

# Public Document Pack



## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE LICENSING COMMITTEE**

**MONDAY 11TH NOVEMBER 2024**

**AT 6.00 P.M.**

**PARKSIDE SUITE, PARKSIDE, MARKET STREET, BROMSGROVE,**  
**WORCESTERSHIRE, B61 8DA**

**MEMBERS:** Councillors J. Elledge (Chairman), S. Ammar, J. Clarke, A. M. Dale, S. M. Evans, D. J. A. Forsythe, D. Hopkins, C.A. Hotham, H. J. Jones, B. Kumar, R. E. Lambert and S. A. Robinson, plus one vacancy

### **AGENDA**

1. Election of Vice-Chairman
2. To receive apologies for absence and notification of substitutes
3. Declarations of Interest

To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.

4. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 22nd July 2024 (Pages 7 - 14)
5. Revised Statement of Principles under the Gambling Act 2005 - consideration of responses received to the consultation (Pages 15 - 56)
6. Renewal of licences for vehicles previously written off - Consideration of responses received to the consultation (Pages 57 - 170)
7. Review of Hackney Carriage Table of Fares (Pages 171 - 178)
8. Business and Planning Act 2020 - Consultation on Draft Policy on Pavement Licensing (Pages 179 - 214)
9. Terrorism (Protection of Premises) Bill (Martyn's Law) - verbal update
10. Frequently Asked Questions (FAQ) Council's Website, Licensing pages - verbal update
11. Licensing Committee Work Programme (Pages 215 - 216)
12. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting
13. To consider , and if considered appropriate, to pass the following resolution to exclude the public from the meeting during the consideration of item(s) of business containing exempt information:-

**"RESOLVED:** that under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraph of that part, in each case, being as set out below, and that it is in the public interest to do so:-

<u>Item No.</u>	<u>Paragraph</u>	
14	5	"

14. Any Enforcement / Appeals Updates - verbal update

Sue Hanley  
Chief Executive

Parkside  
Market Street  
BROMSGROVE  
Worcestershire  
B61 8DA

1st November 2024

**If you have any queries on this Agenda please contact  
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**Notes:**

**Although this is a public meeting, there are circumstances when the Committee might have to move into closed session to consider exempt or confidential information. For agenda items that are exempt, the public are excluded.**



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## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE LICENSING COMMITTEE**

**MONDAY 22ND JULY 2024, AT 6.00 P.M.**

PRESENT: Councillors A. M. Dale, J. Elledge, S. M. Evans, C.A. Hotham, D. Hopkins, B. Kumar (during Minute No's 1/24 to part Of 8/24), B. McEldowney, S. R. Peters and S. A. Robinson

Officers: Mrs. V. Brown, Mr. D. Etheridge and Mrs. P. Ross

1/24 **ELECTION OF CHAIRMAN**

**RESOLVED** that Councillor J. Elledge be elected Chairman of the Committee for the ensuing municipal year.

2/24 **ELECTION OF VICE-CHAIRMAN**

**RESOLVED** that Councillor B. McEldowney be elected Vice-Chairman of the Committee for the ensuing municipal year.

3/24 **TO RECEIVE APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES**

Apologies for absence were received from Councillors H. J. Jones, and S. Ammar.

4/24 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

5/24 **MINUTES**

The minutes of the Licensing Committee meeting held on 25<sup>th</sup> March 2024 were submitted.

It was noted that the local resident who had submitted a representation to the Hackney Carriage Stand in Market Street Service Road – consideration of objections / representations (Minute No. 41/23); was contacted by officers as requested by Members.

**RESOLVED** that the minutes of the Licensing Committee meeting held 25<sup>th</sup> March 2024, be approved as a correct record.

6/24

## **BUSINESS AND PLANNING ACT 2020 - DRAFT POLICY ON PAVEMENT LICENSING**

The Principal Officer (Licensing), Worcestershire Regulatory Services (WRS) presented the report and in doing so informed Members that in July 2020 the Business and Planning Act 2020 was enacted. The legislation was expedited through Parliament to make provisions relating to the promotion of economic recovery and growth as the country emerged from various restrictions that had been put in place in response to the global Covid-19 pandemic.

Part 1 of the Act introduced provisions in England and Wales that put in place a streamlined process to enable businesses to obtain permission to place removeable furniture on the highway for use in connection with the sale and consumption of food and drink. The need for a streamlined process was to ensure that hospitality businesses could maximise their opportunities to trade profitably at a time when social distancing requirements guidance remained in place which impacted the number of customers that they could accommodate inside their premises.

The legislation was put in place very quickly and therefore commenced as soon as it was enacted. This meant that there was very little time available to put in place policies and procedures for dealing with applications.

Responsibility for issuing the new “pavement licences” was given to district councils in England, including Bromsgrove District Council.

The provisions in Part 1 of the Business and Planning Act 2020 were only originally intended to remain in place for a temporary period, and section 10 of the Act originally stated that the provisions would expire at the end of 30 September 2021. The temporary regime was subsequently extended on three separate occasions before a decision was taken to make it a permanent licensing regime. The regime was made permanent on 31 March 2024 by virtue of the commencement of provisions made in the Levelling Up and Regeneration Act 2023.

At the same time as making the regime permanent, some important amendments were made to the pavement licensing regime including extending the consultation and determination periods in respect of applications from 7 to 14 days each. The permanent regime also contained new powers to serve notices and remove furniture that was placed on the highway without permission.

Now that the pavement licensing regime had been made permanent, it was now necessary to review and revise the Council’s Policy on Pavement Licensing to ensure that it was fit for purpose and that the policy reflected the amendments that had been made to the regime since it was first introduced.

Members’ attention was drawn to the draft policy, as detailed at

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Appendix 1 to the report, that had been drafted with reference to the guidance on pavement licences as published by the Department for Levelling Up, Housing and Communities (DLUHC) on 2<sup>nd</sup> April 2024 under section 8 of the Business and Planning Act 2020.

The first two sections of the draft policy set out the background to the licensing regime, explained the scope and provided assistance in understanding key terms from the legislation used throughout the document.

The draft policy further detailed how people could apply for a licence, how those applications would be advertised and consulted upon and how they would be determined. The draft policy also sets out the standard duration of licences and the conditions that, licences that were granted or deemed to have been granted, would be subject to.

The draft policy also includes a new section, which sets out the approach to be taken in respect of compliance and enforcement activities in respect of the pavement licensing regime.

Members were asked to note that, before approving the draft policy on pavement licensing, it was considered best practice to carry out a consultation exercise with key stakeholders, relevant businesses and the wider public. This consultation exercise was envisaged to take place over a period of around 8 to 10 weeks and would invite respondents to express their views on the various matters set out within the policy including:

- The requirements for making an application.
- The advertising of, and consultation on applications.
- The standard licence duration.
- The standard conditions that would apply to licences granted or deemed to be granted.
- The approach that would be taken to compliance and enforcement activities.

The results of the consultation exercise would be reported back to a future meeting of the Licensing Committee for consideration and before Members were asked to approve the policy.

The following was noted and agreed, that page 28 of the main agenda pack, paragraph number 4.3 be amended as follows: -

- The relevant Ward Member(s) for the District Council (not Borough Council; and that
- Parish Councils to be included in the list of consultees.

In response to questions from Members, the Principal Officer (Licensing), WRS, clarified that only furniture placed on highways land was included within the draft policy, privately owned land was not included. With regards to enforcement, officers were still scoping where

to store any furniture that needed to be removed by WRS officers where a pavement licence had not been granted.

The Principal Officer (Licensing), WRS further clarified that applicants would be informed within one working day if their application and necessary documents met all of the required criteria in order for officers to consider and process their application. As highlighted in the draft policy, applicants would be made aware that 'The public consultation period will not commence until the day after a **complete** application has been made.'

Members were informed that it was not a requirement of the policy for pavement licences to be displayed on the exterior premises. Furniture could be placed on a relevant part of the highway 'adjacent' to the premises and not directly outside of the premises, therefore it would not be very practical displaying the licence outside of the premises due to this and potential weather conditions. However, the policy did require that 'A copy of the licence must be kept on the premises at all times and be available for inspection by a police officer or authorised officer of the local authority.'

The Principal Officer (Licensing), WRS, further responded to questions from Members in respect of fees and if fees were capped, and the fee for a new application and a renewal application.

**RESOLVED** that

- a) subject to the amendments as detailed in the preamble above, the draft policy on pavement licensing, as detailed at Appendix 1 to the report, be approved for the purpose of consultation with relevant stakeholders; and
- b) the responses received to the consultation be presented to a future meeting of the Licensing Committee.

7/24

**MANDATORY SAFEGUARDING AWARENESS TRAINING FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS**

The Principal Officer (Licensing), WRS presented the report and in doing so drew Members' attention to page 46 of the main agenda pack and informed Members that in 2021 a review of all of the Council's hackney carriage and private hire licensing policies was undertaken in response to the publication by the Department for Transport of guidance under section 177 of the Policing and Crime Act 2017 entitled "Statutory Taxi & Private Hire Standards." This work had resulted in the production of a new draft hackney carriage and private hire licensing policy, which the Council implemented in September 2022.

As part of the changes implemented in September 2022 the Council introduced a 'Competency Certificate' which all 'new' drivers were required to undertake. This certificate comprised of training on

# Agenda Item 4

Licensing Committee  
22nd July 2024

safeguarding, disability, equality, and many other aspects of training deemed necessary in order to apply for a new licence.

Anyone licensed prior to September 2022 and who continued to apply to renew their licence were only asked to undertake safeguarding training on a voluntary basis. This had in effect created an uneven playing field.

In 2018 licensing officers worked with partners across Worcestershire and offered a programme of child exploitation training (CSE) for all taxi drivers free of charge but on a voluntary basis. The take up of this training across the County was around 75%, which was very positive.

Many neighbouring authorities and local authorities across the country used the implementation of the statutory standards as an opportunity to implement mandatory safeguarding training for their licence holders.

Officers believed that the safeguarding module of the current training program for new drivers should be rolled out to all drivers including existing licensed drivers that had not undertaken the competency certificate.

The proposal that officers believed would cause the least disruption to drivers and be the most efficient way to implement, was set out in a draft revised extract from the Council's current Hackney Carriage and Private Hire Licensing Policy, as detailed at Appendix 1 to the report, which stated:-

'With effect from 1st April 2025 each time a licence holder renews their licence they must undertake safeguarding training delivered by the Council's approved training provider prior to submitting their renewal application'.

Officers would therefore undertake a consultation with relevant stakeholders and the public on whether to introduce a requirement, as detailed in the preamble above, with regards to mandatory safeguarding training.

A brief discussion followed whereby Members commented that this was a really good idea to take forward.

The Principal Officer (Licensing), WRS responded to questions from the Committee and explained that it was the responsibility of neighbouring authorities to implement safeguarding training for their licence holders.

The 'Competency Certificate' training was offered in English only. In order to obtain the Worcestershire Taxi and Private Hire Competency Certificate, a person must demonstrate they possessed a suitable level of skills, knowledge and understanding in the English language proficiency, both spoken and written. This requirement was highlighted in the Council's Hackney Carriage and Private Hire Licensing Policy.

**RESOLVED** that

- a) officers undertake a consultation with relevant stakeholders and the public on whether to introduce a requirement that takes effect from 1 April 2025, that all those who hold a licence issued by the Council authorising them to drive hackney carriage and / or private hire vehicles have to undertake mandatory safeguarding awareness training before renewing their licences; and
- b) the responses received to the consultation be presented to a future meeting of the Licensing Committee.

8/24

**RENEWAL OF LICENCES FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES THAT HAVE PREVIOUSLY BEEN WRITTEN OFF**

Members of the Licensing Committee were asked to consider an issue that had arisen for the hackney carriage and private hire trade in Bromsgrove since the Council had the adoption of a new Hackney Carriage and Private Hire Licensing Policy on 1<sup>st</sup> September 2022.

The Principal Officer (Licensing), WRS explained that on 1<sup>st</sup> September 2022 the Council had implemented a new Hackney Carriage and Private Hire Vehicle Policy, which was later amended with effect from 1<sup>st</sup> April 2023. The policy contained requirements in respect of the licensing of vehicles to be used as a hackney carriage or private hire vehicle. The relevant part of the current Policy was detailed at Appendix 1 to the report.

One of the changes that the new policy introduced was a stipulation that the Council would no longer licence any vehicle to be used as either a hackney carriage or private hire vehicle if it had been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes. Paragraphs 3.1.10 (page 58 of the main agenda report) and 3.2.10 (page 60 of the main agenda report) of the policy set this out in respect of those vehicles being licensed by the Council to be used as a hackney carriage or private hire vehicle for the first occasion.

The new policy further stated that the Council would also not renew any licence to use a vehicle as a hackney carriage if the vehicle had been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes. Paragraphs 3.3.11 (page 61 of the main agenda report) and 3.4.11 (page 63 of the main agenda report) were the relevant paragraphs in this respect.

The wording currently used in paragraphs 3.3.11 and 3.4.11 of the policy meant that vehicles that were licensed before the new policy took effect and that had been previously graded as a Category A, Category B or Category C or Category S write-off no longer complied with the Council's policy, even though these vehicles had been licensed for a number of years without any issues arising.

Officers believed that when approving the new Hackney Carriage and Private Hire Vehicle Policy, Members had in fact intended for there to be a gradual phasing out of the licensing of vehicles that had been graded as a Category A, Category B or Category C or Category S write-off rather than intending to stop licensing all such vehicles when the relevant licences were next due to be renewed.

Officers further believed that this intention could be achieved by making minor amendments to the wording contained in paragraphs 3.3.11 and 3.4.11 of the policy; the proposed alternative wording was detailed at Appendix 2 to the report, as follows: -

#### Vehicles written off for insurance purposes

3.3.11 The Council will not renew any licence to use a vehicle as a hackney carriage if the relevant vehicle has **been become** graded as a Category A, Category B or Category C or Category S write-off for insurance **purposes after the date on which the vehicle was first licensed by the Council to be used as a hackney carriage. Vehicles written off for insurance purposes**

#### Vehicles written off for insurance purposes

3.4.11 The Council will not renew any licence to use a vehicle as a private hire vehicle if the relevant vehicle has **been become** graded as a Category A, Category B or Category C or Category S write-off for insurance purposes **after the date on which the vehicle was first licensed by the Council to be used as a private hire vehicle.**

In response to Members the Principal Officer (Licensing), WRS stated that the consultation period would be a short period of 4 weeks, with the responses received to the consultation being presented to a future meeting of the Licensing Committee. All licensed drivers would be consulted with individually and information would be included on the Councils' relevant website pages.

Members asked if the proposed policy changes, should they be approved by Members following the consultation responses received, be included on the Council's website under 'Frequently Asked Questions (FAQ)?'

The Principal Officer (Licensing), WRS explained that WRS officers had not included a FAQ section onto the Council's website, however, this was a valuable suggestion which he was happy to look into. The Council's Hackney Carriage and Private Hire Licensing Policy was a lengthy and detailed document, so it could prove useful to look at condensing the contents into salient points and also questions that WRS licensing officers were frequently asked into a FAQ section on the Council's licensing web pages. This may also reduce the number of similar enquires that licensing officers received.

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The Principal Officer (Licensing), WRS agreed to present a report on the possibility of including FAQ on the Council's website to the next meeting of the Licensing Committee to be held on 9<sup>th</sup> September 2024.

**RESOLVED** that

- a) officers carry out a short, targeted consultation exercise on amending the wording of paragraphs 3.3.11 and 3.4.11 of the Council's Hackney Carriage and Private Hire Licensing Policy, as detailed at Appendix 2 to the report,
- b) the responses received to the short, targeted consultation exercise be presented to a future meeting of the Licensing Committee; and
- c) as detailed in the preamble above, that a report on the possibility of including FAQ on the Council's website be presented to the next meeting of the Licensing Committee on 9<sup>th</sup> September 2024.

9/24

## **LICENSING COMMITTEE WORK PROGRAMME 2024/2025**

The Committee considered the Work Programme for 2024/2025.

**RESOLVED** that the Licensing Committee Work Programme for 2024/2025, be noted.

10/24

## **ANY ENFORCEMENT / APPEALS UPDATES - VERBAL**

There were no Enforcement / Appeals updates.

The meeting closed at 6.58 p.m.

Chairman

**GAMBLING ACT 2005 – REVIEW OF STATEMENT OF PRINCIPLES**  
**CONSIDERATION OF CONSULTATION RESPONSES**

Relevant Portfolio Holder	Councillor K Taylor
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

- 1.1 The Council’s current Statement of Principles under the Gambling Act 2005 took effect on 31<sup>st</sup> January 2022. In accordance with the provisions of the Act, the Council is required to prepare and publish a Statement of Principles every three years. Therefore, a new Statement of Principles must be published by 31<sup>st</sup> January 2025.
- 1.2 On 25<sup>th</sup> March 2024, the Licensing Committee approved a draft revised Statement of Principles for consultation purposes. The results of the consultation are now being reported back to the Committee who are asked to recommend to Council that the draft revised Statement of Principles be approved and published.

**2. RECOMMENDATIONS**

**2.1 Members are asked to RESOLVE;**

**To recommend to Council that the draft Statement of Principles at Appendix 1 be approved and published with effect from 31<sup>st</sup> January 2025.**

**3. KEY ISSUES**

**Financial Implications**

- 3.1 The costs involved in carrying out the consultation were met from existing budgets held by Worcestershire Regulatory Services.

**Legal Implications**

- 3.2 Section 349 of the Gambling Act 2005 requires that the licensing authority produce, consult on and publish a Statement of the Principles that it proposes to apply when exercising its functions under the Act.
- 3.3 The Act also requires that the Statement of Principles should be kept under review and must be re-published at least every three years.
- 3.4 When preparing a Statement of Principles, the Council is required to consult with:-
- the Chief Officer of Police for the Authority's area;
  - one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
  - one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under this Act.

**Service / Operational Implications**

- 3.5 Bromsgrove District Council is a licensing authority in accordance with the provision of the Gambling Act 2005.
- 3.6 Each licensing authority is required before each successive three-year period, to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during that period. This document is commonly referred to as the authority's Statement of Principles.
- 3.7 The Council's current Statement of Principles took effect on 31<sup>st</sup> January 2022 and therefore a new Statement of Principles must now be prepared and published ready to take effect on 31<sup>st</sup> January 2025.
- 3.8 Since the current Statement of Principles took effect, there have been no significant amendments to the provisions of the Gambling Act 2005. Nor have there been any major changes made to the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) that licensed operators have to comply with or the Gambling Commission's statutory Guidance to Licensing Authorities (GLA).

- 3.9 However, in April 2023 the government did publish a long-awaited white paper entitled “High Stakes: Gambling Reform for the Digital Age.” The White Paper sets out the government’s plan for reform of gambling regulation, following the review of the Gambling Act 2005 that was first launched in December 2020.
- 3.10 The white paper contained a number of proposals for reforming gambling regulation in the following areas:
- Online protections – players and products
  - Marketing and advertising
  - The Gambling Commission’s powers and resources
  - Dispute resolution and consumer redress
  - Children and young adults
  - Land-based gambling
- 3.11 Whilst many of the proposed reforms are not directly relevant to the role that the Council plays in the regulation of gambling activities, there are some proposed changes that are directly relevant. These include:
- Proposals to relax the rules on the split of low and medium maximum stake machines in certain licensed gambling premises.
  - A review of the premises licence fees cap for local authorities.
  - Introducing new powers to local authorities to conduct cumulative impact assessments for gambling premises.
  - Proposals to change the rules that allow under 18s to play Category D gaming machines that pay cash prizes.
  - Proposals to make provisions within the Gambling Commission’s code of practise on the siting of gaming machines in licensed premises legally binding.
- 3.12 Following the publication of the white paper, several different consultations have been undertaken by both the Department for Culture, Media and Sport and the Gambling Commission concerning the various proposals for legislative reform.
- 3.13 At this stage however, it is unclear when the government will bring forwards the required legislation to implement the proposed reforms.
- 3.14 This presents something of a dilemma for licensing authorities such as Bromsgrove District Council, as they are required before each successive three-year period, to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during that period. The Council’s next statement of principles needs to be prepared and published before 31<sup>st</sup> January 2025.

- 3.15 As the timescales for legislation to be brought forward are unclear at this stage, officers recommended that no substantive changes are made to the statement of principles at the present time and therefore very few changes were proposed in the draft statement of principles that the Licensing Committee approved for the purpose of consultation on 25<sup>th</sup> March 2024.
- 3.16 The only changes that officers believed needed to be made at the present time are as follows:
- Updating the dates shown on the front page.
  - Updating the population figure given in the introduction to reflect the latest census figures.
  - Updating the dates between which consultation on the draft statement of principles will have taken place.
  - Updating the list of consultees at Appendix B of the statement of principles to include additional gambling and other relevant trade associations.
- 3.17 Consultation on the draft Statement of Principles was undertaken with all relevant parties including:
- The Chief Officer of West Mercia Police
  - The Gambling Commission
  - All other responsible authorities identified under the Act
  - Relevant Trade Associations
  - Public Health
  - Organisations working with people who are problem gamblers
  - Parish Councils
  - The general public
- 3.18 The consultation was also made available for comment via the Council's website and publicised via social media. The consultation exercise was undertaken between 5<sup>th</sup> July 2024 and 16<sup>th</sup> August 2024.
- 3.19 The Operations Manager of the Lotteries Council responded to the consultation to say that they had reviewed the draft Statement of Principles and had no comment to make.
- 3.20 A Bromsgrove District Councillor also responded to the consultation exercise and confirmed that they had no comments to make.
- 3.21 No other responses were received during the consultation exercise, which officers consider is unsurprising given the minimal changes that are proposed to the existing Statement of Principles.

- 3.22 In light of the lack of responses, officers do not believe that any further amendments need to be made to the draft Statement of Principles that was consulted upon.
- 3.23 The Licensing Committee is therefore now asked to resolve to recommend to Council that the draft Statement of Principles at **Appendix 1** be approved and published with effect from 31<sup>st</sup> January 2025.

#### **4. RISK MANAGEMENT**

- 4.1 Failing to prepare and publish a new Statement of Principles by 31<sup>st</sup> January 2025 would leave the Council in a position where it was failing to comply with its duties as a licensing authority under the provisions of the Gambling Act 2005.

#### **5. APPENDICES**

Appendix 1 - Draft Revised Statement of Principles

#### **AUTHOR OF REPORT**

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**Bromsgrove**  
District Council  
www.bromsgrove.gov.uk

# DRAFT STATEMENT OF PRINCIPLES

## GAMBLING ACT 2005



~~2022 – 2025~~  
**2025 – 2028**

With effect from 31<sup>st</sup> January 2022 **2025**

# Agenda Item 5

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## Statement of Principles – Gambling Act 2005

### 1.0 Introduction

- 1.1 Bromsgrove District Council is situated in the County of Worcestershire, which contains six District Councils in total. The Council area has an ~~estimated~~ a population of approximately ~~99,900~~ 99,200 and in terms of area it covers approximately 84 square miles. The Council area is mainly rural in character (90% of the area is classed as Green Belt) with two central urban areas of Bromsgrove Town and Rubery. Whilst it is only 14 miles from central Birmingham, the Clent and Lickey Hills provide an important dividing line between the industrial Midlands and the rural landscape of North Worcestershire.
- 1.2 A map of the District of Bromsgrove can be seen at Appendix A.
- 1.3 Bromsgrove District Council's overall vision is "to enrich the lives and aspirations of all our residents, businesses and visitors through the provision of high quality services, ensuring that all in need receive appropriate help and support." This statement accords with that vision in seeking to promote the licensing objectives set out in the Act, which are central to the regulatory regime created by the Act. These are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way, and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.4 We have produced this statement as required by Section 349 of the Gambling Act 2005 (referred to in this statement as "the Act") and having had regard to the Gambling Commission's formal guidance issued under Section 25 of the Act, the licensing objectives and to the views of those that we have consulted. We consulted widely upon this statement before finalising and publishing. The list of those persons and organisations consulted is appended. The consultation took place between 20<sup>th</sup> July 2024 DATE and 10<sup>th</sup> September 2024 DATE in line with current published Government consultation principles. Should you have any comments as regards this policy statement please send them via email or letter to: [enquiries@worcsregservices.gov.uk](mailto:enquiries@worcsregservices.gov.uk)
- 1.5 This statement must be published at least every three years. The statement may also be reviewed from 'time to time' and any amended parts re-consulted upon.
- 1.6 We intend that this document should provide information and guidance on the general approach that we will take to licensing. A series of advice sheets with more specific guidance is available from our web site or will be sent on request; advice tailored to individuals is available by phone or to personal callers.

1.7 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, below.

## **2.0 Gambling Act 2005**

2.1 This policy reflects and aims to support our strategic purposes and priorities, as set out in the Council Plan.

2.2 The Act provides for gambling to be authorised in a number of different ways.

2.3 Our main functions are to:

- licence premises for gambling activities, including the issue of provisional statements,
- regulate and grant permits for gambling and gaming machines in clubs, including commercial clubs,
- regulate gaming and gaming machines in alcohol licensed premises,
- grant permits to family entertainment centres for the use of certain lower stake gaming machines,
- grant permits for prize gaming,
- receive and endorse notices given for the temporary use notices,
- receive occasional use notices for betting at tracks,
- register small societies lotteries,
- Maintain public registers, and
- Provide information to the Gambling Commission on issued licences.

2.4 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises. The “National Lottery” is also regulated by the Gambling Commission. Spread betting is regulated by the Financial Conduct Authority.

## **3. The Gambling Commission**

3.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly; and by protecting children and vulnerable people.

3.2 The Commission provides independent advice to the Government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally. It also produces guidance under Section 25 of the Act detailing how local authorities should exercise their licensing functions.

3.3 In addition, the Commission’s role is to issue codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, and how those provisions might be advertised.

3.4 Information about the Gambling Commission can be found on the Internet at: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) or by phone: 0121 230 6666.

## 4.0 Local Area Profile

- 4.1 Alongside its Statement of Principles, the Licensing Authority has worked with the other Licensing Authorities in Worcestershire and other partners to develop a “Local Area Profile” for the County as a means of mapping out local areas of concern, which can be reviewed and updated to reflect changes to the local landscape.
- 4.2 This Local Area Profile takes account of a wide range of factors, data and information held by the Licensing Authority and its partners. An important element of preparing the Local Area Profile has been proactive engagement with responsible authorities as well as other organisations in the area that could give input to ‘map’ local risks in the area.
- 4.3 These include public health, mental health, housing, education, community welfare groups and safety partnerships, and organisations such as GamCare or equivalent local organisations.
- 4.4 The aim of the Local Area Profile is to increase awareness of local risks and improve information sharing, to facilitate constructive engagement with licensees and a more coordinated response to local risks. The Local Area Profile will also help to inform specific risks that operators will need to address in their own risk assessments, which forms a part of any new licence application, or any application made to vary a licence.
- 4.5 The Local Area Profile is published on the Licensing Authority’s website and will be updated on a regular basis to reflect changes to the local environment. Holder’s of premises licences will be notified whenever the Local Area Profile is updated.

## 5.0 Authorised Activities

- 5.1 ‘Gambling’ is defined in the Act as gaming, betting, or taking part in a lottery.
- gaming means playing a game of chance for a prize,
  - betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not, and
  - a lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.

## 6.0 General Statement of Principles

- 6.1 In carrying out our licensing functions in accordance with the Act, particularly with regard to premises licences, we will generally aim to permit the use of premises for gambling as long as it is considered to be :-
- in accordance with any relevant Codes of Practice issued by the Gambling Commission
  - in accordance with any relevant Guidance issued by the Gambling Commission
  - in accordance with this Statement of Principles, and
  - reasonably consistent with the licensing objectives.
- 6.2 We will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.
- 6.3 We will ensure that in dealing with applications under the Act we follow the required procedures, and only take into account issues that are relevant. Specifically we will not have regard to “demand” when considering applications for gambling premises; nor will we consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). We will not reject an application on moral grounds. If we do decide to reject an application, we will make known our reasons for doing so.
- 6.4 Our current Council Constitution (including the scheme of delegation) details the way that we will discharge our functions under this Act. Details are available from the Licensing Department.
- 6.5 Where an application is for a new premises licence, the responsible authorities may visit to check that gambling facilities meet all necessary legal requirements.
- 6.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.
- 6.7 If there are objections that can't be resolved informally, or we intend to impose extra conditions, we will hold a public hearing at which our licensing sub-committee will hear evidence and make a decision in accordance with the Act.
- 6.8 This statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

## **7.0 Preventing gambling from being a source of crime and disorder**

- 7.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime, and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before we will issue a licence to use premises for gambling.
- 7.2 In view that we will not issue a premises licence to someone who does not hold an operator's licence, we are not generally concerned with the suitability of an applicant. Where concerns about a person's suitability arise we will bring those concerns to the attention of the Commission.
- 7.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, we will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for Security Industry Authority (SIA) registered door supervisors.
- 7.4 Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it; we will then consider how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 7.5 "Disorder" is generally a matter for the Police; we will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers.
- 7.6 When making decisions relating to disorder, we will give due weight to comments made by the police.

## **8.0 Ensuring gambling is conducted in a fair and open way**

- 8.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.
- 8.2 Because betting track operators do not need an operating licence from the Commission we may, in certain circumstances, require conditions of licence relating to the suitability of the environment in which betting takes place.

## 9.0 Protecting children and vulnerable people from being harmed or exploited by gambling

- 9.1 Section 45 of the Gambling Act 2005 defines a child as an individual under the age of 16 and a young person as an individual who is not a child but who is less than 18 years old. References in this statement to “a child” or “children” are to be read as including reference to “a young person” or “young people” except in circumstances where this would be inconsistent with the provisions of the Gambling Act 2005 or where this statement is quoting from the legislation itself.
- 9.2 The intention of the Act is that children should not be allowed to gamble, and should be prevented from entering those gambling premises which are ‘adult-only’ environments.
- 9.3 Codes of Practice, including advice about access by children be published by the Gambling Commission for specific kinds of premises. Applicants will be expected to heed this advice where applicable.
- 9.4 We expect steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.
- 9.5 When determining a premises licence or permit we will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.
- 9.6 In seeking to protect vulnerable people we will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.
- 9.7 We will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.
- 9.8 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm.

These principles are:

- The need for the body to be responsible for an area covering the whole of the Licensing Authority’s area.
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

9.9 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Worcestershire Safeguarding Children Partnership for this purpose.

## **10. Public Health and Gambling**

10.1 The Licensing Authority agrees with the Gambling Commission's position that gambling-related harm should be considered as a public health issue.

10.2 Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without exhibiting any signs of problematic behaviour. There are however significant numbers of people who do experience significant harm as result of their gambling.

10.3 For these problem gamblers, harm can include higher levels of physical and mental illness, debt problems, relationship breakdown and, in some cases, criminality. It can also be associated with substance misuse.

10.4 There can also be considerable negative effects experienced by the wider group of people around a gambler. The health and wellbeing of partners, children, and friends can all be negatively affected.

10.5 Therefore the Licensing Authority considers that Public Health teams, whilst not a responsible authority under the Act, can still assist the Licensing Authority to address gambling-related harms in its area.

10.6 The licensing authority will therefore engage with the local Public Health team in the further development of this Statement of Principles and the Local Area Profile. It is planned that the Public Health team will be able to help the Licensing Authority:

- Identify and interpret health data and evidence to inform the review of the Statement and develop locally tailored local area profiles.
- Make decisions that benefit and protect the health and wellbeing of local communities.
- Be clear on issues which they can have regard to when deciding on licenses for a wide range of gambling activities.
- Conduct a health-impact assessment of gambling in the local area or assess any existing information.

## **11.0 Local Risk Assessments**

11.1 Since 6 April 2016 it has been a requirement for operators to assess local risks to the licensing objectives taking into account this Council's Policy. The operator must also have policies, procedures and control measures in place to mitigate these risks. Risk assessments must be reviewed whenever there are significant changes in local circumstances, or at the premises, or when applying for a new licence or a variation of a licence. Risks in this context include actual, potential and possible future emerging risks to the licensing objectives.

11.2 The Licensing Authority will expect the local risk assessment to consider, for example:

- whether the premise is in an area of deprivation;
- whether the premise is in an area subject to high levels of crime and/or disorder;
- whether the premise is near an addiction treatment facility and in general consider the demographics of the area in relation to vulnerable groups;
- the location of sensitive buildings such as schools, playgrounds, toy shops, leisure centres, libraries and other areas where children are likely to gather; and
- how vulnerable persons as defined within this Policy are protected.

11.3 In compiling their local risk assessment the Licensing Authority shall also expect operators to take into account the general principles as set out in this Policy and the Local Area Profile.

11.4 Other matters that the risk assessment may include are, for example:

- Staff training, including refresher training, e.g. such as intervention when customers show signs of excessive gambling, in the mandatory licensing conditions, in location of the premises licence; in location of information relating to gambling care providers, etc.
- Where installed, details of CCTV coverage and how the system will be monitored.
- Layout of the premises to ensure staff have unobstructed views of persons using the premises or where this is not possible, evidence of how this can be achieved.
- The number of staff employed at the premises at any one time taking into account any effects from seasonal trade in the area.
- Where only one staff member is employed – in the case of smaller premises, – what the supervisory and monitoring arrangements are when that person is absent from the licensed area or distracted for any other reason.
- Provision of signage and documents relating to games rules, gambling care providers.
- The mix of gambling provided.
- Consideration of location of gaming machines on the premises.

11.5 Operators are expected to share their risk assessments with the Licensing Authority when applying for a new premises licence, applying for a variation to an existing licensed premise or otherwise upon request. These risk assessments must in any event be kept under regular review and updated as necessary. The Licensing Authority expects a copy of the most recent local risk assessment to be kept on each premises that is subject to a premises licence under the Gambling Act 2005.

11.6 The information contained within the risk assessment may be used to inform the decision the Licensing Authority makes about whether or not to grant the licence, to grant the licence with special conditions or to refuse the application.

- 11.7 However, in all circumstances each application will be treated on its own merits with the onus on the applicant providing the Licensing Authority with sufficient information to make their determination with the underpinning statutory aim of permitting gambling subject to being reasonably consistent with the licensing objectives.
- 11.8 In its Guidance to Licensing Authorities, the Gambling Commission suggests that Licensing Authorities should adopt a 'Local Area Profile'. The Guidance suggests that a Local Area Profile is a process of gathering and presenting information about a locality and any particular areas of concern within that locality. It underpins and explains the approach that the Licensing Authority will apply when granting licences. The Licensing Authority has created a Local Area Profile to assist applicants and licence holders to conduct their local risk assessments.
- 11.9 The Licensing Authority expects local risk assessments to be kept under review and updated as necessary. The Licensing Authority expect local risk assessments to be subject to a review whenever there is a significant change at or near the premises and in any event at least every twelve months.

## **12.0 Premises licences**

- 12.1 A premises licence can authorise the provision of facilities at the following:
- casino premises
  - bingo premises
  - betting premises, including betting tracks
  - adult gaming centres
  - family entertainment centres
- 12.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate 'premises'.
- 12.3 This will allow large, multiple unit premises such as tracks, shopping malls or service stations to obtain discrete premises licences, with appropriate safeguards in place. We will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed. We will not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partition, can properly be regarded as different premises. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.
- 12.4 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and people are not allowed to 'drift' accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. We would also expect customers to be able to participate in the activity named on the premises licence.

- 12.5 The Secretary of State appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and/or large casinos may be located. The District of Bromsgrove was not identified as a suitable location for a casino, consequently we are currently prevented from granting a Casino Premises Licence.
- 12.6 The Council has not passed a resolution under section 166(5) of the Gambling Act 2005 to not issue casino premises licences. If such a resolution were considered in the future, the Council would carry out a full public consultation and consider all responses before passing such a resolution.
- 12.7 We will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.
- 12.8 Other than an application for a betting premises licence for a track, we are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 12.9 When considering applications for premises licences we will not take into account either the expected 'demand' for facilities or the likelihood of planning permission or building regulation approval being granted, as well as 'moral' objections to gambling. Equally, the grant of a premises licence would not prejudice or prevent any action that may be appropriate under the law relating to planning or building regulations.
- 12.10 We are aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to our decision-making. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.
- 12.11 We will only issue a premises licence once we are satisfied that the premises is ready to be used for gambling in the reasonably near future. Where we have agreed to grant a licence but substantial building works or alterations are still required we will impose a condition requiring the premises to be inspected on completion of the work and prior to the issue of the licence. Where the construction of a premises is not yet complete, or if they need alteration, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made as having a right to occupy the premises is a pre-condition to making a Premises Licence application.
- 12.12 We will apply a two stage consideration process if there is outstanding construction or alteration works at the premises:
- should the premises be permitted to be used for gambling;
  - can appropriate conditions be imposed to cater for the situation that the premises is not yet in the state in which they should be before gambling takes place.
- 12.13 We are entitled to decide whether or not it is appropriate to grant a licence subject to conditions.

12.14 Applicants for premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

12.15 We will maintain a public register of Premises Licence applications received which may be viewed at the Council Offices during normal office hours which are generally Monday – Friday 9am until 5pm.

## **13.0 Responsible authorities**

13.1 Responsible authorities are identified in the legislation, and have to be notified about licence applications so that they can identify any risks. The responsible authorities that we recognise are listed below, contact details for each of the responsible authorities identified are available on our website [www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk), and will be sent on request.

- The Gambling Commission
- The Chief Officer of Police for the Area
- Fire and Rescue Service
- Bromsgrove District Council Planning Department
- Bromsgrove District Council Licensing Department (WRS)
- Bromsgrove District Council Environmental Health (WRS)
- Worcestershire Safeguarding Children Partnership
- HM Revenue and Customs
- Any other bodies identified in Regulation by the Secretary of State,
- For vessels, the Environment Agency, Canal and River Trust, Secretary of State.

13.2 Any concerns expressed by a Responsible Authority cannot be taken into account unless they are relevant to the application itself and the licensing objectives. However, each representation will be considered on its own individual merits.

## **14.0 Interested Parties**

14.1 An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above.

14.2 We will generally require written evidence that a person/body 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representations is sufficient. Whilst this may not apply to those elected ward members or MP or Parish Councillors, those persons should be aware of the need to represent the whole of the community that they represent and not just the vocal 'minority'.

- 14.3 In determining whether someone lives sufficiently close to a particular premises so as to be affected, we will take into account, among other things :
- the size of the premises
  - the nature of the premises
  - the distance of the premises from the person making the representation
  - the nature of the complainant
  - the potential impact of the premises
- 14.4 In determining whether a person has a business interest which could be affected the Council will consider, among other things:
- the size of the premises
  - the catchment area of the premises, and
  - whether the person making the representation has business interests in the catchment area that might be affected
- 14.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, we would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.
- 14.6 We may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision we will normally consider:
- who is making the representation and whether there is a history of making representations that are not relevant,
  - whether it raises an issue relevant to the licensing objectives, or
  - whether it raises issues specifically to do with the premises which are the subject of the application.
- 15.0 Licence conditions**
- 15.1 In particular cases we may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be relevant to the need to make the building suitable for use as a gambling facility; directly related to the premises and the type of licence applied for; fairly and reasonably related to the scale and type of premises and reasonable in all other respects. We will not have recourse to a pool of standard conditions.
- 15.2 We will also ensure that where category C or above machines that are on offer in premises to which children are admitted are located in an area of the premises which is separated by a physical barrier to prevent access other than through a designated entrance; the designated area is supervised and observed by staff or the licence holder.
- 15.3 Examples of conditions which are likely to be attached in certain circumstances include those relating to opening hours, segregation of gambling from non-gambling areas frequented by children, SIA licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children away from gaming machines. We will also expect the applicant to

offer their own suggestions as to way in which the licensing objectives can be promoted effectively.

- 15.4 We will not seek to control those matters specified in the Act with conditions:
- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission,
  - relating to gaming machine categories or method of operation,
  - which specify that membership of a club or other body is required, or
  - in relation to stakes, fees, winnings or prizes.
- 15.5 Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.

## **16.0 Gaming Machines**

- 16.1 Gaming machines include all types of gambling activity which can take place on a machine, including betting on 'virtual' events.
- 16.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.
- 16.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including :
- casinos
  - bingo premises
  - betting premises, (including tracks )
  - adult gaming centres
  - family entertainment centres
  - clubs
  - pubs and other alcohol licensed premises
  - travelling fairs
- 16.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would bring it within the definition of a gaming machine.
- 16.5 We will encourage permit and premises licence holders to adopt applicable codes of practice which may be introduced by the amusement industry or Gambling Commission, from time to time.

## **17.0 Gambling in Alcohol Licensed Premises**

- 17.1 There are exemptions in the Act that provide for a limited amount of gambling activity to take place within premises that are subject to a relevant valid alcohol licence.
- 17.2 These exemptions only apply where a premises is subject to a licence that authorises the sale of alcohol for consumption on the premises and that has a bar at which alcohol is served without a requirement that alcohol is served only with food.
- 17.3 In all cases the licensing authority considers that gambling must remain ancillary to the main purpose of the premises.

## Automatic entitlement to two gaming machines

- 17.4 Section 282 of the Act provides an automatic entitlement to alcohol licence holders to make available two gaming machines (of category C or D) for use in alcohol-licensed premises. To take advantage of this entitlement, the person who holds the on-premises alcohol licence must give notice to the Licensing Authority of their intention to make gaming machines available for use, and must pay the prescribed fee.
- 17.5 This is not an authorisation procedure. The Licensing Authority has no discretion to consider the notification or to turn it down. The only matter to determine is whether the person applying for the automatic gaming machine entitlement is the holder of the alcohol licence and whether the prescribed fee has been paid. There is no statutory requirement for pubs and other alcohol-licensed premises to display a notice of their automatic entitlement to gaming machines.
- 17.6 The Licensing Authority expects licence holders making machines available in accordance with their automatic entitlement to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.
- 17.7 The Licensing Authority can remove the automatic authorisation in respect of any particular premises by making an order under section 284 of the Act. The Licensing Authority can do so if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
  - gaming has taken place on the premises that breaches a condition of s.282, for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines
  - the premises are mainly used for gaming
  - an offence under the Act has been committed on the premises.
- 17.8 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and will consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

## Licensed Premises Gaming Machine Permits

- 17.9 Where the holder of a relevant alcohol licence wishes to make more than two gaming machines available, they may apply for a licensed premises gaming machine permit. Such a permit can authorise the provision of any number of category C or D gaming machines within the relevant licensed premises.

- 17.10 The Licensing Authority expects licence holders making machines available in accordance with a licensed premises gaming machine permit to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.
- 17.11 Applications must be made by a person or organisation that holds the on-premises alcohol licence for the premises for which the application is made and must include information on the premises to which it relates and the number and category of gaming machines sought.
- 17.12 The Licensing Authority may also require an applicant to submit a plan of the premises showing where the gaming machines are to be located and showing the position of the bar.
- 17.13 In determining an application, the Licensing Authority must have regard to the licensing objectives and to the Gambling Commission's Guidance to Licensing Authorities. The Licensing Authority may also take account of any other matters that are considered relevant to the application.
- 17.14 In particular the Licensing Authority will have regard to the size and nature of the premises, the number of gaming machines requested and the ability of the licence holder to comply with the relevant code of practice.
- 17.15 The application does not require notification to the Commission or police before determination, however, the Licensing Authority is able to specify this as a requirement should they see fit.
- 17.16 The Licensing Authority may grant or refuse an application. In granting the application, it may vary the number and category of gaming machines authorised by the permit. If granted, the Licensing Authority will issue the permit as soon as possible after that. Where they refuse the application they will notify the applicant as soon as possible, setting out the reasons for refusal. The Licensing Authority will not refuse an application, or grant it for a different number or category of machines, unless they have notified the applicant of their intention to do so and given the applicant an opportunity to make representations, orally, in writing, or both.
- 17.17 The Licensing Authority is able to cancel a permit. It may only do so in specified circumstances which include if the premises are used wholly or mainly by children or young persons or if an offence under the Act has been committed. Before it cancels a permit the Licensing Authority will notify the holder, giving 21 days notice of intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed. Where the Licensing Authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed or, where an appeal is made, until the appeal is determined.
- 17.18 The Licensing Authority can also cancel a permit if the holder fails to pay the annual fee, unless failure is the result of an administrative error. The court may order forfeiture of the permit if the holder is convicted of a relevant offence.

- 17.19 The applicant may appeal to the Magistrates' Court against the Licensing Authority's decision not to issue a permit. The holder can also appeal against a decision to cancel a permit.

## Exempt Gaming

- 17.20 Exempt gaming is generally permissible in any relevant alcohol licensed premises. Such gaming must be equal chance gaming and must be ancillary to the purposes of the premises. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 17.21 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 17.22 The Secretary of State has set both daily and weekly prize limits for exempt gaming in alcohol licensed premises and details of these can be found on the Gambling Commission's website.
- 17.23 The Licensing Authority expects exempt gaming in alcohol licensed premises to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.
- 17.24 The Licensing Authority can remove the automatic authorisation for exempt gaming in respect of any particular premises by making an order under s.284 of the Act, if:
- provision of the gaming is not reasonably consistent with the pursuit of the licensing objectives
  - gaming has taken place on the premises that breaches a condition of s.279, for example the gaming does not abide by the prescribed limits for stakes and prizes, a participation fee is charged for the gaming or an amount is deducted or levied from sums staked or won
  - the premises are mainly used for gaming
  - an offence under the Act has been committed on the premises.
- 17.25 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

## 18.0 Gambling in Clubs

### Defining Clubs

- 18.1 The Act creates a separate regime for gaming in clubs from that in other relevant alcohol licensed premises. It defines two types of club for the purposes of gaming:
- members' clubs (including miners' welfare institutes)
  - commercial clubs.
- 18.2 This is an important distinction in respect of the gaming that may take place.
- 18.3 A members' club is a club that is not established as a commercial enterprise and is conducted for the benefit of its members. Examples include working mens' clubs, miners' welfare institutes, branches of the Royal British Legion and clubs with political affiliations.
- 18.4 Miners' welfare institutes are associations established for recreational or social purposes. They are managed by representatives of miners or use premises regulated by a charitable trust which has received funds from one of a number of mining organisations.
- 18.5 A commercial club is a club established for commercial gain, whether or not they are actually making a commercial gain. Examples include commercial snooker clubs, clubs established as private companies and clubs established for personal profit.
- 18.6 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

### Exempt Gaming

- 18.7 Exempt gaming is generally permissible in any club. Such gaming must be equal chance gaming and be ancillary to the purposes of the club. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 18.8 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 18.9 The Secretary of State has set both daily and weekly prize limits for exempt gaming. Different higher stakes and prizes are allowed for exempt gaming in clubs than are allowed in alcohol-licensed premises and details of these can be found on the Gambling Commission's website.
- 18.10 Clubs may levy a charge for participation in equal chance gaming under the exempt gaming rules. The amount they may charge is as prescribed in regulations and the relevant details can be found on the Gambling Commission's website. However in order to qualify as exempt gaming, clubs

may not charge a rake on games (a commission or fee deducted from the prize fund), or levy or deduct an amount from stakes or winnings.

- 18.11 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

## Club Gaming Permits

- 18.12 The Licensing Authority may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming (without having to abide by the stake and prize limits which would apply to exempt gaming in the absence of a permit) and games of chance as prescribed in regulations namely pontoon and chemin de fer. This is in addition to the exempt gaming authorisation detailed above.

- 18.13 Club gaming permits allow the provision of no more than three gaming machines. These may be from categories B3A, B4, C or D but only one B3A machine can be sited as part of this entitlement.

- 18.14 Where a club has gaming machines the licensing authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

## Club Machine Permits

- 18.15 If a members' club or a miners' welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply to the Licensing Authority for a club machine permit under s.273 of the Act. This type of permit authorises the holder to have up to three gaming machines of categories B3A, B4, C and D.

- 18.16 Commercial clubs are also able to apply for a club machine permit, although such a permit does not allow the siting of category B3A gaming machines by commercial clubs.

- 18.17 Where a club has gaming machines the Licensing Authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

## Applications for Club Gaming Permits and Club Machine Permits

- 18.18 Applications for permits must be accompanied by the prescribed documents and fees and must be copied to the Gambling Commission and the Chief Officer of Police within the prescribed period. The Commission and the Police may object to the permit being granted and if such objections are received, the Licensing Authority will hold a hearing.

- 18.19 The Licensing Authority may grant or refuse a permit, but it may not attach any conditions to a permit.

18.20 The Licensing Authority can only refuse an application on the grounds that:

- a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
- b) the applicant's premises are used wholly or mainly by children and/or young persons
- c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- d) a permit held by the applicant has been cancelled in the previous ten years
- e) an objection has been lodged by the Commission or the police.

18.21 If the Licensing Authority is satisfied that (a) or (b) is the case, it must refuse the application. The Licensing Authority will have regard to relevant guidance issued by the Commission and (subject to that guidance), the licensing objectives.

18.22 In cases where an objection has been lodged by the Commission or the police, the Licensing Authority is obliged to determine whether the objection is valid.

18.23 There is a fast-track procedure for clubs in England and Wales which hold a club premises certificate under s.72 of the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which the Licensing Authority can refuse a permit are reduced.

18.24 This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and it is therefore unnecessary to impose the full requirements of Schedule 12.

18.25 Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.

#### Determining Applications for Club Gaming Permits

18.26 When determining applications for Club Gaming Permits the Licensing Authority will take steps to satisfy itself that the club meets the requirements of the Act and to enable this to happen, clubs may be asked to supply additional information and documents in support of their application.

18.27 The Licensing Authority is particularly aware of the potential for club gaming permits to be misused for illegal poker clubs.

18.28 In determining whether a club is a genuine members' club, the Licensing Authority will take into account the matters set out in relevant part of the Gambling Commission's Guidance to Licensing Authorities.

18.29 A visit to the premises before granting of the permit may also be undertaken to assist the Licensing Authority to understand how the club will operate.

## Maintenance of Permits

- 18.30 Club Gaming Permits and Club Machine Permits will have effect for ten years, unless it ceases to have effect because it is surrendered or lapses or is renewed. However, a permit granted under the fast-track procedure does not expire, unless it ceases to have effect because it is surrendered, cancelled or forfeited or it lapses.
- 18.31 A permit will lapse if the holder of the permit stops being a club or miners' welfare institute, or if it no longer qualifies under the fast-track system for a permit. In addition, a permit will cease to have effect upon being surrendered to the authority. A notice to surrender must be accompanied by the permit or a statement explaining why it cannot be produced. The Licensing Authority must inform the Police and the Commission when a permit has been surrendered or lapsed.

## Cancellation and forfeiture of permits

- 18.32 The Licensing Authority may cancel the permit if:
- the premises are used wholly by children and/or young persons
  - an offence or breach of a permit condition has been committed in the course of gaming activities by the permit holder.
- 18.33 Reference here to 'a permit condition' means a condition in the Act or in regulations that the permit is operating under.
- 18.34 Before cancelling a permit, the Licensing Authority will give the permit holder at least 21 days' notice of the intention to cancel and consider any representations that they may make.
- 18.35 The Licensing Authority will hold a hearing if the permit holder so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the cancellation will take effect 21 days after notice of the intention to cancel was given. The Licensing Authority will notify the permit holder, the Commission and the police that the permit has been cancelled and the reasons for the cancellation.

## Renewal of permits

- 18.36 In accordance with paragraph 24 of Schedule 12 of the Act, an application for renewal of a permit must be made during the period beginning three months before the licence expires and ending six weeks before it expires. The procedure for renewal is the same as for an application.
- 18.37 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.
- 18.38 If, at the time a permit is renewed, the applicant holds a club premises certificate, the fast-track procedure will apply as it does when application is first made for the permit.

## 19.0 Unlicensed Family Entertainment Centre Permits

### Introduction

- 19.1 Unlicensed family entertainment centres (uFEC) are able to offer only category D machines in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit, although there may be other considerations, such as fire regulations and health and safety, to take into account. Permits cannot be issued in respect of vessels or vehicles.
- 19.2 uFECs are premises which are 'wholly or mainly' used for making gaming machines available. The permit cannot therefore be granted for an entire shopping centre, airport or bowling alley, for example.

### Applications for Unlicensed Family Entertainment Centre Permits

- 19.3 The application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an uFEC and, if the applicant is an individual, he or she must be aged 18 or over. Applications for a permit cannot be made if a premises licence under the Gambling Act 2005 is in effect for the same premises. The application must be made to the licensing authority in whose area the premises are wholly or partly situated.
- 19.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used as an uFEC, which shows the location of any gaming machines that will be provided if the permit were to be granted.
- 19.5 The Licensing Authority requires applicants for uFEC permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made. Where the applicant is a company, a Basic Disclosure certificate must be supplied in respect of each director of the company.

### Consideration of Applications

- 19.6 The Licensing Authority can grant or refuse an application for a permit, but cannot add conditions. An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an uFEC, and if the chief officer of police has been consulted on the application.
- 19.7 When considering an application, the Licensing Authority will consider the suitability of the applicant. Given that family entertainment centres are likely to appeal particularly to children, the licensing authority will give particular weight to matters relating to the protection of children from being harmed or exploited by gambling.
- 19.8 In considering the application, the Licensing Authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.

19.9 The Licensing Authority may also consider asking applicants to demonstrate:

- that they have suitable policies and procedures in place for the safeguarding of children
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)
- that employees at the premises are suitably vetted
- that employees are trained to have a full understanding of the maximum stakes and prizes.

19.10 The Licensing Authority may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

19.11 The permit will have effect for ten years, unless it ceases to have effect because it is surrendered or lapses or is renewed. There is no annual fee for an uFEC gaming machine permit

19.12 The permit may lapse for a number of reasons, namely:

- if the holder ceases to occupy the premises
- if the Licensing Authority notifies the holder that the premises are not being used as an uFEC
- if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
- if the company holding the permit ceases to exist, or goes into liquidation.

### Renewal of a Permit

19.13 An application for renewal of an uFEC gaming machine permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application. Licensing Authority may only refuse to renew a permit on the grounds that:

- an authorised local authority officer has been refused access to the premises without reasonable excuse
- renewal would not be reasonably consistent with the licensing objectives. In this respect, the licensing authority will have the benefit of having consulted the chief officer of police and will be aware of any concerns that have arisen about the use of the premises during the life of the permit.

19.14 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.

## 20.0 Prize Gaming Permits

- 20.1 Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. Normally the prizes are determined by the operator before play commences.
- 20.2 A prize gaming permit is a permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

### Applications for Prize Gaming Permits

- 20.3 An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises under the Gambling Act 2005. The application must be made to the Licensing Authority in whose area the premises are wholly or partly situated.
- 20.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used for gaming with prizes.
- 20.5 The Licensing Authority requires applicants for prize gaming permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made.

### Consideration of Applications

- 20.6 In considering an application, the licensing authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.
- 20.7 The Licensing Authority can grant or refuse an application for a permit, but cannot add conditions.
- 20.8 The Licensing Authority will grant a prize gaming permit only if they have consulted the chief officer of police about the application. The Licensing Authority will take account of any objections that the police may wish to make which are relevant to the licensing objectives.
- 20.9 Relevant considerations would include the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and any issues concerning disorder.
- 20.10 A permit cannot be issued in respect of a vessel or a vehicle.

20.11 The Licensing Authority will ask the applicant to set out the types of gaming that they are intending to offer and expects that the applicant should be able to demonstrate that:

- they understand the limits to stakes and prizes that are set out in regulations
- the gaming offered is within the law.

20.12 The Licensing Authority will not refuse an application unless they have notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

20.13 If granted, the permit will have effect for ten years, unless it ceases to have effect, lapses or is renewed. There is no annual fee for prize gaming permits.

20.14 The permit may lapse for a number of reasons:

- if the holder ceases to occupy the premises
- if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
- if a company holding the permit goes into liquidation
- if the holder (for example a partnership) otherwise ceases to exist.

#### Renewal of a Prize Gaming Permit

20.15 An application for renewal of a permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application.

20.16 A permit will not cease to have effect while a renewal application is pending, including an appeal against a decision not to renew.

### **21.0 Temporary Use Notices**

21.1 These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. We would object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.

21.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

## 22.0 Occasional Use Notices

- 22.1 We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.
- 22.2 The Licensing Authority will share information with the Gambling Commission in relation to any Occasional Use Notices received. The Licensing Authority may also work in partnership with the Gambling Commission to carry out test purchase operations involving licensed operators that are providing facilities for betting in reliance on an Occasional Use Notice.

## 23.0 Lotteries

### Introduction

- 23.1 A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under s.14 of the Act.
- 23.2 An arrangement is a simple lottery if:
- persons are required to pay to participate
  - one or more prizes are allocated to one or more members of a class
  - the prizes are allocated by a process which relies wholly on chance.
- 23.3 An arrangement is a complex lottery if:
- persons are required to pay to participate
  - one or more prizes are allocated to one or more members of a class
  - the prizes are allocated by a series of processes, and
  - the first of those processes relies wholly on chance.
- 23.4 The Gambling Act 2005 provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:
- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
  - exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.
- 23.5 The Licensing Authority is responsible for the registration of societies for the purpose of carrying on “small society lotteries.” Information on other forms of exempt lotteries is available from the Gambling Commission website.

23.6 The Licensing Authority defines ‘society’ as the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted, and needs to understand the purposes for which a society has been established in ensuring that it is a non-commercial organisation.

23.7 Section 19 of the Act defines a society as such if it is established and conducted:

- for charitable purposes, as defined in s.2 of the Charities Act 2006
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of private gain.

23.8 It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in section 19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

### Registration Applications

23.9 The Licensing Authority with which a small society lottery is required to register must be in the area where their principal office is located. If the Licensing Authority believes that a society’s principal office is situated in another area, it will inform the society and the other Licensing Authority as soon as possible.

23.10 Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents required by the Licensing Authority to assess the application.

23.11 If there is any doubt as to the status of a society that makes application for registration to carry on small society lotteries, the Licensing Authority may require the society to provide documentary evidence in support of their application. The types of evidence that may be required include, but are not restricted to:

- A list of the members of the society
- The society’s constitution or a similar document setting out the aims and objectives of the society and its governance arrangements
- A written declaration from the applicant stating that they represent a *bona fide* non-commercial society.

23.12 The Licensing Authority shall refuse an application for registration if in the period of five years ending with the date of the application—

- an operating licence held by the applicant for registration has been revoked under section 119(1) of the Act, or
- an application for an operating licence made by the applicant for registration has been refused.

23.13 The Licensing Authority may refuse an application for registration if they think that—

- the applicant is not a non-commercial society,
- a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
- information provided in or with the application for registration is false or misleading.

23.14 The Licensing Authority may only refuse an application for registration after the society has had the opportunity to make representations at a formal hearing. If the Licensing Authority is minded to refuse registration, it will inform the society of the reasons why it is minded to do so and provide it with an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.

23.15 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society would be consistent with the Act
- Whether allowing the registration of the society would be consistent with the promotion of the licensing objectives
- Whether allowing the registration of the society would be consistent with any relevant code of practise issued by the Gambling Commission

#### Promotion of small society lotteries once registered

23.16 Participation in a lottery is a form of gambling, and as such the Licensing Authority requires societies that it registers to conduct their lotteries in a socially responsible manner and in accordance with the Act.

23.17 The Act requires that lottery tickets may only be sold by persons that are aged 16 or over to persons that are aged 16 or over.

23.18 As the minimum age for participation in a lottery is 16, the Licensing Authority expects those societies that it registers to have effective procedures to minimise the risk of lottery tickets being sold to children, including procedures for:

- checking the age of apparently underage purchasers of lottery tickets
- taking action where there are unlawful attempts to purchase tickets.

23.19 Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:

- the name of the promoting society
- the price of the ticket, which must be the same for all tickets
- the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the external lottery manager (ELM)
- the date of the draw, or information which enables the date to be determined.

- 23.20 The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.
- 23.21 The Licensing Authority expects all registered small society lottery operators to maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw.
- 23.22 With regards to where small society lottery tickets may be sold, the Licensing Authority applies the following criteria to all small society lottery operators:
- 23.23 Lottery tickets must not be sold to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence.
- 23.24 This approach is consistent with the operating licence conditions imposed upon operators of large society lotteries and local authority lotteries.

## Financial Returns

- 23.25 As the purpose of permitted lotteries is to raise money for non-commercial causes, the Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits it will be in breach of the Act's provisions, and consequently be liable to prosecution.
- 23.26 The limits are as follows:
- at least 20% of the lottery proceeds must be applied to the purposes of the society
  - no single prize may be worth more than £25,000
  - rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000
  - every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed
- 23.27 The Act sets out the information that the promoting society of a small society lottery must send as returns to the licensing authority with which it is registered, following each lottery held. This information allows the Licensing Authority to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose.

23.28 The following information must be submitted:

- the arrangements for the lottery – specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

23.29 The Act also requires that returns must:

- be sent to the Licensing Authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries' (scratch cards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged 18 or older, are appointed for the purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

23.30 The Licensing Authority allows for returns to be sent to them both electronically and manually. The form of returns required can be downloaded from the Licensing Authority's website.

23.31 Where societies run more than one lottery in a calendar year, the Licensing Authority will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales.

23.32 The Licensing Authority will notify the Commission if returns reveal that a society's lotteries have exceeded the values permissible, and such notifications will be copied to the society in question.

### Revocation of a registration

23.33 The Licensing Authority may determine to revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time.

23.34 Revocations cannot take place unless the society has been given an opportunity to make representations at a hearing. In preparation for this, the Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and provide them with the evidence on which it has reached that preliminary conclusion.

23.35 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society to continue would be consistent with the Act
- Whether allowing the registration of the society to continue would be consistent with the promotion of the licensing objectives
- Whether allowing the registration of the society to continue would be consistent with any relevant code of practise issued by the Gambling Commission.

## **24.0 Exchange of Information**

24.1 To ensure the licensing objectives are met, we will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.

24.2 Subject to the provisions of relevant data protection legislation, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by contacting our Information Management Officer.

24.3 We are committed to being open about what we do and how we come to our decisions, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment. Copies of our FOI publication scheme are available on request from our Information Management Officer or via the Council's website [www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk).

24.4 FOIA also provides the public with a general right of access to information held by public authorities, and subject to exemptions, be supplied with a copy of that information. Individual requests should be made in writing to the Information Management Officer or via the Council's website.

24.5 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register. Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

## **25.0 Enforcement Protocols**

25.1 The main enforcement and compliance role for us in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also take the lead role on the investigation and where appropriate, the prosecution of

illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by us but will be notified to the Gambling Commission.

- 25.2 We will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.
- 25.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.
- 25.4 We will also have regard to the Regulators' Code whilst carrying out our regulatory functions.
- 25.5 We will endeavour to be proportionate; accountable; consistent; transparent and targeted, as well as avoiding duplication with other regulatory regimes so far as possible.
- 25.6 In order to ensure compliance with the law, the Licensing Authority will prepare a risk based Inspection Programme and will carry out regular 'routine' day time programmed inspections, based on risk assessment in the categories High, Medium and Low and will also carry out 'non routine' evening programmed inspections. Where a one off event takes place under a Temporary Use Notice or Occasional Use Notice, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are being promoted.
- 25.7 High-risk premises are those premises that have a history of complaints and require greater attention with low risk premises needing only a lighter touch so that resources are effectively concentrated on problem premises.

## **26.0 Reviews**

- 26.1 A review of a premises licence can be made by interested parties or responsible authorities, however, we will decide if the review is to be carried out on the basis of the following:
  - In accordance with any relevant Code of Practice and/or guidance issued by the Gambling Commission
  - Consistent with the licensing objectives
  - In accordance with our statement of principles.
- 26.2 We will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether we would wish to alter/revoke or suspend the licence.

26.3 We can also initiate a review of a premises licence on the basis of any reason which we think is appropriate, including if a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

26.4 Once a valid application for a review has been received by us, representations can be made by responsible authorities and interested parties during the statutory consultation period. The purpose of the review will be to determine whether we should take any action in relation to the licence. The options available are:

- Add, remove or amend a licence condition;
- Remove or amend a default condition, such as opening hours;
- Suspend the premises licence for a period not exceeding 3 months;
- Revoke the licence.

DRAFT

## Map of the District of Bromsgrove



### List of Consultees

Chief Officer of West Mercia Police

Gambling Commission

All Other Responsible Authorities Identified in the Gambling Act 2005

Worcestershire Safeguarding Children Partnership

Director of Public Health

District Councillors

Parish Councils

Holders of Premises Licences issued by the Council under the Gambling Act 2005

#### Gambling and Other Relevant Trade Associations:

Betting and Gaming Council

Bacta

Bingo Association

Gambling Business Group

European Gaming and Betting Association

UK Hospitality

British Beer and Pub Association

Lotteries Council

Hospice Lotteries Association

#### Organisations working with those who have a gambling problem:

GamCare

Gamblers Anonymous

GambleAware

Gordon Moody Association

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**RENEWAL OF LICENCES FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES THAT HAVE PREVIOUSLY BEEN WRITTEN OFF**  
**RESULTS OF CONSULTATION ON AMENDING POLICY**

Relevant Portfolio Holder	Councillor K Taylor
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

- 1.1 Members of the Licensing Committee have previously direct officers to carry out a short, targeted consultation exercise with a view to resolving an issue that has arisen for the hackney carriage and private hire trade in Bromsgrove since the Council adopted a new Hackney Carriage and Private Hire Licensing Policy on 1<sup>st</sup> September 2022.

The results of this consultation exercise now need to be considered and decision taken about making minor amendments to the Policy.

**2. RECOMMENDATIONS**

- 2.1 **That the Licensing Committee RESOLVES to approve the draft revised Hackney Carriage and Private Hire Licensing Policy shown at Appendix 4 to take effect from 12<sup>th</sup> November 2024.**

**3. KEY ISSUES**

**Financial Implications**

- 3.1 The costs incurred in carrying out the consultation exercise were met from existing budgets held by Worcestershire Regulatory Services.

#### Legal Implications

- 3.2 In accordance with section 37 of the Town Police Clauses Act 1847, a district council may licence to ply for hire within the area of the district council, such number of hackney carriages or carriages of any kind or description adapted to the carriage of persons as they think fit.
- 3.3 Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied—

- (a) That the vehicle is—
- (i) suitable in type, size and design for use as a private hire vehicle;
  - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
  - (iii) in a suitable mechanical condition;
  - (iv) safe; and
  - (v) comfortable;

#### Service / Operational Implications

- 3.4 The Council is responsible for the issuing of licences to authorise people to use vehicles as hackney carriages or private hire vehicles.
- 3.5 The Council implemented a new Hackney Carriage and Private Hire Vehicle Policy with effect from 1<sup>st</sup> September 2022, which was later amended with effect from 1<sup>st</sup> April 2023. The policy contains requirements in respect of the licensing of vehicles to be used as a hackney carriage or private hire vehicle. The relevant part of the current Policy can be seen at **Appendix 1**.

- 3.6 One of the changes that the new policy introduced was a stipulation that the Council would no longer licence any vehicle to be used as either a hackney carriage or private hire vehicle if it has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes. Paragraphs 3.1.10 and 3.2.10 of the policy set this out in respect of those vehicles being licensed by the Council to be used as a hackney carriage or private hire vehicle for the first occasion.
- 3.7 The new policy goes on to state that the Council will also not renew any licence to use a vehicle as a hackney carriage if the vehicle has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes. Paragraphs 3.3.11 and 3.4.11 of the policy are the relevant paragraphs in this respect.
- 3.8 The wording currently used in paragraphs 3.3.11 and 3.4.11 of the policy means that vehicles that were licensed before the new policy took effect and that had been previously graded as a Category A, Category B or Category C or Category S write-off no longer comply with the Council's policy, even though vehicle had been licensed for a number of years without any issues arising.
- 3.9 As the vehicles no longer comply with the Council's policy, officers have been unable to determine these renewal applications under delegated powers and have had to refer the applications to Licensing Sub-Committees to be determined.
- 3.10 Officers believe that when approving the new Hackney Carriage and Private Hire Vehicle Policy, Members had in fact intended for there to be a gradual phasing out of the licensing of vehicles that have been graded as a Category A, Category B or Category C or Category S write-off rather than intending to stop licensing all such vehicles when the relevant licences were next due to be renewed.
- 3.11 Officers believed that this intention could be achieved by making minor amendments to the wording contained in paragraphs 3.3.11 and 3.4.11 of the policy. Some proposed alternative wording was therefore drafted and can be seen at **Appendix 2**.
- 3.12 Officers believed this amended wording would mean that anyone that had licensed a vehicle prior to the implementation of the new policy would be able to continue using the vehicle as a hackney carriage or private hire vehicle for as long as it complied with the Council's other requirements, even if the vehicle was graded as a Category A, Category B or Category C or Category S write-off when it first became licensed.

- 3.13 The Licensing Committee considered this matter on 22<sup>nd</sup> July 2024 and directed officers to carry out a short and targeted consultation exercise in relation to amending the wording contained in Paragraphs 3.3.11 and 3.4.11 of the Council's Hackney Carriage and Private Hire Vehicle Policy to that shown at **Appendix 2**.
- 3.14 The consultation exercise took place between 13<sup>th</sup> August 2024 and 27<sup>th</sup> September 2024. As well as being sent to licence holders by email, the details of the consultation exercise were also sent to:
- West Mercia Police
  - Police and Crime Commissioner
  - Worcestershire County Council – School Transport
  - Community Safety
  - Bromsgrove Depot Management
  - National Taxi and Private Hire Trade Associations
- 3.15 The consultation was undertaken using an online survey tool. The background to the consultation exercise was set out and then two short questions were asked. The questions asked and the responses received are summarised in **Appendix 3**.
- 3.16 Responses were received from a variety of respondents including licensed drivers, Councillors and members of the public. Responses were also received from the Police and the National Private Hire and Taxi Association (NPHTA).
- 3.17 The majority of those who responded (78.6%) agreed with the Council amending the wording contained in Paragraphs 3.3.11 and 3.4.11 of the Council's Hackney Carriage and Private Hire Vehicle Policy to that shown at **Appendix 2**.
- 3.18 Officers recognise the concerns raised by one respondent in respect of the licensing of vehicles that have previously been written off in category C or S. The amended wording would still make clear that no new licences will be issued to vehicles in these categories, but that those that are already licensed will continue to be able to be licensed until they are no longer eligible to be licensed for other reasons.
- 3.19 Bromsgrove District Council licensed hackney carriage and private hire trades are experiencing an increasingly difficult trading environment with a reduction in passenger numbers due in part to cost of living pressures and also due to the increased prevalence of private hire vehicles and drivers licensed elsewhere undertaking work in the area. This is having a significant impact on the income they are able to obtain from taxi and private hire work.

- 3.20 The need to change their vehicle, particularly if this needed to be done earlier than they had anticipated when first licensing it, would be a significant additional financial burden for a licence holder that may mean they are not able to continue providing a service locally.
- 3.21 Against this challenging backdrop, Officers believe the proposed amendments to the wording in the policy provides a balanced and proportionate way for the Council to achieve its policy aims over the medium term without creating an unintended “cliff edge” scenario for those licence holders who have held licences for vehicles that have previously been written off in category C or S since before the policy was implemented in September 2022.
- 3.22 Therefore the Licensing Committee are now asked to approve the draft revised Hackney Carriage and Private Hire Licensing Policy shown at **Appendix 4** to take effect on 12<sup>th</sup> November 2024.

#### **4. RISK MANAGEMENT**

- 4.1 Carrying out consultation with relevant stakeholders when reviewing a policy minimises the risk of legal challenge.

#### **5. APPENDICES**

- Appendix 1 – Hackney Carriage and Private Hire Licensing Policy (extract)
- Appendix 2 - Proposed alternative wording for paragraphs 3.3.11 and 3.4.11 of the policy
- Appendix 3 - Consultation questions and summary of responses
- Appendix 4 - Draft Revised Hackney Carriage and Private Hire Licensing Policy

**AUTHOR OF REPORT**

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## 3.0 Licences to Use a Vehicles as a Hackney Carriage or Private Hire Vehicle

### 3.1.0 **Obtaining a licence to use a vehicle as a Hackney Carriage for the first occasion - Application Requirements**

#### General vehicle requirements

- 3.1.1 An applicant for a licence to use a vehicle as a hackney carriage must ensure the vehicle is a fully enclosed four wheel passenger vehicle with a M.1 or M.2 European Community Whole Vehicle Type Approval (ECWVTA) or a UK Low Volume Approval, or an Individual Vehicle Approval (IVA) and which meets the following criteria meets the following criteria:
- manufactured from new as a right hand drive vehicle;
  - constructed or adapted to seat in comfort at least 4 passengers and not more than 8 passengers;
  - has sufficient doors of sufficient size to allow safe ingress and egress of passengers;
  - where only one passenger door is fitted, that door is on the near-side (kerbside) of the vehicle;
  - has no side facing seats;
  - each provided seat has a minimum width of 407 mm per passenger measured at the narrowest part of the seat and each passenger seat is fitted with a seat belt
  - a distance of 178mm from the back of the seat in front (when in it's rear-most position) to the front of the seat behind.
  - each provided seat is accessible without the need to remove or fold, or tip up any other seat
  - the boot or luggage compartment is of sufficient size to carry a reasonable amount of luggage relative to the seating capacity;
  - the boot or luggage compartment is separated from the passenger compartment by a suitable barrier
  - Vehicles that have been subject to conversion must have appropriate SVA / IVA type approval from VOSA.
  - All window glass must be to the manufacturer's standard specification and must be presented in an unmodified state. Vehicles must not be fitted with any films, foils, privacy glass (entirely black or reflective glass), or any other aftermarket tinting.

#### Vehicle age requirements

- 3.1.2 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.
- 3.1.3 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle is not subject to any age limit.
- 3.1.4 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.
- 3.1.5 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

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- 3.1.6 For the purposes of paragraphs 3.1.4 and 3.1.5 of this policy, an ultra-low emission vehicle (ULEV) is one having less than 75 grams of CO<sub>2</sub> per kilometre (g/km) from the tail pipe.
- 3.1.7 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 9 years of age.
- 3.1.8 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.
- 3.1.9 The above dates will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

## Vehicles written off for insurance purposes

- 3.1.10 The Council will not licence any vehicle to be used as a hackney carriage if it has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes.

## Vehicles licensed by other local authorities

- 3.1.11 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

## Documentation required to be submitted

- 3.1.12 Before a licence to use a vehicle as a hackney carriage can be issued, the applicant must have submitted all of the following:
- Completed application form
  - A current MOT certificate
  - Valid insurance showing the vehicle is insured for use for hire and reward for public hire or in accordance with a hackney carriage licence.
  - The V5C certificate for the vehicle or other equivalent proof of ownership
  - A certificate confirming the vehicle has been found fit for use at the Council's appointed testing station for hackney carriage and private hire vehicles.
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.1.13 "Relevant individuals" means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.

## 3.2.0 Obtaining a licence to use a vehicle as a private hire vehicle for the first occasion - Application Requirements

### General requirements

- 3.2.1 An applicant for a licence to use a vehicle as a private hire vehicle must ensure the vehicle is a fully enclosed four wheel passenger vehicle with a M.1 or M.2 European Community Whole Vehicle Type Approval (ECWVTA) or a UK Low Volume Approval, or an Individual Vehicle Approval (IVA) and which meets the following criteria:
- manufactured from new as a right hand drive vehicle;
  - constructed or adapted to seat in comfort at least 4 passengers and not more than 8 passengers;
  - has sufficient doors of sufficient size to allow safe ingress and egress of passengers;
  - where only one passenger door is fitted, that door is on the near-side (kerbside) of the vehicle;
  - has no side facing seats;
  - each provided seat has a minimum width of 407 mm per passenger measured at the narrowest part of the seat and each passenger seat is fitted with a seat belt
  - a distance of 178mm from the back of the seat in front (when in it's rear-most position) to the front of the seat behind.
  - each provided seat is accessible without the need to remove or fold, or tip up any other seat
  - the boot or luggage compartment is of sufficient size to carry a reasonable amount of luggage relative to the seating capacity;
  - the boot or luggage compartment is separated from the passenger compartment by a suitable barrier
  - Vehicles that have been subject to conversion must have appropriate SVA / IVA type approval from VOSA.
  - All window glass must be to the manufacturer's standard specification and must be presented in an unmodified state. Vehicles must not be fitted with any films, foils, privacy glass (entirely black or reflective glass), or any other aftermarket tinting.

### Vehicle age requirements

- 3.2.2 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.
- 3.2.3 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle is not subject to any age limit.
- 3.2.4 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.
- 3.2.5 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

# Agenda Item 6

- 3.2.6 For the purposes of paragraphs 3.2.4 and 3.2.5 of this policy, an ultra-low emission vehicle (ULEV) is one having less than 75 grams of CO<sub>2</sub> per kilometre (g/km) from the tail pipe.
- 3.2.7 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 9 years of age.
- 3.2.8 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.
- 3.2.9 The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

## Vehicles written off for insurance purposes

- 3.2.10 The Council will not licence any vehicle to be used as a private hire vehicle if it has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes.

## Vehicles licensed by other local authorities

- 3.2.11 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

## Documentation required to be submitted

- 3.2.12 Before a licence to use a vehicle as a private hire vehicle can be issued, the applicant must have submitted all of the following:
- Completed application form
  - A current MOT certificate
  - Valid insurance showing the vehicle is insured for use for hire and reward for private hire hire or in accordance with a private hire licence.
  - The V5C certificate for the vehicle or other equivalent proof of ownership
  - A certificate confirming the vehicle has been found fit for use at the Council's appointed testing station for hackney carriage and private hire vehicles.
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.2.13 "Relevant individuals" means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.

## 3.3.0 Renewing a licence to use a vehicle as a Hackney Carriage – Application Requirements

3.3.1 An applicant seeking to renew a licence to use a vehicle as a hackney carriage must ensure the vehicle continues to meet the Council's requirements set out at paragraph 3.1.1 of this policy.

### Requirements as to the age of the vehicle upon renewal of licence

3.3.2 A licence to use a vehicle as a hackney carriage will not be renewed if the vehicle concerned does not meet the following requirements at the time that the existing licence is due to expire:

3.3.3 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 18 years of age.

3.3.4 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle is not subject to any age limit.

3.3.5 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

3.3.6 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 18 years of age.

3.3.7 For the purposes of paragraphs 3.3.5 and 3.3.6 of this policy, an ultra-low emission vehicle (ULEV) is one having less than 75 grams of CO<sub>2</sub> per kilometre (g/km) from the tail pipe.

3.3.8 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.

3.3.9 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

3.3.10 The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

### Vehicles written off for insurance purposes

3.3.11 The Council will not renew any licence to use a vehicle as a hackney carriage if the vehicle has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes.

### Vehicles licensed by other local authorities

3.3.12 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

Documentation to be submitted:

- 3.3.13 Before a licence to use a vehicle as a hackney carriage can be renewed, the applicant must have submitted all of the following:
- Completed application form
  - A current MOT certificate
  - Valid insurance showing the vehicle is insured for use for hire and reward for public hire or in accordance with a hackney carriage licence.
  - The V5C certificate for the vehicle.
  - A certificate from the Council's appointed testing station for hackney carriage and private hire vehicles confirming the vehicle remains fit for use.
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.3.14 "Relevant individuals" means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.
- 3.3.15 If an application to renew a licence to use a vehicle as a hackney carriage is received more than 14 days after the previous licence has expired, the application will be treated as if it were an application to licence the vehicle to be used as a hackney carriage for the first occasion and will have to meet the stated criteria for such vehicles.

## **3.4.0 Renewing a licence to use a vehicle as a Private Hire Vehicle Application Requirements**

3.4.1 An applicant seeking to renew a licence to use a vehicle as a private hire vehicle must ensure the vehicle continues to meet the Council's requirements set out at paragraph 3.2.1 of this policy.

### Requirements as to the age of the vehicle upon renewal of licence

3.4.2 A licence to use a vehicle as a private hire vehicle will not be renewed if the vehicle concerned does not meet the following requirements at the time that the existing licence is due to expire:

3.4.3 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 18 years of age.

3.4.4 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle is not subject to any age limit.

3.4.5 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

3.4.6 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 18 years of age.

3.4.7 For the purposes of paragraphs 3.4.5 and 3.4.6 of this policy, an ultra-low emission vehicle (ULEV) is one having less than 75 grams of CO<sub>2</sub> per kilometre (g/km) from the tail pipe.

3.4.8 Where the vehicle is not powered fully by electricity or hydrogen fuel cell or an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.

3.4.9 Where the vehicle is not powered fully by electricity or hydrogen fuel cell or an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

3.4.10 The above dates will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

### Vehicles written off for insurance purposes

3.4.11 The Council will not renew any licence to use a vehicle as a private hire vehicle if the vehicle has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes.

### Vehicles licensed by other local authorities

3.4.12 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

Documentation to be submitted:

- 3.4.13 Before a licence to use a vehicle as a private hire vehicle can be renewed, the applicant must have submitted all of the following:
- Completed application form
  - A current MOT certificate
  - Valid insurance showing the vehicle is insured for use for hire and reward for private hire or in accordance with a private hire licence.
  - The V5C certificate for the vehicle.
  - A certificate from the Council's appointed testing station for hackney carriage and private hire vehicles confirming the vehicle remains fit for use.
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.4.14 "Relevant individuals" means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.
- 3.4.15 If an application to renew a licence to use a vehicle as a private hire vehicle is received more than 14 days after the previous licence has expired, the application will be treated as if it were an application to licence the vehicle to be used as a private hire vehicle for the first occasion and will have to meet the stated criteria for such vehicles.

## **3.5.0 Obtaining a licence to use a vehicle as a Hackney Carriage on a temporary basis Application Requirements**

3.5.1 This section applies where an application is being made to licence a vehicle for a short period of time as a temporary replacement for a vehicle that is licensed to be used as a hackney carriage but that needs to be replaced for a short period of time as it has become temporarily unfit for use – for example due to accident damage.

### Vehicle criteria

3.5.2 An applicant for a licence to use a vehicle as a hackney carriage on a temporary basis must ensure the vehicle meets the criteria set out in paragraphs 3.1.1 to 3.1.9 of this policy.

3.5.3 Where the vehicle that is being temporarily replaced is a vehicle that is capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the temporary replacement vehicle must also be capable of doing so.

### Accident reporting

3.5.4 If the vehicle being temporarily replaced has been involved in an accident, the proprietor of that vehicle must have reported that accident to the Council in writing before an application for a temporary replacement vehicle can be accepted.

### Vehicles written off for insurance purposes

3.5.5 The Council will not licence any vehicle to be used as a hackney carriage if it has been graded as a Category A, Category B or Category C or Category S write-off.

### Vehicles licensed by other local authorities

3.5.6 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

### Documentation to be submitted:

3.5.7 Before a licence to use a vehicle as a hackney carriage can be issued, the applicant must have submitted all of the following:

- Completed application form
- A current MOT certificate
- Valid insurance showing the vehicle is insured for use for hire and reward for public hire or in accordance with a hackney carriage licence.
- The V5C certificate for the vehicle or other equivalent proof of ownership
- A certificate confirming the vehicle has been found fit for use at the Council's appointed testing station for hackney carriage and private hire vehicles.
- The appropriate application fee

### Duration of licence

3.5.8 A licence issued in accordance with this section will be issued for a period of no more than four months and will then expire.

## **3.6.0 Obtaining a licence to use a vehicle as a Private Hire Vehicle on a temporary basis Application Requirements**

3.6.1 This section applies where an application is being made to licence a vehicle for a short period of time as a temporary replacement for a vehicle that is licensed to be used as a private hire vehicle but that needs to be replaced for a short period of time as it has become temporarily unfit for use – for example due to accident damage.

### Vehicle criteria

3.6.2 An applicant for a licence to use a vehicle as a private hire vehicle on a temporary basis must ensure the vehicle meets the following criteria set out in paragraphs 3.2.1 to 3.2.9 above.

3.6.3 Where the vehicle that is being temporarily replaced is a vehicle that is capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the temporary replacement vehicle must also be capable of doing so.

### Accident reporting

3.6.4 If the vehicle being temporarily replaced has been involved in an accident, the proprietor of that vehicle must have reported that accident to the Council in writing before an application for a temporary replacement vehicle can be accepted.

### Vehicles written off for insurance purposes

3.6.5 The Council will not licence any vehicle to be used as a hackney carriage if it has been graded as a Category A, Category B or Category C or Category S write-off.

### Vehicles licensed by other local authorities

3.6.6 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

### Documentation to be submitted:

3.6.7 Before a licence to use a vehicle as a private hire vehicle can be issued, the applicant must have submitted all of the following:

- Completed application form
- A current MOT certificate
- Valid insurance showing the vehicle is insured for use for hire and reward for private hire or in accordance with a private hire licence.
- The V5C certificate for the vehicle or other equivalent proof of ownership
- A certificate confirming the vehicle has been found fit for use at the Council's appointed testing station for hackney carriage and private hire vehicles.
- The appropriate application fee

### Duration of licence

3.6.8 A licence issued in accordance with this section will be issued for a period of no more than four months and will then expire.

## **3.7.0 Transferring a licence to use a vehicle as a Hackney Carriage (Change of Proprietor) Application Requirements**

### Documentation to be submitted:

3.7.1 An applicant for the transfer of a licence to use a vehicle as a hackney carriage must submit:

- Completed application form
- Valid insurance showing the vehicle is insured for use for hire and reward for public hire or in accordance with a hackney carriage licence.
- Written confirmation from the existing licence holder that they have sold the vehicle concerned to the applicant for the transfer.
- The V5C certificate for the vehicle or other equivalent proof of ownership
- The appropriate application fee
- A basic criminal record disclosure certificate in respect of all relevant individuals.

3.7.2 “Relevant individuals” means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.

3.7.3 Where a licence is transferred to a new proprietor, the licence will expire on the same date as it would have if the licence had not been transferred.

## **3.8.0 Transferring a licence to use a vehicle as a Private Hire Vehicle (Change of Proprietor) Application Requirements**

### Documentation to be submitted:

- 3.8.1 An applicant for the transfer of a licence to use a vehicle as a private hire vehicle must submit:
- Completed application form
  - Valid insurance showing the vehicle is insured for use for hire and reward for private hire or in accordance with a private hire licence.
  - Written confirmation from the existing licence holder that they have sold the vehicle concerned to the applicant for the transfer.
  - The V5C certificate for the vehicle or other equivalent proof of ownership
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.8.2 “Relevant individuals” means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.
- 3.8.3 Where a licence is transferred to a new proprietor, the licence will expire on the same date as it would have if the licence had not been transferred.

## **3.9.0 Changing the vehicle that you are licensed to use as a hackney carriage**

- 3.9.1 If a person who holds a licence to use a vehicle as a hackney carriage wishes to change the vehicle that they are licensed to use for this purpose, they must submit an application in accordance with the requirements for submitting an application to licence a vehicle as a hackney carriage for the first occasion.

## **3.10.0 Changing the vehicle that you are licensed to use as a private hire vehicle**

- 3.10.1 If a person who holds a licence to use a vehicle as a private hire vehicle wishes to change the vehicle that they are licensed to use for this purpose, they must submit an application in accordance with the requirements for submitting an application to licence a vehicle as a private hire vehicle for the first occasion.

## **3.11.0 Consideration of applications to licence vehicles that do not meet the required criteria**

- 3.11.1 This section applies where an application is received for the grant or renewal of a licence to use a vehicle as a hackney carriage or a private hire vehicle and the vehicle concerned does not meet the required criteria detailed in this policy.
- 3.11.2 The application will be determined at a hearing of the Council's Licensing Sub-Committee.
- 3.11.3 In determining the application, the starting point will be that the application should be refused unless the vehicle is of such an exceptional standard as to justify a departure from this policy.
- 3.11.4 In considering whether the vehicle is of an exceptional standard, regard will be had to:
- The age of the vehicle
  - The mileage of the vehicle
  - The make, model and specifications of the vehicle
  - The emissions standards met by the vehicle
  - The MOT and service history of the vehicle
  - The interior and exterior condition of the vehicle
  - Whether the vehicle has any exceptional features or performs or is designed for any specific function or use that the majority of other vehicles cannot perform.
- 3.11.5 The financial and other personal circumstances of the applicant for the grant or renewal of a licence will not be taken into account when reaching a decision.
- 3.11.6 The primary and overriding consideration will be whether the vehicle is safe and fit for use.

## **3.12.0 The Fit and Proper Person Test – Hackney Carriage and Private Hire Vehicle Proprietors**

- 3.12.1 As well as the suitability of the vehicle, in determining whether to grant a licence to use a vehicle as a hackney carriage / private hire vehicle, those making the decision on behalf of the Council will consider whether the applicant is a fit and proper person to be issued such a licence.
- 3.12.2 A person who has already been deemed fit and proper by the Council to hold a licence to drive hackney carriage and/or private hire vehicles will automatically be considered a fit and proper person to hold a licence to use a vehicle as a hackney carriage / private hire vehicle.
- 3.12.3 In considering whether an applicant or licence holder is fit and proper, those making the decision on behalf of the Council will ask themselves the following question:
- 3.12.4 *“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that they would not allow it to be used for criminal or other unacceptable purposes, and be confident that they would maintain it to an acceptable standard throughout the period of the licence?”*
- 3.12.5 If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence. An applicant or licence holder will not be given “the benefit of the doubt”. If those making the decision are only “50/50” as to whether the applicant or licence holder is fit and proper, they will not be licensed.
- 3.12.6 When considering this those making the decision on behalf of the Council will consider:
- whether an applicant has met the Council’s application requirements
  - Any information revealed by basic disclosure relating to the applicant
  - Any information revealed under Common Law Police Disclosure provisions
  - Any information revealed during checks on NR3
  - Any information regarding complaints received about an applicant or licence holder
- 3.12.7 In considering the information above, those making a decision on behalf of the Council will have regard to Council’s guidelines on the assessment of previous convictions which are shown at Annex A.
- 3.12.8 The financial and other personal circumstances of the applicant or licence holder will not be taken into account when reaching a decision.
- 3.12.9 In the case of an application from a company, the Council will apply the “fit and proper person” test to all directors of that company.
- 3.12.10 In the case of an application from a number of joint proprietors, the Council will apply the “fit and proper person” test to each proprietor identified in the application for the licence.

### Delegated Decisions

- 3.12.11 Where the applicant has met the Council’s application requirements and no information has been revealed by any of the checks set out above that brings into question whether the applicant is a fit and proper person, officers have delegated authority to grant applications and issue licences to applicants.

3.12.12 Authority is also delegated to officers to grant licences and issue licences to applicants whose DBS certificate reveals a single isolated conviction or caution that is more than five years older than any relevant rehabilitation period set out in the Council's guidelines on the assessment of previous convictions shown at Annex A.

3.12.13 For example, authority is delegated to officers to grant a licence where the applicant has an isolated conviction or caution for an offence of violence against the person, or connected with any offence of violence, once 15 years have elapsed since the completion of any sentence imposed.

#### Referral to Licensing Sub-Committee

3.12.14 An application cannot be dealt with by officers under delegated powers where:

- An applicant's basic disclosure certificate reveals more than one previous conviction or caution
- An applicant's basic disclosure certificate reveals an isolated conviction or caution that is less than five years older than any relevant rehabilitation period set out in the Council's guidelines on the assessment of previous convictions shown at Annex A.
- Information has been provided about an applicant under Common Law Police Disclosure provisions
- An applicant has previously had an application for a licence to drive hackney carriage or private hire vehicles refused
- An applicant has previously had a licence to drive hackney carriage or private hire vehicles suspended or revoked

3.12.15 Where an application cannot be determined by officers under delegated powers, the applicant may request that their application is determined by a Licensing Sub-Committee.

3.12.16 Notwithstanding the previous paragraph, each case will be considered on its merits and where there is any doubt about whether an applicant is a fit and proper person, then the application will be referred to a Licensing Sub-Committee for determination.

## **3.13.0 Licence Conditions**

- 3.13.1 All licences issued authorising a person to use a vehicle as a hackney carriage will be granted subject to the standard conditions shown at Annex C.
- 3.13.2 All licences issued authorising a person to use a vehicle as a private hire vehicle will be granted subject to the standard conditions shown at Annex D.
- 3.13.3 In addition to these standard conditions, individually tailored conditions may be attached to specific licences on a case by case basis where the circumstances justify this approach.

## **3.14.0 CCTV cameras in hackney carriage and private hire vehicles**

3.14.1 The Council recognises that CCTV systems can act as an additional safeguard, providing protection, confidence and reassurance to the public when they are travelling in a hackney carriage or private hire vehicle as well as to drivers, who can also be victims of violence and abuse.

3.14.2 The Council therefore will allow the proprietor of any vehicle that it has authorised to be used as a hackney carriage or private hire vehicle to install CCTV cameras in their vehicle subject to the following requirements:

- No installation of a CCTV system shall take place within a licensed vehicle unless the proprietor of the vehicle has notified the Council in advance.
- All CCTV systems which are installed into licensed vehicles must be compliant with the requirements of the Data Protection Act 2018. The system must also be compliant with the Information Commissioner's requirements in respect of registering the system and the capturing, storing, retaining and using any recorded images.

## **3.15.0 Inspection of hackney carriage and private hire vehicles**

- 3.15.1 In order to ensure the safety of the public, the Council will do all it can to ensure that the vehicles it licences to be used as hackney carriages or private hire vehicles are safe and fit for use.

### Programmed Inspections of Licensed Vehicles

- 3.15.2 A licence to use a vehicle as a hackney carriage or private hire vehicle will not be granted or renewed unless the vehicle has been inspected and found to be safe and fit for use in accordance with the Council's criteria for licensing vehicles for such use.
- 3.15.3 Where a vehicle is more than seven years of age on the date the licence was issued, it must also be presented for further inspection within a four-week period beginning on the date six months after the licence issue date.
- 3.15.4 The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

### Other inspections of Licensed Vehicles

- 3.15.5 As well as these programmed inspections of licensed vehicles, the Council has the power at all reasonable times to inspect and test any hackney carriage or private hire vehicle it has licensed to ascertain its fitness for use.
- 3.15.6 Therefore from time to time, the proprietor or driver of a licensed vehicle may be directed to present their vehicle for inspection. Failure to present the vehicle for inspection as directed may lead to formal action being taken against the relevant proprietor or driver.

## **3.16.0 Powers to suspend and revoke vehicle licences**

### Suspension of a licence on grounds of vehicle condition

- 3.16.1 The Local Government (Miscellaneous Provisions) Act 1976 provides authorised officers of the Council with two mechanisms for suspending the licence of a vehicle that is found to be unfit for use.
- 3.16.2 Section 68 of the Act provides a power to suspend the licence with immediate effect until such time as an authorised officer is satisfied the vehicle is fit for use again.
- 3.16.3 Section 60 of the Act provides a further power to suspend a licence for a vehicle, on any of the following grounds:—
- (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
  - (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
  - (c) any other reasonable cause.
- 3.18.4 However, a decision to suspend a licence under section 60 does not take effect until after the period given for appealing against the decision has elapsed or, if an appeal is lodged, until the appeal has been determined by the relevant court.
- 3.16.5 Therefore, in order to ensure the safety of the travelling public, any suspension of a licence that needs to be undertaken due to the relevant vehicle being unfit for use, will normally be undertaken using the powers afforded by section 68.

### Revocation of a licence on grounds of vehicle condition

- 3.16.6 If a licence is suspended in accordance with section 68 of the Act and the vehicle is not deemed to be fit for use again within a period of two months, the Act states that the licence is deemed to have been revoked.
- 3.16.7 Section 60 of the Act provides a further power to revoke a licence for a vehicle, on any of the following grounds:—
- (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
  - (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
  - (c) any other reasonable cause.
- 3.16.8 The Council revoke any licence issued authorising a vehicle to be used as a hackney carriage or private hire vehicle if that vehicle is graded as a Category A, Category B or Category C or Category S write-off.

## Applying for a licence to use a vehicle as a hackney carriage or private hire vehicle after a licence has been deemed to be revoked in accordance with section 68

- 3.16.9 This section applies where a licence to use a vehicle has been deemed to have been revoked by virtue of section 68 of the Local Government (Miscellaneous Provisions) Act 1976.
- 3.16.10 The proprietor may apply for a licence to use the same vehicle for the same purpose as it was previously licensed. The proprietor must provide all the relevant documents required when applying to licence a vehicle as a hackney carriage or private hire vehicle for the first occasion and the vehicle must meet the relevant criteria with the exception of having to be vehicle of a particular categorisation or age.
- 3.16.11 An application made in reliance on this section of the policy must be made within a period of 2 months from the date that the licence was deemed to have been revoked.

## Suspension and revocation of a licence on grounds of licence holder suitability

- 3.16.12 Where information comes to light that brings into question whether the holder of a licence remains a fit and proper person, their licence may be referred to a Licensing Sub-Committee for review.
- 3.16.13 Such information could include:
- Information revealed by DBS certificates or DBS update checks carried out in relation to the licence holder
  - Information revealed under Common Law Police Disclosure
  - Information revealed by checks undertaken on the licence holder's DVLA driving licence records
  - Information regarding immigration penalties paid by the licence holder
  - Information revealed during checks on NR3
  - Information regarding complaints received about a licence holder
  - Information received from the licence holder themselves
- 3.16.14 When conducting a review of a licence to use a vehicle as a hackney carriage or private hire vehicle, the Licensing Sub-Committee will treat each case on its merits and have regard to all of the evidence and information that they are provided and will then reach a decision as to whether they believe the licence holder remains a fit and proper person to hold a licence and which of the following steps (if any) needs to be taken:
- Issue a warning to the licence holder
  - To require the licence holder to undertake additional training / assessments
  - To suspend the licence
  - To revoke the licence
- 3.16.15 Any decision to suspend or revoke a licence under section 60 does not take effect until after the period given for appealing against the decision has elapsed or, if an appeal is lodged, until the appeal has been determined by the relevant court.

## **3.17.0 Position on Maintenance of a List of Designated Wheelchair Accessible Vehicles**

- 3.17.1 Sections 165 – 167 of the Equality Act 2010 came into force in April 2017. The legislation places obligations on the drivers of designated wheelchair accessible vehicles to:
- transport wheelchair users in their wheelchair
  - provide passengers in wheelchairs with appropriate assistance
  - charge wheelchair users the same as non-wheelchair users
- 3.17.2 Drivers found to be discriminating against wheelchair users can be fined up to £1,000. Drivers may also face having their taxi or private hire vehicle licence suspended or revoked by their licensing authority. Drivers unable to provide assistance for medical reasons are able to apply to the Council for an exemption from the requirements.
- 3.17.3 The new powers only apply in those areas where the licensing authority has decided to maintain a list of designated vehicles under section 167 of the Equality Act 2010, and where the driver is driving a vehicle included on the list of designated vehicles maintained by the licensing authority.
- 3.17.4 Bromsgrove District Council has adopted a position statement on sections 165 – 167 of the Equality Act 2010, which can be seen at Annex E.

## **3.18.0 Exempting Proprietor's from Displaying External Licence Plate on a Private Hire Vehicle**

- 3.18.1 The Council has adopted a policy on the very limited circumstances where it will provide an exemption to the proprietor of a private hire vehicle from the requirement to display an external licence plate on the vehicle. This policy can be seen at Annex F.

### PROPOSED ALTERNATIVE WORDING

#### Vehicles written off for insurance purposes

- 3.3.11 The Council will not renew any licence to use a vehicle as a hackney carriage if the **relevant** vehicle has ~~been~~ **become** graded as a Category A, Category B or Category C or Category S write-off for insurance purposes **after the date on which the vehicle was first licensed by the Council to be used as a hackney carriage.**

#### Vehicles written off for insurance purposes

- 3.4.11 The Council will not renew any licence to use a vehicle as a private hire vehicle if the **relevant** vehicle has ~~been~~ **become** graded as a Category A, Category B or Category C or Category S write-off for insurance purposes **after the date on which the vehicle was first licensed by the Council to be used as a private hire vehicle.**

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### Consultation Questions and Responses

Q1. Do you agree with the Council amending paragraphs 3.3.11 and 3.4.11 of its Hackney Carriage and Private Hire Licensing Policy to the proposed wording set out above?

<b>YES</b>	11	78.6%
<b>NO</b>	3	21.4%
<b>DON'T KNOW</b>	0	0

You can give reasons for your answer here if you wish:

But ALL other councils must do the same, otherwise Bromsgrove will continue to be overrun with cars from other councils that don't care about write and wrong. But just money.

The vehicle's are not safe and might fall apart in another crash, I would not want a family member of mine in one. Remember Paris .

It appears clear to me - if it "becomes" thus categorised since it was previously granted a licence it is no longer eligible. Anything previously granted will continue to be considered eligible.

Whilst we recognise the need to take action against vehicles written off during their current license, we feel that it misses making the point very clear that the new policy applies to new vehicles as opposed to existing licensed vehicles (grandfather rights)

Makes sense and avoids having to hold separate Licencing Hearings to manage this process.

As the primary purpose of the legislation is to promote the safety of both road users and fare paying passengers, my view is that no vehicles that have been graded as either category C or S write-offs should be licensed for use as Hackney carriages or Private Hire Vehicles.

Q2. In what capacity are you responding to this consultation (select all that apply)?

Licensed taxi / private hire driver	8
Licensed private hire operator	0
Councillor	3
Member of the public	2
Other (please specify):	3

Others specified:

Potential passenger
National Private Hire and Taxi Association
Police



**Bromsgrove**  
District Council

[www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk)

# **DRAFT Hackney Carriage and Private Hire Licensing Policy**



**Version 1.2 - Revised with effect from: 12<sup>th</sup> November 2024**

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## 1.0

### Introduction

- 1.1 Hackney carriage (taxi) and private hire vehicles are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver's hands.
- 1.2 Bromsgrove District Council is responsible for the issuing of licences in respect of those vehicles used as hackney carriages and private hire vehicles as well as those who drive the vehicles and, in the case of private hire vehicles, those who operate them by inviting and accepting bookings.
- 1.3 In all there are five categories of licence that the Council is responsible for issuing:
- Licence to use a vehicle as a hackney carriage
  - Licence to use a vehicle as a private hire vehicle
  - Licence to drive hackney carriage
  - Licence to drive private hire vehicles
  - Licence to operate private hire vehicles
- 1.4 In relation to all of these categories of licences, the Council has a discretion over whether to grant a licence to an applicant or not.
- 1.5 The aim of local authority licensing of the hackney carriage and private hire trades is to protect the public by ensuring vehicles are safe and fit for use and that drivers and operators are suitable people to undertake these roles.
- 1.6 The Council is also responsible for monitoring the activities of the hackney carriage and private hire trades and taking appropriate action if the standards expected of those to whom it has issued a licence are not maintained.
- 1.7 This document sets out the policies that the Council has adopted in respect of carrying out its hackney carriage and private hire licensing functions and the standard conditions that the Council will attach to the licences that it issues. The primary and overriding objective of the Council in formulating this policy is to protect the public.
- 1.8 In formulating these policies and licence conditions, the Council has had due regard to the statutory guidance issued by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017. The recommendations in the statutory guidance have been implemented except where there is a compelling local reason not to.
- 1.9 The Council has also carried out consultation at a local level before adopting the policies and licence conditions detailed in this document. The Council will always consult on proposed changes in licensing rules that may have a significant impact on passengers and / or the trade.
- 1.10 The Council will conduct a review of this policy at least every five years. The policy may also carry out interim reviews in light of any future developments in legislation, guidance and in the way that the hackney carriage and private hire trades conduct their business.

## **2.0 Licences to Drive Hackney Carriage and / or Private Hire Vehicles**

### **2.1.0 Types of Licence Issued**

2.1.1 The Council will normally only issue the following two types of licence:

- A licence to drive hackney carriage and private hire vehicles (a “dual licence”)
- A licence to drive private hire vehicles only

2.1.2 Where a person held a licence issued by Bromsgrove District Council to drive hackney carriage vehicles only at the time this policy took effect, they will be granted a licence that authorises them to drive both hackney carriage and private hire vehicles when they next renew their licence.

2.1.3 The Council will, at the request of an applicant, grant a licence to drive hackney carriage vehicles only, but the application requirements for a licence of this nature will be exactly the same as those for a dual licence.

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## 2.2.0 Application Requirements – New Applicants

2.2.1 An applicant for a licence to drive hackney carriage and / or private hire vehicles must:

- Have the right to work in the United Kingdom (UK)
- Have held a UK driving licence for a period of at least 3 year(s).
- Be over the age of 21.
- Have been awarded the Worcestershire Taxi and Private Hire Competency Certificate
- Be deemed by the Council to be a “fit and proper person” to hold a licence

2.2.2 Before a licence to drive hackney carriage and/or private hire vehicles can be issued, the applicant must have submitted all of the following:

- Completed application form
- Worcestershire Taxi and Private Hire Competency Certificate
- An enhanced Criminal Record Check Certificate issued by the Disclosure and Barring Service (DBS) along with proof that they have subscribed to the DBS “Update Service”
- A valid DVLA licence check code
- Proof of their right to work in the United Kingdom
- A recent passport sized photograph of themselves
- Application fee
- A copy of the Council’s prescribed medical fitness certificate, which has been completed by a registered medical practitioner with access to your medical records and history.

2.2.3 In addition, those wishing to be granted a licence to drive hackney carriage vehicles must have passed the Council’s topographical knowledge test.

2.2.4 Any person who has lived outside of the UK for a period of three or more continuous months after they reached the age of 18 must provide criminal records information or a “Certificate of Good Character” from each country outside the UK in which they have lived.

2.2.5 In the interests of public safety, the Council will not licence any individual that appears on either of the children and adult barred lists maintained by the Disclosure and Barring Service (DBS).

2.2.6 The Council will not issue a licence to any person who does not meet the DVLA’s “Group 2 Medical Standards” as set out in the DVLA publication “Assessing fitness to drive – a guide for medical professionals.”

2.2.7 Licences to drive hackney carriage and / or private hire vehicles will normally be issued for a period of 3 years and will then expire. Licences of a shorter duration may be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, or where required (e.g. when the licence holder’s leave to remain in the UK is time-limited).

## **2.3.0 Worcestershire Taxi and Private Hire Competency Certificate**

2.3.1 To obtain the Worcestershire Taxi and Private Hire Competency Certificate, a person must demonstrate they possess a suitable level of skills, knowledge and understanding in the following key areas:

- English language proficiency – both spoken and written
- Numeracy
- Legislation and policies affecting taxi and private hire licence holders
- Practical driving proficiency
- Safeguarding – including Child Sexual Exploitation, County Lines and Modern Slavery
- Equalities – including assisting passengers with disabilities
- Customer care

2.3.2 The Worcestershire Taxi and Private Hire Competency Certificate is delivered on the Council's behalf by an approved training provider that is suitably qualified and experienced.

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- 2.4.0 Previous Licensing History and Use of the National Register of Revocations and Refusals (NR3)**
- 2.4.1 Applicants and licence holders will be required to disclose if they hold or have previously held a licence with another authority. An application will also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.
- 2.4.2 The National Register of Revocations and Refusals (NR3) allows Councils to record details of where a licence to drive hackney carriage and/or private hire vehicles has been refused or revoked and allows local authorities to check new applicants against the register.
- 2.4.3 Details of all applicants for licences to drive hackney carriage and/or private hire vehicles will be checked against NR3 to confirm that there is no record of them having been revoked or refused elsewhere.
- 2.4.4 Where this search reveals that the applicant has had a licence refused or revoked elsewhere, further information will be sought from the relevant Council and this information will be considered in determining whether or not the individual is a fit and proper person to be granted a licence.
- 2.4.5 The Council will also use NR3 to record details of licences that have been refused or revoked by the Council.

## **2.5.0 The Fit and Proper Person Test – Drivers of Hackney Carriage and Private Hire Vehicles**

- 2.5.1 The Council cannot grant a licence to someone to permit them to drive hackney carriage and/or private hire vehicles unless they are satisfied that that person is a fit and proper person to hold such a licence.
- 2.5.2 In considering whether an applicant or licence holder is fit and proper, those making the decision on behalf of the Council will ask themselves the following question:
- 2.5.3 *Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?*
- 2.5.4 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence. An applicant or licence holder will not be given "the benefit of the doubt". If those making the decision are only "50/50" as to whether the applicant or licence holder is fit and proper, they will not be licensed.
- 2.5.5 In determining whether an applicant or licence holder is fit and proper, those making the decision on behalf of the Council will consider:
- Whether an applicant has met the Council's application requirements
  - Any information revealed by DBS certificates relating to the applicant / licence holder
  - Any information revealed under Common Law Police Disclosure provisions
  - Any information revealed by checks undertaken on the applicant or licence holder's DVLA driving licence records
  - Any information revealed on the medical fitness certificate
  - Any information revealed during checks on NR3
  - Any information regarding complaints received about an applicant or licence holder
- 2.5.6 In considering the information above, those making a decision on behalf of the Council will have regard to Council's guidelines on the assessment of previous convictions which are shown at Annex A.
- 2.5.7 The financial and other personal circumstances of the applicant or licence holder will not be taken into account when reaching a decision.

### Delegated Decisions

- 2.5.8 Where the applicant has met the Council's application requirements and no information has been revealed by any of the checks set out above that brings into question whether the applicant is a fit and proper person, officers have delegated authority to grant applications and issue licences to applicants.
- 2.5.9 Authority is also delegated to officers to grant applications and issue licences to applicants who have no more than 6 current penalty points on their DVLA driving licence.
- 2.5.10 Authority is also delegated to officers to grant licences and issue licences to applicants whose DBS certificate reveals a single isolated conviction or caution that is more than five years older than any relevant rehabilitation period set out in the Council's guidelines on the assessment of previous convictions shown at Annex A.

2.5.11 For example, authority is delegated to officers to grant a licence where the applicant has an isolated conviction or caution for an offence of violence against the person, or connected with any offence of violence, once 15 years have elapsed since the completion of any sentence imposed.

## Referral to a Licensing Sub-Committee

2.5.12 An application cannot be determined by officers under delegated powers where:

- An applicant has more than 6 points on their DVLA driving licence
- An applicant's DBS certificate reveals more than one previous conviction / caution
- An applicant's DBS certificate reveals an isolated conviction or caution that is less than five years older than any relevant rehabilitation period set out in the Council's guidelines on the assessment of previous convictions shown at Annex A.
- Information has been provided about an applicant under Common Law Police Disclosure provisions
- An applicant does not appear to meet the DVLA Group 2 Medical Standards
- An applicant has previously had an application for a licence to drive hackney carriage or private hire vehicles refused
- An applicant has previously had a licence to drive hackney carriage or private hire vehicles suspended or revoked

2.5.13 Where an application cannot be determined by officers under delegated powers, the applicant may request that their application is determined by a Licensing Sub-Committee.

2.5.14 Notwithstanding the previous paragraph, each case will be considered on its merits and where there is any doubt about whether an applicant is a fit and proper person, then the application will be referred to a Licensing Sub-Committee for determination.

## **2.6.0 DBS Update Service Checks**

- 2.6.1 All those to whom the Council has issued a licence to drive hackney carriage or private hire vehicles must subscribe and remain subscribed to the DBS Update Service. They must also give their consent to the Council carrying out update checks on the status of their DBS certificate throughout the period that they remain licensed.
- 2.6.2 The Council will then carry out regular checks in relation to those individuals to whom it has issued a licence to drive hackney carriage or private hire vehicles, to ensure no new information has come to light since the licence was issued.
- 2.6.3 Where a DBS Update Check reveals that new information is available, the licence holder will be required to co-operate with the requesting of a new DBS certificate.
- 2.6.4 A licence holder who fails to remain subscribed to the DBS Update Service or fails to co-operate with obtaining a new DBS certificate will be subject to a review to determine if they remain a fit and proper person to hold a licence, which could lead to the suspension or revocation of their licence.

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## **2.7.0 Common Law Police Disclosure and Working with the Police**

- 2.7.1 The DBS is not the only source of information that will be considered as part of a fit and proper assessment for the licensing of hackney carriage and private hire vehicle drivers.
- 2.7.2 Common Law Police Disclosure (CLPD) ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 2.7.3 The Council will maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.
- 2.7.4 Any information provided to the Council under CLPD will be reviewed and will be considered when determining whether an individual remains a fit and proper person to hold a licence.
- 2.7.5 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that the Council has a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the Council and the police, action taken by the Council as a result of information received will be fed-back to the police.
- 2.7.6 To further aid the quality of information available to all parties that have a safeguarding duty, where there is a revocation or refusal of a licence on public safety grounds, steps will be taken to advise the Police of this.

## **2.8.0 Referrals to the Disclosure and Barring Service and the Police**

2.8.1 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for the Council to make referrals to the DBS. A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, will be referred to the DBS.

2.8.2 The Council will make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the 'harm test'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

2.8.3 If the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

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## **2.9.0 Application Requirements – Applicants Renewing a Licence**

- 2.9.1 An applicant seeking to renew a licence to drive hackney carriage and/or private hire vehicles must:
- Continue to benefit from the right to work in the United Kingdom (UK)
  - Be deemed by the Council to remain a “fit and proper person” to hold a licence
- 2.9.2 Before a licence to drive hackney carriage and/or private hire vehicles can be renewed, the applicant must have submitted all of the following:
- Completed application form
  - A valid DVLA licence check code
  - Application fee
  - A recent passport sized photograph of themselves
- 2.9.3 In addition, any person who has lived outside of the UK for a period of three or more continuous months since their last licence was issued, must provide criminal records information or a “Certificate of Good Character” from each country outside the UK in which they have lived.
- 2.9.4 In addition any person renewing their licence for the first time after they reach the age of 45, 50, 55 or 60, must provide a copy of the Council’s prescribed medical fitness certificate, which has been completed by a registered medical practitioner with access to their medical records and history.
- 2.9.5 Once a licence holder reaches 65 years of age they will be required to provide a copy of the Council’s prescribed medical fitness certificate, which has been completed by a registered medical practitioner with access to their medical records and history.
- 2.9.6 If an application to renew a licence to drive hackney carriage and/or private hire vehicles is received more than 14 days after the previous licence has expired, the applicant will be treated as if they were applying for a licence to drive hackney carriage and/or private hire vehicles for the first occasion.
- 2.9.7 Licences to drive hackney carriage and / or private hire vehicles will normally be issued for a period of 3 years and will then expire. Licences of a shorter duration may be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, or where required (e.g. when the licence holder’s leave to remain in the UK is time-limited).

## **2.10.0 Amending a licence to drive private hire vehicles so as to authorise the holder of the licence to also drive hackney carriage vehicles**

2.10.1 Where a person who holds a licence to drive private hire vehicles licensed by the Council also wishes to be authorised to drive hackney carriage vehicles, they may apply to amend their licence in the following way.

2.10.2 Before being able to amend their licence the holder must pass the Council's topographical knowledge test.

2.10.3 The licence holder must then submit:

- The relevant application form
- The relevant application fee

2.10.4 When amending a licence to authorise the holder to drive hackney carriage vehicles, the expiry date of the licence will not be changed and the licence will still expire on the date that it would have expired had the application not been made.

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## 2.11.0 Review of Licences Issued to Driver of Hackney Carriage and/or Private Hire Vehicles

2.11.1 As the Council cannot grant a licence to someone to permit them to drive hackney carriage and/or private hire vehicles unless they are satisfied that that person is a fit and proper person to hold such a licence, it therefore follows that they should not continue to licence a person if they are no longer satisfied that they remain a fit and proper person.

2.11.2 Therefore where information comes to light that brings into question whether the holder of a licence remains a fit and proper person, their licence may be referred to a Licensing Sub-Committee for review.

2.11.3 Such information could include:

- Information revealed by DBS certificates or DBS update checks carried out in relation to the licence holder
- Information revealed under Common Law Police Disclosure
- Information revealed by checks undertaken on the licence holder's DVLA driving licence records
- Information revealed on the medical fitness certificate
- Information regarding immigration penalties paid by the licence holder
- Information regarding the licence holder's right to work in the United Kingdom
- Information revealed during checks on NR3
- Information regarding complaints received about a licence holder
- Information received from the licence holder themselves

2.11.4 When conducting a review of a driver's licence, the Licensing Sub-Committee will treat each case on its merits and have regard to all of the evidence and information that they are provided and will then reach a decision as to whether they believe the licence holder remains a fit and proper person to hold a licence and which of the following steps (if any) needs to be taken:

- Issue a warning to the licence holder
- To require the licence holder to undertake additional training / assessments
- To suspend the driver's licence
- To revoke the driver's licence

### Suspending or revoking a licence with immediate effect

2.11.5 In normal circumstances, any decision to suspend or revoke a licence to drive hackney carriage and/or private hire vehicles will not take effect until after the period given for appealing against the decision has elapsed or, if an appeal is lodged, until the appeal has been determined.

2.11.6 However, if it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, then notice of the reasons for this will be given to the driver and the suspension or revocation will take effect when that notice is given to the driver.

2.11.7 Where a Licensing Sub-Committee has decided to suspend or revoke a driver's licence, they will also consider whether the interests of public safety require that suspension or revocation to have immediate effect.

## Suspending a licence with immediate effect on medical grounds under delegated powers

- 2.11.8 If information is received that suggests that a driver is no longer medically fit to act as a driver or a hackney carriage or private hire vehicle the Head of Worcestershire Regulatory Services, in consultation with the Council's Legal Department, will have the delegated authority to immediately suspend a driver's licence without referring the matter to a Licensing Sub-Committee for consideration.
- 2.11.9 Any licence suspended under this section will remain suspended until the licence holder has provided satisfactory evidence that they meet the DVLA's "Group 2 Medical Standards" as set out in the DVLA publication "Assessing fitness to drive – a guide for medical professionals."
- 2.11.10 Once satisfactory evidence of this has been received, the Head of Worcestershire Regulatory Services, in consultation with the Council's Legal Department, will have the delegated authority to lift the suspension without referring the matter to a Licensing Sub-Committee for consideration.
- 2.11.11 Where these delegated powers are used the Chair of the Council's Licensing Committee will be notified as soon as is reasonably practicable.

## Revoking a licence with immediate effect under delegated powers

- 2.11.12 From time to time information may be received about a licence holder that is of such a serious nature that action needs to be taken very quickly to ensure public safety.
- 2.11.13 These circumstances may arise where a licensed driver has been arrested or charged with a serious offence. Serious offences can include but are not limited to:
- Driving or being in charge of a vehicle whilst under the influence of drink or drugs
  - A drug related offence
  - An offence of a sexual nature
  - An offence involving violence
  - An offence involving dishonesty
- 2.11.14 A licence may also need to be revoked with immediate effect where information received raises grave doubts as to the fitness of a driver, regardless of whether criminal charges are brought.
- 2.11.15 In such circumstances the Head of Worcestershire Regulatory Services, in consultation with the Council's Legal Department, will have the delegated authority to immediately revoke a driver's licence without referring the matter to a Licensing Sub-Committee for consideration.
- 2.11.16 Where these delegated powers are used the Chair of the Council's Licensing Committee will be notified as soon as is reasonably practicable.

## Reinstatement of licences revoked with immediate effect under delegated powers

- 2.11.17 This section applies where a driver's licence has been revoked with immediate effect under powers delegated to the Head of Worcestershire Regulatory Services.
- 2.11.18 In exceptional circumstances, where further information comes to light that clearly indicates that that the individual whose licence was revoked in fact remains a fit and proper person, the Head of Worcestershire Regulatory Services, in consultation with the Council's Legal Department, will have the delegated authority to immediately reissue a licence of the type that was revoked to the individual concerned without referring the matter to a Licensing Sub-Committee for consideration.

- 2.11.19 Such exceptional circumstances could for example arise where it comes to light that the initial serious information received did not in fact relate to the licence holder at all and there has been a case of “mistaken identity.”
- 2.11.20 The licence holder will not be required to submit an application or meet any of the requirements normally placed on other individuals applying for a licence for the first time.
- 2.11.21 Any licence reissued in accordance with this section will be issued with the same expiry date as was shown on the licence that was revoked.
- 2.11.22 Where these delegated powers are used the Chair of the Council’s Licensing Committee will be notified as soon as is reasonably practicable.

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## **2.12.0 Licence Conditions**

- 2.12.1 All licences issued authorising a person to drive hackney carriage and / or private hire vehicles will be granted subject to the standard conditions shown at Annex B
- 2.12.2 In addition to these standard conditions, individually tailored conditions may be attached to specific licences on a case by case basis where the circumstances justify this approach.

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## 3.0 Licences to Use a Vehicles as a Hackney Carriage or Private Hire Vehicle

### 3.1.0 **Obtaining a licence to use a vehicle as a Hackney Carriage for the first occasion - Application Requirements**

#### General vehicle requirements

- 3.1.1 An applicant for a licence to use a vehicle as a hackney carriage must ensure the vehicle is a fully enclosed four wheel passenger vehicle with a M.1 or M.2 European Community Whole Vehicle Type Approval (ECWVTA) or a UK Low Volume Approval, or an Individual Vehicle Approval (IVA) and which meets the following criteria meets the following criteria:
- manufactured from new as a right hand drive vehicle;
  - constructed or adapted to seat in comfort at least 4 passengers and not more than 8 passengers;
  - has sufficient doors of sufficient size to allow safe ingress and egress of passengers;
  - where only one passenger door is fitted, that door is on the near-side (kerbside) of the vehicle;
  - has no side facing seats;
  - each provided seat has a minimum width of 407 mm per passenger measured at the narrowest part of the seat and each passenger seat is fitted with a seat belt
  - a distance of 178mm from the back of the seat in front (when in it's rear-most position) to the front of the seat behind.
  - each provided seat is accessible without the need to remove or fold, or tip up any other seat
  - the boot or luggage compartment is of sufficient size to carry a reasonable amount of luggage relative to the seating capacity;
  - the boot or luggage compartment is separated from the passenger compartment by a suitable barrier
  - Vehicles that have been subject to conversion must have appropriate SVA / IVA type approval from VOSA.
  - All window glass must be to the manufacturer's standard specification and must be presented in an unmodified state. Vehicles must not be fitted with any films, foils, privacy glass (entirely black or reflective glass), or any other aftermarket tinting.

#### Vehicle age requirements

- 3.1.2 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.
- 3.1.3 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle is not subject to any age limit.
- 3.1.4 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.
- 3.1.5 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

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- 3.1.6 For the purposes of paragraphs 3.1.4 and 3.1.5 of this policy, an ultra-low emission vehicle (ULEV) is one having less than 75 grams of CO<sub>2</sub> per kilometre (g/km) from the tail pipe.
- 3.1.7 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 9 years of age.
- 3.1.8 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.
- 3.1.9 The above dates will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

## Vehicles written off for insurance purposes

- 3.1.10 The Council will not licence any vehicle to be used as a hackney carriage if it has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes.

## Vehicles licensed by other local authorities

- 3.1.11 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

## Documentation required to be submitted

- 3.1.12 Before a licence to use a vehicle as a hackney carriage can be issued, the applicant must have submitted all of the following:
- Completed application form
  - A current MOT certificate
  - Valid insurance showing the vehicle is insured for use for hire and reward for public hire or in accordance with a hackney carriage licence.
  - The V5C certificate for the vehicle or other equivalent proof of ownership
  - A certificate confirming the vehicle has been found fit for use at the Council's appointed testing station for hackney carriage and private hire vehicles.
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.1.13 "Relevant individuals" means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.

## 3.2.0 Obtaining a licence to use a vehicle as a private hire vehicle for the first occasion - Application Requirements

### General requirements

- 3.2.1 An applicant for a licence to use a vehicle as a private hire vehicle must ensure the vehicle is a fully enclosed four wheel passenger vehicle with a M.1 or M.2 European Community Whole Vehicle Type Approval (ECWVTA) or a UK Low Volume Approval, or an Individual Vehicle Approval (IVA) and which meets the following criteria:
- manufactured from new as a right hand drive vehicle;
  - constructed or adapted to seat in comfort at least 4 passengers and not more than 8 passengers;
  - has sufficient doors of sufficient size to allow safe ingress and egress of passengers;
  - where only one passenger door is fitted, that door is on the near-side (kerbside) of the vehicle;
  - has no side facing seats;
  - each provided seat has a minimum width of 407 mm per passenger measured at the narrowest part of the seat and each passenger seat is fitted with a seat belt
  - a distance of 178mm from the back of the seat in front (when in it's rear-most position) to the front of the seat behind.
  - each provided seat is accessible without the need to remove or fold, or tip up any other seat
  - the boot or luggage compartment is of sufficient size to carry a reasonable amount of luggage relative to the seating capacity;
  - the boot or luggage compartment is separated from the passenger compartment by a suitable barrier
  - Vehicles that have been subject to conversion must have appropriate SVA / IVA type approval from VOSA.
  - All window glass must be to the manufacturer's standard specification and must be presented in an unmodified state. Vehicles must not be fitted with any films, foils, privacy glass (entirely black or reflective glass), or any other aftermarket tinting.

### Vehicle age requirements

- 3.2.2 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.
- 3.2.3 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle is not subject to any age limit.
- 3.2.4 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.
- 3.2.5 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

- 3.2.6 For the purposes of paragraphs 3.2.4 and 3.2.5 of this policy, an ultra-low emission vehicle (ULEV) is one having less than 75 grams of CO<sub>2</sub> per kilometre (g/km) from the tail pipe.
- 3.2.7 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 9 years of age.
- 3.2.8 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.
- 3.2.9 The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

#### Vehicles written off for insurance purposes

- 3.2.10 The Council will not licence any vehicle to be used as a private hire vehicle if it has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes.

#### Vehicles licensed by other local authorities

- 3.2.11 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

#### Documentation required to be submitted

- 3.2.12 Before a licence to use a vehicle as a private hire vehicle can be issued, the applicant must have submitted all of the following:
- Completed application form
  - A current MOT certificate
  - Valid insurance showing the vehicle is insured for use for hire and reward for private hire hire or in accordance with a private hire licence.
  - The V5C certificate for the vehicle or other equivalent proof of ownership
  - A certificate confirming the vehicle has been found fit for use at the Council's appointed testing station for hackney carriage and private hire vehicles.
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.2.13 "Relevant individuals" means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.

## 3.3.0 Renewing a licence to use a vehicle as a Hackney Carriage – Application Requirements

3.3.1 An applicant seeking to renew a licence to use a vehicle as a hackney carriage must ensure the vehicle continues to meet the Council's requirements set out at paragraph 3.1.1 of this policy.

### Requirements as to the age of the vehicle upon renewal of licence

3.3.2 A licence to use a vehicle as a hackney carriage will not be renewed if the vehicle concerned does not meet the following requirements at the time that the existing licence is due to expire:

3.3.3 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 18 years of age.

3.3.4 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle is not subject to any age limit.

3.3.5 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

3.3.6 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 18 years of age.

3.3.7 For the purposes of paragraphs 3.3.5 and 3.3.6 of this policy, an ultra-low emission vehicle (ULEV) is one having less than 75 grams of CO<sub>2</sub> per kilometre (g/km) from the tail pipe.

3.3.8 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.

3.3.9 Where the vehicle is not powered fully by electricity or hydrogen fuel cell, is not an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

3.3.10 The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

### Vehicles written off for insurance purposes

3.3.11 The Council will not renew any licence to use a vehicle as a hackney carriage if the relevant vehicle has become graded as a Category A, Category B or Category C or Category S write-off for insurance purposes after the date on which the vehicle was first licensed by the Council to be used as a hackney carriage.

### Vehicles licensed by other local authorities

3.3.12 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

Documentation to be submitted:

- 3.3.13 Before a licence to use a vehicle as a hackney carriage can be renewed, the applicant must have submitted all of the following:
- Completed application form
  - A current MOT certificate
  - Valid insurance showing the vehicle is insured for use for hire and reward for public hire or in accordance with a hackney carriage licence.
  - The V5C certificate for the vehicle.
  - A certificate from the Council's appointed testing station for hackney carriage and private hire vehicles confirming the vehicle remains fit for use.
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.3.14 "Relevant individuals" means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.
- 3.3.15 If an application to renew a licence to use a vehicle as a hackney carriage is received more than 14 days after the previous licence has expired, the application will be treated as if it were an application to licence the vehicle to be used as a hackney carriage for the first occasion and will have to meet the stated criteria for such vehicles.

## 3.4.0 Renewing a licence to use a vehicle as a Private Hire Vehicle Application Requirements

3.4.1 An applicant seeking to renew a licence to use a vehicle as a private hire vehicle must ensure the vehicle continues to meet the Council's requirements set out at paragraph 3.2.1 of this policy.

### Requirements as to the age of the vehicle upon renewal of licence

3.4.2 A licence to use a vehicle as a private hire vehicle will not be renewed if the vehicle concerned does not meet the following requirements at the time that the existing licence is due to expire:

3.4.3 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 18 years of age.

3.4.4 Where the vehicle is powered fully by electricity or hydrogen fuel cell and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle is not subject to any age limit.

3.4.5 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

3.4.6 Where the vehicle is an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 18 years of age.

3.4.7 For the purposes of paragraphs 3.4.5 and 3.4.6 of this policy, an ultra-low emission vehicle (ULEV) is one having less than 75 grams of CO<sub>2</sub> per kilometre (g/km) from the tail pipe.

3.4.8 Where the vehicle is not powered fully by electricity or hydrogen fuel cell or an ultra-low emission vehicle (ULEV) and **IS NOT** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 12 years of age.

3.4.9 Where the vehicle is not powered fully by electricity or hydrogen fuel cell or an ultra-low emission vehicle (ULEV) and **IS** capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the vehicle must be under 15 years of age.

3.4.10 The above dates will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

### Vehicles written off for insurance purposes

3.4.11 The Council will not renew any licence to use a vehicle as a private hire vehicle if the relevant vehicle has become graded as a Category A, Category B or Category C or Category S write-off for insurance purposes after the date on which the vehicle was first licensed by the Council to be used as a private hire vehicle.

### Vehicles licensed by other local authorities

3.4.12 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

Documentation to be submitted:

- 3.4.13 Before a licence to use a vehicle as a private hire vehicle can be renewed, the applicant must have submitted all of the following:
- Completed application form
  - A current MOT certificate
  - Valid insurance showing the vehicle is insured for use for hire and reward for private hire or in accordance with a private hire licence.
  - The V5C certificate for the vehicle.
  - A certificate from the Council's appointed testing station for hackney carriage and private hire vehicles confirming the vehicle remains fit for use.
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.4.14 "Relevant individuals" means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.
- 3.4.15 If an application to renew a licence to use a vehicle as a private hire vehicle is received more than 14 days after the previous licence has expired, the application will be treated as if it were an application to licence the vehicle to be used as a private hire vehicle for the first occasion and will have to meet the stated criteria for such vehicles.

## **3.5.0 Obtaining a licence to use a vehicle as a Hackney Carriage on a temporary basis Application Requirements**

- 3.5.1 This section applies where an application is being made to licence a vehicle for a short period of time as a temporary replacement for a vehicle that is licensed to be used as a hackney carriage but that needs to be replaced for a short period of time as it has become temporarily unfit for use – for example due to accident damage.

### Vehicle criteria

- 3.5.2 An applicant for a licence to use a vehicle as a hackney carriage on a temporary basis must ensure the vehicle meets the criteria set out in paragraphs 3.1.1 to 3.1.9 of this policy.
- 3.5.3 Where the vehicle that is being temporarily replaced is a vehicle that is capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the temporary replacement vehicle must also be capable of doing so.

### Accident reporting

- 3.5.4 If the vehicle being temporarily replaced has been involved in an accident, the proprietor of that vehicle must have reported that accident to the Council in writing before an application for a temporary replacement vehicle can be accepted.

### Vehicles written off for insurance purposes

- 3.5.5 The Council will not licence any vehicle to be used as a hackney carriage if it has been graded as a Category A, Category B or Category C or Category S write-off.

### Vehicles licensed by other local authorities

- 3.5.6 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

### Documentation to be submitted:

- 3.5.7 Before a licence to use a vehicle as a hackney carriage can be issued, the applicant must have submitted all of the following:
- Completed application form
  - A current MOT certificate
  - Valid insurance showing the vehicle is insured for use for hire and reward for public hire or in accordance with a hackney carriage licence.
  - The V5C certificate for the vehicle or other equivalent proof of ownership
  - A certificate confirming the vehicle has been found fit for use at the Council's appointed testing station for hackney carriage and private hire vehicles.
  - The appropriate application fee

### Duration of licence

- 3.5.8 A licence issued in accordance with this section will be issued for a period of no more than four months and will then expire.

## **3.6.0 Obtaining a licence to use a vehicle as a Private Hire Vehicle on a temporary basis Application Requirements**

3.6.1 This section applies where an application is being made to licence a vehicle for a short period of time as a temporary replacement for a vehicle that is licensed to be used as a private hire vehicle but that needs to be replaced for a short period of time as it has become temporarily unfit for use – for example due to accident damage.

### Vehicle criteria

3.6.2 An applicant for a licence to use a vehicle as a private hire vehicle on a temporary basis must ensure the vehicle meets the following criteria set out in paragraphs 3.2.1 to 3.2.9 above.

3.6.3 Where the vehicle that is being temporarily replaced is a vehicle that is capable of carrying a wheelchair user whilst they remain seated in their wheelchair, the temporary replacement vehicle must also be capable of doing so.

### Accident reporting

3.6.4 If the vehicle being temporarily replaced has been involved in an accident, the proprietor of that vehicle must have reported that accident to the Council in writing before an application for a temporary replacement vehicle can be accepted.

### Vehicles written off for insurance purposes

3.6.5 The Council will not licence any vehicle to be used as a hackney carriage if it has been graded as a Category A, Category B or Category C or Category S write-off.

### Vehicles licensed by other local authorities

3.6.6 The Council will not issue a licence in respect of any vehicle that is already licensed another local authority to be used as either a hackney carriage or private hire vehicle.

### Documentation to be submitted:

3.6.7 Before a licence to use a vehicle as a private hire vehicle can be issued, the applicant must have submitted all of the following:

- Completed application form
- A current MOT certificate
- Valid insurance showing the vehicle is insured for use for hire and reward for private hire or in accordance with a private hire licence.
- The V5C certificate for the vehicle or other equivalent proof of ownership
- A certificate confirming the vehicle has been found fit for use at the Council's appointed testing station for hackney carriage and private hire vehicles.
- The appropriate application fee

### Duration of licence

3.6.8 A licence issued in accordance with this section will be issued for a period of no more than four months and will then expire.

## **3.7.0 Transferring a licence to use a vehicle as a Hackney Carriage (Change of Proprietor) Application Requirements**

### Documentation to be submitted:

- 3.7.1 An applicant for the transfer of a licence to use a vehicle as a hackney carriage must submit:
- Completed application form
  - Valid insurance showing the vehicle is insured for use for hire and reward for public hire or in accordance with a hackney carriage licence.
  - Written confirmation from the existing licence holder that they have sold the vehicle concerned to the applicant for the transfer.
  - The V5C certificate for the vehicle or other equivalent proof of ownership
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.7.2 “Relevant individuals” means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.
- 3.7.3 Where a licence is transferred to a new proprietor, the licence will expire on the same date as it would have if the licence had not been transferred.

## **3.8.0 Transferring a licence to use a vehicle as a Private Hire Vehicle (Change of Proprietor) Application Requirements**

### Documentation to be submitted:

- 3.8.1 An applicant for the transfer of a licence to use a vehicle as a private hire vehicle must submit:
- Completed application form
  - Valid insurance showing the vehicle is insured for use for hire and reward for private hire or in accordance with a private hire licence.
  - Written confirmation from the existing licence holder that they have sold the vehicle concerned to the applicant for the transfer.
  - The V5C certificate for the vehicle or other equivalent proof of ownership
  - The appropriate application fee
  - A basic criminal record disclosure certificate in respect of all relevant individuals.
- 3.8.2 “Relevant individuals” means any person named as a proprietor of the vehicle on the application and in the case of an application made by a limited company, each director of that company. The requirement to provide a basis criminal record disclosure certificate will be waived in respect of any person licensed by the Council to drive hackney carriage and/or private hire vehicles.
- 3.8.3 Where a licence is transferred to a new proprietor, the licence will expire on the same date as it would have if the licence had not been transferred.

## **3.9.0 Changing the vehicle that you are licensed to use as a hackney carriage**

- 3.9.1 If a person who holds a licence to use a vehicle as a hackney carriage wishes to change the vehicle that they are licensed to use for this purpose, they must submit an application in accordance with the requirements for submitting an application to licence a vehicle as a hackney carriage for the first occasion.

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## **3.10.0 Changing the vehicle that you are licensed to use as a private hire vehicle**

- 3.10.1 If a person who holds a licence to use a vehicle as a private hire vehicle wishes to change the vehicle that they are licensed to use for this purpose, they must submit an application in accordance with the requirements for submitting an application to licence a vehicle as a private hire vehicle for the first occasion.

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## **3.11.0 Consideration of applications to licence vehicles that do not meet the required criteria**

- 3.11.1 This section applies where an application is received for the grant or renewal of a licence to use a vehicle as a hackney carriage or a private hire vehicle and the vehicle concerned does not meet the required criteria detailed in this policy.
- 3.11.2 The application will be determined at a hearing of the Council's Licensing Sub-Committee.
- 3.11.3 In determining the application, the starting point will be that the application should be refused unless the vehicle is of such an exceptional standard as to justify a departure from this policy.
- 3.11.4 In considering whether the vehicle is of an exceptional standard, regard will be had to:
- The age of the vehicle
  - The mileage of the vehicle
  - The make, model and specifications of the vehicle
  - The emissions standards met by the vehicle
  - The MOT and service history of the vehicle
  - The interior and exterior condition of the vehicle
  - Whether the vehicle has any exceptional features or performs or is designed for any specific function or use that the majority of other vehicles cannot perform.
- 3.11.5 The financial and other personal circumstances of the applicant for the grant or renewal of a licence will not be taken into account when reaching a decision.
- 3.11.6 The primary and overriding consideration will be whether the vehicle is safe and fit for use.

## **3.12.0 The Fit and Proper Person Test – Hackney Carriage and Private Hire Vehicle Proprietors**

- 3.12.1 As well as the suitability of the vehicle, in determining whether to grant a licence to use a vehicle as a hackney carriage / private hire vehicle, those making the decision on behalf of the Council will consider whether the applicant is a fit and proper person to be issued such a licence.
- 3.12.2 A person who has already been deemed fit and proper by the Council to hold a licence to drive hackney carriage and/or private hire vehicles will automatically be considered a fit and proper person to hold a licence to use a vehicle as a hackney carriage / private hire vehicle.
- 3.12.3 In considering whether an applicant or licence holder is fit and proper, those making the decision on behalf of the Council will ask themselves the following question:
- 3.12.4 *“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that they would not allow it to be used for criminal or other unacceptable purposes, and be confident that they would maintain it to an acceptable standard throughout the period of the licence?”*
- 3.12.5 If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence. An applicant or licence holder will not be given “the benefit of the doubt”. If those making the decision are only “50/50” as to whether the applicant or licence holder is fit and proper, they will not be licensed.
- 3.12.6 When considering this those making the decision on behalf of the Council will consider:
- whether an applicant has met the Council’s application requirements
  - Any information revealed by basic disclosure relating to the applicant
  - Any information revealed under Common Law Police Disclosure provisions
  - Any information revealed during checks on NR3
  - Any information regarding complaints received about an applicant or licence holder
- 3.12.7 In considering the information above, those making a decision on behalf of the Council will have regard to Council’s guidelines on the assessment of previous convictions which are shown at Annex A.
- 3.12.8 The financial and other personal circumstances of the applicant or licence holder will not be taken into account when reaching a decision.
- 3.12.9 In the case of an application from a company, the Council will apply the “fit and proper person” test to all directors of that company.
- 3.12.10 In the case of an application from a number of joint proprietors, the Council will apply the “fit and proper person” test to each proprietor identified in the application for the licence.

### Delegated Decisions

- 3.12.11 Where the applicant has met the Council’s application requirements and no information has been revealed by any of the checks set out above that brings into question whether the applicant is a fit and proper person, officers have delegated authority to grant applications and issue licences to applicants.

- 3.12.12 Authority is also delegated to officers to grant licences and issue licences to applicants whose DBS certificate reveals a single isolated conviction or caution that is more than five years older than any relevant rehabilitation period set out in the Council's guidelines on the assessment of previous convictions shown at Annex A.
- 3.12.13 For example, authority is delegated to officers to grant a licence where the applicant has an isolated conviction or caution for an offence of violence against the person, or connected with any offence of violence, once 15 years have elapsed since the completion of any sentence imposed.

### Referral to Licensing Sub-Committee

- 3.12.14 An application cannot be dealt with by officers under delegated powers where:
- An applicant's basic disclosure certificate reveals more than one previous conviction or caution
  - An applicant's basic disclosure certificate reveals an isolated conviction or caution that is less than five years older than any relevant rehabilitation period set out in the Council's guidelines on the assessment of previous convictions shown at Annex A.
  - Information has been provided about an applicant under Common Law Police Disclosure provisions
  - An applicant has previously had an application for a licence to drive hackney carriage or private hire vehicles refused
  - An applicant has previously had a licence to drive hackney carriage or private hire vehicles suspended or revoked
- 3.12.15 Where an application cannot be determined by officers under delegated powers, the applicant may request that their application is determined by a Licensing Sub-Committee.
- 3.12.16 Notwithstanding the previous paragraph, each case will be considered on its merits and where there is any doubt about whether an applicant is a fit and proper person, then the application will be referred to a Licensing Sub-Committee for determination.

## **3.13.0 Licence Conditions**

- 3.13.1 All licences issued authorising a person to use a vehicle as a hackney carriage will be granted subject to the standard conditions shown at Annex C.
- 3.13.2 All licences issued authorising a person to use a vehicle as a private hire vehicle will be granted subject to the standard conditions shown at Annex D.
- 3.13.3 In addition to these standard conditions, individually tailored conditions may be attached to specific licences on a case by case basis where the circumstances justify this approach.

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## **3.14.0 CCTV cameras in hackney carriage and private hire vehicles**

3.14.1 The Council recognises that CCTV systems can act as an additional safeguard, providing protection, confidence and reassurance to the public when they are travelling in a hackney carriage or private hire vehicle as well as to drivers, who can also be victims of violence and abuse.

3.14.2 The Council therefore will allow the proprietor of any vehicle that it has authorised to be used as a hackney carriage or private hire vehicle to install CCTV cameras in their vehicle subject to the following requirements:

- No installation of a CCTV system shall take place within a licensed vehicle unless the proprietor of the vehicle has notified the Council in advance.
- All CCTV systems which are installed into licensed vehicles must be compliant with the requirements of the Data Protection Act 2018. The system must also be compliant with the Information Commissioner's requirements in respect of registering the system and the capturing, storing, retaining and using any recorded images.

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## **3.15.0 Inspection of hackney carriage and private hire vehicles**

- 3.15.1 In order to ensure the safety of the public, the Council will do all it can to ensure that the vehicles it licences to be used as hackney carriages or private hire vehicles are safe and fit for use.

### Programmed Inspections of Licensed Vehicles

- 3.15.2 A licence to use a vehicle as a hackney carriage or private hire vehicle will not be granted or renewed unless the vehicle has been inspected and found to be safe and fit for use in accordance with the Council's criteria for licensing vehicles for such use.
- 3.15.3 Where a vehicle is more than seven years of age on the date the licence was issued, it must also be presented for further inspection within a four-week period beginning on the date six months after the licence issue date.
- 3.15.4 The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

### Other inspections of Licensed Vehicles

- 3.15.5 As well as these programmed inspections of licensed vehicles, the Council has the power at all reasonable times to inspect and test any hackney carriage or private hire vehicle it has licensed to ascertain its fitness for use.
- 3.15.6 Therefore from time to time, the proprietor or driver of a licensed vehicle may be directed to present their vehicle for inspection. Failure to present the vehicle for inspection as directed may lead to formal action being taken against the relevant proprietor or driver.

## **3.16.0 Powers to suspend and revoke vehicle licences**

## Suspension of a licence on grounds of vehicle condition

- 3.16.1 The Local Government (Miscellaneous Provisions) Act 1976 provides authorised officers of the Council with two mechanisms for suspending the licence of a vehicle that is found to be unfit for use.
- 3.16.2 Section 68 of the Act provides a power to suspend the licence with immediate effect until such time as an authorised officer is satisfied the vehicle is fit for use again.
- 3.16.3 Section 60 of the Act provides a further power to suspend a licence for a vehicle, on any of the following grounds:—
- (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
  - (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
  - (c) any other reasonable cause.
- 3.18.4 However, a decision to suspend a licence under section 60 does not take effect until after the period given for appealing against the decision has elapsed or, if an appeal is lodged, until the appeal has been determined by the relevant court.
- 3.16.5 Therefore, in order to ensure the safety of the travelling public, any suspension of a licence that needs to be undertaken due to the relevant vehicle being unfit for use, will normally be undertaken using the powers afforded by section 68.

## Revocation of a licence on grounds of vehicle condition

- 3.16.6 If a licence is suspended in accordance with section 68 of the Act and the vehicle is not deemed to be fit for use again within a period of two months, the Act states that the licence is deemed to have been revoked.
- 3.16.7 Section 60 of the Act provides a further power to revoke a licence for a vehicle, on any of the following grounds:—
- (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
  - (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
  - (c) any other reasonable cause.
- 3.16.8 The Council revoke any licence issued authorising a vehicle to be used as a hackney carriage or private hire vehicle if that vehicle is graded as a Category A, Category B or Category C or Category S write-off.

Applying for a licence to use a vehicle as a hackney carriage or private hire vehicle after a licence has been deemed to be revoked in accordance with section 68

- 3.16.9 This section applies where a licence to use a vehicle has been deemed to have been revoked by virtue of section 68 of the Local Government (Miscellaneous Provisions) Act 1976.
- 3.16.10 The proprietor may apply for a licence to use the same vehicle for the same purpose as it was previously licensed. The proprietor must provide all the relevant documents required when applying to licence a vehicle as a hackney carriage or private hire vehicle for the first occasion and the vehicle must meet the relevant criteria with the exception of having to be vehicle of a particular categorisation or age.
- 3.16.11 An application made in reliance on this section of the policy must be made within a period of 2 months from the date that the licence was deemed to have been revoked.

Suspension and revocation of a licence on grounds of licence holder suitability

- 3.16.12 Where information comes to light that brings into question whether the holder of a licence remains a fit and proper person, their licence may be referred to a Licensing Sub-Committee for review.
- 3.16.13 Such information could include:
- Information revealed by DBS certificates or DBS update checks carried out in relation to the licence holder
  - Information revealed under Common Law Police Disclosure
  - Information revealed by checks undertaken on the licence holder's DVLA driving licence records
  - Information regarding immigration penalties paid by the licence holder
  - Information revealed during checks on NR3
  - Information regarding complaints received about a licence holder
  - Information received from the licence holder themselves
- 3.16.14 When conducting a review of a licence to use a vehicle as a hackney carriage or private hire vehicle, the Licensing Sub-Committee will treat each case on its merits and have regard to all of the evidence and information that they are provided and will then reach a decision as to whether they believe the licence holder remains a fit and proper person to hold a licence and which of the following steps (if any) needs to be taken:
- Issue a warning to the licence holder
  - To require the licence holder to undertake additional training / assessments
  - To suspend the licence
  - To revoke the licence
- 3.16.15 Any decision to suspend or revoke a licence under section 60 does not take effect until after the period given for appealing against the decision has elapsed or, if an appeal is lodged, until the appeal has been determined by the relevant court.

## **3.17.0 Position on Maintenance of a List of Designated Wheelchair Accessible Vehicles**

3.17.1 Sections 165 – 167 of the Equality Act 2010 came into force in April 2017. The legislation places obligations on the drivers of designated wheelchair accessible vehicles to:

- transport wheelchair users in their wheelchair
- provide passengers in wheelchairs with appropriate assistance
- charge wheelchair users the same as non-wheelchair users

3.17.2 Drivers found to be discriminating against wheelchair users can be fined up to £1,000. Drivers may also face having their taxi or private hire vehicle licence suspended or revoked by their licensing authority. Drivers unable to provide assistance for medical reasons are able to apply to the Council for an exemption from the requirements.

3.17.3 The new powers only apply in those areas where the licensing authority has decided to maintain a list of designated vehicles under section 167 of the Equality Act 2010, and where the driver is driving a vehicle included on the list of designated vehicles maintained by the licensing authority.

3.17.4 Bromsgrove District Council has adopted a position statement on sections 165 – 167 of the Equality Act 2010, which can be seen at Annex E.

## **3.18.0 Exempting Proprietor's from Displaying External Licence Plate on a Private Hire Vehicle**

- 3.18.1 The Council has adopted a policy on the very limited circumstances where it will provide an exemption to the proprietor of a private hire vehicle from the requirement to display an external licence plate on the vehicle. This policy can be seen at Annex F.

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## 4.0

### Licences to Operate Private Hire Vehicles

#### 4.1.0 Application Requirements – New Applicants

4.1.1 An applicant for a licence to operate private hire vehicles must:

- Have the right to work in the United Kingdom (UK)
- Be over the age of 18.
- Be deemed by the Council to be a “fit and proper person” to hold a licence

4.1.2 Before a licence to operate private hire vehicles can be issued, the applicant must have submitted all of the following:

- Completed application form
- An basic Criminal Record Check Certificate issued by the Disclosure and Barring Service (DBS).
- Proof of their right to work in the United Kingdom
- Application fee

4.1.3 Any person who has lived outside of the UK for a period of three or more continuous months after they reached the age of 18 must provide criminal records information or a “Certificate of Good Character” from each country outside the UK in which they have lived.

4.1.4 Where the applicant for the licence is a company, the requirement to provide a Basic Criminal Record Check Certificate, “Certificates of Good Conduct” (where applicable) and proof of right to work in the United Kingdom, will apply to all directors of that company.

4.1.5 The requirement to provide a basic Criminal Record Check Certificate and “Certificates of Good Character” will be waived in respect of any person licensed by Bromsgrove District Council to drive hackney carriage and / or private hire vehicles.

4.1.6 Licences to operate private hire vehicles will normally be issued for a period of 5 years and will then expire. Licences of a shorter duration may be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, or where required (e.g. when the licence holder’s leave to remain in the UK is time-limited).

## 4.2.0 Application Requirements – Renewal Applications

4.2.1 An applicant to renew a licence to operate private hire vehicles must:

- Continue to have the right to work in the United Kingdom (UK)
- Continue to be considered by the Council as being a “fit and proper person” to hold a licence

4.2.2 Before a licence to operate private hire vehicles can be renewed, the applicant must have submitted all of the following:

- Completed application form
- A basic Criminal Record Check Certificate issued by the Disclosure and Barring Service (DBS).
- Proof of their right to work in the United Kingdom
- Application fee

4.2.3 Any person who has lived outside of the UK for a period of three or more continuous months after they reached the age of 18 must provide criminal records information or a “Certificate of Good Character” from each country outside the UK in which they have lived.

4.2.4 Where the applicant for the licence is a company, the requirement to provide a Basic Criminal Record Check Certificate, “Certificates of Good Conduct” (where applicable) and proof of right to work in the United Kingdom, will apply to all directors of that company.

4.2.5 The requirement to provide a basic Criminal Record Check Certificate and “Certificates of Good Character” will be waived in respect of any person licensed by Bromsgrove District Council to drive hackney carriage and / or private hire vehicles.

4.2.6 Licences to operate private hire vehicles will normally be issued for a period of 5 years and will then expire. Licences of a shorter duration may be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, or where required (e.g. when the licence holder’s leave to remain in the UK is time-limited).

## 4.3.0 The Fit and Proper Person Test – Private Hire Operators

- 4.3.1 In determining whether to grant a licence to operate private hire vehicles, those making the decision on behalf of the Council will consider whether the applicant is a fit and proper person to be issued such a licence.
- 4.3.2 A person who has already been deemed fit and proper by the Council to hold a licence to drive hackney carriage and/or private hire vehicles will automatically be considered a fit and proper person to hold a licence to operate private hire vehicles.
- 4.3.3 In considering whether an applicant or licence holder is fit and proper, those making the decision on behalf of the Council will ask themselves the following question:
- 4.3.4 *“Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or other unacceptable purposes? Would I also be confident that this person would operate a professional and reliable service, at a time it is needed, and take reasonable steps to safeguard both passengers and the ability of the local licensing authority to protect the public if required?”*
- 4.3.5 If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence. An applicant or licence holder will not be given “the benefit of the doubt”. If those making the decision are only “50/50” as to whether the applicant or licence holder is fit and proper, they will not be licensed.
- 4.3.6 When considering this those making the decision on behalf of the Council will consider:
- whether an applicant has met the Council’s application requirements
  - Any information revealed by basic disclosure relating to the applicant
  - Any information revealed under Common Law Police Disclosure provisions
  - Any information revealed during checks on NR3
  - Any information regarding complaints received about an applicant or licence holder
- 4.3.7 In considering the information above, those making a decision on behalf of the Council will have regard to Council’s guidelines on the assessment of previous convictions which are shown at Annex A.
- 4.3.8 The financial and other personal circumstances of the applicant or licence holder will not be taken into account when reaching a decision.
- 4.3.9 In the case of an application from a company, the Council will apply the “fit and proper person” test to all directors of that company.

### Delegated Decisions

- 4.3.10 Where the applicant has met the Council’s application requirements and no information has been revealed by any of the checks set out above that brings into question whether the applicant is a fit and proper person, officers have delegated authority to grant applications and issue licences to applicants.

- 4.3.11 Authority is also delegated to officers to grant licences and issue licences to applicants whose DBS certificate reveals a single isolated conviction or caution that is more than five years older than any relevant rehabilitation period set out in the Council's guidelines on the assessment of previous convictions shown at Annex A.
- 4.3.12 For example, authority is delegated to officers to grant a licence where the applicant has an isolated conviction or caution for an offence of violence against the person, or connected with any offence of violence, once 15 years have elapsed since the completion of any sentence imposed.

## Referral to Licensing Sub-Committee

- 4.3.11 An application cannot be dealt with by officers under delegated powers where:
- An applicant's basic disclosure certificate reveals more than one previous conviction or caution
  - An applicant's basic disclosure certificate reveals an isolated conviction or caution that is less than five years older than any relevant rehabilitation period set out in the Council's guidelines on the assessment of previous convictions.
  - Information has been provided about an applicant under Common Law Police Disclosure provisions
  - An applicant has previously had an application for a licence to drive hackney carriage or private hire vehicles refused
  - An applicant has previously had a licence to drive hackney carriage or private hire vehicles suspended or revoked
- 4.3.12 Where an application cannot be determined by officers under delegated powers, the applicant may request that their application is determined by a Licensing Sub-Committee.
- 4.3.13 Notwithstanding the previous paragraph, each case will be considered on its merits and where there is any doubt about whether an applicant is a fit and proper person, then the application will be referred to a Licensing Sub-Committee for determination.

## 4.4.0 Licence Conditions

- 4.4.1 All licences issued authorising a person to operate private hire vehicles will be granted subject to the standard conditions shown at Annex G.
- 4.4.2 In addition to these standard conditions, individually tailored conditions may be attached to specific licences on a case by case basis where the circumstances justify this approach.

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## **4.5.0 Review of Licences Issued to Operators of Private Hire Vehicles**

- 4.5.1 As the Council cannot grant a licence to someone to permit them to operate private hire vehicles unless they are satisfied that that person is a fit and proper person to hold such a licence, it therefore follows that they should not continue to licence a person if they are no longer satisfied that they remain a fit and proper person.
- 4.5.2 Therefore where information comes to light that brings into question whether the holder of a licence remains a fit and proper person, their licence may be referred to a Licensing Sub-Committee for review.
- 4.5.3 Such information could include:
- Information revealed by DBS certificates or DBS update checks carried out in relation to the licence holder
  - Information revealed under Common Law Police Disclosure
  - Information regarding immigration penalties paid by the licence holder
  - Information regarding the licence holder's right to work in the United Kingdom
  - Information revealed during checks on NR3
  - Information regarding complaints received about a licence holder
  - Information received from the licence holder themselves
- 4.5.4 When conducting a review of an operator's licence, the Licensing Sub-Committee will treat each case on its merits and have regard to all of the evidence and information that they are provided and will then reach a decision as to whether they believe the licence holder remains a fit and proper person to hold a licence and which of the following steps (if any) needs to be taken:
- Issue a warning to the licence holder
  - To require the licence holder to undertake additional training / assessments
  - To suspend the driver's licence
  - To revoke the driver's licence
- 4.5.5 Any decision to suspend or revoke a licence to operate private hire vehicles will not take effect until after the period given for appealing against the decision has elapsed or, if an appeal is lodged, until the appeal has been determined.

## 5.0

## General

### 5.1.0 Complaints against licence holders

- 5.1.1 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence.
- 5.1.2 Therefore the Council will maintain a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.
- 5.1.3 Guidance for passengers and other members of the public on making complaints about licence holders will be provided on the Council's website. Ways of making complaints will also be provided on the internal licence plate that must be displayed in all licensed vehicles.
- 5.1.4 Licensees with a number of complaints made against them will be contacted by licensing officers and concerns will be raised with the driver and operator (if appropriate). Further action in terms of the licence holder will be determined by licensing officers, which could include no further action, warnings, the offer of training, a formal review of the licence and/or formal enforcement action.
- 5.1.5 The Council has adopted a penalty points system to assist in the recording and monitoring of non-compliance with hackney carriage and private hire licensing requirements. A copy of the penalty points system can be seen at Annex H.

## **5.2.0 Duties on licence holders in relation to assistance dogs**

5.2.1 Part 12 of the Equality Act 2010 imposes duties on the drivers of hackney carriage vehicles that have been hired:

- by or for a disabled person who is accompanied by an assistance dog, or
- by another person who wishes to be accompanied by a disabled person with an assistance dog.

5.2.2 The driver of the hackney carriage must:

- carry the disabled person's dog and allow it to remain with that person;
- not make any additional charge for doing so.

5.2.3 In respect of private hire vehicles, part 12 of the Equality Act 2010 provides that the operator of a private hire vehicle commits an offence by failing or refusing to accept a booking for the vehicle:

- if the booking is requested by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and
- the reason for the failure or refusal is that the disabled person will be accompanied by an assistance dog.

5.2.4 The operator also commits an offence if they make an additional charge for carrying an assistance dog which is accompanying a disabled person.

5.2.5 The driver of a private hire vehicle commits an offence by failing or refusing to carry out a booking accepted by the operator:

- if the booking is made by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and
- the reason for the failure or refusal is that the disabled person is accompanied by an assistance dog.

5.2.6 Bromsgrove District Council places particular importance on the need for those that they licence to comply with these duties. Where complaints are received regarding non-compliance with the requirements, they will be investigated thoroughly and formal action will be taken wherever possible.

5.2.7 If a licence holder commits an offence under Part 12 of the Equality Act 2010 in relation to the carriage of assistance dogs, serious consideration will be given to whether the licence holder remains a fit and proper person to hold a licence.

5.2.8 Part 12 of the Equality Act 2010 does provide the Council with authority to grant certificates to drivers exempting them from their duties in relation to the carrying of assistance dogs on medical grounds. The Council's policy on how they will deal with requests for exemption certificates is set out at Annex I.

## 5.3.0 Duration of Licences Issued

### Licences to drive hackney carriage and / or private hire vehicles

- 5.3.1 Licences to drive hackney carriage and / or private hire vehicles will normally be issued for a period of 3 years and will then expire. Licences of a shorter duration may be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, or where required (e.g. when the licence holder's leave to remain in the UK is time-limited). Licences will not be issued on a "probationary" basis.

### Licences to use a vehicle as a hackney carriage or private hire vehicle

- 5.3.2 Licences to use a vehicle as a hackney carriage or private hire vehicle will normally be issued for a period of 1 year and will then expire.
- 5.3.3 A licence issued in respect of a vehicle being used as a temporary replacement for a vehicle that is licensed to be used as a hackney carriage but that needs to be replaced for a short period of time as it has become temporarily unfit for use, for example due to accident damage, will be issued for a period of no more than four months and will then expire.

### Operator Licences

- 5.3.4 Licences to operate private hire vehicles will normally be issued for a period of 5 years and will then expire. Licences of a shorter duration may be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, or where required (e.g. when the licence holder's leave to remain in the UK is time-limited). Licences will not be issued on a "probationary" basis.

### Licence holders whose leave to remain in the UK is time-limited

- 5.3.5 This section applies where the Council has to issue a licence of a shorter duration to those above as the licence holder's leave to remain in the UK is time-limited. When the licence holder provides evidence that their leave to remain has been extended or made permanent, the Council will extend their licence period so that the licence expires on whichever of the following dates is the earliest:
- The date the licence would have expired if the licence holder's leave to remain was not time-limited at the time of their application
  - The expiry of the licence holder's extended leave to remain in the UK
- 5.3.6 Licence holder's whose licences are extended in accordance with this section will not be charged any fee in order to have their licence extended.

## 5.4.0 Surrender of Licences

- 5.4.1 The holder of a licence to drive hackney carriage and/or private hire vehicles, use a vehicle as a hackney carriage or private hire vehicle or operate private hire vehicles may at any time surrender the licence to the Council by giving notice in writing and returning their licence and any associated licence plates or ID badges they have been issued.

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## 5.5.0 Refund of Fees Paid When a Licence is Surrendered

5.5.1 Where a licence holder surrenders a licence that they have been issued, refunds may be given on request, of the fee paid when applying for that licence in accordance with the following formulas.

### Licences of 1 year duration

5.5.2 1/12 of the fee paid may be refunded for every FULL month remaining of the licence period at the time when the licence is surrendered. The maximum amount that will be refunded is 9/12 (75%) of the licence fee paid.

### Licences of 3 year duration

5.5.3 1/36 of the fee paid may be refunded for every FULL month remaining of the licence period at the time when the licence is surrendered. The maximum amount that will be refunded is 27/36 (75%) of the licence fee paid.

### Licences of 5 year duration

5.5.4 1/60 of the fee paid may be refunded for every FULL month remaining of the licence period at the time when the licence is surrendered. The maximum amount that will be refunded is 45/60 (75%) of the licence fee paid.

5.5.5 Any fees paid in respect of DBS Checks, vehicle inspections, training and assessment requirements etc. are **non-refundable**.

## Annexes

- Annex A** Guidelines on the Assessment of Previous Convictions
- Annex B** Standard conditions attached to a licence to drive hackney carriage and / or private hire vehicles
- Annex C** Standard conditions attached to a licence to use a vehicle as a hackney carriage
- Annex D** Standard conditions attached to a licence to use a vehicle as a private hire vehicle
- Annex E** Equality Act 2010 – Position Statement on Sections 165 – 167
- Annex F** Plate exemption policy for licensed private hire vehicles
- Annex G** Standard conditions attached to a licence to operate private hire vehicles
- Annex H** Hackney carriage and private hire penalty points system
- Annex I** Granting of certificates exempting drivers from the duties in respect of carrying assistance dogs

## Annex A

### Guidelines on the Assessment of Previous Convictions

#### General approach

- A.1 The Council will always consider each case on its own merits and will ensure applicants / licence holders have a fair and impartial consideration of their application.

#### Cautions

- A.2 Cautions are given to anyone aged 10 or over for minor criminal offences. You have to admit an offence and agree to be cautioned. Whilst a caution is not a criminal conviction, it can be used as evidence of bad character. Therefore for the purpose of these guidelines, references to convictions will also be taken to include cautions accepted for offences.

#### Rehabilitation periods

- A.3 Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. This places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

#### Crimes resulting in death

- A.4 Where an applicant or licence holder has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

#### Exploitation

- A.5 Where an applicant or licence holder has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

#### Offences involving violence against the person

- A.6 Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

#### Possession of a weapon

- A.7 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

#### Sexual offences

- A.8 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.
- A.9 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

## Dishonesty

- A.10 Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

## Drugs

- A.11 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- A.12 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed.
- A.13 In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

## Discrimination

- A.14 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

## Motoring convictions

- A.15 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.
- A.16 Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

## Drink driving/driving under the influence of drugs

- A.17 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

## Using a hand-held device whilst driving

- A.18 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

## **Annex B Standard conditions attached to a licence to drive hackney carriage and / or private hire vehicles**

### Conduct

- B.1 The licence holder must behave in a civil, orderly and respectful manner at all times whilst acting as the driver or a hackney carriage or private hire vehicle.
- B.2 The licence holder must not discriminate against any person whilst acting as the driver or a hackney carriage or private hire vehicle because of their:
- Age
  - Disability
  - Gender reassignment
  - Marriage & Civil Partnership
  - Pregnancy & Maternity
  - Race
  - Religion or Belief
  - Sex
  - Sexual Orientation
- B.3 The licence holder must not engage in inappropriate conversations with passengers. Inappropriate topics of conversation include (but are not limited to) references to a persons personal life, relationship status, appearance, religion or political beliefs.
- B.4 The licence holder must not eat any food whilst carrying a hirer in their vehicle.
- B.5 The licence holder must not smoke or use any e-cigarette or other vaping device inside any licensed hackney carriage or private hire vehicle at any time.
- B.6 The licence holder must not play any audio in a licensed hackney carriage or private hire vehicle at such a level as to cause annoyance to the hirer.
- B.7 The licence holder must only use the horn of a vehicle in accordance with the Highway Code and specifically shall not sound their horn to announce their arrival / presence to the hirer.

### Appearance

- B.8 Whilst acting as the driver of a hackney carriage or private hire vehicle, a licence holder must be dressed suitably and be of clean and tidy appearance.

### Assisting Passengers

- B.9 A licence holder must offer passengers with reasonable assistance with the loading and unloading of any luggage or baggage into and out of, any licensed vehicle they are in control of.
- B.10 A licence holder must offer reasonable assistance to any person with a disability or other mobility issue, when that person is entering or leaving a licensed vehicle they are in control of.

## Changes of Circumstances

- B.11 A licence holder must notify the licensing authority as soon as reasonably practicable and within no more than 48 hours in any of the following circumstances:
- if they been arrested or charged by the police in relation to any offence (including motoring offences)
  - if they receive a conviction, caution or fixed penalty in relation to any offence (including motoring offences)
- B.12 A licence holder must notify the licensing authority as soon as reasonably practicable and within no more than 72 hours if they have developed a medical condition that might impair their ability to drive a motor vehicle.
- B.13 A licence holder must notify the licensing authority within 7 days of any change to their name and / or address

## DBS Update Service

- B.14 A licence holder must retain a valid subscription to the Disclosure and Barring Service (DBS) Update Service at all times whilst they remain licensed to drive hackney carriage and/or private hire vehicles.

## Wearing and Display of Badges

- B.15 A licence holder must wear one of the ID badges issued to them by the Council at all times when acting as the driver of a hackney carriage or private hire vehicle. The badge must be worn on the licence holder's person in a way that it can be seen by passengers.
- B.16 A licence holder must display one of the ID badges issued to them by the Council inside any hackney carriage or private hire vehicle they are in control of in such a way as to be clearly visible to any passengers.

## Lost property

- B.17 After passengers alight the licensed vehicle, a licence holder should check the vehicle to ensure no property has been left in the vehicle by that passenger.
- B.18 If any property belonging to a passenger is discovered in a licensed vehicle after that passenger has left the vehicle, the driver should take reasonable steps to return the lost property to the person that it belonged to.
- B.19 If the licence holder cannot identify who the lost property belongs to in order to return it to them, they must seek advice from the local police on what to do with the property by calling the non-emergency number 101.

## Receipts

- B.20 Upon request, a licence holder must provide his passenger with a clear and legible receipt for the cost of their journey. This receipt must also identify the licence holder's name or licence number and the registration number of the vehicle that the journey was undertaken in.

## Production of Documents

- B.21 The licence holder must produce such of the following as requested to an authorised officer of the Council within 72 hours of receiving a request to do so:
- Their DVLA driving licence card
  - Proof of their right to work in the United Kingdom
  - Proof of their residential address
  - Any DBS certificate relied upon when their licence was granted

## Return of licence and ID badge

- B.22 The licence holder must return the licence and any related ID badges issued by the Council when requested to do so. The licence and ID badges must be returned as soon as reasonably practicable and in any case not more than 7 days after such a request has been made by an authorised officer of the Council.

## Production of medical certificate

- B.23 Any licence holder aged 65 or over must provide the Council with a copy of the Council's prescribed medical fitness certificate, completed by a registered medical practitioner with access to their medical records and history, on the anniversary of the issue of the licence each year.

## Deposit of Copy of Licence

- B.24 A licence holder must deposit a copy of their licence with:
- The proprietor of any licensed hackney carriage or private hire vehicle that they have been authorised to drive
  - Any licensed private hire operator who accepts bookings in respect of a licensed vehicle that they are authorised to drive

## Charging of fares

- B.25 Before commencing a journey, a licence holder must establish that their passenger understands what fare they will be charged for the journey or the method by which that fare will be calculated (e.g. in accordance with a taximeter installed in the vehicle).
- B.26 A licence holder must not charge a passenger for their journey more than:
- A fixed fare that has either been agreed before the commencement of the journey; or
  - The fare that has been calculated in accordance with the agreed method of calculation.
- B.27 When acting as the driver of a hackney carriage and undertaking a journey entirely within the Council's administrative boundaries, the licence holder must engage the taximeter installed in the vehicle and must not charge more than is permitted in accordance with the Council's approved table of fares.

## Carriage of animals

- B.28 A licence holder must not carry any animal in a licensed hackney carriage or private hire vehicle without the express permission of the hirer.

## **Annex C Standard conditions attached to a licence to use a vehicle as a hackney carriage**

### Condition of Vehicle

- C.1 The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition. In particular all data boxes, radios, PDA's or any other equipment installed in the vehicle must be affixed to the vehicle by use of secure fittings so they cannot be easily removed, to prevent injury or harm to the driver or passengers.

### Making Alterations to a Vehicle

- C.2 Once a vehicle has been inspected and a licence has been granted the vehicle must be maintained in that form and condition. No change in the specification, design or appearance of the vehicle or addition of any body work accessories shall be made within the duration of the licence without the prior written approval from an authorised officer of the Council. This includes the addition of any tinting film or similar products to the windows of the vehicle.

### Licensing a Vehicle with Another Council

- C.3 No hackney carriage licensed by the Council may be licensed in any other authority as a hackney carriage or private hire vehicle.

### Insurance Cover

- C.4 The licence holder must at all times that the vehicle is licensed to be used as a hackney carriage, maintain a valid policy of insurance showing the vehicle is insured for use for hire and reward for public hire or in accordance with a hackney carriage licence.
- C.5 You must retain the above documents for a period of 12 months following their expiry and these documents must be available for inspection at any time to an authorised officer.

### Allowing Other Persons to Drive the Vehicle

- C.6 Only a person licensed by the Council to drive hackney carriages can drive a vehicle that the Council has licensed to be used as a hackney carriage. If the licence holder proposes to allow someone else to drive their vehicle at any time, before doing so they must obtain from the driver the following documents:
- a) A copy of their current licence issued by Bromsgrove District Council authorising them to drive hackney carriage vehicles, and
  - b) A copy of their insurance documentation covering them to use the vehicle as hackney carriage.
- C.7 The licence holder must ensure that the driver's licence to drive hackney carriage vehicles and insurance remain current for the duration of the period they are permitted to drive the vehicle.

### Display of External Licence Plate

- C.8 The external licence plate issued by the Council must be securely fixed to the outside rear of the vehicle below the window line.

## Display of Internal Licence Plate

- C.9 The internal licence plate issued by the Council must be securely fixed to the inside of the windscreen on the passenger side of the vehicle so that the front of the licence plate is visible from the outside of the vehicle and the rear of the licence plate is visible from inside the vehicle.

## Roof Signs

- C.10 A sign containing the word "TAXI" must be displayed on the roof of the vehicle at all times when it is being driven on a public road or otherwise used as a hackney carriage.
- C.11 The lettering on the sign must be a minimum of 80mm high.
- C.12 The roof sign must be appropriately and safely wired so that the sign is illuminated when the vehicle is available for hire and not illuminated when the vehicle is hired or is not available for hire.

## Return of Licence Plate(s)

- C.13 The licence holder must return the internal and / or external licence plates issued by the Council when requested to do so. The licence plates must be returned as soon as reasonably practicable and in any case not more than 7 days after a request to return the plates has been made by an authorised officer of the Council.

## Changes of Circumstances

- C.14 A licence holder must notify the licensing authority as soon as reasonably practicable and within no more than 48 hours in any of the following circumstances:
- if they been arrested or charged by the police in relation to any offence (including motoring offences)
  - if they receive a conviction, caution or fixed penalty in relation to any offence (including motoring offences)
- C.15 A licence holder must notify the licensing authority within 7 days of any change to their name and / or address

## Advertising on Licensed Vehicles

- C.16 Any advertising displayed on a licensed vehicle must be approved in advance by an authorised officer of the Council. This condition does not apply to any advertisements displayed on a vehicle which relate to any business that accepts and despatches bookings in respect of the vehicle concerned.

## Production of Documents

- C.17 The licence holder must produce such of the following as requested to an authorised officer of the Council within 72 hours of receiving a request to do so:
- Vehicle insurance certificate
  - Vehicle registration certificate (V5C)
  - Vehicle MOT test certificate
  - Proof that the appropriate vehicle excise duty has been paid in respect of the vehicle

## Presentation of Vehicle for Inspection

- C.18 The vehicle must be presented for inspection in accordance with any reasonable direction properly made by an authorised officer of the Council.
- C.19 Where a vehicle is more than seven years of age on the date the licence was issued, it must also be presented for further inspection within a four-week period beginning on the date six months after the licence issue date. The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

## Table of Fares (Tariff Card)

- C.20 The licence holder must ensure that a copy of the current table of fares (tariff card) set by the Council is carried in the vehicle at all times in a position where it can be accessed and read by any passenger as required.

## CCTV

- C.21 Where CCTV is installed so as to record any part of the inside of a licensed vehicle, the proprietor must be compliant with the requirements of the Data Protection Act 2018. The system must also be compliant with the Information Commissioner's requirements in respect of registering the system and the capturing, storing, retaining and using any recorded images.

## Seating Capacity

- C.22 The vehicle must not be used to carry more passengers than the number authorised to be carried by the licence issued by the Council and shown on the vehicle licence plates issued by the Council.

## Equipment to be Carried in the Vehicle

- C.23 The following must be carried in the vehicle at all times:
- A suitable and road legal spare wheel or a tyre inflation kit that is supplied as standard by the manufacturer of the vehicle
  - A powder fire extinguisher of not less than 600g capacity and not more than 12 years old from the date of manufacture
  - A first aid kit containing as a minimum, a selection of dressings, plasters and a pair of plastic gloves that are in date.

## Wheelchair Accessible Vehicles

- C.24 Where the vehicle is designed to carry a wheelchair user whilst they remain seated in their wheelchair, the licence holder must ensure that all required equipment to safely load and secure a wheelchair is carried in the vehicle at all times.

## Reporting of Accidents

- C.25 The licence holder must report any accident involving the licensed vehicle to the Council within 72 hours, regardless of whether any damage is caused to the vehicle in the accident.

## **Annex D Standard conditions attached to a licence to use a vehicle as a private hire vehicle**

### Condition of Vehicle

- D.1 The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition. In particular all data boxes, radios, PDA's or any other equipment installed in the vehicle must be affixed to the vehicle by use of secure fittings so they cannot be easily removed, to prevent injury or harm to the driver or passengers.

### Making Alterations to a Vehicle

- D.2 Once a vehicle has been inspected and a licence has been granted the vehicle must be maintained in that form and condition. No change in the specification, design or appearance of the vehicle or addition of any body work accessories shall be made within the duration of the licence without the prior written approval from an authorised officer of the Council. This includes the addition of any tinting film or similar products to the windows of the vehicle.

### Licensing a Vehicle with Another Council

- D.3 No private hire vehicle licensed by the Council may be licensed in any other authority as a hackney carriage or private hire vehicle.

### Insurance Cover

- D.4 The licence holder must at all times that the vehicle is licensed to be used as a private hire vehicle, maintain a valid policy of insurance showing the vehicle is insured for use for hire and reward for private hire or in accordance with a private hire licence.
- D.5 You must retain the above documents for a period of 12 months following their expiry and these documents must be available for inspection at any time to an authorised officer.

### Allowing Other Persons to Drive the Vehicle

- D.6 Only a person licensed by the Council to drive private hire vehicles can drive a vehicle that the Council has licensed to be used as a private hire vehicle. If the licence holder proposes to allow someone else to drive their vehicle at any time, before doing so they must obtain from the driver the following documents:
- a) A copy of their current licence issued by Bromsgrove District Council authorising them to drive private hire vehicles, and
  - b) A copy of their insurance documentation covering them to use the vehicle as a private hire vehicle.
- D.7 The licence holder must ensure that the driver's licence to drive private hire vehicles and insurance remain current for the duration of the period they are permitted to drive the vehicle.

### Display of External Licence Plate

- D.8 The external licence plate issued by the Council must be securely fixed to the outside rear of the vehicle below the window line.

## Display of Internal Licence Plate

- D.9 The internal licence plate issued by the Council must be securely fixed to the inside of the windscreen on the passenger side of the vehicle so that the front of the licence plate is visible from the outside of the vehicle and the rear of the licence plate is visible from inside the vehicle.

## Roof Signs

- D.10 No sign may be displayed either on the roof of or above the roof of the a vehicle licensed to be used as a private hire vehicle.

## Advertising on Licensed Vehicles

- D.11 Any advertising displayed on a licensed vehicle must be approved in advance by an authorised officer of the Council. This condition does not apply to any advertisements displayed on a vehicle which relate to any business that accepts and despatches bookings in respect of the vehicle concerned.

## External Signage

- D.12 Signage must be displayed on the vehicle with wording that makes clear that the vehicle must be booked in advance and is not available for immediate hiring. Such wording could include "Advance Booking Only" "This vehicle must be booked in advance" "No booking, no ride" or similar.

## Prohibition on Display of Certain Words

- D.13 The words "Taxi" or "Cab" either in singular or plural or words of a similar meaning or appearance either alone or as part of a name must not be displayed anywhere on the vehicle licensed to be used as a private hire vehicle.

## Return of Licence Plate(s)

- D.14 The licence holder must return the internal and / or external licence plates issued by the Council when requested to do so. The licence plates must be returned as soon as reasonably practicable and in any case not more than 7 days after a request to return the plates has been made by an authorised officer of the Council.

## Changes of Circumstances

- D.15 A licence holder must notify the licensing authority as soon as reasonably practicable and within no more than 48 hours in any of the following circumstances:
- if they been arrested or charged by the police in relation to any offence (including motoring offences)
  - if they receive a conviction, caution or fixed penalty in relation to any offence (including motoring offences)
- D.16 A licence holder must notify the licensing authority within 7 days of any change to their name and / or address

## Production of Documents

- D.17 The licence holder must produce such of the following as requested to an authorised officer of the Council within 72 hours of receiving a request to do so:
- Vehicle insurance certificate
  - Vehicle registration certificate (V5C)
  - Vehicle MOT test certificate
  - Proof that the appropriate vehicle excise duty has been paid in respect of the vehicle

## Presentation of Vehicle for Inspection

- D.18 The vehicle must be presented for inspection in accordance with any reasonable direction properly made by an authorised officer of the Council.
- D.19 Where a vehicle is more than seven years of age on the date the licence was issued, it must also be presented for further inspection within a four-week period beginning on the date six months after the licence issue date. The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5).

## Taximeters

- D.20 Where a taximeter is fitted in a vehicle licensed to be used as a private hire vehicle the must be fitted securely in a position where it can be easily read by passengers in the vehicle and must not be obscured from view in any way. A table of fares must be available in the vehicle for inspection by passengers to explain clearly the basis on which any hiring charges will be calculated by the taximeter.

## CCTV

- D.21 Where CCTV is installed so as to record any part of the inside of a licensed vehicle, the proprietor must be compliant with the requirements of the Data Protection Act 2018. The system must also be compliant with the Information Commissioner's requirements in respect of registering the system and the capturing, storing, retaining and using any recorded images.

## Seating Capacity

- D.22 The vehicle must not be used to carry more passengers than the number authorised to be carried by the licence issued by the Council and shown on the vehicle licence plates issued by the Council.

## Equipment to be Carried in the Vehicle

- D.23 The following must be carried in the vehicle at all times:
- A suitable and road legal spare wheel or a tyre inflation kit that is supplied as standard by the manufacturer of the vehicle
  - A powder fire extinguisher of not less than 600g capacity and not more than 12 years old from the date of manufacture
  - A first aid kit containing as a minimum, a selection of dressings, plasters and a pair of plastic gloves that are in date.

## Wheelchair Accessible Vehicles

- D.24 Where the vehicle is designed to carry a wheelchair user whilst they remain seated in their wheelchair, the licence holder must ensure that all required equipment to safely load and secure a wheelchair is carried in the vehicle at all times.

## Reporting of Accidents

- D.25 The licence holder must report any accident involving the licensed vehicle to the Council within 72 hours, regardless of whether any damage is caused to the vehicle in the accident.

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## Annex E

## Equality Act 2010 – Position Statement on Sections 165 – 167

### Introduction

- E.1 The Government commenced sections 165 and 167 of the Equality Act 2010, in so far as they were not already in force, on 6<sup>th</sup> April 2017.
- E.2 Section 167 of the Act provides licensing authorities with the powers to make lists of wheelchair accessible vehicles (i.e. “designated vehicles”), and section 165 of the Act then place duties on the drivers of those vehicles to carry passengers in wheelchairs, provide assistance to those passengers and prohibits them from charging extra.
- E.3 The requirements of section 165 do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. An exemption certificate can be issued under section 166 of the Act.
- E.4 This allows Local Authorities to exempt drivers from the duties under section 165 where it is appropriate to do so, on medical grounds or because the driver’s physical condition makes it impossible or unreasonably difficult for them to comply with those duties.
- E.5 In adopting this position statement, Bromsgrove District Council has had regard to the guidance issued by the Secretary of State under section 167(6) of the Equality Act 2010.

### Maintaining a List of Designated Vehicles

- E.6 Section 167 of the Act permits, but does not require, licensing authority to maintain a designated list of wheelchair accessible hackney carriage and private hire vehicles.
- E.7 Whilst not being under a specific legal duty to maintain a list of designated vehicles, Bromsgrove District Council has decided that it will do so.
- E.8 The list of designated vehicles will be published and maintained by Bromsgrove District Council with effect from **1<sup>st</sup> December 2017**. This will provide a reasonable amount of time for drivers to make applications for exemption from the duties that will be placed upon them once a list of designated vehicles is published.
- E.9 Once published, the list of designated vehicles will be available to access via the Bromsgrove District Council website. A hard copy of the list of designated vehicles will also be provided on request. To request a hard copy of the list of designated vehicles you will need to contact Worcestershire Regulatory Services by emailing [enquiries@worcsregservices.gov.uk](mailto:enquiries@worcsregservices.gov.uk) or telephoning 01905 822799.

### Accessibility Requirements for Vehicles Included on the List of Designated Vehicles

- E.10 The Act states that a vehicle can be included on a licensing authority’s list of designated vehicles if it conforms to such accessibility requirements as the licensing authority thinks fit. However, it also goes on to explain that vehicles placed on the designated list should be able to carry passengers in their wheelchairs should they prefer.
- E.11 Bromsgrove District Council has decided that a vehicle will only be included in the authority’s list if it would be possible for the user of a “reference wheelchair” to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair. For this purpose, a “reference wheelchair” is as defined in Schedule 1 of the Public Service Vehicle Accessibility Regulations 2000.

## **The Duties Placed on Drivers of Designated Vehicles**

- E.12 Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible hackney carriage and private hire vehicles.
- E.13 The duties are:
- to carry the passenger while in the wheelchair;
  - not to make any additional charge for doing so;
  - if the passenger chooses to sit in a passenger seat to carry the wheelchair;
  - to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
  - to give the passenger such mobility assistance as is reasonably required.
- E.14 The Act then goes on to define mobility assistance as assistance:
- To enable the passenger to get into or out of the vehicle;
  - If the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
  - To load the passenger's luggage into or out of the vehicle;
  - If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.
- E.15 It is an offence for the driver (unless exempt) of a hackney carriage or private hire vehicle which is on the licensing authority's designated list to fail to comply with these duties.

## **Exemptions from the Duties Placed on Drivers of Designated Vehicles**

- E.16 Some drivers may have a medical condition or a disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. That is why the Act allows licensing authorities to grant exemptions from the duties to individual drivers.
- E.17 Section 166 allows licensing authorities to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical or physical grounds. The exemption can be valid for as short or long a time period as the LA thinks appropriate, bearing in mind the nature of the medical issue. If exempt, the driver will not be required to perform any of the duties.
- E.18 If a licensed driver wishes to obtain an exemption from the duties placed on them under section 165, they must complete the relevant application form and submit this to the licensing authority alongside relevant supporting evidence. The supporting evidence must include a letter or report from the licensed driver's general practitioner.
- E.19 If required, a licensed driver seeking to obtain an exemption from the duties, must submit to an examination by an independent medical practitioner appointed by the licensing authority. The decision as to whether an exemption is granted and for how long, will be taken by the Head of Worcestershire Regulatory Services
- E.20 If the exemption application is successful then the licensing authority will issue an exemption certificate and provide an exemption notice for the driver to display in their vehicle.

- E.21 If the exemption application is unsuccessful , the applicant will be informed in writing within a reasonable timescale and provided with a clear explanation of the reasons for the decision.
- E.22 Section 172 of the Act enables drivers to appeal against the decision of the licensing authority not to issue an exemption certificate. That appeal should be made to the Magistrate's Court and must be made within 28 days beginning with the date of the refusal.

## **Enforcement**

- E.23 It is important to note that a driver will be subject to the duties set out in section 165 of the Equality Act 2010 if the vehicle they are driving appears on the designated list of the licensing authority that licensed them, and the licensing authority has not provided them with an exemption certificate, regardless of where the journey starts or ends.
- E.24 Bromsgrove District Council will look to take firm action where drivers breach their duties under section 165 of the Act and will use all their available powers to ensure that drivers who discriminate against disabled passengers are held accountable for their actions.
- E.25 If a driver receives a conviction for breaching their duties under section 165 of the Act, the authority will review whether or not they remain a fit and proper person to hold a licence to drive hackney carriage or private hire vehicles.

## Annex F

### Plate exemption policy for licensed private hire vehicles

- F.1 The Council will only grant an exemption to the proprietor of a private hire vehicle from the requirement to display an external licence plate where the vehicle meets **all** of the following requirements:
- the vehicle must be an executive model, and
  - the vehicle interior and exterior must be maintained in exceptional condition, and
  - the vehicle must be used exclusively for executive hire or chauffeur work.
- F.2 Each application for exemption from the requirement to display an external licence plate will be determined by an authorised officer of the Council on a case by case basis.
- F.3 Those applying for exemption from the requirement to display an external licence plate will be required to present their vehicle to an authorised officer for inspection and provide evidence to show it is use exclusively for executive hire or chauffeur work.

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## Annex G

### **Standard conditions attached to a licence to operate private hire vehicles**

#### Duty to Provide a Basic Disclosure Annually

- G.1 Where the licence holder does not hold a licence issued by Bromsgrove District Council authorising them to drive hackney carriage and/or private hire vehicles, they must submit a basic disclosure certificate annually within a 4 week period beginning with the anniversary of the date that the licence was issued.

#### Location of Operating Base and Records

- G.2 The licence holder must operate private hire vehicles from an address within the licensing authority's administrative area (hereafter referred to as "the operating base").
- G.3 All records required by these conditions and that are kept in a written form, must be kept and made available for inspection at the operating base.
- G.4 Where records are held electronically, they must be capable of being viewed by an authorised officer or police officer visiting the operating base.
- G.5 The licence holder must be able to provide an authorised officer or police officer with a printed copy of any records held electronically upon request.

#### Changes of Circumstances

- G.6 A licence holder must notify the licensing authority as soon as reasonably practicable and within no more than 48 hours in any of the following circumstances:
- if they been arrested or charged by the police in relation to any offence (including motoring offences)
  - if they receive a conviction, caution or fixed penalty in relation to any offence (including motoring offences)
- G.7 A licence holder must notify the licensing authority within 7 days of any change to their name and / or home address
- G.8 A licence holder must notify the licensing authority within 7 days of any change to the address of their operating base.

#### Records of Bookings

- G.9 The licence holder must ensure that accurate records of all bookings received are maintained. The following is the minimum information that must be recorded in respect of each booking:
- The name of the passenger
  - The time that the booking was received
  - The pick-up point
  - The requested pick-up time
  - The destination
  - The name of the driver dispatched to undertake the booking
  - The driver's licence number of the driver dispatched to undertake the booking
  - The vehicle registration number of the vehicle dispatched to undertake the booking
  - The name of any individual that responded to the booking request
  - The name of any individual that dispatched the vehicle

- G.10 The licence holder's record of all private hire bookings, whether retained in a book or on a computerised system, must be kept at the licensed premises for at least 12 months and be readily available for production to an authorised officer or police constable for inspection at any time during the hours of operation.

## Record Keeping – Vehicles and Driver's Operated

- G.11 The licence holder must retain an accurate records for all of the vehicles and drivers that they dispatch to undertaken bookings made with them. These records must include:
- The full name of each driver
  - Any call signs allocated to any drivers
  - The identity of the local authority that issued the relevant driver's licence
  - The registration number of any vehicles
  - The licence plate number of any vehicles
  - The identity of the local authority that issued the relevant vehicle's licence
- G.12 The licence holder must obtain and retain the following documentation in respect of every vehicle and driver they operate prior to allocating them any bookings, namely:
- a copy of the driver's current private hire driver's licence or badge
  - a copy of the vehicle's current private hire vehicle licence or front identity plate
  - a copy of the vehicle's current MOT certificate
  - a copy of the vehicle's current insurance certificate or cover note in respect of the driver using the vehicle.
- G.13 The above documentation relating to vehicles and drivers must be retained at the licensed premises for at least 12 months after a vehicle or driver ceases to undertake work for the licence holder and be readily available for production to an authorised officer or police constable for inspection at any time during the hours of operation.

## Record Keeping – Form of Records and Data Security

- G.14 Whether records are kept in written or electronic form, they must at all times be in a format that is clear and legible.
- G.15 The licence holder must comply with their duties under data protection legislation to protect the information that they record and retain.

## Provision of Information to Driver Dispatched

- G.16 A driver dispatched to fulfil a booking that has been accepted must be provided with the following information as a minimum:
- The name of the passenger
  - The pick-up point
  - The requested pick-up time
  - The destination

## Provision of Information to Person Who Has Made a Booking

- G.17 A person who has had a booking accepted must be provided with the following information as a minimum:
- The registration number of the vehicle that will be dispatched to pick them up.
  - The licence (badge) number of the driver that will be driving the vehicle dispatched to pick them up.
- G.18 This information can be provided verbally over the telephone, by text message or by other electronic means.
- G.19 If the person's booking is being sub-contracted and will be carried out by a vehicle and driver licensed by a different licensing authority, the passenger must be provided the following information as a minimum:
- The name of the operator to whom the booking has been sub-contracted and the name of the licensing authority that has issued a licence to that operator.
  - The registration number of the vehicle that will be dispatched to pick them up.
  - The licence (badge) number of the driver that will be driving the vehicle dispatched to pick them up.
  - The name of the licensing authority that has licensed both the driver and vehicle

## Use of Passenger Service Vehicles (PSVs) to Fulfil Bookings

- G.20 Where the licence holder also holds a PSV operator's licence, PSV's should not be used to fulfil bookings except with the informed consent of the hirer. This consent shall be recorded as part of the booking record.

## Register of Staff

- G.21 The licence holder must maintain a register of all staff that will take bookings or dispatch vehicles.
- G.22 The licence holder must have in place a written policy on the employment of ex-offenders, which must include reference to the carrying out of Basic Disclosure and Barring Service (DBS) checks on any staff that are involved in taking bookings or dispatching vehicles.

## Recording and Dealing with Complaints

- G.23 The licence holder must establish and maintain a written complaints procedure and take all reasonable steps to fully investigate any complaints, ensuring a record is kept of the following information:
- the name, contact details of complainant and date complaint received
  - the date, time and details/nature of the complaint
  - the name of the driver (and Badge number) or member of staff, to which the complaint relates
  - details of the investigation carried out and any action taken.

# Agenda Item 6

- G.24 Upon receiving a complaint or allegation concerning any of the following matters in relation to any person licensed by Bromsgrove District Council you must report it to the Council immediately:
- sexual misconduct, sexual harassment or inappropriate sexual attention
  - racist behaviour
  - violent, aggressive or abusive behaviour
  - dishonesty such as overcharging, theft or retention of lost property
  - breach of equality legislation, such as refusing to carry an assistance dog

## Waiting Rooms / Areas

- G.25 Where a licence holder makes available a waiting room/area for those making bookings, this room/area must be maintained in a clean and tidy condition and must be free from any hazards.

## Standard of Service

- G.26 The licence holder shall take all reasonable steps to ensure that a reliable service is provided to anyone from whom a booking is accepted.

## Conduct of licence holder and employees

- G.27 The licence holder must behave in a civil, orderly and respectful manner at all times whilst communicating with people in course of delivering a private hire service.
- G.28 In offering their services, the licence holder must ensure that they and any persons employed by them to communicate with customers, process bookings or dispatch vehicles, do not discriminate against any person because of their:
- Age
  - Disability
  - Gender reassignment
  - Marriage & Civil Partnership
  - Pregnancy & Maternity
  - Race
  - Religion or Belief
  - Sex
  - Sexual Orientation

- G.29 The licence holder must ensure that they and any persons employed by them to communicate with customers, process bookings or dispatch vehicles, do not engage in inappropriate conversations with passengers. Inappropriate topics of conversation include (but are not limited to) references to a persons personal life, relationship status, appearance, religion or political beliefs.

## Lost Property

- G.30 The licence holder must have a written policy setting out their procedure for dealing with property left in a licensed vehicle after a journey has ended. This policy must be communicated to all drivers to whom bookings are allocated.
- G.31 The licence holder must take all reasonable steps to ensure any lost property is returned safely to its owner.

## Annex H

### BROMSGROVE DISTRICT COUNCIL

#### HACKNEY CARRIAGE AND PRIVATE HIRE PENALTY POINTS SYSTEM

The penalty points system for recording non-compliance with Hackney Carriage or Private Hire requirements will operate as follows:-

1. Bromsgrove District Council's Enforcement Policies will be fully considered by the enforcing officer when determining the manner in which any breach of the legislation, byelaws or the requirements of this licence conditions are dealt with. Where it is decided that the use of penalty points is appropriate they will be issued in accordance with the rate in the attached schedule.
2. Before penalty points are issued, there must be sufficient evidence to prove the relevant offence(s) or breach of condition(s).
3. Each case will be considered on its own merits.
4. Penalty points may be issued regardless of the geographic location in which the act of non-compliance took place.
5. When points are issued, the relevant proprietor, driver or operator will be sent written confirmation within five working days.
6. Points may be issued to the driver, proprietor and/or operator of a vehicle in accordance with the table below depending on the circumstances of the case.
7. Where the driver of the vehicle is also the proprietor and/or operator of the vehicle, only one set of points will be issued in respect of each offence or breach of condition identified.
8. There is a right of appeal to the Licensing and Support Services Manager at Worcestershire Regulatory Services against any points that are issued.
9. Points issued will remain "live" for a rolling period of two years from the date of issue. Points will be considered "spent" once it is more two years from the date of issue.
10. Any driver, proprietor or operator accumulating 12 points in a two year period will be referred to a Licensing Sub-Committee for a review of whether the individual remains a fit and proper person to hold the relevant licence.

# Agenda Item 6

11. When a driver, proprietor or operator appears before a Licensing Sub-Committee, the following options are available to the Sub-Committee:
  - Take no further action
  - Issue a written warning
  - Extend the two year period for which the points remain live
  - Suspend the licence
  - Revoke the licence
  - Any other action that the Sub-Committee feels appropriate in the circumstances of the case
12. Any driver appearing before a Licensing Sub-Committee will have the right to make representations to the Sub-Committee and be legally represented at the hearing.
13. Any driver, proprietor or operator who has their licence suspended or revoked by a Licensing Sub-Committee will have the right to appeal against the decision to a Magistrates Court within 21 days unless in the interests of public safety, the Sub-Committee further resolves that the suspension or revocation should have immediate effect.
14. Once a Licensing Sub-Committee has considered a case involving accumulated points, the points will be treated as spent unless the Sub-Committee decides otherwise.
15. If the Sub-Committee decides that any points are to remain live, they must stipulate the date at which they will be considered spent.
16. Nothing in this penalty points system will prevent the Council from taking action under any appropriate legislation.
17. The penalty points scheme will be subject to review two years after implementation and as necessary thereafter.

## SCHEDULE – TARIFF OF POINTS ISSUED FOR OFFENCES / BREACHES

	<b>Offence (s) / Breach of condition (s)</b>	<b>Points applicable</b>	<b>Vehicle Driver</b>	<b>Vehicle Proprietor</b>	<b>Operator (PH)</b>
1	Failing to behave in a civil and orderly manner	4	X		
2	Failure to proceed to another hackney carriage stand on finding a hackney carriage stand full (over-ranking)	3	X		
3	Failing to wear drivers badge so it is plainly visible	3	X		
4	Failing to display vehicle licence plate on the outside rear of the vehicle	3	X	X	
5	Vehicle interior in unacceptable condition	3	X	X	
6	Vehicle exterior in unacceptable condition	3	X	X	
7	Failure to provide fire extinguisher	3	X	X	
8	Taximeter defective or not clearly visible	4	X	X	
9	Failing to afford reasonable assistance with loading and unloading luggage	3	X		
10	Failure to display table of fares	3	X	X	
11	Conveying more passengers in the vehicle than permitted by the licence	4	X		
12	Leaving hackney carriage unattended on a stand	3	X		
13	Charging more than the prescribed fare for a journey	4	X		
14	When hired to do so, failing to attend at the appointed time and place without reasonable cause	3	X	X	X
15	Failing to hand in property left in a licensed vehicle by a passenger	3	X	X	X
16	Failing to notify the Council of motoring or other convictions within 7 days	4	X	X	X
17	Failing to keep appropriate records of bookings	4			X
18	Failing to notify the Council of a change of name or address	3	X	X	X
19	Refusing a fare without reasonable cause	3	X		
20	Failing to report an accident to the Council within 72 hours	3	X	X	
21	Failing to produce insurance certificate to officer on request	4	X	X	
22	Failing to produce vehicle for inspection on request	4	X	X	
23	Failure to produce booking records upon request	4			X
24	Causing or permitting any vehicle other than a hackney carriage to wait on a hackney carriage stand	4	X		
25	Unnecessarily prolonging a journey without reasonable cause	4	X		
26	Obstructing an authorised officer or constable	4	X	X	X

# Agenda Item 6

27	Failing to comply with a requirement properly made by an authorised officer or constable	4	X	X	X
29	Using vehicle horn otherwise than in accordance with the rule 112 of the Highway Code.	3	X		
30	Allowing smoking in a licensing vehicle	3	X		
31	Smoking in a licensed vehicle	3	X		
32	Parking a vehicle in an illegal or dangerous position	3	X		
33	Leaving a vehicle engine running unnecessarily while that vehicle is stationary on a public road (Highway Code Rule 123)	3	X		
34	Using a vehicle with defective tyres	4 (per tyre)	X	X	

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## **Annex I      Granting of certificates exempting drivers from the duties in respect of carrying assistance dogs**

- I.1 Any person wishing to be exempted from the duties placed on them in respect of the carriage of assistance dogs in hackney carriage or private hire vehicles must complete and submit the relevant application form.
- I.2 The application must be accompanied a letter from the person's own registered GP that states that they are of the opinion that the person has a genuine medical condition that is aggravated by exposure to dogs. The application must also be accompanied by medical evidence, for example a blood test, a skin prick test or clinical history.
- I.3 If an authorised officer of the Council is satisfied by the evidence accompanying the application, the licence holder will be issued with a notice of exemption notice. Whenever they are driving a hackney carriage or private hire vehicle, the holder of a notice of exemption must place it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard
- I.4 Where an exemption certificate is issued, the Council will also provide an additional tactile and/or large print resource to hackney carriage and private hire vehicle drivers so that assistance dog owners who are blind can identify that the driver has been issued with a certificate.

#### REVIEW OF HACKNEY CARRIAGE TABLE OF FARES

Relevant Portfolio Holder	Councillor K Taylor
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

#### 1. SUMMARY OF PROPOSALS

- 1.1 The Council has responsibility under the Local Government (Miscellaneous Provisions) Act 1976, for setting the maximum fares that can be charged by hackney carriage vehicles licensed to operate within the district. It is good practise to review the table of fares on a regular basis.

#### 2. RECOMMENDATIONS

- 2.1 **That the Licensing Committee note the contents of the report and that no further action is required at the present time.**

#### 3. KEY ISSUES

##### Financial Implications

- 3.1 The costs of advertising any proposed variations to the table of fares for hackney carriages would be met from existing budgets held by Worcestershire Regulatory Services.

##### Legal Implications

- 3.2 Section 65 (1) of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council may fix the rates or fares within the district as well for time as distance, and all other charges in connection with the hire of a vehicle or with the arrangements for the hire of a vehicle, to be paid in respect of the hire of hackney carriages by means of a table (hereafter in this section referred to as a “table of fares”) made or varied in accordance with the provisions of this section.

- 3.3 Section 65(2) of the Local Government (Miscellaneous Provisions) Act 1976 goes on to state:
- a) When a district council make or vary a table of fares they shall publish in at least one local newspaper circulating in the district a notice setting out the table of fares or the variation thereof and specifying the period, which shall not be less than fourteen days from the date of the first publication of the notice, within which and the manner in which objections to the table of fares or variation can be made.
  - b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of fourteen days from the date of the first publication thereof be deposited at the offices of the council which published the notice, and shall at all reasonable hours be open to public inspection without payment.
- 3.4 If no objection to a table of fares or variation is duly made within the period specified in the notice referred to in section 65 (2), or if all objections so made are withdrawn, the table of fares or variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.
- 3.5 If objections are made and are not withdrawn, the district council must set a further date, not later than two months after the first specified date, on which the table of fares shall come into force with or without modifications as decided by them after consideration of the objections.

#### **Service / Operational Implications**

- 3.6 The Council has responsibility under the Local Government (Miscellaneous Provisions) Act 1976, for setting the maximum fares that can be charged by hackney carriage vehicles licensed to operate within the district.
- 3.7 Hackney Carriage ("Taxi") fares are made up of an initial hiring charge and a "mileage" rate, both of which are expressed in terms of distance and / or time per unit cost. This is because when a hired taxi is stationary or moving slowly in traffic the meter continues charging, but by time, instead of distance.

- 3.8 The table of fares applies only to hackney carriage vehicles. Private hire operators are free to agree their hiring charges in advance with their customers, normally at the time of booking the journey.
- 3.9 The current table of fares can be seen at **Appendix 1**. This table of fares was approved by the Licensing Committee at its meeting on 29<sup>th</sup> September 2022 and took effect on 7<sup>th</sup> November 2022.
- 3.10 Upon approval of a revised table of fares in March 2022, Members of the Licensing Committee expressed the view that the table of fares should be regularly reviewed to avoid a situation where a large increase is requested following several years without a review having taken place.
- 3.11 Therefore a review was undertaken in November 2023 when Members decided not to make any changes to the table of fares.
- 3.11 As it is around a year since the current table of fares was last reviewed, officers have prepared this report in order to provide Members with an opportunity to review it again.
- 3.12 Prior to commencing the preparation of this report, a number of attempts were made by officers to contact the Chairman of Bromsgrove's Taxi Association to see if the members of that Association would like to request any amendments to the current table of fares. Unfortunately, no response was received by officers.
- 3.13 According to data from the Department for Energy Security & Net Zero, the average price per litre of ultra-low sulphur petrol and ultra-low sulphur diesel in the week when the existing table of fares took effect was:

	<b>Pence per litre</b>
Ultra-low sulphur petrol	165.62p
Ultra-low sulphur diesel	189.79p

- 3.14 According to the same data, the average price per litre of ultra-low sulphur petrol and ultra-low sulphur diesel at the time this report was prepared was:

	<b>Pence per litre</b>	<b>Change</b>
Ultra-low sulphur petrol	134.41p	↓ 18.8%
Ultra-low sulphur diesel	139.71p	↓ 26.4%

- 3.15 Average petrol and diesel prices are currently significantly lower than they were when the existing table of fares was implemented on 7<sup>th</sup> November 2022.
- 3.16 However fuel prices are just one matter that Members might consider relevant for them to consider, the rate of inflation during this period is also worthy of consideration.
- 3.17 According to the data from the Office of National Statistics the Consumer Prices Index (CPI) rate of inflation in the 12 months to November 2022 was 10.7%, which was close to its peak of 11.1% in October 2022. This rate of inflation had fallen to 3.9% in November 2023 when the table of fares was last reviewed.
- 3.18 According to the latest data available from the Office of National Statistics when this report was produced, the Consumer Prices Index (CPI) rate of inflation in the 12 months to September 2024 was 1.7%, down from 2.2% in August 2024.
- 3.19 This indicates that the rate of inflation has gradually reduced over the past two years and is now just below the Bank of England’s target rate of 2%. On it’s “What will happen to inflation?” webpage at the time this report was produced, the Bank of England said the following in respect of inflation:

*“Inflation is the measure of how quickly prices have risen over the past year. It was over 11% in the autumn of 2022, but it fell to 2.2% in August this year.*

*The pressures that were pushing up prices have eased, and the increases in interest rates we made during 2021–2023 have also helped to slow down those price rises.*

*We can't predict exactly what will happen to inflation, but we think it is likely to edge up to about 2.5% towards the end of the year before falling again.*

*While prices overall are very likely to go up more slowly than they have done in recent years, lower inflation doesn't mean prices will fall. Most things will still cost more than they did before."*

- 3.20 Taking into account the latest fuel price data, the current rate of inflation, the Bank of England's latest statements in respect of inflation, along with the views expressed by representatives of the Bromsgrove Taxi Association, officers recommend that no changes are made to the table of fares at this time.
- 3.21 Members are therefore asked note that this matter has been reviewed and that no further action is required at the present time. A further review will be held in around twelve months' time or earlier if there is a pressing need to do so.

#### **4. RISK MANAGEMENT**

- 4.1 None

#### **5. APPENDICES**

Appendix 1 – Current Table of Fares

#### **AUTHOR OF REPORT**

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Worcestershire Regulatory Services

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**BROMSGROVE DISTRICT COUNCIL**

**TABLE OF FARES FOR HACKNEY CARRIAGES**

**WITH EFFECT FROM 7<sup>th</sup> NOVEMBER 2022**

	Tariff One	Tariff Two	Tariff Three
For the first 1760 yards (1069.3 metres approx.) or part thereof	£5.00	£7.50	£10.00
For each subsequent 176 yards (160.9 metres approx.)	£0.20	£0.30	£0.40
Equivalent to:	£2.00 per mile (1609.3 metres approx.)	£3.00 per mile (1609.3 metres approx.)	£4.00 per mile (1609.3 metres approx.)
Waiting time – for each 30 seconds	£0.15	£0.20	£0.30
<b>Extra Charges</b>			
For each dog (except assistance dogs)	£1.50		
<b>Explanation of Tariffs Applicable</b>			
	<b>Journeys where there are up to four passengers</b>	<b>Journeys where there are five or more adult passengers</b>	
Tariff One	6am – Midnight	N/A	
Tariff Two	Midnight – 6am <u>and</u> on designated public holidays except Christmas Day, Boxing Day and New Years' Day	Any time except on designated public holidays	
Tariff Three	Christmas Day, Boxing Day and New Years' Day	On all designated public holidays	
<p><u>Note</u> if the vehicle or seating is so soiled by any passenger or animal as to require cleaning, the proprietor may make a charge. This must be made clear to the passenger at the end of the journey there will be a maximum charge of £100.00.</p>			

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**BUSINESS AND PLANNING ACT 2020**

**CONSULTATION ON DRAFT POLICY ON PAVEMENT LICENSING**

Relevant Portfolio Holder	Councillor K Taylor
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

- 1.1 The Council has been given responsibility for the issuing of pavement licences under the Business and Planning Act 2020. The licensing regime, which was implemented during the Covid-19 pandemic and was intended to be temporary, has now been made permanent.
- 1.2 Members have previously approved a draft Policy on Pavement Licensing for the purpose of consultation with relevant stakeholders and are now asked to consider the responses received during the consultation exercise and then to approve and adopt a finalised Policy on Pavement Licensing.

**2. RECOMMENDATIONS**

- 2.1 **Members are asked to RESOLVE;**

**To approve and adopt the draft Policy on Pavement Licensing shown at Appendix 2 to take effect immediately.**

**3. KEY ISSUES**

**Financial Implications**

- 3.1 The costs involved in carrying out the consultation were met from existing budgets held by Worcestershire Regulatory Services.
- 3.2 The resource implications for Worcestershire Regulatory Services arising from the implementation and ongoing administration of the permanent regime, may need to be reflected in the Council's future contributions to the Worcestershire Regulatory Services budget.

- 3.3 The Business and Planning Act 2020 contains provisions allowing Councils to charge fees for the grant and renewal of licences to recover the costs of administering the licensing regime. Certain costs associated with removing and storing furniture placed on the highway without authorisation, can also be recovered by the charging of fees.

### **Legal Implications**

- 3.4 It is considered best practice to have in place a clear and transparent policy that sets out the approach the Council takes in respect of its pavement licensing functions.
- 3.5 It is also considered best practice to carry out consultation on any such policy before it is implemented, in order to minimise the risks of any legal challenge to any aspects of that policy.

### **Service / Operational Implications**

- 3.6 In July 2020 the Business and Planning Act 2020 was enacted. The legislation was expedited through Parliament to make provisions relating to the promotion of economic recovery and growth as the country emerged from various restrictions that had been put in place in response to the global Covid-19 pandemic.
- 3.7 Part 1 of the Act introduced provisions in England and Wales that put in place a streamlined process to enable businesses to obtain permission to place removeable furniture on the highway for use in connection with the sale and consumption of food and drink. The need for a streamlined process was to ensure that hospitality businesses could maximise their opportunities to trade profitably at a time when social distancing requirements guidance remained in place which impacted the number of customers that they could accommodate inside their premises.
- 3.8 Responsibility for issuing the new “pavement licences” was given to district councils in England, including Bromsgrove District Council.
- 3.9 As previously mentioned, the legislation was put in place very quickly and was commenced as soon as it was enacted. That meant that there was very little time available to put in place policies and procedures for dealing with applications.

- 3.10 Worcestershire Regulatory Services agreed to take on the temporary pavement licensing functions on behalf of the Council as they were best placed to do so given that they were already carrying out functions on the Council's behalf under the Licensing Act 2003.
- 3.11 Officers worked at pace to draft policies, application forms, licence templates and website content to enable businesses to be able to apply for pavement licences as soon as possible after the legislation came into force. The policies were approved under emergency delegations in place at the time to allow them to come into effect as quickly as possible.
- 3.12 The provisions in part 1 of the Business and Planning Act 2020 were only originally intended to remain in place for a temporary period, and section 10 of the Act originally stated that the provisions would expire at the end of 30 September 2021.
- 3.13 However, the temporary regime was subsequently extended on three separate occasions before a decision was taken to make it a permanent licensing regime. The regime was made permanent on 31 March 2024 by virtue of the commencement of provisions made in the Levelling Up and Regeneration Act 2023.
- 3.14 At the same time as making the regime permanent, some important amendments were made to the pavement licensing regime including extending the consultation and determination periods in respect of applications from 7 to 14 days each. The permanent regime also contains new powers to serve notices and remove furniture when it has been placed on the highway without permission.
- 3.15 Now that the pavement licensing regime has been made permanent, it is necessary to review and revise the Council's Policy on Pavement Licensing to ensure that it is fit for purpose and reflects the amendments that have been made to the regime since it was first introduced.
- 3.16 A draft Policy on Pavement Licensing was prepared by officers and presented to the Licensing Committee on 22<sup>nd</sup> July 2024. The draft policy is based on a template that has been created to form the basis for similar policies across all six district Councils in Worcestershire.
- 3.17 The draft policy has been drafted with reference to the guidance on pavement licences published by the Department for Levelling Up, Housing and Communities (DLUHC) on 2<sup>nd</sup> April 2024 under section 8 of the Business and Planning Act 2020. This guidance can be seen at: [www.gov.uk/government/publications/pavement-licences-guidance/pavement-licences-guidance](http://www.gov.uk/government/publications/pavement-licences-guidance/pavement-licences-guidance).

## **LICENSING COMMITTEE**

**11<sup>th</sup> November 2024**

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- 3.18 The first two sections of the draft policy set out the background to the licensing regime, explains the scope and provides assistance in understanding key terms from the legislation that are used throughout the document.
- 3.19 The draft policy goes on to set out how people apply for a licence, how those applications will be advertised and consulted upon and how they will be determined. The draft policy also sets out the standard duration of licences and the conditions that licences that are granted or deemed to have been granted, will be subject to.
- 3.20 The draft policy also sets out the approach that will be taken in respect of compliance and enforcement activities in respect of the pavement licensing regime.
- 3.21 Members of the Licensing Committee resolved to approve the draft Policy on Pavement Licensing for the purpose of consultation with relevant stakeholders, subject to some minor amendments. These included the inclusion of Parish Councils in the list of those who would be consulted on applications.
- 3.22 The consultation exercise was undertaken between 12<sup>th</sup> August 2024 and 25<sup>th</sup> October 2024. The consultation exercise was facilitated using an online survey tool that asked respondents for their views and suggestions in respect of the following:
- The requirements for making an application
  - The advertising of, and consultation on applications
  - The standard licence duration
  - The standard conditions that will apply to licences granted or deemed to be granted
  - The approach that will be taken to compliance and enforcement activities
- 3.23 The consultation survey was sent to the following:
- Highway Authority – Worcestershire County Council
  - West Mercia Police Licensing Team
  - Hereford and Worcester Fire & Rescue Service
  - Environmental Health (WRS)
  - Centres Manager for Bromsgrove District Council
  - Planning Department at Bromsgrove District Council
  - Worcestershire Safeguarding Children Partnership
  - Director of Public Health (Worcestershire County Council)
  - Trading Standards (Worcestershire County Council)
  - Engagement, Equalities and Policy Team at Bromsgrove District Council

- Sensory Impairment Team at Worcestershire County Council
  - District Councillors
  - Parish Councils
  - Representative bodies of local businesses
  - National trade bodies for hospitality businesses
  - Local and national representative bodies for those with disabilities
  - Those who hold or have applied for pavement licences from the Council previously
- 3.24 A link to the consultation survey was hosted on the consultations page of the Council's website and publicised via social media channels.
- 3.25 In total nine people responded to one or more of the questions asked in the consultation survey, although only four respondents chose to answer every question.
- 3.26 A summary of the responses received to the questions asked as part of the consultation exercise, can be seen at **Appendix 1**.
- 3.27 Whilst there were only a small number of responses received, the majority of respondents agreed with:
- The process proposed for those applying for grant of a pavement licence
  - The process proposed for those applying for the renewal of a licence
  - The list of those who will be consulted on applications
  - The approach to be taken when determining applications
  - The granting of licences for a period of two years
  - The list of standard conditions for pavement licences
  - The proposed approach to compliance and enforcement
- 3.28 In respect of those who are consulted on applications, one respondent suggested that letters should be sent to residential addresses when an application is received. Officers do not believe that this is necessary as the applicant has to display a public notice at the premises. The costs and time constraints involved also make this something that officers cannot support.
- 3.29 In respect of the duration of licences, one respondent suggested that the licences should be issued for one year at a time, with another suggesting they should be granted indefinitely. The relevant legislation does not permit a licence to be granted for more than two years.

## **LICENSING COMMITTEE**

**11<sup>th</sup> November 2024**

- 3.30 Officers believe that granting licences for the maximum two-year period will reduce administrative and financial burdens on businesses and the licensing authority. Members are also reminded that the licensing authority has the power to revoke licences where the circumstances justify such a decision.
- 3.31 One respondent also suggested that small local businesses should be allowed to place a small amount of furniture adjacent to their property (not on the highway) without a licence. Members are reminded that no pavement licence is required if the furniture concerned is not being placed on part of a relevant highway.
- 3.32 Having considered the responses received during the consultation exercise, officers do not believe that the Council needs to make any further amendments to the draft Pavement Licensing Policy that was consulted upon.
- 3.33 Members are therefore now asked to approve and adopt the draft Policy on Pavement Licensing shown at **Appendix 2** to take effect immediately.

## **4. RISK MANAGEMENT**

- 4.1 Failing to carry out proper consultation on a policy of this nature before it is implemented, would increase the risk of the policy being subject to a successful legal challenge.

## **5. APPENDICES**

Appendix 1 - Summary of Consultation Responses

Appendix 2 - Draft Policy on Pavement Licensing

## **AUTHOR OF REPORT**

Name: Dave Etheridge – Principal Officer (Licensing)  
Worcestershire Regulatory Services

E Mail: [dave.etheridge@worcsregservices.gov.uk](mailto:dave.etheridge@worcsregservices.gov.uk)

Tel: (01905) 822799

### Consultation Questions and Responses

Q1. Do you agree with the process proposed for those applying for the GRANT of a pavement licence set out in paragraphs 3.5 to 3.8 of the draft policy?

<b>YES</b>	8	88.9%
<b>NO</b>	0	0.0%
<b>DON'T KNOW</b>	1	11.1%

Q2. Do you agree with the process proposed for those applying for the RENEWAL of a pavement licence set out in paragraphs 3.9 to 3.12 of the draft policy?

<b>YES</b>	5	62.5%
<b>NO</b>	0	0.0%
<b>DON'T KNOW</b>	3	37.5%

Q3. Do you agree with the list of those who will be consulted before applications are determined shown at paragraph 4.3 of the draft policy?

<b>YES</b>	5	62.5%
<b>NO</b>	2	25%
<b>DON'T KNOW</b>	1	12.5%

If you have answered NO, what changes to the list of consultees would you suggest?

I think council should send out letters out to residential address

It is basically a matter of determining applications on the basis of common sense. If each application requires consultation with the large number of bodies mentioned then that may make them feel self-important and, possibly, delay the process of approving applications. They should be consulted about possible hazards on the highway before the application process begins.

Q4. Do you agree with the Council's proposed approach to determining applications that is set out in paragraphs 5.1 to 5.13 in the draft policy?

<b>YES</b>	5	71.4%
<b>NO</b>	2	28.6%
<b>DON'T KNOW</b>	0	0.0%

If you have answered NO, what changes do you believe should be made to this part of the draft policy?

If the Council really desires "growth and economic prosperity in the hospitality sector" then it needs to control the mushrooming of large hospitality businesses which operate countrywide and provide mostly mass produced processed food. The Council's current policy is squeezing small local businesses which provide freshly made healthy food.

Q5. Do you agree that, unless previously surrendered or revoked, all pavement licences granted by the Council should be valid for two years?

<b>YES</b>	4	66.7%
<b>NO</b>	2	33.3%
<b>DON'T KNOW</b>	0	0.0%

If you have answered NO, how long do you think pavement licences should be granted for?

Should be yearly
They should last indefinitely. Red tape needs to be cut as much as possible. The licence fee of £100 should be a one-off payment.

Q6. Do you agree with the Council's list of standard licence conditions for pavement licences, which is set out in Annex B of the draft policy?

<b>YES</b>	3	60.0%
<b>NO</b>	0	0.0%
<b>DON'T KNOW</b>	2	40.0%

Q7. Do you agree with the Council's proposed approach to compliance and enforcement, as set out in paragraphs 8.1 to 8.11 of the draft policy?

<b>YES</b>	4	80.0%
<b>NO</b>	1	20.0%
<b>DON'T KNOW</b>	0	0.0%

If you have answered NO, what changes do you believe should be made to this part of the draft policy?

The Council should not act as a judge and executioner of its own judgment. The matter has to be dealt with in a court of law.

Q8. If you have any other comments or observations in relation to the draft policy on pavement licensing, please provide these here:

Small local businesses competing with companies who own multiple branches countrywide (or, indeed, internationally) should be allowed to place a couple of tables adjacent to the front window - that is, not on the highway - without the need for a licence.

Q9. In what capacity are you responding to this survey?

Owner / operator of a business that is able to apply for a pavement licence	1
Elected Member	0
Member of the public	1
Other (please specify)	2

Others specified:

Parish Council
Environmental Health

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**Bromsgrove**  
District Council

[www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk)



**\*\*\* DRAFT \*\*\***

## **POLICY ON PAVEMENT LICENSING**

### **BUSINESS AND PLANNING ACT 2020**

**APPROVED WITH EFFECT FROM: 12<sup>th</sup> NOVEMBER 2024**

**BROMSGROVE DISTRICT COUNCIL  
POLICY ON PAVEMENT LICENSING  
BUSINESS AND PLANNING ACT 2020**

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## 1.0 BACKGROUND AND INTRODUCTION

- 1.1 Pavement licences are issued by the Council under the provisions of the Business and Planning Act 2020.
- 1.2 The Business and Planning Act 2020 created a streamlined process to allow businesses to apply for a licence to place removable furniture over certain highways adjacent to a premises in relation to which the application is made, for certain purposes.
- 1.3 The Business and Planning Act 2020 was originally passed in summer 2020 in response to the significant adverse impacts the Covid-19 pandemic was having on businesses in the hospitality sector and was originally only intended to be in place for a short period of time. The purpose of the legislation was to make it quicker and simpler for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway.
- 1.4 The Levelling Up and Regeneration Act 2023 made permanent the provisions set out in the Business and Planning Act 2020 and it is hoped that this will provide much needed ongoing support for businesses and protect as many hospitality jobs as possible, particularly during times of increasing living costs.
- 1.5 This policy sets out the Council's approach to its functions and responsibilities with regard to the issue of pavement licences in its area. The policy document sets out a number of relevant matters including:
  - The Council's interpretation of the scope of, and key terms in, the relevant legislation
  - The Council's requirements in respect of applications for licences
  - The general approach and matters that the Council will take into account when determining applications for licences, including those who will be consulted
  - The conditions that the Council will attach to licences granted or deemed to be granted
  - The Council's approach to enforcement and revocation of licences
- 1.6 In formulating this policy, the Council has had due regard to the guidance issued by the Secretary of State under section 8 of the Business and Planning Act 2020.

## 2.0 SCOPE OF THE LICENSING REGIME AND DEFINITION OF KEY TERMS

### What businesses can apply for licences?

- 2.1 Pavement licences can be applied for by businesses that use (or propose to use) premises for the sale of food or drink for consumption on or off the premises. Businesses that are eligible include public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours including where such uses form an ancillary aspect of another use, for example supermarkets or entertainment venues that also sell food or drink.
- 2.2 Businesses that do not use their premises for the sale of food or drink, for example hairdressing salons, are ineligible. However these businesses can apply to the relevant highway authority for permission to place furniture on the pavement under provisions contained in part 7A of the Highways Act 1980.

### What furniture can be permitted by a licence?

- 2.3 A pavement licence can only permit the business to place removable furniture on a relevant highway. The Business and Planning Act 2020 states that furniture means:
- (a) counters or stalls for selling or serving food or drink,
  - (b) tables, counters or shelves on which food or drink can be placed,
  - (c) chairs, benches or other forms of seating, and
  - (d) umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink;
- 2.4 This furniture is required to be removable and related to the serving, sale and consumption of food or drink.
- 2.5 The Council will take a pragmatic common-sense approach when determining whether furniture is genuinely “removable.” However, in order to be considered removable, the Council expects any furniture to be capable of being moved easily and stored away from the relevant highway each night. Furniture that is fixed to either the ground or to walls, for example with screws or bolts, will not be considered by the Council to be removable furniture.

### What furniture is not capable of being permitted by a pavement licence?

- 2.6 Any furniture that is not removable or that is not used in connection with the outdoor selling or consumption of food or drink are not permissible by a pavement licence.
- 2.7 Advertising boards are not included in the definition of furniture within the pavement licensing regime. As well as needing consent under the Highways Act 1980, advertising boards also require express advertising consent under the Town and Country Planning Regulations 2007.
- 2.8 Applicants that wish to place non-removable furniture onto the highway must apply to the relevant highway authority for permission under the Highways Act 1980.

## Where can a licence allow furniture to be placed?

- 2.9 A pavement licence can authorise the placing of removable furniture on part of a relevant highway adjacent to the applicable premises.
- 2.10 The Business and Planning Act 2020 states that “**relevant highway**” means a highway –
- (a) to which Part 7A of the Highways Act 1980 applies, and
  - (b) which is not over Crown land or maintained by Network Rail.
- 2.11 When determining whether the part of the relevant highway is “**adjacent**” to the applicable premises, the Council will adopt a pragmatic approach and consider each case on its merits. In doing so all relevant factors will be considered including:
- How far the part of the relevant highway is from the frontage of the applicable premises;
  - What lies between the part of the relevant highway and the frontage of the applicable premises; and
  - What other businesses that are eligible to apply for a pavement licence are located in the vicinity of the premises that is the subject of the application.

## Interaction with section 115E of the Highways Act 1980

- 2.12 Section 115E of the Highways Act 1980 enables the relevant highway authority (Worcestershire County Council) to grant a person permission to use objects or structures on, in or over the highway:
- for a purpose which will result in the production of income;
  - for the purpose of providing a centre for advice or information; or
  - for the purpose of advertising.
- 2.13 However, section 115E (5) of the Highways Act 1980 states that:
- “A council may not under this section grant a person permission to do anything which is capable of being authorised by a pavement licence under section 1 of the Business and Planning Act 2020”
- 2.14 Therefore, where someone is wishing to place removable furniture on part of a relevant highway in circumstances that fall in scope of the Business and Planning Act 2020, they must apply for a pavement licence under that legislation.
- 2.15 In circumstances where someone wishes to use objects or structures on the highway that are not within scope of the Business and Planning Act 2020, they will not be able to apply for a pavement licence, but may be able to obtain permission under section 115E of the Highways Act 1980. Any such requests for permission must be made to Worcestershire County Council who are the relevant highway authority for the area.

## 3.0 APPLYING FOR A LICENCE

### Types of application

- 3.1 The process that someone needs to follow to apply for a pavement licence will depend on whether the application is an application for the grant of a licence or for renewal of a licence.
- 3.2 In order to be considered a renewal application, an application must:
- (a) be made by a person who already holds a pavement licence,
  - (b) be in respect of the premises to which the existing licence relates, and
  - (c) be for a licence to begin on the expiry of the existing licence and on the same terms.
- 3.3 A renewal application must therefore be made before the existing licence has expired. If the existing licence has already expired when the application is made, it will not be treated as a renewal application and will instead be treated as an application for the grant of a licence.
- 3.4 Likewise, if the licence holder wishes to change any of the terms of their licence, including amending the part of the relevant highway that the licence permits the furniture to be placed, then the application will not be treated as a renewal application and will instead be treated as an application for the grant of a licence.

### Applying for the GRANT of a pavement licence:

- 3.5 Applications must be made on the Council's standard application form and must be submitted electronically to [enquiries@worcsreqservices.gov.uk](mailto:enquiries@worcsreqservices.gov.uk) along with the required supporting documentation and evidence that the required application fee has been paid.
- 3.6 Applications for the grant of a licence must be accompanied by:
- A plan showing the location of the premises shown by a red line, so the application site can be clearly identified
  - A plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items of furniture that they wish to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
  - A copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million,
  - Photos or brochures showing the proposed type of furniture (including the means of enclosure such as barriers) and information on potential siting of it within the area applied.

- Evidence of consent from neighbouring frontager(s) to use footway space outside their property (if applicable).

3.7 The application fee is non-refundable in the event that the application is refused or withdrawn or if any licence granted is subsequently surrendered or revoked.

3.8 An application will not be considered complete until the application form, all required documents and the application fee have all been received. The public consultation period will not commence until the day after a **complete** application has been made.

Applying for the RENEWAL of a pavement licence:

3.9 Applications must be made on the Council's standard application form and must be submitted electronically to [enquiries@worcsregservices.gov.uk](mailto:enquiries@worcsregservices.gov.uk) along with the required supporting documentation and evidence that the required application fee has been paid.

3.10 Applications for the grant of a licence must be accompanied by:

- A copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million,

3.11 The application fee is non-refundable in the event that the application is refused or withdrawn or if any licence granted is subsequently surrendered or revoked.

3.12 A renewal application will not be considered complete until the application form, all required documents and the application fee have all been received. The public consultation period will not commence until the day after a **complete** application has been made.

## 4.0 ADVERTISING AND CONSULTING ON APPLICATIONS

4.1 The Act requires an applicant for a pavement licence to

- (a) On the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises, and
- (b) Secure that the notice remains in place until the end of the public consultation period which means the period of 14 days beginning with the day after that on which the application is made.

4.2 A template notice for use by applicants can be found at **Annex A** of this policy.

4.3 Before determining an application, the Council will consult with the following bodies:

- Worcestershire County Council (the highway authority)
- West Mercia Police
- Hereford and Worcester Fire and Rescue Service
- Environmental Health Officers at Worcestershire Regulatory Services
- Bromsgrove Centres' Manager
- Any relevant Business Improvement District (where applicable)
- The relevant Ward Member(s) for the District Council
- The Parish Council for the relevant location (where applicable)

4.4 Details of applications received and the relevant public consultation periods for each application will also be published at:

[www.worcsregservices.gov.uk/licensing/pavement-licences.aspx](http://www.worcsregservices.gov.uk/licensing/pavement-licences.aspx)

## 5.0 DETERMINING APPLICATIONS

5.1 The Council recognises the aims of the Business and Planning Act 2020 and wants to support relevant businesses to achieve growth and economic prosperity in the hospitality sector. The Council will therefore seek to grant applications for licences where possible.

5.2 However, this general approach has to be balanced with the need to ensure that the issuing of pavement licences:

- Does not put public health or safety at risk;
- Does not lead to anti-social behaviour or public nuisance; and,
- Ensures that the public, particularly those with disabilities such as sight impairment, are unhampered when walking along streets.

5.3 The Council will consider all of the relevant circumstances in determining applications and will treat each case on its merits.

5.4 In particular the Council will consider whether the licence holder is able to comply with the both the Council's published standard licence conditions and the statutory licence conditions set out in section 5 (5) and section 5 (6) of the Business and Planning Act 2020.

5.5 The Council's standard licence conditions are shown in full at Annex B.

5.6 The statutory licence conditions are: a no-obstruction condition and a smoke-free seating condition. The statutory licence conditions are shown in full at Annex C.

5.7 When determining individual applications, the Council will also have regard to the guidance issued by the Secretary of State under section 8 of the Business and Planning Act 2020.

5.8 The Council will not grant a licence when doing so would lead to any of the following effects:

- (a) preventing traffic, other than vehicular traffic, from—
  - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
  - (ii) passing along the relevant highway, or
  - (iii) having normal access to premises adjoining the relevant highway,
- (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
- (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
- (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept

installed for the purposes of that network under, in, on or over the highway.

- 5.9 When considering whether furniture put on a relevant highway by a licence holder pursuant to a pavement licence has or would have the effect referred to in paragraph (a) above, the Council will have regard in particular to the needs of disabled people, and the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State.
- 5.10 This list is not exhaustive, and the Council may refuse an application on other grounds including (but not limited to) where the granting of the licence would put at risk public health or safety, lead to antisocial behaviour or public nuisance or unreasonably hamper pedestrian's ability to move freely.
- 5.11 The Council will consider any objections or comments received in respect of the application during the public consultation period, whether made by the bodies consulted or any other person, before the application is determined.
- 5.12 Given the important role it undertakes in maintaining the safety of users of the highway, it is extremely unlikely that a licence will be granted or renewed where objections to an application are received from the highway authority, but in all cases the thoughts of all consultees will be considered.
- 5.13 Having considered any objections or comments received in respect of the application, the Council may:
  - a) Grant a licence subject to the standard conditions
  - b) Grant a licence subject to the standard conditions and any other reasonable conditions that are considered appropriate in the circumstances of the case
  - c) Refuse the application

## **6.0 LICENCES DEEMED TO BE GRANTED**

- 6.1 The Council aims to determine all applications within the determination period provided by the Act. That means that applications will be granted or refused within the period of 14 days beginning with the first day after the public consultation period has ended.
- 6.2 However, if the Council does not make a determination by the end of the determination period, section 3 (9) of the Act provides that the licence for which the application was made is deemed to be granted by the Council to the applicant.

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## 7.0 LICENCE DURATION AND CONDITIONS

### Duration of licences

- 7.1 Unless previously surrendered or revoked, all licences granted by the Council will be valid for a period of two years and will then expire.
- 7.2 Unless previously surrendered or revoked, any licence deemed granted under section 3 (9) of the Act will be valid for two years starting with the first day after the determination period.

### Licence conditions

- 7.3 All pavement licences whether granted or deemed granted, will be subject to the Council's published standard conditions. These are published at **Annex B** to this policy statement.
- 7.4 All pavement licences whether granted or deemed granted, will also be subject to the statutory conditions provided for under section 5(4) of the Business and Planning Act 2020. The statutory conditions are shown at **Annex C** to this policy statement.
- 7.5 In addition to the standard conditions and statutory conditions, further reasonable conditions may be attached to individual licences as the Council considers appropriate in the circumstances of the case having regard to any comments or objections received during the public consultation period. The need for further conditions beyond the standard conditions will be considered on a case-by-case basis.

## 8.0 COMPLIANCE AND ENFORCEMENT

### Putting removable furniture on part of a relevant highway without permission

- 8.1 In cases where removable furniture which would normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, appropriate advice will be given to the relevant business on how they can apply for a licence.
- 8.2 If no licence application is received and the furniture continues to be placed on a relevant highway without the required licence, the Council can give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.
- 8.3 If furniture continues to be placed on the highway, in violation of the notice, the Council may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid.
- 8.4 If within 3 months of the notice, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

### Breaches of licence condition

- 8.5 The Council will always seek to rectify any issues arising as a consequence of the activities authorised by a pavement licence by engaging in informal discussions with the licence holder in the first instance.
- 8.6 However, if this informal approach does not resolve the issues in a satisfactory way, then formal action can be taken as detailed below.
- 8.7 If the Council considers that a licence-holder has breached any condition of the licence, the authority may—
- (a) revoke the licence, or
  - (b) serve a notice on the licence-holder requiring the taking of such steps to remedy the breach as are specified in the notice within such time as is so specified.
- 8.8 If a licence-holder on whom an enforcement notice is served fails to comply with the notice, the Council may—
- (a) revoke the notice, or
  - (b) take the steps itself and recover the costs of doing so from the licence holder.

8.9 The Council may also revoke the licence if it considers that—

- (a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted,
- (b) as a result of the licence—
  - (i) there is a risk to public health or safety, or
  - (ii) anti-social behaviour or public nuisance is being caused or risks being caused,
  - (iii) the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence),
- (c) anything material stated by the licence-holder in their application was false or misleading, or
- (d) the licence-holder did not comply with the duty to advertise their application.

8.10 The Council may also, with the consent of the licence-holder, amend a licence if it considers that—

- (a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted,
- (b) as a result of the licence—
  - (i) there is a risk to public health or safety, or
  - (ii) anti-social behaviour or public nuisance is being caused or risks being caused,
  - (iii) the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence),
- (c) a no-obstruction condition of the licence is not being complied with.

8.11 All enforcement activity will be undertaken in line with the principles set out in the Regulator's Code and with regard to any relevant enforcement policies in place.

## 9. EQUALITIES

- 9.1 Under the Equality Act 2010 it is against the law to discriminate against anyone because of age, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race including colour, nationality, ethnic or national origin, religion or belief, sex, or sexual orientation.
- 9.2 The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.
- 9.3 The licensing authority has had regard to this duty when publishing this statement of policy and will have regard to the duty when determining applications for pavement licences under the Business and Planning Act 2020.
- 9.4 The licensing authority will also look to discharge this duty by making suitable arrangements where requested to provide information in a format that meet the requirements of those with special needs such as large type, audio information and information in foreign languages. Specific needs will be dealt with on an individual basis.
- 9.5 In the design and layout of their premises and any areas of the highway used to place furniture, applicants and licence holders are encouraged to consider access and facilities for customers with protected characteristics.
- 9.6 Any person who is concerned that a premises is failing to comply with the Equality Act should make their complaint to the premises in the first instance. Advice can also be sought from the Equality Advisory Support Service (EASS) - [www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

## 10. RIGHTS OF APPEAL

- 10.1 The Business and Planning Act 2020 does not provide any statutory right of appeal against a decision to refuse or revoke a pavement licence. Nor is there a statutory right of appeal against any enforcement notice served on a licence holder.
- 10.2 However, clear and justifiable reasons will always be provided if a licence is refused or revoked, or if an enforcement notice is served on a licence holder.

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## 11. PLANNING PERMISSION

- 11.1 If a pavement licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid and remains in force.

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## 12. HAZARDS OR OBSTRUCTIONS ON THE HIGHWAY

- 12.1 Notwithstanding the grant or deemed grant of a licence, the highway authority reserves the right to remove items that present a hazard or obstruction to highway users.

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ANNEX A – TEMPLATE PUBLIC NOTICE

**BUSINESS AND PLANNING ACT 2020**

**NOTICE OF APPLICATION FOR A PAVEMENT LICENCE**

I / We .....(1)

Do hereby give notice that on ..... (2)

I / we have applied to Bromsgrove District Council for a pavement licence at:

.....  
..... (3)

Known as..... (4)

The application is for:  
.....  
..... (5)

Any person wishing to make representations to this application may do so by writing to [enquiries@worcsregservices.gov.uk](mailto:enquiries@worcsregservices.gov.uk) by:

..... (6)

The application and information submitted with it can be viewed at:  
[www.worcsregservices.gov.uk/licensing/pavement-licences.aspx](http://www.worcsregservices.gov.uk/licensing/pavement-licences.aspx)

Signed .....

Date ..... (7)

## **Guidance notes on completing this notice of application.**

Complete the notice by putting the following information in the numbered spaces:

- (1) Name of the applicant
- (2) Date the application is made (submitted)
- (3) Postal address of the premises
- (4) Name the premises is known by
- (5) Brief description of application (e.g outdoor seating to the front of the premises for serving of food and drink]).
- (6) Last date for representations being the date 14 days after the date the application is submitted to the local authority.
- (7) The date the notice was placed (must be the same date as (2) above)

On the same day that the application is made, a completed copy of this notice must be fixed to the premises so that it is readily visible to, and can be read easily by, members of the public who are not on the premises, and secure that the notice remains in place until the end of the public consultation period.

**Failure to comply this requirement may lead to the revocation of any licence granted or deemed granted.**

## ANNEX B – STANDARD CONDITIONS FOR PAVEMENT LICENCES

1. The licence must only be used for the purpose of placing removable furniture on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the licence holder's business premises.
2. Furniture may only be placed within the area of the highway identified on the plan that is annexed to the licence.
3. The licence holder must ensure that furniture is positioned in such a way so that staff can service the space regularly for cleaning and other purposes, in a manner that does not compromise their health and safety.
4. Any furniture shall be kept in a clean, safe and well maintained condition. Any canopies or umbrellas must be adequately secured.
5. Any furniture must be made of suitable materials to ensure that it cannot easily be pushed or blown over by the wind and thereby cause obstruction. Lightweight plastic "patio" style furniture is therefore not permitted.
6. Clear routes of access along the footway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances suggested by the Department for Transport "Inclusive Mobility" guidance document. A minimum useable footway width of 1.5m must be maintained for pavement users including those using mobility aids such as walking frames, wheelchairs and mobility scooters.
7. The licence holder shall not make excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface.
8. Unless otherwise specified on the licence, the licence holder must not place any furniture on the highway in pursuance of this licence before 07:00hrs on any day and must remove all furniture placed on the highway in pursuance of this licence when the premises closes or by 23:00hrs on any day, whichever is the earliest.
9. Unless otherwise specified on the licence, all furniture must be stored securely away from the highway between the hours of 23:00hrs and 07:00hrs and at all other times when the premises is closed.
10. The licence holder must observe and comply with any direction made by a Police Officer, Fire and Rescue Officer, or authorised officer of the local authority in relation to the use of the highway, including any direction to remove furniture from the highway. These public bodies will not be liable for any loss of earnings arising as a result of the licence holder being required to comply with such a direction.
11. The licence holder must at all times hold a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million.
12. The area of the highway covered by the licence must be kept clean and tidy at all times. This will include washing down the area, and removing any refuse and litter on the highway in the vicinity of the removable furniture.

# Agenda Item 8

13. The licence holder shall not use or allow to be used any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio, or television receiving sets in the area of the highway covered by the licence.
14. The licence holder must not allow customers using the area to engage in anti-social or disorderly behaviour.
15. The licence holder must ensure that the area covered by the licence is monitored regularly by staff to ensure that the conditions above are being adhered to.
16. If the premises does not hold a premises licence under the Licensing Act 2003 which authorises the sale of alcohol, the licence holder must not allow the sale or consumption of alcohol within the licensed area.
17. Any sales of alcohol within the licensed area must be authorised under the Licensing Act 2003.
18. A copy of the licence must be kept on the premises at all times and be available for inspection by a police officer or authorised officer of the local authority.

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## ANNEX C – STATUTORY CONDITIONS FOR PAVEMENT LICENCES

1. Anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3(6). These effects are:
  - (a) preventing traffic, other than vehicular traffic, from—
    - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
    - (ii) passing along the relevant highway, or
    - (iii) having normal access to premises adjoining the relevant highway,
  - (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
  - (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
  - (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
2. Where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.

## ANNEX D – TABLE OF DELEGATED FUNCTIONS

	Licensing Committee	Licensing Sub-Committee	Head of Regulatory Services
Approval and revision of Policy on Pavement Licensing	X		
Determination of application for grant of a pavement licence (including any specific conditions)			X
Determination of application for renewal of a pavement licence (including any specific conditions)			X
Decision to revoke a pavement licence		X	
Decision to serve notice on the licence holder under section 6 of the Business & Planning Act 2020			X
Decision to amend a licence with the consent of the licence holder under section 6(4) of the Business & Planning Act 2020			X
Decision to serve notice on a person under section 7A of the Business and Planning Act 2020			X

## LICENSING COMMITTEE

**11<sup>th</sup> November 2024**

### LICENSING COMMITTEE WORK PROGRAMME 2024/25

#### 11<sup>th</sup> November 2024

- Revised Statement of Principles under Gambling Act 2005 – Consideration of responses to consultation
- Renewal of licences for vehicles previously written off – responses to consultation on amending policy.
- Annual review of hackney carriage table of fares
- Draft Policy on Pavement Licensing - Consideration of responses to consultation
- Terrorism (Protection of Premises) Bill (Martyn's Law) – Verbal Update
- Frequently Asked Questions (FAQ) Council's Website, Licensing pages – verbal update

#### **Closed Session**

- Any Enforcement / Appeals Updates – (verbal) Dave Etheridge

#### 24<sup>th</sup> March 2025

- Responses to Consultation on Mandatory Safeguarding Refresher Training for Hackney Carriage and Private Hire Drivers
- Review of Street Trading Policy
- CCTV in licensed hackney carriage and private hire vehicles

#### **Closed Session**

- Any Enforcement / Appeals Updates – (verbal) Dave Etheridge

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