



# **Statement of licensing policy for Hackney carriages, private hire vehicles, drivers, and private hire vehicle operators**

14 November 2017 (version 10)

This Policy has been produced pursuant to the powers conferred by the Town Police Clauses Act 1847 Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on Cheshire West and Chester Council (the 'Council') a duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles, drivers and private hire vehicle operators. In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this Policy document. Where it is necessary for the Council to depart from its Policy, reasons will be given for so doing.

This policy was approved by the Licensing Committee on the 16 April 2013.

<b>Amendment/revision dates</b>	<b>Version</b>
17 June 2014	2
24 March 2015	3
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17 November 2015	5
19 January 2016	6
1 April 2016	7
17 August 2016	8
12 September 2017	9
14 November 2017	10

No changes shall be made to the policy without further approval from Council/licensing committee other than amendments to the conditions detailed in the attached sections. Such amendments will be authorised by an executive member.

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## 1.0 Introduction

Cheshire West and Chester Council has responsibility for licensing hackney carriages and private hire vehicles, drivers and private hire operators within the district of Cheshire West and Chester. The Council is the fourth largest unitary authority in the North West covering an area of 350 square miles with a total population of 329,500 (2011 mid-year population estimate). The city and main towns of the borough include Chester, Ellesmere Port, Frodsham, Neston, Northwich and Winsford.

The area is a mixture of both rural and urban communities and combines an exciting range of attractions, festivals, events and shopping experiences for both residents and tourists alike. The thriving night time economy and shopping facilities within the city of Chester makes this area a popular destination requiring efficient integrated transportation to be available.

Hackney carriage and private hire vehicles, drivers and operators have a major role to play in maintaining an integrated transport system designed to provide an efficient and safe public service.

This policy takes into account the vision and priorities of the Council and in particular:

- putting people first.
- following best practice.
- safer and stronger communities.

### 1.1 The aims of this policy are:

- the protection of the travelling public, including vulnerable groups.
- the provision of good access to hackney carriage and private hire services, including safety and comfort.
- to ensure that licence holders are fit and proper persons.
- when relevant to the district the policy will be consistency with current best practice promoted by the Department for Transport.
- to describe a format for consultation and continual improvements in line with the aims of this policy.

1.2 This policy recognises the status and importance of guidance produced by Government departments. In particular, but not exclusively, this Council will take account of the best practice guide produced by the Department for Transport.

1.3 In terms of the taxi and private hire licensing: best practice guide produced by the Department for Transport this Council recognises that zoning and quantity

restrictions are relevant issues. The Department for Transport recommends the abolition of zones, chiefly for the benefit of the travelling public, and regards as best practice the fact that most local authorities do not impose quantity restrictions.

- 1.4 This policy will only depart from best practice or guidance when it is in the best interests of the public. This Council will monitor the effect of this licensing policy to ensure that each of the various licensing requirements is in proportion to the risk it aims to address.

## **2.0 Implementation**

This policy was first implemented in April 2013 and the policy will be fully reviewed every three years. Minor changes to this policy may be made at any time to reflect changes in legislation, best practice or as a consequence of changes in local circumstances. The Council expects licence holders to comply immediately with the policy, however, it is acknowledged, that certain provisions may place a significant financial burden on existing licence holders and accordingly the Council may allow for a transitional period for those existing licence holders during which necessary changes must be made.

## **3.0. Vehicle testing**

- 3.1 Hackney carriage and private hire vehicles are to be tested regularly to ensure that they remain roadworthy and safe for both the passengers and drivers. All vehicles shall be tested by the Council or its agent prior to first licensing and regularly thereafter.
- 3.2 All vehicle tests must take place at a testing station approved by the Council. These requirements are in addition to an MOT, (note hackney carriages require an MOT when the vehicle is one year and annually thereafter).

## **4.0 Signage**

- 4.1 Appropriate signage is necessary to identify key information about the vehicle to reassure passengers that vehicles are properly regulated within the district of Cheshire West and Chester. Clear signage also assists enforcement officers to identify vehicles and protects the trade from unlicensed/non-compliant vehicles.
- 4.2 Hackney carriage and private hire vehicles are required to display a plate on the front and rear of the vehicle. The plates remain the property of the Council at all times and must be removed/surrendered at the request of an authorised officer of the Council.
- 4.3 Signage is critical for the public to identify a licensed vehicle; it helps them differentiate between the private hire and hackney vehicles and the booking requirements and reassures them that the licensed vehicle and driver have both passed the Council's licensing requirements.

4.4 Since the introduction of the Road Safety Act 2006 the Council recognises that elements of the previous unlicensed chauffeur and contract hire elements of the private hire trade are now require to be fully licensed. The plate exempt conditions in both the private hire operator and vehicle licence conditions reflect the needs at times to use vehicles that show no obvious signs of being licensed. This is an important concession over the normal highly visible signage of a private hire vehicle and it is critical that these vehicles are only used by operators under the strict conditions set out in both the private hire vehicle and operator conditions.

4.5 Conditions relating to signage shall be attached to individual vehicle licences and details of those conditions can be found in the appendices to this Policy.

## **5.0 Advertising and additional signage**

5.1 Advertising is allowed with the prior written authority of this Council. The size and position and content of such information will be controlled. No advertisements suggesting that a private hire vehicle is available for immediate hire will be allowed. If required, further guidance may be sought from the Cheshire West and Chester corporate, standard and guidance advertising guidelines.

5.2 Advertising and additional signage will not be authorised for hackney or private hire vehicles if it is prejudicial or discriminatory against any group or individual – including, but not limited to; age, race, religion, disability, gender, sexual orientation or nationality, is likely to mislead, is inflammatory, offends or creates barriers between the driver of the vehicle and passengers, the public or other road users. The interpretation of the content of any advert shall be at the sole discretion of the Council.

Further guidance should be sought from the Cheshire West and Chester corporate, standard and guidance advertising guidelines.

5.3 The proprietor/driver of any vehicle equipped to accept debit/credit card payments must ensure that a notice is clearly displayed on both rear doors of the vehicle specifying any additional charges in monetary or percentage terms levied for such payments. A similar notice must also be displayed in the passenger compartment. The wording and positioning of any such notices must be agreed by the licensing authority before being affixed to the vehicle.

## **6.0 Application procedures**

6.1 The Council's application procedures for hackney carriage or private hire vehicle licences, drivers and private hire vehicle operators shall be followed in that applications must be made on a specified application form with the required documentation in accordance with the application procedures set out by Cheshire West and Chester. Application forms are available from the following local area offices:

- 4 Civic Way, Ellesmere Port, CH65 0BE  
Telephone: 0151 3566417
- Wyvern House, The Drumber, Winsford, CW7 1AH  
Telephone: 01606 288644/288645

## **7.0 Consideration of applications (grant and renewal)**

- 7.1 The Council recognises the importance of processing licence applications efficiently to ensure continuity of licence/employment. Therefore, all properly made applications will be processed without delay. The Council cannot be responsible for any delays where the application process involves a third party.
- 7.2 Hackney carriage, private hire vehicle licences will usually be granted for 12 months. Private hire vehicle operator licences will usually be granted for a period of five years. A shorter period may be granted under exceptional circumstances.
- 7.3 Dual hackney carriage and private hire vehicle driver's licences will usually be granted for three years, except in the case of applicants aged 65 years and over, when an annual licence should be sought. A shorter period may be granted should this be appropriate in the circumstances. A licence to drive a hackney carriage or private hire vehicle will not be granted to a person who is under 18 years of age. All applicants must have held a full UK/EU driving licence for a period of at least one year prior to the date of application.
- 7.4 The Council will endeavour to remind all licence holders to renew their licences, in the month preceding the expiry of the licence. Not having received a reminder will not be accepted as a reason for non-renewal. It is the licence holder's responsibility to ensure that their licence is renewed appropriately.
- 7.5 When the grant of a renewal is dependent on the Council receiving a Disclosure and Barring Service disclosure of criminal convictions this must be applied for a minimum of 28 days before expiry of the licence.
- 7.6 Where appropriate, applicants must provide proof of entitlement to work in the United Kingdom.

## **8.0 Drivers to be fit and proper persons**

8.1 A licence to drive a hackney carriage or private hire vehicle will not be granted unless the Council is satisfied that the applicant is a fit and proper person. In assessing whether the applicant is a fit and proper person to hold a licence, the Council will consider each case on its merits. Officers will take account of cautions and convictions, but only in so far as they are relevant to an application for a licence. Where offences, leading to conviction, are committed by licensed drivers, it is important in the interests of consistency and transparency, that a procedure should be in place to consider what effect this should have on their driver's licence. The method of assessing suitability of applicants is detailed below.

8.2 Applicants for licences are required to disclose all convictions, including those that would previously have been regarded as spent under the Rehabilitation of Offenders Act 1974 for other purposes, by completing a disclosure of convictions form as part of the application procedure.

For a driver's and operator's licence the applicant must provide a current (less than three months old) enhanced Disclosure and Barring Service disclosure of criminal convictions countersigned by an officer of this Council and/or a certificate of good conduct from the relevant embassy in the case of an applicant who has lived or worked overseas on first application. Applicants wishing to apply to hold a contract with integrated transport (school contract etc) will require an enhanced disclosure of criminal convictions and applicants may wish to submit this disclosure as part of their application for a driver's licence.

8.3 Due to data protection issues and the confidential and personal nature of a DBS disclosure the Authority cannot accept a DBS disclosure nor supply information from or to any other organisation unless required to do so by legislation.

8.4 An enhanced Disclosure and Barring Service disclosure of criminal convictions countersigned by an officer of this Council must be submitted to the Council every third year upon application for renewal bearing in mind that the Council can request another disclosure at any time if a further check is considered necessary.

8.5 Upon receipt of a disclosure from the Disclosure and Barring Service, officers acting under delegated powers will assess whether any cautions or convictions are capable of having real relevance to the issue of whether or not the applicant is a fit and proper person to hold a licence. The officer will have regard to the Council's guidelines relating to the relevance of convictions. Applications will be referred to the general licensing sub-committee where the applicant's record includes:

- any term of imprisonment or custody.
- any caution or conviction for a violent offence, sexual offence or dishonesty which is of a serious nature.
- any motoring offence of a serious nature.
- any other relevant information contained in the DBS disclosure.



- any offence contrary to hackney carriage and private hire vehicle licensing legislation.
- any information that leads the Council to question the applicant's ability to be considered 'fit and proper' to hold a licence.

8.6 Licensed drivers are obliged to notify the Council in writing within seven days of any criminal convictions and cautions. Failure to declare a conviction or other material fact may result in immediate suspension of the licence pending investigation and may result in further action including prosecution. Notification by an acknowledged email satisfies this requirement. Email notifications to [licensing@cheshirewestandchester.gov.uk](mailto:licensing@cheshirewestandchester.gov.uk).

8.7 The Council requires a certificate of medical fitness in the Council's standard form signed by the applicant's normal Doctor, or other registered medical practitioner approved by the Council. A DVLA group two standard of medical fitness for professional drivers is required, special conditions for drivers with insulin treated diabetes will apply. The medical examination must be undertaken by the applicant's own general practitioner (GP) or a GP with access to the applicant's full medical history.

Medical certificates must be submitted as prescribed by the conditions for dual licensed drivers (hackney/private hire).

8.8 If an applicant is from overseas and has no GP in the UK, a medical certificate from a qualified medical practitioner in their home country will be accepted but a medical from a GP will be required within six months of their licence being issued.

8.9 A request for a medical examination, which may be presented to the applicant's GP, is obtainable from the licensing team. The applicant will be responsible for paying the fee for the examination to the relevant surgery. On completion of the examination, a confidential report will be submitted to the licensing team. The applicant may, on written request, have a copy of the report.

8.10 Where there is any doubt as to the medical fitness of the applicant, the Council may require the applicant to undergo and pay for a further medical examination by the Council's Occupational Health Service.

8.11 Licence holders must advise the Council as soon as practicable of any deterioration in their health that may affect their driving capabilities.

8.12 The Council has developed a Cheshire West and Chester drivers' qualification which is a compulsory pre-requisite for new drivers applying for a licence. Whilst not compulsory, at the present time, for existing licensed drivers, the Council would encourage existing drivers to obtain the qualification.

Elements of the qualification include:

Key local locations, CWAC driver and vehicle conditions and bye laws, local and tourist information, customer service, equality and diversity, disability awareness, passenger safety, carriage of luggage, map reading and route planning, taxi and private hire legislation and enforcement issues, practical sessions to deal with the health and safety of self and others and assisting clients who may have disabilities.

- 8.13 All new applicants for hackney carriage and private hire vehicle driver licences are required to pass the Driver and Vehicle Standards Agency Driving Assessment (private hire) or other Driving Assessment Scheme approved by the Regulatory Services Manager before a licence is granted.
- 8.14 The Council as the licensing authority bears a duty to the general public and therefore if required two references on the applicant's behalf may be requested. A referee must have known the applicant for at least five years and be a person of good standing. A reference from the applicant's family or from a person connected with the hackney carriage or private hire trade will not be acceptable.
- 8.15 The Council reserves the right to require further additional checks or information to ensure the applicant is a fit and proper person.

## **9.0 Vehicle requirements**

- 9.1 The Council will specify conditions for hackney carriages and private hire vehicles in relation to the following:
- passenger safety and comfort
  - type and specification
  - signage and Identification
  - safety equipment

Applicants are advised to consult with the licensing section prior to the purchase of a vehicle to confirm suitability/compliance with this policy.

- 9.2 There are a range of conditions to be attached to each licensed vehicle which control the type and specification of vehicle. The purpose of these conditions is to ensure the vehicle is safe for the protection of the driver, passengers and other road users and to ensure that it offers a reasonable standard of comfort for the passenger.
- 9.3 The Council recognises that although both hackney and private hire vehicles undertake similar role in the carriage of paying passengers, their roles are separate and distinct and are covered by separate legislation. The Council's policy is to ensure that the conditions and the marking/signage on the vehicles shall make it clear to fare-paying passengers the separate nature of the respective booking requirements of the vehicles.
- 9.4 Any vehicle that is adapted or modified in any way, including vehicles that have been adapted or modified to carry one or more wheelchair bound

passengers, shall be required to satisfy the Council that any non-standard construction or modification has been done to an acceptable/approved standard. Such vehicles may require additional testing or certification from the manufacturers, VOSA or an accredited qualified vehicle engineer to be provided at the cost of the applicant. Cheshire West and Chester maintains an approved list of wheelchair accessible vehicles (WAVs) capable of being licensed as hackney carriages.

- 9.5 All seats must be manufactured to carry an adult with the appropriate leg room and comfort and be provided with a seatbelt. Normally all seatbelts should be a three point belt with lap, chest and shoulder restraints.
- 9.6 Temporary or folding seats will require confirmation from the manufacturer that the seat is not designed for occasional use only and that it is designed and tested for the use of a fully grown adult.
- 9.7 All seats must be readily accessible to all passengers including passengers with restricted mobility.
- 9.8 Vehicles fitted with the side facing seats will not normally be licensed.
- 9.9 The Council has determined an age policy for both hackney carriage and private hire vehicles. The aim of the age policy is to raise vehicle standards, improve standards of comfort and safety and reduce vehicular emissions. A transitional period for compliance for existing vehicle proprietors holding a vehicle proprietor's licence prior to the policy coming into effect on 16 April 2013 was also established as part of this policy. The transitional period ends on 31 December 2016.

### **Age policy**

#### 9.9.1 All vehicle applications

Hackney carriages (Ellesmere Port and Neston and Vale Royal zones) and wheelchair accessible private hire vehicles

- entry policy up to five years (60 months)
- exit policy 15 years

Hackney carriages (Chester zone)

- Entry policy: New at first registration
- Exit policy 15 years

Private hire vehicles (non-wheelchair accessible)

- Entry policy up to five years (60 months)
- Exit policy 10 years

#### 9.9.2 Existing Licence Holders (Transitional Period)

Existing Licence Holders between 16 April 2013 and 31 December 2016 ('the transitional period')

An existing licence holder may licence any age of vehicle meeting the Euro 4 emissions standard, during the transitional period with the understanding that the relevant exit age policy will apply to all vehicles from 1 January 2017.

9.9.3 Exceptions to the age policy may be granted in the following circumstances:

- specialist/novelty vehicles where the age of and/or the unique design of the vehicle is the primary attraction to the customer
- the cost of such a vehicle is very high in proportion to the hiring opportunities available.
- the miles any vehicle would undertake would be very low in relation to that of other private hire or hackney carriages.
- where a vehicle has been written off as a result of an accident and the driver would face hardship in providing a replacement vehicle up to five years of age an exemption may be permitted (At the permission of the Head of Regulatory Services a licensee may licence a vehicle of up to the equivalent age of the vehicle written off where there is no detriment to the quality of the fleet. In such circumstances the replacement vehicle would be subject to the relevant exit period detailed at paragraph 9.9.1 above).

## **10.0 Private hire specialist vehicles stretched limousines and single passenger vehicles.**

- 10.1 The normal conditions applying to the licensing of vehicles, operators and drivers will apply, except where inconsistent with the special conditions.
- 10.2 Applicants wishing to licence an imported vehicle must produce documentary evidence to the Council to prove that any imported novelty vehicle has been legally imported into the UK and that the lights and indicators etc have been modified to UK specification.
- 10.3 Applicants wishing to licence a vehicle which would not conform to the conditions listed in this document may apply to the Council for dispensation to be considered a specialist vehicle.
- 10.4 A specialist vehicle may be required to undergo any additional testing the Council sees fit and applicants may be required to produce additional documentation to the satisfaction of the licensing team. Any costs resulting from these additional requirements will be met by the applicant.

- 10.5 Upon the grant of a licence for a specialist vehicle, the Council may attach any additional conditions deemed necessary considering the type of vehicle being licensed.
- 10.6 Vehicles may be licensed to carry a single passenger and in such cases the vehicle must be approved by the Council and listed on the Cheshire West and Chester approved PHV single passenger vehicle List. The purpose of maintaining a list is on the grounds of public safety and comfort.

To be listed as a single passenger vehicle the specification of the vehicle shall be:

- the vehicle must have no more than two seats
- the vehicle shall have two doors, one on the near side and one on the off side
- the configuration of the vehicle shall be maintained according to the manufacturer's original vehicle specification for that make and model. In particular this refers to the vehicle's configuration of seats and doors
- the vehicle shall be of a type that has obtained European Whole Vehicle Type Approval within the M1 category

#### **11.0 Exemption for private hire vehicles from the need to display plates and signs**

- 11.1 For the purpose of this policy, such vehicles will be referred to as 'exempt' vehicles. An application may be made to the Council for a vehicle to be considered for exempt status and each case will be determined on its merits. exempt status will allow the vehicle to be used for bookings made under a written contract which has been agreed a minimum of six hours before the commencement of the journey.
- 11.2 The decision to grant or refuse an exemption for the display of the current private hire licence plates and other relevant signage will be that of the regulatory services manager (compliance and commercial support) for the Council.
- 11.3 To qualify as exempt, the vehicle must comply with the Council's age policy. Be luxurious, of a higher specification than standard model vehicles and be of suitable size, appearance and design.
- 11.4 Exempt vehicles that conduct private hire work without a written contract in place will have their exempt vehicle status withdrawn. They will then be required to display Cheshire West and Chester private hire plates on the front and rear of the vehicle and other relevant private hire vehicle signage.

- 11.5 Applicants who wish to have their vehicles licensed as an 'exempt' vehicle should present a business case supporting their application demonstrating why the exemption to display private hire plates and signage is required.

**Note:** The fact that a vehicle is classed as a 'luxury' vehicle is not sufficient in itself to warrant 'exempt' status

The applicant would be expected to demonstrate the corporate/business nature of work being undertaken for example requests from clients wishing to enter into contracts for private hire vehicles without markings. Consideration will also be given to the nature and length of contracts and billing arrangements. Cash payment direct to the driver would not be acceptable as the norm, account or prepayment is expected.

Applicants would also be required to demonstrate how they intend to advertise their private hire services. A clear distinction must be made between executive hire utilising 'exempt' vehicles and 'normal' private hire utilising vehicles exhibiting plates and signage in order to minimise confusion and protect public safety.

## 12.0 **Hackney carriage vehicles**

- 12.1 Hackney carriages may be licensed to operate within one of the three zones within the controlled district of Cheshire West and Chester Council. The Council may consider the removal or the amendment of zones when it is in the public interest to do so and all conditions across the current zones/proposed amended zones are harmonised and/or changes in legislation permit a council to create zones.

- 12.2 There are no numerical restrictions within the Vale Royal and Ellesmere Port and Neston Zones. With effect from 14 November 2017 there is a moratorium on the number of hackney carriage licences issued in the Chester zone. This moratorium will be reconsidered by Licensing Committee in due course and following the outcome of an unmet demand survey to be undertaken in 2018.

- 12.3 Only wheelchair accessible vehicles will be licensed within the Controlled District of Cheshire West and Chester. The current licensing of existing non-WAV hackney carriages in the Vale Royal Zone is subject to a consultation exercise and will be determined at the end of the consultation process. In any event, non-WAV hackney carriages currently licensed in the Vale Royal Zone will be afforded continuity of licence until 31 December 2016 (notwithstanding the age policy at paragraph 9.9.2).

## 13.0 **Hackney carriage vehicle intended use**

### 13.1 **Applications for the grant of a hackney carriage licence**

- 13.2 Applicants for new licences will be expected to demonstrate a bona fide intention to ply for hire within a zone of the administrative area of Cheshire

West and Chester Council under the terms of the licence for which application is being made.

- 13.3 There will be a presumption that applicants who do not intend to a material extent to ply for hire within a zone of the administrative area of Cheshire West and Chester Council will not be granted a licence authorising them to do so. Each application will be decided on its merits.
- 13.4 Even where the applicant intends to ply for hire to a material extent in a Cheshire West and Chester zone, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.
- 13.5 **Applications for the renewal of a hackney carriage licence**
- 13.6 Applicants for renewals of licences will be required to inform the Council whether they have a bona fide intention to ply for hire within a zone of the administrative area of Cheshire West and Chester Council under the terms of the licence for which application is being made.
- 13.7 There will be a presumption that applicants who do not intend to a material extent to ply for hire within the relevant zone of the administrative area of Cheshire West and Chester Council will not be granted a licence authorising them to do so. Section 60 of Local Government Miscellaneous Provisions Act 1976 gives the Council a broad discretion to refuse to renew a licence for any reasonable cause. Each application will be decided on its merits.
- 13.8 Even where the applicant intends to ply for hire to a material extent in a Cheshire West and Chester zone, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.
- 13.9 **Transfer of ownership – when a licensed vehicle is transferred from one person to another**
- 13.10 Section 49 of the Local Government (Miscellaneous Provisions) Act 1976 requires that the proprietor of the licensed vehicle who transfers his interest to another, must, within 14 days of the transfer, give written notice to the Council of the name and address of the transferee of the hackney carriage. The Council has no power to refuse to register the new proprietor. See R v Weymouth Borough Council, ex p Teletax (Weymouth) Ltd [1947] KB 583.
- 13.11 Provided requisite notice has been given in accordance with section 49 of the Local Government (Miscellaneous Provisions) Act 1976 the Council will register the transferee of a licensed hackney carriage as the new proprietor. This is a legal requirement.

- 13.12 The transferee of a licensed hackney carriage will be asked to inform the Council whether he has a bona fide intention to use the vehicle to ply for hire within a zone of the administrative area of Cheshire West and Chester Council. Transferees should note the obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give to an authorised officer information which may reasonably be required by him for the purpose of carrying out his functions under the legislation. Where there is a failure to provide the requested information, the Council will give serious consideration to exercising its powers of suspension of the licence under section 60 of the 1976 Act until such information is forthcoming, in addition to its powers under section 73.
- 13.13 Transferees of existing licences will be expected to have a bona fide intention to ply for hire within a zone of the administrative area of Cheshire West and Chester Council under the terms of the licence in respect of the vehicle being transferred.
- 13.14 Where the transferee of a licensed hackney carriage is found to have no intention to ply for hire to a material extent within a zone of the administrative area of Cheshire West and Chester Council and/or intends to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular case, consideration will be given (either at renewal or earlier) to the suspension or revocation of the licence under section 60 of the 1976 Act. Where the transferee proposes to operate remotely from the administrative area of Cheshire West and Chester Council there will be a presumption that his licence will be revoked. Each case will be decided on its merits.
- 13.15 **Change of vehicle – when a proprietor replaces a licensed vehicle**
- 13.16 Applicants seeking the grant of hackney carriage licence for a vehicle intended to replace another licensed vehicle will be asked to inform the Council of their intended use of the vehicle. There will be a presumption that applicants who no longer intend to ply for hire to a material extent within a zone of the administrative area of Cheshire West and Chester Council will not have the new hackney carriage licence granted. Even where the applicant intends to ply for hire to a material extent in a Cheshire West and Chester zone, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular case, there will be a presumption that the application will be refused.
- 13.17 **Revocation of licence**
- 13.18 Where a licence has been granted under the terms that the applicant intends to ply for hire to a material extent within a zone of the administrative area of Cheshire West and Chester Council but is subsequently found not to be plying for hire to a material extent in a Cheshire West and Chester zone and/or to



be trading in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) there will be a presumption that the licence will be revoked.

### **13.19. Exceptional circumstances**

13.20 Each application will be decided on its merits. However the presumptions that intended use is to ply for hire to a material extent within a zone of the administrative area of Cheshire West and Chester Council will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that it would not frustrate the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.

### **14.0 Licence conditions**

14.1 It is considered that the conditions set out in the attached appendices are reasonably necessary and appropriate for all licence types. It is accepted that in the case of the conditions attached to the dual hackney carriage and private hire vehicle driver's licence that the conditions may only be legally imposed in respect of private hire drivers. There is however a Code of Conduct which applies to all licensed drivers and drivers are expected to follow the code.

- Appendix A – Dual Hackney carriage and private hire vehicle drivers licence conditions.
- Appendix B – Private hire vehicle licence conditions
- Appendix C – Private hire vehicle operator licence conditions
- Appendix D – Hackney carriage vehicle licence conditions

14.2 Operators licences are granted to those named on the application form and are not transferable.

14.3 The holder of a private hire operator's licence will need to demonstrate that they have the permission of the owner of the premises to use the premises for the purpose of a private hire operator and that, if required, planning permissions are in place.

### **15.0 Enforcement and disciplinary measures**

15.1 The Council must handle enforcement and disciplinary measures in a consistent and transparent manner. The Council has a clear responsibility to ensure that all drivers, owners and operators of vehicles adhere to high standards and with full compliance of legislation, byelaws and conditions attached to licences. The Council will liaise and work in partnership with other Council departments, the police and officers of other local authorities to carry out its enforcement duties effectively. Where appropriate, the UK Border Agency, Department of Work and Pensions, HM Revenue and Customs, Vehicle and Operator Services Agency and other Government Departments

will accompany Council officers on targeted enforcement campaigns. The Council has adopted an enforcement policy (available on the Cheshire West and Chester Council website) to ensure that enforcement is reasonable, proportionate transparent and consistent.

- 15.2 Disciplinary matters, which could result in the revocation or suspension of a licence, will be referred to the Council's General Licensing Sub-Committee including matters in relation to the fit and proper test of a licence holder.
- 15.3 Where a breach of licence conditions has occurred the Council will consider a range of actions having due regard to all of the circumstances leading to the offence and any actions proposed will be consistent with the Council's enforcement policy. Such actions may include:
- prosecution
  - revocation or suspension of the licence;
  - refusal to renew;
  - the addition of conditions to an existing licence
  - issue of a warning or caution
- 15.4 An operator's licence may be suspended, revoked or not renewed on the following grounds:
- (i) any offence or non compliance with Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 (as amended).
  - (ii) any conduct on the part of the operator which appears to the Council to render him unfit to hold an operators licence.
  - (iii) any material changes since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted.
  - (iv) any other reasonable cause (including customer complaints).
- 15.5 A driver's licence may be suspended, revoked or not renewed on the following grounds:
- a) That the holder of the driver's licence has since the grant of the licence
    - (i) been convicted of an offence involving dishonesty, indecency or violence; or
    - (ii) been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government(Miscellaneous Provisions) Act 1976
  - b) Any other reasonable cause (including customer complaints).

Where a driver's licence is suspended, revoked or not renewed the holder of the licence shall return to the Council the badge issued to him forthwith. The Council operates a Serious Misconduct Procedure, a copy of the procedure can be found at Appendix F.

**15.6 Suspension and revocation of vehicle licences.** Local Government (Miscellaneous Provisions) Act 1976)

(1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke, or (on application therefore under section 40 of the Act of 1847 or section 48 of this Act, as the case may be) refuse to renew a vehicle licence on any of the following grounds:—

- (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
- (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
- (c) any other reasonable cause

15.7 In all circumstances the grounds for such revocation, suspension or refusal to renew of any licence shall be notified to the licence holder(s) by the Council within 14 days. Any person aggrieved by a decision of the Council to suspend, revoke or renew a licence may appeal to the Magistrates Court. The appeal must be lodged within 21 days of the notice being served, by or on behalf of the local licensing authority.

15.8 Any person who:

- (i) willfully obstructs an authorised officer or Constable acting in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976 or the Town Police Clauses Act 1847
- (ii) without reasonable excuse fails to comply with any requirements properly made to him by such Officer or Constable
- (iii) without reasonable cause fails to give such an Officer or Constable any other assistance or information which he may require for performance of his function

shall be guilty of an offence.

**15.9 Escalating warning system**

The escalating warning system (EWS) has been developed to ensure consistent enforcement throughout the borough for dealing with breaches of legislation, conditions and contraventions associated with hackney carriages, private hire vehicles, operators and drivers. Where appropriate, warnings will be issued in accordance with the EWS and officers will determine the

appropriate action proportionate to the offence and where there is sufficient evidence of a breach warranting action. The licence holder may submit an appeal on the grounds that no offence, breach or contravention has occurred, by referring the matter to the officer's team leader/manager. The EWS lays down the procedure and timescale for the escalation of matters for determination by the licensing sub-committee. A copy of the Escalating Warning System can be found at Appendix G.

#### 15.10 **Code of good conduct**

The code of conduct attached at appendix E describes the standards expected of all licensed drivers. Whilst not an exhaustive document it attempts to set a minimum standard of conduct and should be read in conjunction with additional requirements for drivers contained within this policy. Operators will be responsible for the actions and conduct of their staff and/or drivers at all times that they are undertaking any role on behalf of the operator, whether they work for them as an employee, on a self-employed basis or as a sub contractor.

## 16.0 Consultation

16.1 The Council values the opinions of individuals, trade organisations and Council members and has procedures for consulting relevant bodies and individuals to improve service delivery and to ensure that all material matters are considered when developing policy. The Council often goes beyond statutory requirements and has an established licensing forum where trade representatives can engage with officers from a range of Council departments in order to improve standards and facilitate improvements to the benefit of both the trade and the residents and visitors to Cheshire West and Chester as a whole.

## 17.0 Disclosure of information

17.1 All information held on files and databases shall only be disclosed to other agencies where there is a legal obligation to do so.

## 18.0 Definitions

In the appendices the following definitions and expressions apply:

- **authorised officer:**  
has the same meaning as in section 80 of the Local Government (Miscellaneous Provisions) Act 1976
- **byelaws:**  
means the provisions made under section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875 by the Council with respect to hackney carriages
- **Council:**  
means the Council of Cheshire West and Chester
- **disabled person:**  
has the same meaning as in the Equality Act 2010
- **driver:**  
means the holder of a dual drivers licence (hackney/private hire) issued by Cheshire West and Chester Council
- **driver's licence:** means a dual licensed drivers (hackney carriage/private hire) issued by the Council under section 45 of the Town Police Clauses Act 1847 and Section 51 of the Local Government (Miscellaneous Provisions) Act 1976
- **guide, hearing or assistance dog:** has the same meaning as in the Equality Act 2010 and any regulations made there under
- **hackney carriage:** has the same meaning as in section 38 of the Town Police Clauses Act 1847
- **identification plate:** means the plate issued by the Council for the purpose of identifying the vehicle as a hackney carriage/private hire vehicle

- **operator:** means a person(s) holding a licence to operate private hire vehicles issued by the Council under section 55 of the Local Government (Miscellaneous Provisions) Act 1976
- **private hire vehicle:** means a motor vehicle constructed or adapted to seat fewer than nine 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
- **private hire vehicle licence:** means a licence issued by the Council under section 48 of the Local Government (Miscellaneous Provisions) Act 1976
- **proprietor:** has the same meaning as in section 80 of the Local Government (Miscellaneous Provisions) Act 1976
- **smoking:** has the same meaning as in section 1 of the Health Act 2006
- **specialist/novelty vehicles:** considered on the grounds that the age of and/or the unique design of the vehicle is the primary attraction to the customer; the cost of such a vehicle is very high in proportion to the hiring opportunities available; the miles any vehicle would undertake would be very low in relation to that of a private hire or hackney vehicle
- **taximeter:** has the same meaning as in section 80 of the Local Government (Miscellaneous Provisions) Act 1976

## **Appendix A**

### **Cheshire West and Chester Council**

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

##### **Requirements and conditions for dual licensed drivers (hackney/private hire)**

The following requirements and conditions are made by Cheshire West and Chester Council in pursuit of the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976 (as amended) to ensure effective and efficient regulation of hackney carriage and private hire use and to ensure proper standards are maintained in the interest of public safety.

These conditions are ancillary to and should be read in conjunction with the requirements of that said Act, Cheshire West and Chester Borough Council statement of licensing policy for hackney carriages, private hire vehicles, drivers, and private hire vehicle operators, Town Police Clauses Act 1847, The Transport Act 1985, Road Safety Act 2006 and other relevant legislation

Failure to comply with any of the conditions attached to this licence may result in enforcement action being taken in accordance with the Council's enforcement policy. Such action may include prosecution, or the licence being suspended or revoked.

#### **1.0 Application and renewals**

- 1.1 Applicants must have held a full UK/EU DVLA driving licence for a period of at least 12 months and are required to produce such licence with the initial application and each subsequent application for renewal. The driving licence must specify the applicant's current address.
- 1.2 A successful new applicant will normally be granted a three year period, except in the case of applicants aged 65 years and over, when an annual licence should be sought.
- 1.3 Applicants must provide a certificate of medical fitness in the Council's standard form signed by the applicant's usual Doctor, or other registered medical practitioner approved by the Council. The following shall apply:
  - (a) medical certificates must be submitted upon first application.
  - (b) at the first renewal after an applicant attains the age of 45, the applicant shall submit a certificate of medical fitness and every six years thereafter

- (c) at the first renewal upon reaching the age of 65 and on each subsequent year of renewal a driver shall submit a certificate of medical fitness..
  - (d) as frequently as may be recommended by a registered medical practitioner following a serious injury or illness.
  - (e) as frequently as may be advised by a registered medical practitioner arising from any previous medical condition.
- 1.4 A decision to grant or renew a licence will not be made until an appropriate disclosure check, from the Disclosure and Barring Service (DBS) has been completed and renewed every three years.
- 1.5 All new applicants for a Dual Hackney Carriage and Private Hire Drivers' Licence shall pass the Cheshire West and Chester Council Licensed Drivers qualification and the Driver and Vehicle Standards Agency (DVSA) Driving Assessment (private hire) or other Driving Assessment Scheme approved by the Regulatory Services Manager before a licence is granted.
- 1.6 All new applicants for a dual hackney/private hire drivers' licence wishing to drive a hackney carriage within a zone are required to pass a detailed topographical knowledge test before being authorised to drive a hackney carriage in that zone.

Existing drivers shall have their dual hackney/private hire drivers' badge endorsed (on first renewal from 19 June 2012) with details of the zone in which they currently work. Existing drivers wishing to operate in more than one zone are required to sit the relevant topographical knowledge test if unable to demonstrate, to the satisfaction of the licensing officer, sufficient knowledge of the additional zone(s).

- 1.7 Where appropriate, applicants must provide proof of entitlement to work in the United Kingdom.
- 1.8 The Council reserves the right to require further additional checks or information to ensure the applicant is a fit and proper person.

## **2.0 Dual licensed drivers (hackney/private hire) conditions**

- 2.1 The driver must wear the badge provided in such a manner as to be plainly visible at all times when driving. The driver shall exhibit in the vehicle such other means of identification as may from time to time be required by the Council.
- 2.2 The driver must also display in a prominent place visible to passengers the second driver identity card provided by the Council.



- 2.3 The driver shall at all times when a vehicle is hired, take all reasonable steps to ensure the safety of the passengers including access and egress by the passenger.
- 2.4 The driver shall not allow a hackney carriage or private hire vehicle to be used to carry a greater number of passengers than the number specified in the vehicle licence.
- 2.5 Smoking, or permitting smoking to occur in a private hire or hackney carriage vehicle is prohibited at any time the vehicle is licensed, including any period when not in service.
- 2.6 When driving a hackney carriage vehicle fitted with a taximeter:
- (i) the driver shall ensure that when the vehicle is not hired, the device is kept inactive.
  - (ii) the driver shall ensure that the table of fares is not concealed from view or rendered illegible.
  - (iii) the driver shall ensure that the taxi meter is used for all journeys and is engaged only at the commencement of a journey once passengers have boarded the vehicle.
  - (iv) drivers shall ensure that the taximeter is used at all times when undertaking journeys within the controlled district.
  - (v) at no time shall the driver charge more than is shown on the meter.
- 2.7 The driver of a hackney carriage vehicle whilst undertaking a pre-booked private hire fare/journey shall:
- (i) whilst conducting a fare/journey issued by a private hire operator ensure that the fare tariff used shall be that set by the issuing private hire operator
  - (ii) ensure that the taximeter is engaged even when conducting a journey for an agreed or set price. (applies when vehicle is within the controlled district of Cheshire West and Chester)
  - (iii) ensure that the taximeter is engaged only at the commencement of a journey once passengers have boarded the vehicle
  - (iv) when the passenger(s) is/are likely to be charged at a lower rate than the prescribed maximum set on the taximeter, explain to the passenger(s), at the commencement of the journey, that the meter must be on/active at all times; and explain that the fare will be calculated at the lower rate or the agreed or set fare,

(which must be less than the amount set on the meter when set at the maximum prescribed rate)

- 2.8 When driving a private hire vehicle (or a hackney vehicle acting as a private hire vehicle) the driver shall ensure that a copy of the current fare tariff of the private hire operator through which the vehicle is operating shall be available in the vehicle for passengers to inspect upon request.
- 2.9 The driver who has agreed or has been hired to attend with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with the vehicle at the appointed time and place.
- 2.10 The driver shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the vehicle for any property which may have been accidentally left therein.
- 2.11 The driver shall, if any property is accidentally left therein by any person who may have been conveyed in the vehicle and be found by or handed to him:

Carry it as soon as possible and in any event within 72 hours, if not sooner claimed by or on behalf of its owner, to a Police station in order to receive instructions from the Police regarding its custody and inform the licensing team of the details

- 2.12 The driver shall if requested by the passenger issue a receipt for any fare undertaken.

### **3.0 Informing the Council of any changes since the issue of a licence**

- 3.1 The driver shall notify the Council in writing of any convictions or cautions against him within seven days after the conviction or caution has been received. This includes any driving convictions or points endorsed on the holder's DVLA driver's licence.
- 3.2 The licence holder must notify the licensing team in writing of any change of address within seven days of that change.
- 3.3 The licence holder shall notify the Council in writing of any accident involving the licensed vehicle within 72 hours of that occurrence.
- 3.4 The licence holder must inform the licensing team in writing within seven days of any change in medical circumstances since the last medical certificate was submitted to the Council.
- 3.5 It is the driver's responsibility to inform an authorised officer or police constable during questioning that he is the holder of a licence.

#### **4.0 Identification plates**

- 4.1 The driver shall not conceal or remove or allow to be concealed or removed, the exterior identification plates and other required markings of the private hire vehicle or the details painted or marked thereon, from public view, and will keep these items in a clean condition at all times during the period of the licence.

**Please note:** These conditions must be read in conjunction with the byelaws applicable within the zones of Cheshire West and Chester Borough Council (or its predecessor districts) made under section 68 of the Town Police Clauses Act 1847 and section 171 of the Public Health Act 1975

#### **5.0 Drivers of Wheelchair Accessible Vehicles (WAV)**

- 5.1 The driver of a Wheelchair Accessible Vehicle (WAV) must provide the following assistance to passengers in wheelchairs (unless they have valid exemption certificate):

- to transport the passenger while in a wheelchair
- if the passenger chooses to sit in a passenger seat, to transport the wheelchair
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort
- to give the passenger such mobility assistance as is reasonably required
- when not able to take a wheelchair bound passenger the driver will fully explain to the customer why they are unable to take them

## **Appendix B**

### **Cheshire West and Chester Council**

#### **Local Government (Miscellaneous Provisions) Act 1976 (As amended)**

#### **Private hire vehicle conditions**

The following requirements and conditions are made by Cheshire West and Chester Council in pursuit of the powers conferred by Part II of the Local Government (Miscellaneous Provisions) Act 1976 (as amended); to ensure efficient and effective regulation of private hire vehicle use and to ensure that proper vehicular and driver standards are maintained in the interest of public safety.

These conditions are ancillary to and should be read in conjunction with the requirements of that said Act, Cheshire West and Chester statement of licensing policy for hackney carriages, private hire vehicles, drivers, and private hire vehicle operators the Transport Act 1985, Road Safety Act 2006 and any other relevant legislation.

Failure to comply with any of the conditions attached to this licence may result in enforcement action being taken in accordance with the Council's enforcement policy. Such action may include prosecution, or the licence being suspended or revoked.

#### **1.0 Vehicle requirements**

- 1.1 The vehicles must comply with the Council's vehicle requirements as set out in the Cheshire West and Chester statement of licensing policy for hackney carriages, private hire vehicles, drivers, and private hire vehicle operators
- 1.2 The vehicle itself or the generic vehicle manufactured by the vehicle manufacturer shall be certified as having one of the following levels of type approval:
  - EC whole vehicle type approval
  - UK low volume type approval
  - UK single vehicle approval
- 1.3 The vehicle shall not exceed 3.5 tonnes (3500 kgs) gross weight or 4.1 tonnes (4100 kg) gross weight in the case of a vehicle able to carry multiple wheelchair users. A 'specialist' vehicle over this weight can be considered to be licensed as a private hire vehicle subject to the definition/conditions applicable to specialist vehicles.

- 1.4 The vehicle shall be a manufacturer's right hand drive model, except for imported stretch limousines which may be left hand drive.
- 1.5 The vehicle must either:
- (i) have four wheels and a minimum of four doors. The doors must consist of two doors on both near and offside of the vehicle and this does not include hatchback/boot doors

or

  - (ii) have four wheels and a minimum of two doors and be of an approved type model and specification as approved by a senior regulatory services manager and listed in the 'Cheshire West and Chester approved private hire two door vehicle list.'

or

  - (iii) be an approved Motorised Tricycle (Tuk Tuk style three wheeled vehicle) and listed in the 'Cheshire West and Chester Approved Motorised Tricycle List.'
- 1.6 Doors must be capable of being readily opened from inside and outside the vehicle by one operation of the latch mechanism.
- 1.7 The requirement for a minimum of four doors does not apply to a purpose built minibus with suitable access/gangway (subject to approval by an authorised officer).
- 1.8 The vehicle must not be of such type, design or appearance as to lead any person to believe that the vehicle is a hackney carriage. LTI (London Cab), Metrocab, type vehicles are not acceptable.
- 1.9 The vehicle must not be capable of carrying more than eight passengers. The seating must be as manufactured and have appropriate seat belts fitted to each available seat.
- 1.10 The seats shall be in a configuration approved by the Council for the make and model of the vehicle.
- 1.11 Vehicles with open luggage space must be fitted with a suitable guard between the luggage space and the passenger compartment.
- 1.12 All seats within a licensed vehicle (included when determining the number of passengers the vehicle will be licensed to carry) must be suitable for carrying an adult passenger and fitted with an

appropriate seatbelt. A seat should be a minimum width of 410 mm at the narrowest point of both the seat base and back support. In the case of the bench style seats the number of passengers the bench seat can accommodate will be determined with reference to the minimum seat size described above. In cases where there is any doubt, including minimum size requirements, evidence should be supplied from the vehicle manufacturer that the seat or seats in question have been designed and tested for use by an adult.

- 1.13 Public service vehicles and vehicles without VOSA M class status and M rated seating will not be licensed any replacement seating must be M rated to match the rating of the vehicle.

## **2.0 Condition and maintenance of the vehicle**

- 2.1 The vehicle and all its fittings and equipment shall be maintained in a safe, efficient and clean condition and be capable of satisfying the Cheshire West and Chester licensed vehicle test guidelines at all times the licence is in force. All relevant statutory requirements including those contained in the motor vehicles (construction and use) regulations shall be fully complied with at all times.
- 2.2 The exterior of the vehicle shall be clean, free from unrepaired damage and finished to match existing paintwork after repair.
- 2.3 The interior of the vehicle shall be clean and tidy. The upholstery, carpets and fittings shall be maintained in good condition and be free from rips and tears.
- 2.4 The vehicle must carry a spare wheel and tyre at all times approved for the vehicle type. In vehicles where a spare wheel and tyre is not provided a manufacturer's approved tyre inflation and repair system must be carried.
- 2.5 All tyres including the spare must be inflated to the correct pressure as determined by the tyre/vehicle manufacture.
- 2.6 All tyres fitted to the vehicle and any spare tyre must meet current legal requirements
- 2.7 No material alteration or change to the mechanical or structural specification of the vehicle or its design, condition or appearance shall be made at any time that the licence is in force without the written consent of the Council.
- 2.8 Any tow bar fitted to a private hire vehicle may not be used for any purpose whilst undertaking private hire work.

2.9 Any roof rack or roof pod should be attached securely and fitted in accordance with the manufacturer's instructions.

2.10 The visual transmission of light shall be not less than 75% (25% tint) through the windscreen and 70% (30% tint) through the drivers and front passenger windows.

### **3.0 Colour restrictions**

3.1 There are no colour restrictions for private hire vehicles.

### **4.0 Vehicle testing**

4.1 All vehicles shall be tested by the Council or its agent and will have to pass the Cheshire West and Chester Licensed Vehicle test prior to first licensing and thereafter annually prior to the renewal of the licence. A vehicle over five years old shall be tested every six months and pass certificate must be supplied to the licensing team every six months in order for the vehicle to remain licensed. The age of the vehicle shall be calculated by reference to the date of first registration recorded in the vehicle registration document (form V5) unless the vehicle was not new at the date of first registration.

### **5.0 Vehicles converted to run on liquefied petroleum gas (LPG)**

5.1 A certificate of compliance of conversion issued by a liquid petroleum gas association (LPGA) approved installer must be produced to the Council in respect of a vehicle converted to run on liquefied petroleum gas (LPG). The Council must be notified immediately and the certificate produced if the conversion is undertaken whilst the licence is in force.

5.2 A vehicle converted to run on LPG shall be fitted with a multi-valve tank contained within a sealed tank box made from aluminium and vented to the atmosphere. On a vehicle fitted with a 'doughnut' style tank in the spare wheel well the spare wheel (where supplied by the manufacturer) shall be securely fixed in a suitable position where it does not obstruct the whole of the luggage space.

5.3 The vehicle shall display a warning sticker on the front and rear screens stating that the vehicle is fitted with an LPG tank for the purpose of alerting the emergency services in the event of an accident.

### **6.0 Safety equipment**

6.1 All forward facing seats must be fitted with three point belt with lap, chest, and shoulder restraints. For the avoidance of doubt, lap only type seat belts shall be deemed not to comply with this condition.

- 6.2 The vehicle shall be equipped at all times with a fully operable fire extinguisher suitable for a motor vehicle. In the case of a dry powder extinguisher this should be at least 1Kg. All fire extinguishers must be in good condition, with no obvious damage, loose seals, or evidence of discharge and where applicable be in date.
- 6.3 The vehicle shall be equipped at all times with a first aid kit kept in a properly designated first aid container. The first aid kit shall be one that is approved for use on a public service vehicle or a first aid kit approved by the Council.
- 6.4 The fire extinguisher and first aid kit shall be carried in such a position as to enable it to be readily available for use in an emergency. They shall be marked with the date of expiry in the case of a serviceable fire extinguisher the date the next service is required. Both items shall have the vehicle licence plate number permanently marked upon it.

## **7.0 Signs, advertisements and notices**

- 7.1 The following shall be displayed prominently on the driver's door and front passenger door panel (not a window):

The words 'private hire vehicle', 'advance bookings only' and the licence number of the vehicle and the issuing authority.

Letters and numbers shall be of a size determined by the Council. No other signs shall be permitted on these doors save for trading name and telephone number; such signs not to be used without the prior approval of the Council.

- 7.2 Such signs shall be clearly and permanently affixed to the vehicle and displayed at all times.
- 7.3 For the avoidance of doubt the words 'private hire' and 'advance bookings only' shall be deemed to be 'clearly and permanently affixed and displayed' where they are so affixed and displayed by means of a magnetic sign.
- 7.4 No other advertisements, signs, notices, numbers, marks, etc shall be displayed on, in or from the vehicle without the prior written approval of the Council. (Please refer to general policy for more details).
- 7.5 Approved advertisements, signs, notices, numbers, marks, etc shall not be displayed in a position that obscures or hinders the visibility of the required door signage and plates.



- 7.6 Any advertisements, signs, notices, numbers, marks, etc borne on the vehicle shall not consist of or include the word 'taxi' or 'for hire' whether in the singular or plural or any word of similar meaning or appearance, whether alone or as part of another word and shall not suggest that the vehicle is a hackney carriage.
- 7.7 Notices, signs and advertisements are not permitted on glazed areas other than statutory notices, signage and advertisements approved in writing by the Council.
- 7.8 The vehicle shall not display a roof sign.
- 7.9 The vehicle shall not display any illuminated signs on or from within the vehicle.

## **8.0 Identification plates**

- 8.1 Private hire vehicles shall at all times clearly display on the exterior surface of the vehicle two licence plates and holders/backing plates supplied by the Council, the form and content of which shall also be prescribed by the Council, unless otherwise 'exempted' by the licensing authority for which additional conditions apply.
- 8.2 The smaller licence plate and holder shall be affixed securely to the front of the vehicle and the larger licence plate and holder shall be affixed securely to the rear of the vehicle, both to the satisfaction of the authorised officer.
- 8.3 The plates and holders/backing plates shall only be affixed to the vehicle identified in the vehicle licence.
- 8.4 The plates and holders/backing plates shall at all times remain the property of the Council and the licensee shall not cause or permit the information displayed upon the plates to be altered, removed or obscured in any way.
- 8.5 The licensee shall at all times ensure so far as is reasonably practicable that information contained on the plates is complete and legible and that the plates are maintained in a clean condition.
- 8.6 Private hire vehicles shall at all times display identification stickers supplied by the Council. The stickers shall be displayed on the inside of the lower near-side of the windscreen or the upper area dashboard, so that the sticker is visible to passengers within the vehicle.

## **9.0 Meters**

- 9.1 If the vehicle is fitted with a meter:

- 9.2 the meter shall be of a **calendar** type approved by the Council. It shall be maintained in a sound condition at all times and shall be located within the vehicle in accordance with the reasonable instructions of an authorised officer.
- 9.3 the tariff of fares shall be displayed in a prominent position inside the vehicle in clearly distinguishable letters and figures.
- 9.4 the meter shall be set to display the private hire operator's tariff of fares which has been approved and lodged with this Council.
- 9.5 the proprietor shall not use or permit to be used a meter that has not been approved /sealed by the Council
- 9.6 the meter shall not display a 'for hire' sign at any time
- 9.7 when the vehicle is not hired, the meter is to be kept inactive and the meter shall show no fare at that time.
- 9.8 when the meter is brought into action, the fare and permitted extras shall be shown legibly on the face of the meter and shall be no more than the permitted table of charges for the licensed private hire operator.
- 9.9 the 'fare' shall be displayed on the face of the meter in clear letters so as to apply the fare recorded thereon.
- 9.10 the meter shall be in such a position in the vehicle so that the figures recorded thereon are clearly visible to all passengers.
- 9.11 the meter shall be sufficiently illuminated that when in use it is visible to all passengers.
- 9.13 the meter and all its fittings shall be affixed to the vehicle with seals or by other means so that it shall not be practicable for any person to tamper with the taximeter except by breaking or damaging or permanently displacing the seals or other fittings.
- 9.14 the proprietor of a private hire vehicle shall ensure that where a meter is fitted, the licensed private hire operator's current fare chart is displayed inside the vehicle in clearly distinguishable letters and figures and in a prominent position.
- 9.15 when on duty, but not hired, the vehicle and driver may be instructed by an authorised officer to attend a location to undergo a pre measured journey in order to test the accuracy of the installed meter, and/or to have the meter inspected by a authorised officer or appointed agent of the Council.

## **10.0 General conditions**

- 10.1 The licence holder shall not part with or lend the private hire licence plate issued to his vehicle.
- 10.2 The holder of a private hire vehicle licence shall ensure that only individuals holding a valid dual hackney and private hire driver's licence issued by the Council may drive a private hire vehicle licensed by the Council.
- 10.3 A private hire vehicle licence holder shall maintain a record of the details of all drivers of his licensed vehicle(s). The records must be produced on request to an authorised officer and this record shall contain the following information and be retained for a minimum of six months:
- the name and address of the driver
  - details of the driver's valid dual hackney and private hire driver's licence.
  - details of the driver's DVLA drivers licence
  - the dates and times the driver had custody and control of the vehicle.
- 10.4 A proprietor or part proprietor of a private hire vehicle must notify the licensing team in writing of any change of address within seven days of the change.
- 10.5 The proprietor or part proprietor of a private hire vehicle shall ensure that, the licensing team is notified in writing of any accident involving the vehicle within 72 hours of the accident occurring.
- 10.6 The proprietor or part proprietor of a licensed private hire vehicle shall disclose to the Licensing team , in writing, details of any convictions, cautions, warnings, fixed penalties or reprimands imposed on him whilst the licence is in force within seven days of receipt of such convictions, warnings etc.
- 10.7 The licensed vehicle shall not carry more than the number of passengers specified in the licence and displayed on the licence plate.
- 10.8 There must be in force, in relation to the vehicle, a policy of insurance or such security as complies with the requirements of part VI of the Road Traffic Act 1988.

- 10.9 There must be in force, in relation to the use of the vehicle, a valid MOT test certificate and a current road fund licence. A Cheshire West and Chester licensed vehicle test certificate is also required in accordance with the Council's vehicle testing policy and in accordance with condition 4.1 above.
- 10.10 The proprietor of the licensed vehicle shall provide receipts for the driver to issue. If requested by the passenger, a written receipt must be provided for the fare paid.
- 10.11 If the vehicle licence holder is not the sole driver of the licensed vehicle he shall ensure that all additional drivers have access to and understand the conditions attached to the vehicle licence.
- 11.0 Tariff of fares**
- 11.1 A copy of the current private hire operator's fare tariff shall be available in the vehicle for passengers to inspect on request.
- 12.0 Special conditions for specialist vehicles and stretched limousines**
- 12.1 The vehicle must pass a single vehicle approval inspection of its design and construction at a vehicle inspectorate testing station. The approval certificate or certificate of compliance must be presented to this Council, together with its DVLA registration document (V5) and evidence of the date of manufacture of the vehicle.
- 12.2 The maximum length of the 'stretch' shall not exceed 120'/3048mm.
- 12.3 No fare paying passengers are to be carried in the front of the vehicle.
- 12.4 The vehicle must be fitted with tyres of an approved rating as specified by the tyre manufacturer for weight (including passengers) and speed of the vehicle i.e. vehicles registered before 1998 – 235/75R 15 108S (BF Goodrich extra load or equivalent). Versions from 1998 onwards must be fitted with 225/70R 16 107T (reinforced).
- 12.5 Any tinted glass in front of the B Pillar shall conform to the legal requirements as laid down by the Vehicle Operator Services Agency (VOSA). The passenger compartment may be fitted with blackened glass. All blackened and tinted glass must be fitted as standard at point of manufacture.
- 12.6 No form of entertainment shall be permitted without written consent from this Authority. The proprietor must ensure that the appropriate

licences are held for any form of entertainment to be provided for passengers (such as a premises licence for film, music etc and a Performing Rights Society licence for recorded music)

- 12.7 Children under the age of 16 years must be accompanied by either a parent/guardian or an appropriate adult. Any person/escort provided by the license holder must be Disclosure and Barring Service (DBS) checked. The details of the persons travelling and the name and contact details of the person responsible for the booking must be completed and maintained by the driver. A copy of the form must be carried by the driver.
- 12.8 Vehicles may be required to undergo a metal fatigue test or other additional tests at the discretion of this Council. The cost of such tests to be borne by the operator/proprietor.
- 12.9 Any alcoholic drinks provided in the vehicle shall only be sold/supplied under the terms of an appropriate licence. Bookings for groups of passengers under 18 years shall only be provided with non alcoholic beverages from plastic glasses and bottles. Alcohol shall not be available in the vehicle when used for bookings for groups of passengers under 18 years
- 12.10 Owners of vehicles converted from a standard production model must retain the original documentation to confirm that the conversion was approved by the original manufacturer and that the conversion was undertaken by a converter/modifier under an approved Scheme
- 12.11 Applicants wishing to licence an imported vehicle must produce documentary evidence to the Council that any imported novelty vehicle has been legally imported into the UK and that the lights and indicators etc have been modified to UK specification.
- 12.12 The normal conditions applying to the licensing of vehicles, operators and drivers will apply, except where inconsistent with these special conditions.
- 13.0 Special conditions for motorised tricycles (Tuk Tuk style three wheeled vehicles – two passenger capacity only)**
- 13.1 The vehicle be required to satisfy the issue of a Department of Transport British National Type Approval Certificate (Single Vehicle Approval) and a V5C to be issued.
- 13.2 The Proprietor must submit a Business Plan for approval by a Regulatory Services Manager. Any Business Plan must include a Passenger Risk Assessment Statement.

- 13.3 The Proprietor must operate within the scope of their approved business plan.
- 13.4 Every hirer of the services of a motorised tricycle (Tuk Tuk style three wheeled vehicle) and driver must be supplied with a written copy of the Passenger Risk Assessment Statement a minimum of 24 hours before any private hire journey commences. All bookings must be in place a minimum of 24 hours prior to the commencement of any private hire journey.
- 13.5 All passengers must receive a safety briefing from an experienced and fully trained licenced driver or staff member immediately before the commencement of any journey.
- 13.6 No more than two passengers to be carried in the rear of the vehicle at any one time.
- 13.7 Any child under the age of 16 years must be accompanied by a responsible adult.
- 13.8 The vehicle is to be maintained in a sound, mechanical and structural condition at all times and comply with any legislation that affects the construction and use of motorised tricycles (Tuk Tuk style three wheeled vehicles).
- 13.9 Any internal linings of the vehicle are sound, clean and not liable to damage or soil passengers clothing or luggage, and the floor is provided with a carpet, mat or other suitable non-slip floor covering which is sound and clean.
- 13.10 The seats are properly cushioned and covered by a water resistant material and the covers are in a sound and clean condition, which may be easily cleaned and dried.
- 13.11 Three point seat belts are to be fitted to all passenger seats. The seatbelts shall be readily accessible for use by all passengers and must be maintained in a safe condition at all times.
- 13.12 The condition, fixing and routing or positioning of electric cables and fittings, if any, are such that there is no risk of electrical fire or other incident.
- 13.13 The proprietor or owner of the vehicle shall at the request of an authorised officer produce for inspection a valid insurance certificate covering private hire use.
- 13.14 No changes to the approved vehicle specification may be carried out without prior written approval of the Council.

**14.0 Special conditions for private hire vehicles wishing to be exempt from the need to display the current private hire plates and door and window stickers**

For the purpose of this document, such vehicles will be referred to as 'exempt' vehicles. Application may be made to the Council for a vehicle to be considered for exempt status and each case will be determined on its merits.

Standard private hire work means any bookings for journeys taken less than six hours before the commencement of the journey whereby no written contract is already in place.

- 14.1 The decision to grant or refuse an exemption for the display of the current private hire licence plates and additional signage/door stickers is delegated to regulatory services managers.
- 14.2 To qualify as exempt, the vehicle must be a luxury make and model with a higher specification than standard model.
- 14.3 Any bookings for the undertaking of a journey in an exempt vehicle must be made by way of a written contract between the hirer and the private hire operator. Such contracts must be in place for no less than 6 hours prior to the commencement of any journey.
- 14.4 Exempt vehicles may not undertake standard private hire work.
- 14.5 Exempt Vehicles that conduct private hire work without a written contract in place as per condition 13.3 will have their exempt vehicle status withdrawn. They will then be required to display Cheshire West and Chester standard private hire plates on the front and rear of the vehicle and front door markings/stickers and the windscreen/dashboard stickers.
- 14.6 Exempt vehicles shall not display any external markings e.g. operator details or advertisements.
- 14.7 Exempt vehicles shall not commence a booked journey from or within the immediate vicinity of any private hire booking facility, except in such cases where a pre-existing contract, as described in condition 13.3, is in place.
- 14.8 Vehicles qualifying for exempt status will be required to display one or more Cheshire West and Chester exempt vehicle discs denoting that the vehicle is a licensed private hire vehicle. Such discs shall be displayed within their holder in a prominent position as determined by the issuing officer.
- 14.9 Vehicles qualifying for exempt status will be required to carry a copy of their private hire vehicle licence for inspection on request.

- 14.10 In advance of the journey, the hirer must be advised that the vehicle dispatched to collect them will not be displaying standard private hire vehicle licence plates and window stickers.
- 14.11 Exempt vehicles can only be driven by a dual licensed (hackney carriage/private hire) driver who is licensed by the same Council from which the exempt vehicle licence was issued.
- 14.12 Drivers of exempt vehicles must wear their current dual drivers (hackney carriage/private hire) badge in such a manner as to be clearly visible at all times when driving, and will exhibit in the vehicle such other means of identification as may from time to time be required by the Council.
- 14.13 Any breach of the exempt vehicle conditions could result in the vehicle having its exempt vehicle status withdrawn.
- 14.14 Applicants for exempt vehicle status must sign an undertaking that they fully understand and accept these conditions.
- 15.0 Conditions for specialist vehicle wishing to be licensed**
- 15.1 Applicants wishing to licence a vehicle which would not conform to the conditions listed in this document may apply to the appropriate regulatory services manager for dispensation for the vehicle to be considered a specialist vehicle.
- 15.2 A specialist vehicle may be required to undergo any additional testing the Council sees fit and applicants may be required to produce additional documentation to the satisfaction of the licensing section. Any costs resulting from these additional requirements will be met by the applicant.
- 15.3 Upon the grant of a licence for a specialist vehicle, the Council may attach any additional conditions deemed necessary considering the type of vehicle being licensed.
- 16.0 Conditions for wheelchair accessible Private Hire vehicles**
- 16.1 Any vehicle so adapted will remain in that configuration for the whole life of its licence to ensure its availability as a wheelchair accessible vehicle.
- 16.2 Any equipment required to safely and comfortably secure passengers in their wheelchairs must be in a serviceable condition and carried in the vehicle at all times
- 16.3 Any lift must have a current lift service/inspection certificate in line with the Lifting Operations Equipment Regulations 1998 (inspection



six months and service and weight test annually). Certificates will be retained for inspection during the life of the vehicle while licenced.

**17.0 Definition of a Private Hire wheelchair accessible vehicle**

A vehicle that has been permanently adapted / modified to enable a passenger using a standard wheelchair to enter, exit and travel safely and securely whilst always remaining in their wheelchair for the entire journey. Any ramp must be certified for a minimum load weight in excess of 300 Kg and the angle of ascent from the road level must not exceed a 1:4 gradient. Any lift must be certified to a minimum load weight in excess of 300 Kg and have a current lift service/inspection certificate in line with the Lifting Operations Equipment Regulations 1998 (inspection 6 months and service and weight test annually). Any vehicle conversions must have the appropriate DVSA documentation/approval for the conversion.

## **Appendix C**

### **Cheshire West and Chester Council**

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

##### **Conditions for private hire operators**

The following requirements and conditions are made by Cheshire West and Chester Council in pursuit of the powers conferred by Part II of the Local Government (Miscellaneous Provisions) Act 1976 (as amended) to ensure efficient and effective regulation of private hire use within the district and to ensure that proper standards are maintained in the interest of public safety.

These conditions are ancillary to and should be read in conjunction with the requirements of that said Act, Cheshire West and Chester statement of licensing policy for hackney carriages, private hire vehicles, drivers, and private hire vehicle operators, Transport Act 1985, Road Safety Act 2006 and any other relevant legislation

Failure to comply with any of the conditions attached to this licence may result in enforcement action being taken in accordance with the Council's enforcement policy. Such action may include prosecution, or the licence being suspended or revoked.

Application fees will not under any circumstances be refunded.

##### **1.0 Operator details**

1.1 The licence is granted to those named on the original application and is not transferable.

##### **2.0 Telephones and staff**

2.1 The operator shall provide adequate telephone facilities and staff to provide an efficient private hire service to the public.

2.2 Any staff employed to act in a security capacity for the private hire operator must be properly licensed in accordance with the Private Security Industry Act 2001 and must display their badge and be wearing suitable high visibility clothing at all times they are working in this capacity.

2.3 Operators will be accountable for the actions and conduct of their staff including drivers at all times they are undertaking any role on behalf of the operator. The condition applies whether they are employees, are self-employed, employed as a sub contractor or agent.

### **3.0 Two-way radios and data units**

3.1 The operator's radio or data equipment shall be maintained in a sound condition and any defects shall be repaired promptly.

### **4.0 Complaints**

4.1 Operators must have a written complaints procedure that is approved by the Council. The procedure must state that all written complaints must be responded to within a maximum of 28 days. The procedure must include the option to forward a complaint on to the Council if no response is received and include the Council's contact details. The procedure must appear on the operator's website and be displayed in any premises to which the public have access.

Private hire operators are to keep a register of all complaints made to them. The register shall contain the following details:

- name, address and telephone number of complainant.
- nature of complaint.
- any action taken as a result of the complaint

The operator must inform the Council of any written complaints received and of any verbal complaints of a serious nature (sexual offences, drugs or violence)

4.2 The register is to be readily available at all times and must be produced for inspection on request by an authorised officer or constable. Records shall be retained for a minimum of six months.

### **5.0 Premises where private hire bookings are taken**

5.1 The operator's premises shall be kept clean and be adequately heated, ventilated and lit.

5.2 The licence is not transferable and only applies to the premises specified in the licence.

5.3 A copy of these conditions shall be kept with the operator's licence and shall be produced on request to any authorised officer.

### **6.0 Hiring**

6.1 All private hire bookings accepted by the operator shall be carried out promptly at the appointed time, date and place.

6.2 When the operator accepts the hiring he shall prior to the commencement of the journey, record all the details of the hirer as prescribed by section eight of these conditions.

6.3 The operator shall make provision for his private hire drivers to convey any guide, hearing or assistance dog(s) accompanying a passenger, at the hirer's request unless any approved exemptions are in place.

## **7.0 The use of plate exempt vehicles**

7.1 Any bookings for the undertaking of a journey in an exempt vehicle must be made by way of a written contract between the hirer and the private hire operator. Such contracts must be in place for no less than six hours prior to the commencement of any journey.

7.2 Operators using exempt vehicles may not use such vehicles to undertake any other work other than defined in the private hire conditions for exempt vehicles.

7.3 In cases where an operator is using an exempt vehicle he must advise the hirer at the time of booking that the vehicle dispatched to collect them will not be displaying standard private hire vehicle licence plates or door stickers.

7.4 Exempt vehicles shall not display any external markings e.g. operator details or advertisements.

## **8.0 Records of hiring**

8.1 Each operator shall keep a record (in a format approved by the Council) of particulars of every booking invited and accepted by him and shall produce such record on request to any authorised officer or constable for inspection

8.2 Each booking record must contain the following information:

- date and time the booking was made
- the name of the hirer
- details of journey including, date and time, collection point and the destination
- name and licence number of the driver and vehicle carrying out the booking

8.3 Before any private hire journey is commenced the details of the booking as required in 8.2 must be recorded at the operator's licensed premises.

8.4 All records of hiring's shall be retained for a period of six months. All records must be made available to any authorised officer or constable.

## **9.0 Records of vehicles and drivers**

The operator shall maintain at his premises particulars of vehicles operated by him which shall include the following:

- the private hire vehicle licence number and expiry date
- the vehicle registration number
- the name and address of the vehicle proprietor
- the name(s) and address(s) of driver(s) of the vehicle
- the badge number(s) of driver(s) and expiry date
- licensed vehicle insurance policy number and expiry date

and

- the above records shall be produced on request to any authorised officer or constable

The operator shall ensure that every vehicle and driver operated by them is fully and adequately licensed by the Council and suitably insured for private hire use by all relevant bodies and shall be responsible for the retention of all necessary certificates of insurance or suitable records confirming insurance details and all other appropriate documents.

#### **10.0 Convictions**

The operator shall notify in writing the Council of any conviction, caution, warning, fixed penalty or reprimand issued to him or any other person named in the licence application in writing within 7 days of it being imposed.

## **Appendix D**

### **Cheshire West and Chester Council**

**Acts: Local Government (Miscellaneous Provisions) Act 1976 (as amended); Town Police Clauses Act 1847**

### **Hackney carriage vehicle conditions**

The following requirements and conditions are made by Cheshire West and Chester Council in pursuit of the powers conferred by Part II of the Local Government (Miscellaneous Provisions) Act 1976 (as amended) and the Town Police Clauses Act 1847 to ensure efficient and effective regulation of hackney carriage vehicle use and to ensure that proper vehicular and driver standards are maintained in the interest of public safety.

These conditions are ancillary to and should be read in conjunction with the requirements of that said Act, Cheshire West and Chester statement of licensing policy for hackney carriages, private hire vehicles, drivers, and any private hire vehicle operators, Transport Act 1985, Road Safety Act 2006 and other relevant legislation

Failure to comply with any of the conditions attached to this licence may result in enforcement action being taken in accordance with the Council's enforcement policy. Such action may include prosecution, or the licence being suspended or revoked.

#### **1.0 Vehicle requirements**

- 1.1 The vehicles must comply with the Council's vehicle requirements as set out in the Cheshire West and Chester statement of licensing policy for hackney carriages, private hire vehicles, driver's, and private hire vehicle operators. The policy will give details on the Council's position on items including numerical limits, wheelchair accessibility and vehicle types.
- 1.2 All hackney carriages shall be of an approved type, model and specification and where appropriate from an approved manufacturer/supplier. These vehicles and suppliers are listed in the Cheshire West and Chester Borough Council approved hackney carriage vehicles list. Only vehicles in this list can be licensed as a hackney carriage.
- 1.3 The vehicle itself or the generic vehicle manufactured by the vehicle manufacturer shall be certified as having one of the following levels of Type Approval:
  - EC whole vehicle type approval
  - UK low volume type approval

- 1.4 The vehicle shall not exceed 3.5 tonnes (3500 kgs) gross weight.
- 1.5 The vehicle shall be a manufacturer's right hand drive model.
- 1.6 Doors must be capable of being readily opened from inside and outside the vehicle by one operation of the latch mechanism.
- 1.7 The vehicle must not be capable of carrying more than eight passengers. The seating must be as manufactured and have appropriate seat belts fitted to each available seat.
- 1.8 The seats shall be in a configuration approved by the Council for the make and model of the vehicle.
- 1.9 All seats within a licensed vehicle (included when determining the number of passengers the vehicle will be licensed to carry) must be suitable for carrying an adult passenger and fitted with an appropriate seatbelt. A seat should be a minimum width of 410 mm at the narrowest point of both the seat base and back support. In the case of the bench style seats the number of passengers the bench seat can accommodate will be determined with reference to the minimum seat size described above. In cases where there is any doubt, including minimum size requirements, evidence should be supplied from the vehicle manufacturer that the seat or seats in question have been designed and tested for use by an adult.
- 1.10 Public service vehicles and vehicles without VOSA M class status and M rated seating will not be licensed any replacement seating must be M rated to match the rating of the vehicle.

## **2.0 Conditions and maintenance of the vehicle**

- 2.1 The vehicle and all its fittings and equipment shall be maintained in a safe, efficient and clean condition and be capable of satisfying the Cheshire West and Chester licensed vehicle test guidelines at all times. All relevant statutory requirements including those contained in the motor vehicles (construction and use) regulations shall be fully complied with at all times.
- 2.2 The exterior of the vehicle shall be clean, free from unrepaired damage and finished to match existing paintwork after repair.
- 2.3 The interior of the vehicle shall be clean and tidy. The upholstery, carpets and fittings shall be maintained in good condition and be free from rips and tears.
- 2.4 The vehicle must carry a spare wheel and tyre at all times approved for the vehicle type. In vehicles where a spare wheel and tyre is

not provided a manufacturer's approved tyre inflation and repair system must be carried.

- 2.5 All tyres including the spare must be inflated to the correct pressure as determined by the tyre/vehicle manufacture.
- 2.6 All tyres fitted to the vehicle and any spare tyre must meet current legal requirements.
- 2.7 No material alteration or change to the mechanical or structural specification of the vehicle or its design, condition or appearance shall be made at any time without the written consent of the Council.
- 2.8 Any tow bar fitted to a licensed vehicle may not be used for any purpose whilst undertaking work as a hackney carriage vehicle.
- 2.9 Any roof rack or roof pod should be attached securely and fitted in accordance with the manufacturer's instructions and must not obscure any illuminated taxi sign.
- 2.10 The visual transmission of light shall be not less than 75% (25% tint) through the windscreen and 70% (30% tint) through the drivers and front passenger windows.

### **3.0 Colour restrictions**

- 3.1 There are no colour restrictions for hackney carriages in the Ellesmere Port and Neston and Vale Royal zones. In the Chester zone hackney carriages must be black.

### **4.0 Vehicle testing**

- 4.1 All vehicles shall be tested by the Council or its agent and will have to pass the Cheshire West and Chester licensed vehicle test prior to first licensing and thereafter annually prior to the renewal of the licence. A vehicle over five years old shall be tested every six months and pass certificate must be supplied to the licensing team every six months in order for the vehicle to remain licensed. The age of the vehicle shall be calculated by reference to the date of first registration recorded in the vehicle registration document (form V5) unless the vehicle was not new at the date of first registration.

### **5.0 Vehicles converted to run on liquefied petroleum gas (LPG)**

- 5.1 A certificate of compliance of conversion issued by a Liquid Petroleum Gas Association (LPGA) approved installer must be produced to the Council in respect of a vehicle converted to run on liquefied petroleum gas (LPG). The Council must be notified



immediately and the certificate produced if the conversion is undertaken whilst the licence is in force.

5.2 A vehicle converted to run on LPG shall be fitted with a multi-valve tank contained within a sealed tank box made from aluminium and vented to the atmosphere. On a vehicle fitted with a 'doughnut' style tank in the spare wheel well the spare wheel (where supplied by the manufacturer) shall be securely fixed in a suitable position where it does not obstruct the whole of the luggage space.

5.3 The vehicle shall display a warning sticker on the front and rear screens stating that the vehicle is fitted with an LPG tank for the purpose of alerting the emergency services in the event of an accident.

## **6.0 Safety equipment**

6.1 All forward facing seats must be fitted with three point belt with lap, chest, and shoulder restraints. For the avoidance of doubt, lap only type seat belts shall be deemed not to comply with this condition.

6.2 The vehicle shall be equipped at all times with a fully operable fire extinguisher suitable for a motor vehicle. In the case of a dry powder extinguisher this should be at least 1Kg. All fire extinguishers must be in good condition, with no obvious damage, loose seals, or evidence of discharge and where applicable be in date.

6.3 The vehicle shall be equipped at all times with a first aid kit kept in a properly designated first aid container. The first aid kit shall be one that is approved for use on a public service vehicle or a first aid kit approved by the Council.

6.4 The fire extinguisher and first aid kit shall be carried in such a position as to enable it to be readily available for use in an emergency. They shall be marked with the date of expiry in the case of a serviceable fire extinguisher the date the next service is required. Both items shall have the vehicle licence plate number permanently marked upon it.

## **7.0 Signs, advertisement and notices**

- 7.1 No advertisements, signs, notices, numbers, marks, etc shall be displayed on, in or from the vehicle without the prior written approval of the Council. (Please refer to Cheshire West and Chester statement of licensing policy for hackney carriages, private hire vehicles, drivers, and private hire vehicle operators for more details)
- 7.2 Approved advertisements, signs, notices, numbers, marks, etc shall not be displayed in a position that obscures the visibility of the driver and passengers or hinders the visibility of the licence plates or other signage or markings specified by conditions imposed by this Council
- 7.3 The licensed vehicle shall have a sign on the roof of the vehicle with the word taxi clearly visible. The roof sign must be illuminated when the vehicle is available for hiring.
- 7.4 Notices, signs and advertisements are not permitted on glazed areas other than statutory notices, signage and advertisements approved in writing by the Council.

## **8.0 Identification plates and markings**

- 8.1 Hackney carriages shall at all times clearly display on the exterior surface of the vehicle two licence plates and holders/backing plates supplied by the Council, the form and content of which shall also be prescribed by the Council.
- 8.2 The smaller licence plate and holder shall be affixed securely to the front of the vehicle and the larger licence plate and holder shall be affixed securely to the rear of the vehicle, both to the satisfaction of the authorised officer.
- 8.3 The plates and holders/backing plates shall only be affixed to the licensed vehicle identified in the vehicle licence.
- 8.4 The plates and holders/backing plates shall at all times remain the property of the Council and the licensee shall not cause or permit the information displayed upon the plates to be altered, removed or obscured in any way.
- 8.5 The licensee shall at all times ensure so far as is reasonably practicable that information contained on the plates is complete and legible and that the plates are maintained in a clean condition. Both vehicle licence plates must be clearly visible at all times.

8.6 Hackney carriages shall at all times display an identification sticker supplied by the Council. The sticker shall be displayed on passenger/vehicle division/compartment screen. Where a vehicle is not fitted with a passenger/vehicle division/compartment screen, the sticker shall be displayed in the lower near-side of the windscreen or the upper area of the dashboard, so that the sticker is visible to passengers within the vehicle.

## **9.0 Taximeters**

9.1 The hackney carriage vehicle must be fitted with a taximeter.

9.2 The taximeter shall be of a calendar type approved by the Council. It shall be maintained in a sound condition at all times and shall be located within the vehicle in accordance with the reasonable instructions of an authorised officer.

9.3 Other than for permitted periods where an amendment to the tariff of fares is taking place, the taximeter shall be set to display the tariff of fares which has been set by the Council.

9.4 The taximeter shall be fitted with a device to bring it into action and cause the word 'hired' to appear on the face of the taximeter as soon as the vehicle is on hire.

9.5 When the vehicle is not hired, the taximeter is to be kept inactive and the taximeter shall show no fare at that time.

9.6 When the taximeter is brought into action, the fare and permitted extras shall be shown legibly on the face of the taximeter and shall be no more than the permitted tariff of fares as set by the Council.

9.7 The 'fare' shall be displayed on the face of the meter in clear letters so as to apply the fare recorded thereon.

9.8 The taximeter shall be in such a position in the vehicle that the figures recorded thereon are clearly visible to all passengers.

9.9 The taximeter shall be sufficiently illuminated so that when in use it is visible to all passengers.

9.10 The taximeter and all its fittings shall be affixed to the vehicle with seals or by other means so that it shall not be practicable for any person to tamper with the taximeter except by breaking or damaging or permanently displacing the seals or other fittings.

9.11 When on duty but not hired the vehicle and driver may be instructed by an authorised officer to attend a location to undergo a pre measured journey in order to test the accuracy of the installed

meter, and or to have the meter inspected by a authorised officer or appointed agent of the Council.

## **10.0 General conditions**

- 10.1 A proprietor of a hackney carriage vehicle licensed by the Council shall not part with or lend the hackney carriage vehicle licence plates issued to his vehicle.
- 10.2 The proprietor of a hackney carriage vehicle shall ensure that only individuals holding a valid dual hackney and private hire driver's licence annotated for the relevant zone issued by the Council may drive the licensed vehicle.
- 10.3 A hackney carriage proprietor shall maintain a record of the details of all drivers of his licensed vehicle(s). The records must be produced on request to an authorised officer. This record shall contain the following information and be retained for a minimum of six months:
- The name and address of the driver:
- details of the drivers valid dual hackney and private hire driver's licence and zone authorisation
  - details of the drivers DVLA drivers licence
  - the dates and times the driver had custody and control the vehicle
- 10.4 The proprietor(s) of a hackney carriage must notify in writing the licensing section of any change of address in writing within seven days of the change.
- 10.5 The proprietor(s) of a hackney carriage shall notify in writing the licensing team in writing of any accident involving the vehicle within 72 hours of the accident occurring.
- 10.6 The proprietor(s) of a hackney carriage vehicle shall disclose to the licensing team in writing, details of any convictions, cautions, warnings, fixed penalties or reprimands imposed on him within seven days of receiving it.
- 10.7 The licensed vehicle shall not carry more than the number of passengers specified in the licence and displayed on the licence plate.
- 10.8 There must be in force, in relation to the hackney carriage vehicle, a policy of insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1988.

- 10.9 There must be in force, in relation to the use of the vehicle, a valid MOT test certificate and a current road fund licence. A Cheshire West and Chester licensed vehicle test certificate is also required in accordance with the Council's vehicle testing policy and in accordance with condition 4.1 above.
- 10.10 The proprietor of the licensed vehicle shall provide receipts for the driver to issue. If requested by the passenger, a written receipt must be provided for the fare paid.
- 10.11 The proprietor of a hackney carriage shall ensure that all drivers have access to and understand the conditions that are attached to the vehicle licence.
- 11.0 Tariff of fares**
- 11.1 The tariff of fares as set by the Council shall be displayed in a prominent position inside the hackney carriage vehicle in clearly distinguishable letters and figures.
- 12.0 Conditions for wheelchair accessible Hackney Carriage vehicles**
- 12.1 Any vehicle so adapted will remain in that configuration for the whole life of its license to ensure its availability as a wheelchair accessible vehicle.
- 12.2 Any equipment required to safely and comfortably secure passengers in their wheelchairs must be in a serviceable condition and carried in the vehicle at all times

**Please note:** These conditions must be read in conjunction with the byelaws applicable within the zones of Cheshire West and Chester Borough Council (or its predecessor districts) under section 68 of the Town Police Clauses Act 1847 and section 171 of the Public Health Act 1975

## **Appendix E**

### **Code of conduct**

The Council has adopted a code of conduct for licensed drivers in order to promote the overall aims of this statement of licensing policy. The code is not exhaustive and does not take account of national legislation that imposes legal obligations on individuals such as, the Road Traffic Act and Health Act.

### **Trade responsibilities**

There is an expectation that all licence holders will follow this code in order to promote the image of their respective trades. Licence holders are encouraged to work with this Council, their employees/employers and each other to develop this code and actively promote compliance.

### **Customers**

The actions of all licence holders will influence passenger choice, passengers will want to travel in comfort and safety and in this regard, licence holders shall:

- ensure that their vehicles are in a safe and clean condition at all times
- assist, where necessary, passengers into and out of vehicles; and offer passengers reasonable assistance with luggage
- promptly make every effort to contact hirers of pre-booked journeys in the event of a delay in attending or cancellation of the booking

### **Residents**

From time to time this Council receives complaints from residents about the activities of hackney carriage and private hire drivers. The complaints are usually concerned with noise and irresponsible parking. In this regard, licence holders shall:

- not sound the vehicle's horn or shout to get the hirer's attention
- keep the volume of entertainment devices to a minimum
- switch off the engine if required to wait
- park considerately when waiting for a fare and not block driveways, parking spaces for the disabled or cause an obstruction
- not leave litter behind

### **Attitude and appearance**

From time to time this Council receives complaints from the public about the attitude and appearance of hackney carriage and private hire drivers. The complaints are usually concerned with allegations of rudeness, driving

inappropriately and the standards of dress. In this regard, licence holders shall:

- be polite, helpful and considerate to passengers
- pay attention to personal hygiene and dress so as to present a professional image to the public and not wear anything that is likely to cause offence
- not have any signage or material in or on the vehicle that is likely to cause offence
- drive with care and due consideration for the passenger other road users and pedestrians

## Appendix F

### **Serious misconduct procedure**

#### **Driver convicted/charged or alleged to have committed serious misconduct, a serious offence, sexual offence or violent offence.**

This serious misconduct procedure is drafted on the principle that the safety of the public should be the uppermost concern of any licensing and enforcement regime: when determining policy, setting standards and deciding how they will be enforced. This is nowhere more important than in the licensing of hackney carriage and private hire drivers where sometimes vulnerable people are unaccompanied in a car with a stranger. For this reason, hackney carriage and private hire driving is a 'notifiable' occupation, so if a licensed driver is arrested, charged or convicted, or is the subject of a police investigation, the Licensing Authority must be informed.

In order to adequately protect the public, the procedure to be followed where a licensed driver is convicted, charged with, or alleged to have committed a sexual or violent offence or other serious misconduct ('Relevant Information') is set out below. The Council will consider the immediate revocation of the driver's licence in accordance with this procedure and **S 61 Local Government (Miscellaneous Provisions) Act 1976**

#### **Notification/receipt of relevant information**

The Council may be notified or become aware of relevant information from the following sources:

- a relevant police notification
- self-disclosure
- information received from another source (e.g. complainant, informant)

#### **Where relevant information is received the receiving officer will:**

- inform his/her line manager immediately, or, if not available, a more senior manager will be informed

#### **The line manager/senior manager will:**

- make an initial assessment of the type of offence to identify the route and actions required
- in the case of a conviction or investigation or where there are serious concerns over possible risk to the public, written confirmation of the individual's details and alleged offence(s), complaints or concerns are supplied/requested from Police Disclosure and Vetting or the partner supplying the information



- case details will be discussed with the Council's legal team and the appropriate action identified
- once all details confirmed, a recommendation to revoke the licence immediately on the grounds of public safety may be sought from a Deputy Chief Executive or in their absence the Director of Place Operations, supported by any relevant evidence
- if there are insufficient grounds for an immediate revocation but there is still a doubt about the licence holder's fitness and propriety, the matter is referred to the General Licensing Sub-committee
- if revocation is approved, details of the written revocation are served on the licence holder in person at their home address (if practical), confirmed by phone call if required. Included in the revocation is the instruction to return the licence and badge
- in addition, a vehicle licence may be suspended (a licensed vehicle can only be driven by a licensed driver and the individual would commit an offence if he/she continued to drive their own vehicle if it remained licensed)
- where appropriate, a private hire operator or vehicle owner is informed of the revocation
- a copy of the revocation letter (or details of other action taken) is sent to key partners

The Council will only revoke a licence with immediate effect where there is deemed to be, taking into consideration the evidence presented, a risk to public safety. Where the risk to public safety is removed, for example, the charge is dropped or the allegation is not found, the Council will invoke an accelerated application process to enable the Council to consider an application from the driver for the grant of a new licence as soon as practicable. However, such applications must be referred to the Licensing Sub-committee for approval.

Any driver aggrieved by a decision of the Council to revoke a driver's licence may appeal to a magistrates' court.

## **Appendix G**

### **Escalating Warning System (EWS)**

#### **Contents**

1. General issues and procedures
2. Matters relating to poor driving
3. Table one: escalation procedure
4. Table two: serious motoring offences

## **1. General issues and procedures**

- 1.1 The following measures have been developed to ensure consistent enforcement throughout the Borough for dealing with breaches of legislation, conditions and contraventions associated with hackney carriages, private hire vehicles, operators and drivers.
  - 1.2 Where appropriate, warnings will be issued in accordance with table one of the Policy and officers will determine the appropriate action proportionate to the offence etc. where there is sufficient evidence of (in the Officer's professional opinion) a breach warranting action. The licence holder may submit an appeal on the grounds that no offence, breach or contravention has occurred, by referring the matter to the Officer's team leader / manager.
  - 1.3 The General Licensing Sub Committee (GLSC) will consider each case on its merits and has options to dispose of the matter by taking the following actions:
    - suspend a licence
    - revoke a licence
    - refusal to renew
    - extend the period for which the EWS is applicable
    - attach additional conditions to a licence\*
    - take no action
- \*additional conditions could include a requirement to undertake an approved driver assessment or complete the Cheshire West and Chester Council licensed driver's qualification or relevant part thereof or other relevant course or qualification within a specified period of time.
- 1.4 Once the matter has been dealt with by GLSC it may remove the warning from the licence holder's record and the record will be clean.
  - 1.5 The licence holder may be represented at any hearing and will be given the opportunity to advise the GLSC of any mitigating circumstances.
  - 1.6 These measures will be used without prejudice to the Council's ability to take additional or alternative action under legislation, byelaws and regulations.

## **2. Matters relating to poor driving**

- 2.1 Where a driver is disqualified, is convicted of a serious motoring offence (see table two below) or amasses six penalty points in any 12 month period or 9 penalty points in any 24 month period the matter will be the subject of a report to the next available GLSC. The Committee will consider the facts of the matter and may consider it appropriate to require the driver to pass a driving assessment and / or the Cheshire West and Chester Council licensed driver's qualification. Each case will be judged on its merits and in certain circumstances it may be appropriate for the Committee to suspend the driver's licence until completion of the course(s) or revoke the licence and set out specific requirements to be met before an application for the grant of a new licence is considered.
- 2.2 Once the matter has been dealt with by the GLSC it may, insofar as this part of the EWS is concerned, deem that the disqualification, serious motoring offence and/or penalty points are not taken into consideration at a later date / subsequent hearing.

**Please note:** the list of serious motoring offences in table two is not exhaustive and other motoring offences may be considered serious (following consultation with the Head of Regulatory Services / Chair of Licensing Committee) and be subject to this part of the policy

**Table one: escalation procedure**

Category	Example	Outcome
<p><b>Category one</b></p>	<ul style="list-style-type: none"> <li>• Failure to display driver badge as required by conditions</li> <li>• Hackney vehicle: over ranking/ failure to proceed to an available rank</li> <li>• Breach of vehicle or driver conditions where there is little impact on public, driver or other road user safety or wellbeing e.g. licensed vehicle without valid first aid kit or fire extinguisher</li> <li>• Licence holder failure to notify the Council of a change of address within the timescale specified within the conditions.</li> <li>• Failure to notify change of vehicle ownership/transfer within the timescale specified within the conditions.</li> <li>• Failure to provide relevant documents on the reasonable request of an authorised officer</li> <li>• Failure to comply with code of conduct guidance</li> <li>• Parking/waiting otherwise than in accordance with restrictions/regulations without good reason or excuse.</li> <li>• Obstruction of a highway or footpath</li> <li>• Breach of signage conditions</li> <li>• Littering from a licensed vehicle</li> <li>• Incomplete records of private hire journeys</li> </ul>	<p><b>First offence/contravention/breach:</b> Verbal warning. Record of warning maintained for 12 months.</p> <p><b>Second (or any subsequent) offence/ contravention/ breach</b> Within 12 months of original offence, contravention or breach Written warning. Record maintained 24 months.</p> <p><b>Any licence holder receiving two written warnings within a 24 month period will be referred to the General Licensing Sub Committee (GLSC)</b></p>

Category	Example	Outcome
<b>Category two</b>	<ul style="list-style-type: none"> <li>• Failure to have vehicle tested within timescales specified within the vehicle conditions</li> <li>• Breach of vehicle or driver conditions where there is significant risk to safety or wellbeing of driver, passenger, public or other road user e.g. tyre tread level below legal limit</li> <li>• Evidence of aggressive behaviour to passengers or other road users</li> <li>• Modification of a licensed vehicle without the consent of the Council</li> <li>• Overcharging of a passenger</li> <li>• Licence holder failure to notify the Council of a conviction or caution received within the timescale specified within the conditions</li> <li>• Prolonging or increasing the length of a fare/journey without good cause or excuses</li> <li>• Failure to notify the Council of a change of medical condition likely to affect the ability of the licence holder to drive a licensed vehicle</li> </ul>	<p><b>Offence/contravention/breach:</b> Written warning. Record maintained for 24 months.</p> <p><b>Any licence holder receiving two written warnings within a 24 month period will be referred to the General Licensing Sub Committee (GLSC)</b></p>
<b>Category three</b>	<ul style="list-style-type: none"> <li>• Use of an unlicensed vehicle or driver</li> <li>• Using a vehicle without valid insurance</li> <li>• Carrying more passengers than authorised by the vehicle licence</li> <li>• Supplying false or misleading documentation or information to the Council</li> <li>• Any conviction or caution for drugs, violence or of a sexual nature.</li> <li>• Illegal plying for hire</li> </ul>	<p><b>Licence holder will be referred to the General Licensing Sub Committee (GLSC)</b></p>

**Table two: serious motoring offences**

<b>DVLA code</b>	<b>Offence</b>
AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours
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
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death by careless driving when unfit through drugs
CD60	Causing death by careless driving with alcohol level above the limit
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis
CD80	Causing death by careless, or inconsiderate, driving
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers
DD10	Causing serious injury by dangerous driving
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DD90	Furious driving
DG40	In charge of a vehicle while drug level above specified limit
DR90	In charge of a vehicle when unfit through drugs

## **Appendix H**

**Guidelines relating to the relevance of convictions and other relevant information.**



## 1. Introduction

- 1.1 This policy provides guidance to the Licensing Committee and its Sub-Committee on criteria to be taken into account when determining whether or not an applicant is fit and proper to be licensed or continue to be licensed as a driver, vehicle proprietor or operator. Whilst criminal convictions will play a significant part in the Licensing Authority's determination on whether an individual is fit and proper (safe and suitable) or not, the Council will also take into account other factors such as demeanour, general character, non-criminal behaviour, driving ability and other relevant information supplied by the Police or other agency.
- 1.2 Whilst this policy primarily applies to the determination of driver licences for hackney carriages/private hire vehicles or both, the principles within it are equally applicable to the determination of private hire operator and vehicle/ hackney carriage licence applications. Consequently, where a conviction (as defined below) is considered relevant to the fitness and propriety/suitability of an individual to hold (or be granted) a private hire operator licence or a vehicle licence, then this policy must be referred to during the determination process.
- 1.3 It is the responsibility of the Council to issue hackney carriage, private hire, driver and operator licences under the Local Government (Miscellaneous Provisions) Act 1976. In exercising this duty, public safety is the primary consideration. Licences will not be issued unless the person is considered to be fit and proper (safe and suitable).
- 1.4 In seeking to safeguard the public the Council will ensure that all applicants and licence holders:
- are fit and proper person in accordance with Part II S51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976
  - do not pose a threat to the public
  - are honest
  - do not pose a threat to the safety of children, young persons and vulnerable adults
- 1.5 The term fit and proper (safe and suitable) for the purposes of taxi and private hire licensing is not legally defined. However, in determining whether a person is fit and proper to hold a licence, those tasked with determining licences/applications are effectively asking the following question of themselves:

***'Would I be happy to allow my son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom I care, to get into a vehicle with this person alone?'***

***‘If all the information known about an applicant was written on the door of the vehicle or premises would I still be happy to use the services of the applicant or be happy with a loved one using their services?’***

***‘Am I happy for this person to know when my home is empty or for them to be alone with a vulnerable family member?’***

If the answer to the above questions is an unqualified ‘yes’, then the person can be considered to be fit and proper (safe and suitable). If there are any doubts in the minds of those who make the decision, then the answer must be no and the licence should not be granted. The public place significant trust and responsibility on individuals they may have never met and know nothing about, based purely on the fact that the Council has granted them a Licence. For the public to maintain their confidence in the Licensing system the decision maker must only grant licences to those applicants that pass both these simple questions.

Granting a licence or allowing a person to continue to hold a licence where there is any doubt about them being fit and proper (safe and suitable) for the benefit of the applicant, for example, to give them a second chance or a fresh start is not in the public interest. The primary aim of this policy and those empowered to implement it is the protection of the public.

In order to assess the suitability of an applicant (and to inform decision makers), the Council will undertake whatever checks and apply whatever processes it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. In assessing the suitability of an applicant or licence holder, the council will take into consideration the following factors:

- Criminality
- Period of holding a driver’s licence
- The driving history of an applicant (including any driving licence penalty points)
- Right to work,
- Medical fitness (DVLA Group 2 Medical Standards)
- Standard of driving/driving ability
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process).
- The previous licensing history of existing/former licence holders.

In addition the Council will also consider further information sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards, Officers of the Council other licensing authorities and statutory agencies.

- 1.6 This policy provides guidance to any person with an interest in hackney carriage and private hire licensing. In particular, but not exclusively:
- Applicants for a driver's licence
  - Existing licensed drivers whose licences are being reviewed
  - Licensing officers
  - Members of the Licensing Committee/Sub-Committee
  - Magistrates or other Court Officials dealing with appeals regarding Council decisions about fitness and propriety.
- 1.7 In considering this guidance the Council will be mindful that each case must be considered on its merits and, where the circumstances demand, the Committee may depart from this policy.
- 1.8 In this policy the word "Conviction" includes convictions, cautions, warnings, reprimands and other relevant information. In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.
- 1.9 In this policy the term applicant refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders that are the subject of periodic auditing or are having their licence reviewed by the Council as part of the policy implementation process. It also includes existing licence holders who are being considered by the Council by virtue of offending activity having recently come to light. The Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

## **2. General Policy**

- 2.1 Whilst a committee may consider that a person with a conviction for a serious offence may not automatically be prevented from obtaining a licence, it is however to be expected that the applicant would be required to remain free of conviction for an appropriate period (as detailed below); and show adequate evidence that they are a fit and proper (safe and suitable) person to hold a licence (the onus will be on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper (safe and suitable) person to hold a licence.

- 2.1 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.
- 2.2 The standards and criteria set out in paragraphs 6 to 16 below are those that would normally be applied to applications and licences. The Council may depart from these; however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered to be exceptional circumstances.

### **3. Powers**

- 3.1 Under the provisions of S.61 of the Local Government (Miscellaneous Provisions) Act 1976 the Council has powers to suspend, revoke or refuse to renew the licence of a driver of a hackney carriage or private hire vehicle on any of the following grounds-
- (a) that he has since the grant of the licence-
- been convicted of an offence involving dishonesty, indecency or violence, or
  - been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847 or part II of the Local Government (Miscellaneous Provisions) Act 1976, or
- (b) any other reasonable cause
- 3.2 A suspension or revocation of a driver's licence takes effect at the end of a period of 21 days beginning with the day on which notice is given. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement to this effect and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. (S61(2B) of the Local Government (Miscellaneous Provisions) Act 1976
- 3.3 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the Council to take into account all convictions recorded against an applicant or the holder of a private hire or hackney carriage driver's licence, whether spent or not. Therefore the Council will have regard to

all relevant convictions, particularly where there is a history of offending or a pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.

3.4 Under the provisions of Sections 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the Council is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle driver's licence is a "fit and proper" person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the council will take into account:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) are
- When the offence(s) were committed
- The date of the conviction, warning, caution etc.
- Circumstances of the individual concerned
- Any sentence imposed by the court
- The applicant's age at the time of offence/incident leading to the conviction, warning, caution etc.
- Whether they form part of a pattern of offending

Other factors that might be relevant include:

- Whether the applicant has intentionally misled the council or lied as part of the application process,
- Information provided by other agencies/Council departments.

3.5 Existing holders of driver's licences are required to notify the Council in writing within seven days of receiving an endorsement on their DVLA licence, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the council within 3 working days of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the Council about the honesty of the licence holder and will be taken into account as part of any subsequent application or any decision about the person's licence.

3.6 The Council requires all applicants for a driver's licence to supply an enhanced disclosure from the Disclosure and Barring Service (DBS) as part of the application process. Applicants applying for the grant or a renewal of a driver's licence will be required to obtain an enhanced disclosure at their expense; this includes all fees payable to the DBS.

3.7 The Council is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other licensing authorities, and information disclosed by the police under the Common Law Police Disclosure Scheme or other

similar arrangements. Examples of such information sources that may be used include social care information and benefit payments etc.

- 3.8 It is an offence for any person to knowingly or recklessly make a false declaration or to omit any “material particular” in giving information required by the application for a licence (s57 Local Government (Miscellaneous Provisions) Act 1976). Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the application will normally be refused.
- 3.9 Any offences or behaviour not covered by this Policy will not prevent the Council from taking into account those offences or behaviours.

#### **4. Appeals**

- 4.1 Any person refused a driver’s licence, or has their licence suspended or revoked on the grounds that the Council is not satisfied that they are a fit and proper (safe and suitable) person to hold such a licence has a right to appeal to the Magistrate’s Court within 21 days of the notice of refusal (Local Government (Miscellaneous Provisions) Act 1976, s 77 (1)).

#### **5 Options when determining an application/licence**

- 5.1 When determining an application or reviewing an existing licence the Council have the following options:
- approve the application
  - refuse the application/
  - revoke the licence
  - suspend the licence
  - issue a warning which may include the use of the escalated warning system.
  - Attach any conditions that are deemed to be appropriate
  - take no action

#### **6. Serious offences involving violence**

- 6.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will be refused if the applicant has a conviction for an offence such as:
- Murder
  - Manslaughter
  - Manslaughter or culpable homicide while driving
  - Terrorism offences
  - Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

6.2 Consideration may only be given to the granting/issuing of a licence if at least 10 years have passed since the completion of any sentence and/or licence period following conviction for an offence shown below:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm
- Grievous bodily harm
- Robbery
- Possession of firearm or illegal weapon
- Riot
- Assault of a Police Officer
- Violent disorder
- Resisting arrest
- Any racially-aggravated offence against a person or property
- Any offence that may be categorised as domestic violence
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

6.3 Consideration may only be given to the granting/issuing of a licence if at least 5 years have passed since the completion of any sentence and/or licence period following conviction for an offence shown below:

- Obstruction
- Criminal damage
- Common assault
- Affray
- Any Public Order Act offence (harassment, alarm or distress, intentional harassment or fear of provocation of violence)
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

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

## **7. Possession of a weapon (excludes more serious weapons offences)**

7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit and proper.

7.2 Depending on the circumstances of the offence, at least five years must have passed since the completion of the sentence, before licencing an applicant can be considered.

## **8. Sexual and indecency offences**

8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, the council will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences will be refused a licence. Such offences include:

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

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

## **9. Dishonesty**

9.1 A licensed hackney carriage or private hire vehicle driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers will also come into contact with customers who are vulnerable or intoxicated and potentially easily confused. For these reasons, a serious view is taken of any conviction involving dishonesty.

9.2 In general, a minimum period of 10 years free of conviction or at least 10 years have passed since the completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- burglary
- fraud
- obtaining money or property by deception
- money laundering



9.3 In general, a minimum period of 5 years free of conviction or at least 5 years have passed since the completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- theft
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- other deception
- taking a vehicle without consent
- fare overcharging
- illegal money lending
- or any similar offences (including attempted or conspiracy to commit)

The above list is not exhaustive.

A licence will not normally be granted if an applicant has displayed a pattern of re-offending or has multiple convictions for similar offences.

9.4 Applicants or existing licence holders that are found to have intentionally misled the Council or lied as part of the application process, will not be issued with a licence.

9.5 Failure to declare/omit or misrepresent any of the facts or details requested by the Council, will cause the Council to question if the application can be regarded as fit and proper (safe and suitable). An applicant's failure to read and/or understand any questions or requests will not be accepted as mitigation.

## **10. Alcohol and Drugs**

10.1 A serious view is taken of any drink/drug related offence. Driving under the influence of alcohol or drugs poses an obvious risk to public safety. Applicants with convictions for the supply of drugs will be taken seriously. The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered carefully.

10.2 At least five years, after the restoration of the driving licence following a drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be considered.

10.3 More than one conviction for these offences raises significant doubts about the applicant's fitness to hold a licence.

10.4 Because of the nature of a driver's involvement with the public, a licence will not be granted where the applicant has a conviction for an

offence related to the supply/cultivation/manufacture of illegal or controlled drugs.

10.6 A licence will not be granted where the applicant has a conviction for offences related to the possession of illegal/controlled drugs until at least 5 years have passed since the completion of any sentence, fine /caution for possession and/or licence period has passed, and only then after full consideration of the nature of the offence and the quantity/type of drugs involved.

10.7 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) and a satisfactory medical report may be required before the licence is granted. If the applicant was an addict then they would be required to show evidence of 5 years free from drug taking after detoxification treatment.

## **11. Driving offences involving the loss of life or life changing injuries.**

11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life or life changing injuries. A licence will not be granted if an applicant has a conviction for:

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

## **12. Other traffic offences**

12.1 Any new applicant who at the time of application has nine or more points or has received a driving ban of any type within the last 36 months will not normally be granted a licence.

12.2 Traffic offences such as driving without due care and attention, speeding offences, or offences of a similar nature will give rise to serious doubts about the applicant's suitability to hold a driver's licence. An applicant with any such convictions will be required to show a period of at least two years free of such convictions. For applicants with more than one offence this should normally be increased to five years.

- 12.3 Existing drivers that have been disqualified or convicted of a serious motoring offence or amass six penalty points in any 12 month period or nine penalty points in any 24 month period will be the subject of a report to the next available General Licensing Sub-Committee. The Committee will consider the facts of the matter and may consider it appropriate to require the driver to pass a driving assessment and/or the Cheshire West and Chester Council Licensed Driver's Qualification at their own expenses. Each case will be judged on its merits and in certain circumstances it may be appropriate for the Committee to suspend the driver's licence until completion of the course(s) or revoke the licence and set out specific requirements to be met before an application for the grant of a new licence is considered.

### **13. Outstanding Charges or Summonses**

- 13.1 If the individual is the subject of an outstanding charge or summons their application may be suspended until the matter is resolved, this decision will be made on a case by case basis.

### **14. Non-conviction information**

- 14.1 The Council will also take into account situations and circumstances that have not led to a conviction. This will include acquittals and circumstances in which convictions were quashed due to misdirection to the jury, where the decision was taken not to prosecute, where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take in relation to non-conviction information (or a complaint), the credibility of both the witness/complainant and the licence holder will be taken into account.
- 14.2 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include violence, drugs and sexual offences.

### **15. Licensing Offences**

- 15.1 Certain offences under hackney carriage/private hire legislation such as plying for hire, overcharging and refusing to carry disabled persons or Assistance Dogs will prevent a licence being granted or renewed until a period of three years has passed.

### **16. Insurance Offences**

- 16.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided the applicant/licence holder has been free of conviction for three years, however a strict warning should be given as to future behaviour. More than one

conviction for these offences will prevent a licence being granted or renewed.

- 16.2 An operator found guilty of aiding and abetting the driving of passengers for hire and reward or driving without insurance will have their operator's licence revoked and will not be permitted to hold a licence for a period of at least ten years.