

# **THE ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD**

## **Hackney Carriage Driver & Vehicle Policy and Conditions**

This is a general guide that has been prepared for the assistance and guidance of Hackney Carriage Drivers. It does not stand on its own and The Royal Borough of Windsor and Maidenhead, its Officers and agents do not accept any responsibility for any loss occasioned by any person acting as a result of the material contained herein.

The law relating to Hackney Carriages is contained within the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clause Act 1847.

All previous policies and conditions are hereby revoked from the date this document is approved by the Licensing Panel

In this document, any reference to Licensing Officers means the Trading Standards and Licensing Manager, the Licensing Enforcement Officers and Assistant Licensing Enforcement Officers of the Royal Borough of Windsor and Maidenhead. "Council" means the Royal Borough of Windsor and Maidenhead.

## **Hackney Carriage Drivers and Licensing Requirements**

### **1. HACKNEY CARRIAGE DRIVERS – REQUIREMENTS**

- 1.1 Each application will be considered on its own merits, taking into account all relevant information and circumstances and having regard to the criteria detailed below.
- 1.2 Should any applicant fail to be regarded as a fit and proper person to hold a Hackney Carriage Drivers Licence (HCD); his application shall be refused by the Licensing Officers.
- 1.3 There is a right of appeal to the Council's Appeals Panel.
- 1.4 Should any licence holder become regarded as not being a fit and proper person to hold a Hackney Carriage Drivers licence, his licence may be suspended or revoked.

### **2. APPLICATION REQUIREMENTS**

- (a) All applicants must have held a full UK, NI or EU driving licence for a minimum of two years before an application for a HCD licence can be made. (This excludes the holding of a provisional licence).
- (b) Holders of full EU licences must register their licence with the DVLA and obtain and present a UK DVLA to accompany an application for a Hackney Carriage or Private Hire Driver licence.
- (c) All new applicants must complete a Data Protection Mandate form in order for their DVLA/EU drivers' licence to be checked and verified by the DVLA.
- (d) Existing drivers may be required to complete a Data Protection evaluation form if they have a poor driving record.
- (e) All new applicants must comply with the DBS requirements set out in paragraph 3.17, below.
- (f) The DBS does not check for criminal convictions outside the UK and should an applicant not have been a resident in the UK for the preceding five years, a Certificate of Good Conduct should be obtained from the appropriate Embassy or High Commission. A certified English translation of this document must be produced by the applicant at his own cost. If this cannot be provided, the application shall be refused.

- (g) All applicants and licensees are required to disclose if they hold or have previously held;
- (i) a hackney carriage or private hire drivers' licence with another authority, and
  - (ii) if they have ever had an application for a hackney carriage or private hire drivers' licence refused, or a licence revoked or suspended by any other licensing authority
- (h) All applicants must provide proof of the right to work and reside in the UK. This can be done by providing a valid UK, the correct Irish or Channel Islands documentation, or, for other passport holders,
- A passport endorsement, or an Immigration Status Document issued by the Home Office, showing that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK, or
  - Other documentation included in the government's "Employers' right to work checklist" which can be found at the "Foreign nationals working in the UK" section on [www.gov.uk](http://www.gov.uk). In this case, licenses will only be issued for the length of time until the applicant's permission to be in the UK expires
- (i) All applicants must have completed and passed a Driving Standards Agency Hackney Test Assessment within the last 12 months, prior to any Hackney Carriage Drivers licence being issued. (Drivers currently licensed by RBWM are exempt from having to take the DSA Test unless there is a complaint about the standard/quality of their driving).
- (j) From 1 October 2018 all applicants must have attended, at their own expense, mandatory classroom based safeguarding training as prescribed by the Head of Communities, Enforcement & Partnerships and achieved a satisfactory score in the test included in the training.
- (k) Applicants are expected to have a good knowledge of the Royal Borough of Windsor and Maidenhead and the surrounding area as well as the Highway Code. Applicants will be tested on their knowledge of the above and must pass a written knowledge test to a set standard. Knowledge tests shall take the form of a written test which will be conducted in English only. Payment for the test shall be made in advance and failure to attend without prior notice shall mean forfeiture of any monies paid.
- (l) Applicants have twelve months from submission of application to complete the application process.
- (m) All applicants must submit a Certificate of Fitness which must be signed and stamped by their own General Practitioner or any other appropriate UK registered medical doctor (GMC number to be provided on medical form) Medical are required at first application, then every five years until the license holder reaches the age of 65. Thereafter Certificate of Fitness must be provided every year.

(n) All applicants for a RBWM hackney carriage driver's license are required to take a mandatory test of their English language proficiency, both written and oral, as part of the application process. This will not apply where an applicant can provide evidence of a UK secondary school level qualification taught and examined in English, or equivalent if taught and examined in English and which demonstrates the applicant's ability to read, write, speak and listen in English. Applicants for a 3 year licence must apply for an enhanced DBS at the time of application and will be subject to a DVLA licence check. Each year, after the licence has been issued, the driver will be subject to another DVLA licence check and will be issued with a new badge, using a current photograph.

2.1 Nothing in this policy shall preclude a licence holder from being required to undergo a medical examination at any time as may be directed by the Licensing Officers.

### **3. FIT AND PROPER**

3.1 A licence shall not be granted where an applicant has been convicted of an offence of a type set out in the assessment of previous convictions in the Hackney Carriage and Private Hire Driver Licences Statement of Policy about Relevant Convictions, below, which;

- (a) has not yet been rehabilitated in terms of the Rehabilitation of Offenders Act 1974 (as amended), or
- (b) does not meet the requirements of the assessment of previous convictions set out in the Driver Licences Statement of Policy about Relevant Convictions
- (c) In addition, where there are relevant spent convictions these may also be considered.

The Council will take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime.

In addition, where there are relevant spent convictions these may also be considered

3.2 A conviction for any of the offences listed in the assessment of previous convictions in the Hackney Carriage and Private Hire Driver Licences Statement of Policy about Relevant Convictions will result in immediate licence suspension or revocation by the Licensing Officers. Where a RBWM licence holder has been served an immigration penalty or convicted of an immigration offence, the licence will be revoked immediately. Should a Hackney Carriage Drivers licence holder be charged with an offence that is deemed to be of such a nature that it poses a serious risk to the public, the Licence shall be immediately suspended by the Licensing Officers until such time that the issue has been resolved

3.3 Where a conviction is not in respect of a relevant offence and is not of a nature which would have any bearing on whether the applicant is a fit and proper person to hold a

driver's licence, then such a conviction will be disregarded other than in consideration of an overall adherence to the law.

3.4 The Driver must inform the Council without delay about the onset or worsening of any health condition likely to cause him to be a source of danger to the public when driving either now or in the future. Examples are contained in the DVLA Medical Notification Guidance and include;

- giddiness
- fainting
- blackouts
- epilepsy
- strokes
- multiple sclerosis
- Parkinson's disease
- heart disease
- angina
- coronary
- high blood pressure
- arthritis
- disorder of vision
- mental illness
- alcoholism
- drug taking
- loss of limb or loss of use of limb

3.5 A licence may be suspended or revoked by the Licensing Officers in accordance with the approved penalty point system (see penalty point system).

3.6 A licence may be surrendered or revoked by the Licensing Officers in accordance with approved penalty point system (see penalty point system).

3.7 From 1 October 2018 existing hackney carriage drivers must undertake mandatory classroom based safeguarding training as prescribed by the Head of Communities, Enforcement & Partnerships and achieve a satisfactory score in the test including in the training.

“Existing hackney carriage drivers” includes any applicant who has started, but not completed the application process on this date.

3.8 Full details of the training and how to arrange to attend will be provided by the Licensing Officers. Drivers attending the training and achieving a satisfactory score in the test will be issued with a certificate.

3.9 This training must be completed by 31 December 2019 and the original of the certificate provided to the Licensing Officers by that date.

3.10 Should an existing driver fail to attend the training and attain a certificate by 31/12/2019 they will not be regarded as fit and proper to hold a Hackney Carriage

Drivers Licence. As a result their licence will be suspended until the training is completed and a certificate produced to the Licensing Officer.

- 3.11 There is a right of appeal against any such suspension to the Council's Appeals Panel.
- 3.12 The cost of the training is to be met by the person attending the training. This will be on a cost recovery only basis.
- 3.13 Existing drivers who can provide evidence that they have attended equivalent safeguarding training will be exempt from the requirement to attend this mandatory safeguarding training. "Equivalent" in this case means:
- Training in a classroom or group environment
  - With a test requiring a minimum pass mark
  - With a certificate of attendance or completion.
- 3.14 Drivers will be required to undergo refresher training every 3 years as prescribed by the Head of Communities. Full details of this refresher training and how to complete it will be provided by the Licensing Officers.
- 3.15 When considering whether an applicant or licensee is fit and proper to hold a RBWM licence the following question will be posed:
- "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"
  - If, on the balance of probabilities, the answer to this question is 'no', the individual will not be granted a RBWM licence
- 3.16 If a licensing officer has reason to believe that the English language proficiency of an existing RBWM hackney carriage driver's licence holder is insufficient to meet the needs of the job, and in particular;
- a) the ability to understand written documents, such as policies and guidance,
  - b) the ability to understand training and written policies and guidance relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation, and
  - c) oral proficiency to enable reasonable communication with passengers, and in particular the identification of potential exploitation through communicating with passengers and their interaction with others, the licensing officer will require that the applicant or licence holder undertakes English language proficiency testing, both written and oral, and provide the results of those tests within 28 days.

Failure to comply with this requirement may result in the refusal of the application, or the suspension of an existing licence until the testing is completed.

- 3.17 From 01 April 2024, all existing licenced drivers, and new applicants for a licence, must enable the Licensing team to check their DBS for new information every six months by;
- i) applying and paying for their enhanced DBS on-line via an agreed third-party company,
  - ii) registering and paying for the Disclosure and Barring Service (DBS) Update Service, and renewing this annually,
  - iii) authorising access by RBWM licensing officers to perform a status check of their DBS at any time during the duration of their licence using the “DBS Update Service Status Checks” facility provided by the third part company and meeting the cost of this facility through their drivers’ licence from 01/04/2025.

**ROYAL BOROUGH OF  
WINDSOR AND MAIDENHEAD**

**HACKNEY CARRIAGE BYE-LAWS AND REQUIREMENTS**

**BYELAWS**

Made under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875, by the Council of the Royal Borough of Windsor & Maidenhead with respect to hackney carriages in the area of the Royal Borough of Windsor & Maidenhead.

**INTERPRETATION**

Throughout these byelaws “the Council” means the Council of the Royal Borough of Windsor & Maidenhead and “the district” means the area of the Royal Borough of Windsor & Maidenhead.

1. Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence shall be displayed.
  - (a) The proprietor of a hackney carriage shall cause the number of the Licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.
  - (b) The proprietor of a hackney carriage shall ensure that an internal identification plate is clearly displayed within the vehicle, showing the Hackney Carriage Vehicle Licence and registration number matching the design approved by the licensing team.
  - (c) A proprietor or driver of a hackney carriage shall: -
    - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
    - (ii) not cause or permit the carriage to stand or ply for hire with any such painting, marketing or plate so defaced that any figure or material particular is illegible.
2. Provisions regulating how hackney carriages are to be furnished or provided.

The proprietor of a hackney carriage shall:-

- (a) provide sufficient means by which any person in the carriage may communicate with the driver;
- (b) cause the roof or covering to be kept water-tight;
- (c) provide any necessary windows and a means of opening and closing not less than one window on each side;



- (d) cause the seats to be properly cushioned or covered;
  - (e) cause the floor to be provided with a proper carpet, mat, or other suitable covering;
  - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
  - (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
  - (h) provide an efficient fire extinguisher and first aid kit approved by the Council which shall be carried in such a position as to be readily available for use; and
  - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
3. The proprietor of a hackney carriage shall any taximeter with which the carriage is provided to be so constructed, and maintained as to comply with the following requirements, that is to say:-
- (a) the taximeter shall be fitted with a key, flag, or other device the operation of which will bring the machinery of the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter;
  - (b) such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
  - (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter, in clearly legible figures, a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by time as well as for distance in pursuance of the tariff fixed by the Council in that behalf;
  - (d) the word 'FARE' shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
  - (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
  - (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

## **PROVISIONS RELATING THE CONDUCT OF THE PROPRIETORS AND DRIVERS OF HACKNEY CARRIAGES PLYING WITHIN THE DISTRICT IN THEIR**

**EMPLOYMENT AND DETERMINING WHETHER SUCH DRIVERS SHALL WEAR ANY AND WHAT BADGES.**

4. The driver of a hackney carriage provided with a taximeter shall:-
  - (a) when standing or plying for hire, keep the keys, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
  - (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word 'HIRED' is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
  - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness; this being the time between half-an-hour after sunset to half-an-hour before sunrise, and also at any other time at the request of the hirer.
5. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
6. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-
  - (a) proceed with reasonable speed to one of the stands fixed by the Council in that behalf;
  - (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
  - (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction;
  - (d) from time to time when any other carriage immediately in front is driven off or moved forward, cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward; and
  - (e) be in attendance with the carriage at all times when it is the first or second carriage on the stand.
7. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.
8. The driver of a hackney carriage shall behave in a civil and orderly manner and shall

take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

9. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
10. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
11. The badge provided by the Council and delivered to the driver of a hackney carriage shall, when standing or plying for hire, and, when hired, be worn in such position and manner as to be plainly visible.
12. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:-
  - (a) convey a reasonable quantity of luggage; and
  - (b) afford reasonable assistance in loading and unloading; and
  - (c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.

**PROVISIONS FIXING THE RATES OR FARES TO BE PAID FOR HACKNEY CARRIAGES WITHIN THE DISTRICT, AND SECURING THE DUE PUBLICATION OF SUCH FARES**

13. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by distance, unless the hirer expressed at the commencement of the hiring, his desire to engage by time.  
Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance, the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council which may not be possible to record on the face of the taximeter.
14. The proprietor of a hackney carriage shall cause a statement of the fares fixed by the Council in that behalf to be exhibited inside the carriage, in clearly distinguishable letters and figures.
  - (a) The proprietor or driver of a hackney carriage bearing a statement of fares in

accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used to hire.

**PROVISIONS SECURING THE SAFE CUSTODY AND RE-DELIVERY OF ANY PROPERTY ACCIDENTALLY LEFT IN HACKNEY CARRIAGES, AND FIXING THE CHARGES TO BE MADE IN RESPECT THEREOF.**

15. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter, carefully search the carriage for any property which may have been accidentally left therein.
16. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:-
  - (a) carry it as soon as possible and, in any event, within 48 hours, if not sooner claimed by or on behalf of its owner, to a Police station in the district and leave it in the custody of the officer in charge of the office on his giving a receipt for it; and
  - (b) be entitled to receive from any person to whom the property shall be redelivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to a Police station in the district, whichever be the greater) but not more than Five pounds (£5.00).
17. **ADDITIONAL PROVISIONS RELATING TO HORSE DRAWN CARRIAGES ONLY**
  - (a) a Proprietor or driver of a horse drawn hackney carriage shall not, while standing, plying or driving for hire, drive or allow to be driven or harnessed, or allow to be harnessed to the carriage any animal or animals in such a condition as to expose any person conveyed or being in such carriage or any person traversing any street, to risk of injury.
  - (b) every driver of a hackney carriage drawn by an animal or animals shall while standing, plying or driving for hire, cause every part of the harness of the animal or animals drawing the carriage to be kept in order, so that the animal or animals shall be properly and securely attached to the carriage and under due control.

**18. PENALTIES**

Every person who shall offend against any of these byelaws shall be liable, on summary conviction, to a fine not exceeding level 2 on the Standard Scale (Criminal Justice Act 1982) and, in the case of a continuing offence, to a further fine not exceeding Two

pounds (£2.00) for each day during which the offence continues after conviction therefore.

## **19. REPEAL OF BYELAWS**

- (a) The byelaws relating to hackney carriages which were made by the Mayor, Aldermen and Burgesses of the Borough of Maidenhead on the 4<sup>th</sup> day of August 1964 and which were confirmed by The Secretary of State (Home Office) on the 22<sup>nd</sup> day of October 1964, are hereby repealed.
- (b) The byelaws relating to hackney carriages which were made by the Mayor, Aldermen and Burgesses of the Royal Borough of New Windsor on the 23<sup>rd</sup> May 1966 and which were confirmed by the Secretary of State (Home Office) on the 12<sup>th</sup> July 1966, are hereby repealed.

## **HACKNEY CARRIAGE VEHICLE CONDITIONS**

The Council attaches the following conditions to Hackney Carriage Vehicle Licences;

In these conditions 'the Council' means the Royal Borough of Windsor and Maidenhead, 'Driver' means a person holding a Hackney Carriage Drivers licence issued by the Council and 'Vehicle' means a Hackney Carriage Vehicle licensed by the Council.

**NOTES:** Failure to adhere to the Hackney Carriage Vehicle Conditions may result in prosecution, suspension or revocation of the licence pursuant to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

### **1. PRE LICENSING CONDITIONS**

All motor hackney carriages must be fitted with a taximeter. This must comply with the requirements of Byelaw 3, above.

In order that a reliable Hackney Carriage service of an acceptable standard is provided within the Borough, a person to be considered for a Hackney Carriage Vehicle Licence on the first or subsequent occasions shall –

Have a vehicle which is in satisfactory mechanical order and body condition and in operational order in every respect. This vehicle is to be a saloon, hatchback or estate vehicle, a minibus or a multi-passenger vehicle of eight or less passenger seats, which according to the manufacturer's unaltered specification has;

- (a) A minimum of four doors, each adjacent to and allowing direct access to and from the seats
- (b) Rear seat accommodation for not less than three persons (for saloons and estates)

- (c) In addition to the Driver, up to two passenger seats in the front of the vehicle, provided each seat is separate and has its own lap/diagonal seat belt
- (d) All Hackney Carriage vehicles shall be fitted with appropriate seat belts to the front and rear seats. The number of seat belts fitted to the vehicle shall correspond with the number of passengers the vehicle is licensed to carry in forward facing seats, plus a belt for the driver
- (e) Accommodation for not less than four passengers
- (f) Adequate luggage accommodation
- (g) All vehicles must be right hand drive
- (h) The inside and outside of a Hackney Carriage vehicle shall be clean and free from damage, well maintained and in every way fit for public service
- (i) All new hackney carriages shall be white and have an illuminated "taxi" sign and identification plate. They will also have affixed specific door signs on the sides of the vehicle in accordance with a design approved by the Head of Public Protection. All vehicles will have bonnet and boot coloured Pantone 259. Where there is no specific boot than the rear doors of the vehicle will be that colour. This colour can be applied with paint or vinyl covering.
- (j) Where the proprietor of a RBWM licenced hackney carriage or private hire vehicle is neither a RBWM licenced driver or operator, they must provide a basic disclosure from the DBS upon application to licence the vehicle and then annually

The applicant shall submit the vehicle for mechanical and/or such other inspection as the Council may require. Vehicles submitted for test/inspection shall be in such a condition as to be suitable for inspection including:

- **Vehicles should be free from excessive oil leaks**
- **All vehicles should be thoroughly clean inside and out**
- **Vehicles not meeting these conditions will not be inspected**

## **2. WHEELCHAIR ACCESSIBLE AND PURPOSE BUILT VEHICLE AGE POLICY**

- (a) This part of the policy relates to all wheelchair accessible and purpose built vehicles including, TX1, TX2, TX4, Metro Cabs and Eurocabs.
- (b) Any new vehicle to be licensed as a Hackney Carriage either permanently or temporarily to be no older than 3 years of age from the date of first registration and must be wheelchair accessible.
- (c) The vehicle once licensed can be licensed for an indefinite period subject to the vehicle having a satisfactory Certificate of Compliance from one of the Council's approved garages.
- (d) Any vehicle imported into the UK, the date requirements will apply from the date of manufacture.

- (e) A current wheelchair accessible/purpose built Hackney Carriage licence holder can only replace the vehicle with another wheelchair accessible/purpose built vehicle as defined in paragraph (a) above.
- (f) All wheelchair accessible/purpose built hackney carriages will be regarded as "designated" vehicles for the purposes of Section 167 of the Equality Act 2010.

Drivers of these vehicles will have the following duties:

- 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.
- to have their name, contact telephone number and vehicle details included in a list of drivers who are available for wheelchair users. This list will appear on the RBWM website. Drivers can be exempted from these requirements under Section 166 of the Equality Act if the Licensing Officer is satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties.

An exemption can be valid for as short or long a time period as the Licensing Officer thinks appropriate, bearing in mind the nature of the medical issue.

Drivers wishing to claim an exemption from the duties set out above must apply in writing using a form which will be provided by the Licensing Officer. On this form the person applying for an exemption must set out:

- why they should be exempted from the duties set out above, and
- the independent evidence that supports this exemption.
- Independent medical evidence should, as an absolute minimum, be in the form of a letter or report from a general practitioner, the medical doctor must provide their GMC registration number.

Where a long-term exemption is to be issued, medical assessments should be undertaken by professionals who have been specifically trained in the relevant field and who are independent of the applicant. Up to the age of 65 long term exemptions will be reviewed every five years at the same time that a medical certificate is required. From the age of 65 long term exemptions will be reviewed every year at the same time that a medical certificate is required.

If the exemption application is unsuccessful the applicant will be informed in writing within a reasonable timescale and with a clear explanation of the reasons for the decision.

Drivers granted an exemption will be issued with an exemption certificate.

Drivers granted an exemption will be permitted to display in their vehicle, when being operated by the exempt driver, a notice prescribed by the Equality Act 2010 (Taxis and Private Hire Vehicles) (Passengers in Wheelchairs – Notices of Exemption) Regulations 2017 or by any subsequent legislation that this is replaced by.

If a designated vehicle is operated by more than one driver, one or more of whom has been granted an exemption, the Notice of Exemption must only be displayed in the vehicle when being operated by an exempted driver.

If a Notice of Exemption is displayed in a designated vehicle being operated by a driver to whom an exemption has not been granted, that driver will be in breach of this Policy and subject to action by the Licensing Officer.

If the display of a Notice of Exemption in a designated vehicle being operated by a driver to whom an exemption has not been granted causes the driver to fail to comply with the duties set out above, that driver commits a criminal offence

### **3 NON-WHEELCHAIR ACCESSIBLE HACKNEY CARRIAGE VEHICLE AGE POLICY**

No further licences will be issued for saloon or other non-wheelchair accessible vehicles except to replace an existing saloon or non-wheelchair accessible vehicle.

- (a) Saloon or non wheelchair accessible vehicles can be replaced with vehicles of a similar type but new vehicles must be in the full livery.
- (b) Any new saloon vehicle to be licensed as a Hackney Carriage vehicle either permanently or temporarily to be no older than 5 years from the date of first registration.
- (c) Any vehicle imported into the UK, the date requirements will apply from the date of manufacture.
- (d) Paragraph (a) above only relates to currently licensed saloon Hackney Carriage vehicle licence holders.
- (e) The vehicle once licensed can be licensed to a maximum of 12 years from the date of first registration.
- (f) Exceptions to a) and d) can be made for some vehicles on written application to the Council. Such vehicles will include prestigious vehicles in excellent condition.



## 4 GENERAL

- (a) Any vehicle to be licensed as a temporary replacement or on a temporary basis (e.g. where the permanent vehicle has been involved in an accident or been stolen, etc) must be replaced with a suitable vehicle, as agreed with the Council's Licensing Officers, pending the repair or renewal of the original vehicle within a 3 month period.
- (b) In all cases of transfer of vehicle, the prior written permission of the Licensing Officers is required.

## 5 WHEELCHAIR ACCESSIBLE VEHICLES

Any vehicle that has been modified to accommodate disabled passengers must have all modifications and adaptations, including all seats, seat belts and anchorages, retested to meet either the **European Whole Vehicle Type Approval or the UK Low Volume Type Approval in the M1 category** (evidence of this must be produced). **Any vehicle meeting UK Single Vehicle Approval will not be licensed as a Hackney Carriage vehicle.**

- Grab handles must be fitted in appropriate positions in all passenger access door entrances to aid passenger ingress and egress from the vehicle while using any steps provided
- There must be no steps within the passenger compartment
- All floor areas and passageways between seats over which passengers will be expected to pass must be free of all steps, encumbrances or trip hazards and have a slip resistant surface.
- All passenger seats must be provided, where possible, with a lap and diagonal 3 point seat belt and where not possible a 2 point lap seat belt appropriate to the type and position of the seat.
- The passenger/passengers confined to a wheelchair must be provided, where possible, with a lap and diagonal 3 point seat belt and where not possible a 2 point lap seat belt appropriate to the position of the wheelchair
- All seat belts must be fitted to the vehicle with the number of anchorage points appropriate to the type of seat belt, all anchorage points must comply with M1 criteria.
- The vehicle must have a minimum seating capacity for 4 passengers with at least one passenger seated in a wheelchair and a maximum of 8 passengers with at least one passenger seated in a wheelchair.
- A bulkhead/drivers safety screen should be fitted, and it should be a full width, full height screen fitted directly behind the driver's seat. The upper section of the bulkhead/safety screen should contain a clear vision panel sufficient for the driver

to be able to see a substantial amount of the passenger compartment, which must include vision of all access doors.

- The bulkhead/safety screen should allow communication between the driving and passenger compartments.
- The bulkhead should have no discontinuities that would allow a passenger to reach into the driver's compartment from the passenger compartment.
- The vision panel section of the bulkhead/safety screen should be constructed of safety glass or any clear material with at least the same impact resistance and safety qualities as that of safety glass.
- A lightweight ramp or ramps for the loading of a wheelchair and occupant must be available at all times.
- An adequate locking device must be fitted to ensure that the ramp/s do not slip or tilt when in use.
- Provision must be made for the ramps to be permanently stored in the vehicle safely when not in use.
- All passenger seats must be permanently fixed to the vehicle. Demountable seats that are removed for the purpose of providing space for wheelchair passengers shall not be allowed. Fold away seats are to be permitted providing they remain attached to the vehicle.
- All drivers of wheelchair accessible vehicles, must agree to take a course in relation to disability awareness and manual handling of wheelchairs as directed by the Licensing Officers, such training will be provided free of charge.

## **6 HORSE-DRAWN HACKNEY CARRIAGE CONDITIONS**

- A minimum standard of 15.2 hands is laid down for carriage horse providing that as regards horses between 15.2 hands and 15 hands they may be operated if they are approved by the Council's appointment veterinary surgeon.
- No horse shall be used in any carriage licensed by the Royal Borough of Windsor and Maidenhead until it has been examined and approved by the Council's appointment veterinary surgeon.
- Any one horse shall not be in harness for more than seven consecutive hours, to include one hours break in that period for rest, feeding and drinking (licensees of carriages are reminded that if they operate a carriage for more than seven hours in any one day it will be necessary for them to obtain two horses for that carriage).
- Adequate stabling must be provided at all time for horse used in hackney carriage work.

- Horse when standing at rest should be provided with adequate equine quarter sheets (rugs).
- The council must be advised of any changes in stabling arrangements before they occur in order that they may be inspected and approved.
- A horse used in any one day as a carriage shall not be used during that day for any other purpose.
- Any change of ownership of a licensed carriage horse to be notified to the council.
- The licensed carriage may only ply for hire between the hours of sunrise and sunset.
- No material alteration or change in specification design, condition or appearance of the carriage shall be made without the approval of the council at any time while the licence is in force.
- Provision must be made for keeping the carriage under cover when it is not plying for hire.
- A horse-drawn hackney carriage license is not transferable nor may it be assigned to any other person or body without previous consent in writing having first been obtained from the council.
- All applicant for a carriage driver's licence may be required to submit a test as to their ability to handle horses.
- The personal appearance of a carriage driver whilst plying for hire with his carriage shall be to the satisfaction of the Council. The attention of carriage drivers is drawn to the provisions in the Hackney Carriage By-laws.
- The proprietor of a licensed carriage shall notify the Council of any change of address in writing within seven days of such a change taking place.

## **7 DOCUMENTATION**

The applicant shall produce the following documents prior to the issue of the licence which must be current at the time the licence commences:

- (a) An insurance certificate or cover note which expressly indicates insurance cover for public hire
- (b) The vehicle registration document showing the current owner's name and address
- (c) A valid current Certificate of Compliance which must be no older than 28 days on issue of the licence.
- (d) All vehicles over 9 years from the date of first registration must have a Certificate of Compliance every 6 months.
- (e) All vehicle licence holders must carry the original/photocopy of the original of the following in their vehicle at all times;

- Driving licence (photo-card)
- Insurance certificate
- Certificate of Compliance

## **8 SAFETY EQUIPMENT**

All vehicles will be required to carry a fire extinguisher conforming to British Standard (BS) EN3 - this must be readily available for use in case of an emergency and a first aid kit.

## **9 LICENCE PLATE**

The licence holder/Driver shall ensure that;

- (a) The Hackney Carriage licence plate shall be securely affixed to the rear of the vehicle at all times, regardless of whether or not the vehicle is being used for Hackney carriage purposes.
- (b) The Hackney Carriage Vehicle Licence plate is not concealed or damaged and is kept clean so that it is clearly visible at all times.

## **10 SIGNAGE**

All motor hackney carriage shall have a sign clearly displayed within the vehicle advising passengers that the taximeter must and will be used for all journey wholly within the Royal Borough of Windsor and Maidenhead. This sign is to be in accordance with a font, size and design approved by the Head of Communities, Enforcement and Partnership

## **11 USAGE**

- (a) The taximeter must be used to determine the fare for all journeys which are wholly within the Royal Borough of Windsor and Maidenhead. No other means of determining the fare are to be used for journeys which are wholly within the Royal Borough of Windsor and Maidenhead.
- (b) Whilst a vehicle is licensed as a Hackney Carriage it must not be driven by any person other than a Royal Borough of Windsor and Maidenhead's licensed Hackney Carriage driver
- (c) If the proprietor permits or employs any other person to drive the vehicle, they must inspect the Hackney Carriage Drivers Licence and Badge and record the details of the licence in a proper register for that purpose.

## **12 CARRIAGE OF ASSISTANCE DOGS**

The proprietor shall ensure the Driver of the vehicle complies with the requirement to carry a Guide, Hearing or Assistance Dog when requested, unless the Driver is a holder of an Exemption Certificate.

## **13 CHANGE OF ADDRESS**

If the vehicle licence holder changes address then he/she must inform the Council of such change in writing within seven working days.

## **14 ACCIDENTS**

The licence holder/proprietor must notify the Licensing department of the Royal Borough of Windsor and Maidenhead of any accident in which the vehicle has been involved within 72 hours of the occurrence.

## **15 BYELAWS AND REGULATIONS**

- (a) The proprietor/licence holder shall ensure that any Driver (of his vehicle) complies with the Council's Conditions.
- (b) The proprietor should make himself familiar with statutory requirements relating to Hackney Carriage vehicle licensing.

## **16 CONVICTIONS, CAUTIONS AND FIXED PENALTIES**

- (a) The Driver shall notify RBWM Licensing in writing within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.
- (b) The Driver shall, within 7 days, disclose to RBWM Licensing in writing details of any other conviction, police caution or fixed penalty (e.g. points on driving licence) other than a parking fine imposed on him/her during the course of the licence.
- (c) Any such arrest, charge or conviction in paragraph (a) shall result in a review by licensing officers as to whether the licence holder is fit to continue to hold the licence.

## **17 SURRENDER OF LICENCE**

If the Proprietor/Licence holder ceases to use the vehicle for the purpose for which it was licensed they shall surrender the licence and return the plate, which remains the property of the Royal Borough of Windsor and Maidenhead.

## **18 OBSTRUCTION OF AUTHORISED OFFICERS**

Any person who:

- (a) wilfully obstructs an authorised officer or constable acting in pursuance of this Act; or
- (b) without reasonable excuse fails to comply with any requirement properly made to him by such officer or constable; or
- (c) without reasonable cause fails to give such an officer or constable so acting any other assistance or information which he may reasonably require of such person for the purposes of the performance of his functions under this part of the Act or the Act of 1847;

shall be guilty of an offence.

## **19 PENALTY POINTS**

The Hackney Carriage vehicle licence is subject to the penalty points system in force in relation to the licence and the licence holder is required to read and comply with the provisions of the system at all times.

## **20 PENALTIES**

- (a) The Licensing Officers may suspend, revoke or refuse to renew the Licence if any of the above conditions are not complied to.
- (b) The Licensing Officers may suspend, revoke or refuse to renew the Licence for 'Any Other Reasonable Cause' as defined in the Local Government (Miscellaneous Provisions) Act 1976.

## **21 ADVERTISING**

No advertising may be displayed on the exterior of any hackney carriage.

## **22 INTERIOR ADVERTISING**

- (a) Advertisements may only be displayed within the passenger compartment on the base of the occasional (flip up) seats and along the bulkhead above the passenger/driver partition.
- (b) Occasional seat advertisements must be encapsulated in clear, non-flammable plastic.
- (c) No material should be placed on the driver/passenger partition other than notices approved by the Council.

## **23 ADVERTISEMENT CONTENT**

- (a) All advertisements must comply with the British Code of Advertising Practice and it is the responsibility of the proprietor to ensure that they do so.
- (b) Each proposal shall be considered upon its own merits but any advertisements which are likely to cause offence to the public are unlikely to receive approval.

## **24 REVOCATION**

- a) Licensing Officers are authorised to automatically revoke the licence of a driver who has been disqualified from driving. A minimum period of 12 months must elapse from the end of the disqualification before an application can be accepted.
- b) If a licence has been revoked, a new application will not be accepted until 1 year has elapsed from the date of revocation or any time which the Licensing Officers decide.

## **25 APPEALS**

Where a licence has been revoked or suspended, or where a new application has been refused, an appeal against the Council's decision may be made to the East Berkshire Magistrates Court within 21 days.

## Penalty Points System

The introduction of the Penalty Points System is to provide an effective enforcement process for Licensing Officers in respect of Hackney Carriage and Private Hire Driver and Vehicle Licence holders, as well as Private Hire Operators who are found to be in breach of local or national conditions and policies relating to the licensing functions.

The emphasis of the Penalty Point System is to increase and ensure the safety and wellbeing of members of the public as well as compliance with legal requirements.

The system is only intended to ensure compliance by those licence holders who it is proved have breached or are in breach of the rules and regulations that they should be complying with.

The system operates in line with penalty points endorsed on a driving licence and that is where **12** unspent penalty points are accumulated this will result in referral to the Licensing Panel. Penalty points being spent 12 months from the date of being administered.

Licensing Officers reserve the right to refer cases straight to a Licensing Panel rather than imposing points, where they consider the seriousness of the case merits doing so.

Where a referral is made to the Licensing Panel, it will be that Panel's decision on what further action, if any, should be taken – such action could include the suspension or revocation of the licence.

Where penalty points are administered by a Licensing Officer and the licence holder wishes to dispute the matter, the licence holder may request for the matter to be referred to a Senior Officer of the Royal Borough of Windsor & Maidenhead, being either a Director or Head of Service.

Such an appeal must be submitted to the Council in writing, stating the grounds for the appeal, within 21 days of administration of the penalty points. Any licence holder also has the right of appeal against a Licensing Panel, Appeals Panel or Senior RBWM Officer decision to the Magistrates Court within 21 days of notification of the decision.

Where the issuing of penalty points means that person receiving the points has accrued 12 unspent points in total and would therefore be automatically referred to the Licensing Panel, any appeal in this case should be heard by an Appeals Panel made up of three Members of the Licensing Panel.



| <b>Details of misconduct by a RBWM licenced hackney carriage or private hire driver, or private hire operator where applicable</b>                                           | <b>Points</b>                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|
| Failing to wear or clearly display a private hire driver or hackney carriage driver badge whilst working                                                                     | 3 Points                                                      |
| Not having a fire extinguisher in a RBWM licenced hackney carriage or private hire vehicle                                                                                   | 3 Points                                                      |
| Not having a first aid kit in a RBWM licenced hackney carriage or private hire vehicle                                                                                       | 3 Points                                                      |
| For a vehicle issued with a Dispensation, failing to have the plate or the Dispensation Certificate in the vehicle whilst working                                            | 3 Points                                                      |
| Failure to notify the RBWM Licensing team within 7 days, in writing, of details of any convictions or offences, including DVLA penalty points                                | 6 Points                                                      |
| Failure to notify the RBWM Licensing team within 7 days, in writing, of a change of address                                                                                  | 3 Points                                                      |
| Using a vehicle as a hackney carriage or private hire vehicle without the appropriate vehicle licence                                                                        | 6 Points                                                      |
| Allowing an individual without a RBWM hackney carriage or private hire driver licence to drive a RBWM licenced hackney carriage or private hire vehicle                      | 6 Points                                                      |
| Failing to renew a Hackney Carriage or Private Hire driver licence or vehicle licence within the correct time (unless extenuating circumstances apply)                       | 3 Points                                                      |
| A RBWM licenced private hire driver unlawfully plying for hire in a RBWM licenced private hire vehicle                                                                       | Referral to Licensing Panel to consider revocation of licence |
| Failure to correctly display a hackney carriage or private hire vehicle plate on the rear of the vehicle                                                                     | 3 Points                                                      |
| Failure to notify the RBWM Licensing team within 72 hours, in writing, of being involved in an accident                                                                      | 6 Points                                                      |
| A RBWM licenced private hire operator failing to notify the RBWM Licensing team within 7 days, in writing, of any complaints received about any of their drivers or vehicles | 3 Points                                                      |

|                                                                                                                                                                                                |                                                                                           |
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| A RBWM licenced private hire operator failing to keep and maintain records in accordance with their licence conditions                                                                         | 3 Points                                                                                  |
| A RBWM licenced hackney carriage or private hire driver failing to attend Maidenhead Town Hall when directed by a Licensing Enforcement Officer                                                | 3, 6, 9 or 12 points (based on evidence available and seriousness of infringement)        |
| Allowing more passengers to be carried in the vehicle than authorised by the private hire or hackney carriage vehicle licence                                                                  | 6 Points                                                                                  |
| Causing or permitting a private hire vehicle or hackney carriage to wait on double yellow lines, other than to allow passengers to board or alight                                             | 3 Points                                                                                  |
| Causing or permitting a Private Hire Vehicle or Hackney Carriage to wait on a single yellow line, in contravention of the notices displayed, other than to allow passengers to board or alight | 3 Points                                                                                  |
| Causing or permitting a private hire or hackney carriage vehicle to wait on a single yellow line in contravention of the notices displayed, other than to allow passengers to board or alight  | 3 Points                                                                                  |
| Causing or permitting a private hire or hackney carriage vehicle to wait in a marked disabled bay                                                                                              | 6 Points                                                                                  |
| Causing or permitting a private hire or hackney carriage vehicle to wait in a bus stop                                                                                                         | 6 Points                                                                                  |
| Causing or permitting a private hire or hackney carriage vehicle to wait in any other restricted space                                                                                         | 3 Points                                                                                  |
| Causing or permitting a Private Hire or Hackney Carriage Vehicle to block the driveway or entrance of any residence, business, school or any other public building or space                    | 3 Points                                                                                  |
| Driving erratically and / or without due care and attention to pedestrians or other road users whilst operating in a RBWM licenced hackney carriage or private hire vehicle                    | 6 Points                                                                                  |
| Private hire driver, without reasonable cause, charging more for a fare than was quoted at or before the outset of the journey.                                                                | 12 points<br>(Note: 12 points would trigger an immediate referral to the Licensing Panel) |
| Hackney carriage driver, without a reasonable excuse, refusing to take a fare for a journey wholly within Royal Borough of Windsor and Maidenhead.                                             | 12 points<br>(Note: 12 points would trigger an immediate referral to the Licensing Panel) |

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| Hackney carriage driver not using the taximeter for a journey wholly within the Royal Borough of Windsor & Maidenhead                                                                                                    | 12 points<br><br>(Note: 12 points would trigger an immediate referral to the Licensing Panel) |
| Hackney carriage driver using the incorrect tariff so as to inflate the cost of the journey.                                                                                                                             | 12 points<br><br>(Note: 12 points would trigger an immediate referral to the Licensing Panel) |
| Uncivil, disorderly or in any way inappropriate conduct or behaviour whilst operating as a RBWM licenced hackney carriage or private hire driver, including whilst waiting at a hackney carriage rank or any other place | 3, 6, 9 or 12 points (based on evidence available and seriousness of infringement)            |
| Unsatisfactory condition of the interior or exterior of a RBWM licenced hackney carriage or private hire vehicle                                                                                                         | 6 points                                                                                      |
| Smoking or evidence of smoking in a RBWM licenced hackney carriage or private hire vehicle                                                                                                                               | 3 points                                                                                      |
| Failure to display 'no smoking' signage in accordance with the Health Act 2006 in a RBWM licenced hackney carriage or private hire vehicle                                                                               | 3 points                                                                                      |
| A RBWM licenced hackney carriage or private hire driver failing to carry an assistance dog without a relevant medical exemption certificate                                                                              | 12<br><br>(Note: 12 points would trigger an immediate referral to the Licensing Panel)        |
| A RBWM licenced private hire vehicle with Dispensation failing to display the identity plate whilst completing a non-contract job                                                                                        | 6 points                                                                                      |
| Abusive or disrespectful behaviour towards a council officer, member of the public or other licenced driver                                                                                                              | 3, 6, 9 or 12 points (based on evidence available and seriousness of infringement)            |
| Failing to provide reasonable assistance to a passenger                                                                                                                                                                  | 3, 6, 9 or 12 points (based on evidence available and seriousness of infringement)            |
| Failure to attend punctually, a pre-arranged appointment without reasonable cause, including appointments relating to the grant or renewal of a RBWM hackney carriage or private hire driver or vehicle licence          | 3 points                                                                                      |
| A RBWM hackney carriage roof sign not connected or functioning correctly                                                                                                                                                 | 3 points                                                                                      |
| Failure to comply with road traffic and vehicle excise legislation (for example illegal driving, illegal parking, vehicle defects, vehicle tax)                                                                          | 3, 6, 9 or 12 points (based on evidence available and seriousness of infringement)            |
| Obstructing or failing to provide information and assistance to an authorised RBWM officer                                                                                                                               | 3, 6, 9 or 12 points (based on evidence available and seriousness of infringement)            |

|                                                                                                                                                                                                                                                                                 |          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| A RBWM licenced hackney carriage driver not displaying in a RBWM licenced hackney carriage the required "minimum fare" signage, as approved by the Head of Service for the Licensing team.                                                                                      | 6 points |
| Hackney carriage or private hire driver failing to register and pay for their DBS on-line via an agreed third-party company.                                                                                                                                                    | 6 points |
| Hackney carriage or private hire driver failing to register and pay for the Disclosure and Barring Service (DBS) Update Service and renew this annually.                                                                                                                        | 6 points |
| Hackney carriage or private hire driver failing to authorise access by RBWM licensing officers to perform a status check of their DBS at any time during the duration of their licence using the "DBS Update Service Status Checks" facility provided by a third-party company. | 6 points |

## **HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES STATEMENT OF POLICY ABOUT RELEVANT CONVICTIONS**

When submitting an application for a licence to drive a private hire vehicle, to drive a Hackney Carriage vehicle or to operate a private hire firm, applicants are required to declare all convictions or cautions they may have, and if they are currently being investigated or have been charged or summoned for any offence. The information given will be treated in confidence and will only be taken into account for the specific application.

Applicants should be aware that the Licensing Authority will check the Disclosure & Barring Service for the existence and contents of any criminal record held in the applicant's name. Information received from the Disclosure & Barring Service will be kept in strict confidence whilst the licensing process takes its course and will be retained for no longer than is necessary.

A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but they must meet the requirements of the assessment of previous convictions set out below before an application is entertained. Passenger safety will always be the priority when considering previous convictions of an applicant.

The disclosure of a criminal record for any lesser offences or any other concerning information will not debar an applicant from gaining a licence unless officers considers that the conviction or information renders the applicant not a fit and proper person to hold a licence. In making their decision, officers will consider the nature of the offence(s), when the offence(s) took place, the age of the applicant when the offence(s) were committed and any other factors which may be relevant. There is a right of appeal from an officer decision to a Licensing Panel Sub Committee in every case.

Should the need arise any applicant who is refused a licence has a right of appeal (within 21 days of the decision) to a Magistrates' Court.

All new applicants who have not resided in the UK for a full five (5) years immediately before submitting the application must also satisfy the Licensing Team/Committee that they are a 'fit and proper person'. This will require:

- (a) Obtaining a Certificate of good Conduct via the respective embassy from the country(s) where the applicant has resided for the previous 5 years,
- (b) Obtaining a written English translation certificate at the applicant's own expense for the above certificate, where applicable,
- (c) Production of National Insurance details and/or documentary evidence that allows an applicant to work in the UK in line with Immigration requirements.

Each case will be decided on its own merits.

The assessment of previous convictions is as follows:

### **Crimes resulting in death**

Where an applicant or licensee 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**

Where an applicant or licensee 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**

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**

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**

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. 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**

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**

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. 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. 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**

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**

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. 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**

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**

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.

### **Convictions under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976**

Convictions under these Acts are taken very seriously, as the legislation is in place to protect members of the public. In particular, an application will not normally be entertained where the applicant has been convicted of an offence under the Acts at any time during the twelve calendar months prior to the application or has more than one conviction during the last two years prior to the application.

An existing licence holder with any conviction under this legislation will have their licence reviewed immediately.

**Nothing in this guidance / policy will remove an applicant's right to appeal to a Magistrates Court against the Council's refusal to grant or renew a licence, or decision to suspend or revoke a licence, or against any conditions which may have been imposed on any such licence by the local authority. Such appeal is to be made in writing within 21 days of the refusal or decision.**

## **DISCLOSURE GUIDANCE / REQUIREMENTS**

**Applicants should note that to make a false statutory declaration is a serious criminal offence, punishable upon conviction by imprisonment for a term not exceeding two years or to a fine to be decided by the court or both. This statutory declaration may in certain circumstances be forwarded to the police for examination.**

Applicants for driver licences are required to declare **ANY** convictions or cautions including those regarded as “Spent” under the Rehabilitation of Offenders Act 1974.

The information you give will be treated in confidence and will only be taken into account in relation to your application.

You should be aware that the Licensing Authority is empowered in law to check with the Disclosure & Barring Service for the existence and content of ANY criminal record held in the name of the applicant. Information received from the Disclosure & Barring Service will be kept in strict confidence while the licensing process takes its course and will be retained for no longer than is necessary.

The disclosure of a criminal record or other information does not debar applicants from obtaining a licence unless the Council considers that the applicant is not a ‘fit and proper person’ to hold that licence.

In making this decision the Council will consider the nature of the offence(s), the period since conviction(s), at what age the offences were committed and any other relevant factors.

The Council will not be considering whether a person is guilty of the offence for which they have been convicted or cautioned for an offence but whether he or she is a ‘fit and proper person’.

RBWM Licensing will make referrals to the DBS;

- i) when a decision to refuse or revoke a licence is because the individual is thought to present a risk of harm to a child or vulnerable adult;
- ii) an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- iii) an individual has satisfied the ‘harm test’; or received a caution or conviction for a relevant offence and;
- iv) the person they are referring is, has or might in future be working in regulated activity

This document can be revised at any time to reflect Acts of Parliament, new legislation, associated revisions to existing legislation and / or policy changes as approved by the Licensing Panel.