who had been convicted of an offence 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
- 9.25 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.
- 9.26 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".
- 9.27 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.

- 9.28 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.
- 9.29 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.
- 9.30 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.
- 9.31 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 Enforcement and Compliance**

- 10.1 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.
- 10.2 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,, penalty points being awarded, a formal warning or , referral to the Licensing Sub-Committee and/or prosecution.
- 10.3 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.
- 10.4 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.
- 10.5 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.
- 10.6 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.

## **11 Issue of Penalty Points**

- 11.1 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 discretionary points as shown in the table. The points table is to be used as a guide only, the Authorised Officer or Licensing Sub-Committee can depart from this table to award points for any offence or behaviour that is not covered.
- 11.2 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.

- 11.3 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.
- 11.4 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.
- 11.5 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.
- 11.6 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.
- 11.7 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.
- 11.8 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.

<b>PENALTY POINTS TABLE</b>				
<b>Offence/Breach of Condition</b>		<b>Maximum Points Applicable</b>	<b>Driver</b>	<b>Vehicle Owner or Operator</b>
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	✓	✓
3	Refusal to accept hiring without reasonable cause eg drunk or rude customer	1-12	✓	

Offence/Breach of Condition		Maximum Points Applicable	Driver	Vehicle Owner or Operator
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		✓
20	Unnecessarily Idling of Hackney Carriage or Private Hire vehicle	3	✓	

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



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

## 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 Five Town Wards plus Oliver’s Battery & Badger Farm, and The Worthys.