

# Statement of licensing policy

April 2016

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For the control, supervision and enforcement of the hackney carriage and private hire trades within the city of Portsmouth



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# Chapter 1: Introduction

- 1.0 This review has been prepared by the Director of Culture and City Development and follows the decision of the Licensing Committee in November 2014 to request that the Licensing Manager “undertake a thorough review of hackney carriage and private hire policy” (minute 7/2014 refers).

The last major review of the respective hackney carriage and private hire trades was undertaken in 2001. Prior to that, a review was considered by the then Licensing Panel in 1986.

- 1.2 The Council recognises that all persons, including those involved in the provision of local transport, should work together to help shape the great waterfront city. The Council aspires to provide safe communities and accordingly recognises that the taxi and private hire industry have an important role to play.

The determination of policy and associated guidelines can be shaped by many elements but an overriding emphasis of promoting a **local policy** based on **local needs** and having due regard to **local knowledge and evidence** for and from **local people** is of paramount importance.

- 1.3 Never more so is this apparent than when dealing with the Portsmouth taxi and private hire undertaking. Consultation must be undertaken and respective views heard.

Each local authority will have policies and conditions reflecting on local working practices and whilst good national practices will be embraced – the composition, supervision and day to day control of the local private hire and hackney carriage fleets is for the city council and city council alone to administer.<sup>1</sup>

It is often said, but not often remembered, that a licence is a statutory and lawful permission with authority to do something subject to compliance with conditions, byelaws or regulations. With any licence comes responsibility and accountability – particularly when the public safety is of paramount concern.

For these reasons, a licence is a privilege which should be treated as such accordingly.

- 1.4 Portsmouth hackney carriages are the **only vehicles** lawfully permitted to stand and ply for the hire from the streets of Portsmouth. No other vehicles have the authority and privilege to provide this service in Portsmouth.

1.5 The importance of the respective trades cannot be underestimated and this is seen in the thousands of jobs accepted and undertaken on a daily basis – whether conveying vulnerable children and adults to and from school or on other social services contracts, picking up passengers from the train stations and Ferry Port, conveying holiday makers to the airports or helping to clear the late night economy areas of revellers night after night after night.

1.6 The Council recognises and acknowledges that the vast majority of licensed taxi and private hire drivers are extremely hard working and committed to representing the city, as the local licensing authority, in a positive and professional manner.

Equally, the Council notes the important role both private hire operators and vehicle proprietors play in providing and facilitating modern and technologically advanced booking services and a fleet of vehicles in the city.

The respective private hire and hackney carriage trades play a critical role in providing a 24/7 local transport provision for residents and visitors alike.

1.7 That said however, the main function of the Council and Licensing Committee, as the local licensing authority, is to protect and to have regard to the public interest.

In recent times members have expressed concern about the following:

- The number of hackney carriages licensed to ply for hire and the resulting anecdotal evidence of “the buying and selling” of plates which are council property
- Whether the hackney carriage trade should be subject to numeric control
- The suitability of some drivers by way of background checks and ability to communicate in English and to know their way around the city
- The conduct of some drivers who, on the evidence, have behaved poorly with examples of consensual sexual contact with passengers and the need to establish firmer guidance and clear disciplinary sanctions to support the concept of drivers continuing to be “fit and proper”
- The quality of vehicles from both an age and mechanical suitability point of view and having regard to the local environmental issues such as air quality



- 1.8 National headlines about the conduct of licensed drivers from Rotherham and Milton Keynes have resulted in recommended changes to the guidelines on convictions (and conduct) and are contained within the review proper. There is no evidence whatsoever to support any local concern about safeguarding issues but nevertheless the need to continue to work closely with the trade, the police and partner agencies is paramount.
- 2.0 The Department for Transport – “Best Practice Guidance”<sup>2</sup> features heavily in the review. The council recognises and endorses, where possible, the guidance but notes that the guidance is “to assist licensing authorities” with the council making the final decision(s) on any matters. All reference to the guidance is shown in blue italics.

A link to the guidance is show below.

[www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance](http://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance)

## Policy

- 3.0 This review will form the foundation and basis of future policy in respect of the hackney carriage and private hire undertaking in Portsmouth for the foreseeable future, but will be subject to regular review.
- 3.1 The purpose of policy is to “set the standards” and to offer informed advice and expectations to applicants, licence holders and their appointed representatives alike.
- Policy should be made (and based) on evidence in order to formulate any local requirements and should **not** be introduced without prior consultation or on a whim.
- 3.2 Policy directives assist both members and officers in dealing with licensing matters in a uniform and consistent way and ultimately gives guidance to those in subsequent appeal situations as to the underlying rationale behind any individual decision making process.

- 3.3 No policy can ever be considered to be an absolute requirement, although the committee will look to persons to explain, in plain and clear terms, why a particular aspect of policy or a directive should not apply to them.

Applicants and licence holders are advised that each case will be heard and determined on merit with the policy used to “guide but not to bind” the decision maker – whether this is the Licensing Committee/Sub-Committee or officers acting under delegated authority and on behalf of the head of service.

## General

- 4.0 The council and committee must exercise any function with a view to preventing crime and disorder in accordance with section 17 of the Crime and Disorder Act 1998.
- 5.0 The Human Rights Act 1998 provides that persons are entitled to a fair hearing and this is recognised as a fundamental right particularly when consideration of disciplinary action by way of suspension, revocation or the non-renewal of a licence is under consideration. The legal advisor will always guide and alert the committee on any human rights matters.
- 5.1 The committee recognises however that a licence is NOT a personal piece of property for the purposes of the 1998 act but nevertheless will always strive to act in a fair and proportionate way.<sup>3</sup>
- 6.0 The Law Commission report and draft bill on taxi law reform has put forward proposals for the reform of the respective private hire and hackney carriage trade(s). The proposals have no lawful status at present and the committee is therefore at liberty to consider and implement the local policy framework on merit at this time.

A summary of the Commission’s work, for information purposes, is found at Chapter 17.



## About the City of Portsmouth

- 7.0 The City of Portsmouth is situated in the ceremonial county of Hampshire and is at the heart of Britain's southern coastline with long established direct road and rail links to London, the Midlands and Wales.
- 7.1 Portsmouth is undergoing great change with a £2billion investment plan underway. Elements such as the Tipner motorway junction and park and ride are already completed while there is more to come with new homes, businesses and jobs to come from the City Deal sites and the exciting regeneration plans for The Hard.
- 7.2 Portsmouth has a population of 200,000 in an area of only 4,196 hectares, which makes it one of the most densely occupied cities in the country outside London.
- 7.3 As the local highway authority the council is responsible for approximately 458km of vehicular carriageway in partnership with Colas and Ensign. Up to 90,000 inbound vehicle movements are recorded in any one 24 hour period and previous census data indicates 397 vehicles per 1000 people in Portsmouth.
- Traffic growth is predicted to generally rise between 19% and 55% by 2040.
- 7.4 A significant naval port for centuries, it is home to the world's oldest dry dock and to world famous ships including HMS Victory, HMS Warrior 1860 and the Mary Rose. Major investment around the harbour has transformed the "great waterfront city".
- Home to Ben Ainslie Racing and hosting the preliminary 2015 America's Cup racing series, the dynamic waterfront city still has an important role as a major dockyard and home base to the Royal Navy.
- 8.0 The city offers a vibrant mix of entertainment facilities for residents and visitors alike with two established theatres, restaurants, cinemas, concert venues and a variety of pubs and clubs. The late night economy is well served with venues in the north located at Port Solent, the city centre located near the Guildhall and in the south both at Gunwharf Quays and in Southsea.
- Major music festivals are held during the summer months attracting tens of thousands of revellers.



## The Hackney Carriage and Private Hire Trades

- 9.0 There are 5 licence types associated with the hackney carriage and private hire trades as follows:
- **Hackney carriage vehicle licence (with recognition of the proprietors)**
  - **Hackney carriage driver licence**
  - **Private hire operator licence**
  - **Private hire vehicle licence**
  - **Private hire driver licence**
- 9.1 A licensed hackney carriage can ply for hire and seek customers from within the city (from ranks, cruising and being flagged down) and can also do private hire work. The vehicle, dependent on size, cannot seat more than 8 passengers. The number of hackney carriages may be limited. The driver must be licensed.
- 9.2 Conversely, a private hire vehicle can only pick up pre-booked fares (up to 8 passengers) given, in advance, by a licensed private hire operator. The operator, vehicle and driver licences are issued by the same council. The committee cannot limit the number of private hire vehicle licences.
- Sometimes the public find it difficult to understand the legal difference between the respective trades and see all vehicles as “taxis” and a means of getting home after a night out. It is for this reason, and to support the differences between the trades, that local authorities including Portsmouth have policies designed to reflect the difference by way of vehicle colour, the use (or not) of TAXI roof signs and the use of locally prescribed liveries.
- 9.3 The committee can set the maximum fares that hackney carriages can charge but have no power to set private hire fares. It is for the individual operator and the market to determine.
- 9.4 The private hire operator is the “pinnacle” and all persons who, in the course of business, make provision for the invitation or acceptance of bookings for a private hire vehicle must be licensed. The operator is legally liable if unlicensed vehicles and drivers are used.<sup>4</sup>
- The operator can be a single person, a partnership or a company. The legal concept is the same however (and regardless of size) in that the operator must be a “fit and proper” person.
- Advanced modern technology utilising the latest forms of communication, GPS satellite tracking and mobile phone apps is now the norm and not the exception with operators finding more intuitive ways of encouraging customers to both book and continue to use their particular service provision. The 1976 act has been woefully left behind with the rapid advance of technology as operators can now command global audiences via the world wide web let alone those close to home. This makes the interpretation and enforcement of matters such as “cross border hirings and plying for hire” sometimes very challenging.
- Operators in Portsmouth (particularly of recent) have insisted that drivers wear appropriate branded clothing to promote both individual company and the general trade image. This is to be supported. Likewise, the airport and specialist companies provide a “chauffeur” style service with uniformed drivers and high end luxury vehicles being utilised.
- 9.5 Vehicle proprietors can supply either the one vehicle or hundreds of vehicles. For example, Scope Leasing, Outlook UK and FTVL are the recognised major vehicle providers to Aqua Cars Ltd.
- 9.6 Portsmouth has one of the largest combined hackney carriage and private hire fleets on the south coast with over 2600 driver and vehicle licences issued in 2015. The private hire vehicle fleet alone comprises over 1000 licensed vehicles.

9.7 There are 22 licensed operators working in the city and providing a 24/7 public service together with specialist businesses, executive contracts and/or airport contracts as follows:

- 1st Choice Cars
- Airports Direct Ltd
- Airport Transfers
- Airport Travel
- Apex Airport Cars
- Andicars Portsmouth
- Aqua Cars Ltd
- Beckett Chauffeur Services
- Blue Star
- Breeze Airport Cars
- Citywide Taxis
- Clarks Airport Transfers
- Dovecote Executive Travel Services
- Evocatus
- Kals Airways Cars
- Livingstone
- Marina Cars
- MCA Cars
- North End Cars
- PDS Autos
- Smith's for Airports
- Uber Britannia Ltd

9.8 The local scene is currently dominated by vehicles and drivers affiliated to the Aqua Cars Ltd radio circuit.

Equally, Citywide Taxis based at The Hard provide a comprehensive combined hackney carriage and private hire service within the city and these two operators remain "the big two" and duly licensed by the council.



9.9 So far as drivers are concerned, both hackney carriage and private hire drivers must be licensed and be "fit and proper" persons. The same administrative arrangements and processes apply to help determine the fitness of drivers.

The main difference is that private hire drivers are governed by conditions and hackney carriage drivers by byelaws.

## Policy Review

10.0 This licensing policy will be reviewed, if required, by the Licensing Committee every 3 years.

The Licensing Service will recognise and work to the core "objectives" (shown at the head of each relevant chapter) at all times and will constantly have regard to these basic principles.

The day to day upkeep of the policy will be undertaken by the Licensing Manager in consultation with the head of service. Accordingly, the Licensing Manager shall be authorised to make such minor typographical and other corrective administrative amendments to the policy document as required.



# Chapter 2: Summary of resolutions

(As approved by the Licensing Committee on 24 February 2016 under minute 9/2016)

## Chapter 3: Scheme of Delegation and Associated Responsibilities

1. That the scheme of delegation be noted and adopted by the Licensing Committee and officers alike.
2. That the Licensing Committee approve the scheme of delegation.
3. That the scheme of delegation be reviewed every 3 years.
4. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

## Chapter 4: Hackney Carriages – Demand and Quantity Control

The committee resolved:

1.
  - a) To retain the existing numeric limit (234 vehicles) on the number of hackney carriages licensed to ply for hire within the City of Portsmouth and to instruct the head of service to identify a suitably qualified independent transport consultant to carry out a survey on the demand or otherwise for the services of hackney carriages within Portsmouth;
  - b) That such fees and costs (including staff costs) arising from the survey to be determined by the committee and paid for by the hackney carriage trade by way of “one off” increase in the vehicle (proprietor) fees;
  - c) That the consultant to report back to the committee with recommended options

## Chapter 6: Trade Representatives and Consultation

1. That Licensing Sub Committee minute 10/1987 be noted and amended.
2. That the terms of reference, as previously approved by the committee, be varied so that reference to “meetings to be held six monthly” be substituted with “a meeting will be held once a year”.
3. That the Licensing Manager be authorised to appoint and remove trade representatives and that the change to the scheme of delegation be approved accordingly.

## Chapter 7: Duration of Licences

1. That the changes to the duration of driver and operator licences contained in the Deregulation Act 2015 be noted.
2. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals; in particular to provide for:
  - The introduction of a “rolling 3 year licence period” for hackney carriage and private hire drivers
  - The introduction of a “rolling 5 year licence period” for private hire operators
  - The introduction of DBS checks to coincide with the renewal dates for both driver and operator licences
3. That the head of service be given delegated authority to grant and renew driver licences (hackney carriage or private hire) for a period of less than 3 years but only after having regard to the circumstances of any one individual case
4. That the head of service bring forward proposals to amend/vary fees for driver, vehicle and operator licences commensurate with these proposals.

## Chapter 8: The Test of “Fit and Proper”

1. That the contents be noted and endorsed.
2. That the Licensing Committee approve the:
  - I. The policy statement and guidelines on the relevance of convictions at paragraphs **5.2** and **5.4** respectively
  - II. The requirement for applicants for both hackney carriage and private hire drivers to have held a full driving licence for 2 years at paragraph **7.2**
  - III. The change to the drug testing requirements at paragraphs **9.1** and **9.3**
  - IV. The requirement to adopt a minimum entry age limit to the trade of 21 at paragraph **10.2**
  - V. The need to establish mandatory NEW driver training (for both hackney carriage and private hire drivers) to comprise of:
    - English language competency and proficiency testing at the discretion of the head of service who will arrange such local training provision to commence by **1 July 2016**
    - Disability and wheelchair awareness training – mandatory
    - Driving assessment training – mandatory to include eco driving assessment
3. That the head of service:
  - a) be authorised to finalise, appoint and to provide details of available courses and appropriate training providers with a view to commencing mandatory training for new drivers by no later than **1 July 2016**.
  - b) be authorised to formally request and require existing hackney carriage and private hire drivers to complete such disability and wheelchair awareness training together with driving assessment training (as the case may be) following receipt of a complaint or by way of refresher training as appropriate (NOTE – all such training to be paid directly to the service provider by the applicant or licence holder)
4. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

## Chapter 10: Vehicle Specification Requirements

1. That:
  - a) the general vehicle specifications shown in paragraph **4.4** be approved and adopted.
  - b) the previous exemption from the standard vehicle specifications for “stretch limousines” be retained and that the head of service be authorised to consider such vehicle applications on individual merit and provided evidence of vehicle type approval is received.
2. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.
3. That the head of service be authorised, if required, to finalise a revised corporate livery and specification for both hackney carriages and private hire vehicles.

## Chapter 11: Vehicle Testing Requirements

1. That the PATN (Public Authority Transport Network – Technical Officer Group) best practice guidance for the inspection of hackney carriage and private hire vehicles and reproduced as an appendix be approved and adopted by the council for the purposes of complimenting and guiding the local vehicle testing and inspection criteria.
2. That the vehicle inspection and testing report shown at paragraph **4.7** be approved and adopted and the head of service (in consultation with the council's approved vehicle inspectors) be authorised to amend, vary, add or substitute to such local testing criteria as considered appropriate in the future.
3. That all vehicles presented for initial licensing (with the exception of temporary use vehicles which must provide a current MOT) be subject to inspection and test at Adams Morey, Burrfields Road, Portsmouth.
4.
  - i) **That all licensed vehicles over 3 years old be subject to a minimum of 2 vehicle inspections** at Adams Morey per licensing year – the second test to be approximately 6 months after the first test and to comprise a “mini” test for the following:
    - Lighting equipment
    - Exhaust, Fuel & Emissions
    - Vehicle body & structure
  - ii) Should the vehicle fail ANY of the mini test criteria – a full inspection and test will be subsequently booked and completed and at the expense of the vehicle proprietor.
5. That all licensed vehicles **over 5 years old** be subject to a minimum of **2 full** vehicle inspections at Adams Morey Portsmouth per licensing year.
6. Should the subsequent full test for any vehicle contain at least 3 failures and/or the imposition of a red traffic light marker – the vehicle proprietor will be reported to the committee for consideration of the suspension or revocation of the respective vehicle licence.<sup>5</sup>
7. That the requirement for proprietors to make application to “extend a vehicle licence” after 6 years of age be abolished and that committee minute 37/1991 be rescinded accordingly.
8. That the head of service be authorised to amend such vehicle conditions so far as this relates to:
  - The need to carry a serviceable fire extinguisher (not recommended as a mandatory requirement)<sup>6</sup>
9. That the head of service bring forward proposals in relation to any variations to the fees and charges associated with the vehicle inspection and testing regime and commensurate with these proposals.
10. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

## Chapter 12: Vehicle Age Limits

1. That minute 23/2006 be rescinded.
2. That, as a matter of local policy and condition for both hackney carriage and private hire vehicle licences; all private hire and hackney carriage vehicles presented for initial licensing shall be under **3 years of age** on first licensing and may remain licensed until **8 years of age** and provided the vehicle is mechanically fit and supported by an evidenced service history in line with the manufacturer's guidelines.
3. That any vehicle presented for a **temporary use** licence shall be under **1 year old** and provided the vehicle is mechanically fit and supported by an evidenced service history in line with the manufacturer's guidelines.
4. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

## Chapter 13: CCTV Provision in Vehicles

1. That the Licensing Committee endorse and approve the mandatory use of in car CCTV camera surveillance in both licensed hackney carriage and private hire vehicles (to include "temporary use" vehicles).
2. That any camera system installed in a licensed vehicle shall comply with the technical specifications referred to in **5.3**
3. That the committee approve the following new condition for both hackney carriage and private hire vehicle licences:

**The proprietor shall cause the vehicle to be fitted with a working and secure digital CCTV system (to capture both forward and rear facing colour images in high definition) and to retain such data for a period of 31 days.**

**The installed CCTV to comply with any code(s) of practice issued by the Information Commissioner, the requirements of the Data Protection Act 1988 and any technical specifications approved by the committee for the time being in force.**

**The proprietor shall, within 7 days, give written notice to the council of the installation of any CCTV system in the vehicle to include the make, model and serial number of the equipment so installed.**

**The proprietor shall check the system for malfunctions at least once a month and, if a repair or download is required, the vehicle may continue to be used provided any malfunction is rectified within 24 hours.**

**The proprietor shall, upon receiving any enquiry or request from an authorised officer or Police officer, provide details of any stored images or audio recordings as the case may be.**
4. That "airport only" vehicles and vehicles used mainly for executive account type work be exempted from the requirement to have CCTV installed and the head of service be given delegated authority to grant such exemptions to vehicle proprietors on individual merit.
5.
  - i) That all existing licensed hackney carriage and private hire vehicles as appropriate be fitted with compliant CCTV cameras by **30 September 2017**.
  - ii) That any newly licensed hackney carriage or private hire vehicle from 1 April 2016 onwards be required to be fitted with compliant CCTV cameras with immediate effect.
6. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.





## Chapter 14: Conditions of Licence and Byelaws

1. That the Licensing Committee approve and adopt the revised conditions of licence for hackney carriage vehicles, private hire operators, private hire vehicles and private hire drivers with immediate effect.
2. That the head of service be authorised to impose such further “special conditions” on individual licences, as considered appropriate and proportionate, and in respect of hackney carriage vehicles, private hire operators, private hire vehicles and private hire drivers. But this authority is NOT to be used to amend or vary any of the prescribed standard conditions.
3. That the conditions of licence for hackney carriages, private hire operators, private hire vehicles and private hire drivers be reviewed every 3 years.
4. That the use of the current adopted byelaws be endorsed and noted.

## Chapter 15: Licensing Enforcement

1. That the Licensing Committee note and endorse the contents.
2. That the Licensing Committee approve the changes to the local penalty points system and to come into force with immediate effect.
3. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

# Chapter 3: Scheme of delegation and associated responsibilities

## Objective:

“To note the delegated powers and responsibilities to both the Licensing Committee and head of service alike and to formally re-establish and record the “working” delegations for the supervision, control and administration of all hackney carriage and private hire matters”

## 1.0 Introduction & Legal Provisions

- 1.1 The current scheme of delegations and the resulting “power to licence” the various functions under the control of the Licensing Committee are contained within the council’s constitution made pursuant to the executive arrangements under the Local Government Act 2000.
- 1.2 The discharge of functions can be by:
  - The council
  - A committee
  - A sub committee
  - Officer(s)
  - Another local authority (by way of agency arrangement)
  - Jointly with another local authority
- 1.3 The council is a statutory body pursuant to the Local Government Act 1972. As such can undertake activities and functions for which there is an expressed statutory power or where empowered to do so by way of, for example, a “well-being” power such as prescribed by the Local Government Act 2000 – which provides for a council to carry out functions likely to achieve the promotion of economic, social or environmental well-being in the area.
- 1.4 The constitution provides for the Licensing Committee (currently comprising of 15 members) to carry out the functions relating to many licensing and registration matters including the hackney carriage and private hire undertaking.

Equally, there are other precise statutory provisions and guidance as, for example, matters relating to the administration of the Licensing Act 2003 are neatly summarised at section 7 of the act by the following:

“All matters relating to the discharge by a licensing authority of its licensing functions are, by virtue of this subsection, referred to its Licensing Committee and, accordingly, that committee must discharge those functions on behalf of the authority.”
- 1.5 For the purposes of hackney carriage and private hire matters the constitution specifies the functions shown below (and which are prescribed by the functions regulations)<sup>7</sup> to the Licensing Committee:
  - **Power to licence hackney carriages and private hire vehicles.**

**As to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. c. 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict. c. 55), and section 15 of the Transport Act 1985 (c. 67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57);**

**As to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.**
  - **Power to licence drivers of hackney carriages and private hire vehicles.**

**Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.**
  - **Power to licence operators of hackney carriages and private hire vehicles.**

**Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.**

- 1.6 The executive is prohibited from carrying out the above functions which are deemed to be “council” functions.<sup>8</sup> The executive cannot be responsible for the imposition of conditions or the imposition/consideration of any terms or restrictions subject to which the licence or permission is held. The executive cannot suspend or revoke licences nor take enforcement action to secure compliance.

Finally, the executive cannot set or regulate fees associated with these licensing functions.

There are however, two areas of taxi licensing where the Licensing Committee are not expressly empowered (by either the council’s constitution or the function regulations) to make binding decisions without referral to the cabinet or appropriate cabinet member. These are the fixing of hackney carriage fares and the appointment of hackney carriage stands pursuant to sections 63 and 65 of the 1976 act. They are “executive” and not “council” functions.<sup>9</sup>

In practical terms, the Licensing Committee has historically heard from established trade representatives about matters relating to taxi stands and officers have prepared appropriate Members Information Service reports for consideration - with the highway authority and/or cabinet member for Traffic & Transportation being subsequently invited to approve (or otherwise) the appropriate traffic regulation orders. There is no reason why the Licensing Committee cannot continue to act as a conduit for considering and receiving trade requests for the provision of taxi stands (and their subsequent variation or revocation) but with any final report and decisions being made by the appropriate cabinet member or officers of the highway authority acting under existing delegated authority.

In all cases involving the appointment, variation or revocation of taxi stands, it is important that the prescribed statutory requirements contained in the 1976 act are complied with.

The fixing of taxi fares has, however, been historically approved by the Licensing Committee and/or via the Members Information Service. It is therefore recommended, for future considerations, that the Licensing Committee continue to receive initial requests from the trade and other interested parties about future taxi fare rise proposals and submit a short briefing report and any recommendation(s) from the committee to the cabinet for final approval.

- 1.7 The constitution currently provides for the head of service to:

**“Approve registrations or to issue licences, certificates in respect of:**

**Hackney carriages (including the power to grant but not to refuse the allocation of vacant plates).**

**Hackney carriage proprietors, drivers, private hire operators, vehicles and drivers”**

There is a corresponding power to the head of service to suspend both hackney carriage and private hire driver licences pursuant to section 61 of the Local Government (Miscellaneous Provisions) 1976.<sup>10</sup>

- 1.8 The scheme of delegation from Full Council to the Licensing Committee (and subsequently to officers) ensures that there is no ambiguity and a clear and transparent decision making process is in place.<sup>11</sup>

This is important as it permits applicants, licence holders and their respective legal advisors to know that decisions of the committee or officers are decisions of the council and thus are binding without any need for referral or subject to any “call in” procedure to another decision making body.

Accordingly, any subsequent appeal process against a decision of the committee or an officer can be instigated quickly following receipt of the formal decision notice.

- 1.9 The widely accepted working model for any licensing provision is for the “day to day” management of licensing matters (together with routine and non-contentious applications) being dealt with by officers BUT with matters in conflict with policy or by their unusual nature or public interest together with contested applications being determined by the committee as appropriate and in accordance with any locally devolved delegation powers.
- 2.0 The accepted principle therefore is for officers to generally grant but not to refuse licences<sup>12</sup> – with all contested applications (or those with a public interest or where representations have been made) to be put before the Licensing Committee or a sub-committee for final determination.

This accords with the well-established principles of administrative law relating to the rules of natural justice and allows for persons to generally present their case, in person, and to be heard before members make a final determination.

- 3.0 Historically, the Licensing Service was, for many years, aligned with the former Director of Corporate Services/City Solicitor but more recently became a function under the control of the Head of Health, Safety & Licensing.

That has changed with the service (from 2015) now reporting to the Director of Culture and City Development and the team have now re-located to a new purpose built lower ground floor office.

- 3.1 As a result of the recent changes (and having regard to the fact that the committee has asked for a total review of the taxi and private hire licensing undertaking), the Licensing Manager has asked for a formal written scheme of those existing delegated functions (to reflect on the particular work of the committee and reporting officers) to be endorsed and approved by the committee.

This will enable applicants, licence holders and their legal representatives to be absolutely clear about the responsibilities given to members and officers alike.

- 4.0 Accordingly, the Licensing Committee is asked to approve the scheme of delegation as shown on pages 17–20.



## Scheme Of Delegation

Matter to be dealt with	Full Licensing Committee	Sub-Committee	Officers
<p>1 Determination of all policy matters relating to the hackney carriage and private hire undertaking</p> <p>To include determining the number of hackney carriages licensed to ply for hire within the city</p> <p>AND</p> <p>If mindful of retaining a fixed number of hackney carriages to appoint appropriate consultants' to carry out any future "unmet demand" surveys</p>	In all cases <sup>13</sup>		
<p>2 Determination and approval of all standard conditions for operators, vehicles and drivers to include any variations and amendments.</p> <p>Determination of "numeric thresholds" against vehicle proprietors, operators and drivers for the purposes of a sub-committee appearance resulting from the penalty points scheme and to vary, substitute or modify the penalty points scheme</p>	In all cases		
<p>3 Determination and approval of hackney carriage byelaws to include any proposed variations and amendments for consideration by the Secretary of State</p>	In all cases		
<p>4 Determination of all fees* and charges in respect of the private hire and hackney carriage undertaking</p> <p>*but for the head of service to authorise such refunds or amendments to respective operator, vehicle or driver fees as appropriate.</p>	In all cases		
<p>5 Grant or renewal of hackney carriage vehicle licence to include a temporary use licence</p>			In all cases
<p>6 Refusal to grant, renew, suspend* or revoke a hackney carriage vehicle licence including a temporary vehicle licence</p> <p>*under section 60 of the 1976 act</p>		In all cases	
<p>7 Grant or renewal of hackney carriage driver licence</p>			In all cases
<p>8 Refusal to grant, renew or to revoke* a hackney carriage driver licence</p> <p>*but see 24 post</p>		In all cases	
<p>9 Grant or renewal of private hire operator licence</p>			In all cases
<p>10 Refusal to grant, renew, suspend or revoke a private hire operator licence</p>		In all cases	
<p>11 Grant or renewal of private hire vehicle licence to include a temporary use licence</p>			In all cases

Matter to be dealt with	Full Licensing Committee	Sub-Committee	Officers
12 Refusal to grant, renew, suspend* or revoke a private hire vehicle licence including a temporary vehicle licence *under section 60 of the 1976 act		In all cases	
13 Grant or renewal of private hire driver licence			In all cases
14 Refusal to grant, renew or to revoke* a private hire driver licence *but see 24 below		In all cases	
15 Grant or refusal/revocation of a notice of exemption for hackney carriage or private hire driver from carrying guide, hearing or assistance dogs on medical grounds – Disability Discrimination Act 1995 as amended			In all cases and subject to satisfactory medical enquiry and reports being received
16 Determination of whether a vehicle is deemed “silver” or not and to refuse to grant or renew or to suspend a respective hackney carriage or private hire vehicle licence on these grounds accordingly			In all cases
17 Determination of passenger seating capacity for a hackney carriage or private hire vehicle			In all cases
18 Design of private hire operator paper licences			In all cases
19 Design of hackney carriage and private hire vehicle paper licences, windscreen licence discs, licence plates and all internal notices			In all cases
20 Design of hackney carriage and private hire driver paper licences and their respective badges			In all cases
21 Design of approved internal and external corporate livery for both hackney carriage and private hire vehicles and to grant or refuse permission for any other external or internal sign(s)			In all cases but in consultation with corporate communications
22 Design and content of all hackney carriage and private hire application forms to include any other required form(s) or notices commensurate with the provisions of the 1847 and 1976 acts. ‘Content’ includes the receipt of any further information that the Licensing Manager considers appropriate in order to determine whether a person is “fit and proper”.			In all cases
23 Suspension* of hackney carriage or private hire vehicle licences pursuant to section 68 of the 1976 act *with the sub-committee considering vehicle suspensions pursuant to section 60 of the 1976 act			In all cases

Matter to be dealt with	Full Licensing Committee	Sub-Committee	Officers
24 Suspension of hackney carriage or private hire driver licences pursuant to section 61 of the 1976 act and/or to revoke, with immediate effect, an existing hackney carriage or private hire driver licence having regard to the "interests of public safety" <sup>14</sup>			In all cases
25 Determination of application for exemption from the requirements to have CCTV in a private hire vehicle – NO EXEMPTION FOR HACKNEY CARRIAGES			In all cases
26 Determination of application for plate and/or livery exemption for private hire vehicles – NO EXEMPTION FOR HACKNEY CARRIAGES			In all cases
27 The grant or renewal, after consideration on individual merit, of a hackney carriage or private hire driver licence for a limited duration		If necessary	In all cases
28 The imposition of special conditions for private hire operator, private hire vehicle, hackney carriage vehicle or private hire driver licences as appropriate			In all cases but not to amend the standard conditions for the time being in force
29 The refusal to grant or renew a hackney carriage or private hire driver licence in certain EXCEPTIONAL circumstances			In all cases BUT only by reason of: <ol style="list-style-type: none"> <li>1. Evidenced repeated knowledge test failure</li> <li>2. Evidenced poor communication skills</li> <li>3. Evidenced medical concerns<sup>15</sup></li> <li>4. Failure of prescribed driving and or other competency tests as prescribed</li> </ol>

Matter to be dealt with	Full Licensing Committee	Sub-Committee	Officers
30 Fixing of hackney carriage fares <sup>16</sup>	To receive trade proposals and to make such recommendations to the cabinet as appropriate		
31 Appointment of hackney stands (to include proposed variations and revocations to such stands) <sup>17</sup>	To receive trade proposals and to make such recommendations to the cabinet member for Traffic & Transportation as appropriate		
32 To determine and appoint hackney carriage and private hire trade representatives and to rescind any appointment if appropriate <sup>18</sup>			In all cases
33 Any changes to the committee's prescribed vehicle mechanical and cosmetic inspection testing report for hackney carriage and private hire vehicles <sup>19</sup>			In all cases and after discussion with the council's appointed vehicle testing contractor
34 Penalty points scheme – power to issue points		If necessary	In all cases
35 Consideration of any disciplinary action against licence holders for reaching the appropriate penalty points "thresholds"		In all cases	
36 To instruct the City Solicitor to commence proceedings <sup>20</sup> for any offences and/or to offer a simple caution or attendance by an applicant or licence holder at any training course(s)			In all cases

## Resolved

1. That the scheme of delegation as specified in **4.0** above be noted and adopted by the Licensing Committee and officers alike.
2. That the Licensing Committee approve the scheme of delegation.
3. That the scheme of delegations be reviewed every 3 years.
4. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.



# Chapter 4: Hackney carriages – demand and quantity control

## Objective

“To determine the number of hackney carriages licensed to stand and ply for hire within the City of Portsmouth together with such quantity and/or quality controls as may be appropriate”

## 1.0 Introduction & Legal Provisions

- 1.1 The committee has previously expressed concern about hackney carriage plates (which remain the property of the council) changing hands for tens of thousands of pounds.

The trade say they are entitled to sell and pass on the “goodwill and business” associated with the previous long term use of a hackney carriage plate and that the transfer of a proprietorship interest in a licensed vehicle is lawful.<sup>21</sup> They warn against the consequences of an “open door” policy of de-restricting taxi vehicle numbers with a resultant loss in business.

On the other hand, issuing further licences could allow new blood to enter the trade and thus increase freedom of choice for the travelling public. Both the Department for Transport “best practice” guidance and the report into the regulation of the UK taxi industry by the Office of Fair Trading support this view.

Any appeal against the refusal to grant a hackney carriage licence is direct to the Crown Court.

- 1.2 This area of law has received much judicial scrutiny. The control (or otherwise) of hackney carriage numbers must be based on a local determination of local issues and focusing on local evidence of unmet demand for the distinct services of hackney carriages.

“Unmet demand” evidence should realistically be based on empirical independent survey data and not just on the anecdotal views of local trade representatives (or drivers) although the committee should give due regard to their representations and work related experiences.

In this context the committee are currently in a potentially weak bargaining position in justifying the refusal of any new hackney carriage licences as the last recorded survey to assess the demand for hackney carriages within the city was undertaken in 2006 and is now 9 years old.<sup>22</sup>

- 1.3 The committee should consider the detailed Department for Transport best practice guidance<sup>23</sup> reproduced at paragraphs 3.0–3.7 together with the report from the Office of Fair Trading<sup>24</sup>.

Equally, the extracts shown in paragraphs 1.4–1.5 (as amended) are taken from the “Options for Change” review considered by the committee in 2001 and remain as pertinent now as they did 14 years ago.

- 1.4 The Town Police Clauses Act of 1847 is still the primary legislation controlling hackney carriage vehicles, proprietors and their drivers. By virtue of Section 37, the committee previously had an absolute unfettered discretion to determine the number of hackney carriages that could be available at any one time to stand or ply for hire within the city of Portsmouth.

Without exception, such restricted practices of quantity control introduced a “monopoly” scenario with plates only being made available by a culture of “buying and selling”. Inevitably, waiting lists from applicants desirous of obtaining a coveted hackney carriage plate were commonplace with the committee receiving multiple enquiries from potentially suitable applicants in the rare event of a plate becoming available. Waiting lists and registers were kept for this purpose but quickly became strained and out of date due to persons moving away, family arguments over proprietorship details becoming apparent and ultimately with persons on the list passing away. The lists became almost impossible to manage and, as a consequence, were discontinued and destroyed in the early 1980s.

Strict quantity control measures on vehicle numbers also attracted hard and inflexible local conditions of licence and policy directives requiring, for example, full time driving, owners having no other work interests and a requirement for proprietors to personally drive their own vehicles.

Anecdotal evidence of proprietors “disguising” the truthfulness of their interest (or otherwise) in a licensed vehicle were apparent – particularly where a “one person one plate” policy was in force.

- 1.5 However, Section 16 of the Transport Act 1985 qualified the absolute discretion to limit the number of taxi licences by requiring the local authority to be satisfied “... that there is no significant unmet demand for taxi services ...” within the area. The burden shifted to the committee to be satisfied as to the demand or otherwise rather than the applicant to show evidence of demand when submitting an application.

This does not mean that a council MUST limit numbers if satisfied that demand is met but acts to forbid, by statutory instruction, local authorities from restricting vehicle numbers if not satisfied that there is no significant demand for the services of taxis.



Ironically, Part II of the Local Government (Miscellaneous) Provisions Act 1976 (the licensing code for private hire vehicles) specifically prohibits the local authority from controlling private hire vehicle numbers.

This change in the law had immediate and significant implications to local authorities and hackney carriage plate holders alike. The Department of Transport issued advice (Circular 3/85) to local authorities on the grant of taxi licences summarised in the following terms:–

*“District councils may wish to review their policy on the control of taxi numbers in the light of this new section. A limitation of taxi numbers can have many undesirable effects – an insufficiency of taxis either generally or at particular times or in particular places, insufficient competition between the providers of taxi service, detrimental customer satisfaction and prices for “transfer” of taxi licences from one person to another which may imply an artificial restriction of supply.”*

The circular gave a clear indication that district councils should not rely on the assertion of local taxi licence holders that demand was already catered for as they had evidence only of demand which they satisfied. The circular stated that it was for the committee to examine the evidence of unmet demand using local knowledge and circumstances. Councils were encouraged to consider whether persons had given up trying to use taxis because of an inadequacy of service or whether there would be a latent demand in parts of the local authority that had not been adequately served. In other words, those that might wish to use taxis may not have demonstrated their demand since there had been no opportunity of having it satisfied.

Equally, the circular advised that general overcrowding at designated taxi stands was not in itself evidence of unmet demand but rather that the provision of taxi stands was too limited.

The circular accepted that an immediate policy of “deregulation” could lead to an abandonment of quality control with an initial oversupply of taxis before market forces could bring about an appropriate equilibrium.

As a consequence there have been a number of court decisions on the question of demand for the services of hackney carriages:–

*“If demand for the services of hackney carriages is met a local authority can still issue licences. The licensing authority can adopt a reasonably broad approach in asking itself whether or not it is satisfied that there is no significant demand for the services of hackney carriages within its area to which the licence would apply which is unmet”. “The authority in my view is entitled to consider the situation in relation to the area as a whole and is also entitled to consider the position from a temporal point of view as a whole”. “It does not have to condescend into detailed consideration as to what may be the position on every limited area of the authority in relation to a particular time of the day”* **R -v- Great Yarmouth Borough Council ex parte Sawyer 1988.**

*“If an assessment of the number of hackney carriages to meet a significant unmet demand has been approved, and the committee grant up to that number, it may refuse further applications provided it is satisfied afresh as to the absence of any further demand”* **Ghafoor -v- Wakefield District Council 1990.**

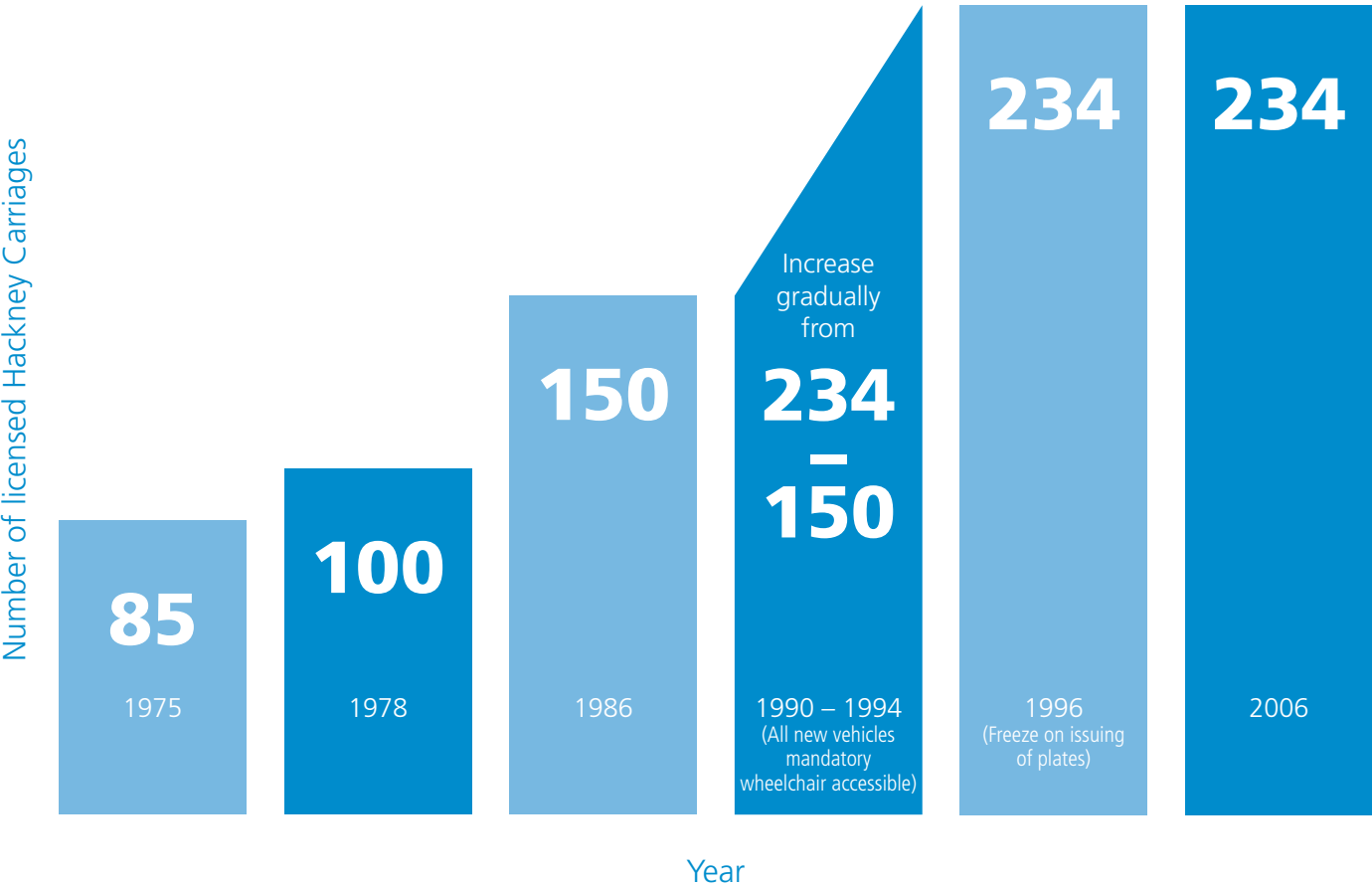
*“A local authority does not have to show that demand is satisfied at all times and may, for example, conclude there is no significant unmet demand where there are sufficient taxis – except for periods during which existing drivers are reluctant to work anti-social hours”* **R -v- Brighton Borough Council ex parte Bunch 1989.**

1.6 Case law has also established the following general principles on the question of taxi deregulation or otherwise:

- Consultation should and must take place
- If unmet demand exists then licences, on application, must be granted
- Commercial considerations are not, in themselves and in isolation, relevant grounds
- If unmet demand is met licences can still be issued subject to any decision(s) being reasonable
- Additional licences could be issued in batches and subject to such local criteria as determined (points system, lottery etc).

2.0 Portsmouth Policy on Hackney Carriage Vehicle Numbers and Key Dates

Hackney Carriage numbers in Portsmouth





Date	Number of Taxi Plates & Comments
Prior to 1975	85
1975–1978	100 (increase in 15 plates over the 3 year period 1975 to 1978)
1986	Further 50 hackney carriage plates issued to bring the number up to 150
April/May 1987	Survey of unmet demand carried out by Lewis Corner of Sussex University known as the “Corner” survey. Concluded that there was no evidence of significant unmet demand but also recommended issue of new licences based on “quality control”. 150 vehicle licence limit however, still maintained.
October 1988	Portsmouth City Council -v- Brown. Crown Court appeal against decision to refuse to grant hackney carriage vehicle licence. Court ruled that “services of hackney carriages” meant only the distinct services that a hackney carriage could provide i.e. standing and plying for hire. Evidence, in this case, that the use of a London style cab (wheelchair accessible) to facilitate “contract” bookings for persons with mobility problems was NOT deemed relevant for the distinct and unique service of a hackney carriage plying for trade from the street. Appeal dismissed and 150 vehicle limit still maintained.
January 1990	150 vehicle licence limit removed completely by the committee. “Quality control” policies introduced to permit the grant of new taxi licences to vehicles meeting the then Metropolitan Police Public Carriage Office specification. Vehicles to be wheelchair accessible and not over 4 years old on first licensing. Previous policy of “one person one plate” rescinded. Committee also clearly recognised that a “mixed fleet” of saloon style cars and purpose built wheelchair accessible vehicles was desired and would offer the public a wide and varied choice of vehicle types.  Vehicle fleet gradually increases from 150 to 234 vehicles.
June 1996	Committee resolves to defer issue of new hackney carriage vehicle licences after considering representations from interested parties (Minutes 36 and 47 of 1996 refer) and further resolved to commission a survey.
October 1997	Committee consider survey report from MCL consultants. Survey proper carried out in May/June 1997. Agree to refuse the grant of further hackney carriage licences (Minute 32/97 refers).
August 2001	“Options for Change” review of the hackney carriage and private hire undertaking. The committee agree to retain the 234 numerical limit subject to further review in 2002 (minute 37/2001 refers).
November 2003	Office of Fair Trading report published – recommends quantity regulation should be removed.
June 2004	Department of Transport write to all local authorities with restricted number policies asking for a review of policy and to publish review outcome by 31 March 2005.
January 2005	Application for grant of a hackney carriage licence by Mr H deferred by the Licensing Committee pending consideration of a further survey. Minute 8/2005 refers.
March 2005	Committee resolve to commission a survey into the demand for the services of hackney carriages and to increase the hackney carriage fees accordingly to pay for the survey. Minute 15/2005 refers.
August 2006	Transport Planning International Ltd conduct unmet demand survey in Portsmouth.
October 2006	Licensing Committee receive report of TPI Ltd who concluded that there is no significant unmet demand for hackney carriages in Portsmouth at this time. Consultant’s also say the committee has discretion to keep the limit at 234 vehicles, issue a limited further number as though fit or to remove the numeric limit.  <b>Committee resolve to retain the existing numeric limit of 234 vehicles.</b> Minute 23/2006 refers.

## 3.0 Best Practice Guidance

- 3.1 The best practice guidance on quantity restriction for taxi licences is shown in paragraphs 3.2–3.8 below<sup>25</sup>:
- 3.2 *The present legal provision on quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis ‘if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet’.*
- 3.3 *Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.*
- 3.4 *Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of the travelling public – that is to say, the people who use taxi services. What benefits or disadvantages arise for them as a result of the continuation of controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?*
- 3.5 *In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions. This seems very hard to justify.*
- 3.6 *If a local authority does nonetheless take the view that a quantity restriction can be justified in principle, there remains the question of the level at which it should be set, bearing in mind the need to demonstrate that there is no significant unmet demand. This issue is usually addressed by means of a survey; it will be necessary for the local licensing authority to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court. An interval of three years is commonly regarded as the maximum reasonable period between surveys.*
- 3.7 *As to the conduct of the survey, the Department’s letter of 16 June 2004 set out a range of considerations. But key points are:*
- the length of time that would-be customers have to wait at ranks.*** However, this alone is an inadequate indicator of demand; also taken into account should be...
- waiting times for street hailings and for telephone bookings.*** But waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand. It is also desirable to address...
- latent demand,*** for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people who do not use taxis, perhaps using stated preference survey techniques.
- peaked demand.*** It is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not ‘significant’ for the purpose of the Transport Act 1985. The Department does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, it can be strongly argued that unmet demand at these times should not be ignored. Local authorities might wish to consider when the peaks occur and who is being disadvantaged through restrictions on provision of taxi services.

**consultation.** *As well as statistical surveys, assessment of quantity restrictions should include consultation with all those concerned, including user groups (which should include groups representing people with disabilities, and people such as students or women), the police, hoteliers, operators of pubs and clubs and visitor attractions, and providers of other transport modes (such as train operators, who want taxis available to take passengers to and from stations);*

**publication.** *All the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be set out.*

**financing of surveys.** *It is not good practice for surveys to be paid for by the local taxi trade (except through general revenues from licence fees). To do so can call in question the impartiality and objectivity of the survey process.*

- 3.8 *Quite apart from the requirement of the 1985 Act, the Department's letter of 16 June 2004 asked all local licensing authorities that operate quantity restrictions to review their policy and justify it publicly by 31 March 2005 and at least every three years thereafter. The Department also expects the justification for any policy of quantity restrictions to be included in the Local Transport Plan process. A recommended list of questions for local authorities to address when considering quantity controls was attached to the Department's letter. (The questions are listed in Annex A to this Guidance.)*

4.0 The Department of Transport letter dated 16 June 2004 requested that councils review local policy to restrict hackney carriage vehicle licences and to make that review public. The letter stated:

- In the Government Action Plan for Taxis and Private Hire Vehicles, restrictions should only be retained where there is shown to be a clear benefit for the consumer;
- Councils should publicly justify their reasons for the retention of restrictions and how decisions on numbers have been reached; and
- That unless a specific case can be made, it is not in the interests of consumers for market entry to be refused to those who meet the application criteria.
- However, local authorities remain best placed to determine local transport needs and to make the decisions about them in the light of local circumstances.
- If Councils retain quantity restrictions then a review should be undertaken of such policies on a triennial basis.



## 5.0 The Way Ahead

- 5.1 If the committee are of a view, after consultation with the trade and all interested parties, that they DO NOT wish to retain the fixed limit on the number of hackney carriages plying for hire within the city – then members can make this decision immediately and without the need for further survey(s).

There would be an absolute need however to impose QUALITY restrictions on the grant of any new hackney carriage licences together with a demonstrable need for any applicant to produce evidence of a vehicle to be licensed.<sup>26</sup>

- 5.2 The recommended quality control measures are likely to be similar to those previously imposed after the previous de-regulation in 1990 and include:

- The provision of a suitably constructed or adapted fully wheelchair accessible vehicle having a minimum nearside loading access for wheelchair users and to meet the EC whole vehicle type approval standards for vehicles in the M1 category or to be VCA compliant and approved
- The proprietor (or company) making the application to either live within Portsmouth or within 5 miles of the boundary or have their office within Portsmouth
- The vehicle to meet with any local technical specifications and/or vehicle conditions of licence for the time being in force

- 5.3 The introduction of further hackney carriage licences based on the above criteria would NOT see an immediate and dramatic increase in vehicle numbers. It is likely that some private hire proprietors would apply for a hackney carriage licence and thus reduce the existing private hire fleet.

Nevertheless, it is accepted that the taxi fleet would increase. The comparative increase in vehicle numbers between 1990 and 1996 represented 14 per year until the limit was “capped” again in 1996.

- 5.4 The advantages of removing numeric restrictions would allow the market to operate freely with no barriers and promotes:

- Benefits to customers
- Reducing waiting times
- Creating more consumer choice
- Stops a culture of creating a premium for taxi licences with a resultant “buying and selling” scenario



5.5 The disadvantages are that the existing trade may suffer from a gradual over supply with a consequence of taxis “chasing fewer and fewer jobs” leading to friction and disputes at the ranks.

5.6 There would be a need to justify any locally set quantity control policies by the commission of independent surveys say every 3 years (recommended best practice) and at an on-going cost to the existing taxi trade. The survey fees should not be met by the tax payer and best guess estimates for a new survey is a fee of between £25000 and £35000 triennially.

5.7 The question of restricting (or otherwise) the number of hackney carriages in the city is likely to promote passionate and compelling arguments for and against.

The existing hackney carriage trade say that the work has “dried up” and there has been no fare rise application for 5 years. They also say that persons have not come forward to apply for a hackney carriage licence since 2005. This could however be because person(s) are aware that the committee is not issuing hackney carriage vehicle licences and have been reluctant to come forward accordingly.

5.8 Some drivers have asked about the issue of further plates and suggested that market forces should prevail with a corresponding culture of expansion of the taxi fleet subject to strict quality controls. Other persons have reported to the committee that the “buying and selling of plates” is wrong and should be tackled. <sup>27</sup> This is the shared view of your reporting staff.

The committee is in breach of the recommended good practice guidance and cannot, at this time, just rely on the anecdotal say so of the taxi trade about demand or otherwise without commissioning a further survey on demand.

This would have an immediate impact on the licensing fees levied against hackney carriage proprietors who would need to pay, on average, an extra £128 each to finance a survey coming in at a mean average cost of £30000.

## 6.0 Conclusion

6.1 The committee cannot continue in supporting a restricted numbers policy without making some fundamental decisions.

There are no formal recommendations put forward as this is a matter for determination after having considered all the available local evidence and after taking legal advice.

**The committee had previously noted the views expressed at paragraph 5.8. The committee were mindful of considering the deregulation of the Hackney carriage fleet and invited the trade representatives and any other interested parties to give reasons why the status quo should remain.**

After careful consideration, the committee resolved:

1. a) To retain the existing numeric limit (234 vehicles) on the number of hackney carriages licensed to ply for hire within the City of Portsmouth and to instruct the head of service to identify a suitably qualified independent transport consultant to carry out a survey on the demand or otherwise for the services of hackney carriages within Portsmouth;
- b) That such fees and costs (including staff costs) arising from the survey to be determined by the committee and paid for by the hackney carriage trade by way of “one off” increase in the vehicle (proprietor) fees;
- c) That the consultant to report back to the committee with recommended options

# Chapter 5: Hackney carriage stands

## Objective

“To review the provision of hackney carriage stands and to bring any future proposals to the attention of the highway authority and appropriate cabinet member as quickly as possible”

## 1.0 The Legal Provisions

- 1.1 Section 63 of the 1976 act permits the council to appoint, vary or to revoke hackney carriage stands situated either on the public highway or, with the consent and permission of the landowner, on private land – including railway premises.
- 1.2 Stands may be appointed for all or part of the day and the number of carriages permitted may vary from stand to stand.
- 1.3 Before appointing a stand formal notice must be given to the Chief Officer of Police together with a public notice giving persons 28 days to make representations.
- 1.4 A stand cannot be appointed so as to prevent access to public service vehicle pick up points, to impede access to a station or depot or without the consent of the highway authority.
- 1.5 The power to “appoint” stands also includes the power to vary and/or revoke a stand.



## 2.0 Overview

- 2.1 The Licensing Committee is not empowered to appoint, vary or to revoke hackney carriage stands and cannot make binding decisions without referral to the appropriate cabinet member for final determination. This is because the appointment of stands is an executive, not a council function.

The chapter on “scheme of delegation and associated responsibilities” provides more information on the delegated powers and responsibilities.

- 2.2 The appointment (or otherwise) of taxi stands has historically been after receipt of a trade request and following the emergence of an area that has contributed to the late night economy or where a large commercial pub/club has become popular.

**It will not be possible to appoint a stand in every requested area or location and experience has shown that areas of popularity within the city do change with a resultant loss of business at an appointed stand – which falls into subsequent disuse.**

- 2.3 Conversely, there are other areas where the provision of taxi stand space is limited due to other road traffic usage (like Albert Road by the Kings Theatre) and evidence of “over ranking” in this very busy area takes place.

“Unofficial” stands are also used – Goldsmith Avenue on football match days and Park Road at night to service the Gunwharf Quays stand. Licensing staff do, on occasion, enforce the byelaws and the Police have issued fixed penalty tickets to drivers for obstruction offences. It is difficult however to provide staff resources to constantly tackle evidence of over ranking which is not seen as a high priority enforcement issue.

- 3.0 The council has arranged, via partnership procedures with Colas, for the trade representatives to receive immediate notification of any planned/ scheduled road works that might impact on the ability to use a designated taxi stand.
- 3.1 The information on the currently appointed stands is shown via the link at the end of this paragraph but is not up to date. The changes resulting from the Ferry Port, Palmerston Road and Hard Interchange improvements have yet to



be incorporated and some other stands have now been revoked due to historical non-use.

[www.portsmouth.gov.uk/ext/business/licensing/taxi-licensing-general-information-and-fees.aspx](http://www.portsmouth.gov.uk/ext/business/licensing/taxi-licensing-general-information-and-fees.aspx)

- 4.0 The conduct of drivers whilst waiting at stands is regulated by the byelaws. In particular drivers must face their vehicles in the same direction, move the vehicle forward when other vehicles move and stay with the vehicle when “first turn”.

There is nothing at law to prevent potential passengers from negotiating with drivers “down the line” to seek the best fare but practice and etiquette generally recommends that drivers refer passengers to the first available vehicle for hire.

- 4.1 It is an offence for a person to cause or permit any other vehicle to wait on any stand. In practice, the council’s civil enforcement officers are the first line of defence in ensuring that persons comply although licensing staff do react to trade complaints as and when – particularly when “works” or other utility vehicles are blocking access to a stand.
- 5.0 The use of “temporary” stands is not legally recognised in the 1847 or 1976 acts. A stand is either appointed and in use or is not.
- 5.1 However, this is of some concern to the taxi trade representatives who say that they are left in a weak bargaining position and not often given early notice or consulted when major city events are being planned or taking place. They point to the America’s Cup and Victorious events together with smaller (but still high profile) events such as the Southsea Food Festival.

Likewise, the redevelopment of Palmerston Road, The Ferry Port and The Hard Interchange has led to apparent trade frustration that their needs were not considered at an early stage. This concern also echoes the private hire trade who have a legitimate and rightful expectation to have designated “pick up and drop off points” for pre-booked customers attending and leaving large scale events.

- 5.2 There is some merit in the respective trade concerns and, as a result, the cabinet member for Traffic and Transportation has introduced the Transport Liaison Group with attendees drawn from the hackney carriage and private hire trades.

- 5.3 The trade say that the process of appointing stands can be very slow and cite the possibility of relocating the Liquid & Envy stand from its present position in Stanhope Road with the matter still outstanding after 2 years.

It will not be possible for the council to accede to every trade request relating to taxi stand provision within the city but the adoption of the following good practice administrative principles will assist in the consideration of all future taxi stand matters:

- The trade representatives to continue to receive updates from Colas about road works and closures affecting taxi stands in the city
- The City Centre Management and Events teams as appropriate shall liaise with appointed hackney carriage and private hire trade representatives prior to any events taking place and shall positively consider the use of temporary taxi stands (with dolly stops) together with private hire drop off/pick up points
- The trade representatives to be on the circulation list for any SAG meetings and so far as this relates to the planning of major events such as Mutiny in the Park, Victorious and the America’s Cup
- Any formal trade request for a new or varied taxi stand to be submitted, in writing, in the first instance to the Licensing Manager who shall discuss the matter with the highway authority and report back to the trade within 14 working days with an initial determination
- If refused, the trade to receive a written response, with reasons, from the Licensing Manager on behalf of the council
- If agreed in principle, the Licensing Manager and officers of the highway authority to prepare a report and recommendation to the appropriate cabinet member within 28 working days of the initial agreement
- Once the matter has been referred to (and approved by) the appropriate cabinet member – the Licensing Manager and/or highway authority to give formal public notice with an intention, subject to no objections being received, to have the stand in operation or varied within 4 months

# Chapter 6: Trade representatives and consultation

## 1.0 Introduction

- 1.1 Any person, partnership, trade association or company involved in the hackney carriage or private hire business will have a legitimate expectation of being consulted about matters of policy, conditions of licence and other administrative or supervisory functions that may or will have a future impact on their working environment.
- 1.2 This does not mean that the committee must condescend into giving notice about every change or proposal but, in the interests of good administrative law<sup>28</sup> and the rules of natural justice, the committee will invite and hear the representations of those affected by proposal(s) before making any final decision(s).
- 1.3 Where the law requires the committee (or officers) to formally consult and to give proper public notice – this will be done together with notices displayed in the Licensing Service public area and given to recognised trade representatives for distribution.



## 2.0 The Consultative Group

- 2.0 The committee has recognised the need to consult with trade representatives and, as a result, formally approved the introduction of a consultative group in 1987 – minute 10/1987 refers.  
  
In particular, the committee, at that time, instructed officers to request the following information from those persons apparently representing the respective trades:
  - Does the organisation have a formal constitution governing such matters as the election of a committee and can you provide a copy?
  - What arrangements are made to inform members of current items of interest and to obtain their views?
  - Who does your organisation represent and can you supply a list of members?
- 2.1 As a result, the following trade representatives were appointed:
  - Mr A Brodie and E Baldwin representing the Portsmouth Hackney Carriage Owners Association
  - Mr C Dixon representing Citywide Taxis
  - Mr C Holman representing Streamline Taxis Ltd
  - Mr B Tondeur representing the Independent Hackney Carriage Proprietors
  - Mr W Brown and Mr R Tanner representing the Portsmouth Private Hire Association
  - Mr L Firth representing other private hire operators

- 2.2 The committee resolved to recognise the above trade representatives (2 persons on behalf of each organisation to attend meetings) and to meet twice a year to discuss items of interest.
- 2.3 The committee retained a final veto power on the appointment and recognition of either organisations or persons representing the respective trades.

### 3.0 The Present Situation

- 3.1 The use of the Consultative Group has waned over the last 10 years. The officers representing the respective hackney carriage and private hire trades have also changed.

The current trade representatives are:

- Aqua Cars Ltd
- Chris Dixon and Viv Young representing the hackney carriage trade
- Forhad Mahmud and Shahed Uddin also representing the hackney carriage trade
- Citywide Taxis

- 3.2 In practice, established trade representatives are immediately alerted by licensing staff about any proposals affecting the trade and use modern means of communication to disseminate this information quickly to members.

Trade representatives are given every opportunity to attend and speak at committee hearings and regularly do so.

Trade members can (and do) make immediate contact with either Licensing Committee members or ward councillors by way of email to raise or request the resolution of matters of concern.

- 3.3 Trade representatives and operators meet with the Licensing Manager on matters of shared interest – for example preliminary meetings to discuss the annual licensing budget and any proposals relating to fees.

For matters concerning the use and management of the highway – the cabinet member for Traffic & Transportation has taken the lead with the establishment of the Transport Liaison Group (TLG) to discuss matters affecting all those in the local passenger transport environment including taxi, private hire, bus and cycle user groups.

Equally, licensing staff have arranged, via Colas, for notified road works/closures and other safety alerts to be automatically sent to the trade representatives as a matter of norm.

- 4.0 All this points towards an acceptance that the need for the Consultative Group to meet by way of formal 6 monthly meetings has now diminished (for the reasons set out above) but that the committee should retain the power to call the group together once a year if required.

### Resolved

1. That Licensing Sub Committee minute 10/1987 be noted and amended.
2. That the terms of reference, as previously approved by the committee, be varied so that reference to “meetings to be held six monthly” be substituted with “a meeting will be held once a year”.
3. That the Licensing Manager be authorised to appoint and remove trade representatives and that the scheme of delegation be amended accordingly.

# Chapter 7: Duration of licences

## Objective

“To recognise the defined licensing periods for drivers, vehicles and operators and to consequently review administrative procedures associated with the grant or renewal of such licences”

## 1.0 Introduction

- 1.1 Generally speaking, licences, permits, registrations and other statutory permissions for persons usually have a renewal or end date and do not last indefinitely.<sup>29</sup>
- 1.2 Things change. Personal and business decisions can influence and have an impact on future plans. People holding a licence may subsequently be convicted of a criminal offence that will have an impact on the ability to continue to hold that licence. As persons get older they may experience medical or other general health and well-being problems. They may also just move away from the area.

Licensed and recognised business premises may move location and either expand or down size – recognised personnel at a business may also change.

All these matters can have an influence on the duration of a licensing period.

- 1.3 People do not always tell the council immediately about changes in their personal circumstances that might have a significant impact on any subsequent licensing renewal process.
- 1.4 The renewal process for licences (particularly driver licences) is, unfortunately, a guaranteed “vetting” method in finding out and updating all those things that have changed in the previous 12 months.

Anecdotally, over 30% of the information provided by licence holders at renewal is different to that held on current records. This can relate to changes in address, telephone or other contact details, name changes, new convictions, endorsements or cautions and finally to the current disclosure of a previously underlying medical condition.

The council still needs to establish, at renewal, that there are no germane or valid reasons to suggest that a person is not still deemed to be “fit and proper” to hold a respective hackney carriage or private hire driver licence.

- 1.5 For all the above reasons, the council, as the local licensing authority, has historically exercised an extremely cautious view of “extending” licensing periods over and above a period of 1 year at a time for both drivers and operators.

However, the council recognises that the law has changed and that longer licensing periods for certain licensing functions are now the norm.

## 2.0 The Legal Provisions

- 2.1 Section 43 of the 1847 act provides that a hackney carriage vehicle licence shall be in force “for one year only from the day of the date of such licence”.
- 2.2 Section 48 of the 1976 act equally provides that a licence for a private hire vehicle “shall remain in force for such period not being longer than one year”.

For the purposes of “temporary use” vehicle licences (which are used as a substitute when the main vehicle is off the road due to accident or mechanical repair) – the respective acts are silent on their use but, as a matter of local policy, the committee would expect to issue a temporary vehicle licence for usually no more than 31 days.

This provision should be seen as an emergency exemption and to arbitrarily extend the temporary use period indefinitely would negate the whole purpose of the temporary permission and therefore extensions beyond 31 days are unlikely to receive approval unless in exceptional circumstances.

- 2.3 The 1976 act permits for vehicle inspections and testing to take place up to 3 times in any one period of 12 months.
- 2.4 The 1976 act also permits driver licences for both private hire and hackney carriage to remain in force for up to 3 years (or for such lesser period) as the committee may be specified.

- 2.5 For the reasons expressed in 1.1–1.5 above, it has been the longstanding policy of the council to grant driver licences for a period of 1 year only.
- 2.6 Private hire operator licences could, by law, remain in force for up to 5 years (or for such lesser period) as the council specified. Again, the local Portsmouth policy for operator licences has been to grant licences for periods of 1 year at a time.
- 2.7 Informal discussions with operators and trade representatives (as part of the previous transformation programme) in the last year or so had led to an initial officer view that operator licences could be granted and renewed for a period of up to 3 years and this was to be put before the Licensing Committee for consideration.
- 2.8 A word of caution should be exercised in relation to the “renewal” of respective driver, vehicle and operator licences. Sections 60, 61 and 62 of the 1976 act envisage a “renewal” or the “grant afresh” of a licence that is coming to an end.

There has been a historical informal practice to recognise, and to renew, “late renewals” – particularly for driver licences and sometimes for vehicle licences. This cannot be regarded as satisfactory as the individual driver circumstances may have changed significantly.

The “renewal” process is designed to minimise the need for persons to comply again with the original requirements used to determine the overall fitness of an applicant. This includes the knowledge test, medical and DBS requirements. To permit “late renewals” without consideration of the overall general licensing requirements would effectively nullify the power of the committee to require persons to provide information in support of their continued fitness to drive.

For these reasons, and due to case law<sup>30</sup>, the council will only accept and process any renewal application received on or just before a current licence is due to expire or, in exceptional cases, within 2 days after the expiry of the respective licence.

## 3.0 Best Practice Guidance

- 3.1 The Department for Transport guidance<sup>31</sup> does not support the view of annual driver licences and states *“it is not necessarily good practice to require licences to be renewed annually”*
- 3.2 Conversely, the guidance accepts that an annual licence may be more attractive due to the lower fee and if a person is likely to move away or get another job.
- 3.3 For operator licences, the guidance is clear that 5 year licences – *“may well be appropriate in the average case”*
- 3.4 It is agreed that operator licences should be granted or renewed for a longer licensing period than 1 year.
- 3.5 There are local reservations however about the concept and practical implications of driver licences lasting for a statutory minimum period of 3 years – but the council accepts that, with proper due diligence procedures in place, we should be able to manage any changes to licence periods without any detrimental impact on the control and supervision of licensed drivers.



## 4.0 Deregulation Act 2015

- 4.1 The 2015 act has significantly changed, by statutory instruction, the licensing periods for both drivers and operators.
- 4.2 The changes are:
- **For hackney carriage and private hire drivers – now a prescribed 3 year licence period**
  - **For private hire operators – now a prescribed 5 year licence period**
- 4.3 The changes come into force on 1 October 2015.<sup>32</sup>
- 4.4 The relevant explanatory note to this part of the 2015 act states:
- “Subsection 2 changes the law in such a way as to establish a standard duration of 3 years for taxi and private hire vehicle driver licences. The section specifies that a licence may be granted for a period of less than 3 years but only in the circumstances of an individual case, not because of a blanket policy.”*
- 4.5 Vehicle licences (hackney carriage and private hire) are NOT affected by the changes and will remain licensed for periods of up to 1 year.

## 5.0 Exceptions to the 3 year rule

- 5.0 Whilst the default position is for the grant or renewal of 3 yearly driver licences – there may be justifiable reasons to grant (or renew) individual driver licences for shorter periods due to:
- Medical conditions (such as diabetes) which require the production of a yearly consultant's report on continued fitness to drive to the group 2 vocational standard
  - Persons granted a licence (or having a licence renewed) “on probation and/or warning” by the Licensing Sub Committee and subject to strict criteria such as completing a driving assessment or providing monthly reports and monitoring for good behaviour for a shorter period of time
  - Those persons with say a limited permission to stay or work in the UK
  - Those applicants or drivers requesting a shorter duration licence for personal reasons – (see paragraph 1.2)
  - Any other reasonable and individual circumstances

- 5.1 It is recommended that the head of service be given delegated authority to grant and renew driver licences for a period of less than 3 years but only after having regard to the circumstances of any one individual case.

Good and proper reasons, consistent with 5.0 previous for restricting any licence duration should be recorded.

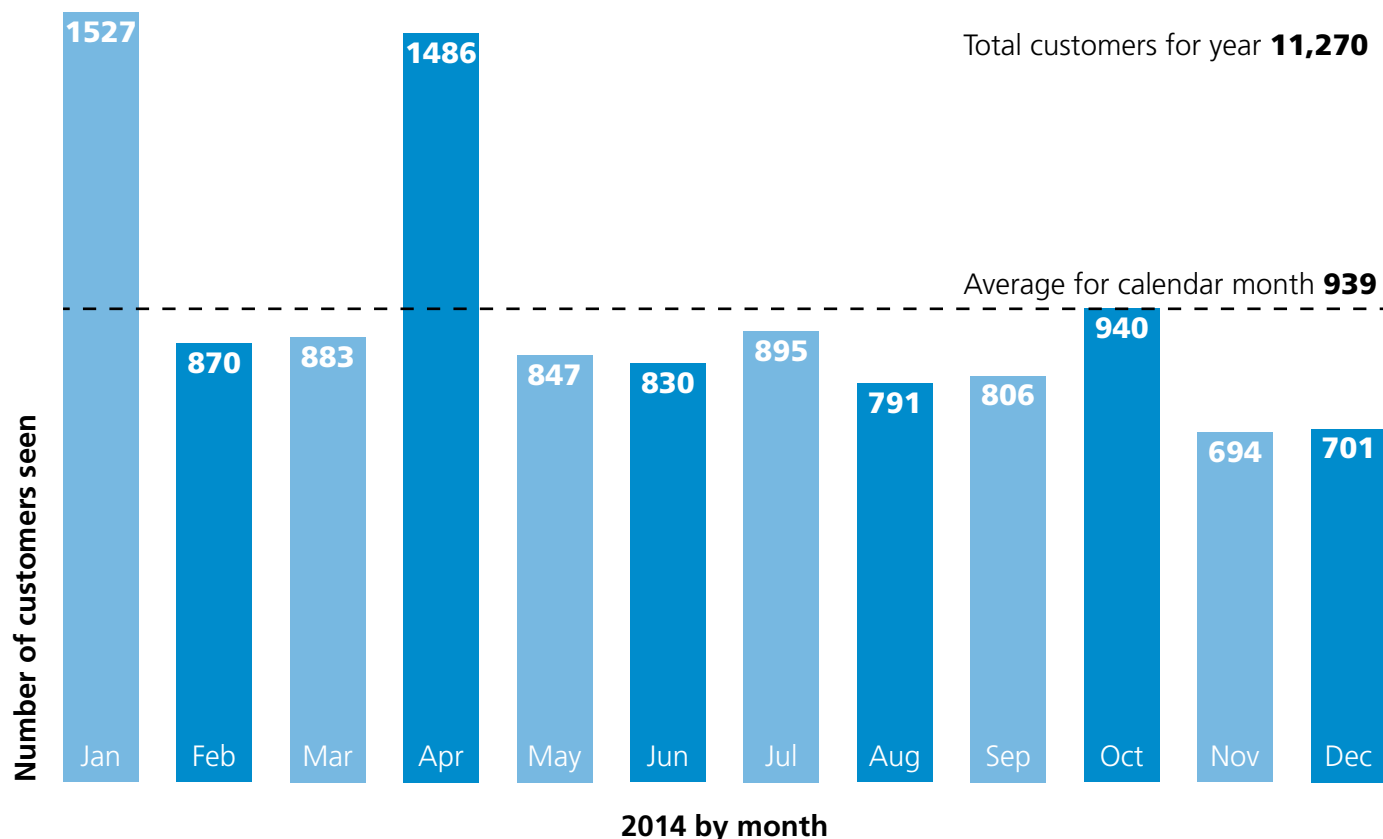
## 6.0 Impact on Current Working Procedures

- 6.1 For many years the Licensing Service has operated a “fixed year” renewal cycle for operators, vehicles and drivers. This practice has long been accepted by the trade and whilst it has caused “pressure points” for the Licensing Service at various times of the year – the system has worked reasonably well.
- 6.2 All hackney carriage licences expire on 30 April annually.
- All private hire licences expire on 31 January annually.
- 6.3 There is however, pressure on staff to “turn around” renewal applications almost on demand. Staff goodwill is pushed to the limit and the public areas in licensing can become very busy at these peak periods. Other licensing matters are dealt with “as and when” during the peak demand periods for drivers, vehicles and operators.

An analysis of the 2014 Q Flow figures for the Licensing Service is shown opposite. These are the **total** figures and therefore including Licensing Act 2003 enquiries as well. However, the majority of enquiries are taxi and private hire related.



## Q flow for licensing service



6.4 There will always be a demand for both new (and renewal applications) to be dealt with in person as original documents including some of a highly sensitive nature (criminal record checks, driving licences, medicals, vehicle registration documents and insurances etc) are required to be produced in support of applications.

Applicants are NOT encouraged to send such documents through the post nor should licensing staff be required to keep or retain these documents pending consideration of any one application type.

6.5 Equally, new drivers are required to undertake a supervised in house knowledge test and will also be subject to drug screening and interview by licensing staff.

New vehicles must be inspected (and photographed) by licensing staff prior to first licensing and plating.

The service is dominated by a demand and need to have "face to face" personal contact with applicants and licence holders alike.

6.6 However, it is recognised that the use of say an automated "on line" renewal system for future years could be beneficial and should be explored. Equally, the use of "on line" diaries and automated booking facilities for driver knowledge tests, drug screens and vehicle inspections should also be explored.

This would all be subject to IT provision, audit compliance and general security requirements being put into place.

There may be cost implications in updating computer software to facilitate any secure on line renewal application process and this would also need to fit with corporate priorities.

The concept of on line renewals (and payments) should however be positively considered and for this reason it is contained as a statement of intent in this policy review.

It is likely, in any event, that the traditional procedure of "sending out renewal papers" to licensed drivers, vehicle proprietors and operators will cease as part of a drive to cut down on administrative processes, paperwork and ultimately to save costs to the licensing undertaking.

## 7.0

- 7.0 From October 2015 any new driver and operator licences will normally be granted for their respective longer licensing periods and therefore will expire on a “rolling” basis rather than all on a fixed end date.

On next renewal, existing driver licences will normally be “extended” for 3 year periods in line with the Deregulation Act 2015.

It is likely that DBS checks will be “moved” administratively to coincide with the next renewal date for any individual 3 year driver licence.

- 7.1 For vehicles however, the concept of a yearly licence with publicly displayed and “colour coded” windscreen licence discs is more appropriate and thus the fixed expiry dates of 31 January and 30 April for the respective private hire and hackney carriage fleets should be retained for the time being. The need to retain the vehicle licence expiry date on the plate may be discontinued.

## 8.0

- 8.0 Of paramount importance (and with the introduction of longer licensing periods) is the requirement for drivers to REPORT IMMEDIATELY any changes whatsoever in their circumstances that might affect their continued “fit and properness” to continue to hold a licence.

- 8.1 The council cannot rely on section 57 of the 1976 act as this requires **applicants** to provide information to determine whether a licence should be granted or renewed and does not compel those persons already licensed to provide information to the committee mid-term during a licensing period.

Accordingly, the conditions of licence for private hire drivers will be amended to require:

1. The driver shall notify the council within 24 hours of any changes to:
  - Their name, address, telephone or email contact details
  - Any medical condition that might affect an ability to drive professionally to the group 2 vocational standard
  - Their driving licence so far as this relates to the imposition of penalty points, any other endorsements, fines or disqualifications
  - Their Disclosure & Barring Service enhanced check certificate so far as this relates to the imposition of any convictions, cautions, reprimands or warnings
  - Their right to work or reside in the UK.
2. The driver shall notify the council within 24 hours of any arrest, detention or charges being preferred against them.

Similar conditions will apply to operators and vehicle proprietors.

- 8.2 The committee and/or officers will put into place formal mandates and procedures to ensure, either by way of electronic check or by way of a formal declaration, the production of driver licence and other relevant information and will use appropriate checking services for this purpose.

## 9.0

**9.0 A zero tolerance view will be taken towards licensed drivers failing to notify the council at any time of:**

- **Any change in an existing medical condition (or new condition) that might interfere with an ability to drive professionally to the group II vocational standard**
- **The imposition of any new driving endorsement, fine, penalty points, short “totting up” ban or other driving sanction prescribed by law**
- **Any new conviction, caution, reprimand or warning received**

**And there will be a presumption in favour of a hearing before the Licensing Sub Committee to determine whether the driver is still deemed to be a fit and proper person and any consequential action against the respective hackney carriage or private hire driver licence.**

## Resolved

1. That the changes to the duration of driver and operator licences contained in the Deregulation Act 2015 be noted.
2. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals; in particular to provide for:
  - The introduction of a “rolling 3 year licence period” for hackney carriage and private hire drivers
  - The introduction of a “rolling 5 year licence period” for private hire operators
  - The introduction of DBS checks to coincide with the renewal dates for both driver and operator licences
3. That the head of service be given delegated authority to grant and renew driver licences (hackney carriage or private hire) for a period of less than 3 years but only after having regard to the circumstances of any one individual case and consistent with 5.0 above.
4. That the head of service bring forward proposals to amend/vary fees for driver, vehicle and operator licences commensurate with these proposals.

# Chapter 8: The test of 'fit and proper'

## Objective:

"To protect the welfare, safety and interests of both the travelling public and all other road users by ensuring that licences are only granted or renewed to persons who are judged to be fit and proper."

## 1.0 The Legal Provisions

- 1.1 The 1847 act is silent on the need to examine or indeed to have regard to the "fitness" of those proprietors and drivers of licensed hackney carriages plying and standing for hire within the city.

Revocation or suspension of the respective hackney carriage licences is still permissible under section 50 of the 1847 act for persons convicted of two offences contrary to the act or byelaws; but, generally speaking, the question of determining whether a person or operator is judged to be "fit and proper" is a concept found only in the 1976 act.

- 1.2 Sections 51 and 59 of the 1976 act prescribe that the council shall NOT grant a private hire or hackney carriage driver licence unless satisfied that the applicant is a "fit and proper" person.

The same test is found at section 55 and in respect of private hire operators.

- 1.3 For vehicle proprietors, the council may grant or renew licences having regard to the fitness of the vehicle and after taking into consideration any locally approved policy guidance on vehicle specification, vehicle age limits and such like.

However, the question of the "fitness" of the individual vehicle proprietor(s) should not, in the committee's view, be overlooked or minimised. Just because vehicle owners may not have direct day to day contact with the public and are not subject to routine vetting by way of criminal background checks – does not mean that they play a lesser or insignificant part in the overall licensing process.

- 1.4 Vehicle proprietors (both hackney carriage and private hire) have a lawful duty to ensure that drivers are both properly licensed and insured to drive their vehicles. The vehicle itself must be licensed, maintained properly (and to a standard that meets the expectations of the committee by way of any prescribed testing criteria) and the proprietor must ensure that all documents are kept and made readily available for inspection.

All this points towards a positive presumption that vehicle proprietors must also be seen to be "fit persons" and that any evidence of general criminality or non-compliance with either the 1847 or 1976 acts will be considered seriously.<sup>33</sup>

- 1.5 There is no exact definition of "fit and proper" and each case stands to be considered on individual merit with the public protection and welfare at the heart of any deliberations.

The law was summarised by the then Lord Chief Justice in the following way:

*"The objectives of the licensing regime are plainly intended, among other things, to ensure so far as possible, that those licensed to drive private hire vehicles are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest, and not persons who would take advantage of their employment to abuse or assault passengers".<sup>34</sup>*



1.6 Case law<sup>35</sup> has also established the following general principles to assist and determine the overall test of “fit and proper”:

- **The burden is on the applicant or licence holder to establish that they are fit and proper**
- **The Licensing Committee and/or officers will seek to establish the facts and merits of any particular case on the civil burden of the “balance of probabilities” and thus can consider evidence notwithstanding any acquittal or not guilty verdicts reached from any previous criminal proceedings**
- **The determination of “fit and proper” is not akin to criminal proceedings and the use of hearsay is admissible (although the legal advisor will caution the committee as to the weight of evidence to be attached to such background third party evidence) as appropriate to the case in question**
- **Private hire and hackney carriage drivers are part of the “exempted” professions so far as the Rehabilitation of Offenders Act 1974 (as amended) is concerned and the committee may consider evidence of**

**spent convictions, cautions or reprimands etc and where it is in the interests of justice to do so**

- **The committee does not have to conclude that there is a reasonable chance of a conviction when considering evidence of misconduct against an applicant or licence holder who has, or is, the subject of pending criminal matters**
- **Personal circumstances are not relevant considerations**
- **The committee cannot go behind (or review the merits of) previous criminal convictions**

## 2.0

2.0 Should the committee refuse to grant, suspend, revoke or refuse to renew a driver licence there is a right of appeal to the Magistrates’ Court.

Any “notice of decision” following a committee hearing will clearly advise persons of the reasons for any decision(s) taken together with their respective appeal rights.



## 3.0 Best Practice Guidance<sup>36</sup>

It is not surprising that the best practice guidance provides much information about the licensing of drivers as shown in paragraphs 3.1–3.10:

### 3.1 **Acceptance of Driving Licences from other EU Member States**

*“Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 as enacted stated that an applicant for a taxi or private hire vehicle (PHV) driver’s licence must have held a full ordinary GB driving licence for at least 12 months in order to be granted a taxi or PHV driver’s licence. This requirement has subsequently been amended since the 1976 Act was passed.*

*The Driving Licences (Community Driving Licence) Regulations 1996 (SI 1996 No 1974) amended sections 51 and 59 of the 1976 Act to allow full driving licences issued by EEA states to count towards the qualification requirements for the grant of taxi and PHV driver’s licences.*

*Since that time, a number of central and eastern European states have joined the EU and the EEA and the Department takes the view that drivers from the Accession States are eligible to acquire a taxi or PHV driver’s licence under the 1976 Act if they have held an ordinary driving licence for 12 months which was issued by an acceding State (see section 99A(i) of the Road Traffic Act 1988). To complete the picture, the Deregulation (Taxis and Private Hire Vehicles) Order 1998 (SI 1998 No 1946) gave equal recognition to Northern Ireland driving licences for the purposes of taxi and PHV driver licensing under the 1976 Act (see section 109(i) of the Road Traffic Act 1988, as amended).*

### 3.2 **Criminal Record Checks**

*A criminal record check is an important safety measure particularly for those working closely with children and the vulnerable. Taxi and PHV drivers can be subject to a Standard Disclosure (and for those working in “Regulated Activity” to an Enhanced Disclosure) through the Criminal Records Bureau. Both levels of Disclosure include details of spent and unspent convictions, cautions, reprimands and final warnings. An Enhanced Disclosure may also include any other information held in police records that is considered relevant by the police, for example, details of minor offences, non-conviction information on the Police National Computer such as Fixed Penalty Notices and, in some cases, allegations. An Enhanced Disclosure is for those working in Regulated Activity and the Government has produced guidance in relation to this and the new “Vetting and Barring Scheme”.*

*In considering an individual’s criminal record, local licensing authorities will want to consider each case on its merits, but they should take a particularly cautious view of any offences involving violence, and especially sexual attack. In order to achieve consistency, and thus avoid the risk of successful legal challenge, local authorities will doubtless want to have a clear policy for the consideration of criminal records, for example the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.*

*Local licensing authorities will also want to have a policy on background checks for applicants from elsewhere in the EU and other overseas countries. One approach is to require a certificate of good conduct authenticated by the relevant embassy. The Criminal Records Bureau website gives information about obtaining certificates of good conduct, or similar documents, from a number of countries.*

*It would seem best practice for Criminal Records Bureau disclosures to be sought when a licence is first applied for and then every three years, even if a licence is renewed annually, provided drivers are obliged to report all new convictions and cautions to the licensing authority.*

### 3.3 **Notifiable Occupations Scheme**

*Under this Scheme, when an individual comes to the notice of the police and identifies their occupation as a taxi or PHV driver, the police are requested to notify the appropriate local licensing authority of convictions and any other relevant information that indicates that a person poses a risk to public safety. Most notifications will be made once an individual is convicted however, if there is a sufficient risk, the police will notify the authority immediately.*

*In the absence of a national licensing body for taxi and PHV drivers, notifications are made to the local licensing authority identified on the licence or following interview. However, it is expected that all licensing authorities work together should they ascertain that an individual is operating under a different authority or with a fraudulent licence.*

*The police may occasionally notify licensing authorities of offences committed abroad by an individual however it may not be possible to provide full information.*

### 3.4 **Immigration Checks**

*The Department considers it appropriate for licensing authorities to check on an applicant's right to work before granting a taxi or PHV driver's licence. It is important to note that a Criminal Records Bureau check is not a Right to Work check and any enquires about the immigration status of an individual should be addressed to the Border and Immigration Agency. Further information can be found at **[www.bia.homeoffice.gov.uk/employingmigrants](http://www.bia.homeoffice.gov.uk/employingmigrants)***

*More generally, the Border and Immigration Agency's Employers' Helpline (0845 010 6677) can be used by licensing staff to obtain general guidance on immigration documentation, although this Helpline is not able to advise on individual cases.*

*The authority can obtain case specific immigration status information, including whether a licensing applicant is permitted to work or details of work restrictions, from the Evidence and Enquiry Unit, Floor 12, Lunar House, Wellesley Road, Croydon CR9 2BY. Further details on the procedures involved can be obtained by contacting the Unit (020 8196 3011).*

### 3.5 **Medical Fitness**

*It is clearly good practice for medical checks to be made on each driver before the initial grant of a licence and thereafter for each renewal. There is general recognition that it is appropriate for taxi/PHV drivers to have more stringent medical standards than those applicable to normal car drivers because:*

*they carry members of the general public who have expectations of a safe journey; they are on the road for longer hours than most car drivers; and they may have to assist disabled passengers and handle luggage.*

*It is common for licensing authorities to apply the "Group 2" medical standards – applied by DVLA to the licensing of lorry and bus drivers – to taxi and PHV drivers. This seems best practice. The Group 2 standards preclude the licensing of drivers with insulin treated diabetes. However, exceptional arrangements do exist for drivers with insulin treated diabetes, who can meet a series of medical criteria, to obtain a licence to drive category C1 vehicles (ie 3500–7500 kgs lorries); the position is summarised at Annex C to the Guidance. It is suggested that the best practice is to apply the C1 standards to taxi and PHV drivers with insulin treated diabetes.*

### 3.6 **Age Limits**

*It does not seem necessary to set a maximum age limit for drivers provided that regular medical checks are made. Nor do minimum age limits, beyond the statutory periods for holding a full driver licence, seem appropriate. Applicants should be assessed on their merits.*

### 3.7 **Driving Proficiency**

*Many local authorities rely on the standard car driving licence as evidence of driving proficiency. Others require some further driving test to be taken. Local authorities will want to consider carefully whether this produces benefits which are commensurate with the costs involved for would-be drivers, the costs being in terms of both money and broader obstacles to entry to the trade. However, they will note that the Driving Standards Agency provides a driving assessment specifically designed for taxis.*

### 3.8 Language Proficiency

*Authorities may also wish to consider whether an applicant would have any problems in communicating with customers because of language difficulties.*

### 3.9 Other Training

*Whilst the Department has no plans to make training courses or qualifications mandatory, there may well be advantage in encouraging drivers to obtain one of the nationally-recognised vocational qualifications for the taxi and PHV trades. These will cover customer care, including how best to meet the needs of people with disabilities. More information about these qualifications can be obtained from GoSkills, the Sector Skills Council for Passenger Transport. GoSkills is working on a project funded by the Department to raise standards in the industry and GoSkills whilst not a direct training provider, can guide and support licensing authorities through its regional network of Regional Managers.*

*Some licensing authorities have already established training initiatives and others are being developed; it is seen as important to do this in consultation with the local taxi and PHV trades. Training can cover customer care, including how best to meet the needs of people with disabilities and other sections of the community, and also topics such as the relevant legislation, road safety, the use of maps and GPS, the handling of emergencies, and how to defuse difficult situations and manage conflict. Training may also be considered for applicants to enable them to reach an appropriate standard of comprehension, literacy and numeracy. Authorities may wish to note that nationally recognised qualifications and training programmes sometimes have advantages over purely local arrangements (for example, in that the qualification will be more widely recognised).*

*Contact details are:*

*GoSkills, Concorde House, Trinity Park, Solihull, Birmingham, B37 7UQ.*

*Tel: 0121-635-5520*

*Fax: 0121-635-5521*

*Website: [www.goskills.org](http://www.goskills.org)*

*Email: [info@goskills.org](mailto:info@goskills.org)*

### 3.10 Topographical Knowledge

*Taxi drivers need a good working knowledge of the area for which they are licensed, because taxis can be hired immediately, directly with the driver, at ranks or on the street. So most licensing authorities require would-be taxi-drivers to pass a test of local topographical knowledge as a pre-requisite to the first grant of a licence (though the stringency of the test should reflect the complexity or otherwise of the local geography, in accordance with the principle of ensuring that barriers to entry are not unnecessarily high).*

*However, PHVs are not legally available for immediate hiring in the same way as taxis. To hire a PHV the would-be passenger has to go through an operator, so the driver will have an opportunity to check the details of a route before starting a journey. So it may be unnecessarily burdensome to require a would-be PHV driver to pass the same 'knowledge' test as a taxi driver, though it may be thought appropriate to test candidates' ability to read a map and their knowledge of key places such as main roads and railway stations. The Department is aware of circumstances where, as a result of the repeal of the PHV contract exemption, some people who drive children on school contracts are being deterred from continuing to do so on account of overly burdensome topographical tests. Local authorities should bear this in mind when assessing applicants' suitability for PHV licences."*

## 4.0

- 4.0 The committee generally agrees with the best practice guidance.

## 5.0 Policy on the Consideration and Relevance of Convictions

- 5.1 The council both as an employer, and as the local licensing authority responsible for taxi and private hire matters, is a registered body and receives information about convictions and cautions etc recorded against persons from the Disclosure & Barring Service.

As such, the council has adopted a policy statement on the recruitment of ex- offenders.

The committee, as the local licensing authority, has also adopted a policy statement for the purposes of the hackney carriage and private hire undertaking.

It should be noted that the function and purpose however of the Licensing Committee is not to “recruit” persons but rather to ensure that those person(s) with previous convictions and seeking “to apply for and/or to retain a licence” are considered to be “fit and proper”.

- 5.2 The policy statement is shown below:

The city council, as the local licensing authority will make all efforts to prevent discrimination against any applicant or licence holder or users of the licensing service, regardless of race, gender, religion, sexual orientation, age, disability or offending background.

The licensing authority complies fully with the Disclosure and Barring Service Code of Practice which is available to view at the link shown below:

**[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/143662/cop.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/143662/cop.pdf)**

The licensing authority will receive appropriate guidance in the relevant legislation, e.g. the Rehabilitation of Offenders Act 1974 as amended. The use of “spent” convictions, cautions or other sanctions may be considered as appropriate and subject to legal advice.

Having a conviction, community or other order or caution resulting from a custodial or non-custodial sentence need not necessarily bar persons from obtaining or continuing to hold a licence.

The committee will consider the seriousness of the offence(s), whether isolated or not, the age of the offender and the sentence imposed by the convicting court.

Each case will be considered on merit but the overriding consideration will be the protection and welfare of the public. The licensing authority will have regard to the overall convictions policy shown in this document and will hear the representations of those persons affected before making any final decisions.

The licensing authority however expects all persons to make a full and honest disclosure of all previous convictions together with any outstanding arrest or charges being brought against them. A serious view will be taken for non-disclosure.

Should any convictions be revealed following a DBS check, the person concerned will be asked to attend for interview with an authorised officer and, if necessary, the sub-committee will be asked to consider any contested matter or application.

The licensing authority will not disclose the results of any DBS checks to third parties and will use the information solely to determine the fit and properness of the person concerned. In this respect, the information will be retained for as long as that person remains licensed by the council and destroyed thereafter.

- 5.3 The current Portsmouth policy on the relevance of convictions<sup>37</sup> stems from joint guidance published in March 1992 by the Department for Transport and the Home Office.<sup>38</sup>

This followed the introduction of the then Road Traffic Act 1991 which, by virtue of section 47, created a new power for the council to send details of driver applications to the Police and to seek the Police views accordingly.<sup>39</sup>

- 5.4 The policy is now over 20 years old and in need of review. The LGA "Taxi and private Hire Councillors' Handbook" supports this view.<sup>40</sup>

Accordingly, the Licensing Committee has adopted the following guidelines on criminal convictions, cautions etc together with guidelines on the evidence of non-criminal behaviour amounting to inappropriate conduct by an applicant or licensed professional driver. The guidelines are produced opposite.

- 5.5 Each case will be determined on merit.

The committee will expect persons and/or their representatives to have read and had regard to the requirements shown in **1.5**, **1.6** and **5.2** above.

- 5.6 The committee will not, as a matter of norm, consider "spent" matters except in those circumstances shown in the chapter "Rehabilitation of Offenders" and at paragraph **4.2**.



## Guidelines on the relevance of convictions and behaviour

Type of Conviction <sup>41</sup>	Guideline	Comments
Any <b>violence</b> offence(s) to include threatening behaviour, domestic abuse, harassment and stalking matters, possession of offensive weapons, more serious public order matters, resisting arrest, criminal damage, arson etc	Normally a minimum <b>5 (and up to 10) year ban</b> from obtaining or holding a licence.  For convictions of GBH (or with intent), wounding, manslaughter, murder or any terrorism linked offences the committee are <b>unlikely to support an application</b>	A particularly serious view will be taken in relation to offences against Police or other public servants or against children
Any <b>sexual</b> offence(s) to include sexual assault, indecency, indecent assault, gross indecency grooming, sexual trafficking offences, having or downloading obscene material, possession of indecent images, rape	Normally a minimum <b>10 year ban</b> from obtaining or holding a licence.  For convictions of grooming, sexual assault, rape and/or offences against children or vulnerable adults or for persons on the sex offenders register the committee are <b>unlikely to support an application</b>	Drivers may, by nature of their duties, convey vulnerable single females late at night.  Drivers convey vulnerable adults and children on school and other special needs contracts on a daily basis – sometimes supervised and sometimes alone.
Any <b>dishonesty</b> offence(s) to include theft, shop lifting, handling, fraud, burglary, making false statements, perjury etc	Normally a minimum <b>5 (and up to 10) year ban</b> from obtaining or holding a licence.	Drivers are in an absolute position of trust with access to lost property left in vehicles, knowledge of empty properties when persons are away on holiday and dealing with customers/tourists that might not be familiar with the locally prescribed fares
Any offence(s) against the <b>1847 or 1976 acts</b> to include the byelaws and a breach of conditions constituting an offence at law	Normally a <b>1 year ban</b> from obtaining or holding a licence after date of conviction	A person who offends against the licensing code shows a propensity towards non-compliance with the law
Any <b>substance abuse</b> offence(s) and to include evidence of illicit drug use either by way of medical examination or drug test failure.	Normally a <b>3 year ban</b> <sup>42</sup> from obtaining or holding a licence and any future application to include appropriate and supporting medical reports if necessary	To include, drink, drugs or use of legal highs

Type of Conviction <sup>41</sup>	Guideline	Comments
<b>Motoring</b> offence(s) to include endorsements, short disqualifications, totting up disqualifications, drink drive, no insurance, driving without due care, reckless or dangerous driving, failure to control a motor vehicle by using a mobile phone or other device, failure to comply with prescribed road traffic signs, failure to stop or to report an accident, defective vehicle and illegal parking etc	<p>Normally a <b>verbal warning for endorsements and less than 8 penalty points</b>.</p> <p>If more than <b>8 current penalty points endorsed on a driving licence</b> then refer to Licensing Sub Committee for determination on merit.</p> <p>For “one off” <b>short disqualifications</b> licence may be restored at end of disqualification by officers subject to a <b>written warning</b> and compliance with any directives to attend and pass approved <b>driving competency tests</b>.</p> <p>For <b>no insurance, drink driving, careless driving, failing to stop or report an accident</b> etc normally a <b>3 year ban</b> from obtaining or holding a licence.</p> <p>For offences of causing death by reckless or dangerous driving, repeated drink drive convictions the committee are <b>unlikely to support an application</b></p>	<p>A driver is considered to be a “professional” driver and offences contrary to the road traffic acts and regulations will be treated seriously</p> <p>The committee have previously received evidence of road traffic incidents involving licensed drivers in Portsmouth – particularly towards cyclists and other road users and a serious view will be taken accordingly<sup>43</sup>.</p>
General <b>Inappropriate Conduct</b> to include that of a <b>sexual nature, persistent and justified complaints (service requests) against an individual driver</b> OR due to any other matters not specifically mentioned above and/or where the reporting officer is not prepared to support an application or continued licensing	<p><b>Normally a 5 year ban</b> from obtaining or holding a licence<sup>44</sup></p>	<p>The committee has previously considered and adjudicated on complaints about drivers “chatting up” or having consensual sex with passengers after “stopping work”.<sup>45</sup></p> <p>In such cases, and despite no evidenced criminality or Police investigation leading to charges, the committee’s view is that such behaviour is not becoming of a professional driver and, upon complaint or referral from another agency, is likely to result in the revocation of a driver licence.</p> <p>This includes drivers asking for personal details from passenger(s), inappropriate sexual banter (to include the sending and receiving of texts or other social media) and/or comments made of an offensive or discriminatory nature whether verbally, by text or by way of social media to which there is public access.</p> <p>For drivers receiving multiple complaints from the public, other road users or the trade (and in any one licensing period) the committee will take a serious view accordingly.</p>

## 6.0 Other Considerations

- 6.1 The overall concept of what constitutes a “fit and proper” person cannot be drawn from just the consideration of an antecedent criminal history alone.

For example, a person may be free from conviction but have a medical condition (such as obstructive sleep apnoea) that would prevent them from holding a driver licence notwithstanding that they could drive their own motor vehicle and also hold a DVLA driver licence.

They could have a poor understanding of the geography of the city or be unable to communicate in English to a satisfactory standard thus being unable to read or comprehend road signs and the like.

They could be a poor driver with evidence of complaints, previous endorsements and a failure to pass any prescribed driving or other practical tests.

All these factors are, in themselves, matters that go to the heart of determining whether, and in the round, a person is fit and proper.

## 7.0 Driving Licence Requirements

Sections 51 and 59 of the 1976 act prescribe that a person applying for either a hackney carriage or private hire driver licence must have held a full driving licence for a period of 12 months and be the holder of a licence “at the date of application”.<sup>46</sup>

This does not mean that they must have held a driver licence for a continuous period of 12 months prior to submitting an application.

Driver licences from EU and EEA member states are compatible with the requirements of the 1976 act – see the Best Practice guidance at 3.1 previously.

There is no immediate need, at law, for the holder of an EU licence to exchange their driving licence to one issued by DVLA but some drivers choose to do so.

- 7.1 The minimum legal requirement is for a person to have held a full driving licence for 12 months. It is doubtful that persons are deemed “good and experienced drivers” by virtue of recently passing their test as driving skills will develop with age, experience and on-going training.

It is all too easy for drivers to slip into bad and predictable habits.

This is recognised by the Road Traffic (New Drivers) Act 1995. New drivers are subject to more robust regulation with the revocation of driver licences by DVLA if 6 or more penalty points are imposed within the first “two year probationary period”.

Following revocation, the driver would need to obtain a provisional licence and pass both the theory and practical tests again.

- 7.2 The Licensing Committee supports the view that driving experience is relative to the length of time a person has been lawfully permitted to drive and therefore would expect applicants for either a hackney carriage or private hire driver licence to have held a full driving licence for a minimum period of 2 years.<sup>47</sup>
- 7.3 The council notes the abolition of the “counterpart” driving licence with effect from June 2015 and further notes that the head of service will introduce such administrative procedures (including driver mandates) to enable appropriate DLC checks to be carried out on both applicants and licence holders alike.

## 8.0 Criminal Record Checks

8.1 The council notes the advice contained in the best practice guidance at 3.2 previously and will ensure compliance with the following administrative requirements:

- All driver DBS checks will be to an enhanced level with a formal request for drivers to be checked, as a matter of local policy, against the position of “child and adult workforce”<sup>48</sup>
- Any person who has lived overseas for any period of time<sup>49</sup> since the age of 10 will be required to provide proof of fitness by way of a “certificate of good conduct” obtained via an embassy or other recognised government agency and to be authorised by an accredited notary. The certificate must be provided for both criminal AND motoring matters and be translated into English. ONLY ORIGINAL DOCUMENTS WILL BE ACCEPTED\*
- DBS checks will be carried out on initial application and every 3 years to coincide with the general renewal dates for driver licences
- Basic DBS checks will be required for private hire operators, upon subsequent renewal, and may be required for vehicle proprietors (if deemed necessary)
- Any DBS check or certificate of good conduct will be rejected if over 3 months old
- There will be a DBS portability presumption at the discretion of the head of service for any enhanced check up to 3 months old
- There will be a presumption in favour of the refusal to grant, suspension or non-renewal of a driver licence (as the case may be) if a driver has failed to comply with the requirements to produce a DBS enhanced check or certificate of good conduct

\* further information on criminal record checks for overseas applicants can be found via the following link:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

## 9.0 Medical Fitness to Drive

9.1 The council notes the best practice guidance at 3.5 above and considers that the current policy of requiring applicants and drivers to comply with the group 2 vocational standards has stood the test of time and offers satisfactory public protection.

The revisions to the conditions of licence to now require the formal reporting of any medical condition will be of assistance.

The “At a Glance” guide to medical standards provided by the DVLA Drivers Medical Group provides regular updates for medical practitioners and is available via the following link:

<https://www.gov.uk/government/publications/at-a-glance> <sup>50</sup>

The policy in Portsmouth about the general requirements for medicals is as follows:

- The medical MUST be completed by the person’s own GP and/or at the practice having immediate access to that person’s medical records
- The medical must be completed on first application, then at 45 and every 5 years<sup>51</sup> until 65 and then annually but with a presumption of drug testing every 3 years
- A driver must declare any medical condition that might affect his/her ability to drive
- The committee and officers will use the appointed Medical Referee for the time being in force to act as a final arbiter in any cases of concern<sup>52</sup>

9.2 Of some concern is that evidence of illicit drug use by a small minority of drivers is still apparent. For example, the last 23 spot checks undertaken on drivers by enforcement staff revealed 4 failures. 3 for cannabis use and 1 for cocaine use.

The use of drugs whether prescribed or not is **simply not compatible with professional driving** and is likely to lead to either the immediate suspension or revocation of a respective driver licence.

9.3 Enforcement staff will remain proactive and carry out random drug screens on drivers, vehicle proprietors and operators as appropriate.

**There will be a presumption in favour of mandatory drug screening for all drivers every 3 years.**

The DVLA 'At a glance' medical standards of fitness to drive recommend the refusal to grant, renew or to revoke a vocational licence where persistent use or dependency on illicit drugs is noted and evidenced.

However, for evidence of any illicit drug use (or misuse of prescribed drugs) the council will normally suspend or refuse a driver licence for a minimum period of 6 months and/or up to a maximum period of 3 years and will only consider the reinstatement of a driver licence subject to the receipt of negative drug screens at the expense of the driver.

## 10.0 The Age of Drivers

- 10.1 Apart from the requirement for a person to have held a full driving licence for 12 months there are no other requirement in either the 1847 or 1976 acts to regulate the age of drivers.

This does not mean that it is unlawful to impose an age limit guideline provided the rationale is sound and non-discriminatory. Some council's impose "entry age limits" and some do not.<sup>53</sup>

- 10.2 In practice however, new drivers are subject to "vetting" via insurance brokers and their underwriters and local research<sup>54</sup> shows that persons under the age of 25 are extremely unlikely to receive acceptance to drive licensed vehicles for insurance purposes.

Coupled with the noted requirement for a person to have held a full driving licence for 2 years – (see 7.2 above), this would indicate that an appropriate minimum age limit for both hackney carriage and private hire drivers should be 21.

Analysis of computer records for 'new driver' applications in 2014-2015 show 311 applications being received. Of these, 9 drivers were under 25. It seems that a certain amount of 'self-regulation' is in place but a policy guideline would re-inforce this position

The committee does not consider that an "upper" age limit for drivers should apply provided continued medical fitness to drive is maintained.

## 11.0 Immigration Checks

- 11.1 A person who has no right to reside or work in the UK will not be entitled to make application for a driver, vehicle or operator licence. Close links are maintained with the local visa and immigration staff from the Portsmouth office and regular and routine liaison between licensing and immigration staff is encouraged and maintained.

Copies of documents provided by applicants in support of any licensing application may be given to Home Office and/or immigration staff upon formal request.

It is likely that in the future, formal enquiries about "the right to work in the UK" will be made on respective driver and operator applicants having regard to clauses in the current Immigration Bill which is before parliament.

## 12.0 Language Proficiency

- 12.1 The ability to both speak and write in clear English is essential. Drivers are the first and only point of contact for passengers who might have little geographic knowledge of the city and thus are totally reliant on a driver understanding their journey and onward travel requirements – this is particularly so for hackney carriage drivers. The ability to read and understand road and other traffic direction signs is essential.

Drivers must be able to write a receipt for business travellers upon request.

The prescribed knowledge test contains a number of modules and an understanding of English is required to both attempt and to pass the individual modules.

Face to face contact with initial applicants can alert licensing staff to refer any applicant with apparent communication difficulties to the senior staff for interview.

Should staff be satisfied that an application cannot be supported for language proficiency reasons – the applicant will be advised to seek and obtain further communication skills by way of education and training and the application will be refused under delegated power to the head of service.



## 13.0 Knowledge Test

- 13.1 The ability to convey persons both around the city and to further afield destinations (such as airports and international ports) is essential. The best practice guidance at 3.10 indicates that hackney carriage drivers are more likely to require “local knowledge” than a private hire driver who will have advance notification of a booking.

This does not mean however that a test of local knowledge is NOT required for both hackney and private hire drivers and the committee considers that both sides of the trade should be subject to local knowledge testing by way of formal examination. This will include adhoc verbal examination by licensing staff including undertaking routes within the city.

The previously permitted “exemption” from the knowledge test for airport drivers will be removed due to evidenced mis-use and ALL drivers will therefore need to demonstrate competency in the prescribed modules.

There are 6 prescribed local modules comprising:

- General knowledge and basic law on hackney carriage and private hire matters
- Driving theory and highway code
- Building locations, local landmarks and shortest routes
- Basic numeracy
- Out of town locations
- Complaints and general rules
- NOTE –the test will be kept under review and modified as required.

The large private hire operators (Aqua Cars and Citywide) also undertake knowledge testing as part of their local compliance criteria.

Drivers have a lawful duty not to prolong, in time or distance, any journey booked.<sup>55</sup>

## 14.0 Other Locally Prescribed Training

- 14.1 The best practice guidance at 3.9 is positive about the advantages of *“encouraging drivers to obtain one of the nationally recognised vocational qualifications”*.
- 14.2 In Portsmouth, there has not been a historic practice to require either applicants or existing drivers to obtain formal training and this does need to be addressed.

Members have expressed a collective desire to see the introduction of “customer care” training. The committee’s equalities advisor has also advised that there is a real need to establish wheelchair accessibility training – particularly for those drivers of wheelchair accessible vehicles.<sup>56</sup>

Although previous council initiatives such as the “Pride in Pompey” campaign positively encouraged drivers to participate in “local” schemes – the take up, without being mandatory in nature, was disappointing.

The ability to require applicants and drivers alike to both participate in, and produce evidence of, acquired training skills has found judicial favour as section 57 of the 1976 act permits the council to ask persons to submit such information as may be considered reasonably necessary... to determine whether a licence should be granted.<sup>57</sup>



14.3 The committee and officers have instructed individual drivers in the past to attend and pass driver training and awareness courses by way of improving and dealing with evidence of previous poor driving skills; and local providers such as the Blue Lamp Trust<sup>58</sup> have found favour in providing a quick and reliable service.

The Blue Lamp Trust is used as the council's preferred assessor for staff driver competency training.

Some of the big fleet private hire vehicle providers have requested that new drivers from Eastern Europe attend and pass driver awareness courses prior to making driver licence applications.

14.4 Finally, the evidence given to the Licensing Committee in November 2014 about road traffic accidents in the city and involving Portsmouth hackney carriages and private hire vehicles would suggest that the time is right to specify, by local policy directive, that all new drivers (and, in due course, existing drivers) attend and complete approved and prescribed driver training courses.

The trade representatives have already indicated a complete support for any road safety and disability awareness training initiatives.

## Resolved

1. That the contents be noted and endorsed.
  2. That the Licensing Committee approve the:
    - I. The policy statement and guidelines on the relevance of convictions at paragraphs **5.2** and **5.4** respectively
    - II. The requirement for applicants for both hackney carriage and private hire drivers to have held a full driving licence for 2 years at paragraph **7.2**
    - III. The change to the "age related" drug testing requirements at paragraph **9.1** and **9.3**
    - IV. The requirement to adopt a minimum entry age limit to the trade of 21 at paragraph **10.2**
    - V. The need to establish mandatory NEW driver training (for both hackney carriage and private hire drivers) to comprise of:
      - English language competency and proficiency testing at the discretion of the head of service who will arrange such local training provision to commence by **1 July 2016**
      - Disability and wheelchair awareness training - mandatory
      - Driving assessment training - mandatory to include eco driving assessment
  3. a) That the head of service be authorised to finalise, appoint and to provide details of course(s) and appropriate training providers with a view to commencing mandatory training for new drivers by no later than **1 July 2016**
  - b) That the head of service be authorised to formally request and require existing hackney carriage and private hire drivers to complete such disability and wheelchair awareness training together with driving assessment training (as the case may be) following receipt of a complaint or by way of refresher training as appropriate
- (NOTE – all such training to be paid for direct to the service provider by the applicant or licence holder)
4. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

# Chapter 9: Rehabilitation of Offenders Act 1974

## Objectives

1. “To provide applicants and licence holders alike with information about the rehabilitation periods for custodial and non-custodial sentences
2. To recognise that licensed drivers are a regulated occupation for the purposes of the exceptions order AND
3. To recognise that the council is a judicial body for the purposes of the act and thus may take into consideration ‘spent’ convictions or cautions”

## 1.0 Introduction & Legal Provisions

- 1.1 Prior to the introduction of the Rehabilitation of Offenders Act 1974 there were no protections in place to prevent potential employers from making negative decisions about a person’s suitability based on evidenced criminality (even if a one off offence) that occurred many, many years previously.  
  
The “checks and balances” were not in favour of recognising that persons could become “rehabilitated”.
- 1.2 The then Local Authorities Conditions of Service Advisory Board wrote to all local authorities following the introduction of the act and stated:  
  
“The main purpose of this short but complex piece of legislation is to ensure that a person who has been convicted of a criminal offence in his past and who has since lived on the right side of the law for a specified period of time is, so far as possible, freed from the stigma of that conviction and is treated as if the conviction had never occurred.”
- 1.3 The act introduced the concept of defined rehabilitation periods with the “slate being wiped clean” with most previous convictions being deemed “spent” after a period of time.  
  
There were caveats however in respect of persons convicted for subsequent “either way” or indictable offences (following an earlier conviction) which resulted in both the previous and new conviction being deemed not spent until the end of the rehabilitation period for both offences.

- 2.0 The act prescribed for a table of rehabilitation periods to apply in respect of the sentences imposed (not the offence type) and also, by statutory order, prescribed certain regulated occupations where persons would have to declare convictions and cautions even if considered spent.
- 3.0 There has not always been an automatic right to enquire about, and receive details of, an applicant’s previous criminal history and up until 1992 the council relied completely on the individual declarations made by applicants and drivers.
- 3.1 Evidence of previous convictions not being declared was sometimes apparent and, following extensive lobbying and the introduction of the Road Traffic Act 1991, – local authorities received access to police records from April 1992. The function was then administered by the Chief Officer of Police.
- 3.2 From 2002, subsequent criminal record enquiries became a responsibility of the former Criminal records Bureau (CRB) until the formation of the Disclosure & Barring Service (DBS) in 2012.  
  
The council is a registered body for the purposes of receiving information from the DBS. Licensing staff are all registered “counter signatories” for the purposes of both processing, receiving and considering evidence of previous convictions via enhanced DBS checks. The Licensing Manager retains the “lead counter signatory” role and is responsible, on behalf of the service, for compliance with the DBS codes of practice for registered bodies.



4.0 Hackney Carriage and Private Hire drivers are a regulated occupation and have been so since 2002.<sup>59</sup> Equally, the council is a “judicial authority” for the purposes of the act and thus can ask for, and consider evidence of, spent convictions where justice cannot otherwise be done.<sup>60</sup>

4.1 Accordingly, evidence of previous convictions (including the consideration of spent convictions on individual merit) may be used to assess whether an applicant or driver is considered to be a fit and proper person for the purposes of holding (or continuing to hold) a licence. This test will also be used, as appropriate, for the consideration of vehicle and operator matters.

4.2 **However, the council will ONLY receive evidence of, and thus take into consideration, spent convictions when satisfied that:**

- **The overall circumstances of the application and/or matter under consideration outweighs the right not to consider spent convictions**
- **Any current convictions taken together with any spent convictions reveal a pattern of previous repeat offending**
- **OR with evidence of conviction(s) spent or otherwise, there has been the release of further information from the Disclosure & Barring Service in relation to:**

**The children’s barred information list or**

**The adult’s barred information list or**

**Other relevant information disclosed by the Chief Officer of Police**

- **AND the applicant or licence holder has been invited to address the committee as to why, in general terms, any spent matters should not be considered**

5.0 In 2014 the government announced significant reforms to the rehabilitation periods for both custodial and non-custodial sentences and these new changes came into effect in March 2014.<sup>61</sup>

5.1 The old (red) and new (green) rehabilitation periods are shown below:

### For custodial sentences

Sentence Length	Former Rehabilitation Period	New Rehabilitation Period (Period of sentence PLUS the buffer period below which applies from the end of the sentence)
0 – 6 months	7 years	2 years
6 – 30 months	10 years	4 years
30 months – 4 years	Never spent	7 years
Over 4 years	Never spent	Never spent

### For non-custodial sentences

Sentence	Former Rehabilitation Period	New Rehabilitation Buffer period (Applies from the end of sentence)
Community order and Youth Rehabilitation Order	5 years	1 year
Fine	5 years	1 year from date of conviction
Absolute discharge	6 months	None
Conditional discharge, referral order, reparation order, action plan order, supervision order, bind over order, hospital order	Various – mostly between 1 year and length of the order	Period of order

5.2 The link to the gov.uk web advice is shown below:

<https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

5.3 From December 2008, simple cautions, reprimands and warnings are considered spent with immediate effect.

6.0 **Finally, it should be emphasised that the effect of the 1974 act is to consider the impact and relevance of any previous convictions against the need to establish whether an applicant, driver or other licence holder is a fit and proper and suitable person to drive the public on a professional basis OR to provide a vehicle OR to accept bookings from the general public. The protection of the public is the committee's prime consideration.**

6.1 **The committee is not seeking to punish a person twice on the basis of "he's done the crime and done his time" – but are carrying out an important statutory function where the evidence of previous wrong doing must be balanced against the need to protect the travelling public.**

**The committee and officers alike will also have regard to the adopted policy guidelines on the relevance of criminal convictions as shown elsewhere in the policy document.**



# Chapter 10: Vehicle specification requirements

## Objective:

“To provide the travelling public with access to a wide range of spacious, safe and comfortable vehicles”

## 1.0 Introduction & Legal Provisions

- 1.1 A hackney carriage is defined as a wheeled carriage, whatever its form or construction, used in standing or plying for hire in any street within the prescribed distance.

The carriage must seat fewer than 9 passengers and is normally recognised as being a motorised vehicle but equally could be a horse drawn or other form of non-motorised transport such as a rickshaw or pedicab.<sup>62</sup>

Only a hackney carriage can stand or ply for hire from a street in Portsmouth. Hackney carriages can also wait at appointed taxi stands, cruise for work and be hailed in the street.

The driver must be licensed.

Hackney carriages can also accept private hire “pre-booked” work (without needing an operator licence) and it is not unusual to see hackney carriages affiliated to established private hire operator radio circuits.

- 1.2 A private hire vehicle is a motor vehicle constructed or adapted to seat fewer than 9 passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purposes of carrying passengers.

All work given to the driver of a licensed private hire vehicle must be via a licensed private hire operator.

- 1.3 Section 47 of the 1976 act permits the council to require a hackney carriage to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.
- 1.4 Section 48 of the 1976 act permits the council to be satisfied that a private hire vehicle is suitable in type, size and design.

A hackney carriage or private hire vehicle could theoretically, by law, be licensed to accommodate 1 passenger – i.e. a pillion on a licensed motorbike but normally vehicles accommodating a minimum of 4 passengers have been recognised at a local level.

The safety concerns and suitability relating to the use of a motorcycle as a licensed private hire vehicle could be a valid consideration notwithstanding that the machine has been constructed by the manufacturer to a very high and safe standard.<sup>63</sup>



1.5 Over the years the council has considered applications (or given suitable advice) for the consideration of hackney carriage and private hire vehicle licences in respect of:

- Horse drawn Jersey carriages
- Ford Lincoln Town Cars (stretched limousines)
- Hummers
- Converted JCB digger machine
- Converted Volvo fire appliance
- Converted ambulance
- Piaggio Ape Calessino and Bajaj motorised 3 wheeler tricycles
- Pedicabs and rickshaws<sup>64</sup>

1.6 Vehicles used for hire or reward at separate fares and with a seating capacity of 9 or more passengers are recognised as PSV's and regulated by the Traffic Commissioners.

1.7 It is permissible (particularly so for the licensing of hackney carriages) to approach a local vehicle specification policy in a "partial and progressive way" by implementing policy that affects part of the licensed fleet only.<sup>65</sup>

Equally, the use of all wheelchair accessible vehicles meeting the former Metropolitan Police Public Carriage Office specification (now Transport for London) has found favour in some local authority areas, but not all.

"Split" fleets with a mixture of saloon style and wheelchair adapted vehicles are popular and this is the case in Portsmouth.

1.8 The current hackney carriage fleet comprises 150 saloon, estate, MPV style vehicles and a further 84 fully wheelchair accessible vehicles. The committee has shown little inclination previously to enforce and promote a uniform standard wheel chair accessible fleet and have recognised that persons travelling short distances may not wish to do so in a large "people mover" type or London style vehicle whilst on their own.

The current make-up of the "mixed" vehicle fleet offers various choices to the travelling public.

**There are therefore no proposals to insist on a fully wheelchair accessible fleet of hackney carriages in Portsmouth.**

The private hire fleet comprises 1034 vehicles<sup>66</sup> with about 30 wheelchair accessible vehicles being licensed.

The majority of the private hire fleet comprise of models from the Skoda and Hyundai ranges together with a number of larger 6–8 seater models including the Vauxhall Zafira and Ford Tourneo.

A number of "executive" and airport cars are used by both the established larger operators and the smaller specialist niche market operators.

1.9 It is generally accepted that most persons with a disability or restricted movement will phone in advance for a suitable vehicle. This does not mean however that there should not be recognition towards the provision of wheelchair accessible vehicles nor should their use be discouraged by way of policy guideline or condition.

Currently Aqua Cars Ltd have over 30 dedicated wheelchair accessible vehicles operating on their circuit.



## 2.0 Best Practice Guidance

- 2.1 The Department for Transport best practice guidance offers advice to local authorities as follows<sup>67</sup>:

*“The legislation gives local authorities a wide range of discretion over the types of vehicle that they can license as taxis or PHVs. Some authorities specify conditions that in practice can only be met by purpose-built vehicles but the majority licence a range of vehicles.*

***Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible. Indeed, local authorities might usefully set down a range of general criteria, leaving it open to the taxi and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way there can be flexibility for new vehicle types to be readily taken into account.***

*It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle. For example, the Department believes authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. But of course the purpose-built vehicles are amongst those which a local authority could be expected to license. Similarly, it may be too restrictive to automatically rule out considering Multi- Purpose Vehicles, or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers).*

*The owners and drivers of vehicles may want to make appropriate adaptations to their vehicles to help improve the personal security of the drivers. Licensing authorities should look favourably on such adaptations, but, as mentioned in paragraph 35 below, they may wish to ensure that modifications are present when the vehicle is tested and not made after the testing stage.”*

- 3.0 The committee agrees with the general views expressed in the best practice guidance and, in particular, with the sentiments shown in bold.



## 4.0 Proposed Vehicle Specifications for Portsmouth

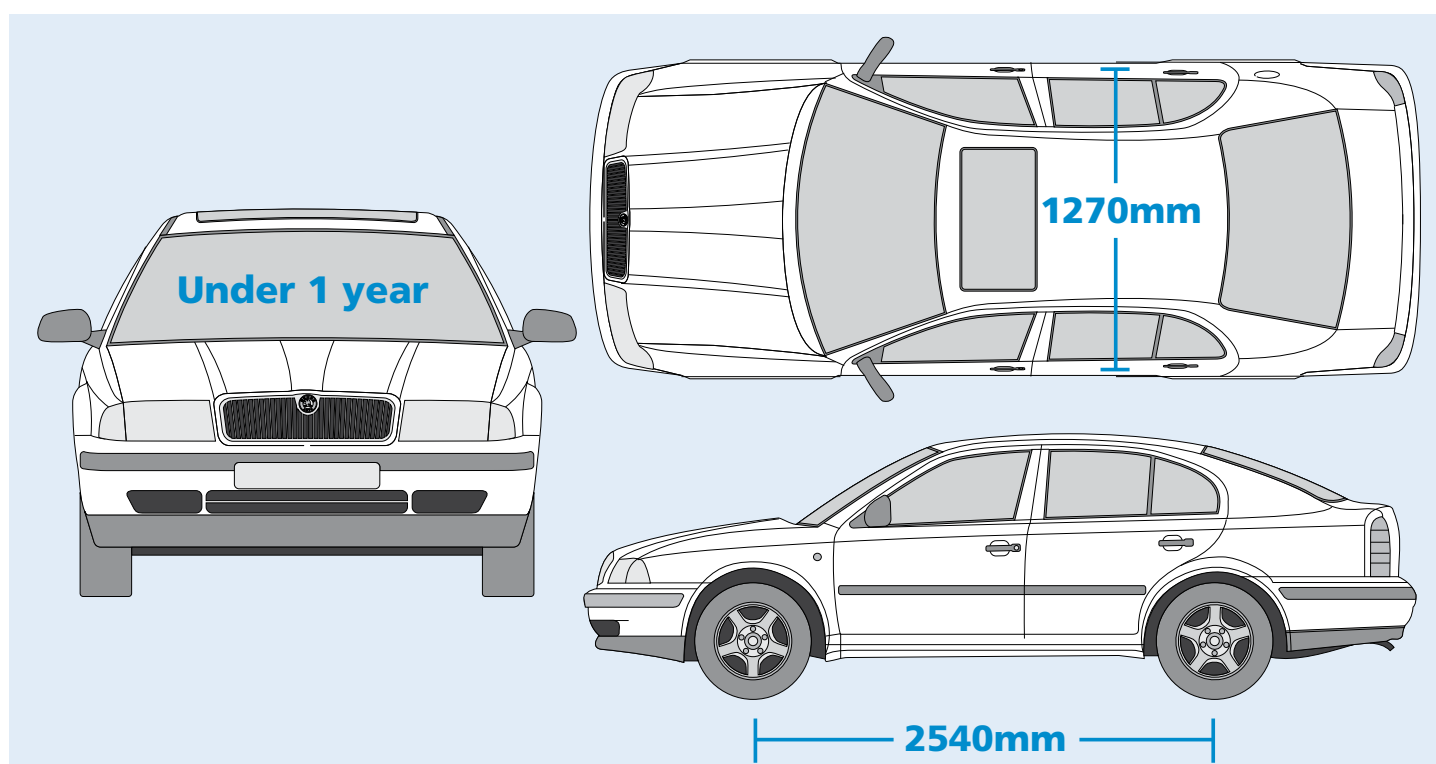
- 4.1 The current Portsmouth vehicle specifications have been in place, with minimal modifications, since 1978. They relate generally to the age of vehicles, minimum seating capacity, a requirement for a minimum of 4 doors, wheelbase and interior seating dimensions together with ease of access, comfort considerations and colour.
- They are in need of review and clarification.
- 4.2 Local vehicle specifications may not always be reflected in any corresponding vehicle conditions as they are matters that form part of the initial application and guidance process to potential vehicle proprietors. That said, any requirements should be formulated with due care and the consideration of such discretionary powers should have regard to the underlying statutory provision which, in this case, is the **design, appearance, fitness and comfort** of the vehicle to be licensed.
- 4.3 The committee would expect any vehicle to comply with the general specifications together with any age limit policy, mechanical inspection and testing regime and subsequent conditions of vehicle licence. The hackney carriage byelaws also offer some guidance as to the vehicle fittings and fixtures.



As a prerequisite, the council would expect that the proprietor of any hackney carriage should either reside in Portsmouth or within five miles of the boundary or, if a company, have an operating base or registered office within Portsmouth. A proprietor may only hold an interest in one saloon at any one time.

4.4 The standard vehicle specification for both hackney carriage and private hire vehicles will normally be as follows:

1. The vehicle should meet the EC whole vehicle type approval standards for vehicles in the M1 category or be VCA compliant and approved – Private hire or hackney carriage wheelchair accessible vehicles licensed prior to 1 April 2016 may remain in use with a minimum nearside loading provision BUT any newly licensed fully wheelchair accessible private hire or hackney carriage after this date may be licensed with either rear, side loading or both.
2. If a hackney carriage, the vehicle shall be a uniform silver in colour
3. If a private hire vehicle, the vehicle shall be any colour other than silver
4. The vehicle shall normally be right hand drive
5. There should be sufficient doors of sufficient size to aid entrance and exit from the vehicle in comfort<sup>68</sup>
6. The vehicle shall have a wheelbase of at least 2540mm
7. The back seat shall be at least 1270mm wide
8. Any individual seats should be at least 400mm wide<sup>69</sup>
9. The vehicle shall comply with any age limit guidelines
10. The vehicle proprietor shall comply with any approved local livery requirements for both hackney carriage and private hire vehicles and so far as this relates to roof signs for hackney carriages and all exterior and interior signage<sup>70</sup>
11. If the currently licensed hackney carriage is on a designated and recognised wheelchair accessible plate – it may only be replaced by a wheelchair accessible vehicle and complying with the requirements of 1 above.
12. The vehicle must not have been “written off” for the purposes of the industry recognised categories A, B, C and D.



- 4.5 The council may change, substitute or vary vehicle specification guidelines at any time and proprietors should make contact with the Licensing Service if in any doubt about the suitability of an individual vehicle.
- 4.6 A person may still however ask the committee to consider an application for a vehicle that does not meet the general specifications and have that matter considered on merit – for example the previous licensing of left hand drive imported stretch limousines.
- 4.7 Locally, there has been concern expressed in the past about licensing smaller MPV type vehicles (such as the Vauxhall Zafira) for 6 persons as the rear most seats are not easily accessible and are smaller than the “standard seating” configuration.
- The best practice guidance however warns against licensing such vehicles for fewer passengers than their deemed seating capacity (see 2.1 above) and provided any individual seat is 400mm wide; there should be a presumption in favour of recognising the manufacturer’s recommended seating capacity.
- 5.0 However, any concern about the general level of comfort and safety associated with a vehicle could lead to the matter being referred direct to the committee for consideration and determination on merit.

## Resolved

1. a) That the general vehicle specifications shown in paragraph **4.4** on page 60 be approved and adopted.
- b) That the previous exemption from the standard vehicle specifications for “stretch limousines” be retained and that the head of service be authorised to consider such vehicle applications on individual merit and provided evidence of vehicle type approval is received.
2. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.
3. That the head of service be authorised, if required, to finalise a revised corporate livery and specification for both hackney carriages and private hire vehicles.





# Chapter 11: Vehicle testing requirements

## Objective:

“To ensure that licensed hackney carriages and private hire vehicles are maintained to the highest standards and that the public have access to safe, clean, environmentally friendly and comfortable vehicles.”

## 1.0 The Legal Provisions

- 1.1 Apart from those statutory requirements for vehicle fitness prescribed under the Road Traffic Acts and road traffic regulations – there are no definitive national standards to determine the overall inspection and fitness regime for both hackney carriage and private hire vehicles. In this respect, local variances to both the standard (and frequency of vehicle testing) will inevitably be found.
- 1.2 National MOT standards are prescribed by law and updated on a regular basis by DVSA. The current MOT inspection standards are contained within the publication “MOT Inspection Manual – car and light commercial” – ISBN 978-0-9549352-5-2  
<https://www.gov.uk/topic/mot/manuals>
- 1.3 All vehicles must have an MOT after 3 years of age although hackney carriages require an MOT (or an equivalent test) after 1 year.<sup>71</sup>
- 1.4 It is an offence, under the road traffic regulations, to use a vehicle that is not roadworthy or fit for use on the public highway. The Police and partner agencies such as DVSA are responsible for general enforcement of road traffic laws but the council, as the local licensing authority, is ultimately responsible for setting the local testing criteria and specifications to regulate the Portsmouth hackney carriage and private hire fleets.
- 1.5 The 1847 act is silent on the testing and fitness of hackney carriages. This is not surprising as, at that time, carriages, growlers or hansom cabs (in their various working guises as fast or ponderous forms of public conveyance) were horse drawn and proprietors were perhaps more concerned with the fitness and stabling arrangements of the animals and their livery/welfare after a day's work. The internal car combustion engine had yet to be invented.
- 1.6 However, the subsequent byelaws (for both hackney carriages and their drivers) made pursuant to section 68<sup>72</sup> of the 1847 act prescribe, amongst other matters, for hackney carriages that:
  - “The fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service” .....and
  - “Every proprietor of a hackney carriage vehicle shall present his vehicle for annual inspection at the council's nominated garage”.
- 1.7 Failure to comply with the byelaws is an offence at law.
- 1.8 The 1976 act<sup>73</sup> is more prescriptive in respect of the inspection and testing arrangements for private hire vehicles and prohibits, by statutory order, the grant of a private hire vehicle licence unless the council is satisfied that the vehicle is:
  - in a suitable mechanical condition, safe and comfortable.
- 1.9 Further, section 50 of the 1976 act provides for the mandatory inspection and testing (within the area of the council) of both hackney carriages and private hire vehicles by way of up to 3 inspections<sup>74</sup> in any one period of 12 months BUT does not specify the testing criteria. Parliament appears to have given local authorities the discretion to determine local testing and inspection standards.
- 1.10 A vehicle licence (hackney carriage and private hire) may be suspended, revoked or not renewed if “unfit for use”.

## 2.0 Best Practice Guidance

- 2.1 The current Department for Transport guidance<sup>75</sup> recognises variations between local authorities for both vehicle testing and vehicle age limits. Annual testing (as a minimum standard) is recommended together with more frequent tests for older vehicles together with an emphasis on emissions testing.

The council agrees with this view.

- 2.2 The council also agrees that due regard should be given to both the MOT test requirements and the PATN guidance – see paragraphs 4.5 and 4.6 post.
- 2.3 The council does not agree that more than one testing station is required. Portsmouth is a compact area and the Adams Morey garage facility is geographically centrally located within the city. 9 vehicle inspections per day (together with ad hoc spot check and emergency appointments) can be accommodated with little delay apparent.

Proprietors can licence a new vehicle normally within 24 hours of making application to the Licensing Service.

- 2.4 It is accepted that older vehicles can be in “good condition” but that this is not a reason to reject the consideration or setting of a local age limit policy. Even younger and “doubled manned” fleet vehicles that are subject to constant 24 hour public use (with a resulting higher wear/tear and mileage) can be replaced or found to be mechanically defective at a relatively early age.
- 2.5 The average mileage for private hire vehicles recorded on the computer database is 136,091 with a highest recorded individual mileage of 390,305 miles.
- 2.6 The average mileage for hackney carriages recorded on the computer database is 112,209 with a highest recorded mileage of 423,549 miles.



TSB/07/21/01/54

### CERTIFICATE OF EXEMPTION

ISSUED UNDER REGULATIONS 6(4) OF  
THE MOTOR VEHICLES (TESTS) REGULATIONS 1981

TO: PORTSMOUTH CITY COUNCIL

I am directed by the Secretary of State for Transport to inform you that he is satisfied that the granting of a licence in respect of hackney carriages and private hire cars by your authority, in accordance with the procedures summarised in your communication dated 17TH July 1997 is conditional upon the passing by the vehicle of annual test, within the meaning of the above Regulations, required by your authority.

This Certificate will cease to have validity if there is a change in procedures mentioned above and the issue of this certificate is conditional upon the Secretary of state being notified, without delay, should such a change in procedures be made.

DATE: 21 July 1997

SIGNED: .....  
CGENCO  
A Higher Professional and Technology  
Officer in the Department of Transport

- 3.0 The council has received, as the local licensing authority, a “Certificate of Exemption” issued by the Secretary of State for Transport pursuant to the Motor Vehicle (Tests) Regulations 1981.
- The effect of this is that proprietors of licensed hackney carriages and private hire vehicles are EXEMPTED from the requirement to obtain a separate MOT for their vehicle each year. This is because the local taxi and private hire testing standards are more prescriptive than those minimum standards for an MOT. The certificate of exemption is shown above.
- 3.1 As a consequence, there is an on-going annual saving to proprietors of the cost of an annual MOT test fee.



- 4.0 Historically (from 1978), the then Central Depot located on the Eastern Road was responsible as the “in house” vehicle testing station for both hackney carriage and private hire vehicles.
- 4.1 Following re-organisation, the testing facilities were outsourced to Amey Facilities Management Ltd T/A AFM Southern who continued to trade from the Central Depot.
- 4.2 AFM Contract Services continued as the fleet management facilitators for all PCC vehicles (and taxis) until a seamless transition and transfer of the taxi testing undertaking to Adams Morey, Burrfields Road, Portsmouth in January of 2002.
- 4.3 Adams Morey have continued to be the council’s preferred “one stop shop” facilitator for hackney carriage and private hire vehicle testing and, following a comprehensive tender consultation, were formally approved to carry out the inspection and testing regime for hackney carriages and private hire vehicles (including taximeters) in August 2013.
- 4.4 A dedicated new hackney carriage and private hire testing and inspection bay received DVSA approval and came into operation in July 2014. This includes a larger “pit” bay to inspect stretch limousines, fire engines and other such vehicles of an unusual size and weight configuration.
- 4.5 During (and following) the conclusion of the tender consultation process extensive negotiations took place with staff from Adams Morey to determine the locally prescribed inspection and testing criteria for vehicles having regard to the latest MOT updates, the Department for Transport best practice guidance and the resultant “PATN” (Public Authority Transport Network) best practice guidance. The PATN guidance has been recognised, on an ad hoc basis, by both your reporting officers and Adams Morey staff and all operators and trade representatives were advised of the guidance in February 2012.
- 4.6 It is recommended to formally adopt the PATN guidance (in line with the best practice guidance) and with immediate effect.

The PATN guidance is also available via the following link: [http://www.fta.co.uk/export/sites/fta/\\_galleries/downloads/vehicle\\_testing/Hackney\\_Carriage\\_document\\_0812.pdf](http://www.fta.co.uk/export/sites/fta/_galleries/downloads/vehicle_testing/Hackney_Carriage_document_0812.pdf)
- 4.7 The current vehicle inspection and testing report is shown on page 65.
- 4.8 The “traffic light” system was introduced to enable licensing staff to monitor quickly and easily evidence of a vehicle showing signs of deterioration or distress whether mechanically or cosmetically.

Licensing staff are not qualified mechanics and rely, as do the committee members, on the technical advice and expertise offered by Adams Morey. This traffic light system enables more spot checks (if necessary) to be undertaken on vehicles to ensure vehicle fitness standards are maintained.

# Vehicle inspection and testing report

P = PASS A = ADVISORY F = FAIL



Testable item	P	A	F	Reason for failure or advisory*
<b>1 Lighting equipment</b>				
Front / rear lamps				
Headlamps and aim				
Stop lamps / fog lamps / reflectors				
Direction indicators/hazard lamps				
Registration plate lamps				
<b>2 Steering &amp; suspension</b>				
Steering controls / mechanism				
Power steering				
Transmission shafts				
Stub axle assemblies				
Wheel bearings				
Front / rear suspension & shock absorbers				
<b>3 Brakes</b>				
ESC system condition				
ABS warning system/controls				
Service brake condition				
Parking brake condition				
Service brake performance				
Parking brake performance				
Service brake balance				
<b>4 Tyres &amp; wheels (including spare)</b>				
Tyre type/size				
Tyre condition				
Roadwheels				
<b>Notes: 1. Vehicles presented with 'space saver' spare tyres fitted to one of the 4 road wheels will not be tested. 2. Vehicles with no spare wheel must have an approved emergency tyre repair kit immediately available. 3. For stretch limousines/novelty vehicles the tyre rating and load index must be compatible for the vehicle size, weight and design.</b>				
<b>5 Seat belts</b>				
Security of mountings				
Condition				
Operation				
SRS malfunction lamp illuminated				
Airbag present & operational				
<b>6 Vehicle body &amp; structure</b>				
Body condition exterior generally				
Body condition interior generally				
Seats/upholstery/carpets/cleanliness/odour				
Interior lights/motion door locks/warning lights (inc. all passenger controls/switches & grab handles)				
Boot for cleanliness, security, water leaks etc				
Doors & designated exits				
Registration plates, licence plate & VIN number				
Towbar condition				
<b>7 Exhaust, fuel &amp; emissions</b>				
Exhaust system				
Exhaust emissions				
Fuel system & security				
Engine noise				
<b>8 Driver's view of the road</b>				
Mirrors				
Wipers & washers				
Windscreen				
Glazing generally / tinting				
Driver's view of road generally				
All driving controls and horn				
Speedometer				
<b>9 General</b>				
Under bonnet generally				
Oil & water leaks				
Battery / electrical wiring				
Engine & transmission including mounts				
Luggage space				
TAXI roof sign security, illumination & decals				
Livery fitted & in good visual condition				
Fire extinguisher present and serviceable				
Wheel trims fitted				
Fare chart displayed				
'No smoking' stickers evident				
Windscreen and interior licence number displayed				
Byelaws available (HCV only)				
Meter installed – test and seal				
<b>10 Wheelchair accessible vehicles</b>				
Wheelchair restraints, operation & security				
Wheelchair ramp availability, storage & accessibility				
Wheelchair logo affixed to rear licence plate				

## Vehicle details

Make.....  
 Model.....  
 Reg mark.....  
 Colour.....  
 VIN.....  
 CC.....  
 Mileage reading.....  
 HCV/PHV plate number.....

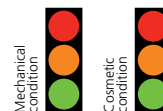
## Test type

☐ New ☐ Spot check  
☐ Annual/month ☐ Retest

## Traffic lights

Tick as appropriate

☒ = Poor (unsuitable)  
☒ + ☒ = Average  
☒ = Satisfactory  
☒ = Excellent (like new)



## Inspection result

☐ **PASS** – Stamp white book  
☐ **FAIL** – See reasons for failure.  
**Note: vehicle must not be used until all failures have been satisfactorily repaired.**  
☐ **FUTURE TESTING** – I recommend that this vehicle is tested every:  
☐ 12 ☐ 6 ☐ 4 months

## Authentication stamp

Signed.....  
 (vehicle examiner)  
 Date of pass.....

**\*Licensed vehicles are subject to higher mileage and general wear and tear associated with hire and reward use. Accordingly, in assessing the overall mechanical condition, any advisory item which would normally pass an MOT could result in a test failure and refusal to issue a compliance certificate.**

White copy to PCC Licensing Service Pink copy to vehicle proprietor Blue copy to garage  
 RETESTS MUST BE BOOKED WITHIN 10 DAYS VIA ADAMS MOREY, CALL 023 9269 1122

January 2013

www.portsmouth.gov.uk

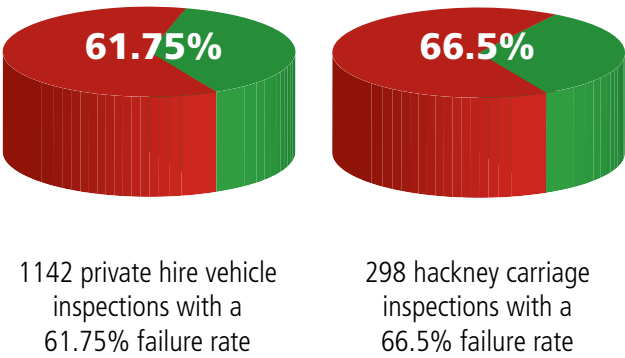
5.0 Licensed vehicles are subject to more wear and tear associated with constant public use. As a consequence, mileages are much higher and the need to maintain a prescribed servicing schedule in line with the manufacturer's recommended guidelines is of paramount importance.

5.1 It is pleasing to note that the established "fleet" operators annexed to Aqua Cars Ltd and Citywide Taxis generally speaking have their own dedicated garage and body shop facilities together with mechanical and administrative staff – including "night time" managers.

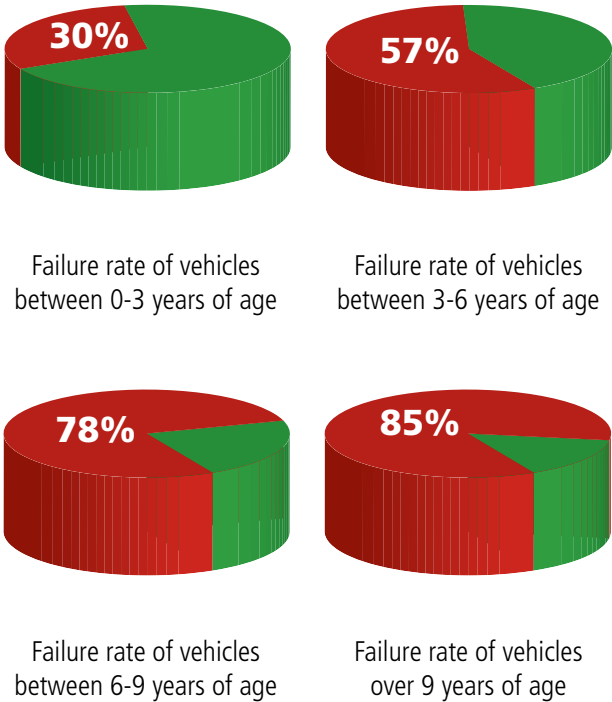
6.0 For the first time ever there has been a systematic and thorough analysis of the vehicle testing results for the whole of 2014 in order to identify trends associated with mechanical inspections for both hackney carriage and private hire vehicles.

Quarterly meetings between Licensing and Adams Morey staff have taken place to ensure both compliance with the tender “Key Performance Indicators” and to “drill down” the test results with a view to using the empirical data available to recommend and/or to identify possible future initiatives and policy changes for consideration.

6.1 The test results for the calendar year 2014 are as follows:



By vehicle age, the results were:



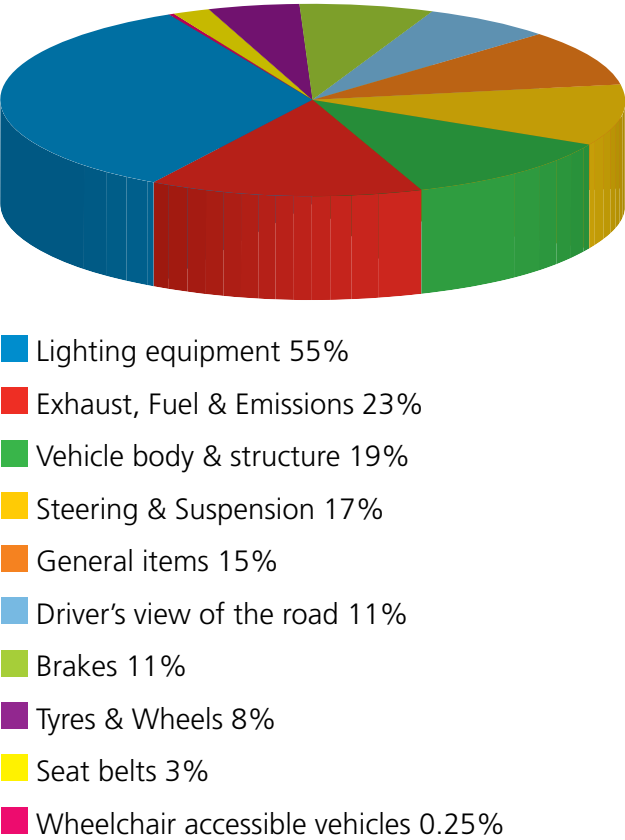
Recent analysis of the received 2015 test results show an overall failure rate for both hackney carriage and private hire vehicles of 64% for the year.

The failure rates, by vehicle age, have increased year on year as follows.

0–3 years	46%
3–6 years	72%
6–9 years	74%
9+ years	87%

6.2 The generic vehicle inspection and testing report (at 4.7) has 62 prescribed testable items grouped into 10 core areas. Each testable item is denoted with a “pass, advisory or fail”.

6.3 An in depth analysis<sup>76</sup> of the vehicle inspection records for each month during 2014 provided the following recorded failure results:



6.4 It is disappointing to note that 55% of the recorded failures were for lighting matters. All proprietors are aware (apart from spot check inspections) of their annual vehicle test dates and any lighting related failures should be the exception and not the norm.

Equally, the emission failures (23%) are of concern.





- 6.5 All new cars must comply with EU vehicle emission standards which have been in place since 1994. The 2015 requirements<sup>77</sup> are that new cars registered in the EU should not emit more than an average of 130 grams of CO<sub>2</sub> per kilometre (g CO<sub>2</sub>/km).
- 6.6 As a consequence, and also to support the council's Air Quality Action Plan together with recent campaigns against idling engines, there is a demonstrable need to review both the vehicle inspection and testing arrangements AND to consider this in relation to the adoption of locally prescribed vehicle "age limits".
- 6.7 The best practice guidance states: *"Local Licensing authorities, in discussion with those responsible for environmental health issues, will wish to consider how far their vehicle licensing policies can and should support any local environmental policies that the local authority may have adopted. This will be of particular importance in designated Air Quality Management Areas (AQMAs)".*
- 6.8 The council's Transport Fleet Manager has been asked to contribute to the policy review with particular regard to vehicle testing and emissions. He is in favour of retaining vehicle age limits but IS NOT in favour of vehicle age limits being dictated and linked directly by CO<sub>2</sub> emissions and comments:
- "The Licensing Committee should not consider imposing an upper limit based on a vehicle's publicised CO<sub>2</sub> emissions. Since 2002 manufactures have been required to publicise CO<sub>2</sub> data on each model it produces and it is that data, measured in the amount of CO<sub>2</sub> (Carbon Dioxide) produced (in grams) per Kilometre travelled, which is then used to determine the vehicle excise duty (tax) rate.**
- This data is produced under strictly controlled laboratory like conditions and bears little relation to a vehicles negative impact on the environment whilst in service. In addition these tests are not the same as the emissions tests which are carried out as a part of the MOT test. While it is certainly generally true that newer cars will be more fuel efficient and have less harmful effects on the environment the publicised CO<sub>2</sub> emissions figure when that vehicle has been in service for 5 years, particularly as a taxi will not reflect that vehicles negative effect on the environment.**

There are many other harmful products of the internal combustion engine that affect the environment which the CO2 'when new' figures do not reflect when in service. Diesel engines on the whole produce less CO2 emissions than their petrol counterparts, however due to the higher temperatures they operate at diesels produce a greater amount of NOx (Nitrous Dioxides) which is more harmful to local air quality.

To choose or be forced to choosing a vehicle for life as a taxi based purely on its publicised CO2 output is therefore to the detriment of several other important factors.

Maintaining a vehicle is of great importance. A well maintained older vehicle will undoubtedly be less harmful to the environment than a badly maintained newer vehicle, particularly in high mileage/inner city journey cycles.

In addition the way a vehicle is driven is of paramount importance. Again badly driven newer vehicles (with lower publicised CO2 emissions) will be more harmful to the environment than a well driven older car. We have recently undertaken an extensive training scheme training for over 350 drivers in 'eco' driving techniques and overall drivers under monitored assessment were able to produce a drive which was on average 17.5% more efficient than before they undertook training. It goes without saying that a more efficient driver will also be a safer driver.

Similarly consideration should be given to efficient vehicle routing and despatch processes in order to cut down any wasted journeys. It doesn't matter how environmentally friendly a vehicle is if the journey is unnecessary or the wrong route is chosen then that is more harmful to the environment than an older vehicle not making that journey at all!

Finally, we have to consider alternative fuels. It is unlikely that we in our career lifetime will ever see a fully electrically powered vehicle suitable for a taxi application. However it is likely that hybrids will begin to play a part. No matter what the arguments

around the 'whole life' sustainability of hybrid (as in diesel/petrol – electric) vehicles are it is indisputable that their 'tailpipe' emissions are lower and their use should be encouraged.

Consequently, my advice to the committee would be:

1. Vehicle maintenance – proof of regular periodic servicing and a preventative maintenance programme including an established vehicle checking regime. This could be backed up by increased roadside testing or twice annual emissions testing to MOT standards
2. Driver training – proof of driver training including 'eco' driving techniques. Refresher training periods should also be considered
3. Vehicle routing and despatch – sat nav systems for cars and route planning and despatch software for operators
4. Alternative fuels – may be to offer some kind of financial incentive for hybrid or alternative fuelled vehicles?
5. Vehicle age – generally the newer the vehicle the more efficient it will be
6. CO2 emissions – as described probably bears little relevance to a vehicle in a real life application particularly high mileage/inner city
7. Engine size – probably the least relevant, particularly in modern cars where larger engines can be very efficient"

6.9 These views are endorsed by the council's Environmental Health Manager. In particular, the introduction of a 1 year "entry" age limit for vehicles will compliment the Euro 6 diesel standard. There is also a supportive view to encourage and licence, for the future, "near zero" emitting vehicles and the Environmental Health Manager will be encouraged to bring forward proposals and recommendations for future changes to the vehicle specifications in order to support any local air quality measures and initiatives.

## Resolved

1. That the PATN (Public Authority Transport Network – Technical Officer Group) best practice guidance for the inspection of hackney carriage and private hire vehicles **and reproduced as an appendix** be approved and adopted by the Licensing Committee for the purposes of complimenting and guiding the local vehicle testing and inspection criteria.
2. That the vehicle inspection and testing report shown at paragraph **4.7** be approved and adopted and the head of service (in consultation with the council's approved vehicle inspectors) be authorised to amend, vary, add or substitute to such local testing criteria as considered appropriate in the future.
3. That all vehicles presented for initial licensing (with the exception of temporary use vehicles which must provide a current MOT) be subject to inspection and test at Adams Morey, Burrfields Road, Portsmouth.
4. i) **That all licensed vehicles over 3 years old be subject to a minimum of 2 vehicle inspections** at Adams Morey per licensing year – the second test to be about 6 months after the first test and to comprise a “mini” test for the following:
  - Lighting equipment
  - Exhaust, Fuel & Emissions
  - Vehicle body & structure
- ii) Should the vehicle fail ANY of the mini test criteria – a full inspection and test will be subsequently booked and completed and at the expense of the vehicle proprietor.
5. That all licensed vehicles **over 5 years old** be subject to a minimum of **2 full vehicle inspections** at Adams Morey Portsmouth per licensing year.
6. Should the subsequent full test for any vehicle contain at least 3 failures and/or the imposition of a red traffic light marker – the vehicle proprietor will be reported to the committee for consideration of the suspension or revocation of the respective vehicle licence.<sup>78</sup>
7. That the requirement for proprietors to make application to “extend a vehicle licence” after 6 years of age be abolished and that committee minute 37/1991 be rescinded accordingly.
8. That the head of service be authorised to amend such vehicle conditions so far as this relates to:
  - The need to carry a serviceable fire extinguisher (not recommended as a mandatory requirement)<sup>79</sup>
9. That the head of service bring forward proposals in relation to any variations to the fees and charges associated with the vehicle inspection and testing regime and commensurate with these proposals.
10. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

# Chapter 11: Appendix

## Hackney Carriage and Private Hire Vehicles National inspection standards



### Best Practice Guide

August 2012

Produced by Hackney Carriage and Private Hire Inspection Technical Officer Group  
Public Authority Transport Network (PATN)

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## FREIGHT TRANSPORT ASSOCIATION

### FTA best practice guide to inspection of Hackney Carriage and Private Hire Vehicles

August 2012

Editor: **Andy Mair**

Production: **Hilary Kingdon**

Design: **Tracey Garrett**

This best practice guide sets out the procedures and standards for those who carry out inspections of hackney carriage and private hire vehicles. It is recommended that the guide is also made freely available to owners, proprietors, operators and drivers of hackney carriage and private hire vehicles, who may find it useful as it details the standards that vehicles are subjected to. The guide also explains the reasons why a vehicle presented for inspection has not been issued with a pass certificate.

This guidance deliberately seeks to embrace safety aspects of vehicle inspections using, as a basic inspection standard, those laid down in the MOT Inspection Manual – Private Passenger & Light Commercial Vehicle Testing issued by VOSA. This best practice guide provides additional testing requirements to those in the MOT Inspection Manual. It is advised that local licensing authorities use the best practice guide in conjunction with the VOSA MOT Inspection Manual as an advocate to public safety.

This best practice guide has been developed to provide all local licensing authorities with a benchmark with regard to vehicle inspections and safety.

For details of how to join FTA contact the Member Service Centre on 08717 11 22 22\*

\*Calls may be recorded for training purposes

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## Foreword

The Vehicle and Operator Services Agency (VOSA) is committed to saving lives, making roads safer, cutting crime and protecting the environment.

As responsibility for the maintaining of vehicle safety standards of hackney carriage and private hire vehicles falls to various local authorities, VOSA, in the pursuit of its objectives, fully supports the Public Authority Transport Network (PATN) in its promotion of common standards and best practice within industry.

VOSA recommends that local authorities consider this guide when setting technical standards and take the opportunity to become involved in its continued development such that we all contribute to a safer environment.

**Nigel R Maden**

*Process Manager Light Vehicles and Vehicle Approval  
Vehicle & Operator Services Agency*



### Revision record

Section number	Section title	Description of change	Revision date	Revision number
	2009 version	VOSA foreword	November 2009	1
	2012 update	Revised due to changes to MOT scheme from 2012	August 2012	2

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# Part I: Introduction

## 1.1 Best practice guide

This best practice guide has been prepared by the Technical Officer Group (TOG) to assist Hackney Carriage proprietors (HC) and Private Hire Vehicle (PHV) drivers/owners and operators. It is intended for use by local licensing authorities, vehicle inspectors and local authority authorised officers.

It is intended that this best practice guide will endorse a *minimum* national vehicle inspection standard. It will be appreciated that it is for individual local licensing authorities to reach their own decisions, both on overall policies and on individual inspection standards, in the light of their own operational needs and geographical circumstances.

Various interested parties, including the Department for Transport (DfT), Vehicle & Operator Services Agency (VOSA), Disabled Persons Transport Advisory Committee (DPTAC) and the Institute of Licensing, have been consulted on this best practice guide.

The Technical Officer Group commends the DfT for the production of the Taxi and Private Hire Vehicle Licensing: Best Practice Guidance. Vehicle operators, local licensing authorities and vehicle inspectors are strongly advised to refer to the DfT guide in conjunction with this best practice guide. More information can be obtained on the DfT website at [www.dft.gov.uk](http://www.dft.gov.uk)

## 1.2 Application to devolved administrations

The Department for Transport (DfT) has responsibility for HC and PHV legislation in England and Wales and, accordingly, the guidance that has been published will be directed at local authorities in England and Wales. Responsibility for HC and PHV licensing in Scotland and Northern Ireland is devolved, but the respective administrations have been involved in the preparation

of the licensing guidance and will decide for themselves the extent to which they wish to make use of or adapt to suit their own purposes.

## 1.3 Technical safety issues

The aim of a local licensing authority is to protect the public. Local licensing authorities will be aware that the public should have reasonable access to safe and well maintained HC and PHVs. For example, it is clearly important that somebody using a HC or PHV should be confident that the vehicle is safe.

To this end, this best practice guide will detail specific vehicle safety issues based on expert technical knowledge and experience of the Technical Officer Group (TOG). This guide will focus therefore on technical safety issues and make recommendations towards safe working practices. For example, the TOG supports the DfT recommendation that there is no upper age limit for HC and PHVs provided there is documentary evidence to support a routine maintenance regime.

Local licensing authorities will want to ensure that each of their various licensing requirements is properly justified by the risk it aims to address. This is not to propose that a detailed, over-zealous inspection regime creates difficulties for the HC and PHV trades but primarily to promote vehicle safety for the protection of passengers and not for the benefit of operators.

## 1.4 Scope of the guidance

This guidance deliberately seeks to embrace safety aspects of vehicle inspections using, as a basic inspection standard, those laid down in the *MOT Inspection Manual – Private Passenger & Light Commercial Vehicle Testing* issued by VOSA. This best practice guide provides additional testing requirements to those in the MOT Inspection Manual. It is advised that local licensing authorities use the best practice guide in conjunction with the VOSA MOT Inspection Manual as an advocate to public safety.

This best practice guide has been developed to provide all local licensing authorities with a benchmark with regard to vehicle inspections and safety.

## 1.5 Specification of vehicle types that may be licensed

The legislation gives local authorities a wide range of discretion over the types of vehicle that they can license as HC or PHVs.



Some authorities specify conditions that in practice can only be met by purpose-built vehicles but the majority license a range of vehicles.

Normally, best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicles as possible. Indeed, local licensing authorities might usefully specify only general criteria, leaving it open to the HC and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way, there can be flexibility for new vehicle types to be readily taken into account.

It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle. For example, the Department believes authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. But, of course, the purpose-built vehicles are amongst those which a local authority could be expected to license. Similarly, it may be too restrictive to automatically rule out considering Multi-Purpose Vehicles, or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers).

## 1.6 Accessibility



In addition to their general conditions, local licensing authorities will want to consider the accessibility for disabled people (including – but not only – people who need to travel in a wheelchair) of the vehicles they licence as Hackney Carriage or Private Hire vehicles.

Licensing authorities will be aware that it remains the Department

for Transport's intention to make accessibility regulations for Hackney Carriage vehicles subject to a Law Commission review. In the meantime, licensing authorities are encouraged to introduce HC accessibility policies for their areas.

## 1.7 Type approval

It may be that from time to time a local licensing authority will be asked to license, as a HC or PHV, a vehicle that has been imported independently (that is, by somebody other than the manufacturer). Such a vehicle might meet the local licensing authority's criteria for licensing, but may nonetheless be uncertain about the wider rules for foreign vehicles being used in the UK. Such vehicles will be subject to the 'type approval' rules. For passenger cars up to 10 years old at the time of first GB registration, this means meeting the technical standards of either:

- European Community Whole Vehicle Type Approval (ECWVTA)
- National Small Series Type Approval (NSSTA) or
- Individual Vehicle Approval (IVA)

Most registration certificates issued since late 1998 should indicate the approval status of the vehicle. Further information about these requirements and the procedures for licensing and registering imported vehicles can be seen at [www.businesslink.gov.uk](http://www.businesslink.gov.uk)

It is important for local licensing authorities to insist that **at least one** of the above 'type approvals' is produced prior to any **imported vehicle** being licensed as a Hackney Carriage or Private Hire Vehicle. Local authorities are advised to verify the validity of an IVA certificate by contacting the VOSA helpline number 0300 123 9000.

## Voluntary inspections

Vehicles that are already registered for use in the UK are not eligible for a statutory approval, however there are situations where evidence of compliance with the approval standard would be beneficial or be a requirement. An example would be a local licensing authority that may require evidence of compliance for a vehicle that has been modified since original registration, or where evidence of compliance is being used as part of a contractual agreement on a modified vehicle. To facilitate this requirement, a non-statutory voluntary IVA test is available, and it would be appropriate for local authorities to accept a 'basic' IVA certification as a minimum requirement. The test criteria applied will be dependent on the vehicle category/class nominated on the application form VIVA 1. The fees are the same as those appropriate to the particular class of vehicle/test required, other than VAT is payable. If the vehicle is found to meet the requirements, a letter of compliance with the technical standards will be issued and not an Individual Approval certificate. The letter of compliance is not acceptable for first licensing/registration purposes.

## 1.8 Vehicle testing

There is considerable variation between local licensing authorities on vehicle testing. This best practice guide provides local licensing authorities with a **minimum** standard for vehicle inspections. All HC and PHV must be maintained to no less than the standards set out in the VOSA publication 'MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing', ISBN 978-0-9549352-5-2.

As the term implies, hackney carriage and private hire vehicles are vehicles used for hire and reward purposes and as such are subject to much higher annual mileages and more arduous driving than normal private vehicles. Therefore, in the interests of passenger and other road user's safety, a more stringent maintenance and testing regime is required.

The purpose of the HC and PHV test is to confirm vehicles meet these more stringent standards. Vehicles must be submitted fully prepared for the test. **It is not intended that the test be used in lieu of a regular preventative maintenance programme.** If, in the opinion of the vehicle examiner, the vehicle has not been fully prepared, the test will be terminated and a further full test shall be required. It is an offence under the road traffic regulations to use an unroadworthy vehicle on the public highway.

HC proprietors and PHV drivers/owners and operators failing to maintain their vehicles in a safe and roadworthy condition may have their vehicle licence suspended, revoked or their licensing application refused by the local licensing authority. In addition, licence holders risk the suspension or revocation of their driver or operator licences by the local licensing authority.

This best practice guide should be read in conjunction with Vehicle & Operator Services Agency (VOSA) publication 'MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing', ISBN 978-0-9549352-5-2. This best practice guide provides a working document for those who inspect, maintain and prepare vehicles for inspection prior to being issued with a hackney carriage or private hire licence. Although detailed in its content the best practice guide is not exhaustive.

However, in assessing the mechanical condition of a vehicle, it is more likely an item which would ordinarily pass an MOT test with an advisory note, could fail the HC and PHV test.

## 2 Novelty vehicles (stretched limousines)

This section of the best practice guide offers advice to local licensing authorities on the requirements for licensing novelty vehicles. The standard of the test for novelty vehicles will be at the same standard as for other private hire vehicles. That is, as a basic inspection standard, those laid down in the 'MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing' issued by VOSA and this best practice guide. *(For the purpose of clarity, novelty vehicles in this guide will refer to stretch limousines only until such times as further guidance is obtained on any other such vehicle, ie fire tenders etc.)*



A novelty vehicle shall only be registered as a private hire vehicle if it complies with the following conditions.

- Vehicles with no more than eight passenger seats as indicated on the V5C. The V5C will state the number of seats and **must be produced to the local licensing authority prior to the vehicle being licensed or inspected.** If the number of seats differs to what is indicated on the V5C, then contact VOSA and your local area DVLA office immediately. Failure to produce a valid and current V5C for the vehicle to be tested could result in refusal to inspect the vehicle
- Evidence of either European Community Whole Vehicle Type Approval (ECWVTA) or Individual Vehicle Approval (IVA) being presented for inspection
- Local licensing authorities may consider, as novelty vehicles are not factory produced, that a recommended vehicle maintenance inspection be applied every 10 weeks. The frequency of maintenance inspections is recommended by Traffic Commissioners, VOSA and the National Limousine and Chauffeur Association (NLCA)
- The inspection standards to be applied to novelty vehicles are the same standards as those applied to other hackney carriage and private hire vehicles with the following additions:
  - Any additional item previously mentioned in this paragraph with regard to seating capacity, the production of the relevant documents and frequency of vehicle inspections
  - See part 2, section 4 – Tyres and road wheels. Reference in this section is made to tyre rating to be applied to novelty vehicles
  - See part 2, section 12 – Vehicle Identification Number (VIN) markings should be checked to ensure compliance, seating capacities and undue stresses

Local licensing authorities are strongly advised to obtain a declaration, from the operator of a licensed novelty vehicle, that the side facing seats will never be used to carry passengers under 16 years of age, **regardless of whether the vehicle is fitted with or without seat belts.**

It is strongly advised that notices forbidding children to be carried in side facing seats are displayed in prominent positions, ie on entry to the passenger compartment and on either side of the passenger compartment. Local licensing authorities may also require additional outward facing signs adjacent to all entrance/exit doors to the passenger compartment.

## 3 General information

Only vehicles complying with the following conditions will generally be considered for licensing as private hire vehicles.

- Cars fitted with at least four doors and four wheels
- Right-hand drive vehicles – with the exception of stretch limousines (where applicable)
- Vehicles with adequate space for luggage
- Vehicles must be capable of carrying at least four and not more than eight passengers in addition to the driver
- With the exception of stretch limousines, vehicles will not be accepted with blacked out windows. Passengers being carried in the vehicle must be visible from the outside. In **exceptional circumstances**, tinted windows may be acceptable
- To allow a thorough examination of a vehicle or any part thereof, it must be presented for test in a clean condition. The vehicle presented will fail the test if, in the opinion of the vehicle examiner, the vehicle is so dirty that it would be unreasonable for the test to be carried out
- A test will not be carried out unless the licence fee/ examination fee has been paid in advance

### Statement of undertakings and declaration

In the interests of road and passenger safety, the licensed driver/ owner or operator undertakes to make proper arrangements so that licensed vehicles are kept in a roadworthy condition at all times.





## Part 2: Procedures and standards of inspection

This best practice guide sets out the procedures and standards for those who carry out inspections of hackney carriage and private hire vehicles.

It is recommended that the guide is also made freely available to owners, proprietors, operators and drivers of hackney carriage and private hire vehicles, who may find it useful as it details the standards that vehicles are subjected to. The guide also explains the reasons why a vehicle presented for inspection, has not been issued with a pass certificate.

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### Section 1

## Lamps, reflectors and electrical equipment

### 1.9 Electrical wiring and equipment

Method of inspection	Reason for rejection
<i>This examination is limited to that part of the electrical system that can be readily seen without dismantling any part of the vehicle.</i>	
a Check all electrical wiring for: <ul style="list-style-type: none"><li>condition</li><li>security</li><li>position</li><li>signs of overheating</li><li>heavy oil contamination</li></ul>	a Wiring <ul style="list-style-type: none"><li>positioned so that it is chafing or clipped to a fuel line or likely to be damaged by heat so that insulation will become ineffective</li><li>with clear evidence of overheating</li><li>heavily contaminated with oil</li></ul>
b Check all switches controlling all obligatory lights	b Switches <ul style="list-style-type: none"><li>Insecurity or malfunction of a switch controlling an obligatory light</li></ul>

## 1.9 Additional lamps

Method of inspection	Reason for rejection
<i>With the ignition switched on check the following.</i>	
<b>Reversing lamps</b> <ul style="list-style-type: none"> <li>a The reversing lamps emit a diffused white light when reverse gear is selected</li> <li>b The lamps extinguish when neutral gear is selected</li> <li>c The lamps are in good working order and are secure</li> <li>d The lamps do not flicker when lightly tapped by hand</li> </ul>	<b>Reversing lamps</b> <ul style="list-style-type: none"> <li>a Fails to operate or does not emit a white diffused light</li> <li>b Fails to extinguish when neutral or forward gear is selected</li> <li>c Are not in good working order or insecure</li> <li>d Flickers when tapped lightly by hand</li> </ul>
<b>Front fog/driving lamps</b> <ul style="list-style-type: none"> <li>e A single front fog lamp emitting a white or yellow diffused light illuminates only when dipped beam is selected</li> <li>f A pair of matched fog lamps both emitting a white or yellow diffused light should illuminate together</li> <li>g A pair of matched, long-range driving lamps, both emitting a white diffused light, should illuminate together</li> </ul>	<b>Front fog/driving lamps</b> <ul style="list-style-type: none"> <li>e Lamp inoperative or operates other than in dipped beam mode</li> <li>f Operate incorrectly</li> <li>g Operate incorrectly</li> </ul>
<b>'For Hire' and roof signs</b> <ul style="list-style-type: none"> <li>a Correct style and type of sign fitted</li> <li>b Ensure the sign is securely fastened to the vehicle</li> </ul>	<b>'For Hire' and roof signs</b> <ul style="list-style-type: none"> <li>a Incorrect colour or details shown on sign, ie registration number; vehicle number etc</li> <li>b Insecure sign</li> </ul>
<ul style="list-style-type: none"> <li>c Condition and security of wiring</li> <li>d Functional test of signs for illumination</li> </ul>	<ul style="list-style-type: none"> <li>c Wiring is not in good condition or is loose or chaffed</li> <li>d Illumination not consistent across the sign, ie all light bulb(s) LED(s) illuminated when switched on</li> </ul>

## Section 2

## Steering and suspension

### 2.1 Steering control – steering wheel

Method of inspection	Reason for rejection
<i>With both hands rock the steering wheel from side to side at right angles to steering column and apply slight downward and upward pressure to the steering wheel rim (in line with column). Note the following.</i>	
<ul style="list-style-type: none"> <li>a Fractures in steering wheel hub</li> <li>b Fractures in steering wheel rim</li> <li>c Steering wheel spokes loose or fractured</li> <li>d Jagged edges on steering wheel rim</li> <li>e. If possible, check the retaining device on steering wheel is fitted</li> </ul>	<ul style="list-style-type: none"> <li>a Steering wheel hub fractured</li> <li>b Steering wheel rim fractured</li> <li>c A steering wheel spoke loose or fractured</li> <li>d Jagged edges on steering wheel rim likely to injure the driver</li> <li>e. A steering wheel hub-retaining device not fitted</li> </ul>

## 2.1 Steering control – steering column

Method of inspection	Reason for rejection
a Try to lift the steering in line with the steering column and note the movement at centre of steering wheel	a Excessive movement at centre of steering wheel in line with steering column (end float) <i>Note: Certain types of steering column might show some movement not due to excessive wear, eg those fitted with universal joints or flexible couplings</i>
b While steering wheel is rotated, check for deterioration in any flexible coupling or universal joint of steering column	b A flexible coupling or universal joint deteriorated, worn or insecure
c Where practical, check any clamp bolts for presence and security of locking devices. (These may be located in the engine compartment or under chassis)	c A coupling clamp bolt or locking device loose or missing

## 2.4 Suspension spring units and linkages

Method of inspection	Reason for rejection
<b>Coil springs</b> a Welding repairs	<b>Coil springs</b> a Repaired by welding

## Section 3

### Brakes

No additional inspection requirements

## Section 4

### Tyres and road wheels

#### 4.1 Tyres – condition

Method of inspection	Reason for rejection
On all the tyres, including spare wheel <b>where fitted</b> , examine each tyre meets all the requirements laid down in the 'MOT Inspection Manual – Private Passenger and Light Commercial', ISBN 978-0-9549352-5-2  <i>Note: Where a doughnut tank is fitted in the boot for LPG, the spare wheel if still carried in the boot must be properly secured. Alternatively, a spare wheel cage installed to manufacturer's and British Standards may be fitted to the underside of the vehicle</i>	In accordance with the 'MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing', ISBN 978-0-9549352-5-2  <i>Note: Space saver tyres should only be approved with the support of a method statement highlighting driver responsibilities with regard to the maximum permitted speed and that space savers are a temporary 'get-you-home tyre'</i>

Method of inspection	Reason for rejection
<p><b>Important note: stretched limousines</b></p> <p>In the case of American imported stretched limousines, vehicle inspectors will need to be vigilant when inspecting tyres for suitability, and an assessment should be made with the information detailed on the convertor plate. Most converted stretched limousines are converted from Ford Lincoln Town Cars with a number of Cadillac variants also.</p> <p>In approved 'stretch' limousine conversions, the maximum weight can be in excess of 7,100lbs (3.2 tonnes) and care should be exercised when determining suitable tyre ratings. Generally speaking a Ford Lincoln or Cadillac would require a tyre rating index of at least 107T, which gives a load rating of 2,149lbs (975kgs) with a maximum speed of 118 miles per hour.</p>	<p><b>Stretched limousines</b></p> <p>More information and guidance can be obtained from: National Limousine &amp; Chauffeur Association on: <a href="http://www.nlca.co.uk">www.nlca.co.uk</a></p>

## Section 5

### Seat belts and supplementary restraint systems

No additional inspection requirements

## Section 6

### Body, structure and general items

#### 6.1 Vehicle body and condition (exterior)

Method of inspection	Reason for rejection
Examine the body thoroughly for security, corrosion, damage, poor repair/paint match or sharp edges that are likely to cause injury	<ul style="list-style-type: none"> <li>a An insecure or missing body panel, trim, step or accessory</li> <li>b Any sharp edge whatsoever which may cause injury</li> <li>c Heavy scuffing, abrasions or deformation to front and rear bumper</li> <li>d More than 8 stone chips visible on a bonnet/grill that has not penetrated to the metal or more than 4 stone chips that have penetrated to the metal</li> <li>e More than 8 stone chips on any panel including door edges, provided the base coat has not been penetrated</li> <li>f More than 4 stone chips on any panel where the base coat has been penetrated to the metal and is untreated</li> <li>g A single dent of more than 80mm, or more than 3 dents of not more than 20mm in any one panel</li> <li>h More than 4 scratches and or abrasions of more than 50mm in length in any one panel provided that the base coat has not been penetrated</li> <li>i Dull, faded paintwork which has lost its gloss finish or paint miss-match to a panel(s) to such an extent that it detracts from the overall appearance of the vehicle</li> </ul>

Method of inspection	Reason for rejection
	<p>j Evidence of poor repairs and or paint finish to a repaired panel(s) including runs and overspray to adjoining panels/trim that detracts from the overall appearance of the vehicle</p> <p>k Obvious signs of rust/corrosion of any size particularly those that are covered by advertising signs</p> <p>l Lack of clearly displayed or omission of 'No Smoking' signs</p>

## 6.1 Vehicle body, security and condition (interior)

Method of inspection	Reason for rejection
<p>a Examine thoroughly the interior for damaged, insecure or loose fixtures, fittings or accessories</p> <p>b Dirty, missing and worn trim, carpets, seat belts, mats, headlining, boot area and inclusion of prescribed items. Remove mats to inspect carpets underneath for cleanliness and wear</p> <p>c Examine interior lights, motion door locks and warning lights</p> <p>d Examine heating, demisting and air condition systems for correct operation, including passenger compartment controls where fitted (includes electric front and rear screen demisters)</p> <p>e Examine all windows ensuring they allow lowering and rising easily</p> <p>f Examine interior door locks, grab handles/rails safety covers</p> <p>g Examine grills/partitions for security and condition</p> <p>h Examine electrical wiring for condition, security, including intercom systems</p> <p>i Examine the boot for access, contents, cleanliness and water ingress</p>	<p>a Insecure and loose fixtures, fittings or accessories</p> <p>b Missing, dirty, soiled, stained worn or insecure trim, carpets, headlining, and mats in such a condition that they are likely to soil or damage passengers' clothing or luggage</p> <p>c An inoperative interior light (all lights must illuminate if they are part of the manufacturer's standard equipment). Missing or defective motion switch/lock or warning lamp not illuminated</p> <p>d A system(s) which does not function correctly, or any part is missing including vents, controls and switches</p> <p>e An opening window that is inoperative or difficult to open and or close mechanism broken/missing</p> <p>f Missing, defective or loose door locks, child locks, protective covers grab handles and rails. Grab handles/rails, which are rigid to aid the blind and partially sighted, and are worn to excess</p> <p>g A grill/partition which is insecure or has sharp edge which may cause injury to passengers or driver</p> <p>h Frayed, chaffing wiring, non-shielded terminals and cables so routed that they cause a trip hazard, cables that can be easily disconnected. Intercom system defective, warning light inoperative and signs illegible/missing</p> <p>i Unable to open, close and or lock boot lid, failure of boot lid support mechanism, defective seals/evidence of water ingress, dirty boot and/or carpets, loose items stored in boot (ie spare wheel tools and equipment etc)</p>
<b>Additional items to be inspected in limousines and novelty vehicles.</b>	
<p>j All fixtures and fittings, ie mirror balls, drinks cabinets, televisions etc must be stored securely and not hinder the ingress or egress from the passenger compartment</p>	<p>j Any fixture or fitting that is loose or insecure or where walkways are blocked that prevent ease of ingress or egress from the passenger compartment</p>



Method of inspection	Reason for rejection
<p>k A notice identifying the maximum seating capacity to be displayed in the passenger compartment and clearly visible to all passengers. It may be necessary to display more than one sign indicating the maximum seating capacity</p> <p><i>Note: Any vehicle presented in a dirty, untidy condition will not be tested</i></p>	<p>k No maximum seating capacity sign or signs displayed. A sign or signs not clearly visible to all passengers</p>
<p><b>Mandatory 'No Smoking' sign</b></p> <p>l Check for presence and display of No Smoking sign</p>	<p>l No Smoking sign missing/not adequately displayed</p>

## 6.1 Bumper bars

Method of inspection	Reason for rejection
<b>Examine the bumper bars and check the following.</b>	
<p>a They are secure to their mountings</p> <p>b The mountings are secure to the vehicle</p> <p>c There is no evidence of damage</p>	<p>a A loose bumper bar or mounting. A weakened bumper bar and/or mounting is insecure because of poor repairs</p> <p>b A fractured mounting bracket. Mounting bolts so worn or elongated that the bumper bar is likely to detach partially or completely from the vehicle when in use. A bumper bar secured by wire or other temporary means is regarded as insecure and must be rejected</p> <p>c Bumper bars which have jagged edges, cracks, splits or projections, which may cause injury to persons near the vehicle. Paint miss-match or fading which is significantly different to that of the rest of the paintwork</p>

## 6.2 Doors and seats

Method of inspection	Reason for rejection
<p><b>Doors and emergency exits</b></p> <p>Examine the condition of all doors and emergency exits. Check door locks, striker plates, handles and hinges for security, wear and missing and damaged trim/cover plates</p> <p>Check the presence, condition and correct functioning of all door stay catches and devices (including sliding doors)</p> <p>Check markings describing the presence and method of opening emergency exit(s) are readily visible on or adjacent to the exit and are legible</p> <p>Check that seats are secure, clean and not unduly worn</p>	<p><b>Doors and emergency exits</b></p> <p>a A door or emergency exit does not latch securely in the closed position</p> <p>b A door or emergency exit cannot be opened from both the inside and outside the vehicle from the relevant control in each case</p> <p>c Missing, loose or worn handles, lock or striker plate</p> <p>d Markings describing the presence and method of opening an emergency exit missing, illegible or incorrect</p> <p>e Missing, loose or damaged trim/cover plate</p> <p>f Seat cushion(s) stained, torn, holed, worn or insecure. A seat that does not provide adequate support at base or backrest. Torn, slashed or badly stained seats are not acceptable</p> <p>g A door stay catch or device missing, excessively worn or not fulfilling its function</p>

Method of inspection	Reason for rejection
<p><b>Important note</b></p> <p>With the exception of 'novelty vehicles' only vehicles with forward and rear facing seats will be accepted.</p> <p>For more information on seating for novelty vehicles see section 12.1</p>	
<p><b>Accessibility: wheelchair vehicles</b></p> <p>Door configurations for wheelchair accessible vehicles</p> <ul style="list-style-type: none"> <li>a Single rear door – must open to a minimum of 90 degrees and be capable of locking in place</li> <li>b Twin rear doors – both must open to a minimum of 180 degrees and be capable of being locked in place. This is to enable an attendant (driver or guide) to assist the wheelchair passenger if required</li> </ul>	<p><b>Accessibility: wheelchair vehicles</b></p> <ul style="list-style-type: none"> <li>a Door does not open to a full 90 degrees and cannot be secured in the open position</li> <li>b Twin doors do not open to a full 180 degrees and cannot be secured in the open position</li> </ul>

## Section 7

### Exhaust, fuel and emissions

#### 7.1 Exhaust system

Method of inspection	Reason for rejection
Where applicable, check for presence, security and adequacy of grease shields to hot exhausts	A heat shield missing, insecure or inadequate

#### 7.2 Fuel system – pipes and tanks

Method of inspection	Reason for rejection
<ul style="list-style-type: none"> <li>a Check that fuel tank filler caps are: <ul style="list-style-type: none"> <li>• present</li> <li>• of the correct type</li> <li>• secure and seated properly to ensure correct function of sealing</li> </ul> </li> <li>b Examine pipes to see they are securely clipped to prevent damage by chafing and cracking, and are not in a position where they will be fouled by moving parts</li> <li>c Check that no fuel pipe runs immediately adjacent to or in direct contact with electrical wiring or the exhaust system</li> </ul>	<ul style="list-style-type: none"> <li>a A filler cap missing or unsuitable or in such condition that it would not prevent fuel leaking or spilling</li> <li>b Damaged, chafed, insecure pipes or pipes so positioned that there is a danger of them fouling moving parts</li> <li>c A fuel pipe immediately adjacent to or in direct contact with electrical wiring or exhaust system</li> <li>d Temporary/emergency fuel cap fitted</li> </ul>

## Section 8

### Driver's view of the road

#### 8.1 Mirrors and view to rear

Method of inspection	Reason for rejection
<b><i>The number and position of all obligatory mirrors must be checked.</i></b>	
Check the condition of each mirror reflecting surface	A mirror reflecting surface deteriorated or broken. <i>Note: A defective additional external mirror is not a reason for rejection</i>

#### 8.3 Windscreen – view to the front

Method of inspection	Reason for rejection
<b><i>Sit in the driver's seat and check that there is reasonable view of the road ahead, bearing in mind the original design of the vehicle.</i></b>	The position or size of any object restricts the driver's view of the road ahead, bearing in mind the original design of the vehicle
For all air operated wipers examine: <ul style="list-style-type: none"> <li>the condition of any visible piping</li> <li>the function of the operating mechanism</li> <li>the function of necessary valves to protect the braking system</li> </ul> <i>Note: Equipment or objects not originally fitted to the vehicle as part of the original design must not obstruct the designed forward view of the driver. In particular, objects such as (but not limited to) pennants, cab decorations and external stone guards/visors should not interrupt the view through the swept area by the windscreen wipers</i>	Air operated wipers: <ul style="list-style-type: none"> <li>pipes inadequately clipped or supported</li> <li>incorrect function of the wipers or leaking components</li> <li>incorrect operation of protection valves</li> </ul>

#### 8.5 Window glass or other transparent material

Method of inspection	Reason for rejection
a Visually check the condition of all windscreens, internal screens, partitions, side, rear, roof and door windows for cracks, surface damage and discolouration	a A crack, surface damage or discoloration in glass or other transparent material that: <ul style="list-style-type: none"> <li>impairs the driver's front, side, or rear view of the road</li> <li>presents a danger to any person in the vehicle</li> </ul>
b Check presence and security of all windscreens, side, roof, or rear windows, or internal screens or partitions	b A windscreen or any other outside window missing, or any windscreen, window, internal screen or partition insecure
c Check for evidence of obvious leaks from all windscreens and side, rear, roof or door windows	c Any external window or windscreen is obviously leaking
d Check for presence, security and condition of guard rails or barriers at windows, internal screens or partitions	d A guard-rail or barrier at a window, internal screen or partition missing, insecure or damaged
e For all vehicles first used before 1 January 1959. As far as is practicable, check that glass fitted to windscreens and outside windows facing to the front is safety glass, except glass fitted to the upper deck of a double deck bus	e The windscreen and/or any outside window facing to the front of a vehicle obviously not safety glass fitted to a vehicle first used before 1 January 1959
f For all vehicles used on or after 1 January 1959, as far as is practicable, check that glass used for windscreens and all outside windows is safety glass, or safety glazing	f Glass used for a windscreen or an outside window is obviously not safety glass

Method of inspection	Reason for rejection
<p>g Vehicles first used on or after 1 June 1978, check that windscreens and other windows, wholly or partly, on either side of the drivers' seat are made from safety glass displaying an acceptable safety mark</p> <p><i>Note: Marking is not required for safety glass on vehicles first used before 1 June 1978</i></p>	<p>g For vehicles first used on or after 1 June 1978, that windscreens and/or other windows wholly or partly on either side of the drivers seat that are not made from safety glass display an acceptable safety mark</p>

## Section 9

### Tricycles and quadricycles

No additional inspection requirements

## Section 10

### Additional requirements

#### 10.1 Transmission

Method of inspection	Reason for rejection
<b>Examine transmission, check for the following.</b>	
a Missing or loose flange bolts	a A loose or missing flange bolt(s)
b Cracked or insecure flanges	b A flange cracked, or loose on the transmission shaft
c Wear in shaft and/or wheel bearings	c Excessive wear in shaft bearing
d Security of bearing housings	d A bearing housing insecure to its fixing
e Cracks or fractures in bearing housings	e A cracked or fractured bearing housing
f Wear in universal joints	f Excessive wear in a universal joint
g Deterioration of flexible couplings	g Deterioration of a transmission shaft flexible coupling
h Distorted, damaged shafts	h A damaged, cracked or bent shaft
i Deterioration of bearing housing flexible mountings	i Deterioration of a flexible mounting of a bearing housing
j Clearance between transmission shafts and adjacent components	j Evidence of fouling between any transmission shaft and an adjacent component

#### 10.2 Oil and water leaks

Method of inspection	Reason for rejection
<p>a Check vehicle for oil and water leaks from any assembly or component to the ground</p> <p>b And/or which could be deposited on surrounding bodywork or onto the exhaust system.</p> <p><i>Note: If necessary, the engine can be run at idle speed to confirm the existence of an oil leak</i></p>	<p>a An oil or water leak, from any assembly, which deposits fluids underneath the vehicle whilst stationary</p> <p>b Leaks which, when the vehicle is moving, could be deposited upon the surrounding bodywork, exhaust and brake system so that it would:</p> <ul style="list-style-type: none"> <li>contaminate areas</li> <li>could potentially cause a health, safety or fire risk</li> </ul>

### 10.3 Luggage/load space

Method of inspection	Reason for rejection
Physical separation is not so much an issue as is the safety of passengers in the event of an accident. The luggage should therefore be secure and prevented from becoming dislodged in an accident in such a manner as may cause injury. Such security can be by means of a sheet or net, which could be anchored to the floor of the luggage area. Clearly if the luggage compartment is not physically separated from the passenger compartment then care will need to be taken so as not to carry any hazardous items such as fuel cans, detergents or other loose items that could leak if they become damaged	Load restraint system, if required, not present at time of test  Load restraint system faulty or unserviceable

### 10.4 Trailers and towbars

Method of inspection	Reason for rejection
<b>Trailers</b>  Where a local licensing authority permits the use of trailers for the carriage of luggage, then the trailer needs to be presented for test along with the vehicle that will be authorised to tow it. The trailer will also need to display the appropriate registration plate and a licence plate  <i>Note: Trailers presented for inspection should be built by an approved or recognised trailer manufacturer</i>  <i>An example of a typical trailer inspection sheet can be found at Appendix A</i>	<b>Trailers</b>  Rejections as indicated on the trailer inspection sheet shown at Appendix A
<b>Towbars</b>  Where tow bars are fitted checks must be made on the condition and security to the towing vehicle	<b>Towbars</b>  Rejections as indicated on the trailer inspection sheet shown at Appendix A

## Section 11

### Ancillary equipment

#### 11.1 Wheelchair restraint and access equipment

Method of inspection	Reason for rejection
<b>Wheelchair restraint</b>  a Where applicable check condition and operation of wheelchair restraint  b A system for the effective anchoring of wheelchairs shall be provided within the vehicle in all spaces designated as wheelchair spaces	<b>Wheelchair restraint</b>  a A wheelchair restraint is defective, worn or missing.  b Wheelchair anchorage systems and devices do not conform to European Directive 76/115 EEC (as amended)
<b>Wheelchair access and equipment</b>  A vehicle shall be fitted with either of the following forms of wheelchair access equipment:	



Method of inspection	Reason for rejection
<p><i>Ramps</i></p> <p>c Check that appropriate ramps fitted are securely installed in the designated storage area. Examine for damage, deformity, sharp edges etc. and provision of anti-slip covering</p> <p><i>Wheelchair lift</i></p> <p>d A purpose designed wheelchair lift shall conform to the LOLER 98 Regulations. A report, confirming that the lifting equipment is safe to use, shall be presented at the time of the vehicle inspection. Vehicles presented for inspection with a wheel chair lift will require a LOLER certificate that is valid for a period of six months from the date of issue</p> <p><i>Note: Passenger lifting equipment will need to be thoroughly examined by a competent person, in use, at least once every six months</i></p> <p>e Any purpose designed wheelchair access ramp that is carried must be lightweight and easy to deploy. The installed ramp shall have visible reference to safe working load of 250kgs and certified to BS 6109</p> <p>f Wheelchair access equipment shall be fitted either into the rear or side access door of the vehicle. Where it is fitted to a side door this shall be the door situated on the nearside of the vehicle, ie kerbside when stopped in a normal road</p> <p>g The aperture of the door into which the access equipment is fitted shall have minimum clear headroom in its central third of 48 inches (1,220mm). The measurement shall be taken from the upper centre of the aperture to a point directly below on either the upper face of the fully raised lift platform or the upper face of the ramp fully deployed on level ground</p> <p>h A locking mechanism shall be fitted that holds the access door in the open position whilst in use</p> <p>i All wheelchair tracking must be fit for purpose and structurally sound</p>	<p>c Ramps missing, insecurely stored, damaged/deformed, anti-slip covering in poor condition or missing</p> <p>d Vehicle not presented with a valid or current LOLER certificate</p> <p>e The installed ramp does not have any visible reference to a maximum safe working load or certification to BS 6109</p> <p>f Wheelchair access equipment is fitted to the offside access door of the vehicle</p> <p>g There is not clear headroom in the aperture within the central third of 48 inches (1,220mm)</p> <p>h No evidence of a suitable locking mechanism to hold the door open</p> <p>i Damaged or insecure tracking or detritus deposits within the tracking rails</p>

## 11.2 Fire extinguisher

Method of inspection	Reason for rejection
<p>a Check the fire extinguisher for presence:</p> <ul style="list-style-type: none"> <li>the expiry date</li> <li>seal</li> <li>type – water or foam</li> <li>approved mark – BS5423 or EN3</li> </ul> <p>b The fire extinguisher must be kept in an accessible position inside the vehicle. The extinguisher may be carried out of view, ie in a fastened glove compartment provided there is a clear sign on the dashboard, stating the location</p>	<p>a A fire extinguisher is missing or:</p> <ul style="list-style-type: none"> <li>out of date</li> <li>broken or missing seal</li> <li>no approved marking visible or other non-approved marking shown</li> <li>incorrect type</li> <li>in an obviously poor condition or discharged state</li> </ul> <p>b Not fitted in an accessible position or its position is not clearly marked</p>

### 11.3 First aid kit

Method of inspection	Reason for rejection
a Check the first aid kit for presence, the expiry date and the seal is intact. There is no requirement to inspect the contents of the first aid kit	a A first aid kit is missing, out of date, in a poor or contaminated condition or the seal has been broken
b The first aid kit must be kept in an accessible position inside the vehicle. The first aid kit may be carried out of view, ie in a fastened glove compartment provided there is a clear sign on the dashboard, stating the location	b The first aid kit is not fitted in an accessible position or its position is not clearly marked

## Section 12

### Novelty vehicles (stretch limousines)

#### 12.1 Seating capacity

Method of inspection	Reason for rejection
It is strongly recommended that prior to the inspection of a novelty vehicle the inspector checks the seating capacity on the V5C to ensure it does not exceed 8 passenger seats	If the V5C states more than 8 passengers, then this vehicle <b>MUST NOT</b> be tested or licensed as a Private Hire Vehicle. The vehicle should be referred to VOSA for licensing as a passenger carrying vehicle (PCV)

#### 12.2 Undue stresses

Method of inspection	Reason for rejection
Vehicle inspectors should be aware of undue stresses caused to the steering, brakes and tyres due to the additional weight imposed on the vehicle at the modification process	Tolerances and wear should be as defined in the VOSA MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing as follows: <ul style="list-style-type: none"><li>• steering – section 2</li><li>• brakes – section 3</li><li>• tyres – section 4</li></ul>

#### 12.3 Passenger notices

##### Driver declaration

Local licensing authorities are strongly advised to obtain a declaration, from the operator of a licensed novelty vehicle, that side facing seats will never be used to carry passengers under 16 years of age, **regardless of whether the vehicle is fitted with or without seat belts**

##### Passenger notices

- In addition, notices forbidding children to be carried in side facing seats must be displayed in prominent positions, ie on entry to the passenger compartment and on the inside of the vehicle on either side of the passenger compartment. In addition, local licensing authorities may require outward facing signs adjacent to all entrance/exit doors to the passenger compartment
- Further notices should be displayed inside the vehicle, where all passenger can clearly read the notice, advising passengers of the maximum carrying capacity of the vehicle and a warning to passengers that should the capacity be exceeded then the vehicle will not be insured

# Appendices

## Appendix A

### Hackney Carriage and Private Hire – Trailer inspection form

Hackney Carriage and Private Hire  
Trailer inspection sheet

Space for  
local authority logo




Plate number of towing vehicle \_\_\_\_\_

Registration number of towing vehicle \_\_\_\_\_

Registered owner of vehicle \_\_\_\_\_

Manufacturer's plate showing chassis number \_\_\_\_\_

Manufacturer's plate showing maximum weight \_\_\_\_\_

Inspection area	Description	Pass (✓)	Fail (X)
Licence plate	Contains details and complies with local licensing authorities' format		
Licence plate	Clearly displayed, legible and securely fixed		
Licence plate	Serviceable – not damaged or defaced		
Trailer couplings	Check condition and operation and presence of a safety breakaway cable		
Tow bar mounting brackets	Check condition and security		
Trailer body	Check condition of side and rear tailboards		
Trailer chassis	Check condition		
Suspension	Check condition and operation		
Wheel bearings	Check for excessive free play or roughness in bearings		
Tonneau cover and fittings	Check for condition		
Wheels and tyres	Check security, condition and wear		
Braking system	Operates satisfactorily		
Lighting	All obligatory lights work		
Indicators	All indicators work		
Reflective triangle	Check presence and condition		
Numberplate	Check condition, security of fitting and displayed clearly		
Speed restriction notice	Check condition and displayed clearly		

I hereby certify that the above trailer has been inspected and has/has not\* been found to be roadworthy and suitable to be used as a hackney carriage/private hire\* trailer at the time of inspection.

Examined by (name) \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

\*Delete as appropriate


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## Appendix B

### Definition of motor vehicles

Category	Definition
<b>M</b>	A motor vehicle with at least four wheels designed and constructed for the carriage of passengers
<b>M1</b>	Vehicles designed and constructed for the carriage of passengers and comprising no more than eight seats in addition to the driver's seat
<b>M2</b>	Vehicles designed and constructed for the carriage of passengers and comprising more than eight seats in addition to the driver's seat, and having a maximum mass not exceeding five tonnes
<b>M3</b>	Vehicles designed and constructed for the carriage of passengers and comprising more than eight seats in addition to the driver's seat, and having a maximum mass exceeding five tonnes

## Hackney Carriage and Private Hire – Inspection sheet (front)

Hackney Carriage and Private Hire Inspection form				Space for local authority logo	
IMPORTANT: READ NOTES OVERLEAF					
Chassis no	Certificate of Compliance serial no			Class of inspection (tick)	
Vehicle reg mark	Make and model	Year of manufacture		<input type="checkbox"/> Hackney Carriage	
Plate no	Recorded mileage	Colour		<input type="checkbox"/> Private hire	
				<input type="checkbox"/> Car purchase	
A	Item tested	Pass (✓)	Fail (X)	Reasons for failure	
	<b>Lighting equipment</b>				
	Front and rear lamps				
	Headlamps				
	Headlamp aim				
	Stop lamps				
	Rear reflectors				
	Direction indicators				
	<b>Steering and suspension</b>				
	Steering control				
	Steering mechanism/system				
	Power steering				
	Transmission				
	Wheel bearings				
	Front suspension				
	Rear suspension				
	Shock absorbers				
	<b>Brakes</b>				
	Controls/ABS warning system				
	Condition of service brake system				
	Condition of parking brake system				
	Service brake performance				
	Parking brake performance				
	<b>Tyres and wheels</b>				
	Tyre type				
	Tyre condition (including spare)				
	Road wheels				
	<b>Seat belts</b>				
	Mountings				
	Condition				
	<b>General</b>				
	Driver's view of the road, mirrors				
	Horn				
	Exhaust system				
	Fuel system				
	Exhaust emissions				
	Vehicle structure				
	Body interior and luggage space				
	Fire extinguisher, first aid kit and bulb kit				
	Meter – test and seal				
	Licence plates/discs				
	Roof sign and For Hire sign				
	Body exterior				
	Doors and seats				
	Electrical wiring and equipment				
	Speedo				
	Oil and water leaks				
	Ancillary equipment				
	Trailers and tow bars Yes/No				
B	I hereby certify that the above vehicle has been inspected and has/not* been found to be roadworthy and suitable to be used as a hackney carriage/private hire* vehicle at the same time of inspection.  Signed _____ (Tester/Inspector)  Name in capitals _____ Date _____			<b>Authentication stamp</b>   	
C	<b>WARNING: IN MY OPINION, THE VEHICLE IS DANGEROUS TO DRIVE BECAUSE OF THE FOLLOWING DEFECT:</b>  				

\*delete as appropriate



## Hackney Carriage and Private Hire – Inspection sheet (back)

### **If your vehicle has failed the test please read the following notes**

- 1 Your vehicle does not meet the legal requirements. You should have it repaired without delay and you are not to use the vehicle for hire and reward until such repairs are carried out.
- 2 It is an offence to use on a public road a vehicle of testable age that does not have a current certificate of compliance, except when:
  - bringing it away from a testing station after it has failed the test
  - taking it to or bringing it away from a place where by PREVIOUS ARRANGEMENT repairs are to be or have been made to remedy the defects for which the vehicle was failed
  - taking it to the testing station for a test booked in advance

Even in the above circumstances you may still be prosecuted for driving an unroadworthy vehicle if it does not comply with the various regulations affecting its construction and use.

Additionally the insurance may not be operative.

- 3 A FULL FEE IS PAYABLE IF:
  - a the vehicle is submitted for retest at the testing station more than seven days after being failed
  - b having been presented for a retest, fails any subsequent test

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# Chapter 12: Vehicle age limits

## Objective:

“To prescribe vehicle age limits based on local empirical evidence and in order to promote public safety and confidence in the licensed hackney carriage and private hire fleet.”

## 1.0 The Legal Provisions

- 1.1 The 1847 act is silent on age limits for hackney carriages. Likewise, the 1976 act makes no specific reference to age limits for vehicles but permits for the imposition of conditions on both hackney carriage and private hire vehicle licences.
- 1.2 The “fitness” of a licensed vehicle is of paramount consideration and licences may be suspended, revoked or not renewed if the committee is satisfied that a licensed vehicle is “unfit for use”.

## 2.0 Current Policy on Age Limits

- 2.1 Some council’s impose age limits on vehicles and some do not.

Vehicle age limits have been applied in Portsmouth for many, many years. This has been by way of a local policy directive and as a “pre-application” requirement for both proprietors of hackney carriages and private hire vehicles.

Historically, there was an old “split rule” for “normal” saloon vehicles to remain licensed until 8 years of age (with an entry age of 5 years or under) and London approved FX type vehicles being licensed for up to 12 years.<sup>80</sup>

- 2.2 Corresponding vehicle licence conditions have been imposed to reflect on the vehicle age limits approved by the committee.
- 2.3 Proprietors have a right of appeal to the Magistrates’ against conditions imposed on respective hackney carriage and private hire vehicle licences.

- 3.0 The current vehicle age limits approved are as follows:

- For all hackney carriage and private hire saloons, hatchbacks, estates and multi people vehicles (MPV’s) - the vehicle must be **under 6 years of age on first licensing and can remain licensed until 8 years of age;**
- For suitable adapted fully wheelchair accessible hackney carriages (including those meeting the Transport for London and old PCO specifications) and having a minimum nearside loading for wheelchair users – the vehicle must be **under 4 years of age on first licensing and can remain licensed until 12 years of age – (minute 23/2006 refers).**<sup>81</sup>

The local vehicle age limit policy directives/ conditions have stood the test of time and have not been subject to judicial challenge.

However vehicle proprietors have approached the Licensing Committee direct to seek a further vehicle licensing period on individual merit. In some cases the committee have agreed to extend a vehicle licence – in others, they have not. The overall mechanical fitness and comfort of the vehicle (together with the individual vehicle servicing and maintenance history) have been of paramount importance to the committee.<sup>82</sup>

Equally, the committee has chosen, in the past, to waive the current “entry” 6 year age limit policy for unique vehicles such as older Lincoln Town cars (stretched limousines) and converted Volvo fire appliance vehicles used as “novelty fun vehicles”. Again, an emphasis of individual consideration, on merit, has applied.

- 3.1 There is nothing wrong in having clear local guidelines on vehicle age limits (to aid both proprietors, officers and members alike) and accordingly the committee has robustly defended the use of a local vehicle age limit policy on the grounds of public safety but have not “closed their eyes and ears” to hearing a case on merit.<sup>83</sup>

However, the committee would expect a proprietor to bring evidence of an exemplary mechanical and cosmetic history to support any extension of a vehicle licence.

3.2 Comparative vehicle age limits from other local authorities in Hampshire is shown below:

Authority	Vehicle age at first licensing	Maximum vehicle age	Notes
Portsmouth – saloon style	under 6 years	8 years	
Portsmouth – wheelchair accessible	under 4 years	12 years	
Southampton – saloon style	nil	9 years	(under review)
Southampton – wheelchair accessible	nil	12 years	(under review)
East Hants	under 5 years	no upper age limit	
Fareham	under 2 years	no upper age limit	officer discretion
Test Valley	under 5 years	13 years*	*reducing to 10 years
Basingstoke	under 3 years	8 years*	*may cease earlier depending on test results
New Forest	nil	nil	officer discretion
Rushmoor	based on EU emission standards		
Havant	under 5 years	no upper age limit	
Winchester	under 3 years	6 years	officer discretion
Gosport	under 3 years	8 years	officer discretion
Hart	under 3 years	7 years	6 month licence issued
Eastleigh	under 15 years		
Isle of Wight	under 3 years	no upper age limit	



## 4.0 Best Practice Guidance<sup>84</sup>

4.1 The Department for Transport guidance states...  
.....*"It is perfectly possible for an older vehicle to be in a good condition. So the setting of an age limit beyond which a local authority will not licence vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be more appropriate for older vehicles – for example, twice yearly tests for vehicles more than 5 years old"*.

4.2 The council notes but does not entirely agree with the guidance. In an ideal world, vehicle proprietors should not have to face barriers to "renew" existing vehicle licences year after year; BUT the empirical evidence gleaned from the analysis of the 2014 vehicle test results shows that older vehicles have a higher failure rate than those younger and newer vehicles.

The results of the 2014 vehicle testing data analysis showed a test failure rate of 85% for vehicles aged 9 years and over. Equally, the noted failure rate for vehicles aged between 6 – 9 years of 78% is also of concern.

5.0 The current age limit policy favours a longer life for wheelchair accessible hackney carriage vehicles (up to 12 years) but corresponding wheelchair accessible private hire vehicles are only permitted to remain licensed until 8 years.

5.1 This anomaly reflected a previous desire to "recognise" the virtues of the then approved "Public Carriage Office purpose built taxis"<sup>85</sup> which were built for the specific demands of public conveyance and had a purpose built chassis and running gear. The universally recognised vehicles were the iconic "London cab" Fairway and FX range (now the LTI TX range) and the Metrocab. Other vehicles such as the Eurotaxi are now PCO (as was) compliant.

However, the current 12 year age limit for all locally approved wheelchair accessible hackney carriages is NOT based on a recognition of all these vehicles being "purpose built" and the differing age limit standard between those wheelchair hackney carriages and wheelchair private hire vehicles should be addressed. This should be to either increase the private hire wheelchair accessible vehicles (WAV) to 12 years (if existing policy were to be maintained) or to reduce both classes of WAV hackney carriage and private hire vehicles to a similar age.

6.0 **There should be a drive towards recognising and licensing a fleet of younger, cleaner and greener vehicles working in Portsmouth. The evidence in the "Vehicle Testing Requirements" chapter supports this stance.**

**This view is shared by your reporting staff, the Environmental Health Manager, the Transport Manager and Adams Morey.**

Ironically, the evidence suggests that vehicle proprietors are presenting newer vehicles for initial licensing anyway with 40% of new private hire or hackney carriage vehicles licensed in 2014 being brand new or under 1 year old at first licensing. This may be due to competitive finance deals together with a desire to drive a modern and more fuel efficient vehicle.

6.1 As a consequence, it is recommended that vehicle age limits be retained (and modified) subject to an individual proprietor's right to have his/her case heard before the Licensing Committee (or sub - committee) on individual merit.



## Resolved

1. That minute 23/2006 be rescinded.
2. That, as a matter of local policy and condition for both hackney carriage and private hire vehicle licences; all private hire and hackney carriage vehicles presented for initial licensing shall be **under 3 years of age** on first licensing and may remain licensed until **8 years of age** and provided the vehicle is mechanically fit and supported by an evidenced service history in line with the manufacturer's guidelines.
3. That any vehicle presented for a **temporary use** licence shall be **under 1 year old** and provided the vehicle is mechanically fit and supported by an evidenced service history in line with the manufacturer's guidelines.
4. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

# Chapter 13: CCTV provision in vehicles

## Objective:

"To protect the safety and welfare of drivers, passengers and other road users by requiring the mandatory provision of CCTV digital camera recording equipment in licensed hackney carriage and private hire vehicles"

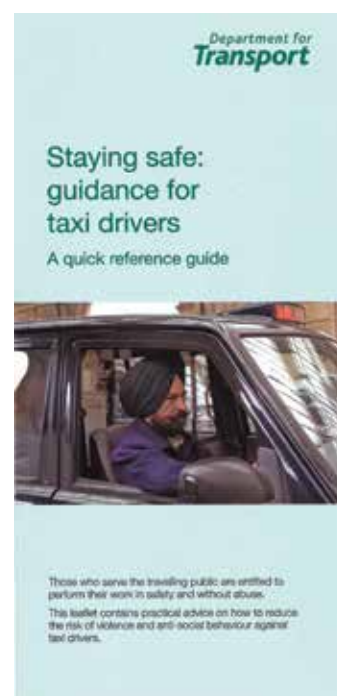
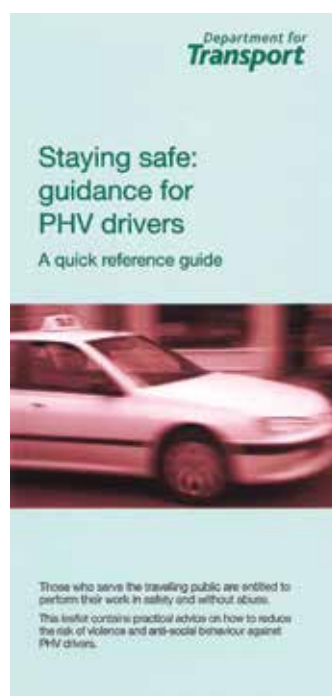
## 1.0 The Legal Provisions

- 1.1 The use of modern digital visual and/or audio camera recording equipment post-dates the 1976 act and, not surprisingly, there is nothing in the taxi or private hire legislation that reflects on this important and now common aspect of public and personal protection.
- 1.2 CCTV surveillance camera devices which process personal data/information must comply with the principles of the Data Protection Act 1988. Operators of surveillance cameras must register with the Information Commissioner and have due regard to the current best practice guidance issued by the Information Commissioner's Office.<sup>86</sup>
- 1.3 Underpinning the 1988 act are the "data protection principles"  
Equally, regard should also be given to the code – "Surveillance Camera Code of Practice" and issued by the Secretary of State pursuant to the Protection of Freedoms Act 2012.  
All data controllers should follow the code
- 1.4 The use of CCTV in licensed vehicles in Portsmouth is currently voluntary with no conditions of vehicle licence or policy directives in place to permit or control "in car" CCTV systems. The council has hitherto taken a neutral stance on the provision of CCTV in licensed vehicles.

## 2.0 Best Practice Guidance

- 2.1 The Department for Transport guidance recognises that the personal security of both hackney carriage and private hire drivers is a prime consideration. Councils' are reminded of the Crime and Disorder Act 1998 which requires the committee to consider crime and disorder reduction measures.

- 2.2 The guidance states "The owners and drivers of vehicles will often want to install security measures to protect the driver. Local licensing authorities may not want to insist on such measures, on the grounds that they are best left to the judgement of the owners and drivers themselves. But it is good practice for licensing authorities to look sympathetically on – or actively to encourage – their installation. They could include a screen between driver and passenger or CCTV".
- 2.3 The department has previously produced helpful guidance in leaflet format for drivers – "Staying safe – guidance for taxi drivers" and "Staying safe – guidance for private hire drivers"<sup>87</sup>:



The department's staying safe advice in respect of CCTV was:

*"Installing CCTV cameras has been shown to lead to reduced threats and violence against drivers. Signs in the vehicle can highlight the presence of CCTV to passengers. Cameras can be bought or rented and the cost may be offset by reduced insurance premiums. They can be useful when there is a dispute with a passenger – it is not just your words against theirs".*

### 3.0 The use of CCTV

3.1 The use of any form of surveillance system should be carefully considered and where necessary a “privacy impact assessment” should be conducted by those persons wishing to install such devices. In terms of “in car systems” – It is clear that there are benefits to both the driver (and vehicle owner) as CCTV provides unequivocal evidence.

3.2 Any “blurring or confusion” between the perceived truth and actual events in any one particular matter can be established quickly – this would help not only your reporting staff in dealing with any complaints but will also allow drivers to collate good evidence in respect of assaults, racial (or other abuse) and assist greatly in dealing with persons making off without payment.

This became more apparent in 2013 with the trade expressing concern to both the Police and the council about racially motivated attacks and verbal abuse being directed at both hackney carriage and private hire drivers; and a concern about persons not paying a cab fare at journey’s end.

Meetings were held between the council, taxi trade and the Police to identify the core concerns and questionnaires were distributed amongst the trade. Of the 167 returns received 65% of drivers had experienced a crime against them with over 90% of respondents reporting that making off without payment was the most common crime.<sup>88</sup>

This resulted in the council endorsing the “payment up front” for longer journeys and the “Pay Your Fare” campaign car stickers as shown below:

**PLAY FAIR. PAY YOUR FARE.**

Payment up front may be requested for some journeys

Portsmouth City Council Hampshire Constabulary

**The Safer Portsmouth Partnership fully supports the rights of all drivers to receive a fare based on time and distance travelled and reminds passengers:**

- Help the driver take the best route by stating clearly the destination(s) for your journey.
- Always pay your way – if you don't pay and get caught you could be fined, go to prison and have a criminal record for life\*.
- Fares are set by the council or company operating the vehicle. If necessary, please ask the driver for a receipt.
- Remember – someone is always watching, and the car may have CCTV installed.

**In an emergency call the police by dialling 999.**

\*Fraud Act 2006 - Section 11

**PAY YOUR FARE**

www.portsmouth.gov.uk

3.3 The continued success or otherwise of such partnership working can only be enhanced with the use of robust evidence provided by CCTV images.

The chief officer of Police supports the use of CCTV in licensed vehicles.

Hackney carriage and private hire drivers are vulnerable and one of the few forms of current local public transport provider that are not protected by CCTV. Evidence of criminal behaviour or criminal activity caught on camera would be both a deterrent and subsequent benefit in any criminal proceedings.

3.4 On occasion, the committee has had to deal, by way of disciplinary hearings, with drivers allegedly involved in sexual contact with passengers or instances of passengers making false statements about the conduct or actions of drivers – particularly when a dispute over a fare was at the heart of any issue. Either way, the use of CCTV may help bring clarity to such issues.

3.5 It is accepted that evidence may be used to address concerns about the conduct of an individual driver – particularly when involved in a road traffic incident with another car, cyclist or pedestrian. This may result in disciplinary action by way of suspension, revocation or non-renewal of a driver licence OR the imposition of penalty points and an instruction to undertake further driver awareness training.

The committee is aware of concerns about personal injury collisions involving licensed vehicles and other road users in Portsmouth and members received a report and statistical data on this subject in November 2014. Although further enforcement and/or driver training may help address these concerns – the use of CCTV to identify and provide empirical evidence would be helpful to all agencies including the committee in dealing with the aftermath of road traffic incidents.

- 3.6 There has been a significant local shift in vehicle owners using in car CCTV surveillance systems to thwart spurious insurance and “cash for crash” claims.

This has led to one well known taxi insurer offering to subsidise both the installation costs and subsequent insurance premiums for Portsmouth fleet owners and individual owner drivers who install a competent CCTV system in their vehicle.

- 3.7 The initial costs of any CCTV system may be recoverable as an allowable business expense for tax purposes. It is understood that a competent system can be purchased and installed for about £250.

- 4.0 Locally, the committee and/or officers have benefitted in their decision making by seeing actual CCTV footage of incidents relating to<sup>89</sup>:

- A night driver seen doing u turns, bumping up the kerb and doing “figure of 8” manoeuvres in a licensed vehicle whilst driving in Milton Road in an apparent bizarre attempt to locate the source of an unknown “knocking” noise from the vehicle
- A night driver who pulled the handbrake on whilst travelling at over 70mph on the M275 (with passengers on board) causing an accident and slight injuries to the passengers (see below still image)



- A hackney driver who failed to give way at a side road and proceeded to cross a busy junction hitting an on-coming private hire vehicle travelling along Winter Road (see below still image)



Licensing staff have dealt with (and continue to deal with) many complaints about taxi and private hire drivers where evidence from CCTV footage would have been extremely helpful in determining both the facts and weight of evidence in any one case.

- 4.1 All this points towards an acceptance that the use (and benefits) of appropriate recording media in licensed vehicles is fair, proportionate and human rights compliant and outweighs any “right to privacy” concerns.

- 4.2 Although it is pleasing to see a voluntary move by proprietors to installing CCTV (about 150 vehicles so far), your reporting officers recommend the formal introduction of a condition for respective hackney carriage and private hire vehicle licences to require the mandatory use of CCTV in most working vehicles.

Whilst the drivers of independent hackney carriages are the most vulnerable form of transport provider (with no immediate operator radio back up) – all “town” working cars are subject to some degree of risk, no matter how small. Equally, accidents can happen to any driver and vehicle irrespective of work type or mode.





4.3 There will be some exceptions to the rule.

4.4 The risk of violence, threat or intimidation however towards an airport or other business type driver is very small. Accordingly, there should be a presumption in favour of requiring all licensed vehicles to have CCTV with the exception of:

- Airport only vehicles
- Vehicles used mainly for executive account type work

And that the head of service be authorised to grant such dispensations to proprietors from the requirement to have CCTV on individual merit.

4.5 Should the committee endorse the mandatory use of in car CCTV cameras by way of formal condition, there should be a presumption in favour of a "phased in" approach to allow both vehicle proprietors and system installers' time to comply with any new committee directives.

5.0 The council considers that all proprietors providing in car CCTV camera surveillance SHOULD be registered as a data controller with the Information Commissioner's Office accordingly.

For this purpose, the "data controller" is deemed to be the company, organisation or individual (including those working in partnership) who have decided to have the CCTV installed in the vehicle. The data controller will be responsible for processing and exercising control over personal information together with how images are stored and how they should be disclosed. Data controllers must ensure that any processing of personal data for which they are responsible complies with the 1988 act. Failure to do so risks enforcement action, even prosecution, and compensation claims from individuals.

5.1 Evidence of initial registration and annual renewal with the ICO may be requested by any authorised officer.

5.2 The specification (or guidelines) for the use of "approved" camera surveillance systems in Portsmouth vehicles should be as wide as possible. There appears to be no need to over subscribe the minutiae of any technical guidelines or specification – particularly as this is a fast moving industry with rapid technological advances and changes.



5.3 Recommended guidelines for the use of CCTV in licensed vehicles (and which appear to be based on industry best practice) are shown below:



## General

All equipment must be designed, constructed and installed in such a way and from such materials as to present no danger to the driver or passengers, including any impact against the equipment in the event of a collision or danger from the electrical integrity being breached through vandalism, misuse, or wear and tear.

## Specifications

- The equipment must be permanently wired to the vehicle power supply
- The equipment to have a clear serial or other unique identification number
- The equipment must not obstruct the driver's view of the road ahead
- The camera(s) must record both forward and rear facing images
- Images to be clear, date and time stamped, in colour and in high definition
- There must be no facility to view recorded images from within the vehicle
- The equipment should be removable from the vehicle when not working and not kept on permanent display
- The equipment must be tamper proof
- The equipment must have a built in battery back up
- There must be a GPS tracking and positioning function together with integration with the vehicle electrics to determine, for example, vehicle speed
- There must be an auto record function whether by ignition switch turn, door opening, person motion sensor or vehicle in motion sensor and NOT just activated by the driver alone.
- The equipment to have a minimum of 31 days image recording and storage capacity
- If an audio function is provided - this must be set in the default OFF position AND ONLY ACTIVATED BY TRIGGER OR PANIC BUTTON FUNCTION<sup>90</sup>
- All equipment shall be installed, maintained and serviced by a competent and/or authorised person
- A simple operator user manual shall be provided on demand
- All stored images to be protected with no unauthorised access and all images shall be encrypted
- Any requested images shall be capable of viewing and play back using industry standard software
- Clear and prominent signs within the vehicle giving details of the organisation/person/purpose and contact details should be provided where possible

- 6.0 The data controller is likely to receive requests from authorised council officers, the Police, insurance companies and possibly members of the public to view any relevant data including visual or audio and will be responsible for responding to such requests. Formal requests in writing or by electronic means and specifying why the disclosure is required will be made.

Data controllers may charge members of the public making a request for the disclosure of any images in line with the ICO current code of practice.

## Resolved

1. That the Licensing Committee endorse and approve the mandatory use of in car CCTV camera surveillance in both licensed hackney carriage and private hire vehicles (to include "temporary use" vehicles).
2. That any camera system installed in a licensed vehicle shall comply with the technical specifications referred to in **5.3**.
3. That the committee approve the following new condition for both hackney carriage and private hire vehicle licences:

**The proprietor shall cause the vehicle to be fitted with a working and secure digital CCTV system (to capture both forward and rear facing colour images in high definition) and to retain such data for a period of 31 days. The installed CCTV to comply with any code(s) of practice issued by the Information Commissioner, the requirements of the Data Protection Act 1988 and any technical specifications approved by the committee for the time being in force.**

**The proprietor shall, within 7 days, give written notice to the council of the installation of any CCTV system in the vehicle to include the make, model and serial number of the equipment so installed.**

**The proprietor shall check the system for malfunctions at least once a month and, if a repair or download is required, the vehicle may continue to be used provided any malfunction is rectified within 24 hours.**

**The proprietor shall, upon receiving any enquiry or request from an authorised officer or Police officer, provide details of any stored images or audio recordings as the case may be.**

4. That "airport only" vehicles and vehicles used mainly for executive account type work be exempted from the requirement to have CCTV installed and the head of service be given delegated authority to grant such exemptions to vehicle proprietors on individual merit.
5.
  - i) That all existing licensed hackney carriage and private hire vehicles as appropriate be fitted with compliant CCTV cameras by **30 September 2017**.
  - ii) That any newly licensed hackney carriage or private hire vehicle from 1 April 2016 onwards be required to be fitted with compliant CCTV cameras with immediate effect.
6. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

# Chapter 14: Conditions of licence and byelaws

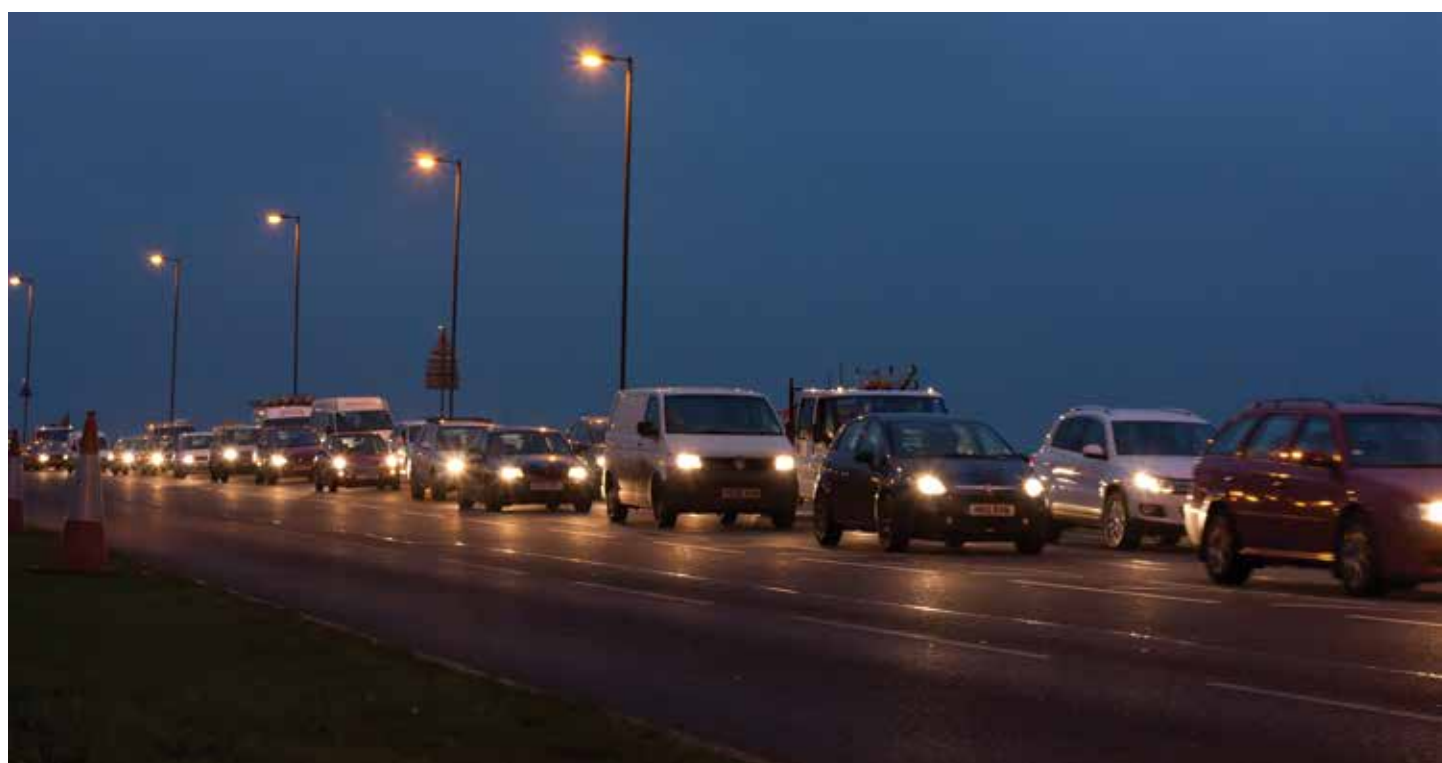
## Objective:

“To promote public safety and to maintain high local standards by the imposition of conditions for the supervision and control of:

- hackney carriages and their proprietors
- private hire vehicles and their proprietors
- private hire operators
- private hire drivers”

## 1.0 The Legal Provisions

- 1.1 The 1847 act does not permit the council to impose conditions on the grant (or renewal) of either a hackney carriage licence or a hackney carriage driver licence.
- 1.2 The 1976 act permits for the imposition of conditions considered “reasonably necessary” to regulate the following licence types:
  - Private hire drivers
  - Private hire vehicles
  - Private hire operators
  - Hackney carriages
- 1.3 Respective licences are considered granted or renewed for each (licensing period) subject to any approved conditions imposed. Proprietors, operators and drivers have a right of appeal direct to the Magistrates’ if aggrieved by the conditions but may only do so within restricted time periods following the grant or renewal of the licence under consideration.
- 1.4 It is accepted common ground that conditions cannot be imposed on hackney carriage drivers licences and no express power is found in the 1976 act to do so. The council will look to the local byelaws made pursuant to the 1847 act to control hackney carriage drivers.<sup>91</sup>
- 1.5 However, there is nothing to prevent the council from adopting a policy of requiring hackney carriage drivers to provide required information (by way of the renewal process) and to also seek further information at any other reasonable time about medical fitness, convictions etc to determine overall fitness to drive.
- 2.0 The operator, vehicle and driver conditions currently imposed by the council are based on those standard models recommended by the then Association of District Councils (“ADC”) and originate from guidance published in 1978.



2.1 The conditions are in urgent need of review both to reflect modern working practices in the respective hackney carriage and private hire trades and also to comply with the generally accepted principles of good administrative law in that<sup>92</sup>:

- The conditions should be precise and enforceable
- The conditions should be clear with an emphasis on “must”, “shall” and “will”
- The conditions should not duplicate other statutory requirements or duties
- The conditions should be proportionate, justifiable and capable of being met
- Standard conditions can be utilised but local circumstances can/will dictate local criteria for the imposition of special conditions

2.2 Conditions should also normally reflect on any local policy and/or other directives (such as vehicle specification and age limits) approved by the committee.

Sometimes there may be local policy matters that are seen as a “pre-requisite” to obtaining a licence (such as a vehicle colour or vehicle age on entry to the trade) and these will be considered as “pre-application” specification requirements and expressed as being conditional once a licence has been granted.

It is important that in formulating policy and conditions (and in exercising any discretionary powers) that they should be capable of withstanding any “*Wednesday unreasonable*” test challenge.<sup>93</sup>

Conditions should also be reviewed on a regular basis.

2.3 The standard conditions must be approved and adopted by the committee as there is no delegated power to your reporting staff to implement or confirm conditions.

Persons likely to be affected by any conditions should be given advance opportunity to make representation or comment – particularly if there is any apparent concern about the vires of the conditions under consideration.

There may be occasion when your reporting staff would wish to impose “special conditions” on an individual licence for unique and individual circumstances (such as the requirement to carry out medical enquiries) and to subsequently “remove” those special conditions once complied with.

At present, the scheme of delegation does not permit officers to impose such conditions on an individual licence and permission is sought for an appropriate scheme of delegation to be put in place accordingly.

2.4 **The proposed new and revised conditions are attached as appendices A, B, C and D respectively.** They reflect on the good practice guidance mentioned in paragraph 2.1 above. They are guided by the overall concept of “fit and proper” and the desire to promote public safety.

2.5 A “less is more” approach has been adopted in order to minimise confusion and jargon to the trade. Pages and pages of convoluted and heavily scripted conditions are hardly likely to be easily remembered (or recognised) by either the trade or indeed your reporting staff.

3.0 A breach of conditions by a licence holder may not necessarily be an offence at law and may be enforced by the use of verbal or written warnings, points or a referral to the committee for consideration of any disciplinary action. An isolated breach may result in suitable verbal advice being given.

3.1 If the breach (for example an operator failing to keep records of vehicles operated by him) is an offence contrary to the 1976 act – then proceedings may be commenced by the City Solicitor if recommended by your reporting manager and where it is in the public interest to do so.

3.2 **It is imperative, for the purposes of local control and consistency, that drivers, vehicle proprietors and operators understand their respective obligations under the conditions and accept that the council will take strong and firm enforcement action to support compliance with the conditions.**

# Byelaws

www.portsmouth.gov.uk

with respect to  
Hackney Carriages in  
the City of Portsmouth

To be kept in vehicle at all times

## 4.0 Byelaws

- 4.1 The council has adopted byelaws for the control and supervision of hackney carriages, their proprietors and drivers. The enabling provision is contained within section 68 of the 1847 act. The byelaws were approved by the council in 1970 and subsequently by the Secretary of State in 1971.
- 4.2 The byelaws have been slightly modified to reflect, for example, the need for vehicles to attend the council's nominated garage but overall are based on the "model" byelaws from 1974.
- 4.3 The current byelaws are attached **as an appendix.**
- 4.4 The Department for Transport has issued guidance to local authorities on the making (or amending) of byelaws and expects local authorities to "base their byelaws" on the prescribed national model. It is not an easy process to seek and obtain approval to deviate from the wording of the model byelaws.<sup>94</sup>

- 4.5 The council has used the byelaws to prosecute hackney carriage drivers for offences of failing to remain with a carriage when first turn on a rank, failing to behave in a civil and orderly manner and failing to wear a badge.

Alternatively, however, "byelaw offences" have also attracted the healthy imposition of penalty points to deal with minor and "one off" breaches – particularly say with hackney drivers "over ranking".

- 4.6 Although slightly archaic in wording, the byelaws remain a useful enforcement tool and, as a consequence, there are no proposals to consider any amendments to the current byelaws.

## Resolved

1. That the Licensing Committee approve and adopt the revised conditions of licence for hackney carriage vehicles, private hire operators, private hire vehicles and private hire drivers and with immediate effect.
2. That the head of service be authorised to impose such further "special conditions" on individual licences, as considered appropriate and proportionate, and in respect of hackney carriage vehicles, private hire operators, private hire vehicles and private hire drivers. But this authority is NOT to be used to amend or vary any of the prescribed standard conditions.
3. That the conditions of licence for hackney carriages, private hire operators, private hire vehicles and private hire drivers be reviewed every 3 years.
4. That the use of the current adopted byelaws be endorsed and noted.





### PRIVATE HIRE OPERATOR'S LICENCE Local Government (Miscellaneous Provisions) Act 1976

PORTSMOUTH CITY COUNCIL being satisfied that the applicant is a fit and proper person and pursuant to section 55, Local Government (Miscellaneous Provisions) Act 1976 hereby grant a licence to operate private hire vehicles to:

Name of operator(s):  
Operator trade name:

Trading address:

Date licence granted:  
**Date licence expires:**

Signed on behalf of the Head of Service  
(Authorised Officer)

#### NOTES

- This licence is issued subject to compliance with the act and any standard/special conditions shown over
- This licence will expire on the date shown unless previously suspended or revoked
- Appeal provisions apply against any conditions attached to the grant of a licence or to the suspension, revocation or refusal to renew an operator licence
- An authorised officer may request the production of this licence
- Every contract for the hire of a private hire vehicle is deemed to be made with the operator



## CONDITIONS OF LICENCE

1. The licence is not transferable to any another person nor does it authorise the operator to operate from any addresses other than that and/or those specified in the licence.
2. 1) The operator shall notify the council within 24 working hours of any change to the:
  - Trading name of the operator
  - Telephone numbers utilised by the operator
  - The email and world wide web address utilised by the operator
  - The name and contact details of any staff authorised to act on behalf of the operator for the purposes of exercising supervision of vehicles and their drivers2) The operator shall notify the council within 24 hours of any arrest, detention or charges being preferred against them or the imposition of any conviction, caution, reprimand or warning.
3. 1) The operator shall record and keep the name, address and contact telephone and/or email details of any person(s) making any complaint about a licensed vehicle or driver (whether hackney carriage or private hire) for a period of 6 months after receipt;  
2) The operator shall, at the request of any authorised officer, forward the complaint details referred to in 3(1) above, together with the details of the relevant vehicle(s) and driver(s) concerned, to the council and within 24 hours of such a request being made;  
(3) The operator **must notify the council immediately** (or on the next available working day if after normal office hours) of any complaint received and recorded against a licensed vehicle or driver that affects either the public safety or fitness of the vehicle or driver. Any voice recording of a complaint shall be retained and forwarded to an authorised officer upon request.
4. The operator shall maintain a current and updated record of all vehicles and drivers (private hire and hackney carriage) affiliated to the operator and shall record as a minimum:
  - The registration number, council plate number and any unique call sign given by the operator to that vehicle
  - The full name, council badge number and any unique call sign given by the operator to that driverAnd shall provide such details about vehicles or drivers to an authorised officer of the council within 24 hours upon such a request being made.
5. The operator shall maintain, for a period of 12 months, a record of every booking for a private hire vehicle or hackney carriage vehicle invited or accepted by him, whether by accepting the same from the hirer or by undertaking it at the request of another operator (from within the district or elsewhere) and shall produce such records, including transcripts of any phone calls associated with a booking, within 24 working hours on request to any authorised officer of the council or to any Police Officer.  
  
The records shall contain:-
  - (a) The time and date the booking was made;
  - (b) The name and contact telephone details of the hirer;
  - (c) The time and date of the pick-up address
  - (d) The destination(s)
  - (e) The vehicle and driver details allocated to the hiring.
  - (f) If available, and for a period of 6 months, the Global Positioning Signal (GPS) vehicle tracking movements for the booking
  - (g) A unique identifier and reference in respect of all bookings for a private hire vehicle accepted by the operator from another Portsmouth operator OR from a person licensed to operate outside of Portsmouth and bookings passed on to another operator whether within Portsmouth or elsewhere
6. Any proposed company (or other) operator advertisement (whether for display on or from a vehicle or from a building) shall be forwarded to the council and approved by an authorised officer, in writing, at least 7 days prior to such advertisements being displayed.
7. An operator must not refuse the carriage of a passenger in a licensed vehicle by reason of the fact that the passenger is disabled or requires to have with him/her a wheelchair or other facility of reasonable size for the disabled.
8. The operator shall, when operating under the terms of this licence, have regard to the requirements of the Town and Country Planning Act 1990 (as amended).
9. The operator shall provide to the council a table of all current fares and charges associated with the hire of a private hire vehicle and shall further submit any amendment/variations to such table of fares to the Council within 7 days of such changes being made.

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PORTSMOUTH CITY COUNCIL, Licensing Service,  
Civic Offices, Guildhall Square, Portsmouth, PO1 2AL

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Telephone (023 9283 4830/023 9268 8519) • Fax (023 9283 4811) • Email: [Licensing@portsmouthcc.gov.uk](mailto:Licensing@portsmouthcc.gov.uk)

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10. The operator shall retain any lost property left in a licensed vehicle (and given to him by a driver or owner driver) for a minimum period of 28 days and arrange for the disposal of same as he sees fit should the property not be claimed by the owner.

**TO BE READ IN CONJUNCTION WITH OUR LEAFLET “CONDITIONS OF LICENCE AND ENFORCEMENT”**

Portsmouth City Council is committed to complying with the Freedom of Information Act 2000 (FOIA) which applies to all recorded information that it holds or is held on its behalf. Information that is provided to or held by the City Council will be processed and disclosed strictly in accordance with the FOIA, the Data Protection Act 1998 or other appropriate legislation.

This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information go to [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk) and search for 'National Fraud Initiative'.

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## APPENDIX A

### ADDITIONAL INFORMATION

Please note that this information does not form part of your licence conditions but is provided for information purposes.

#### SMOKING

Since 2007 provisions contained in the Health Act 2006 prohibits the smoking of tobacco or any other substance by **any person** in a licensed vehicle. The legislation applies at all times whilst the vehicle remains licensed, thus smoking remains prohibited when the vehicle is not hired or not for hire.

Every licensed vehicle is required to carry appropriate signage under the Smoke free (Signs) Regulations 2007.



#### ASSISTANCE DOGS

The Equality Act 2010 imposes a duty on licensed drivers and operators to convey any guide, hearing or other assistance dog in a licensed vehicle.

##### Drivers must:

- carry assistance dogs accompanying disabled people;
- allow the dog to remain with the passenger

##### Operators must:

- accept bookings made by or on behalf of a disabled person who is accompanied by a guide, hearing or other assistance dog;
- accept bookings made by a person who will be accompanied in a PHV by such a disabled person; and
- not make an additional charge for carrying the assistance dog

#### Exemptions

If a driver has a medical condition, such as severe asthma, which is aggravated by contact with dogs, or is allergic or has an acute phobia to dogs, it may be possible for them to qualify for an exemption. Please discuss this with the Licensing Service in the first instance, to whom application for exemption must be made. The driver will be required to produce conclusive medical evidence in support of any exemption application.

There is a right of appeal to the Magistrates' Court against the refusal to issue an exemption certificate.

Please note that the law does not allow for an exemption to be granted on religious grounds.

***An operator cannot claim an exemption from the above requirements.***



## APPENDIX B



# HACKNEY CARRIAGE LICENCE

**Town Police Clauses Act 1847**

**Public Health Act 1875**

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

PORTSMOUTH CITY COUNCIL pursuant to sections 37 and 40 of the Town Police Clauses Act 1847 hereby grant a licence to use the vehicle specified below as a hackney carriage and licensed to stand and ply for hire within the said city

Name and address of proprietor(s):

Make and model:

Registration number:

Licence number:

Licensed to carry:

Date of next mechanical test:

**Date licence expires:**

Signed on behalf of the Head of Service  
(Authorised Officer)

### NOTES

- This licence is issued subject to compliance with the said acts, byelaws and any standard/special conditions shown
- This licence is NOT transferable to another vehicle unless a formal application has been submitted and approved
- This licence will expire on the date shown unless previously suspended or revoked
- Appeal provisions generally apply against any conditions attached to the grant of a licence or to the suspension, revocation or refusal to renew a vehicle licence
- An authorised officer may request the production of this licence





## CONDITIONS OF LICENCE

1. The vehicle must not be over **3 years old** on first licensing and may, at the discretion of the council, remain licensed **until 8 years old** (plus the remainder of the licensing period for that licensing year) subject to satisfactory mechanical inspection and testing.
2. The vehicle must be a uniform silver in colour.
3. The proprietor shall ensure that the vehicle is maintained and serviced in accordance with the manufacturer's guidelines and recommendations and shall keep documentary evidence of such servicing and maintenance records for inspection by an authorised officer upon request.
4. The proprietor(s) shall notify the council within 24 hours of any arrest, detention or charges being preferred against them or the imposition of any conviction, caution, reprimand or warning.
5. The proprietor shall keep the interior and exterior of the licensed vehicle clean and comfortable at all times.
6. The vehicle licence plate shall be securely affixed to the rear of the vehicle and kept in public view at all times. The front windscreen licence disc and interior plate number shall also be on public view. The proprietor shall report any loss in respect of the vehicle licence, windscreen disc, interior plate number or rear licence plate to the council within 24 hours.
7.
  - 1) The proprietor shall cause the vehicle to be fitted with a working and secure digital CCTV system (to capture both forward and rear facing colour images in high definition) and to retain such data for a period of 31 days. The installed CCTV to comply with any code(s) of practice issued by the Information Commissioner, the requirements of the Data Protection Act 1988 and any technical specifications approved by the council for the time being in force.
  - 2) The proprietor shall, within 7 days, give written notice to the council of the installation of any CCTV system in the vehicle to include the make, model and serial number of the equipment so installed.
  - 3) The proprietor shall check the system for malfunctions at least once a month and, if a repair or download is required, the vehicle may continue to be used provided any malfunction is rectified within 24 hours.
  - 4) The proprietor shall, upon receiving any enquiry or request from an authorised officer or Police officer, provide details of any stored images or audio recordings as the case may be.
8. The vehicle shall exhibit the prescribed local "TAXI" roof sign which shall be illuminated when the vehicle is for hire. The roof sign shall comply with any specifications approved by the council for the time being in force.
9.
  - 1) No interior or exterior signs, adverts, notices or any other wording shall be publicly displayed from a licensed vehicle without the prior written consent of the council. A proprietor shall submit any signage for approval and for display from the front doors only to the council at least 7 days prior to such proposed use and shall NOT display any signage until written approval has been given by an authorised officer.
  - 2) 9(1) above shall not apply to the following:
    - Any prior approved Portsmouth private hire operator windscreen and/or rear window sign stating the trade name and/or telephone number and www address of the licensed Portsmouth operator.
    - Any prior approved Portsmouth private hire operator signage (permanent and not magnetic) or approved proprietor signage displayed from the front doors of the licensed vehicle only.
    - The local mandatory (permanent and not magnetic) display of the council's corporate livery for hackney carriages as may be from time to time prescribed by the council.
  - 3) A proprietor shall only display on or from the vehicle **one set** of approved Portsmouth operator signage as required in 9(2) above at any one time.
10. The vehicle shall be fitted with an accurate clock calendar controlled taximeter incorporating a progressive function. The meter shall be clearly displayed and maintained in accordance with the byelaws.
11. The proprietor shall ensure that the licensing record "white book" prescribed by the council shall be carried in the vehicle at all times and made available for immediate inspection by any authorised officer of the council.

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PORTSMOUTH CITY COUNCIL, Licensing Service,  
Civic Offices, Guildhall Square, Portsmouth, PO1 2AL

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Telephone (023 9283 4830/023 9268 8519) • Fax (023 9283 4811) • Email: [Licensing@portsmouthcc.gov.uk](mailto:Licensing@portsmouthcc.gov.uk)

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12. The proprietor shall give not less than 7 days prior written notice to the council of the introduction of any further tariff or table of fares for the use of a hackney carriage under a contract or purported contract for private hire or any subsequent amendment thereto.

**TO BE READ IN CONJUNCTION WITH OUR LEAFLET "CONDITIONS OF LICENCE AND ENFORCEMENT"**

Portsmouth City Council is committed to complying with the Freedom of Information Act 2000 (FOIA) which applies to all recorded information that it holds or is held on its behalf. Information that is provided to or held by the City Council will be processed and disclosed strictly in accordance with the FOIA, the Data Protection Act 1998 or other appropriate legislation.

This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information go to [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk) and search for 'National Fraud Initiative'.

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## APPENDIX C



# PRIVATE HIRE DRIVER'S LICENCE

## Local Government (Miscellaneous Provisions) Act 1976

PORTSMOUTH CITY COUNCIL pursuant to section 51 Local Government (Miscellaneous Provisions) Act 1976 hereby grant a licence to the person specified below to act as the driver of any private hire vehicle licensed by the said council

Name of licence holder:

Address:

Licence number:

Date licence granted:

**Date licence expires:**

Signed on behalf of the Head of Service  
(Authorised Officer)

### NOTES

- This licence is issued subject to compliance with the said act and standard/special conditions shown over
- This licence is NOT transferable and will expire on the date shown unless previously suspended or revoked
- An authorised officer may request the production of this licence within 5 days
- Appeal provisions apply against any conditions attached to the grant of a licence or to the suspension, revocation or refusal to renew a driver's licence

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## CONDITIONS OF LICENCE

1. **A)** The driver shall notify the council within 24 hours of any changes to:

- Their name, address, telephone or email contact details
- Any medical condition that might affect an ability to drive professionally to the group 2 vocational standard
- Their driving licence so far as this relates to the imposition of penalty points, any other endorsements, fines or disqualifications
- Their Disclosure & Barring Service enhanced check certificate so far as this relates to the imposition of any convictions, cautions, reprimands or warnings
- Their right to work or reside in the UK.

**B)** The driver shall notify the council within 24 hours of any arrest, detention or charges being preferred against them.

2. The driver shall be clean and tidy in appearance and shall at all times be dressed in a manner so as not to cause offence to members of the public. If the operator has provided for drivers to abide by a corporate "company" clothing policy when working - the driver shall wear such branded clothing.

The driver shall wear appropriate foot wear and no flip flops shall be permitted.

3. The driver shall behave in a civil and orderly manner at all times.

4. The driver shall take all reasonable precautions to ensure the safety and comfort of persons travelling in the vehicle and shall give assistance in helping persons in and out of the vehicle when requested. Further, the driver shall give reasonable assistance with loading and unloading of any luggage to and from the entrance of any house or other place where he collects or sets down any passengers.

5. **A)** The driver shall keep the interior and exterior of the licensed vehicle clean and comfortable at all times. The driver shall report immediately to the vehicle proprietor any apparent defect materially affecting the safety, comfort or roadworthiness of the vehicle.

**B)** The driver shall, unless previously claimed by the owner, hand any property left in the vehicle within 24 hours to the operator who provided the booking for the vehicle.

6. The driver shall not interfere with any installed CCTV media recording device and shall report immediately to the vehicle proprietor any apparent defect to the recording media. The driver shall ensure that the recording media (visual) is switched on at all times when the vehicle is working.

7. The driver shall ensure that the rear licence plate and interior front windscreen licence disc are on public view at all times and shall report immediately any loss to the vehicle proprietor.

8. The driver shall not carry more passengers than the **"licensed to carry"** number prescribed both in the vehicle licence and on the plate.

9. No driver shall refuse to carry a passenger in a licensed vehicle by reason of the fact that that passenger is disabled or requires to have with them a wheelchair or other facility of reasonable size.

**TO BE READ IN CONJUNCTION WITH OUR LEAFLET "CONDITIONS OF LICENCE AND ENFORCEMENT"**

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## ADDITIONAL INFORMATION

Please note that this information does not form part of your licence conditions but is provided for information purposes.

### SMOKING

Since 2007 provisions contained in the Health Act 2006 prohibits the smoking of tobacco or any other substance by **any person** in a licensed vehicle. The legislation applies at all times whilst the vehicle remains licensed, thus smoking remains prohibited when the vehicle is not hired or not for hire.

Every licensed vehicle is required to carry appropriate signage under the Smoke free (Signs) Regulations 2007.



### ASSISTANCE DOGS

The Equality Act 2010 imposes a duty on licensed drivers and operators to convey any guide, hearing or other assistance dog in a licensed vehicle.

#### Drivers must:

- carry assistance dogs accompanying disabled people;
- allow the dog to remain with the passenger

#### Operators must:

- accept bookings made by or on behalf of a disabled person who is accompanied by a guide, hearing or other assistance dog;
- accept bookings made by a person who will be accompanied in a PHV by such a disabled person; and
- not make an additional charge for carrying the assistance dog

### Exemptions

If a driver has a medical condition, such as severe asthma, which is aggravated by contact with dogs, or is allergic or has an acute phobia to dogs, it may be possible for them to qualify for an exemption. Please discuss this with the Licensing Service in the first instance, to whom application for exemption must be made. The driver will be required to produce conclusive medical evidence in support of any exemption application.

There is a right of appeal to the Magistrates' Court against the refusal to issue an exemption certificate.

Please note that the law does not allow for an exemption to be granted on



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religious grounds.

***An operator cannot claim an exemption from the above requirements.***





## PRIVATE HIRE VEHICLE LICENCE

### Local Government (Miscellaneous Provisions) Act 1976

PORTSMOUTH CITY COUNCIL being satisfied that the vehicle specified below is suitable in type, size and design; is mechanically suitable, safe and comfortable hereby grant, pursuant to section 48 Local Government (Miscellaneous Provisions) Act 1976, a licence to use the said vehicle as a private hire vehicle

Name and address of proprietor(s):

Make and model:

Registration number:

Licence number:

Licensed to carry:

Date of next mechanical test:

**Date licence expires:**

Signed on behalf of the Head of Service  
(Authorised Officer)

#### NOTES

- This licence is issued subject to compliance with the said act and any standard/special conditions shown
- This licence is NOT transferable to another vehicle unless a formal application has been submitted and approved
- This licence will expire on the date shown unless previously suspended or revoked
- Appeal provisions generally apply against any conditions attached to the grant of a licence or to the suspension, revocation or refusal to renew a vehicle licence
- An authorised officer may request the production of this licence

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## CONDITIONS OF LICENCE

1. The vehicle must not be over **3 years old** on first licensing and may, at the discretion of the council, remain licensed **until 8 years old** (plus the remainder of the licensing period for that licensing year) subject to satisfactory mechanical inspection and testing.
2. No private hire vehicle licence shall be granted to any vehicle deemed to be silver in colour; and any licensed vehicle must be maintained in a colour other than silver.
3. The proprietor shall ensure that the vehicle is maintained and serviced in accordance with the manufacturer's guidelines and recommendations and shall keep documentary evidence of such servicing and maintenance records for inspection by an authorised officer upon request.
4. The proprietor(s) shall notify the council within 24 hours of any arrest, detention or charges being preferred against them or the imposition of any conviction, caution, reprimand or warning.
5. The proprietor shall keep the interior and exterior of the licensed vehicle clean and comfortable at all times.
6. The vehicle licence plate shall be securely affixed to the rear of the vehicle and kept in public view at all times. The front windscreen licence disc and interior plate number shall also be on public view. The proprietor shall report any loss in respect of the vehicle licence, windscreen disc, interior plate number or rear licence plate to the council within 24 hours.
7.
  - 1) The proprietor shall cause the vehicle to be fitted with a working and secure digital CCTV system (to capture both forward and rear facing colour images in high definition) and to retain such data for a period of 31 days. The installed CCTV to comply with any code(s) of practice issued by the Information Commissioner, the requirements of the Data Protection Act 1988 and any technical specifications approved by the council for the time being in force.
  - 2) The proprietor shall, within 7 days, give written notice to the council of the installation of any CCTV system in the vehicle to include the make, model and serial number of the equipment so installed.
  - 3) The proprietor shall check the system for malfunctions at least once a month and, if a repair or download is required, the vehicle may continue to be used provided any malfunction is rectified within 24 hours.
  - 4) The proprietor shall, upon receiving any enquiry or request from an authorised officer or Police officer, provide details of any stored images or audio recordings as the case may be.
8. The proprietor shall not display on or from the vehicle any roof sign, nor any notice or wording with the words "taxi", "cab", "for hire" or any other similar wording to suggest to the public that the vehicle is available for immediate public hire.
9.
  - 1) No interior or exterior signs, adverts, notices or any other wording shall be publicly displayed from a licensed vehicle without the prior written consent of the council. A proprietor shall submit any signage for approval and for display from the front doors only to the council at least 7 days prior to such proposed use and shall NOT display any signage until written approval has been given by an authorised officer.
  - 2) 9(1) above shall not apply to the following:
    - Any prior approved Portsmouth operator windscreen and/or rear window sign stating the trade name and/or telephone number and www address of the licensed Portsmouth operator.
    - Any prior approved Portsmouth operator signage (permanent and not magnetic) or approved proprietor signage displayed from the front doors of the licensed vehicle only.
    - The local mandatory (permanent and not magnetic) display of the council's corporate livery for the rear doors of private hire vehicles - "advanced bookings or pre-booked only" as may be from time to time prescribed by the council and with the exception of airport only vehicles and exceptional prestige vehicles.
  - 3) A proprietor shall only display on or from the vehicle **one set** of approved Portsmouth operator signage as required in 9(2) above at any one time.
10. Licensed 7 or 8 seater mini bus/MPV type vehicles may display "all over" Portsmouth operator signage including the trade name and/or telephone number and www address of the licensed operator together with any wheelchair accessibility provision. This shall NOT include window adverts or general vehicle wraps.

A proprietor shall submit any "all over" signage for approval to the council at least 7 days prior to such proposed use and shall



NOT display any signage until written approval has been given by an authorised officer.

11. The proprietor shall keep a copy of the operator's current fare chart (for private hire bookings) in the vehicle and make this available for public inspection at any time.
12. The proprietor shall ensure that the licensing record "white book" prescribed by the council shall be carried in the vehicle at all times and made available for immediate inspection by any authorised officer of the council.

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# Byelaws

www.portsmouth.gov.uk

with respect to  
Hackney Carriages in  
the City of Portsmouth

To be kept in vehicle at all times

## Index (by paragraph number)

1. Interpretation
2. Licence number to be displayed on carriage
3. Keep carriage clean, tidy and carry fire extinguisher
4. Garage testing
5. Taxi meter to be installed in visible position and illuminated at night
6. Use of taxi meter
7. Tampering of taxi meter or seals
8. Drivers proceeding to stand(s) and conduct whilst on a stand
9. Drivers not to tout for business
10. Drivers to behave in a civil and orderly manner and ensure safety of persons
11. Don't be late for a hiring
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15. Produce byelaws on request
16. Exhibit table of fares
17. Check carriage for any property left
18. Take any property to nearest Police Station within 48hrs
19. Provide Police with driver details
20. Penalty for breach of byelaws
21. Repeal of previous byelaws

**Proprietors and drivers should note that it is an offence to breach any of these byelaws**

## Byelaws

Made under Section 68 of the Town Police Clauses Act 1847; Section 171 of the Public Health Act 1875, by the Portsmouth City Council with respect to hackney carriages in the City of Portsmouth.

### Interpretation

1. Throughout these byelaws "the Council" means the Portsmouth City Council and "the district" means the City of Portsmouth.

**Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence, shall be displayed.**

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.
- (b) The proprietor or driver of a hackney carriage shall:-
  - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
  - (ii) not cause or permit the carriage to stand

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or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

### Provisions regulating how hackney carriages are to be furnished or provided.

3. The proprietor of a hackney carriage shall
  - (a) provide sufficient means by which any person in the carriage may communicate with the driver;
  - (b) cause the roof or covering to be kept watertight;
  - (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
  - (d) cause the seats to be properly cushioned or covered;
  - (e) cause the floor to be provided with a proper carpet, mat or other suitable covering;
  - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
  - (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;

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- (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;
  - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. In order to enforce compliance with byelaws nos 2 and 3 inclusive every proprietor of a hackney carriage shall present his vehicle for annual inspection at the Council's nominated garage and on such other occasions as he may be specifically requested in writing or by request of an authorised officer. If on inspection the Council are satisfied that any hackney carriage fails to comply with the requirements of byelaws 2 and 3 they may suspend the vehicle licence and require the proprietor forthwith to cease using the hackney carriage for public hire until the requirements of the byelaws have been met to the Council's satisfaction and failure to comply with the notice shall be an offence.
5. The proprietor of a hackney carriage shall cause such carriage to be fitted with a taximeter so constructed, attached and maintained as to comply with the following requirements, that is to say,

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- (a) the taximeter shall be fitted with a key, flag or other device the operation of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
- (b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance and time in pursuance of the tariff fixed by the Council.
- (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage and for that purpose the letters and figures shall be capable of being suitably

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illuminated during any period of hiring;

- (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

**Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments and determining whether such drivers shall wear any and what badges.**

6. The driver of a hackney carriage provided with a taximeter shall:-
- (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
  - (b) before beginning the journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the

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taximeter in action until the termination of the hiring;

- (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness. This being the time between half an hour after sunset to half an hour before sunrise and also at any other time at the request of the hirer.
7. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
8. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-
- (a) proceed with reasonable speed to one of the stands fixed by the Council;
  - (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
  - (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction.

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- (d) being on a stand from time to time when any other carriage immediately in front is driven off, or moved forward, cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward;
- (e) when his carriage is the first carriage on a stand, remain with the carriage and be ready to be hired at once by any person.

Provided that for the purpose of this byelaw where a driver has reason to believe that there are persons attending a particular function or activity in an area not served or not adequately served by a convenient stand who may wish to hire a hackney carriage or by reasons of inclement weather may wish to do so, he may cruise in that area for a reasonable period and shall not be deemed on that account to be in contravention of sub-sections (a) and (c) of this byelaw. for the purpose of this clause "cruise" shall mean that the vehicle is in motion at all times except for picking up passengers.

- 9. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such

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carriage and shall not make use of the services of any other person for that purpose.

- 10. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
- 11. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
- 12. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
- 13. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
- 14. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any

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person hiring or seeking to hire the carriage:-

- (a) convey a reasonable quantity of luggage;
- (b) afford reasonable assistance in loading and unloading;
- (c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.
- 15. The driver of a hackney carriage shall at all times while standing or plying for hire have a complete copy of these byelaws ready to produce and shall produce the same for perusal and inspection by any person hiring such carriage on request.
- 16. (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by the Council to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- (b) the proprietor or driver of a hackney carriage bearing a statement of fares shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

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**Provisions securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof.**

- 17. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
- 18. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:-
  - (a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to the nearest police station, and leave it in the custody of the officer in charge of such police station on his giving a receipt for it;
  - (b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the nearest police station, whichever be the greater) but not more than five pounds.

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### Furnishing of information

19. Every proprietor of a hackney carriage shall on request of any police constable furnish the name and place of abode of any person who was authorised to drive such carriage at any specified time within seven days previous to such request being made.

### Penalties

20. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding the statutory amount and in the case of a continuing offence to a further fine not exceeding the statutory amount for each day during which the offence continues after conviction therefor.

### Repeal of Byelaws

21. The byelaws relating to hackney carriages which were made by the Council on the 24th May 1938, 14th June 1966 and 30th July 1968, which were confirmed by the Minister of Health on 25th May 1938 and Secretary of State on 27th October 1966 and 25th September 1968, are hereby repealed.

11

Given under the Common Seal of the Lord Mayor Aldermen and Citizens of the City of Portsmouth this Seventeenth day of November 1970.

**The Common Seal of  
The Lord Mayor Aldermen  
and Citizens of the  
City of Portsmouth**

L.S.

Was hereunto affixed in pursuance of a resolution of the Council passed at a meeting duly Convened and held.

(Sgd) J F Blair

Lord Mayor

(Sgd) J R Haslegrave

Town Clerk and  
Chief Executive Officer

The Secretary of State this day confirmed the foregoing byelaws and fixed the date on which they are to come into operation as the 25th day of January 1971.

(Signed) K P Witney  
An Assistant Under Secretary of State

L.S.

Home Office  
Whitehall  
8 January 1971

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Licensing Section, Civic Offices,  
Guildhall Square, Portsmouth PO1 2AL  
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Telephone (023) 9283 4830 or (023) 9283 4073

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You can get this  
Portsmouth City  
Council information  
in large print, Braille,  
audio or in another  
language by calling  
9283 4073.



Corporate member of  
Plain English Campaign  
Committed to clearer communication.

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Document Ref: LIC\_ByelawsHC-4626

# Chapter 15: Licensing enforcement

## Objectives:

- “1. To ensure that the policies, conditions, byelaws and all other requirements relating to the hackney carriage and private hire undertaking are enforced in a firm, fair, transparent and proportionate way;
2. (a) To target operators, vehicle proprietors and drivers (to include those vehicles and drivers licensed elsewhere and coming into the city) based on the principle of “risk assessment” and with the use of intelligence data recording;  
(b) To take strong enforcement action and consider the use of both criminal proceedings AND to seek the suspension or revocation of licences where evidence that the public safety and welfare is/has been put at risk;
3. To work in partnership with other agencies including the Police, Immigration Enforcement Service and DVSA;
4. To offer on-going advice and support to licence holders”



## 1.0 Introduction

- 1.1 The council, as the local licensing authority, is responsible for the statutory control and supervision of both the hackney carriage and private hire trades.  
  
This supervision is based on the core principle of ensuring the safety of the travelling public and other road users.
- 1.2 Licensed drivers and private hire operators are considered to be professional and responsible persons who have been vetted to a high standard and thus are required to be seen and to act in compliance with any policies, conditions and statutory requirements for the time being in force.
- 1.3 It is often said, but sometimes not remembered, that a licence is a privilege and with that privilege comes accountability and responsibility.
- 1.4 **For operators**, the council expects that those running a business inviting and accepting bookings from the public for the hire of any licensed vehicle will make the provision and booking service quick and easy, provide a clearly defined fare structure, an on time arrival/drop off service, the secure retention of records of bookings and an ability to deal with and react to customer feedback (whether good or bad) in a timely and prompt way. The operator should encourage and demand high standards of customer care from drivers at all times.
- 1.5 **For vehicle proprietors**, the council would expect the vehicle to be kept in a clean and tidy condition, well maintained and serviced in accordance with the manufacturer's guidelines, tested regularly and for all documentation to be in date and readily available.
- 1.6 **For drivers**, the council would expect a driver to be clean and tidy, polite and courteous to passengers and other road users, to have a good local knowledge and to drive sensibly and with regard to local road conditions, offer assistance where necessary and to ensure that, for example, any property left in a car is returned to the rightful owner.

- 1.7 The council would expect that all licence holders be aware of, and comply with, the licence conditions and/or byelaws appropriate to the particular licence type.
- If things go wrong, officers or the Licensing Committee will take enforcement action commensurate with the risk and to ensure that the public safety is not compromised.
- 1.8 Enforcement cannot ever be seen as a means to an end in itself.
- Enforcement must be part of the overall licensing control exercised by the council and will be secondary to our aim of offering support, advice and assistance to licence holders.
- Equally however, if enforcement is non-existent then lower standards of conduct might occur with a likely increase in public concern and dissatisfaction with the trade. The requirement to abide by the statutory provisions contained in both the 1847 and 1976 acts would be pointless if no enforcement took place.
- Licence holders may feel resentful if they see evidence of non-compliance by other persons within the trade.
- For all these reasons the use of enforcement powers is considered a responsible part of the overall licensing control and will be used to:
- Protect the public interest
  - Respond and deal with public and trade complaints received
  - Deter future non-compliance and to punish offenders
  - Support the policies of the Licensing Committee
  - Support partnerships with other agencies including the Police, Immigration Enforcement Service and HM Revenue & Customs
- 1.9 The licensing staff are appointed as “authorised officers” for the purposes of carrying out their respective functions under the 1847 and 1976 acts. It is an offence to obstruct an officer or to fail to comply with any requirement or request properly made.
- 1.10 Licensing enforcement staff have been trained (and have extensive experience) in complying with the provisions of the Police & Criminal Evidence Act 1984 (PACE) so far as this relates to the investigation of offences and conducting interviews under caution. The PACE codes of practice are available for inspection and digital recording media is utilised.
- Refresher training is available as part of individual personal development.
- 1.11 The officers are compliant with their individual (and joint) responsibilities as both investigating and disclosure officers for the purposes of the Criminal Procedures and Investigations Act 1996 and relevant codes of conduct.
- 1.12 The officers are aware of the council’s RIPA policy and guidelines.



## 2.0 The Council's Enforcement Concordat

2.1 For many years the council has adopted the principles and had regard to the then Cabinet Office Enforcement Concordat. Whilst this now has been replaced by the Regulators Compliance Code<sup>95</sup> the principles of the former concordat (together with the "Hampton & Rogers review principles")<sup>96</sup> have been followed by all council enforcement staff and not just licensing staff.

These are:

- **Proportionality** – any recommended action will relate to the seriousness of the perceived risk
- **Consistency** – officers will try to act in a similar way when faced with similar circumstances
- **Transparency** – we will tell people what the legal requirements are and how to comply – for example to make sure licence conditions are printed on the reverse of respective paper licences and that copies of the byelaws are readily available and on the web. We will give clear advice about any complaints procedure should persons be unhappy with any enforcement action taken
- **Targeting** – we will look at those who have either an adverse or poor history of compliance and target our resources accordingly. Sometimes the overall cost of carrying out targeted enforcement action against, say, drivers is not cost recoverable via the licence fees and the service will therefore have regard to the overall costs involved in the consideration of targeted enforcement

Targeted enforcement may involve the use of police officers or council colleagues working in tandem with licensing staff under strict

rules of engagement. Where necessary, "test purchases" or similar "mystery shopper" exercises will take place – particularly to detect offences of plying or standing for hire"<sup>97</sup>

These actions are not entrapment and officers are clearly briefed not to incite, encourage or to persuade someone to commit an offence. This form of investigation and evidence gathering is essential in providing empirical evidence of any wrong doing

- **Informative** – we will always advise persons WHY we are taking (or considering) any action and will send alerts to the trade representatives<sup>98</sup> about proposed future enforcement initiatives

A link to the Regulators' Code is shown below:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/300126/14-705-regulators-code.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf)

2.2 In determining what enforcement action to take, each case will be dealt with on merit but the following principles will apply:

- **Minor breaches** – if the officer believes the matter to be minor, of low risk and the offender is prepared to put right any wrong doing immediately – verbal or written advice or warnings may be given
- **Repeated breaches** or evidence of continued wrong doing – would lead to points and/or a final written warning/suspension period being given
- **Serious breaches**<sup>99</sup> – would lead to points and/or suspension, proposed revocation, consideration of a simple caution and/or criminal proceedings being commenced (if an offence at law).

## 3.0 Table of Offences

3.1 The various offences found in both the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 are reproduced below:

### 3.2 For the Town Police Clauses Act 1847 – Hackney Carriage Matters

Section	Offence	Who is liable
40	Giving false information on application for a HC proprietors licence	Any person party to the giving (or not giving) of information required
44	Failure to notify change of address or to produce licence for updating	The proprietor concerned
45	Proprietor permitting use of HC without a licence, plying for hire without a licence, failure to display licence number	The proprietor, any person found standing or plying for hire or failing to display the licence number
47	Driving a HC without a driver licence, lending or parting with a driver licence, HC proprietor employing unlicensed driver	Proprietor and driver concerned
48	Failure by HC proprietor to hold HC driver licence, failure by HC proprietor to produce HC drivers licence	Proprietor
52	Failure to display HC plate with “number of persons” denoted, driver refusing to carry full number (or lesser number) of passengers	Proprietor or driver
53	Refusal to take a fare	Driver
54	Charging more than the agreed fare	Proprietor, driver or any other person
55	Obtaining more than the legal fare	Driver or any person
56	Travelling less than the lawful distance for an agreed fare	Proprietor, driver or any person
57	Failing to wait after receipt of deposit	Driver
58	Charging more than the legal fare	Proprietor or driver
59	Carrying persons without consent of hirer	Proprietor or driver
60	Driving a HC without consent of proprietor	Any person
61	Driver of HC drunk, furious driving etc	Driver or any other person
62	Leaving HC unattended	Driver
64	Driver obstructing other drivers	Any driver
68	Byelaw breach	Proprietor or driver <sup>100</sup>

### 3.3 For Part II, Local Government (Miscellaneous Provisions) Act 1976

#### 3.4 For Hackney Carriage Matters

Section	Offence	Who is liable
49	Failure to notify transfer of HC vehicle licence	Proprietor
50(1)	Failure to present vehicle for inspection	Proprietor
50(2)	Failure to advise where vehicle is stored	Proprietor
50(3)	Failure to report accident damage	Proprietor
50(4)	Failure to produce HC licence and insurance	Proprietor <sup>101</sup>
53(3)	Failure to produce HC drivers licence to authorised officer or Police	Driver
57	Making false statement or withholding information	Any person
58(2)	Failure to return plate on revocation, expiry or suspension of HC licence	Proprietor
61(2)	Failure to surrender drivers licence following suspension, revocation or refusal to renew	Driver
64	Permitting any vehicle other than a HC to wait on a HC stand	Any person
66	Charging, without prior agreement, more than permitted fare for journey ending outside the district	Driver
67	Charging more than the meter fare when HC is used as a private hire vehicle	Driver
69	Prolonging a journey by time or distance	Driver
71	Interfering with a taximeter	Any person
73(1) (a–c)	Obstruction, failure to comply with requirement, give false or provide false information	Any person

#### 3.5 For Private Hire Matters

Section	Offence	Who is liable
46(1) (a)	Using an unlicensed PH vehicle	Any person
46(1) (b)	Unlicensed PH driver driving a PH vehicle	Any person
46(1) (c)	Proprietor of PH vehicle using an unlicensed driver	Any person
46(1) (d)	Operating a PH vehicle without an operator's licence	Any person
46(1) (e)	Operating a PH vehicle which is not licensed or a driver is not licensed	Any person
48(6)	Failure to exhibit PH plate	Any person
49	Failure to notify transfer of PH vehicle licence	Proprietor
50(1)	Failure to present vehicle for inspection	Proprietor
50(2)	Failure to advise where vehicle is stored	Proprietor
50(3)	Failure to report accident damage	Proprietor
50(4)	Failure to produce PH vehicle licence and insurance	Proprietor
53(3)	Failure to produce PH drivers licence to authorised officer or Police	Driver
54(2)	Failure to wear PH drivers badge	Driver
56(2)	Failure by operator to keep record of bookings	Any person
56(3)	Failure by operator to keep record of PH vehicles operated by him	Any person
56(4)	Failure to produce operator licence to authorised officer or Police	Any person
57	Making false statement or withholding information	Any person
58(2)	Failure to return plate on revocation, expiry or suspension of PH vehicle licence	Proprietor
61(2)	Failure to surrender drivers licence following suspension, revocation or refusal to renew	Driver
69	Prolonging a journey by time or distance	Driver
71	Interfering with a taximeter	Any person
73(1) (a–c)	Obstruction, failure to comply with requirement, give false or provide false information	Any person



## 4.0 To Prosecute or Not?

Prosecutions are not, and never will be, a first resort option unless in the most serious of circumstances.

Failure to comply with some of the provisions in both the 1847 and 1976 acts cannot be the subject of criminal sanction – for example a breach of conditions where no corresponding offence is provided.

For those matters that are subject to summary criminal proceedings; licensing staff will have regard to an established “in house” prosecution scoring matrix (and based on the Code for Crown Prosecutors) in order to consider whether a prosecution or simple caution is the most appropriate course of action and will also consider the following:

- Has the person ignored previous advice given to help resolve a problem?
- Has the person blatantly disregarded the law and/or obstructed an authorised officer?
- Is there a serious risk?
- Is it in the public interest?
- Is the offence serious?
- Is there a statutory defence?
- What explanation has been given?
- What is the history of the offender?
- What is the likelihood of a successful prosecution and is the evidence (including witness evidence) of a good standard?

- 4.1 Any prosecution will be managed by both a case officer and supervisor with recourse to Legal Services for advice where necessary. All prosecutions must be authorised by either the Licensing Manager or Principal Officers and on behalf of the head of service before the matter is put to the City Solicitor for consideration.<sup>102</sup>

Any file will be carefully considered in relation to the above guidelines.

- 4.2 It is important to note that the consideration of proceedings and/or a prosecution for offences can include consideration of offences outside the remit of the 1847 and 1976 acts. This is because the council can use those provisions contained within section 222 of the Local Government Act 1972 and section 6 of the Prosecuting of Offences Act 1985.

For example, any investigation into an allegation of a driver standing or plying for hire contrary to section 45 of the 1847 act WILL result in officers making enquiries and seeking evidence from insurance companies and their underwriters as to the vires of the insurance covering the use of the vehicle at the time of the alleged offence(s).

The result is that persons can be (and are) summonsed for no insurance offence(s) contrary to section 143 of the Road Traffic Act 1988. Upon conviction these offences carry potentially both a financial penalty and the mandatory imposition of between 6–8 penalty points on a driving licence.<sup>103</sup>

- 4.3 The Licensing Committee will formally receive, from time to time, a report from their officers on the outcome of any prosecutions. It is for the committee to determine whether they wish a person previously convicted of a licensing or other offence to appear before them to consider whether they remain a “fit and proper” person.
- 4.4 The council may share details of convictions recorded with partner agencies in appropriate circumstances and subject to compliance with the Data Protection Act.

## 5.0 The use of Simple Cautions

- 5.1 Simple cautions are an effective and alternative means of disposal when dealing with offences and are now the subject of guidance issued by the Ministry of Justice.

It is recommended that local authorities should have regard to the guidance.<sup>104</sup>

The head of service has delegated authority via the City Solicitor to issue and administer simple cautions.
- 5.2 The basic fundamental principles for the consideration of whether to issue a simple caution are:
  - **The person is over 18**
  - **There is sufficient evidence that could have resulted in a prosecution**
  - **The person has admitted their guilt to the offence(s)**
  - **The person consents to accept a simple caution**
- 5.3 A record will be kept of any simple caution and it may influence a decision to institute proceedings against an individual should they break the law in the future.
- 5.4 A simple caution is not a conviction but is an admission of guilt and may be cited in court should a person subsequently be found guilty of an offence by a court of law.
- 5.5 A simple caution is spent immediately but is subject to the Rehabilitation of Offenders (Exceptions) Order 1975. If a person works in a job which is included in a list of notifiable occupations (for example working with children, vulnerable groups and/or in a position of trust) – any current or future employer may be told about the caution.
- 5.6 There is no right of appeal against the acceptance of a simple caution.



6.0 This guidance (on the way the council will deal with prosecutions and simple cautions as shown in 4 and 5 above) will equally apply to any enforcement action taken in respect of the following acts:

- Licensing Act 2003
- Gambling Act 2005
- Local Government (Miscellaneous Provisions) Act 1982
- Equality Act 2010

## 7.0 The Use of Injunctions

7.1 There may be rare occasions where a person does not comply with a formal request and directive from the council to cease trading or otherwise comply with the law – whether by way of breach of notice, suspension, revocation of a licence or non-compliance with any other statutory permission.

If the council considers that it is expedient (and in the public interest) to obtain injunctive relief to restrain a person from carrying out an activity, it is permissible to seek an injunction from the courts. The City Solicitor would be asked to draft the appropriate summons/order for consideration by the High Court. <sup>105</sup>

Whilst driver licences may be lawfully suspended or revoked and the driver cannot drive pending appeal where the “interests of public safety” is concerned – this does not usually apply to suspended vehicle or operator licences.

The use of injunctions is rare but could, on occasion, be a useful enforcement tool.

## 8.0 Best Practice Guidance<sup>106</sup>

The best practice guidance states:

*“Well-directed enforcement activity by the local licensing authority benefits not only the public but also the responsible people in the taxi and PHV trades. Indeed, it could be argued that the safety of the public depends upon licensing authorities having an effective enforcement mechanism in place. This includes actively seeking out those operators who are evading the licensing system, not just licensing those who come forward seeking the appropriate licences. The resources devoted by licensing authorities to enforcement will vary according to local circumstances, including for example any difficulties with touting by unlicensed drivers and vehicles (a problem in some urban areas). Local authorities will also wish to liaise closely with the police. Multi-agency enforcement exercises (involving, for example, the Benefits Agency) have proved beneficial in some areas.*

*Local licensing authorities often use enforcement staff to check a range of licensed activities (such as market traders) as well as the taxi and PHV trades, to make the best use of staff time. But it is desirable to ensure that taxi and PHV enforcement effort is at least partly directed to the late-night period, when problems such as touting tend most often to arise. In formulating policies to deal with taxi touts, local licensing authorities might wish to be aware that the Sentencing Guidelines Council have, for the first time, included guidance about taxi touting in their latest Guidelines for Magistrates. The Guidelines, which came into effect in August 2008, can be accessed through the SGC’s web-site - [www.sentencing-guidelines.gov.uk](http://www.sentencing-guidelines.gov.uk).*

*Some local licensing authorities employ taxi marshals in busy city centres where there are lots of hirings, again perhaps late at night, to help taxi drivers picking up, and would-be passengers queuing for taxis.*

*As part of enforcement, local licensing authorities will often make spot checks, which can lead to their suspending or revoking licences. They will wish to consider carefully which power should best be used for this purpose. They will note, among other things, that section 60 of the Local Government (Miscellaneous Provisions) Act 1976 provides a right of appeal for the*

*licence-holder, whereas section 68, which is also sometimes used, does not; this can complicate any challenge by the licence-holder.*

*Section 52 of the Road Safety Act 2006 amended the Local Government (Miscellaneous Provisions) Act 1976 such that local authorities can now suspend or revoke a taxi or PHV driver's licence with immediate effect on safety grounds. It should be stressed that this power can only be used where safety is the principal reason for suspending or revoking and where the risk justifies such an approach. It is expected that in the majority of cases drivers will continue to work pending appeal and that this power will be used in one-off cases. But the key point is that the law says that the power must be used in cases which can be justified in terms of safety. The Department is not proposing to issue any specific guidance on this issue, preferring to leave it to the discretion of licensing authorities as to when the power should be used."*

- 8.1 The committee notes and agrees with the best practice guidance.

## 9.0 The use of Other Enforcement Powers

- 9.1 Whilst prosecutions and/or the offer of simple cautions can be an effective disciplinary sanction leading to the imposition of a criminal record – they are not the only form of enforcement control available to both the council and officers alike.

The 1976 act permits respective hackney carriage or private hire vehicle, driver and private hire operator licences to be suspended, revoked or not renewed (as the case may be) and after consideration on individual merit.

- 9.2 Sections 60, 61 and 62 of the 1976 specify the grounds for the consideration of such actions which may be taken following evidenced criminality leading to say a conviction or on the basis of having a "reasonable cause" for a concern and considering any evidence on the balance of probabilities and having regard to hearsay matters if necessary.

- 9.3 The prescribed considerations for taking action to suspend, revoke or not to renew a licence include:

- A vehicle being unfit
- A proprietor, operator or driver being convicted of an offence contrary to, or has not complied with, the provisions of the 1847 and/or 1976 acts
- A driver being convicted of an offence for dishonesty, indecency or violence
- The conduct of an operator or any material change in the circumstances of an operator
- Any other reasonable cause

The scheme of delegation details the powers available to both the committee and officers which, generally speaking, are subject to appeal provisions to the Magistrates' Court.

- 9.4 Written or verbal warnings may be given as appropriate together with any other instruction (either by the committee or officers) for licence holders to attend specified training or refresher courses such as driver awareness, customer care or disability awareness courses.

These will normally be at the expense of the licence holder and failure to comply (or to pass any prescribed testing criteria) will lead to consideration of either the subsequent suspension or revocation of a respective licence.

- 9.5 Suspensions, as a form of short punitive punishment or to prevent a licensee from working whilst non-compliant with a licensing matter (such as an overdue DBS check, overdue medical or a car being damaged and not roadworthy), are used regularly and are a useful enforcement option.
- 9.6 The consideration however of either the revocation or non-renewal of a licence is generally delegated to the committee for determination.
- 9.7 And finally, there will always be a place and a time for an officer to use discretion and to have "a quiet word in the ear" just to remind a person to buck up their ideas!!

10.0 The Points System

10.1 Introduced by the committee in 1994 and after extensive consultation with the trade, the “penalty points system” has been used as a “fast track” and parallel disciplinary code for:

- Licence holders breaching conditions
- Non-compliance with the provisions of the 1847 and 1976 acts
- General unsatisfactory conduct
- Sanctions following receipt of complaints from the public, other road users and the trade about the conduct of licence holders

10.2 The weight of evidence is assessed on the “balance of probabilities” and after hearing the explanation or representations of the licence holder. The history of the licence holder will be taken into consideration before determining any final action.

The issue of points is a “formal and stepped” way to deal with enforcement concerns but does not prejudice the right of authorised officers to take other action if deemed necessary. Points may be awarded as a final (and only) sanction or given together with a verbal and written warning. Equally, if the “offence” under investigation is one for which a prosecution could be instigated – that course of action may also be considered as appropriate.

10.3 Portsmouth was one of the first local authorities to introduce this local form of control and the use of a penalty point’s scheme is now a common form of enforcement.<sup>107</sup>

10.4 There is no financial penalty associated with the scheme and a licence holder may continue to lawfully work even if points are awarded. There is however a presumption in favour of a hearing before the sub-committee if the number of points accumulated exceeds the following in any one period of time:

- **Hackney carriage driver      10 points**
- **Private hire driver            10 points**
- **Hackney carriage vehicle    10 points**
- **Private hire vehicle          10 points**
- **Private hire operator        40 points**

10.5 The sub-committee must consider whether they have “reasonable cause” to determine, on individual merit, if a licence holder is a fit and proper person to continue to hold a respective driver, vehicle or operator licence. The sanctions available, and after hearing all the evidence are wide ranging and could include:

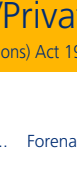
- Verbal warning\*
- Written warning\*

- Suspension of licence
- Revocation or non-renewal of licence

\* If, on the evidence, a person has previously received verbal or written warnings – it is unlikely that the sub-committee would just replicate such previous action taken but they do retain the power to do so.

The current points ticket is shown below:

# POINTS SYSTEM



## Portsmouth CITY COUNCIL

### Hackney Carriage/Private Hire

Local Government (Miscellaneous Provisions) Act 1976 & Town Police Clauses Act 1847

#### Incident Details

Surname .....

Forenames .....

Badge No. HC/PH .....

Company .....

Plate No. HC/PH .....

Reg No. ....

Date .....

Time .....

Location .....

Computer Code:

for explanation of codes please see overleaf

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	6 <input type="checkbox"/>	7 <input type="checkbox"/>	8 <input type="checkbox"/>
9 <input type="checkbox"/>	10 <input type="checkbox"/>	11 <input type="checkbox"/>	12 <input type="checkbox"/>	13 <input type="checkbox"/>	14 <input type="checkbox"/>	15 <input type="checkbox"/>	16 <input type="checkbox"/>
17 <input type="checkbox"/>	18 <input type="checkbox"/>	19 <input type="checkbox"/>	20 <input type="checkbox"/>	21 <input type="checkbox"/>	22 <input type="checkbox"/>	23 <input type="checkbox"/>	24 <input type="checkbox"/>
25 <input type="checkbox"/>	26 <input type="checkbox"/>	27 <input type="checkbox"/>	28 <input type="checkbox"/>	29 <input type="checkbox"/>	30 <input type="checkbox"/>	31 <input type="checkbox"/>	32 <input type="checkbox"/>
33 <input type="checkbox"/>	34 <input type="checkbox"/>	35 <input type="checkbox"/>	36 <input type="checkbox"/>	37 <input type="checkbox"/>	38 <input type="checkbox"/>	39 <input type="checkbox"/>	

#### Points Awarded:

Driver

Proprietor

Operator

#### Document Production: (tick as appropriate)

Please produce within 5 days

Driving Licence ☐

Insurance ☐

Registration Document ☐

MOT/COC ☐

#### Notice of warning or to complete works or suspend vehicle licence:

(tick as appropriate)

Warning Given ☐

7 day Notice ☐

Suspension of Vehicle Licence ☐

If the vehicle licence is suspended it **must not** be used until the suspension notice is lifted. Reasons for any action taken and/or warning given will be shown in the notes below.

#### NOTES:

Signed .....

Driver/Proprietor

Signed .....

Authorised Officer, Licensing Office,  
Portsmouth City Council  
Tel: 023 9283 4830 Fax: 023 9283 4811  
Email [licensing@portsmouthcc.gov.uk](mailto:licensing@portsmouthcc.gov.uk)

White - Driver/Proprietor, Green - Office Copy

HH-40

General Breaches		10 Driver	10 Vehicle	40 Operator
1	Failure to notify change of address within 7 days	2	2	2
2	False declaration on application/renewal of licence	3	1	2
3	Failure to notify motoring or criminal convictions or to produce certificates of conviction/driving licence within 7 days	3	3	3
4	Failure to behave in a civil and orderly manner to customers and other road users	2-6	-	2
5	Failure to display badge or return same at request of authorised officer	4	-	-
6	Dishonoured cheque for payment of licence	1	1	1
7	Overdue medical examination/drug screen	2	-	-
8	Obstruction of authorised officer	3	3	4
<b>Vehicle Breaches</b>				
9	No fire extinguisher	1	3	-
10	Failure to display vehicle licence plate	1	3	1
11	Failure to exchange defaced vehicle licence plate	1	2	-
12	Failure to display vehicle licence disc	-	2	1
13	Failure to return vehicle licence plate at request of authorised officer	-	2	-
14	Failure to report accident damage within 72 hours	-	3	1
15	Failure to produce insurance documents at request of authorised officer within 5 days	-	6	-
16	Permitting no insurance	-	10	-
17	Carrying more passengers than permitted by vehicle licence	2	-	-
18	No vehicle licensing record book ("white book") in vehicle	-	2	-
19	Refusal to carry passengers without reasonable excuse	3	-	-
20	Unauthorised 'company' window stickers and/or failure to display prescribed HCV/PHV vehicle identification livery	-	2	3
21	Failure to notify transfer of vehicle licence interest within 14 days	-	3	-
22	Failure to convey or assist with carrying of luggage	2	-	-
23	Failure to deliver lost property to Police	2	-	-
24	Failure to carry byelaws in vehicle	-	3	-
25	Failure to display tariff of fares or to conceal same	1	3	-
26	Defective taxi meter	-	3	-
27	Defective taxi top light	-	1	-
28	Out of date tax disc	-	3	-
29	Vehicle not clean, well maintained or comfortable	1	4	1
30	Illegal tyres	1	4	-
31	Illegal ranking	2	-	-
32	Unattended hackney carriage vehicle on rank	1	-	-
33	Failure to attend mechanical inspection	-	6	-
34	Late cancellation of mechanical inspection	-	6	-
35	Use of vehicle without current certificate of compliance		6	
36	Standing or plying for hire	3	-	1
37	Overcharging	3	-	-
<b>Operator Breaches</b>				
38	Breach of special condition on licence	-	-	4
39	Failure to keep proper records of bookings	-	-	4





10.6 Feedback from licence holders and licensing staff (particularly from the enforcement staff) has resulted in an agreed consensus to review the “points” attributable for “offences” and to tidy up the scheme generally. It is many years since the scheme has been amended.

For example, the owners (and vehicle proprietors) of the “big fleet” garages argue that it is unfair for them to receive 4 points (as the vehicle proprietor) for illegal tyres and the driver only 1 point.

They have dedicated workshop facilities and drivers are both instructed and encouraged to return and report any apparent defect at any time.

This is accepted and thus more onus should be on the driver to take day to day responsibility for the general roadworthiness of the vehicle and to check things like oil, water, lights and tyres on a regular basis.

The proprietor however maintains overall responsibility for the maintenance of the vehicle.

10.7 Accordingly, committee approval is sought to modify the penalty points system as follows:

- To keep the existing thresholds of 10 points for drivers and vehicle proprietors and 40 points for operators but to calculate the accumulation threshold (with a presumption in favour of a resultant sub-committee hearing) to be within ANY 12 month period of time rather than using the “fixed” licensing periods currently prescribed<sup>108</sup>
- To modify the wording of some “breaches” for the purposes of clarity
- To add new offence types
- To remove some existing offence types
- To amend the number of points for particular offence types

The proposed new model is shown on the following pages and has been subject to trade consultation:



Number	Description	Driver 10 Points	Vehicle Proprietor 10 Points	Operator 40 Points
<b>General &amp; driver matters</b>				
1	Failure to notify change of address or other contact details	2	2	2
2	False declaration on application or renewal of licence	4	4	4
3	Failure to notify criminal or motoring charges, convictions or failure to produce documents upon request	4	4	4
4a	Failure to behave in a civil and orderly manner to customers or other road users <b>by reason of abusive/foul language or gestures</b>	6	0	0
4b	Failure to behave in a civil and orderly manner to customers or other road users <b>by reason of threatening behaviour</b>	6	0	0
4c	Failure to behave in a civil and orderly manner to customers or other road users <b>by reason of poor driving</b>	6	0	0
4d	Failure to behave in a civil and orderly manner to customers or other road users <b>by reason of use of violence</b>	10	0	0
5	Failure to display badge or return same at request of authorised officer	4	0	0
6	Overdue medical, DBS, drug screen	2	0	2
7	Driver smoking in vehicle (to include e-cigarettes)	2	0	0
8	Obstruction of authorised officer	4	4	4
9	Failure to abide by company dress code or to be clean and tidy in appearance	4	0	0
10	Refusal to carry passengers without reasonable excuse	4	0	0
11	Refusal to carry passenger(s) with wheelchair or by reason of disability	10	0	10
12	Refusal to carry guide/assistance dog	10	0	10
13	Carrying more passengers than permitted by vehicle licence	6	0	0
14	Overcharging	6	0	0
15	Illegal ranking	4	0	0
16	Standing or plying for hire	4	0	2
17	Unattended hackney carriage on taxi stand	2	0	0
18	Failure to convey or assist with luggage	2	0	0
19	Failure to report lost property	6	0	0

Number	Description	Driver 10 Points	Vehicle Proprietor 10 Points	Operator 40 Points
<b>Vehicle matters</b>				
20	Failure to properly display vehicle licence plate	4	2	0
21	Failure to display vehicle licence windscreen disc	4	2	0
22	Failure to return licence plate at request of authorised officer	0	4	0
23	Failure to report accident damage within 72 hours	0	4	0
24	Failure to produce vehicle documents to include insurance, registration document and/or certificate of compliance	0	6	0
25	Permitting no insurance	0	10	0
26	No "white book" in vehicle	0	2	0
27	Unauthorised notices or company window stickers either inside or outside the vehicle	0	4	4
28	Failure to notify transfer of vehicle licence within 14 days	0	4	0
29	Failure to carry byelaws in vehicle	2	4	0
30	Failure to display tariff of fares or to conceal same	4	2	0
31	Defective and/or unsealed taxi meter	2	4	0
32	Defective TAXI top light	2	2	0
33	Faded TAXI top light or livery	2	2	0
34	Out of date tax	0	6	0
35	Vehicle not clean, well maintained or comfortable	4	2	2
36	Illegal tyres (points for each tyre)	4	1	0
37	Defective CCTV	0	2	0
38	Failure to attend mechanical inspection	0	6	0
39	Late cancellation of mechanical inspection	0	6	0
40	Use of vehicle without a current certificate of compliance	0	10	0
<b>Operator matters</b>				
41	Failure to keep proper records of bookings	0	0	4
42	Unauthorised vehicle livery	0	0	4

## 11.0 Service Requests & Operation Orders

11.1 The Licensing Service uses a central computer database to record all complaints against licence holders. These are generically known as “Service Requests” and are allocated to the enforcement team to investigate and action.

In 2014 the enforcement team dealt with 411 complaints of which 320 (77%) were in respect of the hackney carriage or private hire trades as shown below:

- Hackney carriage driver 113 complaints
- Hackney carriage vehicle 18 complaints
- Private hire driver 144 complaints
- Private hire vehicle 39 complaints
- Private hire operator 6 complaints

Licensing enforcement staff carry out regular evening work either as part of normal duties, in response to the receipt of specific complaints and/or by way of operation orders in partnership with the Police and other agencies including staff from Adams Morey and Civil Enforcement colleagues responsible for parking matters. These orders have tackled concerns such as plying and standing for hire, the fitness of vehicles, drivers over ranking and breaching the byelaws, drug testing on drivers, prom night limousine checks and the conveyance of assistance and hearing dogs.

The committee receives update reports on action taken as appropriate.

11.2 Of significance is that the management team both receive, and have access to, regular reports on trends associated with the number and type of service requests together with updates on the penalty point's scheme.

This allows for “markers” to be placed against individual cases which can be seen and viewed by the whole service whether administrative, enforcement or management. There can be no doubt about whether an individual driver, proprietor or operator is cause for concern and remedial action can be flagged immediately.<sup>109</sup>

11.3 The enforcement team has regular staff meetings to appraise the managers of current trends associated with complaints. This is particularly important in the area of safeguarding and there is a strong team ethic to ensuring that all parties are alerted to any concerns involving children and vulnerable adults by way of:

- Regular liaison with the Police licensing unit
- Regular liaison with both Aqua Cars Ltd and Citywide so far as the administration of bookings for school and other contract work is concerned and an absolute presumption that any complaint about the actions of a driver involved in contract work is investigated immediately
- Regular liaison with the council's Passenger Transport Officer and Fleet Transport Manager on safeguarding issues
- An absolute requirement for all DBS checks on drivers to be to an enhanced level and for “child and adult workforce” checks to be the norm
- An understanding that any child protection and safeguarding issues are raised immediately with management and, if necessary, referred to the Multi-Agency Safeguarding Hub (MASH) for consideration



## 12.0 Complaints Procedure

12.1 Any person aggrieved by the imposition of penalty points or any other disciplinary sanction may, in the first instance, contact one of the principal staff officers to review any particular case.

12.2 The investigation of a person or business by licensing staff into the merit of any complaint is not, in itself, a reason for a licence holder to complain. Staff have a duty to establish the facts in any one particular case. The evidence obtained may lead the officer to conclude that the case against a licence holder is weak or even potentially unfounded or malicious in nature. Equally, the evidence may also point to the need to interview, for example, the licensee under caution.

This is all part of the process of evidence gathering and to ensure a fair and balanced investigation.

12.3 However, if a person is subsequently not happy with any action taken or decision made, the Licensing Manager can be asked to further review the case. If still unhappy, a person can resort to the council's corporate complaints procedure which is shown in the link below:

<https://www.portsmouth.gov.uk/ext/the-council/transparency/comment-compliment-or-complaint.aspx>

A person can also seek independent advice or ask a ward councillor for assistance.

## Resolved

1. That the Licensing Committee note and endorse the contents.
2. That the committee approve the changes to the local penalty points system and to come into force with immediate effect.
3. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate with these proposals.

# Chapter 16: Fees and charges

## Objectives:

1. “To administer the licensing budget, so far as it relates to the hackney carriage and private hire undertaking, at no cost to the tax payer
2. To review all fees and charges on an annual basis and in an open and transparent way”

## 1.0 The Legal Provisions

- 1.1 Although not commonly used, section 46 of the 1847 act permits the council to levy “such fee as may be determined” in respect of a hackney carriage driver licence. The act is silent on what the fee may encompass but nevertheless, a fee charging power is still lawful and permitted under this section.

- 1.2 However, the main fee charging powers are contained in part II of the 1976 act.

Section 53 permits the council to demand and recover for the grant to any person of a licence to drive a hackney carriage or a private hire vehicle such a fee as considered reasonable with a view to recovering the costs of issue and administration.

Section 70 permits the council to charge such fees for the grant of vehicle and operator licences as may be resolved by them from time to time as may be sufficient in the aggregate to cover in whole or in part:

The reasonable cost of carrying out by or on behalf of the council inspections of hackney carriages and private hire vehicles for the purposes of determining whether any such licence should be granted or renewed;<sup>110</sup>

- The reasonable cost of providing hackney carriage stands;
- Any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles

Any proposed fees considered under section 70 are subject to public consultation and notice for a period of 28 days.

## 2.0 Best Practice Guidance

- 2.1 The Department for Transport guidance is silent and gives no advice about fees and their subsequent application.

This is perhaps not surprising as fees are determined on a local basis and after having regard to the local overall costs for the administrative control and supervision of the respective private hire and hackney carriage trades.

## 3.0 Policy, Case Law and Other Considerations

- 3.1 The policy of the Licensing Committee has always been to work towards total cost recovery for the purposes of administering the licensing undertaking.

There are, however, caveats to this principle as the statutory authority (and thus the ability to levy a fee) falls into four distinct groups:

- Those licences and permits where no fee is payable – such as charitable collections and busker registrations
- Fees fixed by statute – such as the Licensing Act 2003 and permits/notifications under the Gambling Act 2005
- Discretionary fees subject to a statutory maximum fee – such as licences under the Gambling Act 2005
- Discretionary fees set by the council as sufficient to cover costs of administration, supervision and, where lawfully possible, enforcement costs for non-compliance - such as hackney carriage and private hire, sex establishments, street trading and scrap metal dealers

- 3.2 The council, as the local licensing authority, will always want to work with and promote local businesses but, in the context of fair and proportionate financial management; would NOT expect the costs of the licensing undertaking (particularly for those involved in running a business) to fall on, or be subsidised by, the tax payer.





23,522	8,446	8,838	43,887	40,687	30,867
26,603	542	950	2,767	2,645	2,481
1,275	6,559	5,970	39,296	32,899	26,448
26,767	2,055	49,287	70,884	65,286	57,535
19,542	3,783	12,602	27,922	26,323	26,459
11,537	4,410	6,633	14,218	13,909	13,044
3,175	104	85	1,497	1,250	
1,308					
136,341	28,458	86,723	251,522	232,319	194,654
64,558	2,450	2,234	69,242	52,234	48,183
200,899	30,908	88,957	320,764	284,553	242,837
38,706	20,481	32,979	32,166	90,606	74,027
27,832	10,266	19,798	896	45,951	34,555
66,538	30,747	52,777	52	136,557	108,582
267,437	61,655	141,734	4,110	421,110	351,419
			(3,884)	(3,884)	(4,168)
			466,110	417,226	347,251
45,644	24,480	45,116	115,240	748	101,227

3.3 Equally, persons and those in business licensed and regulated by the council (and who are subject to the requirement to pay discretionary fees) should expect the council to charge fees based on clear and transparent evidence and to reasonably justify and identify “on costs” associated with any particular licence regime.

3.4 Evidence that supports either the increase or reduction of fees should be acted upon in a timely manner and all discretionary fees should be reviewed by the committee (not officers) on a regular basis.

Separate accounts for hackney carriage and private hire matters will be maintained and any budgetary surplus or deficit must be acted upon when determining fees. It is not permissible to “cross subsidise” monies from one trading account to another.<sup>111</sup>

3.5 The courts do not support the principle that fees which exceed cost recovery could be used as a general revenue raising scheme for non-licensing matters.<sup>112</sup>

4.0 Council licensing budgets around the country have been subject to scrutiny from both taxi and private hire trade representatives – particularly where the underlying rationale for justifying costs has been challenged. This had led, in some cases, to councils refunding monies to aggrieved parties and to ring fencing the licensing revenue for licensing use alone.<sup>113</sup>

4.1 The then Audit Commission had also been asked, by way of complaint, to examine council licensing budgets. In a case involving a local council and following a complaint about the taxi and private hire budget, the District Auditor issued a public interest report pursuant to the Audit Commission Act 1998 and commented, amongst other things, that in the case in question:

- **There was no licensing time recording system in place**
- **There was no method to independently verify the accuracy of staff time allocated to certain parts of the licensing undertaking**
- **The council should have kept a better record of costs and fees**
- **Enforcement costs against drivers and operators were not recoverable under the fee raising regime**
- **Any fees should be sufficient to cover costs but not to make a surplus**

- 5.0 Advice to councils has been further provided by the Local Government Association publication "Open for Business – Guidance on locally set fees". <sup>114</sup>
- 5.1 Councils are reminded that locally set fees are a vital means of ensuring that costs can be recovered by each and every council, rather than relying on subsidy from the local tax payers.
- 5.2 Although the taxi and private hire sectors are excluded from The Provision of Service Regulations 2009 (which activated the provisions of the EU Services Directive 2006), it is nevertheless considered that compliance with the principles of the EU Directive <sup>115</sup> is of paramount importance particularly in relation to fees being:
- Justified and proportionate
  - Clear and objective
  - Public and transparent
- 5.3 The identified costs of administration and the processing of applications must be established and "rejected" applications should result in refunds where appropriate to the circumstances.
- 5.4 Fees should not be used to make a profit or to act as a deterrent to certain business types. Any surplus should be used to reduce fees for the next year and any deficit can be tackled by cost recovery over a period of time. <sup>116</sup>

Module Reference	Category	Sub-Category	Time	Units	
U 14/02608/HCV	U - Licensing	HCV - Hackney Carriage Vehicles	00:10	2	»
U 15/02393/HCV	U - Licensing	HCV - Hackney Carriage Vehicles	00:10	2	»
U LAPREM/6269	U - Licensing	LAPREM - LA 2003 - Premises	00:05	1	»
U 14/02059/LAPREM	U - Licensing	LAPREM - LA 2003 - Premises	00:10	2	»
U	U - Licensing	PHDRIV - Private Hire Drivers	00:20	4	»
U LAPREM/6271	U - Licensing	LAPREM - LA 2003 - Premises	00:05	1	»
U 14/04810/PHDRIV	U - Licensing	PHDRIV - Private Hire Drivers	00:25	5	»
U	U - Licensing	LAPERS - LA 2003 - Personal	00:20	4	»
U	U - Licensing	LAPERS - LA 2003 - Personal	00:30	6	»
U	U - Licensing	LICCOM - Licensing Committee/Sub Committee	01:00	12	»
U 14/02734/HCDRIV	U - Licensing	HCDRIV - Hackney Carriage Drivers	00:10	2	»
U	U - Licensing	PHDRIV - Private Hire Drivers	00:10	2	»
Hours Worked			Totals		
			6:30	78	

An aggregate of the licence fee, to reflect the across the board officer time and "on costs" is a much fairer distribution in order to determine the fee payable.\*

\*See 6.2 overleaf

- 5.5 Fees should be calculated to include all reasonable “on costs” which could include:
- Administration
  - Initial visits
  - Third party costs
  - Liaison with other persons and the public
  - Management costs
  - Local democracy costs
  - Development of policy and web guidance etc
  - General advice and guidance
  - Reviewing fees
  - Additional visits and compliance inspections together with dealing with complaints (subject to the legal principles of cost recovery)

6.0 The Licensing Committee have resolved to review fees on an annual basis - minute 15/2008 refers.

- 6.1 As a consequence to a critical examination and analysis of costs associated with each component of the hackney carriage and private hire undertaking (and balanced against officer time recording) a significant deficit in the hackney carriage budget was identified.

This has been addressed by the committee resolving to increase fees for hackney carriage vehicles, drivers and private hire operators over a 5 year rolling period - minute 3/2015 refers.

The fees are not reproduced here as they are subject to annual review and possible change. They can be viewed via the PCC web and at the following link:

<https://www.portsmouth.gov.uk/ext/business/licensing/taxi-licensing-general-information-and-fees.aspx>

- 6.2 The Licensing Service uses a dedicated time recording system to record officer time spent against a licensing matter - whether generically or specifically against one driver, vehicle or operator. <sup>117</sup>

The service is getting close to being able to identify potential individual costs against an applicant, driver, vehicle proprietor or operator which could result in future individual billing and subsequent cost recovery.

This would not, however, be practical or realistic as some cases could result in a legitimate levied fee of hundreds of pounds and others would be significantly less. \* See page 143

- 7.0 The trade <sup>118</sup> have previously requested a “breakdown” of costs associated with any one particular licence type or application. This is not an unreasonable request as a guide to the administrative practices in place will help to understand the rationale behind such fees and give your reporting staff an opportunity to examine and, where possible, streamline future work processes in order to save costs.

- 7.1 As a note of caution however, the underlying test is to ensure the overall public safety and confidence in the licensing regime and thus any potential cost saving proposals must be balanced against this fundamental rationale.

- 7.2 Whilst it is not possible to give absolute costings, - examples based on the average officer times and on costings for each grant of a licence type are shown opposite:

Licence type	Action	Process	Officer time
Private Hire or Hackney Carriage Driver	Initial enquiry at reception	Give out and explain: <ul style="list-style-type: none"> <li>Application form</li> <li>References</li> <li>DBS Enhanced check form</li> <li>Medical form</li> <li>Drug Screen consent</li> <li>Geography test</li> <li>Check held DVLA licence for one year</li> <li>Discuss importance of declaring criminal/motoring matters</li> <li>Interview with emphasis on good communication skills and look for command of English</li> </ul>	15 minutes
	Applicant returns with completed application	Interview and check: <ul style="list-style-type: none"> <li>Application form for completeness and errors</li> <li>Driving licence and counterpart (subject to review with abolition of counterpart in 2015)</li> <li>Validity of all documents to support DBS check: e.g. passport, driving licence, birth certificate, utility bills</li> <li>Take photograph of applicant</li> <li>Take copies of all documents</li> <li>Validate and countersign DBS check for sending to DBS direct</li> <li>Enter new case on Uniform</li> <li>Scan and image all documents</li> <li>Interview with emphasis on good communication skills and look for command of English</li> </ul>	20 - 30 minutes
	Geography test (could be multiple attempts)	Book test: <ul style="list-style-type: none"> <li>Take payment</li> <li>Monitor progress of test over various modules, check for cheating or odd behaviour</li> <li>If fail, offer and update new test date(s)</li> <li>If pass, ensure certificates are printed and scanned</li> </ul>	2.30 hours (average)
	References	Check for accuracy - contact and discuss application with referees if required - scan and image.	15 minutes
	Medical certificate	Check medical completed to group II standard and certified by GP with practice stamp - scan and image. If concerns refer to senior officer and/or council's appointed Medical Referee.*	10 minutes
	Drug screen Undertaken	Book in and take payment. Carry out drug screen. Send away sample for analysis	20 minutes
	Drug screen returned	Check results and scan and image. If a failure recorded call applicant in for interview and pass to senior officer.*	10 minutes
	DBS check returned	Update case and scan/image. If matters revealed refer to senior officer for interview.*	10 minutes
	Grant of licence	Print badge and give out lanyard, print paper licence, give out or advise re byelaws, give out "conditions of licence and enforcement leaflet". Give overview of legal provisions applicable to licence type. Scan and image licence to case.	15 minutes
	After grant	Update and finalise case together with any scanning/indexing. Ensure update complete to facilitate public register.	10 minutes
	<b>Total average time:</b>		<b>4.45 hours</b>
	<b>Total average cost:</b>		<b>£134.34<sup>119</sup></b>

\*Senior officer time NOT taken into consideration in this example.

Licence type	Action	Process	Officer time
<b>Private Hire or Hackney Carriage Vehicle</b>	Initial enquiry at reception	Give out and explain: <ul style="list-style-type: none"> <li>• Application form</li> <li>• Explain PCC vehicle technical specifications - colour, wheelbase, seating capacity etc</li> <li>• Discuss importance of proper declarations re proprietor details - particularly for HCV</li> <li>• Ensure that applicant provides all necessary documents on next visit</li> </ul>	15 minutes
	Applicant returns with completed application	Interview and check: <ul style="list-style-type: none"> <li>• Application form for completeness and errors and signed by an operator</li> <li>• Check validity of all documents to include bill of sale, V5, insurance</li> <li>• Take photograph of applicant and ensure photographs of all other proprietors are obtained together with address and other contact details</li> <li>• Take copies of all documents</li> <li>• Enter new case on Uniform</li> <li>• Book mechanical inspection for new vehicle</li> <li>• Scan and image all documents</li> <li>• Take fees</li> <li>• Inspect vehicle prior to mechanical inspection</li> <li>• Give out prescribed livery</li> </ul>	30 minutes
	Mechanical inspection completed	<ul style="list-style-type: none"> <li>• If fail, offer new test date</li> <li>• If pass, update case and arrange for certificate of compliance to be printed and scanned</li> </ul>	10 minutes
	Grant of vehicle licence	<ul style="list-style-type: none"> <li>• Print plate, windscreen licence disc and paper licence</li> <li>• Give out or advise re vehicle conditions and/or byelaws, give out "conditions of licence and enforcement leaflet".</li> <li>• Give overview of legal and appeal provisions applicable to licence type.</li> <li>• Inspect vehicle once plate and livery all fitted and take x 4 photographs of front, rear, nearside and offside</li> <li>• Scan and image licence to case.</li> <li>• Image photographs to case.</li> </ul>	30 minutes
	After grant	Update and finalise case together with any scanning/indexing. Ensure update complete to facilitate public register.  If necessary, consider livery and/or plate dispensation request - obtain evidence from operator to support request	10 minutes  30 minutes*
	<b>Total average time:</b>  <b>Total average cost:</b>		<b>1.35 hours</b>  <b>£40.75<sup>120</sup></b>

\*Senior officer time NOT taken into consideration in this example.



Licence type	Action	Process	Officer time
Private Hire Operator	Initial enquiry at reception	Give out and explain: <ul style="list-style-type: none"> <li>• Application form</li> <li>• DBS check form</li> <li>• Company/partnership details if application likely to be from a corporate body or persons trading in partnership</li> <li>• Check proposed premises in Portsmouth</li> <li>• Discuss importance of declaring criminal/motoring matters</li> <li>• Discuss any planning issues for proposed premises</li> <li>• Interview with emphasis on good communication skills and look for command of English</li> </ul>	20 minutes
	Applicant returns with completed application	Interview and check: <ul style="list-style-type: none"> <li>• Application form for completeness and errors</li> <li>• Check on company directors and or persons acting in partnership with validity of all documents to support ALL DBS checks - passport, driving licence, birth certificate, utility bills etc</li> <li>• To include overseas criminal record checks if foreign nationals identified in application</li> <li>• Take photographs of applicant(s)</li> <li>• Take copies of all documents</li> <li>• Validate and countersign DBS checks for sending to DBS direct</li> <li>• Check for table of fares</li> <li>• Enter new case on Uniform</li> <li>• Scan and image all documents</li> <li>• Interview with emphasis on good communication skills and look for command of English</li> </ul>	1 hour
	Site visit and interview	Visit proposed business premises <ul style="list-style-type: none"> <li>• Take photographs</li> <li>• Interview applicants and discuss business model</li> <li>• Check for method of establishing and retaining record of bookings received</li> </ul>	2 hours (average)
	References	Take up if necessary and carry out company checks if necessary	30 minutes
	Communication with Police, City Development staff and ward councillors	Give 2 weeks to consult re use of premises and to determine if applicants deemed "fit and proper" <ul style="list-style-type: none"> <li>• Write to Chief Officer of Police</li> <li>• Ward Councillors</li> <li>• City Development staff</li> <li>• Update case as responses subsequently received</li> </ul>	1 hour
	Drug screen Undertaken	If necessary for all applicants	20 minutes
	Drug screen returned	Check results and scan and image. If a failure recorded call applicant in for interview and pass to senior officer*	10 minutes
	DBS check(s) returned	Update case and scan/image. If matters revealed refer to senior officer for interview*	10 minutes
	Grant of licence	Print operator licence and give out "conditions of licence and enforcement leaflet". Give overview of legal provisions applicable to licence type. Scan and image licence to case.	15 minutes

After grant	Update and finalise case together with any scanning/indexing. Ensure update complete to facilitate public register.	10 minutes
<b>Total average time:</b>		<b>5.55 hours</b>
<b>Total average cost:</b>		<b>£327.61<sup>121</sup></b>

\*Senior officer time NOT taken into consideration in this example.

## 8.0 Future Considerations

8.1 The Licensing Service has, in the last year, been able to process debit and credit card payments from the respective taxi and private hire trades.

The resultant shift away from enabling receipt of direct “cash” transactions and payments reflects on one strand of the council’s proposed channel shift working policies.



## **8.2 The Licensing Service will focus on continuing to provide and/or implementing, where possible, the following “core” objectives:**

- To work towards total cost recovery from the hackney carriage and private hire trades with no subsidy from the tax payer (in line with the overall objective)
- To continue to provide the Licensing Committee with reports on the licensing budget and fees
- To continue to ensure that budget headings for the respective hackney carriage and private hire trades are separately maintained and no cross subsidy will take place
- To critically examine existing departmental recharges levied to the licensing budget with a view to their removal or future reduction
- To encourage and recommend to the Licensing Committee that any yearly surplus or deficit be rolled forward year on year
- To encourage and recommend to the Licensing Committee that the Licensing budget be ring fenced
- To recommend increases in fees (with corresponding supporting rationale provided) where appropriate
- To recommend decreases in fees (with corresponding supporting rationale provided) where appropriate
- To consult with respective trade representatives and the trade in general over any proposal affecting licence fees and to comply with any and all statutory publishing requirements
- To consider introducing fees for “pre application” licensing advice - subject to legal opinion
- To consider fees for section 49 transfers and the use of private registration plates
- To constantly review working practices and processes with a view to driving down costs to the trade
- To ALWAYS instruct the City Solicitor to apply for (and to provide a breakdown) to ensure full cost recovery when determining criminal proceedings and/or defending appeals against decisions of the committee in the courts
- To continue to provide empirical time recording evidence from the Licensing Service to support any proposals for fee increases/decreases
- To ensure that any licences previously issued are immediately and considered “null and void” in the event of cheques offered for payment being returned
- To consider the introduction of private hire operator fees based on both a flat fee together with a further fee to reflect the size of the working private hire fleet associated with a particular company (this was the previous policy of the council for many years) as the evidence shows more officer time is spent dealing with the larger operators than the “one man bands”
- To establish an on line secure payment facility for applicants, drivers, vehicle proprietors and operators, 24 hours a day, 365 days a year - subject to IT and audit advice and approval
- To refund, where appropriate plate deposit refunds to respective private hire vehicle proprietors
- To remit such fees and/or changes for operator, vehicle and driver licences as may be appropriate and proportionate in respect of an individual case.
- In those circumstances where a driver holds a respective private hire or hackney carriage driver’s licence and wishes to hold both types of driver licences simultaneously, to introduce a reduced fee.
- Whilst it is considered reasonable and appropriate to reduce the cost of simultaneously holding both types of driver licences, the council does not recognise the concept of a “dual hackney carriage/ private hire driver’s licence” as they are granted under different statutory provisions and subject to different enforcement criteria.

# Chapter 17: Law commission proposals

## 1.0 Introduction

- 1.1 The Law Commission is the statutory independent body created by the Law Commissions Act 1965 whose purpose is to keep the law under review and to recommend reform based on the principles that the law is:

- Fair
- Modern
- Simple
- Effective

- 1.2 The commission carried out a comprehensive review of the taxi and private hire industry from 2011 with their final report and draft bill being published in 2014. A link to the comprehensive proposals is shown below:

<http://www.lawcom.gov.uk/project/taxi-and-private-hire-services/#taxi-and-private-hire-services-consultation>

- 1.3 Some of the recommended proposals put forward are already in place (either by way of current statutory requirement or by way of existing local requirement) but there are many new recommendations that reflect on the significant advances in technology and working practices since the inception of the 1847 and 1976 acts.
- 1.4 The draft bill is not law and thus the council is not bound by the recommendations. It would be sensible however (and for the purposes of this review exercise) for members and officers to have due regard to the depth of thought and knowledge that forms the backbone of the proposals which are summarized in 2.1 - 2.30 opposite.

## 2.0 The Law Commission Main Proposals

- 2.1 Taxi and private hire licensing to remain a function of the local authority and the “two tier” system to be retained
- 2.2 Hackney carriages to be generally defined by a “there and then” hiring scenario
- 2.3 The taxi and private hire licensing code will apply to services for commercial gain only
- 2.4 The non-professional use of taxis and private hire vehicles to be permitted
- 2.5 Wedding and funeral car hire services to remain exempt from the licensing code
- 2.6 There will be national standards for taxi and private hire vehicles with the local authority to set additional local standards for taxis only
- 2.7 Taxi quantity controls to locally remain and based on a test of “public interest” rather than “unmet demand” and to be reviewed every 3 years
- 2.8 Private hire services to have national applied standards with no power for the local authority to impose local conditions
- 2.9 Stretch limousines and novelty vehicles to include non-motorized pedicabs/rickshaws etc to be brought into the licensing system by mandatory order
- 2.10 Any “standing room” to be assessed to determine vehicle passenger capacity
- 2.11 No general local authority power to impose conditions on taxis and private hire vehicles
- 2.12 Private hire vehicles and drivers to work for any licensed dispatcher
- 2.13 There will be prescribed basic national standards for drivers and dispatchers
- 2.14 Operators will be called dispatchers and will have to be “fit and proper”. They will be deemed as those who send the vehicle and driver and will be able to sub contract bookings to any dispatcher in England and Wales
- 2.15 The Secretary of State will have power to designate specific conditions - with an offence for non-compliance

- 2.16 The Secretary of State to impose requirements to recognise the difference between taxis and private hire vehicles
- 2.17 The Secretary of State to retain the power to set private hire licensing fees
- 2.18 Taxi fares to be regulated by the local authority in the compellable area with drivers charging more for journeys ending outside the licensing area if agreed in advance
- 2.19 Mandatory disability awareness training for both taxi and private hire drivers to a standard set by the Secretary of State
- 2.20 The Secretary of State to prescribe minimum standards re convictions, breaches of licence conditions rendering a person's right to hold a licence incompatible with prescribed standards
- 2.21 A requirement to comply with the relevant provisions of the Equality Act 2010 by condition of licence
- 2.22 A "how to complain" information notice in both vehicles and on the local authority web pages
- 2.23 A touting offence to be broadly retained
- 2.24 Fixed penalties for minor criminal breaches to licence conditions with an ability for officers to stop any licensed vehicle and to impound vehicles used for "touting"
- 2.25 A power to suspend any licence type immediately and on public safety grounds
- 2.26 The local authority to retain the power to revoke licences and may consider evidence or recommendations from other local authority enforcement staff
- 2.27 A secondary right of internal appeal to the Local Authority itself against refusal to grant, suspension, revocation or refusal to renew respective licences
- 2.28 Subsequent appeals to the Magistrates' and to the Crown Court
- 2.29 Policy and conditions to be challengeable in the County Court
- 2.30 The local authority to promote cost recovery from licence fees and to provide for and control:
  - Administration costs
  - Inspections and testing costs
  - Fares, ranks and taxi quantity control reviews
  - Enforcement of taxi and private hire services (to include licensed and unlicensed activities)
  - Suspension and revocation proceedings
  - Providing stands for taxis



# Chapter 18: Contact information

1.0 The Licensing Service is part of the Culture and City Development Directorate. The service reports direct to the Licensing Committee.

2.0 Applicants and licence holders can obtain further information including application forms and fees in respect of operators, vehicles and drivers from:

**The Licensing Service**  
**Portsmouth City Council**  
**Civic Offices**  
**Guildhall Square**  
**Portsmouth PO1 2AL**

**Tel: 023 9283 4073**

**Fax: 023 9283 4811**

**Email: [licensing@portsmouthcc.gov.uk](mailto:licensing@portsmouthcc.gov.uk)**

**Web: [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)**

3.0 The Licensing Service is located on the lower ground floor of the Civic Offices. Access to the office is via Charles Dickens Street.

The opening hours are:

**Monday to Friday** 0900 until 1600

No appointment is generally necessary but please phone in advance if you wish to see and speak to a particular officer.

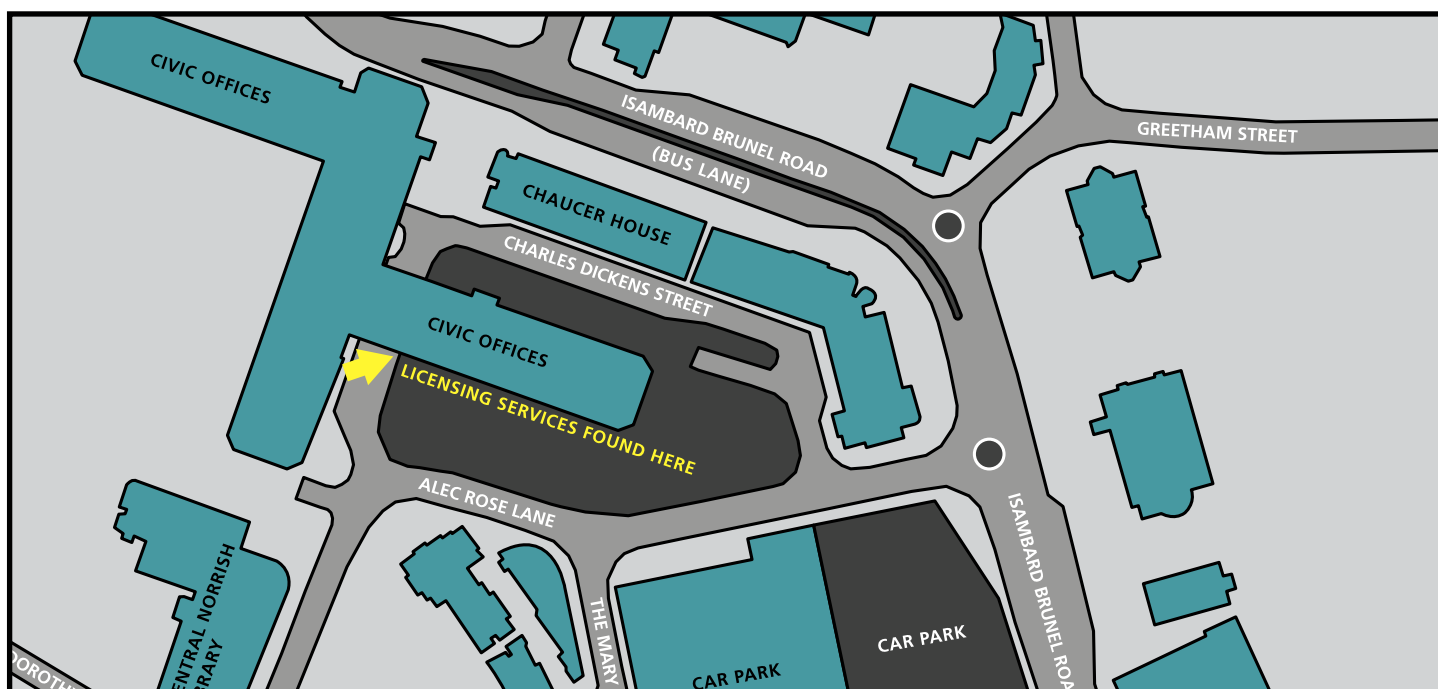
Limited on-street parking is available and pay and display car parks are situated nearby.

4.0 The Licensing Service comprises:

- Nickii Humphreys (Licensing Manager)
- Derek Stone
- Ross Lee
- Jason Ellam
- Kevin Weeks
- Les Matthewson
- Debra Robson
- Karen Bowie
- Hazel Maidment
- Zoe Gofton
- Chris Berry
- Lauren Tyler

Together with seconded temporary and apprentice staff as appropriate

4.1 The staff are all duly appointed as “authorised officers” for the purposes of carrying out their respective duties under the 1847 and 1976 acts and so far as this relates to the control and supervision of the hackney carriage and private hire undertaking.



# Chapter 19: References

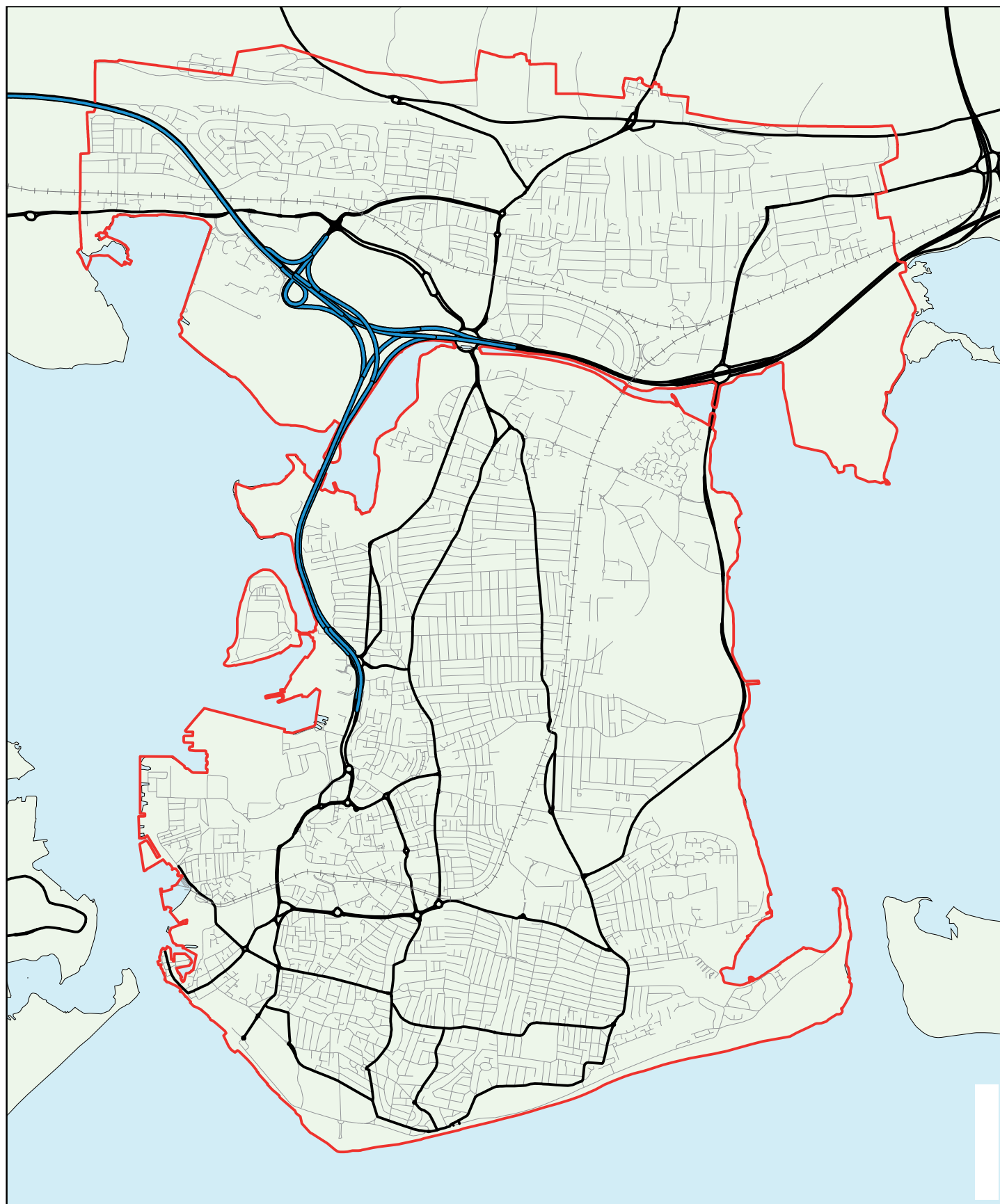
- Audit Commission Act 1998
- “Button on Taxis” - Third Edition
- Criminal Procedures and Investigations Act 1996
- Crime & Disorder Act 1998
- Data Protection Act 1988
- Department for Transport - “Taxi and private Hire Vehicle Licensing” - “Best Practice Guidance” - March 2010 and “Private Hire Vehicle licensing” - “A note for guidance” - August 2011
- Disability Discrimination Act 1995
- Equality Act 2010
- EU Services Directive 2006
- Human Rights Act 1998
- Law Commissions Act 1965
- Legislative and Regulatory Reform Act 2006
- Local Authorities (Functions & Responsibilities) (England) Regulations 2000 as amended
- Local Government Act 1972
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government Act 2000
- “Options for Change” - A PCC review of hackney carriage and private hire policy - August 2001
- Police and Criminal Evidence Act 1984
- Protection of Freedoms Act 2012
- Prosecution of Offences Act 1985
- Public Health Act 1875
- Rehabilitation of Offenders Act 1974
- Road Traffic Act 1988
- Road Traffic Act 1991
- Road Traffic (New Drivers) Act 1995
- Road Safety Act 2006
- The Legal Aid, Sentencing and Punishment Act 2012
- Town Police Clauses Act 1847
- Transport Act 1985

# Chapter 20: Glossary of terms

<b>"1847 Act"</b>	means the Town Police Clauses Act 1847 and byelaws made thereunder
<b>"1976 Act"</b>	means part II, Local Government (Miscellaneous Provisions) Act 1976
<b>"Adams Morey"</b>	means the council's prescribed vehicle testing and inspection station and situated at Burrfields Road, Copnor, Portsmouth PO3 5NN
<b>"Alere"</b>	means Alere Toxicology Plc, 92 Park Drive, Milton Park, Abingdon Oxfordshire OX14 4RY
<b>"Authorised Officer"</b>	means any officer of the council authorised in writing and acting on behalf of the appropriate head of service for the time being prescribed and for the purposes of the following principal statutes; together with any other statutes, prescribed regulations or statutory instruments for the time being in force relating to the control and supervision of hackney carriages, their proprietors and drivers and Private hire operators, vehicles and their drivers. <ul style="list-style-type: none"> <li>• The Town Police Clauses Act 1847 ("the 1847 act")</li> <li>• The Local Government (Miscellaneous Provisions) Act 1976, Part II (" the 1976 act")</li> </ul>
<b>"Councillors' Handbook"</b>	means the taxi and private hire licensing handbook prepared by the Local Government Association for councillors in England and Wales and dated March 2015.
<b>"Drivers Badge"</b>	means, in relation to the driver of a hackney carriage, any badge issued under byelaws made under section 68 of the 1847 act and, in relation to the driver of a private hire vehicle, any badge issued under section 54 of the 1976 act.
<b>"Drivers Licence"</b>	means, in relation to the driver of a hackney carriage, a licence issued under section 46 of the 1847 act and, in relation to the driver of a private hire vehicle, a licence issued under section 51 of the 1976 act.
<b>"DVLA"</b>	means the Driver & Vehicle Licensing Agency, Swansea SA99 1BU.
<b>"DVSA"</b>	means the Driver & Vehicle Standards Agency who have a local enforcement office at:  DVSA Southampton GVTs Bottings Industrial Estate Hillson Road Botley Southampton SO30 2DY
<b>"Hackney Carriage"</b>	means every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance and seating less than 9 passengers.
<b>"Hackney Carriage Byelaws"</b>	means the byelaws made pursuant to section 68 of the 1847 act and for the time being in force in the controlled district of Portsmouth and relating to hackney carriages, their proprietors and drivers.
<b>"Head of Service"</b>	means the recognised chief officer and/or director for the time being responsible for the Licensing Service.

<b>“Licensing Committee or Licensing Sub Committee”</b>	means the committee and sub-committee duly appointed by the Full Council to determine all hackney carriage and private hire matters in accordance with the current scheme of delegation and as prescribed by statute, the Functions and Responsibilities Regulations (as amended) and the council’s adopted constitution.
<b>“Licensing Service”</b>	means the authorised officers of the Licensing Service for the time being of Portsmouth City Council and situated at the Civic Offices, Guildhall Square, Portsmouth PO1 2AL.
<b>“Medical Referee”</b>	means the Occupational Health Department, Queen Alexandra Hospital, Southwick Hill Road, Cosham, Portsmouth PO6 3LY
<b>“Magistrates”</b>	means The Portsmouth Magistrates’, The Law Courts, Winston Churchill Avenue, Portsmouth, Hampshire PO1 2DQ.
<b>“Operate”</b>	means in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle.
<b>“Operator licence”</b>	means a licence issued under section 55 of the 1976 act.
<b>“PATN Guidance”</b>	means the best practice guidance for the minimum inspection and testing standards in respect of hackney carriages and private hire vehicles as prepared by the Technical Officers Group of the Public Authority Transport Network.
<b>“Portsmouth City Council”, together with the “prescribed distance”, the “relevant area” and “controlled district”</b>	means the council and the administrative area comprising of the City of Portsmouth as shown in the reproduced map.
<b>“Private Hire Vehicle”</b>	means a motor vehicle constructed or adapted to seat fewer than 9 passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purposes of carrying passengers.
<b>“Proprietor”</b>	means those person(s) truly engaged in the keeping, employing or letting to hire of such carriage. “Proprietor” also includes a part-proprietor and, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement.
<b>“Taximeter”</b>	means any device for calculating the fare to be charged in respect of any journey in a hackney carriage or private hire vehicle by reference to the distance travelled or time elapsed since the start of the journey, or a combination of both.
<b>“Vehicle Licence”</b>	means in relation to a hackney carriage a licence issued under sections 37 to 45 of the 1847 act and in relation to a private hire vehicle means a licence under section 48 of the 1976 act.

## Chapter 21: Map of Portsmouth



**Portsmouth**  
CITY COUNCIL

Title: **PORTSMOUTH CITY COUNCIL  
ADMINISTRATIVE AREA**

Prepared for: **LICENSING OFFICE**  
Prepared by: **Geographic Information Service**

Drg No:

Scale: **1:54000**

Date: **01/09/2015**



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# Footnotes & Commentary

1. The local circumstances of licensing control became a prominent consideration in *R (app Newcastle City Council) -v- Berwick upon Tweed Borough Council* 2008. The court said "the local authority can issue its own conditions and make its own byelaws. It can make provision for its own inspections of hackney carriages. Thus the licensing regime is local in character. In addition it can be seen that most of the provisions have public safety in mind"
2. Department for Transport - Taxi and Private Hire Vehicle licensing - Best Practice Guidance - March 2010 refers
3. Cherwell District Council -v- Anwar 2011
4. With the exception of wedding, funeral and pet ambulance service type activities
5. Section 60, Local Government (Miscellaneous Provisions) Act 1976 refers in relation to the fitness of the vehicle
6. The adopted byelaws (at number 3) require a hackney carriage to be provided with a fire extinguisher and the council cannot dis-apply the byelaw. However, the Fire Authority does NOT recommend that drivers should tackle vehicle fires and their use should be advisory only.
7. Local Authorities (Functions & Responsibilities) (England) Regulations 2000 as amended
8. The council adopted the provisions of part II of the 1976 act with effect from 01 February 1978 and following a report by the City Secretary & Solicitor to both the Environmental Health Committee and to full Council - block council minutes 21 June 1977 and 26 July 1977 refer
9. Source - Local Authorities (Functions & Responsibilities) (England) Regulations 2000 as amended and as endorsed by "Button on Taxis" and the LGA publication "Taxi & Private Hire Licensing - Councillors' Handbook" - March 2015
10. Licensing Committee minute 33/2003 refers
11. This is never more important and necessary than when determining licensing matters which are more likely to be subject to judicial scrutiny either following an appeal or judicial review
12. There may be limited but good exceptions to this rule - see the "delegation of functions" at 4.0
13. The case of *007 Taxis Stratford Ltd -v- Stratford on Avon District Council* 2010 considered the question of policy - in this case the cabinet received a report from the Licensing Committee about taxi policy matters. The council was unsuccessfully challenged over the vires of the decision making process which was deemed lawful
14. By virtue of section 61 2B to the 1976 act (following section 52 of the Road Safety Act 2006). The ability to suspend a current driver licence is conferred by Licensing Committee minute 33/2003. However, the question of revocation ONLY in cases of immediately public safety interests is requested following the judgement in *R (app Singh) -v- Cardiff City Council* 2012. Endorsed by the LGA publication "Taxi & Private Hire Licensing - Councillors' Handbook" - March 2015
15. For example evidence of epilepsy or the taking of anti-convulsant medication, repeated loss of consciousness or sudden and unexplained disabling giddiness, eyesight and other prescribed visual acuity problems, strokes, drug or alcohol dependency and/or other serious and prescribed medical conditions affecting the ability to drive to the group 2 vocational standard
16. Executive function
17. Executive function
18. If evidence, for example, of any criminal convictions or adverse conduct becomes apparent and/or there is evidence that the representative does not have the support of a membership
19. To include, for example, any "MOT" or other DVSA updates or new conditions/directives imposed by the committee
20. An information report in respect of prosecutions will be referred to the committee for subsequent consideration
21. Section 49, Local Government (Miscellaneous Provisions) Act 1976 and the case of *R -v- Weymouth Borough Council ex parte Teletax (Weymouth) Ltd* 1947
22. Report and conclusions of Transport Planning International Ltd to the Licensing Committee - October 2006
23. Department For Transport - Taxi and private hire vehicle licensing - best practice guidance - March 2010
24. The regulation of licensed taxi and private hire vehicle services in the UK - November 2003
25. Department For Transport - Taxi and private hire vehicle licensing - best practice guidance - March 2010
26. Keycabs Ltd T/A Taxifast -v- Plymouth City Council 2007
27. Email correspondence by an interested party to the Licensing Service - Ms Katie Mills
28. *R -v- Liverpool Corporation ex parte Liverpool Taxi Fleet Operators Association* 1975 - Lord Denning commenting "The corporation should be ready to hear persons or bodies whose interests are affected. It is perhaps putting it a little high to say that they are exercising judicial functions. They may be said to be exercising an administrative function but must act fairly"  
*R -v- North & East Devon Health Authority ex parte Coughlan* 2001 - "It has to be remembered that consultation is not litigation: the consulting authority is not required to publicise every submission it receives or (absent some statutory obligation) to disclose all its advice. Its obligation is to let those who have a potential interest in the subject matter know in clear terms what the proposal is and exactly why it is under positive consideration, telling them enough (which may be a good deal) to enable them to make an intelligent response. The obligation, although it may be quite onerous, goes no further than this"
29. That said, and as a recent contra example, from 01 April 2015 personal licences granted under the Licensing Act 2003 now last indefinitely.
30. Exeter City Council -v- Sandle 2011
31. Department for Transport - Taxi and Private Hire Vehicle Licensing - Best Practice Guidance March 2010
32. Statutory Instrument 994/2015 refers - "The Deregulation Act 2015 (Commencement No 1 and Transitional and Saving Provisions) Order 2015".
33. *Norwich City Council -v- Thurtle & Watcham* 1981
34. Lord Bingham of Cornhill in the case of *McCool -v- Rushcliffe Borough Council* 1997 and as noted in *Leeds City Council -v- Hussain* 2002
35. *Nottingham City Council -v- Farooq* 1998, *Leeds City Council -v- Hussain* 2002, *R -v- Maidstone Crown Court Ex parte Olson* 1992, *Westminster City Council -v- Zestfair Ltd* 1989, *Adamson -v- Waveney District Council* 1997
36. Department for Transport - Taxi and Private Hire Vehicle Licensing - Best Practice Guidance - March 2010
37. Licensing Committee minute 41/1994 refers
38. Joint circulars 2/92 and 13/92 refer

39. Now the function of the Disclosure & Barring Service (DBS) - see chapter on Rehabilitation of Offenders
40. At page 14 of the handbook
41. The conviction guidelines are, by nature, generalised and shown in "categories". It is not possible to list all offence types nor is it possible to list or categorise each and every area of "conduct" that might, or might not, be appropriate
42. As recognised by the DVLA "At a Glance" medical guide on alcohol or illicit drugs
43. Source - Licensing Committee minute 7/2014 refers - Police & Local Authority Road Safety Officer casualty records
44. Not to include matters relating to the "penalty points system" which will be dealt with, on merit, and separately from these guidelines
45. Confidential Licensing Sub Committee reports refer. A licensed vehicle is licensed at all times and thus can only ever be driven by a licensed driver. The fact that the "data box" may be switched off or the driver was/is "on a break and not receiving work" is not a mitigating consideration - see Yates -v- Gates 1970 and Benson -v- Boyce 1997
46. Crawley Borough Council -v Crabb 1996
47. The crash risks are highest for new and younger male drivers aged 17 - 20 - source "Fitness to Drive - a guide for health professionals" - Tim Carter. See also "age limits" at 9.0 below
48. The council is both the local licensing authority and local highway authority responsible for transport provision. All drivers are capable of carrying out sensitive school and other contract work ("a regulated activity under the workforce relevancy tests") on a daily basis. The council's Transport Fleet Manager and passenger transport staff estimate over 200 daily journeys by drivers with children and/or vulnerable adults. For these reasons the child and adult workforce checks are vital
49. Not to include holidays or short trips to visit family but with the final decision on whether to require a certificate of good conduct to rest with the head of service. The age of 10 recognises the age of criminal responsibility in England and Wales.
50. Supplemental reference books are the "Medical Aspects of Fitness to Drive" published by the Medical Commission on Accident Prevention and "Fitness to Drive - A guide for health professionals" by Tim Carter
51. This policy which requires a medical on first application, next at aged 45, then every 5 years until 65, then annually but drug testing should be carried out at more stringent intervals
52. Currently the Occupational Health Service at QA Hospital, Southwick Hill Road, Portsmouth
53. Both Southampton City Council and East Hants District Council require a driver to be 21
54. Informal discussions with Citywide Taxis, Aqua Cars Ltd, Scope Vehicle Leasing, Outlook UK Ltd and Tradex
55. Section 69, Local Government (Miscellaneous Provisions) Act 1976
56. With anecdotal evidence via the Portsmouth Disability Forum of drivers not securing wheelchairs, overcharging and generally being poorly prepared in dealing with persons with either assistance dogs or using a wheelchair. On a positive note - Aqua Cars Ltd both encourages and requires drivers of wheelchair accessible vehicles to undertake local MIDAS training courses.
57. Darlington Borough Council -v- Kaye 2004 - the introduction of the Driver Standard Agency (DSA) testing for drivers was deemed lawful
58. The Blue Lamp trust, c/o Hampshire Fire & Rescue Service, Leigh Road, Eastleigh, SO50 9SJ - Telephone 0300 777 0157
59. The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) order 2002
60. Adamson -v- Waveney District Council 1997. The council, via the Licensing Committee will not look at all "spent" matters and then try to ignore those that are not relevant but rather will focus ONLY on those spent convictions (if any) that reflect on the considerations shown in Chapter 9, 4.2
61. The Legal Aid, Sentencing and Punishment Act 2012 refers
62. The definition of a hackney carriage is very wide and could include pedicabs etc. There have been no "licensed" pedicab hackney carriages plying for trade in Portsmouth (as the restricted numbers policy applied to ALL types of hackney carriage whether motorised, horse drawn or people drawn) and thus applications could not be granted under delegated authority and without referral to the committee.  
Previous surveys have not indicated any demand for these unique and quirky forms of public conveyance and their brief use in Portsmouth in 2010 was by way of pre bookings only. As they were not a motorised form of transport - the private hire legislation did not apply to their use.
63. Chauffeur Bikes Ltd -v- Leeds City Council 2006 and Department for Transport guidance note July 2012. It is suggested that any application be considered on its individual merit
64. The evidence of previous pedicab use in Portsmouth identified that the construction and safety of the wheeled trikes was poor with mechanical failures evident - particularly to the main front fork assembly. This highlights the need for ANY form of perceived public transport to be tested and inspected prior to use.
65. R -v- Manchester City Council ex p Reid 1989 in which new licences were granted in favour of wheelchair accessible vehicles only.
66. Correct at July 2015 - source licensing computer database
67. Department For Transport - Taxi and Private Hire Vehicle Licensing - Best Practice Guidance - March 2010
68. The adopted byelaws require the vehicle to have at least 2 doors for passengers - byelaw 3(i) refers. A previous specification requirement for vehicles to seat a minimum of 4 passengers in comfort is considered unreasonable as the Mercedes CLS (for example) can only realistically seat 3 passengers due to the unique rear seat squab design.
69. Historically, seating capacities were determined by the "16 inch" (400mm) rule for individual passengers having regard to the Road Vehicles (Registration & Licensing) Regulations 1971 and used to determine seating capacity for the purposes of duty payable.
70. This should be subject to review. The corporate livery is now 14 years old and is likely to need re-branding to take into account the council's current image for the great waterfront city. The mandatory use of bonnet stickers for hackney carriages also needs further consideration due to both material supply concerns and to previous quality control issues being raised by the trade.
71. Section 47, Road Traffic Act 1988
72. Approved by the Secretary of State for the Home Office for commencement in Portsmouth on 25 January 1971
73. Section 48 of the 1976 act refers

74. The ability however to inspect and test vehicles at “all reasonable times” to ascertain vehicle fitness is permitted under section 68 of the 1976 act and is used as a means of carrying out “spot checks” and other ad hoc immediate enforcement by both authorised officers and police officers.
75. Department for Transport - Taxi & Private Hire Vehicle Licensing - March 2010
76. Source - Adams Morey monthly recorded data for vehicle inspections in 2014
77. Source European Union - Climate Action plan
78. Section 60, Local Government (Miscellaneous Provisions) Act 1976 refers in relation to the fitness of the vehicle
79. The adopted byelaws (at number 3) require a hackney carriage to be provided with a fire extinguisher and the committee cannot dis-apply the byelaw. However, the Fire Authority does NOT recommend that drivers should tackle vehicle fires and their use should be advisory only.
80. Source - “Hackney carriage and private licensing - review of policy” - a report by the City Secretary & Solicitor 30 January 1984 to the Licensing Panel & a further report to the Licensing Sub Committee - minute 11/1986 refers
81. Prior to this, the previous age limit policy (for wheelchair accessible hackney carriages) was to be brand new on first licensing and to stay licensed until 8 years of age - Licensing Committee minute 37(20)(v)/2001 refers.
82. See Licensing Sub Committee minutes 14 and 23 of 2015
83. In the case of R -v- Hyndburn Borough Council ex parte Rauf & Kasim 1992, the court held it was possible to impose a condition about vehicle age limits without being Wednesbury unreasonable and/or fettering their discretion - PROVIDED the local authority would give consideration to any application. The general presumption, as stated earlier in this document, is that policy is to “guide rather than to bind” the decision making process.
84. Department for Transport - Taxi and Private hire Vehicle Licensing - Best Practice Guidance - March 2010
85. Now Transport for London
86. “In the picture - A data protection code of practice for surveillance cameras and personal information” - October 2014
87. Source - Department for Transport guidance - December 2008 - Product codes 08DFT 008/009
88. Source - “Safer Portsmouth Partnership - Crime concerns of taxi drivers in Portsmouth.” - May 2013
89. Source - confidential Licensing Sub Committee hearings to determine whether drivers were deemed to be “fit and proper” persons.
90. In the case of Southampton City Council and the Information Commissioner on appeal reference EA/2012/0171 to the First Tier Tribunal (19 February 2013), it was concluded that equipment with continuous blanket audio recording was disproportionate and not justified under article 8(2) of the ECHR (right of privacy) and contravened the data protection first principle.
91. Wathan -v- Neath Port Talbot County Borough Council 2001
92. The revised guidance issued by the Secretary of State and in respect of the Licensing Act 2003 gives clear and useful “principles” about the imposition of conditions - March 2015
93. Associated Provincial Picture Houses Ltd -v- Wednesbury Corporation 1948.
94. Source - Department for Transport Guidance Notes and Model Byelaws, Buses & Taxis Division - July 2005
95. Legislative and Regulatory Reform Act 2006 refers - Department for Business Innovation & Skills, Better Regulation Delivery Office - Regulators’ Code - April 2014
96. The Hampton Review - “Effective Inspection & Enforcement” - March 2005 and the Rogers Review - “National Enforcement Priorities” - March 2007
97. Section 45, Town Police Clauses Act 1847 refers
98. It has been the practice of the enforcement team to give general notice to the trade representatives of proposed future ad hoc or co-ordinated enforcement activities together with the use of targeted operation orders as required for such activities including plying for hire, illegal ranking and drug testing.
99. Although not strictly defined “serious” breaches could include any acts of dishonesty, making false statements, failing to comply with officer requests, failing to produce documents upon request, refusal to take passengers, overcharging, plying for hire, having no insurance, permitting the use of unlicensed vehicles or drivers, breach of byelaws etc  
A suspension or revocation of a licence could be for evidence of an arrest, charges or a conviction being recorded for offences relating to dishonesty, violence, offences of a sexual nature including abuse and serious road traffic offences including those leading to a disqualification OR evidence of a new or underlying serious medical condition that has worsened - this list is a guide only and not meant to be exhaustive
100. Penalty by virtue of section 183, Public Health Act 1875
101. The penalty for breach of sections 50 (1-4) above is contained within section 50 (5) of the act and whilst it indicates “any person who contravenes”, we consider the proprietor has lead responsibility for compliance with the general provisions of section 50 to the 1976 act.
102. In this respect, the licensing management team can consider the overall quality of any file and offer guidance and, on occasion, recommend that the offender be given a lesser sanction such as a final written warning or simple caution.
103. Middlesbrough Council -v- Safeer 2001 refers
104. Ministry of Justice guidance - “Simple Cautions for Adult offenders” - 08 April 2013. Replaced Home Office guidance 016/2008.
105. In the matter of Portsmouth City Council and Mitchell (1990) - the council obtained an injunction to prevent a former hackney carriage driver from driving who had previously been declared medically unfit to drive.
106. Department for Transport - Taxi and Private Hire Vehicle Licensing - Best Practice Guidance - March 2010

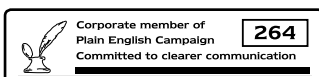
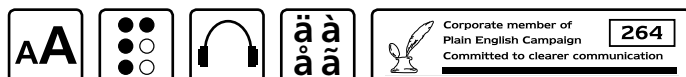
107. The use of a penalty points scheme has been subject to judicial consideration - in the case of *R (app Singh) -v- Cardiff City Council* 2012 - Mr Justice Singh commented "in my view there is nothing wrong in principle... with the adopting of such a policy which seeks, both in fairness to the driver potentially affected and also to protect the public interest, to have, as it were, a staged process by which the cumulative effect of incidents of misconduct may well lead ultimately to the conclusion that in the judgment of the local authority, a person is not a proper person to continue to enjoy the relevant licence"
108. The use of a "rolling" 12 month period will mean that any points outside of the 12 month period will be considered void and spent
109. In contrast with the "Casey report" in respect of Rotherham MBC's hackney carriage and private hire undertaking which revealed concerns about the lack of recording and use of data associated with complaints against drivers - February 2015
110. *Kelly -v- Liverpool City Council* 2003 - the court concluded that different charges could be applied for different vehicle test criteria notwithstanding that a licence was not granted. The court also stated that "the fees charged for the grant of licences are not to be used as a revenue raising measure".
111. *R -v- Cardiff City Council ex parte Cummings* 2014
112. *R -v- Manchester City Council ex p King* 1991 and *R -v- GLC ex p Rank Organisation* 1982
113. Source - Birmingham, Sefton MB and Bolton council's and the LGA "Taxi and private Hire Councillors' handbook" at page 8
114. Source - LGA Corporate guidance - "Locally Set Fees" 2014
115. EU Services Directive 2006/123/EC
116. *Hemming -v- Westminster City Council* 2013/2015
117. Source - Licensing Uniform database
118. Mr Bruce Hall, general manager and on behalf of Aqua Cars Ltd
119. This is based on an average officer hourly rate "on-cost" of £30.19\* and does not presume a first time pass at the geography test, any concerns with the DBS Enhanced check, medical or drug screening concerns and no apparent motoring or criminal convictions requiring further investigation or interview. This costing does not take into account any stationery, specialist badge printing, computer software and maintenance charges, web advice and updates or if further officer advice and interview is needed with a view to referral to the Licensing Sub Committee.
- Should a senior officer be involved in interviewing, reporting and attending a committee the average "on cost" hourly rate of £69.30\*\* would apply with an average overall case time of 3 hours to include all phone calls, correspondence, interviews and compilation of committee report together with notices of hearing and notices of decision and to include appeal rights. The cost would therefore increase by a further £207.90 giving a total of £342.24. This figure equally does not include professional legal and democratic input and advice together with the cost of any committee hearing to establish the fit and properness of a driver.
- \*Average of the divided hourly rate "on costs" for 4 licensing assistant posts.
- \*\* Average of the divided hourly rate "on costs" for the licensing manager, principal and senior officers.
120. This is based on an average officer hourly rate "on-cost" of £30.19 and represents only the officer administration cost but does not include the costs associated with computer hardware and software for the purposes of the plate and licence disc production, plate bracket, disc holders and other sundries, livery costs together with the costs of the council's nominated garage for inspecting and testing vehicles.
- This fee does not include the on-going administrative support in arranging annual plate tests, sending out reminders, checking on insurance and V5 documentation, dealing with year on year enforcement operation orders to check on vehicle fitness, dealing with vehicle suspensions due to accident damage or mechanical defects, recovering plates following suspension or non-renewal of same, processing personalised/cherished plate transfers, inspecting and giving approval for vehicle commercial advertising, updating the public registers, etc.
- Again, this fee does NOT include any contested matters referred to committee for final determination due to age limit challenge or other reason(s) affecting the material safety of the vehicle under consideration. The same principles highlighted previously for driver costs should be applied.
121. An average officer time cost of £59.03 (equating to the average hourly costs split between the principal and senior staff) has been used to determine the general costs associated with operator applications. Given that operator applications are all uniquely different (ranging from "one man bands" to international organisations such as Uber which took over 37 officer hours to determine and thus would have cost £2184.11) - the costings as shown above are a generic guide only to the amount of officer time devoted to each operator application.





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You can get this Portsmouth City Council information in large print, Braille, audio or in another language by calling 9283 4073.