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Our reference:  
Your reference:  
Date:

30 November 2016



To all Members of the Council

Dear Councillor

A meeting of the RUSHCLIFFE BOROUGH COUNCIL will be held on Thursday 8 December 2016 at 7pm in the Council Chamber, Civic Centre, Pavilion Road, West Bridgford to consider the following items of business.

Yours sincerely

A handwritten signature in black ink, appearing to be 'AS'.

Deputy Monitoring Officer

### AGENDA

Opening Prayer

1. Apologies for absence.
2. Declarations of Interest.
3. Minutes

To receive as a correct record the minutes of the Meeting of the Council held on Thursday 22 September 2016 (pages 3 - 12).

4. Mayor's Announcements.
5. Leader's Announcements
6. Chief Executive's Announcements
7. Hackney Carriage and Private Hire Policy 2017 - 2022

The report of the Executive Manager - Neighbourhoods is attached (pages 13 – 99).

8. Adoption of Byelaws for Semi Permanent Tattooing

The report of Executive Manager - Neighbourhoods is attached (pages 100 – 107 ) .

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9. Review of Constitution 2016

The report of the Chief Executive is attached (pages 108 – 111).

10. Arrangements for the Monitoring Officer Role

The report of the Chief Executive will follow.

11. Notice of Motions

Notice of Motion to be put to Council by Councillor M J Edwards and seconded by Councillor A MacInnes

"We urge the Council to do everything to increase the supply of affordable housing in the Borough, especially social rental properties, to continue to engage vigorously with private sector landlords regarding affordability of rents and to urgently address the number of houses that have been empty for 6 months or more."

12. To answer questions under Standing Order 11(2).

<b>Meeting Room Guidance</b>
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**Fire Alarm Evacuation:** in the event of an alarm sounding please evacuate the building using the nearest fire exit, normally through the Council Chamber. You should assemble in the Nottingham Forest car park adjacent to the main gates.

**Toilets:** are located opposite Committee Room 2.

**Mobile Phones:** For the benefit of others please ensure that your mobile phone is switched off whilst you are in the meeting.

**Microphones:** When you are invited to speak please press the button on your microphone, a red light will appear on the stem. Please ensure that you switch this off after you have spoken.

**MINUTES  
OF THE MEETING OF THE  
COUNCIL  
THURSDAY 22 SEPTEMBER 2016**

Held at 7.00 pm in the Council Chamber, Civic Centre, Pavilion Road, West Bridgford

**PRESENT:**

Councillor G Davidson – Mayor  
Councillor L B Cooper – Deputy Mayor

Councillors K P Beardsall, N A Brown, M Buckle, B Buschman, R L Butler, H A Chewings, J N Clarke, T Combellack, J E Cottee, A M Dickinson, M J Edwards, A J Edyvean, J E Greenwood, S J Hull, R A Inglis, Mrs C E M Jeffreys, R M Jones, K A Khan, N C Lawrence, A MacInnes, Mrs M M Males, G R Mallender, S E Mallender, S C Matthews, G S Moore, A L R A Pell, A Phillips, E A Plant, F A Purdue-Horan, S J Robinson, J A Stockwood, Mrs M Stockwood, J E Thurman, R G Upton, D G Wheeler, J G A Wheeler

**ALSO IN ATTENDANCE:**

Revd. T Jones	Mayor's Chaplain (part of meeting)
Cadet J Bramley	Mayor's Cadet
Cadet R Oldknow	Mayor's Cadet
Mrs Bramley	
Mrs Oldknow	
J Scott-Lee	Streetwise Environmental Ltd
Bob Alderton	Streetwise Environmental Ltd
Jayne Neary	Streetwise Environmental Ltd
Ricky Jackson	Streetwise Environmental Ltd

**OFFICERS PRESENT:**

D Banks	Executive Manager – Neighbourhoods
A Graham	Chief Executive
P Horsfield	Monitoring Officer
P Linfield	Executive Manager – Finance and Corporate Services
D Mitchell	Executive Manager – Communities
K Marriott	Executive Manager – Operations and Transformation
A Poole	Constitutional Services Team Leader

**APOLOGIES FOR ABSENCE:**

Councillors R A Adair, J Donoghue, R Hetherington, E J Lungley, D J Mason, Mrs J A Smith

**OPENING PRAYER**

The Meeting was led in prayer by the Mayor's Chaplain and a minute's silence was held for former councillor Eddie Fearon who passed away recently.

**18. Declarations of Interest**

There were none declared.

**19. Minutes**

The minutes of the meeting held on Thursday 30 June 2016 were received as a correct record and signed by the Mayor.

**20. Mayor's Announcements**

The Mayor reminded Councillors that the funeral of former councillor Eddie Fearon would be held at Saint Mary's Church, Radcliffe on Trent on Monday 26 September 2016 at 11am.

He also welcomed back to the Council, Councillor Mrs M Stockwood, a colleague for the Cranmer Ward

The Mayor also reminded Councillors of the role of his Cadets and presented a certificate of appointment to Cadet Jamie Bramley from the Army Cadets as she had been unable to attend June Council.

He informed Councillors that since the last meeting of Council, he had attended 26 events and that there were two in particular that he would like to highlight. Firstly, his visit to the West Bridgford Horticultural Society Show, where he saw Councillor MacInnes awarded 1<sup>st</sup> prize for his blackberries. The second event enjoyed by the Mayor recently was the Queen's Award for Voluntary Service presented to the Vale First Responders by the Lord Lieutenant, Sir John Peace. He recognised the admirable work of the responders, who are all volunteers, in supporting the Ambulance Service. The Mayor ended by commending the people of Hickling for the tremendous amount of work they put in to producing an amazing Hickling Scarecrows event.

**21. Leader's Announcements**

The Leader informed Councillors that he had attended, along with the Chief Executive, a briefing session at the Defence and National Rehabilitation Centre at Stanford Hall – the purpose of which was to inform potential staff who were considering moving to Rushcliffe from Surrey, about the Borough and all it had to offer.

**22. Chief Executive's Announcements**

The Chief Executive announced that Streetwise Environmental Ltd had won an award at the Association of Public Service Excellence Annual Service Award 2016 for the best employment and equality initiative. He highlighted that this was a great tribute to the Streetwise staff who keep the borough in a state of which we are all proud. The Mayor added his congratulations to Streetwise Environmental Ltd.

## 23. **Approval of the Statement of Accounts 2015/16**

Councillor Robinson presented the Statement of Accounts 2015/16 and reassured Councillors that they had been reviewed by the Corporate Governance Group and reported on by the external auditors. He explained that, if the accounts were agreed by Council, the Mayor and Section 151 Officer would sign the Letter of Representation at Appendix B. He highlighted the successes of the Council – achieving delivery of affordable homes, saving in excess of £4 million via the Transformation Strategy and growing our investment income. He explained that the success in securing the Growth Deal funding directly affected projects in Cotgrave, Newton and Bingham – which were all about housing provision and job creation. Regarding income streams, he explained that 60% of the Council's income came from central Government (this includes housing benefit) and that the Revenue Support Grant would reduce to zero by 2019/20. All of which, underpinned how challenging the environment ahead would be.

Councillor Robinson emphasised that, despite the financial challenges there were large capital projects underway – the Arena which would be completed in December 2016, Bridgford Hall which was due in April 2017 and the Cotgrave transformation. He closed by recognising the efforts of the Executive Manager – Finance and Corporate Services and his team in producing such a quality document. This was echoed by Councillors.

Councillor MacInnes recognised the challenges experienced throughout the financial year 2015/16 and added that the outlook for 2016/17 looked politically and financially more demanding with more uncertainty around the economy following Brexit, the loss of EU funding to local regeneration and local uncertainty about the future of the North Midlands Devolution Deal. He highlighted the expected increasing pressure and reported that, despite the challenging year ahead, the Council was well-placed to cope with the financial challenges and he supported the drive for self-sufficiency.

Councillor Jones expressed his concern about the Council's inability to deliver housing supply as he believed that Government rules unfairly supported developers in securing extra areas of land. He also queried the reference to the increase in Government funding for adult social care and expressed concern that a choice had been made between appropriate funding for this area as opposed to funding for Rushcliffe.

Councillor S Mallender supported the comments made by Councillor Jones regarding land speculation by developers. She informed Councillors that she was pleased to see that the Council had achieved the target for the provision of affordable homes in the Borough. She stated that the Council should be proud of the Bridgford Hall and Arena developments.

Councillor Clarke agreed with the comments made by Councillor MacInnes regarding the challenges experienced and stated that the achievements had been made without reducing service quality.

Councillor Jones added that he was concerned about the 5 year land supply and sought confirmation that the Local Government Association was lobbying

Ministers with the viewpoint that it was not the responsibility of the local planning authority that houses had not been built. He added that access to finance was also an issue for house buyers.

Councillor Clarke informed Council that the LGA had lobbied on behalf of local authorities around the country. He highlighted that the Government had added 2% to the Council Tax bill as they recognised the added burden that county councils experienced with the cost of adult social care and that district councils contributed to adult social care provision. He echoed Councillor Robinson's comments, and stated that the Council should be proud of all that it delivered.

In conclusion, Councillor Robinson thanked colleagues for their support and stated that he had every confidence that the officer team would address the risks and challenges going forward.

RESOLVED that the Council approve:

- a) The Statement of Accounts for 2015/16 (**Appendix A**); and
- b) The Management Representation letter (**Appendix B**).

#### 24. **Proposed Introduction of a Public Space Protection Order**

Councillor Robinson explained that the Designated Public Place Order (DPPO) currently in place in the Trent Bridge area of West Bridgford was a tool to tackle anti-social behaviour. He proposed the introduction of a new order – the Public Space Protection Order (PSPO) available to Local Authorities under the Anti-social Behaviour, Crime and Police Act 2014, which would focus on street drinking and rough sleeping. The areas to which it would be applied were detailed in Appendix 1 and 2 of the report. The penalty was a fine of £100 (£60 if paid earlier) to a maximum of £1000. He informed Councillors about the consultation that had been carried out with stakeholders and that the Community Development Group had endorsed the proposal at their August meeting.

Councillor Edwards responded that the proposed PSPO covered a wider area than central West Bridgford and highlighted that the existing Order had worked well in the Trent Bridge ward. He expressed regret that the Police data available for the area, did not detail what was attributable to street drinking or rough sleeping. He was concerned that the fines would be unlikely to be paid by anyone who was rough sleeping and would therefore, be seen as unreasonable which would be to the detriment of the Council. He said that cooperation between the Council and the police was vital as enforcement in a much wider area may prove problematic. He requested a report on the effectiveness of the PSPO after one year of operation.

Councillor Sue Mallender echoed Councillor Edwards' reservations. She stated that she was aware that the present order worked well in the Trent Bridge ward and highlighted problems experienced in Lady Bay ward with the levels of young people drinking. She informed Councillors about specific cases of rough sleeping on Bridgford Park and expressed concern about what was being done to support people in such dire circumstances. She said that she had requested reports about what was happening as a result of this order.

Councillor Jones welcomed the proposal and supported the concerns expressed about rough sleepers. He highlighted issues experienced at Sharphill Woods, stating that it was important to explain the new orders to the public so that they understood that they could still picnic in the park.

In conclusion, Councillor Robinson agreed that feedback would be sought on the effectiveness of the order going forward and emphasised the need to ensure a quality of life for residents.

RESOLVED that

- a) a Public Space Protection Order be made to control street drinking and rough sleeping in the areas set out in Appendix 1 and 2, and
- b) that the current delegation to the Executive Manager – Neighbourhoods be amended to authorise the use of all enforcement powers included in the Anti-Social Behaviour, Crime and Policing Act 2014 including the use of Community Protection Notices and Fixed Penalty Notices for breaches of the Public Space Protection Order.

## **25. Future External Audit Procurement**

Councillor Robinson presented a proposal which detailed options for procurement of external auditors from 2018. He explained the options presented in the report and highlighted option 3 – selecting the Sector-Led Body – as the preferred choice. This gave economies of scale, required less administration by the Council and resulted in lower audit costs.

Councillor MacInnes supported the recommendation as he was aware of the significant resource implications of the other options presented and the financial and social benefits of Option 3 – which was a not for profit company.

Councillor R Mallender supported the recommendation, although he expressed concern about the need to sign up to the agreement by January 2017, which was prior to the full costs being confirmed in March 2018. He asked that this be closely monitored.

Councillor Moore referred to the quality of the external audit report and stated that he would not want to see any diminution in the quality of the report.

RESOLVED that full Council 'opt-in' to the LGA's SLB approach to procure future external audit contracts and the use of Public Sector Audit Appointments Ltd (PSAA) as the body to manage the process.

## **26. Scrutiny Annual Reports 2015/16**

Councillor Clarke presented the Scrutiny Annual Reports 2015/16 and highlighted the valuable role of the four scrutiny groups in contributing to the achievements of the council.

Councillor Chewings thanked all officers and Councillors who made up the four scrutiny groups for carrying out their role, and asked probing and appropriate questions about varied subjects.

Councillor Moore, Chairman of Corporate Governance Group, thanked group members for their hard work, thoroughness and professionalism. He highlighted the busy year ahead and thanked the Executive Manager – Finance and Corporate Services for his support.

Councillor Combellack, Chairman of Community Development Group stated that it had been an eventful year and informed Councillors that they had scrutinised a wide range of issues including provision of broadband, housing provision for asylum seekers and alternative energy. She sought Councillors' suggestion regarding issues for future scrutiny by the group.

Councillor Wheeler, Chairman of Performance Management Board, highlighted two items that had been challenging to scrutinise. Firstly, the contract for Streetwise Environmental Ltd and secondly, the provision by Glendale Golf at Edwalton Golf Course. He thanked the Vice Chairman, Councillors and officers for their hard work.

Councillor Greenwood, Vice Chairman of Partnership Delivery Group, informed Councillors that it had been a very busy year and highlighted the scrutiny of the fleet maintenance agreement with Nottingham City Council and of the work with Metropolitan Housing who had secured jobs for their tenants with Streetwise Environmental Ltd.

Councillor Clarke added that the Positive Futures project had spread across the borough and thanked all scrutiny group members and officers.

Councillor R Mallender recognised the hard work of the scrutiny groups in addressing issues such as rural broadband.

RESOLVED that the Council endorse the work undertaken by the four scrutiny groups.

27. The Mayor proposed a change to the running order to the agenda to move to Item 13 'Motions' and Item 14 'Questions' before considering the confidential item on the Civic Centre Disposal.

RESOLVED to consider items 13 and 14 prior to item 12 on the agenda.

28. **Notice of Motions**

- a. The following Notice of Motion was proposed by Councillor R M Jones and seconded by Councillor S Hull.

*This Council is committed to accountability and openness to the residents we represent and requests that the minutes of the Growth Boards be in the public domain with the usual exceptions of where there are matters of an individual and personal nature and tenders for and commercial contracts*



Councillor Jones added that he was not contesting the establishment of the growth boards or their aims, but he was concerned about the transparency, openness and accountability of the boards. He added that, although members of each growth board could see the notes of the meeting, other Councillors could not do so and the meetings were not public.

Regarding openness, he highlighted that a recent article in Rushcliffe Reports which showed that only 37% of residents felt that they could influence events in their area, supported the need for publication of the notes of the growth board meetings so that residents could see what was happening in their area. He also questioned how this approach met the requirements of the Constitution, which required that the principles of decision making included openness and accountability.

Councillor Hull seconded the motion.

Councillor Clarke informed Councillors that he did not support the motion as he believed that the growth boards were viewed as an extremely important part of Borough Council activities regarding the proposing and encouraging of business growth. He added that it was incumbent upon members of the growth boards to promote economic vibrancy in communities. He reminded Councillors that the individual growth boards, sub groups of the main Rushcliffe Strategic Growth Board, were council member working groups and it was established practice that these were not open meetings to enable proper debate and full working discussion. He assured Councillors that there were no secrets as the conclusion or proposal from the working groups was presented to one of the scrutiny groups.

Councillor Robinson added that transparency was important. He highlighted the work of the Cotgrave Growth Board, and how they had briefed residents throughout the project on progress – in a controlled and managed but transparent way. He recognised the sensitivity of the work strands considered by the growth boards but assured Councillors that he was happy that they fulfilled their obligations. He added that membership of the boards had been chosen to ensure that stakeholders were represented and it was their role to brief people.

Councillor Jones said that he was disappointed to hear the counter argument being put forward and stated that it was a poor reflection on the Borough Council and their commitment to the constitution.

On being put to the vote the Motion was lost.

b. The following Notice of Motion was proposed by Councillor Khan and seconded by Councillor R M Jones.

*Given that there appears to be activity to select one or more persons to look at the whole of West Bridgford for a Growth Board, this Council requires that any selected person will provide transparency of their activities and outcomes to the residents of West Bridgford and their elected Borough representatives.*

Councillor Khan expressed concern about the expected appointment of one or two commissioners, which he believed was not consistent with democracy and localism. He stated that the appointment was not transparent as a formal announcement or update had not been given. He believed the decision to appoint two commissioners had been taken behind closed doors and the elected representative on the West Bridgford Growth Board had not been kept up to date. He asked that members of the council be appointed to the West Bridgford Growth Board and not others from outside the Council.

Councillor Jones seconded the motion.

Councillor Robinson supported the motion and announced the appointment of three West Bridgford Commissioners who would be totally independent of the borough council. He highlighted the report to Cabinet in January 2015 which set out that external expertise and knowledge would be utilised to support the board. He informed Council that the commissioners brought skills, expertise and total independency. He announced the Commissioners as:

- Mick Burrows, former Chief Executive of Nottinghamshire County Council and a West Bridgford resident
- Timothy Richmond OBE, Vice Lord-Lieutenant of Nottinghamshire
- Professor Kim Cassidy – Nottingham Trent University

He added that they would support the work of the growth board although would not be decision makers. He recognised the work of the Chief Executive in fulfilling objectives set out in January 2015. He informed Councillors that these were voluntary positions and would be announced in a press release tomorrow.

Cllr Lawrence stated that he was not happy to support the motion as the growth board had been set up to be representative of West Bridgford and he felt that in fact West Bridgford was an asset to be shared by the whole borough. He initially suggested he would propose a variation to the motion, but subsequently declined to do so.

Councillor Jones said it was vital that there was continual openness and transparency and that residents had a say in the issues that were addressed by the growth boards.

On being put to the vote the Motion was carried.

**29. To answer questions under Standing Order 11 (2)**

**a) Question from Councillor Hull to Councillor Butler**

*“Given that a small town like Aberystwyth took eleven families under the Government Refugee scheme, how is it that Rushcliffe has taken just one?”*

Councillor Butler responded that comparing different towns was not appropriate due to their different circumstances. The Council was not a housing stock authority and it was an area with high private sector rents. He

added that the Council had made a start by taking one family, which he stated was more than other authorities had done.

### **Supplementary question**

Councillor Hull asked whether Councillor Butler would rectify his statement made at a previous council meeting that Rushcliffe was leading the way compared to other councils in this regard.

Councillor Butler reiterated that the Council had provided accommodation for a family and were looking at other opportunities to support the Syrian Vulnerable Person Relocation scheme . He informed Councillors that workshops for the private rental sector had been delivered to explain the needs of refugees. He added that the Council had a responsibility for the wider area of Rushcliffe and had to be practical and realistic about what could be done.

### **b) Question from Councillor MacInnes to Councillor Clarke**

*“Is the North Midlands Combined Authority and Devolution Deal still on the DCLG table or is it dead? Could the Leader please comment on the current situation?”*

Councillor Clarke explained that there were 11 devolution deals being considered by the Department for Communities and Local Government (DCLG) and that the Secretary of State was clear that there would be no amendments to any of the deals. He informed Councillors that the North Midlands Combined Authority and Devolution Deal had paused although there were ongoing discussions. Councillor Clarke added that there was further discussion needed with DCLG to seek clarity on the current deals.

### **Supplementary question**

Councillor MacInnes asked what effect the forthcoming county council elections would have on the deal.

Councillor Clarke explained that he was not in a position to comment as he could not foresee the outcome of the elections.

### **c) Question from Councillor Edwards to Councillor Clarke in Councillor Mason’s absence**

*“Could you confirm that where Members individually ask for meeting agendas and reports for the Council, Council Committees and Scrutiny Groups to be printed and provided by the Council prior to meetings and sent to their home address, this normal and long-established practice will continue?”*

Councillor Clarke said ‘yes’.

*Councillor Edwards asked a Supplementary Question as follows: Will these arrangements continue after the full introduction of Paperlite is completed in December?*

Councillor Clarke reminded all Councillors that it was '*paperlite*' and not '*paperless*' and explained that, if Councillors specifically requested papers, then they would be made available. He added that *Paperlite* had been successful as it had reduced the use of paper.

30. **Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012**

RESOLVED that the public be excluded from the meeting for consideration of the following item of business pursuant to Regulation 4 (2) of the above Regulations on the grounds that it was likely that exempt information may be disclosed as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

31. **Civic Centre Disposal**

Councillor Clarke assured Councillors that due diligence had been undertaken and that the item remained confidential as discussions were still being held through solicitors.

Councillors Plant and Jones supported the recommendation to endorse the cabinet decision. Councillor S Mallender asked that tenants be considered in the negotiations.

RESOLVED that Council endorsed the decision made by Cabinet on 14 June 2016.

The meeting closed at 9.10 pm.

MAYOR

## Report of the Executive Manager - Neighbourhoods

### 1. Summary

- 1.1 Previously the Council has had a range of policies, protocols and working procedures which set out the Council's approach to the licensing of hackney carriage and private hire drivers, their vehicles and operators.
- 1.2 This new policy, contained as **Appendix A** of this report, brings together all aspects of the taxi licensing framework including the new Relevant Convictions Policy which was adopted by Full Council in June, into one transparent and cohesive policy document.
- 1.3 The creation of this new policy has also allowed the Council to review and incorporate current national guidance and good practice, and has been developed in conjunction with other Nottinghamshire authorities which in turn will help to create a more consistent public protection regime across the County which will benefit both the trade and members of the public. The policy has also incorporated key recommendations made by the Nottinghamshire Coroner following a recent Inquest into a taxi driver from the County who was involved in a fatal vehicle accident.
- 1.4 The policy has been subject to a full 8 week public consultation process including taxi drivers and private hire operators. Feedback has been taken on board and the policy has also been scrutinised by the Licensing Committee during the policy development process.

### 2. Recommendation

It is RECOMMENDED that

- a) the Hackney Carriage and Private Hire Policy 2017 - 2022 is approved, and
- b) the Executive Manager - Neighbourhoods be authorised to make minor revisions to the policy.

### 3. Reasons for Recommendation

- 3.1 To encompass all current taxi policies and procedures into one document, and to set new good practice standards in relation to drivers, Private Hire Operators and vehicle standards.
- 3.2 To create a robust and consistent framework for taxi licensing which the public can trust.

## **4. Key Policy Features**

### **Drivers**

- 4.1 In relation to drivers, the policy has incorporated a range of important requirements to compliment and build upon the core fit and proper tests such as the requirement to undergo a drug/alcohol test when required (policy 5.6) whilst also incorporating new requirements such as the need to prove the right to work in the UK in line with the Immigration Act 2016 (policy 5.12).
- 4.2 Other core customer expectations have been included such as the need for an applicant to be able to demonstrate their ability to speak English to enable them to communicate effectively with their customers (policy 5.5) along with the responsibility to ensure passengers are transported safely (policy 5.13).
- 4.3 The very high profile safeguarding issues in Rotherham, Oxford, Derby and elsewhere have only served to emphasise the importance of high standards of safeguarding in the taxi profession. As a result, the Council has been at the forefront of developing new mandatory taxi driver safeguarding training (policy 5.8) and a code of conduct when working with vulnerable passengers (policy 5.11).
- 4.4 Linked to the recent Coroner's Inquest recommendations, the Council has introduced clear guidance within the new policy in respect of driver's hours (policy 5.14). These are designed to reflect the limits that are in place for drivers and crews of heavy good vehicles and public service vehicles.

### **Vehicles**

- 4.5 Transport-related nitrogen dioxide has a significant role to play in local air quality and building on the requirements of the Council's Air Quality Action Plan, there is a proposed major amendment to the age of taxi vehicles that will be licensed. At present, the Council accepts any age of vehicle, but subject's older vehicles to a test twice a year. However, the new policy will, if approved by Council, limit any new vehicle to the Euro 4/5 emissions technology or better, thus no vehicle will be licensed with a date of first registration before 1 January 2005. Those vehicles already licensed will be allowed to remain in use for one year from when the policy comes into force which is anticipated will be 1 January 2017 (policy 6.3).
- 4.6 The policy also now proposes that all current vehicles over 12 years of age will no longer be licensed. Again a period of twelve months transition will be allowed for current vehicles. However, there will be an exception in relation to wheelchair accessible minibus type vehicles which will have an age limit of 14 years because of the high cost of purchasing such vehicles (policy 6.3).
- 4.7 The proposals within the policy to improve the environmental compliance of taxi vehicles will also ensure that the trade are making adequate preparations for the forthcoming Clean Air Zone requirements in Nottingham City which may result in additional control measures for drivers of polluting vehicles if they travel into certain parts of the City.
- 4.8 In terms of vehicle configuration, it is proposed to remove the current permission to have a front seat in Hackney Carriages. This will help to

mitigate a potential safeguarding issue which currently allows passengers to ride in the front seat next to the driver, which they have hired from the street, and with no record of the booking thus making tracing a vehicle more difficult in the case of any complaint (policy 6.5).

- 4.9 In relation to private hire operators, there are two new policy requirements which have been made as a result of recommendations from the Coroner for Nottinghamshire following a recent Inquest regarding a taxi driver from the County who was involved in a fatal vehicle accident. The first relates to a requirement for Private Hire Operators to record any complaints made to them and to make such records available for inspection (policy 8.8) and the second brings in a set of requirements for Private Hire Operators in regard to their responsibilities and how their business must be conducted including for example reference to the need to monitor working hours of drivers (policy 8.9).

### **Impact on current licence holders**

- 4.10 The main impact on current licence holders will be the proposed change in the vehicle specification as outlined in report paragraph 4.5. Evidence shows that there will be little effect on the current fleet of just under 300 private hire vehicles as most are under the proposed age limit with less than 20 vehicles over 12 years of age. However, in respect of Hackney Carriages, the picture is quite different as most Hackney Carriage vehicles are old, some over 16 years old, and it is these vehicles that also have a much lower standard of emissions compliance. Current records show that 39 vehicles breach these limits and will need to be replaced with newer vehicles within one year should the policy be approved.
- 4.11 During the consultation, the Hackney Carriage drivers represented by one licensed driver suggested that these proposals, if approved, may result in an adverse financial impact through drivers not being able to afford newer vehicles. However, evidence already shows that since the proposal was put out for consultation earlier this year, 9 older vehicles that would have been in breach of the new age limits have already been replaced with newer vehicles. Therefore, the policy proposal to allow a licence holder a full twelve months to make arrangements for a replacement vehicle is felt to be a fair and proportionate approach.

### **Policy Development and Consultation**

- 4.12 Over the last 18 months, the Council has taken a leading role, with support of the Nottinghamshire Licensing Officers Group and the endorsement of the Safer Nottinghamshire Board, in developing and implementing a range of actions to strengthen the taxi licensing regime. This included the development of a model relevant convictions policy for Nottinghamshire and the introduction of safeguarding training for taxi drivers which to date has seen over 3,000 taxi drivers trained across Nottinghamshire.
- 4.13 Furthermore, this work has helped to direct and inform the need for a transparent and cohesive Council policy document covering all aspects of the taxi licensing regime. The resulting draft policy was issued for public consultation including taxi drivers and operators for a period of 8 weeks ending on 29 July 2016.

- 4.14 Along with positive support, the key feedback provided by the consultation process concerned the introduction of the age policy for vehicles as detailed in paragraph 4.11 of this report.
- 4.15 The draft policy has also been subjected to further shaping and scrutiny by the Council's Licensing Committee on three occasions including final endorsement at its meeting on 14 November 2016.
- 4.16 It is intended that the policy will have a five year lifespan and it will be kept up to date during this time, as legislation or good practice evolves, through appropriate delegation to the Executive Manager - Neighbourhoods. Should the Council decide to adopt the policy, it will be brought into force as soon as possible and all current and new drivers and operators will be made aware.

## **5. Risk and uncertainties**

- 5.1 The absence of a coherent taxi policy incorporating the latest good practice which creates a strong public protection framework is considered detrimental to all parties and would also see the Council failing to take on board the recommendations of the Nottinghamshire Coroner.
- 5.2 Should the recommendations not be approved taxi vehicle standards will further deteriorate and an opportunity to improve the environmental compliance of such vehicles in line with the Council's Air Quality Action Plan will be missed.

## **6. Implications**

### **6.1 Finance**

If the policy is approved there is a small risk that a limited number of Hackney Carriage proprietors may not re-licence their old vehicles resulting in a small loss of income. However, since the consultation was issued a number of drivers have already upgraded their vehicles and they will have a further year to do so after the policy comes into effect. This factor, together with the industry view that there is a general shortage of taxi drivers in and around Nottingham, suggests that the risk should be considered negligible.

### **6.2 Legal**

Legal advice has been incorporated into the development of this policy.

### **6.3 Corporate Priorities**

An effective policy framework for all aspects of taxi licensing is part of the Council's wider duties for ensuring public protection. In turn, public protection is an important foundation for the Council's priority of 'maintaining and enhancing our resident's quality of life'.

Furthermore, the policy highlights the important role that a safe and professional taxi trade can play in supporting tourism and local business which all helps to support the Council's priority of ensuring a 'sustainable, prosperous and thriving local economy'.



## 6.4 Other Implications

An Equality Impact Assessment has been undertaken as part of the development of this policy and the outcome has identified that there are no adverse or disproportionate impact for any particular protected equality group as a result of adopting this new policy.

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<b>Background papers Available for Inspection:</b>	None
<b>List of appendices (if any):</b>	Appendix A – Hackney Carriage and Private Hire Policy 2017 - 2022



# Rushcliffe Borough Council

## **RUSHCLIFFE BOROUGH COUNCIL HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY**

**2017 - 2022**

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## 1. Introduction

Rushcliffe Borough Council is responsible for the regulation of the Hackney Carriage and Private Hire trades within the Borough of Rushcliffe.

Rushcliffe Borough Council recognises the important role that Hackney Carriages and Private Hire vehicles play in enabling people to travel around the Borough, whilst playing a visible role in portraying the image of Rushcliffe to all. The drivers themselves are recognised as having a key role in being ambassadors for the Borough.

Customers rightly expect that in using taxis and Hackney Carriages they will be transported safely. In addition, it is in everyone's interest to ensure that customer experiences are positive. This will help to ensure that the industry and the local economy thrive.

This policy and related procedures will guide the work of the Licensing Authority (Council) in the way in which it carries out its functions.

This policy has been developed by Rushcliffe Borough Council after consulting with both the public and the trade in particular. In developing this policy we have also taken into consideration:

- The Council's licensing objectives
- Current Legislation
- The Office of Fair Trading "The Regulation of Licensed Taxi and Private Hire Vehicle Services in the UK" 2003
- 'Taxi and PHV Licensing Criminal Conviction' Policy, LGA
- Guidance on the Rehabilitation of Offenders Act 1974 – March 2014
- Disclosure & Barring Service Information Note on Rehabilitation of Offenders Act 1974 and Police Act 1997 Orders - 2013
- Regulators' Code 2014
- The Department for Transport "Taxi and Private Hire Vehicle Licensing: Best Practice Guidance" March 2010

This policy sets out the requirements and standards that must be met. In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document. However, each application or enforcement action will be considered on its own merits.

This policy will be evaluated from time to time after its introduction. The Council will formally review the policy statement 5 years after adoption.

## 2. Definitions

The Local Government (Miscellaneous Provisions) Act 1976, as amended, (“the 1976 Act”) places on Rushcliffe Borough Council (the “Council”) as the Licensing Authority (the “Authority”) the duty to carry out its licensing functions in respect of Hackney Carriages and Private Hire Vehicles.

This document sets out the policy that the Council will apply when making decisions about new applications and licences currently in force.

This policy applies to:

- Hackney Carriages; being a public transport vehicle with no more than 8 passenger seats, which is licensed to ply for hire. This means that it may stand at ranks or be hailed in the street by members of the public;
- Private Hire Vehicles: licensed as a taxi to carry no more than 8 passenger seats but must be booked in advance by customers through an operator and may not ply for hire in the street;
- Private Hire Operators;
- Hackney Carriage and Private Hire drivers.

In undertaking its licensing function, the Council will have particular regard to:

- Town Police Clauses Act 1847 and 1889
- Local Government (Miscellaneous Provisions) Act 1976
- Transport Act 1985 and 2000
- Crime and Disorder Act 1998
- Environmental Protection Act 1990
- Disability Discrimination Act 1995
- Equality Act 2010
- Road Traffic Acts
- Health Act 2006
- Human Rights Act 1998

The Council will also follow the principles laid out in the statutory Regulator’s Code and any recommendations from Regulatory Delivery (part of DBEIS).

### **3. Licensing Aims and Objectives**

The principal purpose of Hackney Carriage and Private Hire licensing is to protect the public and promote public safety. The Council will adopt and carry out its Hackney Carriage and Private Hire licensing functions with a view to promoting the following:

- **The protection of the public, safeguarding children and the vulnerable, and the prevention of crime and disorder;**
- **The safety and health of the public and drivers;**
- **Vehicle safety, comfort and access;**
- **Encouraging environmental sustainability.**

In promoting these licensing aims and objectives, the Council will expect to see licence holders and applicants continuously demonstrate that they meet or exceed the standards set by the Council.

#### **The protection of the public, safeguarding children and the vulnerable, and the prevention of crime and disorder**

- Raising awareness amongst the licensed trade, and the general public, of issues of safeguarding children and vulnerable adults.
- Operating rules, conditions and disciplinary processes.
- Vetting, qualification, training and monitoring licensees.
- Commitment to work with the police and licensing authorities.
- An expectation that licence holders will treat all customers, passengers, the general public, Council Officers and Councillors with respect and courtesy at all times.

#### **The safety and health of the public and drivers**

- Consideration of history of convictions and cautions.
- Driver training, qualification and performance.
- Knowledge of the Rushcliffe area.
- Health and fitness to fulfil the role of a licensed driver.
- Vehicle specifications.
- Regular driver medical checks.

#### **Vehicle safety, comfort and access**

- Standards of vehicle comfort and appearance.
- Space standards for vehicles.
- Location of ranks and use of ranks.
- Provision of disabled facilities.

#### **Encouraging environmental sustainability**

We will work with stakeholders in the trade in finding methods of reducing vehicle emissions and not issuing licences for vehicles that are unable to comply with European Emissions Standards.

These aims and objectives will be taken into account by the Council when making decisions. It is recognised that the licensing function is only one means of securing the delivery of the above objectives. The Council will therefore continue to work in partnership with licence holders, its neighbouring authorities, the Police, local businesses and local people towards the promotion of the aims and objectives.

#### **4. Delegations**

Under the Council's Constitution, full Council has responsibility for all policy matters relating to taxi licensing. The Council operates a scheme of delegation to officers in respect to individual applications, contraventions, suspensions and revocations for drivers, vehicles and Operators. In certain circumstances the Licensing Committee comprising of up to five elected Councillors will determine applications, contraventions, suspensions and revocations. In addition the Executive Manager can appoint and authorise officers to investigate and discharge its statutory functions. Such authorised powers include the issuing of warnings, suspension notices, STOP notices and the issuing of Penalty Points.

#### **5. Driver Requirements**

All drivers must satisfy the Council that they are 'fit and proper persons' to be granted a driver's licence, and must then remain a fit and proper person for the duration of that licence. The fitness and propriety of a driver will be monitored / assessed throughout the period that the licence is held.

Applicants are expected to act with honesty and integrity throughout the application process, and must therefore fully and accurately disclose any information that is requested. This includes information regarding previous convictions, warnings and reprimands, current investigations and pending criminal proceedings.

The Council aims to ensure that Private Hire and Hackney Carriage services delivered within the Borough are of a good standard. The application and compliance procedures are designed to ensure these standards are maintained, monitored for compliance and appropriately enforced.

The sections below, therefore, apply equally to Private Hire and Hackney Carriage drivers unless indicated and the application procedure is set out in Appendix A.

##### **5.1 Fit and Proper Person Test**

The Council considers that licensed drivers are in a position of trust, and therefore the Council must ensure that applicants / licence holders are, and remain, fit and proper to hold a licence. This requirement is contained within Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II).

The term "Fit and Proper Person" for the purposes of taxi and Private Hire licensing is not legally defined. However, in determining whether a person is fit and proper to hold a licence, those tasked with determining licences / applications are effectively asking the following question of themselves:

"Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?"

If the answer to the question is an unqualified 'yes', then the person can be considered to be fit and proper. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether a licence should be granted to that person.



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

- Criminality
- Period of holding a driver's licence
- Number of endorsed driving licence penalty points
- Right to work
- Medical fitness
- Standard of driving / driving ability
- General conduct / standards of behaviour (including online behaviour)
- The conduct of the applicant in making the application (e.g. whether they have acted with honesty and integrity during the application process).
- The previous licensing history of existing / former licence holders (including honesty and integrity).
- Theoretical knowledge of issues and matters related to the work of a licensed driver.

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

## **5.2 Application Process**

This Council issue licences that enable the driving of both Hackney Carriages and Private Hire Vehicles. Licences shall be issued for a maximum period of 3 years but the Council can grant licences for a lesser period if deemed appropriate.

Applicants shall have a minimum of one year of holding either a full driving licence issued in the UK, the European Community (EC) or one of the other countries in the European Economic Area (EEA). In addition to the above, licensed drivers who hold an EC/EEA driving licence shall obtain a GB counterpart document before any taxi licence is issued. The Council may directly access the DVLA records of applicants, or alternatively will employ the services of a third party to do this.

Applicants shall provide proof that they have a statutory right to work in the UK and any applicant that has a limited right to work shall not be issued a driver licence for a period longer than that limited period.

The information submitted as part of the application process will be shared, when applicable, with other Council Departments and external statutory bodies e.g. Police and HM Customs & Excise.

An individual will not be considered fit and proper to hold a licence if there is any evidence of dishonesty, and/or it can be shown that an applicant or existing licence holder has misled, or attempted to mislead, the Council (either officers or members of the Licensing Committee) as part of any process associated with the administration or determination of a licence.

### **5.3 Disclosure and Barring Service (DBS)**

A criminal record check on a driver is seen as an important safety measure. Enhanced Disclosure through the Disclosure and Barring Service is required as these disclosures include details of live and spent convictions, police cautions and other relevant information that indicates that a person poses a risk to public safety. The DBS application procedures are detailed in Appendix B of this policy.

Both Hackney Carriage and Private Hire drivers are included as “exceptions” within the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (the “Exceptions Order”). Accordingly all drivers will be asked to disclose on their application form any warning, fixed penalty notices, caution or conviction even if it is spent for other purposes and those will be revealed on the DBS certificate.

All applicants for the grant or renewal of a licence requiring a DBS check shall be responsible for the costs of obtaining the DBS certificate.

Certificates will be obtained using the Council’s approved DBS system but it will accept DBS certificates issued to other local authorities if it has been printed within the last three months and is to an enhanced level and has been processed in relation to the child and adult workforce employment position (as specified on the certificate).

All new applicants must declare on the application form any convictions, cautions or fixed penalty notices they have received or current pending matters. All licence holders shall notify the Council of any arrests, warnings, convictions, cautions and fixed penalty notices received during their licence period. Failure to inform the Council of these matters during the licensing period may result suspension or revocation of the licence.

A licence will not be granted or renewed in the absence of a current Enhanced DBS Disclosure Certificate.

The Council requires all drivers to have a DBS check annually, but licence holders can subscribe to the Disclosure and Barring Service Online Update Service rather than having a full annual DBS check. Any costs associated with maintaining this subscription or the annual check must be met by the licence holder. The licence holder must give permission for the council to undertake checks of their DBS status should the council consider it necessary to do so. The council will use the update service to monitor the criminal record of licence holders. The update service can be used when a licence is renewed – if there are no changes recorded on the DBS certificate then a full DBS check will not be required. In all other cases a full Enhanced DBS check will be required before a licence is renewed. The driver upon application will give the Council permission to retain information revealed on the DBS check which it will retain in a secure manner.

#### **Applicants with Periods of Residency Outside the UK**

If an applicant has spent six continuous months or more overseas the Council will need to see evidence of a criminal record check from the country / countries visited covering the period that the applicant was overseas. Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants that have lived overseas. For EU nationals (including UK citizens) suitable checks should be available. For those countries for which checks are not available, the Council will require a certificate of good conduct authenticated by the relevant embassy.

## **5.4 Relevant Convictions Policy**

The Council is committed to ensuring that the licensed trade is fit and proper. This will entail periodic audits of licensed drivers to ensure that any errors or material changes are identified and acted upon. In relation to the consideration of convictions, cautions, warning and reprimands etc., the Council has adopted the policy set out in Appendix C. The terms of this policy will have immediate effect from the date of this policy.

In assessing whether the applicant is a fit and proper person to hold or retain a licence, the Council will consider each case on its merits. It will take account of warnings, cautions and convictions, whether spent or unspent, but only in so far as they are relevant to an application for a licence.

Those applications or renewals with information indicating a past criminal record or, any other concern, will be dealt with under the Council's scheme of delegation. The appropriate Officer will make the assessment of whether or not the applicant is a fit and proper person to hold a licence in line with the policy at Appendix C.

The policy at Appendix C will also be used to determine the suitability of an existing licence holder should it be necessary to consider action in relation to the licence partway through the licence period.

## **5.5 Knowledge and Driving Test**

Applicants for a driver's licence are required to have passed the Council's knowledge test. This test will ensure that the applicant has sufficient knowledge in relation to:

- Literacy and numeracy
- Locations
- Use of A to Z mapping for routes
- Highway code signs

In addition to the knowledge test, applicants will be required to demonstrate that they have abilities to speak English in such a manner that they can communicate with customers. The Council will make such arrangements for the testing of an applicant's ability to speak English as required on an individual basis and may make a charge for such a test.

The pass mark for the knowledge test is 74%, and the applicant must pass all sections in one test. Applicants who fail must re-sit the whole test and pass all sections in that test. If applicants fail three successive knowledge tests their application will be refused and they will be required to wait at least 12 months (from the date of the most recent failure) before being permitted to take further tests. Applicants will be allowed to sit two tests for the initial fee, but must pay a resit fee prior to the third and final test. Applicants cancelling the test with less than 24 hours' notice will not be refunded the fee.

All new applicants are required to undergo a driving test with the Council's approved driving instructor before a licence is issued. Should the applicant not cancel the test at least 24 hours prior to the date of the test they will not be refunded the fee. In addition, if the applicant fails to provide a valid certificate of insurance or the vehicle is not up to standard the test will be cancelled and no refund will be made. Failure of more than one driving test may give cause for concern as to the fit and proper status of the driver.

## **5.6 Medical Assessment**

The Council recognises that licensed drivers should have more stringent medical standards than those applicable to normal car drivers because they carry members of the public who have expectations of a safe journey; they are on the road for longer hours than most car drivers; and they may have to assist disabled passengers and handle luggage. Therefore, Group 2 Standards of Medical Fitness as applied by the DVLA to the licensing of lorry and bus drivers, are considered the appropriate standard for licensed Hackney Carriage and Private Hire drivers.

The Council requires that applicants and current drivers undergo medicals through the Council's preferred third party provider. The medical will be taken at the applicant's own expense and they are responsible for making their own arrangements for this to take place. The medical certificate will be produced to the Council, in the case of a new applicant before the application form is accepted and in the case of a renewal before the renewal of the licence is granted.

Holders of Public Service Vehicle (PSV) and / or Large Goods Vehicle (LGV) Licences, where the holder is able to produce proof of current medical examination less than 3 months old, shall not be required to undergo a medical examination on first application. Drivers who already hold a medical certificate for a taxi licence from another local authority may use this when submitting their application to Rushcliffe provided the medical provider is one approved by the Council. Licence holders must advise the Licensing Authority of any deterioration or other change in their health that may affect their driving capabilities. Where there remains any doubt about the fitness of any applicant, the Council will review the medical evidence and make any final decision in light of the medical evidence available.

No licence shall be issued until medical clearance (if required) has been established. A licence application will not be accepted / processed unless all elements of the application process have been completed.

To provide equity with drivers of other forms of public transport, the Council will conduct drug/alcohol/eyesight tests on drivers on an intelligence-led and random basis. Selected drivers and applicants will be expected to either submit to any test deemed appropriate by the Licensing Service or to attend a medical practitioner chosen by the Council and submit to any test deemed appropriate. Positive test results or failing to comply with the test request may result in a refusal, suspension or revocation of the licence.

Licensed drivers are under a legal duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without additional charge. Drivers who have a medical condition which is aggravated by exposure to dogs may apply to the Council for exemption from these duties on medical grounds. If an application is successful they will be issued with an exemption certificate, and also be issued with a notice of exemption. The notice of exemption must be exhibited in the vehicle by fixing it, facing outwards, either on the windscreen or in a prominent position on the dashboard.

## **5.7 Duration of the Licence**

The Council will normally issue licences for a three-year period. However the Council does have the discretion to issue licences of a shorter duration, if it considers this to be necessary given the circumstances.

## **5.8 Safeguarding Training**

Every new applicant will undergo Safeguarding Vulnerable Passengers training before a licence is issued. The training involves attending a training session at a location approved by the Council and the applicant will also complete and pass a test at the end of the session. Current licence holders will also undertake the training within twelve months of the renewal dates of their licence. Failure to pass the test will result in the applicant or current licence holder re-taking the training session and exam at their own cost. Should the applicant or current licence holder fail the test for a third time, in the case of a new applicant the application will be refused, in the case of a current driver the application to renew will be refused or when mid-term of a licence it may be revoked.

## **5.9 Conditions**

The Council may attach such conditions to a Private Hire / Hackney Carriage driver's licence as are considered necessary. These are set out in Appendix D; these will be reviewed from time to time.

## **5.10 Dress Code**

It is recognised that the taxi trade, both Hackney Carriage and Private Hire, play an important role in portraying a positive image of Rushcliffe and are seen as key ambassadors for the Borough.

Anything that serves to enhance the professional image of the Hackney Carriage and Private Hire trade, and promotes the concept that drivers of licensed vehicles are professional vocational drivers is to be welcomed. To ensure that not only are the above objectives met but, also that driving is carried out safely, a Dress Code for licensed drivers has been set. All clothing worn by the driver must be clean and in good condition, and the driver must have good standards of personal hygiene.

### **The following are deemed to be unacceptable:**

- Clothing that is not kept in a clean condition, free from holes and rips.
- Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend.
- Sportswear (e.g. football / rugby kits, track suits, beach wear etc.)
- Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel.
- Drivers not having either the top or bottom half of their bodies suitably clothed.
- The wearing of hoods or other clothing that obscures the driver's vision or their identity.

## **5.11 Code of Conduct when Working with Vulnerable Passengers**

It is essential that young, elderly and other vulnerable people are safeguarded and protected whilst being transported in a licensed vehicle. Accordingly a specific Code of Conduct must be complied with when working with vulnerable passengers. This is provided at Appendix N.

## 5.12 Right of the Driver to Work in the UK

The Council will require all applicants to provide documentary evidence to confirm that they may legally work in the UK. Examples of documents that maybe provided include:

- A UK passport confirming that the holder is British Citizen (or citizen of another EEA country – including Switzerland),
- Passport or other travel document endorsed to show that the holder is allowed to stay in the United Kingdom and undertake paid employment,
- Full UK Birth / Adoption Certificate,
- An Immigration Document issued by the Border and Immigration Agency to the holder which indicates that the person named in it can stay in the United Kingdom and undertake paid employment,
- A work permit or other approval to take employment issued by the Home Office or the Border and Immigration Agency when produced in combination with either a passport or another travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to undertake paid employment.

This list is not exhaustive, and other documents may be accepted – further information will be provided by the Licensing Service on request.

**Where an applicant is subject to immigration controls, a licence will not be issued for longer than the period that the applicant has permission to undertake paid employment in the United Kingdom.**

## 5.13 Drivers Responsibility

The Licensing Authority requires all of its drivers to ensure that passengers are safeguarded when being transported in a licensed vehicle. The following are applicable:

- Ensure that they are fit to drive at all times;
- Ensure their vehicle is fit to be driven at all times;
- Not to use a vehicle which could put the public at risk;
- To remain professional at all times;
- To carry photographic ID at all times, and wear it in accordance with any conditions of the licence;
- Not to use offensive or inappropriate language;
- Not to swear;
- Not to behave in a manner that would make passengers feel uncomfortable, intimidated and/or threatened;
- Ensure a log is maintained which records all incidents, refusals and accidents involving passengers and is reported to the Operator immediately and in any event before taking the next fare (see 6.10 Accidents);
- They must inform the Licensing Authority and if applicable the Private Hire Operator of any offences/convictions or arrests.

## 5.14 Driver Hours

There are no direct controls over the hours that Hackney Carriage/Private Hire drivers can work. There are, however, limits applicable to drivers and crews of heavy goods vehicles and public service vehicles.

The Council deem that the number of hours worked by drivers can impact on public safety and as a result seeks to promote the same limits that are applicable to drivers and crews of heavy goods vehicles and public service vehicles namely:

- An average of 48 hours per week calculated over a 17 week period but up to 60 hours in a single week providing the 48 hour limit is maintained.
- Night work limited to 10 hours unless there is an agreement to work longer hours.
- Working between 6 and 9 hours per day requires breaks totalling 30 minutes. If more than 9 hours is worked then breaks must total 45 minutes, and breaks should be at least 15 minutes in duration.
- Drivers should refer to the guidance notes, 'Do I need a break' Appendix O.

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## **6 Hackney Carriage and Private Hire Vehicles**

### **6.1 Application Process**

The Council will consider all applications for vehicle licences on their own merits. The procedure for dealing with applications for Private Hire and Hackney Carriage vehicles is set out in Appendix E.

The applicant must submit the following to the Council in order for the application to be considered valid:

- The vehicle application form;
- The appropriate fee;
- The original Vehicle Registration Document (Log Book/V5) will only be accepted in the case of vehicles that are not licensed at the time that the application is made. Licences will not be granted or renewed unless the full V5 document is made available to the council at the time of application, in order that the date of first registration can be confirmed.
- The original insurance certificate or insurance cover note for the vehicle (this must be provided before the licence is issued)
- Any vehicle must have a current MOT certificate valid for at least three months or have made arrangements with the appointed testing station to carry out the MOT test at the same time as the supplementary plating test takes place at the applicant's own cost. In the case of the latter the MOT certificate will be produced with the pass certificate before the licence and plates are issued.

In addition:

- Any vehicle not manufactured with European Whole Vehicle Type Approval will be required to undergo Single Vehicle Approval (SVA) testing and evidence of that testing and the vehicle having obtained SVA produced to the licensing office. The application must be made on the correct application form and all supporting documents completed in full.

### **6.2 Grant and Renewal of Licences**

The vehicle must be submitted for a supplementary test at the appointed test station. A Pass Certificate will be issued. This must be produced as evidence that the vehicle meets the required standard when the applicant collects the licence and plates for the vehicle from the Councils Offices subject to the completion of all other elements of the application process and the provision of a valid certificate of motor insurance.

Private Hire Vehicle licences will be issued for a one year period, commencing on the date that the licence is issued. Vehicles older than 5 years old on the day that the licence is granted will be issued with a 6 month licence.

Hackney Carriage licences will be issued for a one year period, commencing on the date that the licence is issued. Vehicles older than 7 years old on the day that the licence is granted will be issued with a 6 month licence.



### 6.3 Emissions and Age of Vehicles

Rushcliffe Borough Council is proposing to change the age policy for both Private Hire and Hackney Carriages vehicles. At present the Council does not limit the age of Hackney Carriages but for Private Hire vehicles when the vehicle is over five years of age it must pass the exceptional conditions criteria. Private Hire vehicles over five years of age and Hackney Carriages over seven years of age are tested twice per year.

The Environment Act 1995 and subsequent Regulations requires local authorities to review and assess air quality on a regular basis. Where air quality falls below the national standards, the Council is required to declare an Air Quality Management Area (AQMA) and develop a plan which identifies how air quality standards will be improved.

In the Nottingham conurbation, vehicle exhaust emissions are a principal source of air pollution and this has resulted in the creation of several AQMAs along major roads including those within the City and the Trent Bridge area. In these areas, the levels of annual mean nitrogen dioxide do not comply with EU and national law. There is potential for the UK Government to be fined for breach of the EU limit values post 2015, and infraction proceedings have already been instigated by the European Commission.

It is intended that a Clean Air Zone will be created by Nottingham City Council before 2020, which will have the effect of limiting access to the city of certain vehicles, which includes taxis unless they meet strict emission standards. Vehicles which breach these emission limits may be liable for a penalty charge yet to be determined.

Rushcliffe Council's Air Quality Action Plan 2015 includes measures to improve air quality from transport, and the measure of improving the Hackney Carriage and Private Hire fleet by setting minimum emission standards for vehicles licensed in the Borough. The Council aims to ensure that Hackney Carriages and Private Hire vehicles are of a good standard. It recognises that the high mileage and general wear and tear sustained by vehicles will have an impact on their continued serviceability over a period of time.

In the interests of passenger safety and comfort and in support of these policies, the Council will introduce both vehicle emission standards and age requirements for licensed Hackney Carriage and Private Hire vehicles as part of the licensing process. It is viewed that this is justifiable to ensure the sustained improvement of Rushcliffe's taxi fleet and the impact on the health and environment in the Borough.

European emission standards define the acceptable limits for exhaust emissions of new vehicles sold in EU member states. The emission standards are defined in a series of European Union directives staging the progressive introduction of increasingly stringent standards. Euro 4 emission standards became mandatory in 2005, Euro 5 in 2009 and Euro 6 in 2014. However, some of the main manufacturers adopted these standards much earlier.

It is accepted that as a minimum, Euro 4 technology vehicles are within acceptable emissions limits at this time, but drivers and operators will be encouraged to adopt higher standards where possible.

**The Council proposes to adopt similar standards for both Hackney Carriage and Private Hire vehicles. With effect from 1st January 2017 any vehicle will not be able to be licensed with the Council unless its date of first registered as stated on the DVLA V5 document, is after 01.01.05. Vehicles registered before this date will not be able to be licensed.**

For existing vehicles already licensed by the Council that have a date of first registration before 01.01.05, the Council will allow a period of one additional year beginning from the date of implementation of this policy in order that the licence holder can make arrangements for replacement vehicles.

The Council will not licence any new vehicle older than 12 years old from the date of first registration as from 1<sup>st</sup> January 2017. Current licensed vehicles over 12 years of age will be granted a further 12 months until 1<sup>st</sup> January 2018. At this time they will be no longer licensed.

The only exception to the above will be Minibus type vehicles which are wheelchair accessible which will have an age limit of 14 years from the date of first registration.

The Council's policy in relation to the age of vehicles and the standard of emissions is set out in Appendix F.

#### **6.4 Insurance**

It is required that all insurance documents must be shown before a licence is issued.

- This requires a valid certificate of insurance or cover note confirming that insurance is in place for each driver of the vehicle and specifying use as either a Hackney Carriage or Private Hire Vehicle.
- A Hackney Carriage vehicle requires insurance to cover public hire and hire and reward.
- A Private Hire vehicle requires insurance to cover hire and reward.
- A cover note will be accepted and the licence will be issued on the understanding that a certificate of insurance will be produced at the earliest opportunity.

The council will undertake periodic auditing of licensed vehicles to verify that the vehicle is appropriately insured.

#### **6.5 Vehicle Specification**

The Council has set down a series of specifications. A vehicle will need to comply with these specifications prior to it being accepted as a licensed vehicle. The specification for Private Hire vehicles and for Hackney Carriages can be found at Appendix F.

#### **6.6 Conditions**

The Council is empowered to impose such conditions as it considers reasonably necessary in relation to the granting of Hackney Carriage or Private Hire Vehicle licences. These are set out in Appendix G for Private Hire Vehicles and Appendix H for Hackney Carriages.

However, where it is considered necessary, additional conditions may be imposed. In considering what is reasonably necessary the Council will take into account the aims and objectives of this policy.

## **6.7 Identification of Vehicles as Private Hire Vehicles or Hackney Carriages**

The Council requires Hackney Carriages and Private Hire vehicles to clearly indicate to the public that they are licensed vehicles. Therefore, they must be clearly distinguishable from other vehicles and each other. The Council believes that clear signage, types of vehicle, together with colour of the vehicle, can achieve this.

### **Hackney Carriages**

- The exterior colour of all Hackney Carriages must be black.

### **Private Hire Vehicles**

- The TX4 or similar vehicle (commonly referred to as a 'London cab') will not be licensed as a Private Hire vehicle.
- The minibus variants of approved Hackney Carriage vehicles (such as the Mercedes Vito) can be licensed as Private Hire vehicles.

The Council has set standards on the acceptable type of signage for Private Hire Vehicles and Hackney Carriages. These can be found in the Private Hire Vehicle /Hackney Carriages conditions set out in Appendix G for Private Hire Vehicles and Appendix H for Hackney Carriages. They include:

- the permitted position of licence plates;
- positioning of permanent door signs for vehicles;
- required wording for door signs on vehicles;
- requirements for the display of notices in vehicles;
- other notices / markings that the Council will require licensed vehicles to display.

## **6.8 Fire Extinguishers and First Aid Kits**

All vehicles will carry both a First Aid kit and Fire Extinguishers as specified in the Council's conditions.

## **6.9 Tyres**

Tyres are the vehicle's only point of contact with the road, so it is essential that they are in good condition. The Council requires that all licensed vehicles adhere to the following provisions with regard to tyres:

- Tyre treads are designed to efficiently and effectively remove water from the road surface and provide maximum grip. All tyres fitted to the vehicle must have at least 2.0 mm tread depth throughout a continuous band in the centre 3/4 of the tread and around the entire circumference of the tyre.
- Tyres fitted to a motor vehicle must be fit for purpose and be free from any defects which might damage the road or endanger any person. Fit for purpose means that a tyre must:
  - Be compatible with the types of tyres fitted to the other wheels,
  - Not have any lump, bulge or tear caused by separation or partial failure of the structure,
  - Not have a cut or tear in excess of 25mm or 10% of the sectional width of the tyre, whichever is the greater, and which is deep enough to reach the ply or cord,
  - Not have any part of the ply or cord exposed.
- Tyres must be correctly inflated to the vehicle / tyre manufacturer's recommended pressure.

- All replacement tyres fitted to licensed vehicles must be new (i.e. not have been used previously on any other vehicle) and have been fitted by a reputable vehicle maintenance company / contractor. Vehicle proprietors are required to retain invoices / receipts to show that any tyre that is purchased meets this requirement.
- The fitting of part worn tyres to licensed vehicles is not permitted.
- 'Space saving' spare wheels must only be used in an emergency, and then only in accordance with the manufacturer's instructions. Should the use of a 'space saving' spare wheel become necessary during a period of hire then the journey may continue, but the wheel must be replaced before another journey commences.
- Inflation kits are not permitted.

### **6.10 Accidents**

If at any time the vehicle is involved in an accident, however minor, the driver must inform the Council of this fact as soon as possible and in any event within 48 hours in writing or by email (telephone calls are not a permitted method of reporting accidents).

The vehicle must be presented for inspection to the Council as soon as possible after the accident has taken place – the appointment will be arranged by the Council who will notify the vehicle proprietor of the date and time. Failure to present the vehicle for the appointment may result in the vehicle's licence being suspended until such time as the vehicle is presented for examination.

If the vehicle is so damaged that it cannot be driven, then the vehicle proprietor must inform the Council of this fact – the Council will then advise the proprietor of the action to be taken. In such cases the proprietor is advised to take photographic evidence of the vehicle's condition that clearly illustrates the reasons why the vehicle cannot be driven / presented for examination. Failure to do so may result in Licensing Enforcement Penalty Points being issued.

### **6.11 Vehicle Examination and Testing Requirements**

Hackney Carriage and Private Hire vehicles examination and testing requirements are set out in Appendix I.

### **6.12 Meters**

All Hackney Carriages must be fitted with a meter.

Meters used to calculate fares must be accurate, display the correct time and be capable of displaying:

- In the case of Hackney Carriages, the various tariffs as approved by the Council (including extra charges recoverable under the approved Table of Fares). The meter shall be calibrated and set to the Council's agreed charging distances and tariffs currently in force.
- In the case of Private Hire Vehicles, any scale of charges which will be provided by the Private Hire operator.

Meters will be checked for accuracy by a measured mile distance or by waiting time. Meters must be positioned in order that the fare must be clearly displayed to the passenger throughout the journey.

Meters in use must not facilitate fraudulent use. Any signs of tampering including the breaking of any seals will result in a suspension notice being issued immediately. For the suspension notice to be removed, the vehicle meter must have been resealed and calibrated by an approved meter company and presented to the Council for inspection.

Private Hire Operators and / or drivers may agree a cost for the journey with the customer prior to the journey commencing. In this situation, the price quoted is the price that must be charged – there is to be no deviation from this price without the agreement of the customer. On occasions where a price has been not been agreed prior to the journey commencing, the fare charged must be that which is reflected on the meter where the vehicle is equipped with a meter.

### **6.13 Advertisements on Vehicles**

No advertisements shall be placed on any vehicle licensed by the Council **without** the applicant receiving prior approval of the advert. See Appendix J.

### **6.14 Additional Provisions for Hackney Carriages**

The main aim of Council's licensing of the Hackney Carriage and Private Hire trade is the protection of the public. The Council is aware that the public should have reasonable access to Hackney Carriage and Private Hire services, because of the part they play in local transport provision. Disabled groups are particularly reliant on Hackney Carriages as a means of transport. Licensing authorities have no power to restrict the number of Private Hire vehicles that they licence. Licensing authorities can restrict the number of Hackney Carriage licence plates they issue if they are satisfied that there is no significant unmet demand for taxi services; in Rushcliffe numbers are not restricted at this time.

### **6.15 Taxi Ranks**

A full list of Hackney Carriage ranks, their exact positioning on each street and the times they are in use is set out in Appendix K. Taxi ranks are to be used by Hackney Carriages whilst waiting for their next hire. They are not to be regarded as parking places. Private Hire Vehicles are not permitted to park on taxi ranks, nor must they allow customers to alight from their vehicle on a taxi rank.

## **7.0 Fares**

### **Hackney Carriages**

The Hackney Carriage Table of Fares ("the tariff") is set by the Council and sets the maximum fare that can be charged by Hackney Carriage drivers for journeys within the Borough which can be negotiated downwards by the hirer for journeys. The hirer may agree to the fare for a journey which ends outside the Borough being charged other than at the metered rate.

It is an offence for any person to charge more than the metered fare and penalty points can be issued to the Proprietor of the Hackney Carriage in such circumstances in line with the Council's penalty points scheme.

The Council will review Hackney Carriage fare scales from time to time in liaison with the Hackney Carriage Proprietors. A notice of any variation to the maximum fare shall be advertised by the Council.

A table of authorised maximum fares will be provided to each Hackney Carriage licence holder, which must then be displayed in each vehicle so that it is easily visible to all hirers.

Drivers must, if requested by the passenger, provide written receipts for fares paid.

### **Private Hire Vehicles**

The Council is not able to set fares for Private Hire vehicles. Drivers must, if requested by the passenger, provide written receipts for fares paid.

## **8.0 Operators**

### **8.1 Requirement for a Licence**

A licensed hire vehicle must only be despatched to a customer by a Private Hire operator who holds an operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a licensed hire vehicle.

A Private Hire operator must ensure that every licensed hire vehicle is driven by a person who holds a licence issued by the same Authority that issued the vehicle licence.

Any person who operates a Private Hire service must apply to the Council for a Private Hire Operator's Licence. The objective in licensing Private Hire operators is the safety of the public, who will be using operators' premises, and vehicles and drivers, arranged through them.

Applications for Operator licences shall be made on the prescribed form, together with the appropriate fee. The Council will then decide whether the applicant is a fit and proper person to hold an Operator licence. Planning permission is required for each Operators base and is required as part of the application process.

The Council will grant Private Hire operator licences for a period of 5 years, or one year in exceptional circumstances.

### **8.2 Fitness and Propriety**

The Council will only issue licences to applicants that are deemed to be fit and proper. In assessing this, the Council will have regard to the following:

- Criminal record (including convictions, cautions, warnings and reprimands),
- Factors such as demeanour, general character, non-criminal behaviour, honesty and integrity,
- Previous conduct (particularly in cases where the applicant holds or has previously held a licence issued by Rushcliffe Borough Council),
- Business practices demonstrated by the applicant (for example standard of record keeping, compliance with other regulatory requirements, financial practices etc.)

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

If an application is received from a person that is not a current driver licensed by Rushcliffe Borough Council then the applicant will be required to provide a Basic Disclosure from the Disclosure and Barring Service, and undertake the Council's Child and Adult Safeguarding Awareness Training (as required by licensed drivers).

### **8.3 Insurance**

Before an application for a Private Hire operator's licence is issued, the applicant shall produce evidence that they have taken out appropriate public liability insurance for the premises to be licensed. Where necessary, operators must also hold employers liability insurance.

### **8.4 Conditions**

The Council has the power to impose such conditions on an operator's licence, as it considers reasonably necessary and these are set out at Appendix L. However, where it is considered necessary, additional conditions may be imposed. In considering what is reasonably necessary the Council will take into account it's the aims and objectives of this policy.

Failure of the operator to adhere to the conditions of licence will lead to enforcement action and / or the issue of enforcement penalty points.

### **8.5 Use of Operator Name Following Revocation of Licence**

Where an operator licence is revoked by the Council, the name (or a similar name) of the Private Hire company associated with that licence cannot be used by another operator until such time as six months has elapsed since the date of revocation or the date on which all appeal processes have been concluded (whichever is the longer).

### **8.6 Operator Responsibility in Relation to Vehicles / Drivers**

The operator is responsible for all persons (and vehicles) that are employed, contracted or otherwise used in the course of their business. To that end, the operator must undertake sufficient checks to satisfy themselves that only suitable drivers and vehicles are used (and continue to be used) in the course of their business. The failure of an operator to ensure that appropriate checks are carried out may call into question the operator's fitness and propriety. In addition, a failure to take appropriate action in relation to drivers that persistently breach licence conditions may also be considered detrimental to the continued fitness and propriety of the operator.

The following are examples of circumstances that may affect the fitness and propriety of a Private Hire operator:

- Licensed drivers or vehicle proprietors persistently (either individually or as a group) breaching the conditions of their licence whilst working for / under the instruction of a particular operator.
- Vehicles being operated that are in an unsuitable condition.
- Failure by the operator to satisfactorily address concerns in relation to licensed drivers / vehicle proprietors (including matters related to child / adult safeguarding).
- Failure to monitor drivers working hours to ensure they are safe to transport the public.

Operators may be issued with enforcement penalty points as a result of the actions of the drivers / vehicle proprietors that are working for them or under their control.

The council expects licensed operators to support the council in its aims to raise awareness of and tackle issues around child and adult safeguarding. Operators must remain alert to these and similar issues.



## **8.7 Right to Work in the UK**

Please refer to section 5.12

## **8.8 Complaints / Records**

Each Operator shall keep a record of complaints made to them, their agents or employees in relation to any aspects of the business. The records shall be maintained for the duration of the licence and should be available at all times for inspection by Police or authorised Officer of the Council.

## **8.9 Operator's Responsibility**

The Operator shall at all reasonable times provide a prompt, efficient and reliable service to members of the public and shall in particular ensure that:

- When a vehicle has been hired to attend at an appointed time and place the vehicle shall, unless delayed or prevented by sufficient cause, attend punctually.
- Premises provided by the Operator will be within the District or approved by the Licensing Authority and any waiting areas shall be kept clean, heated, ventilated, well-lit and with adequate seating.
- Any telephone facilities and dispatch equipment are maintained in an effective working order.
- Any complaints received by the Operator that could undermine public safety shall be referred in writing to the Licensing Authority, together with any action taken.
- All vehicles operated shall be maintained in a satisfactory and roadworthy condition; and they shall ensure that any defects to vehicles are recorded and corrected as soon as possible.
- The Operator shall ensure, without prejudice to any other liabilities imposed under the Act, that all vehicles and drivers owned, controlled or operated in association with the Operator shall observe and perform the conditions of their licence.
- The Operator will monitor driver's working hours to ensure they are safe to transport the public. Although there is no legal framework for taxi driver's hours, it is incumbent upon the Operator to ensure drivers do not work excessive hours and that they are fit to drive and thus will not put the public at risk. Guidance relating to driver hours can be found in section 5.14 of this Policy.
- The Operator will inform the Licensing Authority of an offences/convictions/arrests committed by any driver attached to his company.

## **8.10 Communication and Information Security**

### **Personal Information**

In the course of their business, operators and/or drivers will be required to process and store various pieces of data, some of which will be personal data. The processing and storage of this data will fall under the provisions of the Data Protection Act 1998. Operators should ensure they are aware of their responsibilities under the Act. Licensees are required to establish whether they need to register with the Information Commissioner's office as a data controller. Further information can be obtained from the Information Commissioner's Office at [www.ico.org.uk](http://www.ico.org.uk)

### **Radios**

Where a licensee maintains a radio network for use, the range and /or frequency used may require a business radio licence from Ofcom. Further details can be obtained at: <http://licensing.ofcom.org.uk/radiocommunication-licences/business-radio>

### **CCTV**

Approval in writing must be obtained from the Licensing Authority where CCTV equipment is installed and used in a licensed vehicle. Each system must be registered with the offices of the Data Protection Registrar. Material captured by the system shall be accessible only to the Police, an authorised officer of the Council and the CCTV Operator/data controller. The system must be operated in accordance with the Data Protection Act 1998. The CCTV Operator/Data controller must ensure recommended signage and appropriate contact details are displayed in a prominent position where they can be easily read by persons both inside and outside the vehicle. The notices should be maintained in a clean and legible condition.

## **9.0 Fees**

The legislation provides that fees charged to applicants can cover most of the costs to the Council in providing the Licensing Service. This includes the administration of applications, and ensuring compliance by licensees within the Hackney Carriage and Private Hire trade.

The fees are reviewed at the start of each calendar year and confirmed by the Council ahead of the start of each financial year i.e. 1st April. The Council, however, can review the fees at any time. A list of the current fees can be found on the Council's website.

## **10. Compliance and Enforcement**

### **10.1 Enforcement**

The principal purpose of Hackney Carriage and Private Hire licensing is to protect the public and promote public safety.

In doing this, the Council aims to provide the delivery of efficient, targeted and proportionate regulatory services to provide a positive approach to those regulated. The Corporate Enforcement Policy for the Council embeds its principles of enforcement.

In April 2014 a new Statutory Regulators' Code was brought into force and, accordingly the Council should:

- carry out their activities in a way that supports those they regulate to comply and grow;
- provide simple and straightforward ways to engage with those they regulate and hear their views;
- base their regulatory activities on risk;
- share information about compliance and risk;
- ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply;
- ensure that their approach to their regulatory activities is transparent.

A range of tools and powers, including mystery shopping, to ensure compliance will be used. Compliance assessment is ultimately to ensure that the driver or operator is a "fit and proper" person to hold a licence and/or the vehicle is safe. The safety of passengers, pedestrians and other road users is paramount. Where appropriate, referrals will be made to other agencies such as the Police, HM Customs & Excise Immigration, other Licensing Authorities and both Adult and / or Child Safeguarding teams.

The Council will respond to complaints made by the public and referrals from other agencies and bodies. In addition officers will undertake proactive inspections and testing as either day to day activity or as part of programmed operations. Any breach of the required standards, policies and conditions may lead to suspension and/or revocations or the issuing of penalty points, suspension, and revocation of the licence or prosecution.

If the Council considers it necessary, in the interests of public safety, it may require a suspension or revocation of a licence to have effect immediately. Once a licence has been suspended or revoked, the licence holder (or former licence holder) may appeal to the Magistrates Court in order to challenge the Council's decision. There is no other recourse available to the licence holder (or former licence holder) should they wish to have the decision to suspend or revoke their licence reversed.

## **10.2 Enforcement Penalty Points**

The Council will operate a penalty point system of enforcement of specified minor breaches of conditions of licence or other unacceptable behaviour specified as part of this policy. The penalty point system will apply to drivers, operators and vehicles. The scheme is used as a formalised method of issuing warnings. It is also completely transparent in that every licence holder will know what penalty points to expect for a particular breach.

Points will be issued per incident and will accumulate on a licence until they reach the “trigger level”. At this trigger level, the licence holder will be referred to the Licensing Committee for the Panel to consider whether it is appropriate for the licence holder to remain licensed by the Council. The Licensing Panel may determine that the licence should be suspended or revoked, or the Panel may choose to administer some other sanction at its disposal.

The scheme is designed to deal with minor breaches and not major concerns as to a driver’s suitability. It is designed to alert the authority that a driver’s conduct over a period of time is giving rise for concern. The trigger level will normally be 12 points in a rolling twelve month period. Licensing Enforcement Officers will be authorised to operate the scheme and issue points accordingly. The penalty point scheme is outlined in Appendix M.

## **10.3 Suspension of Licence**

Where an individual failure in meeting the vehicle conditions is detected an authorised officer may take immediate action to suspend the licence and require remedial action. This requires the service of a vehicle defect notice and further use of the vehicle may be suspended until the defects have been remedied. The suspension will then not be lifted until the vehicle has undergone a further test, at the proprietor’s expense, and / or been passed as fit for use by the Council. Such defect notices will also be appropriately accompanied with a penalty point resolution.

In situations where there exists a serious risk to the safety of the public the Executive Manager Neighbourhoods, under delegated powers, is permitted to suspend the licence of a driver, vehicle or operator.

Where the Executive Manager Neighbourhoods is satisfied that a person is no longer a ‘fit and proper’ person or is in breach of a condition of licence, they may suspend a driver’s licence for any specified period.

When considering the revocation of any licence, the Executive Manager Neighbourhoods will take into account all relevant facts and circumstances including the aims and objectives of this policy and the nature of the breach.

## **10.4 Refusal to Renew a Licence**

The Executive Manager, Neighbourhoods, may decide that the appropriate action is not to renew the licence. In circumstances where an applicant has not provided all relevant information or documents or has failed to comply with any of the requirements to renew a licence, an authorised officer will be permitted to refuse to renew the licence.

The person applying for a licence will have the opportunity to appeal this decision to the Magistrates Court.

### **10.5 Prosecution of Licence Holders**

The Council will prosecute licence holders for relevant offences in accordance with the Statutory Regulator's Code and the Corporate Enforcement Policy.

### **10.6 Appeals**

Any notifications of enforcement actions will include information on how to appeal and to whom the appeal is made, if a right of appeal exists.

### **10.7 Complaints**

The Council has a procedure whereby the general public can submit complaints / concerns about licensed drivers and operators. This is accessible via the submission of a report form via the Council's website. In considering the most appropriate action to take in relation to a complaint, the credibility of both the complainant and the licence holder will be taken into account. In addition if anyone wishes to complain about the service provided by the Council there is a complaints procedure available on the Council's website.

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## Private Hire and Hackney Carriage Drivers Application Procedure

### Driver Licence Application Process

Rushcliffe Borough Council will only issue licences to those applicants that it considers to be 'fit and proper' to hold a licence. There is no statutory definition of what constitutes a 'fit and proper' person, however Rushcliffe Borough Council will take a number of factors into account, and set specific criteria for applicants, when considering a licence application. These factors and criteria are detailed below:

1. Applications will only be accepted from applicants that have held a full UK driving licence for at least one year. Applicants that hold full EU licences will have the length of time that they have held such licences taken into consideration, however holders of EU licences will only be issued with a licence for 12 months – the licence will not be renewed unless the EU licence is exchanged for a full UK licence (as required by national legislation).
2. Applicants will be required to obtain an Enhanced Disclosure Certificate from the Disclosure and Barring Service. The contents of this certificate will be assessed in accordance with the council's policy on convictions in determining the fit and properness of the applicant.

Licences will not be granted unless the applicant is able to provide at least five years UK address history except in the following cases:

- The applicant is able to provide a document from an EU member state, which is the equivalent of a UK issued Enhanced DBS Certificate;
- If this cannot be provided then an official document provided by the embassy of a non-EU member state will be acceptable, provided that the document can be verified and is comparable to a UK issued Enhanced DBS Certificate.

In either of the cases above, the onus is on the applicant to obtain such a document, and the applicant remains liable for all associated costs. DBS checks are required on application and then annually.

3. Applicants are required to pass the council's knowledge test. This test will assess the applicants knowledge and ability in relation to:
  - Literacy and numeracy
  - Road Safety
  - Customer care / customer awareness
  - Local knowledge/routes

A fee is payable by the applicant prior to them undertaking the test. If the applicant fails the test then they may retake it at a later date. The applicant will be allowed to sit the test twice for the initial fee but will be required to pay a further fee to sit the test a third time. However, if an applicant fails the test after retaking it for a third time they will not be permitted to take the test again until at least 12 months has passed since the date of the most recent failure. In addition to the knowledge test, applicants will be required to demonstrate that they have abilities to speak English in such a manner that they can communicate with customers. The Council will make such arrangements for the testing of an applicant's ability to speak English as required on an individual basis and may make a charge for such a test.

4. Applicants are required to satisfactorily complete a driving test with the Councils tester or hold a current DSA driving certificate. Details of the test will be provided to the applicant by the Council.
5. All applicants must agree to the council verifying their DVLA driving licence, and will require the applicant to give their consent to such a check being carried out. These checks will be carried out on an annual basis.
6. Applicants whose DVLA driving licence is endorsed with more than 12 penalty points will normally be refused, those with **7 or above** will merit further consideration.
7. Applicants are required to undergo a medical which meets "Group 2" standards with the current medical provider as designated by the Council. The Council must be satisfied that the applicant meets the "Group 2" standards. A medical to Group 2 standards will be required on first application and then every five years from the age of 45. On reaching the age of 65 a medical will be required annually and therefore a licence will only be issued.

Note: The Council may also request a medical at any other time it feels may be necessary to ascertain a persons' fitness to drive a licensed vehicle or request the applicant to obtain any other medical history to ensure they are fit to drive be granted a licence

8. Applicants will be required to undergo Safeguarding Vulnerable passenger training before a licence is granted. The training will take place at the Councils' offices or at a neighbouring Council who provide the same training course. At the end of the training the applicant will be required to pass a test. Failure to pass the test will result in the applicant re-taking the test. Failing the test on three occasions will result in the application being refused. Each subsequent test after the initial test will require payment of an addition fee. All current drivers will also undergo the training, failure to attend training may require the licence to be suspended or revoked. The Council may also require a driver to undergo any revised safeguarding training when required.

Applications should be made on the appropriate form(s), and should include the following:

- Two colour passport standard photograph, which is a good likeness of the applicant;
- DVLA driving licence & photo-card (or paper licence if the photo-card licence is not held by the applicant);
- Documents required as part of the DBS check;
- Proof that the applicant is legally permitted to remain and work in the UK;
- The correct fees;
- Any other documents an officer may ask you for to help progress your application.

In certain cases, applications may need to be referred to the Executive Manager Neighbourhoods. In these cases the Executive Manager Neighbourhoods make a decision on what length of licence to grant; or to refuse to grant a licence. This is usually if you have any conviction or police caution, reprimand or warning on your DBS record, but may also be for other reasons. The normal length of a drivers licence will be three years.

Once a licence expires, the applicant will be required to complete the renewal application.

**Disclosure and Barring Service Procedure**

Rushcliffe Borough Council uses a third party, the GB Group, to obtain Disclosure and Barring Service check. Checks for Drivers will be of Enhanced level, for Private Hire Operators who are NOT drivers they will be the Basic check.

Initially drivers will be provided with the application pack giving details of the DBS check process. The applicant will be required to register on the internet with the provider. Once they have registered they will then require to attend the Rushcliffe Community Contact Centre to complete the on line check ensuring they have the required identity documents. Once these have been verified at the RCCC payment of the current fee will be required by card, this fee is payable to the third party and not the Council. Should a driver choose to pay by cash they must still register in the same way initially but then go to a Crown Post Office to provide the verification details and pay.

Once the verification process is complete the third party will carry out the checks with the DBS, which includes checks with the Police. Once these are complete the third party notify the Council and the applicant will be sent a printed DBS disclosure certificate. If the certificate has content, i.e. previous convictions or other information the applicant must ensure it is handed to the Licensing Service. No licence will be issued without the Council having sight of the certificate. In the case of a DBS Certificate being clear of content the Licensing will be advised of this by the third party.

Once a DSB certificate is received the applicant has period of 14 days to subscribe to the DBS update service. This costs considerably less than a new DBS check and allows the Council to carry out the check immediately provide the applicant has authorised the Council to do so as part of the application process.

The Council requires all drivers to undergo a DBS check annually on the anniversary of the grant of the licence or upon renewal, or to subscribe to the DBS update service.



## Guidelines Relating to the Relevance of Previous Convictions

### Rushcliffe Borough Council Hackney Carriage and Private Hire Convictions and Fitness Policy

#### 1. Introduction

- 1.1 This policy provides guidance to the Licensing Committee (and its sub-committee) and Officers with delegated powers on the criteria to take into account when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a Hackney Carriage and/or Private Hire driver or Operator Licence. Any decision made by the Licensing Committee (and its sub-committee) and Officers with delegated powers will be made on the balance of probabilities and not beyond all reasonable doubt.
- 1.2 It is the responsibility of Rushcliffe Borough Council (referred to as the Council) to issue Hackney Carriage and Private Hire licences under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847. In exercising this duty the Council will consider the safety of the public as its primary consideration.
- 1.3 In seeking to safeguard the public, the licensing authority shall seek to ensure:
- That a person is a fit and proper person in accordance with Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II);
  - That the person does not pose a threat to the public;
  - That the public are safeguarded from dishonest persons;
  - The safety of children, young persons and vulnerable adults.
- 1.4 The term “Fit and Proper Person” for the purposes of licensing is not legally defined and in assessing whether someone may be “Fit & Proper” the Licensing Authority will consider the following, and take any other relevant information into account:
- Criminality;
  - Human Rights;
  - Period of holding a driver’s licence;
  - Number of endorsed driving licence penalty points;
  - Right to work;
  - Medical fitness;
  - Driving ability test;
  - The fitness and propriety of Private Hire Operators, ensuring the business is run in a safe and professional manner, having regard to management controls, compliance with the law and that drivers are properly monitored to ensure that they behave in an appropriate manner and comply with their duties and responsibilities, including the monitoring of drivers hours;
  - The conduct of the applicant in making the application (e.g. whether they have acted with openness and integrity during the application process);

- The previous licensing history of existing / former licence holders and any complaints made against them and investigated by any local authority licensing service.

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

- 1.5 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
- Applicants for a driver's licence;
  - Existing licensed drivers whose licences are being reviewed;
  - The holders of Private Hire Operators licences;
  - Licensing officers;
  - Members of the licensing committee/sub-committee;
  - Magistrates hearing appeals against local authority decisions.
- 1.6 In considering this guidance the Council will be mindful that each case must be considered on its individual merits and, where the circumstances demand, the committee may depart from the guidelines. Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction [Nottingham City v Mohammed Farooq (1998)].
- 1.7 In this policy the word "Conviction" is to be defined as including convictions, cautions, warnings, reprimands fixed penalty notices and other relevant information. In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.
- 1.8 In this policy the word applicant refers to either new applicants or those existing licence holders who are seeking renewal, or when offences have come to light of existing licence holders.

## 2 General Policy

2.1 Whilst the Council may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:

- a. Remain free of conviction for an appropriate period as detailed below; and
- b. Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the applicant to produce such evidence).

Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

2.2 The Council may depart from this policy if good reasons exist. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

2.3 **Outstanding Charges or Summonses:**  
If an outstanding charge or summons involves a serious offence and/or the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application should normally be put on hold until proceedings are concluded or the licence may be refused.

2.4 **Non-conviction information:**  
If an applicant has on one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application.

2.5 In assessing the action to take, the safety of the public must be the paramount concern.

2.6 Where an applicant has had a Hackney Carriage/Private hire driver's licence revoked by another local authority, the Council will not normally grant a licence until at least twelve months has elapsed since the revocation.

### 3. Powers

3.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if:

- the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence;
- failure to comply with the provisions of the Town Police Clauses Act 1847;
- failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976;
- or any other reasonable cause.

3.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a Private Hire Vehicle or Hackney Carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. In accordance with this Act, all convictions, cautions, warnings and reprimands must be declared by the Applicant.

3.3 Under the provisions of Sections 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to be satisfied that an applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire Vehicle driver's licence and/or Private Hire Vehicle Operator's licence is a "fit and proper" person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will consider:

1. How relevant the offence(s) are to the licence being applied for
2. How serious the offence(s) were
3. When the offence(s) were committed
4. The date of conviction
5. Circumstances of the individual concerned
6. Sentence imposed by the court
7. The applicant's age at the time of conviction
8. Whether they form part of a pattern of offending
9. Any other character check considered reasonable (e.g. personal references)
10. Any other factors that might be relevant, for example:
  - (a) The previous conduct of an existing or former licence holder,
  - (b) Whether the applicant has intentionally misled the council or lied as part of the application process,
  - (c) Information provided by other agencies / council departments.

It may also be appropriate to consider the sentencing powers engaged by the court in disposing of criminal proceedings and Judges reasons (obiter dicta) for coming to that decision.

- 3.4 Existing holders of driver's licences are required to notify the licensing authority in writing within seven days of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions). Failure to do so will raise concerns as to the honesty of the licence holder and may be taken into account as part of any subsequent renewal applications or reviews.
- 3.5 Applicants can informally discuss further what effect a caution/conviction may have on any application or existing licence by contacting the Licensing Service on 0115 981 9911 in confidence for advice. The Council will not be bound by any advice given and reserve its full powers.
- 3.6 The Council conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any applicant for a driver's licence. Applicants applying for the grant or a renewal of a driver's licence will be required to obtain an enhanced disclosure at their expense, or subscribe to the update service and also at other times as determined by the Council.
- 3.7 The Council is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other licensing authorities, and information disclosed by the police.
- 3.8 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Section 57(3) Local Government (Miscellaneous Provisions) Act 1976 Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 3.9 For renewal applications and current licence holders the guidance will not be applied retrospectively. The policy will be applied if any additional convictions are incurred or brought to the attention of the Council that would call into question a person's suitability to hold a licence.
- 3.10 Any offences not covered by this Policy will not prevent the Council from taking into account the offences.

#### **4 Policy on Immediate Revocation / Suspension of a Driver's Licence**

- 4.1 If the Council decides to revoke or suspend a driver's licence, it will then have to consider whether that revocation/suspension should take immediate effect under Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.
- 4.2 The Council only has the power to resolve that the revocation/suspension will take immediate effect if it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect. The interest of public safety is not defined and is for the Council to determine. However, regard will be had to any risks to public safety arising from concerns about the licence-holder's driving standards, his character including but not limited to dishonesty, violent behaviour, involvement in drink or drugs, inappropriate sexual conduct, any relevant previous convictions and any other matters the Council may deem relevant.
- 4.3 Before reaching a decision, in most cases and where practical, the Council shall give the licence holder the opportunity to make representations as to whether or not the revocation/suspension will take immediate effect.
- 4.4 The overriding consideration shall always be the safety and protection of passengers and the general public.
- 4.5 Matters such as unemployment and home circumstances should not be taken into account when determining whether the revocation or suspension will take place immediately and therefore shall not outweigh the public safety factor.
- 4.6 Where the Council has decided that a licence-holder is no longer "fit and proper" to hold a licence, for reasons of public safety, the presumption will be that require the revocation of the licence shall have immediate effect.
- 4.7 If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, the Council will give notice to the driver, which includes a statement to that effect and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

#### **4.8 Appeals**

Any applicant refused a driver's licence, or who has their licence suspended or revoked on the grounds that the licensing authority is not satisfied they are a fit and proper person to hold such a licence has a right to appeal to the Magistrate's Court within 21 days of the notice of refusal [Local Government (Miscellaneous Provisions) Act 1976, s77 (1)].

## 5. Considerations given to Offences

This section deals with the types of offences and applies to **new and renewal applications**, and upon **review** of a current licence.

### 5.1 Serious offences involving violence

Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.

5.2 Unless there are exceptional circumstances a licence will **not normally** be granted where the applicant has a conviction for an offence such as:

1. Murder
2. Manslaughter
3. Manslaughter or culpable homicide while driving
4. Terrorism offences
5. Kidnapping or abduction
6. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

5.3 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) to those below and at least **10 years** have passed since the completion of any sentence and /or licence period:

1. Arson
2. Malicious wounding or grievous bodily harm which is racially aggravated
3. Actual bodily harm which is racially aggravated
4. Grievous bodily harm with intent
5. Robbery
6. Possession of firearm
7. Riot
8. Assault Police
9. Common assault with racially aggravated
10. Violent disorder
11. Threats to kill
12. Resisting arrest
13. Hate crime against a person
14. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

5.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and at least **5 years** have passed since the completion of any sentence and/or licence period:

1. Racially-aggravated criminal damage
2. Racially-aggravated offence
3. Hate crime against property
4. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

5.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and at least **3 years** have passed since the completion of any sentence and/or licence period:

1. Common assault/Battery
2. Assault occasioning actual bodily harm
3. Affray
4. S5 Public Order Act 1986 offence (harassment, alarm or distress)
5. S.4 Public Order Act 1986 offence (fear of provocation of violence)
6. S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
7. Obstruction
8. Criminal damage
9. Harassment
10. Offences involving anti-social behaviour
11. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

5.6 A licence will not normally be granted if an applicant has more than one conviction in the last **10 years** for an offence of a violent nature.

5.7 In the event of a licence being granted, despite convictions against the Applicant, a strict warning both verbally and in writing should be administered. If a warning is issued, this will remain in place for a period commensurate with the time periods in the relevant sections above.

#### **5.8 Possession of a weapon**

If an applicant has been convicted of possession of a weapon or any other weapon related offence, depending on the circumstances of the offence, at least **3 years** must have passed since the completion of the sentence, before a licence is granted.



## 5.9 Sexual and indecency offences

As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. All sexual offences should be considered as serious. Applicants with convictions for sexual offences will **normally be refused a licence upon application, renewal or review**.

Such offences include:

1. Rape
2. Assault by penetration
3. Offences involving children or vulnerable adults
4. Grooming, Trafficking or other Sexual Exploitation related offences (adults and/or children)
5. Making or distributing obscene material
6. Possession of indecent photographs depicting child pornography
7. Sexual assault
8. Indecent assault
9. Exploitation of prostitution
10. Any similar offences (including attempted or conspiracy to commit) offences which replace the above.

5.10 In relation to indecency offences, an applicant should be free of conviction for at least **5 years** (or at least **5 years** must have passed since the completion of the sentence, whichever is longer), if he / she has a conviction for an offence such as:

1. Making indecent telephone calls
2. Importuning
3. Indecent exposure
4. Soliciting (kerb crawling)
5. Any similar offences (including attempted or conspiracy to commit) offences which replace the above.

5.11 A licence will **not normally be granted** if an applicant has more than one conviction for an indecency offence.

5.12 In addition to the above the licensing authority will **not normally grant a licence** to any applicant who is currently on the Sex Offenders Register or any other similar register.

## 5.13 Dishonesty

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

5.14 In general, a minimum period of **3 years** free of conviction or at least **3 years** have passed since the completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

1. Theft
2. Burglary
3. Fraud
4. Benefit fraud
5. Handling or receiving stolen goods
6. Forgery
7. Conspiracy to defraud
8. Obtaining money or property by deception
9. Other deception
10. Taking a vehicle without consent
11. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

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

#### **5.16 Alcohol and Drugs**

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate. However, a number of convictions for drunkenness, including drunk and disorderly or drunk and incapable, could indicate a medical problem necessitating critical examination and refusal of licence.

5.17 In addition, the applicant will normally be required to show a period of **10 years** has elapsed after completion of detoxification treatment if (s)he was an alcoholic.

5.18 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

5.19 A licence will not normally be granted where the applicant has more than one conviction for offences related to the supply of drugs and has not been free of conviction for **10 years**.

5.20 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for **5 years**.

5.21 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last **3-5 years** may be granted a licence, but consideration should be given to the nature and quantity of the drugs.

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

### 5.23 Driving offences involving the loss of life

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

1. Causing death by dangerous driving
2. Causing death by careless driving whilst under the influence of drink or drugs
3. Causing death by driving: unlicensed, disqualified or uninsured drivers
4. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

5.24 Before a licence is granted, an applicant should be free of conviction for **10 years** (or at least **10 years** must have passed since the completion of the sentence, whichever is longer) if the applicant has a conviction for:

1. Causing death by careless driving
2. Causing death by driving: unlicensed, disqualified or uninsured drivers.

### 5.25 Driving offences involving alcohol and/or drugs

A serious view will be taken of convictions of driving, or attempting to drive, or being in charge of a vehicle while under the influence of drink or drugs. Where a disqualification has occurred as a result of a drug or drink-driving offence, at least **5 years** free of conviction should elapse after the restoration of the DVLA licence before an applicant is granted a licence.

5.26 More than one conviction for this type of offence or one such offence within the last **5 years** is likely to merit refusal.

In addition, applicants will normally be required to show a period of at least **5 years** has elapsed after completion of detoxification treatment if (s)he was an alcoholic or drug addict.

5.27 Appendix One sets out the traffic offences related to in this section.

### 5.28 Major Traffic Offences

Subject to the above paragraphs an isolated conviction for a major traffic offence, without disqualification, such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire drivers. However, where the conviction is within **6 months** prior to the date of the application the application will normally be refused.

5.29 In cases of disqualification at least **3 years** free from conviction after the restoration of the DVLA licence should normally elapse before an applicant is granted a licence.

- 5.30 Where an applicant has been convicted of a major traffic offence which has not resulted in disqualification, careful consideration should be given to the circumstances surrounding the offence. An application for a licence will normally be refused where the offence occurred less than 2 years prior to the application.
- 5.31 Where an existing licence holder is disqualified from driving as a result of a conviction for a major traffic offence, the licence will normally be revoked.
- 5.32 Where an existing licence holder is convicted of a major traffic offence, but the licence-holder is not disqualified from driving, the licence should normally be revoked or not renewed and any subsequent application for a new licence will be determined in accordance with the guidance above.
- 5.33 A list of offences to which this section applies is attached as Appendix Two**
- 5.34 Minor Traffic Offences**
- Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence will be taken into account. If there are several minor traffic offences the applicant will normally be expected to show a period free of conviction of at least 6 months.
- 5.35 An application with a points total **above 7** will merit further consideration. A licence will normally be refused where the applicant has **12 or more penalty points** on his DVLA licence for minor traffic offences but has not been disqualified from driving.
- 5.36 Where an offence has resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard.
- 5.37 Generally, a period of **12 months** free from conviction must have elapsed from the restoration of the DVLA licence.
- 5.38 Where an existing licence holder is disqualified from driving the licence will normally be revoked by the Executive Manager Neighbourhoods under delegated powers.
- 5.39 A list of offences to which this section applies is attached as **Appendix Three**.
- 5.40 Totting Up Disqualifications**
- 5.41 Where a number of traffic offences has resulted in a driver receiving **12 penalty points** or more on his/her licence the driver will be disqualified from driving unless the Court is satisfied that exceptional hardship would be suffered by an individual if disqualified. This is known as a "totting-up" disqualification. Where an applicant has a totting-up disqualification an application will usually be refused until a period of between **12 months and 2 years** has lapsed from the restoration of the DVLA licence depending on the seriousness of the offences which led to the totting up.
- 5.42 Where an existing licence holder is disqualified from driving as a result of a totting up, the licence will normally be revoked.

### 5.43 Hybrid traffic offences

Offences of the type listed in Appendix three will be treated as **major** traffic offences if the court awarded **4** or more penalty points for the offence and as **minor** traffic offences if the court awarded **3** or less penalty points for the offence.

- 5.44 Any applicant who has committed an offence of plying for hire within 6 months of their application will normally be refused a licence. Any existing licence holder found to have committed this offence will be judged on the circumstances of the case, and at the least suspension of the licence should be considered. Where a driver is convicted on more than one occasion the licence may be revoked or not granted. Consideration will be taken if the offence of plying for hire was accompanied by the fact that at the time there was no insurance cover in place for the vehicle in line with 5.46 below. It will be up to the applicant to prove that there was valid insurance in place at the time of the offence.

### 5.45 Insurance Offences

A serious view will be taken of convictions of driving a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for **3 years**. However, strict warning should be given as to future behaviour. More than one of these offences would normally prevent a licence being granted or renewed. Isolated incidents associated with a licensing offence will not necessarily prevent a licence being granted or renewed. Each case will be prevented on its merits.

- 5.46 At least **3 years** should elapse (after restoration of the DVLA driving licence), before a licence would normally be granted for a HC or PH drivers licence. An operator found guilty of aiding and abetting the driving passengers for hire and reward whilst without insurance will have his operator's licence revoked immediately and prevented from holding a licence for **3 years**.

**MAJOR TRAFFIC OFFENCES**

- AC10 Failing to stop after an accident
- AC20 Failing to give particulars or to report an accident within 24 hours
- AC30 Undefined accident offences
  
- BA10 Driving while disqualified by order of court
- BA30 Attempting to drive while disqualified by order of court
- BA40 Causing death by driving while disqualified
- BA60 Causing serious injury by driving while disqualified
  
- CD10 Driving without due care and attention
- CD20 Driving without reasonable consideration for other road users
- CD30 Driving without due care and attention or without reasonable consideration for other road users
- CD40 Causing death through careless driving when unfit through drink \*
- CD50 Causing death by careless driving when unfit through drugs \*
- CD60 Causing death by careless driving with alcohol level above the limit \*
- CD70 Causing death by careless driving then failing to supply a specimen for analysis \*
- CD80 Causing death by careless or inconsiderate driving \*
- CD90 Causing Death by driving: unlicensed, disqualified or uninsured drivers \*
  
- DD40 Dangerous driving
- DD60 Manslaughter or culpable homicide while driving a vehicle \*
- DD80 Causing death by dangerous driving \*
- DD90 Furious driving
- DG60 Causing death by careless driving with drug level above the limit\*

**The above offences marked \* are dealt with in the section entitled driving offences involving the loss life**

- DR10 Driving or attempting to drive with alcohol level above limit +
- DR20 Driving or attempting to drive while unfit through drink +
- DR31 Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity
- DR40 In charge of a vehicle while alcohol level above limit +
- DR50 In charge of a vehicle while unfit through drink +
- DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
- DR61 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive +
- DR70 Failing to provide specimen for breath test +
- DR80 Driving or attempting to drive when unfit through drugs +
- DR90 In charge of a vehicle when unfit through drugs +
- DG10 Driving or attempting to drive with drug level above the specified limit
- DG40 In charge of a vehicle while drug level above the specified limit

**The above offences marked + are dealt with in the section entitled alcohol and drugs**

- IN10 Using a vehicle uninsured against third party risks
- LC20 Driving otherwise than in accordance with a licence
- LC30 Driving after making a false declaration about fitness when applying for a licence
- LC40 Driving a vehicle having failed to notify a disability
- LC50 Driving after a licence has been revoked or refused on medical grounds
- MS50 Motor racing on the highway
- UT50 Aggravated taking of a vehicle
- TT99 Signifies a disqualification under the totting up procedure 12 or more points within three years

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**MINOR TRAFFIC OFFENCES**

- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
- CU30 Using a vehicle with defective tyre(s)
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- CU80 Using a mobile phone while driving a vehicle
- MS10 Leaving a vehicle in a dangerous position
- MS20 Unlawful pillion riding
- MS30 Play street Offences
- MS40 Driving with uncorrected defective eyesight or refusing to submit to a test
- MS60 Offences not covered by other codes
- MS70 Driving with uncorrected defective eyesight
- MS80 Refusing to submit to an eyesight test
- MS90 Failure to give information as to the identity of driver etc.
- MW10 Contravention of Special Road Regulations (excluding speed limits)
- PC10 Undefined contravention of Pedestrian Crossing Regulations
- PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle
- PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle
- SPI0 Exceeding goods vehicle speed limit
- SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- SP30 Exceeding statutory speed limit on a public road
- SP40 Exceeding passenger vehicle speed limit
- SP50 Exceeding speed limit on a motorway
- SP60 Undefined speed limit offence
- TS10 Failing to comply with traffic light signals
- TS20 Failing to comply with double white lines
- TS30 Failing to comply with a "Stop" sign
- TS40 Failing to comply with direction of a constable/ warden
- TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
- TS60 Failing to comply with school crossing patrol sign
- TS70 Undefined failure to comply with a traffic direction sign



## HYBRID TRAFFIC OFFENCES

- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
- CU30 Using a vehicle with defective tyre(s)
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- SPI0 Exceeding goods vehicle speed limit
- SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- SP30 Exceeding statutory speed limit on a public road
- SP40 Exceeding passenger vehicle speed limit
- SP50 Exceeding speed limit on a motorway
- SP60 Undefined speed limit offence

Other non-endorsable motoring offences i.e. no MOT

### NOTE:

All offences in Appendix One to Three may also have the following codes:

- Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)
- Causing or permitting Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)
- Inciting Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16).

## **Appendix D Private Hire and Hackney Carriage Drivers Conditions**

### **1. Standard of Service**

During the period of the licence the driver shall at all times:

- (a) Be clean and tidy in both appearance in dress and person and shall behave in an orderly and civil manner towards every person seeking to hire, or hiring or being conveyed in the vehicle
- (b) Afford all reasonable assistance with luggage and be polite and civil.
- (c) Wear at all times when on duty, the drivers badge issued by the Council, in a prominent position when driving the vehicle, so it can easily be seen by the passenger.
- (d) Ensure that when a vehicle has been hired to attend at an appointed time and place the driver shall, unless delayed or prevented by sufficient cause, attend punctually and provide a receipt if requested.
- (e) Ensure that any property left in a vehicle is taken to the nearest Police Station within 24 hours.

### **2. Personal Conduct**

- (a) It will be the responsibility of the driver to ensure that all current legislation is complied with in respect of the wearing of seat belts.
- (b) The driver shall not, without the consent of the hirer, drink, eat or permit noise to be emitted by any in car entertainment unit to the annoyance of the hirer.
- (c) The driver shall not, except with the consent of the hirer, play any radio or sound reproducing equipment in the vehicle. In addition they will not cause or permit any radio or sound reproducing equipment installed in the vehicle to be a source of nuisance or annoyance to any persons whether inside or outside the vehicle.

### **3. Notifications**

A driver must inform the Council of the following in writing within the following periods:

- (a) A change of address shall be reported in writing within 7 days.
- (b) Any convictions for any offence incurred by him during the period of the licence reported in writing within 7 days (this includes fixed penalty ticket offences warnings and cautions).
- (c) The details of any road accident in which a licensed vehicle has been involved in shall be reported in writing or by e mail within 48 hours to the Council.
- (d) A change of Private Hire Operator shall be reported in writing within 7 days.
- (e) Where a licence holder has been subject to arrest by the Police or Immigration Service they for any matter they must inform the Council within 48 hours.

### **4. Return of Drivers Badge**

- (a) A driver must return his drivers badge to the Council as soon as the licence ceases to be in force.

## **5. Hiring's - Private Hire Vehicles**

The driver of a Private Hire Vehicle shall not ply for hire or otherwise:

- (a) Tout or solicit on a road or other public place any person to hire or to be carried for hire in any Private Hire Vehicle.
- (b) Cause or procure any other person to tout or solicit on a road or other public place any person to hire or be carried for hire any Private Hire Vehicle.
- (c) Offer the vehicle for immediate hire while the driver or that vehicle is on a road or public place.
- (d) Accept an offer for the immediate hire of the vehicle whilst on a road or other public place except when such offer is FIRST communicated to the driver by telephone or other means fitted to the vehicle.
- (e) Shall not demand from any hirer of a Private Hire Vehicle without a meter, a fare in excess of any previously agreed for that hiring between the hirer and the Operator.

## **6. Licence**

- (a) The driver shall deposit his Private Hire/Hackney Carriage drivers licence with the Private Hire Operator with whom he is currently working.

## **7. Penalty Points Scheme**

- (a) Without prejudice to any other course of action available to the Council, Penalty Points may be issued in accordance with the Council's policy.

## **8. Destination**

- (a) The driver of a Hackney Carriage or Private Hire Vehicle when hired to drive to any particular destination shall not, without reasonable cause, unnecessarily prolong in distance or in time the journey for which the Hackney Carriage or Private Hire Vehicle has been hired.

## **9. Renewal/Application processes**

- (a) During the term of a three year licence the driver will undergo annual Disclosure and Barring Service (DBS) and Driver and Vehicle Licensing Agency (DVLA) checks and the licence holder will be required to carry out one of the following:
  - i. Subscribe to the DBS Update Service to enable the Council to carry out the appropriate annual check, or;
  - ii. Undergo an annual DBS check using the Councils on-line system.

Failure to comply with this requirement will result in the suspension of the licence until the result of such a check has been received, on the grounds that the Council cannot be satisfied that the driver is a fit and proper person.

## **10. Safeguarding Training**

- (a) All applicants and licenced drivers must complete Children's Safeguarding Training and pass the associated test.
  - i. New applicants for a drivers licence must complete the training and pass the associated test as part of the initial application process. Failure to do this will result in the application being refused.
  - ii. In the case of a renewal application the licenced driver must complete the training within a 12 month period from the date of renewal. Failure to complete the training in the case of a renewal application for a current licence will result in the suspension of the licence until the training has been completed and the associated test passed on the grounds that the Council cannot be satisfied that the licence holder is a fit and proper person.
  - iii. Any applicant or current driver will be allowed up to three attempts to pass the test. Each additional training session and test will attract an additional fee. Should the applicant/driver fail all three tests a decision will be made as to whether the applicant is a fit and proper person to hold a licence.

## **11. Penalty Points Scheme**

- (a) The Council operates a Penalty Points Scheme to raise the awareness of conditions amongst licensed drivers and also assist in the enforcement of the conditions attached to licences and other matters. The scheme will apply to drivers, vehicles and operators and should a breach of a condition or other matters be detected, points may be issued against the licence holder, up to a maximum of 12 points in a calendar year. Should a licence holder accrue 12 points or more in a 12 month period you may be required to attend a hearing of the Licensing Committee who will review the status of your licence. You will be informed in writing of any points awarded against you and why they have been issued.

## **12. Drug / Alcohol / Vision Testing**

To provide equity with drivers of other forms of public transport, the Council will conduct drug/alcohol/eyesight tests on drivers on an intelligence led and random basis. Selected drivers/applicants will be expected to either submit to any test deemed appropriate by the Licensing Service or to attend a medical practitioner chosen by the Council and submit to any test deemed appropriate. Positive test results or failing to comply with the test request may result in suspension or revocation of the licence.

**FAILURE TO COMPLY WITH THE CONDITIONS SET OUT IN THIS DOCUMENT MAY RESULT IN PENALTY POINTS BEING AWARDED AGAINST YOU OR YOUR LICENCE BEING SUSPENDED OR REVOKED**

### Vehicle Application Procedure (including renewal applications)

Applications for vehicle licences will only be accepted in relation to vehicles that comply with:

1. Rushcliffe Borough Council's specification for private hire vehicles, or hackney carriages (as appropriate), and
2. Rushcliffe Borough Council's Vehicle Age and Emissions Policy.

In making an application for a vehicle licence, applicants must submit the following:

- The vehicle application form;
- The appropriate fee;
- The original of the Vehicle Registration Document (Log Book/V5) certificate of registration for the vehicle;
- The original insurance certificate or insurance cover note for the vehicle for every inspection booked.
- Any vehicle not manufactured with European Whole Vehicle Type Approval will be required to undergo Single Vehicle Approval (SVA) testing and evidence of that testing and the vehicle having obtained SVA produced to the licensing office. The vehicle must be submitted for examination at the council's nominated inspection facility. This inspection will include an assessment of the vehicle's mechanical and aesthetic condition, and will exceed the MOT standards set by the Driver and Vehicle Standards Agency. The inspection is intended to assess the vehicle for licensing suitability. The council will not issue an MOT certificate for the vehicle that will be the responsibility of the applicant to obtain at his own cost.

Vehicles subject of a write-off of any sort will not be considered for a licence. The Council may require a HPI check of any vehicle which is intended to be licensed to ensure such vehicles are not granted a licence.

Private Hire vehicles will be issued with a 12 month licence, for vehicles under the age of five years, in the case of Hackney Carriages a 12 month licence will be issued for vehicles under the age of seven years.

Private Hire Vehicles older than 5 years old and Hackney Carriages older than seven years old on the day that licence is granted will only be granted a 6 month licence.

**The person presenting the vehicle for inspection must submit to the vehicle inspector all necessary documents before the start of the vehicle examination.**

Once the vehicle has been inspected, the inspection facility will confirm to the Licensing Office that a licensing inspection has taken place, and the result of that inspection. This may be done by supplying the vehicle proprietor and the Licensing Office with the appropriate confirmation documentation. This documentation must indicate to the proprietor of the vehicle:

- if the vehicle "passed" or "failed" the inspection,
- what point(s) the vehicle failed on (where a failure is given),

Where a vehicle fails an inspection, the inspector must supply the proprietor and licensing officer with sufficient documentation to indicate what faults exist on the vehicle and are required to be rectified to enable the vehicle to pass a re-test (including body damage / dents / scratches or damage to fabrics / missing plates, notices or door signs). This document must be supplied to the proprietor of the vehicle at the end of that test inspection. A re-test of the vehicle will not be permitted until at least 48 hours have lapsed.

Once a successful test has been completed the applicant will attend the Rushcliffe Community Contact Centre in order to obtain the vehicle licence and plates. Once the vehicle licence has been issued, only licensed drivers will be permitted to drive the vehicle.

Where an application has been made for a vehicle licence to be renewed, upon testing at the Councils designated garage, the previous plates **WILL** be removed by the garage and subsequently disposed of by the Council.

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## Vehicle Specifications

### 1. Standard of Vehicle

The interior and exterior of the vehicle shall be maintained in a clean and safe manner to the reasonable satisfaction of the Council, in particular the exterior of the vehicle shall be free of large dents, rust or unrepaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacturer. The seats shall be required to function in accordance with the original manufacturer's specification.

### 2. Emission standards

The Council proposes to adopt similar standards for both Hackney Carriage and Private Hire vehicles. With effect from 1st January 2017 any vehicle will not be able to be licensed with the Council unless its date of first registration as stated on the DVLA V5 document is after 01.01.05. Vehicles registered before this date will not be able to be licensed. Therefore only Euro 4 / 5 or higher standard vehicles, will be accepted by the Council to be licensed.

For existing vehicles already licensed by the Council that have a date of first registration before 01.01.05, the Council will allow a period of one additional year beginning from the date of implementation of this policy in order that the licence holder can make arrangements for replacement vehicles.

The Council will not licence any new vehicle older than 12 years old from the date of first registration as from 1st January 2017. Currently licensed vehicles over 12 years of age will be granted a further 12 months until 1st January 2018, at this time they will be no longer licensed.

The only exception to the above will be Minibus type vehicles which are wheelchair accessible which will have an age limit of 14 years from the date of first registration.

The Council will in, addition reserve the right to revoke a vehicle licence if after testing by a Council approved garage fails emission tests.

### 3. Engine specifications

The vehicle will normally have a 1600cc minimum engine capacity, however to reflect advances in modern engine efficiency and the fact that the BHP (Brake Horse Power) produced by engines as a ratio to the capacity is now more efficient, vehicles that meet the following criteria will also be permitted. This allows for smaller engines (less than 1600cc) with turbines which are more fuel efficient rather than some of the larger cubic capacity engines. Vehicles less than 1600cc will be excepted providing they are not less than 90 BHP or 67.1KW (this can be found on the vehicle log book V5 under reference P2).

### 4. Inspection

The vehicle can be inspected at all reasonable times by an authorised officer of the Council or any Police constable, who, if not satisfied as to the condition or appearance of the vehicle, may immediately suspend the vehicle's licence and inform the Proprietor in writing of the reasons for the suspension. A spot check may be carried out at any time by an authorised officer.

## **5. Insurance**

The proprietor shall maintain in force a full policy of insurance which complies with Part VI of The Road Traffic Act 1988.

## **6. Licence Plates**

All plates, signs, etc. remain the property of the Council and must be surrendered to an Authorised Officer upon request following suspension of a vehicle, when the licence is surrendered or the licence has expired.

## **7. Number of Passengers**

The licence holder/driver shall not permit a private hire vehicle to carry a greater number of passengers than the number allowed by the licence. For the purpose of this condition two children each under the age of 12 shall be treated as one person, provided that no more than four such children shall be so treated for the purpose of one journey.

## **8. Signage**

### **Hackney Vehicle Markings**

On hackney carriage vehicles, with roof signs, the roof light must be extinguished when the fare meter is in use.

### **Private Hire Vehicle Markings**

A private hire vehicle must not carry any roof sign or any markings that might give the impression that it is a hackney carriage.

Any advertising or signage on the vehicle must specifically not include the words "taxi", "cab" or "hackney carriage" the use of which is not permitted.

No alternative words or spellings, such as "Kab", which would have the effect of leading the public to believe that a vehicle is a hackney carriage available for hire, may be used on the vehicle.

These conditions will not apply if the vehicle is also licensed as a hackney carriage.

## **9. Trailers**

Licensed Vehicles will not be permitted to tow any trailer whilst working as a Private Hire vehicle or Hackney Carriage.

## **10. Tinted windows**

The windows or windscreen of any vehicle shall not have been treated so that less than 70% of light is transmitted through it.



## **11. Unauthorised use**

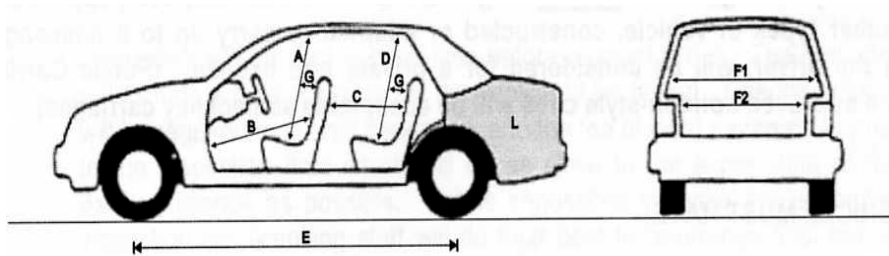
The proprietor of a private hire vehicle or hackney carriage shall not allow the vehicle to be driven and used for hire by any person who does not hold a current private hire or hackney carriage driver's licence, as appropriate, as issued by the Council.

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## Private Hire Vehicle Standards Vehicle Specification

The information set out below will give the applicants a guide when selecting a vehicle to be licensed.

In addition, the following should apply: -



A	93cm/36" min.	Cushion not compressed.
B	96cm/37" min.	Seat fully rearwards.
C	61cm/41" min.	Front seat fully rearwards.
D	84cm/33" min.	Cushion not compressed.
E	245cm/96" min.	Wheelbase
F1	133cm/52" min.	Interior width between doors
F2	122cm/48"	Between armrests
G	25cm/10"	Point of measurement parallel with squab
L	0.43m <sup>3</sup> /15ft <sup>3</sup> min.	Luggage capacity (hard luggage)

All saloon vehicles must have four doors and access from doors to seats must be direct, without having to fold or move seats to gain access.

The vehicle must have a separate locking luggage area, or in the case of an estate car, have a screen or cage (which must be fitted at all times) to contain luggage. This arrangement must not obstruct the use of exits from the vehicle.

The vehicle must have 4 roadworthy wheels and tyres and carry at least one spare wheel, a jack and brace, all securely stored in a position not liable to damage passengers' luggage.

**Remould tyres or repair kits rather than a spare tyre are NOT acceptable.**

The vehicle must be equipped with near-side and off-side exterior rear view mirrors.

The vehicle must have an efficient fire extinguisher, fitted in such a position to be readily available for use, and the capacity of not less than 3 pounds (1.361kg) BCF, confirmation to BS5423 dry powder or CO<sub>2</sub>. In addition, the vehicle must have an approved first aid kit marked indelibly with the vehicle licence and registration number.

All vehicles must have a current MOT certificate which must be produced before a licence is issued, unless the vehicles are brand new.

All licensed vehicles must be fitted with rear seat belts.

The vehicle must be of a single colour.

## **Stretched Limousines**

All applications to licence stretched limousines as private hire vehicles will be treated on their merits.

In the case of a first application for a vehicle licence, be in excellent condition as befits a Special Occasion Vehicle. The age of the vehicle will be taken from the vehicle registration document or in the case of imported vehicles from the relevant importation certificates but will not be material matter for this type of vehicle.

All vehicles must either meet the European Whole Vehicle Approval standard or the M.1. Passenger Vehicle requirements or have a Single Vehicle Approval Test Certificate issued by the Vehicle Inspectorate Executive Agency. If the vehicle was imported prior to the SVA certification, then the decision as to its suitability shall be that of the Council's Inspector.

The vehicle is to provide at least two doors for the use of passengers conveyed in the vehicle neither being the door used by the driver.

No vehicle to be licensed which would require any passenger to climb over any seat to enter or egress from any seat they may occupy or that would require them to climb over any luggage in the vehicle.

Luggage space is to be a minimum of 0.5 cubic metres, and be physically separated from the passenger seating or sited at the rear of the vehicle.

## **OTHER VEHICLES**

The Council will consider other types of vehicle to be licensed as private hire, each on its own merits.

## **Hackney Carriage Vehicle Specification**

All licensed Hackney Carriage vehicles which are going to operate within the Rushcliffe area must be either of a type currently approved by the London Public Carriage Office i.e. a London style cab, or meet the following specifications:

1. The vehicle must have as a minimum requirement British Type UK Low Volume National Type Approval as issued by the Department of Environment, Transport and the Regions Vehicle Certification Agency.

The Licensing Service must be furnished with a copy of the above Type Approval Certificate for the vehicle licensed.

2. The vehicle shall be painted in one colour of the manufacturer's standard black.
  - a. The vehicle shall have the Rushcliffe Borough Council logo displayed and centralised on both front doors and not obscured by any other panels or advertisements.
  - b. The vehicle shall be fitted with yellow handrails and where appropriate yellow seat inserts as recommended by the Disabled Persons Transport Advisory Committee.
3. The vehicle shall not be fitted with a front passenger seat and will have a privacy panel fitted between the driver and the rear passengers.
4. The minimum entry door aperture must be 0.75 metres.
5. Wheelchairs and ramps:
  - a) The vehicle must be supplied with suitable wheelchair ramps and be capable of safely carrying a passenger while they remain seated in their wheelchair.
  - b) The ramp must be lightweight and easy to deploy.
  - c) On level ground the ramp will have a maximum gradient of 20% in the fully deployed position and have a minimum safe working load of 250kg.
  - d) Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus.
  - e) The wheelchair internal anchorage must be of the vehicle manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit.
  - f) A suitable restraint must be available for the occupant of a wheelchair.
  - g) Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper; and ramps and lifts must be securely stored in the vehicle before it may move off.

- h) All drivers of wheelchair accessible vehicles must:
- be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle;
  - before any movement of the vehicle takes place, ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and the brakes of the wheelchair have been applied;
  - ensure that any wheelchairs, equipment and passengers are carried in such a manner that no danger is likely to be caused to those passengers or to anyone else, in accordance with the relevant regulations.
6. If the vehicle is fitted with a purpose designed wheelchair lift, it shall conform to the LOLER 98 Regulations and a report, confirming that the lifting equipment is safe to use, shall be presented at the time of vehicle inspection (i.e. a valid LOLER certificate).
  7. The maximum passenger seats must not exceed seven. Appropriate swivel seats will be allowed in the rear of the vehicle.
  8. The vehicle must comply with Vehicle Inspectorate MOT Testing requirements and the Council's Criteria for Vehicle Inspection.
  9. The rear door(s) to the vehicle must not allow access for customers unless for wheelchair use. Access and egress from the vehicle will normally be by way of side opening doors. The rear opening door(s) shall only be used for access to the luggage storage area of the vehicle and for wheelchair disabled passengers.
  10. The vehicle must have an efficient fire extinguisher, fitted in such a position to be readily available for use, and the capacity of not less than 3 pounds (1.361kg) BCF, confirmation to BS5423 dry powder or CO<sub>2</sub>. In addition, the vehicle must have an approved first aid kit marked indelibly with the vehicle licence and registration number.
  11. A fares meter ("the meter") must be fitted and be correctly calibrated, sealed and fully functional in accordance with the current Council approved fare structure and easily visible to passengers.

The meter and all fittings shall be affixed to the carriage with seals or other appliances, so as not to be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

The meter shall be positioned so that all letters and figures on the face thereof may be at all times plainly visible to any person being conveyed in the vehicle. The dial of the fares meter shall be kept properly illuminated throughout any part of the hiring which is during the hours of darkness as defined for the purposes of the Road Transport Licensing Act 1957 and also at any time at the request of the hirer.

When the meter is operating there shall be recorded on the face of the meter in clearly legible figures a fare not exceeding the maximum fare that may be charged for that journey.

If the meter has been altered for whatever reason, the proprietor of the vehicle shall forthwith report the alteration to the Council so that arrangements for resetting and resealing may be made.

The vehicle meter shall be brought into operation at the commencement of the journey and the fare demanded by the driver shall not be greater than fixed by this Council in connection with the hire of hackney carriages. In the event of such a journey commencing in but ending outside the district there may be charged for the journey such fare or rate of fare, if any, as was agreed before the hiring was effected, if no such agreement was made then the fare to be charged should be no greater than that fixed by the Council in connection with the hire of hackney carriages.

**Section 166 of the Equality Act 2010** allows the licensing authority to exempt drivers from duties to assist passengers in wheelchairs if their medical grounds allow this, or the driver's physical condition makes it impossible or unreasonably difficult to comply with the duties.

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## **Private Hire Vehicle Conditions**

### **Definitions**

1. "the Council" means the Council of the Borough of Rushcliffe.  
  
"the identification plate" means the plates issued by the Council for the purpose of identifying the vehicle as a private hire vehicle.  
  
"the operator" means a person holding a licence to operate private hire vehicles issued pursuant to Section 55 of the Local Government (Miscellaneous Provisions) Act 1976.

### **Drivers**

2. The driver shall not cause or procure or permit any other person to drive a licenced Hackney Carriage of which he is in charge unless they are a licensed driver by Rushcliffe Borough Council.

### **Personal Conduct**

3. The licence holder shall at all times when the vehicle is available or being driven for hire ensure that the driver is both clean and respectable in his dress and person, shall behave in an orderly manner and conduct himself with civility and propriety towards every person seeking to hire, or hiring or being conveyed in the vehicle.

### **Identification plates**

4. The licence holder/driver shall not conceal either the exterior identification plates of the private hire vehicle or the details marked thereon, or the interior display of the private hire vehicle licence numbers from public view, and will keep the identification plate and the interior display in a clean condition. Plates will be displayed on both the front and rear of the vehicle unless and exemption letter has been issued by the Council.

### **Licence**

5. The licence holder shall deposit his licence issued by the Council with the Private Hire Operator for which the vehicle is being used during the time it is so used for that operator.

### **Hirer's property**

6. The licence holder/driver shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the private hire vehicle for any property which may accidentally have been left therein.
7. The licence holder/driver of a private hire vehicle shall if any property is accidentally left in the vehicle by any passenger and is found by or handed to him, take it, as soon as possible and in any event within 24 hours (if not claimed by or on behalf of its owner before then), to a Police Station in the district of the Council in order to receive instructions from the Police regarding its custody.

## **Passengers**

8. The licence holder/driver shall at all times when a vehicle is hired take all reasonable steps to ensure the safety of passengers carried in the vehicle and any persons entering or leaving the vehicle.
9. The licence holder/driver shall allow only one passenger to be carried in the front of the vehicle next to the driver.
10. The licence holder/driver shall not permit a private hire vehicle to carry a greater number of passengers than the number allowed by the licence. For the purpose of this condition two children each under the age of 12 shall be treated as one person, provided that no more than four such children shall be so treated for the purpose of one journey.
11. The licence holder/driver shall not allow any child under the age of 12 years to be a passenger in the front of the vehicle without the prior written consent of an Authorised Officer of the Council.

## **Animals**

12. The licence holder/driver shall not permit any animal to ride in the vehicle except an animal in the custody or control of the hirer and such an animal shall only be conveyed in the rear of the vehicle. Guide Dogs must always be permitted to be carried in the vehicle except when the driver holds an exemption certificate which has been issued under the Equality Act 2010.

## **Receipts**

13. The licence holder/driver shall, if requested by the hirer, provide him/her with a written receipt for the fare paid.

## **Touting etc.**

14. The licence holder/driver shall not while driving or in charge of a private hire vehicle:
  - (a) tout or solicit on a road or other public place any person to hire or be carried for hire in any private hire vehicle, or
  - (b) cause or procure any other person to tout or solicit on a road or other public place any person to hire or be carried for hire in any private hire vehicle.

In this condition: "road" means any highway and any other road to which the public has access including bridges over which a road passes.

## **Cheques/Payment**

15. A licence in respect of which the licence fee has been paid by cheque or other method shall not be effective until the payment has been cleared.



## **Executive Plates**

16. Where executive plates have been issued to a vehicle these will be either displayed on the vehicle or kept in the vehicle together with the letter from the Council giving exemption from displaying such plates. Executive plates are issued to vehicles that out specific types of work and not normal private hire journeys. The applicant will be required to show the type of work undertaken in order the executive plates are issued. If a vehicle having been issued with executive plates is found to be carrying out normal private hire work and not specific executive work, the plates will be removed and the driver will be required to pay for a new set of standard private hire plates.

## **Hire/Rental Companies**

17. Where the vehicle is the property of a hire/rental company, the company must inform the Licensing Service of the Council to whom the vehicle has been hired or rented to at all times. This should be done by email to [licensing@rushcliffe.gov.uk](mailto:licensing@rushcliffe.gov.uk) Plates should be returned to the Council after the hire period has ended.

## **Advertisements**

18. No advertisements will be placed on the vehicle without the prior consent of the Council. Applicants should refer to Appendix J for full details.

## **Fire Extinguishers/First Aid**

19. The vehicle must have an efficient fire extinguisher, fitted in such a position to be readily available for use, and the capacity of not less than 3 pounds (1.361kg) BCF, confirmation to BS5423 dry powder or CO2. In addition, the vehicle must have an approved first aid kit marked indelibly with the vehicle licence and registration number.

## **Failure to comply with conditions**

Failing to comply with any of the above conditions may result in the licence holder/driver having penalty points awarded against him in accordance with the Council's Penalty Points Scheme or other action being taken which may include the suspension or revocation of the licence.

## Hackney Carriage Vehicle Conditions

### 1. Definitions

- a) "the Council" means the Council of the Borough of Rushcliffe.
- b) "the identification plate" means the plate issued by the Council for the purpose of identifying the vehicle as a private hire vehicle.
- c) "the operator" means a person holding a licence to operate private hire vehicles issued pursuant to Section 55 of the Local Government (Miscellaneous Provisions) Act 1976.
- d) "the proprietor" has the same meaning as in section 80 of the Local Government (Miscellaneous Provisions) Act 1976.
- e) "Taximeter" has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976.

### 2. Drivers

The driver shall not cause or procure or permit any other person to drive a licenced Hackney Carriage of which he is in charge unless they are a licensed driver by Rushcliffe Borough Council.

### 3. Personal conduct

The driver shall at all times when the vehicle is available or being driven for hire be clean and respectable in his dress and person, shall behave in an orderly manner and conduct himself with civility and propriety towards every person seeking to hire, or hiring or being conveyed in the vehicle.

### 4. Identifications plates/signs

- a) The licence holder/driver shall not conceal either the exterior identification plate of the Hackney Carriage or the details marked thereon, or the interior display of the Hackney Carriage licence from public view, and will keep the identification plate and the display in a clean condition. Plates will be displayed on both the front and rear of the vehicle and on the interior.
- b) All Hackney Carriages will display the Rushcliffe 'R' on both the drivers and passenger front doors. The Rushcliffe 'R' will remain visible at all times and shall not be obstructed by other signs.

## 5. Hirer's property

- a) The licence holder/driver shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the private hire vehicle for any property which may accidentally have been left therein.
- b) The licence holder/driver of a private hire vehicle shall, if any property is accidentally left therein by any person who may have been conveyed in the vehicle and be found by or handed to him carry it, as soon as possible and in any event within **24 hours** if not sooner claimed by or on behalf of its owner, to a Police Station in the district in order to receive instructions from the Police regarding its custody.

## 6. Passengers

- a) The licence holder/driver shall at all times when a vehicle is hired take all reasonable steps to ensure the safety of passengers conveyed therein and persons entering and alighting from the vehicle.
- b) The licence holder/driver shall not allow any passenger to be carried in the front of the vehicle beside the driver.
- c) The licence holder/driver shall not permit a hackney carriage to carry a greater number of passengers than the number prescribed in the licence; for the purpose of this condition two children each under the age of 12 years shall be treated as one person provided that no more than four such children shall be so treated for the purpose of one journey.

**d) No person will be conveyed in the front seat of any Hackney Carriage.**

## 7. Animals

- a) The licence holder/driver shall not permit any animal to ride in the vehicle except an animal in the custody or control of the hirer and any such animal shall be conveyed in the rear of the vehicle.
- b) Guide Dogs must always be permitted to be carried in the vehicle except when the licence holder holds an exemption certificate.

## 8. Receipts

The licence holder/driver shall, if requested by the hirer, provide him/her with a written receipt for the fare paid.

## 9. Fares

The licence holder/driver shall not demand a fare in excess of that prescribed by the fare table issued by the Council **unless previously agreed** between the hirer and the operator at the time of booking.

## **10. Taximeters**

The vehicle will be fitted with a taximeter:

- a) The licence holder/driver shall not cause the fare recorded thereon to be cancelled until the hirer has had a reasonable opportunity of examining it and has paid the fare.
- b) The licence holder/driver shall ensure that when the vehicle is not hired the key is to be locked and machinery kept inactive and the meter must show no fare at that time.
- c) The licence holder/driver shall ensure that the taximeter is sufficiently illuminated that when in use it is visible to all passengers.
- d) The licence holder/driver shall ensure that the fare or charge shall be calculated from the point in the District at which the hirer commences his journey and shall not exceed that displayed on the taximeter at the completion of his journey.
- e) The licence holder/driver shall ensure that the taximeter is only brought into action at the commencement of the hirer's journey.

## **11. Fare Tables**

The licence holder/driver shall ensure that the fare table is not concealed from view or rendered illegible while the vehicle is being used for hire.

## **12. Cheques/Payments**

A licence in respect of which the licence fee has been paid by cheque or other method shall not be effective until the payment has been cleared.

## **13. Hire/Rental Companies**

Where the vehicle is the property of a hire/rental company, the company WILL inform the Licensing Service of the Council to whom the vehicle has been hired or rented to at all times. This shall be done in writing or by e mail to [licensing@rushcliffe.gov.uk](mailto:licensing@rushcliffe.gov.uk)

## **14. Use of Hackney Carriages outside the Rushcliffe Area**

Where a Hackney Carriage is being used as a Private Hire Vehicle out of the Council's area, the Hackney Carriage proprietor must inform the Council of the name of the Private Hire Operator for whom the vehicle is working.

## **15. Advertisements**

No advertisements will be placed on the vehicle without the prior consent of the Council. Applicants should refer to Appendix J for full details.

## **16. Fire Extinguishers/First Aid**

The vehicle must have an efficient fire extinguisher, fitted in such a position to be readily available for use, and the capacity of not less than 3 pounds (1.361kg) BCF, confirmation to BS5423 dry powder or CO<sub>2</sub>. In addition, the vehicle must have an approved first aid kit marked indelibly with the vehicle licence and registration number.

### **Failure to comply with conditions**

Failing to comply with any of the above conditions may result in the licence holder/driver having penalty points awarded against him or other action including suspension or revocation of the licence.

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## Vehicle Testing Requirements

### HACKNEY & PRIVATE HIRE VEHICLE INSPECTION CHECKLIST (WITH EXPLANATORY DETAILED NOTES)

#### 1. Engine Compartment

- a) Inspect for oil leaks.  
Check for the loss of oil, either from engine or transmission, causing contamination to the road surface, or constituting a fire risk.
- b) Check battery security/ position and loss or damage to wiring.  
Ensure battery security in the event of a collision the battery would not become dislodged or spill acid causing contamination.  
Inspect for insecure or damaged wiring that will constitute a fire risk.  
Ensure that all ancillary electrical equipment is fused at the power supply.
- c) Check rubber/plastic hoses for leaks or signs of perishing.  
Ensuring all coolant and high pressure hoses are intact and do not constitute a safety risk.
- d) Check engine mountings, inner wings, panels and suspension mountings for corrosion.  
Ensure all engine suspension mountings are intact and secured safely to the inner panels of the engine compartment.
- e) Check the cooling radiator and inter-cooler are securely positioned and there are no leaks.  
Ensure both radiator and the inter-cooler mountings are secure and intact and there is no deterioration of components likely to cause a safety risk.
- f) Check the clutch and brake cylinders for leakage.  
Ensure there are no obvious signs of hydraulic fluid leaks from cylinders/chambers or any other associated brake/clutch component.
- g) Check clutch operation.  
Ensure clutch operation is smooth without vibration or judder.
- h) Chassis and underside of the vehicle to be steam cleaned.  
Ensure the underside of the vehicle is presented in a clean condition for inspection.

#### 2. Exterior

- a) Check bodywork for evidence of corrosion, damage or unsatisfactory repairs.  
Ensure body panels do not have corrosive deterioration or are rusted through, and any repaired panels are repaired to a satisfactory standard and are finished off to blend with the existing body colour.
- b) Check to ensure that all doors open and close easily and rubber seals are in good condition.  
Ensure the security of all doors, locks, hinges and catches and ease of access plus no obvious sign of weather seal deterioration.

- c) Check paintwork for damage which affects the appearance of the vehicle.  
The appearance should be of a high standard that reflects the image of the Council.
- d) Check to ensure front and rear number plates are in good condition and clearly legible and they meet the statutory requirements for text type and spacing.
- e) Check to ensure all lights work correctly including the number plate light, reversing light and fog lamps.  
As per MOT Test requirements no more than two auxiliary spot lights may be fitted.
- f) Check to ensure exhaust system/catalyst is fitted correctly and is working satisfactorily.  
As per MOT Test requirements check Co2 emissions.
- g) Check exterior/mirror assemblies are correctly positioned and are not damaged.  
As per MOT Test requirements.

### 3. Interior

- a) Check interior of vehicle and luggage space is clean and in good serviceable condition.  
Upholstery/trim is in a clean and undamaged condition, with the interior being free from litter and clutter. Ensure floor covering is in serviceable condition no holes, tears or snags.  
Luggage space is to be clear, clean and unobstructed.
- b) Check under mats for evidence of water leakage or accident damage.  
Ensure there is no water ingress both in the passenger or boot compartments, or any evidence of impact damage.
- c) Check seats are in good condition.  
Ensure all seat interiors are in a sound and serviceable condition with operational seat adjustment mechanisms (if fitted).
- d) Check seat belts, mountings condition and operation of all seats.  
As per MOT Test requirements.
- e) Check interior and door courtesy lights work.
- f) The vehicle must have an efficient fire extinguisher fitted in such a position to be readily available for use. The capacity should not be less than 3 pounds (1.361kg) BCF, and conform to BS5423 dry powder or CO<sub>2</sub>. In addition, the vehicle must have an approved first aid kit marked indelibly with the vehicle licence and registration number.
- g) Check all internal switches operating lights, wipers, and washer's etc. work correctly.  
As per MOT requirements.
- h) Check that all the windows can be lowered and raised easily and give maximum ventilation. Ensure rear windows which are tinted are not of an opaque design (Original equipment only excepted unless an executive vehicle).
- i) Check that all doors open correctly and that the doors are correctly fitted.  
Ensure all operating doors open correctly from the inside and with sufficient access.

- j) Check luggage space for water penetration and cleanliness.  
As per item 3(b).
- k) Check radio/PDA for secure fitting.  
Ensure radio and communication equipment is securely fitted with wiring fused as required.
- l) Check the fittings of grills behind rearmost seat in estate cars.  
Ensure security of dog grill to the rear load space area (estate cars only).
- m) Check windscreen for damage and stickers etc. in accordance with MOT standards.  
As per MOT Test requirements.
- n) Check that the Vehicle Identification Number is legible and secure.  
As stated.
- o) No unauthorised advertising whatsoever on or in the vehicle.  
As stated.

#### **4. Tyres**

- a) Check all tyres, including the spare for damage or extensive wear, giving indication of % in mm of tread remaining.  
As per tyre legislation and MOT requirements.
- b) Check tyres have correct pressures and comply with all legal requirements for tyres when fixed to vehicles. As per legal requirements.
- c) Check that remoulds are not fitted.

#### **5. Underside of Vehicles**

- a) Check that exhaust is correctly fitted and working correctly. As per MOT Test requirements.
- b) Check engine and gearbox mountings for security. As per MOT Test requirements.
- c) Check wheel bearings, swivel pins and bushes. As per MOT Test requirements.
- d) Check Shock Absorbers. As per MOT Test requirements.
- e) Check universal joints/drive shafts. As per MOT Test requirements.
- f) Check for excessive oil leaks. As per section (a) item (a).

#### **6. Braking Systems**

- a) Check for condition and performance of service brake system.  
As per MOT Test requirements.
- b) Check for condition and performance of parking brake system (Mechanical/electrical operations). As per MOT Test requirements.



## **7. Rolling Road Test**

- a) Check for vibration through steering column.  
Ensure there is no excessive rolling vibration through the steering or transmission.
- b) Check that steering does not pull to the right or left.  
Ensure vehicle drives in a straight line, does not steer over to left or right.
- c) Check that brakes do not pull to left or right.  
As per MOT Roller Brake Test results.
- d) Check engine performance i.e. misfires/lack of power.  
Ensure engine performs satisfactorily for the vehicle size.
- e) Check for satisfactory emission levels from vehicle exhaust.  
As per MOT Test requirements.
- f) Check for unusual noise from engine/transmission.  
Ensure engine/transmission and exhaust noise levels are not excessive.
- g) Check braking efficiency. As per Section (6) Item (a-b).

## **8. Signs/Plates**

- a) Hackney Carriage signs  
Check roof mounted signs and ensure the size and design complies with condition.  
Check roof sign correctly illuminated.
- b) Licence Plates  
Check to ensure that licence plates are affixed in position to comply with conditions.  
Each licence plate is securely mounted to the front and rear of the vehicle and that the internal badge is displayed so that it is visible to the public.

## **9. Meters**

- a) Check meter accuracy.  
Ensure accuracy of meter by driving a measured mile or by static measuring instrument.
- b) Check that the meter will not show any tariffs (s) other than those set by the Council.  
(Hackney Carriage scale of charges).  
Ensure that the meter reads accurately the tariff for the class of vehicle being tested.
- c) Check that the meter is positioned so as to be clearly seen by all passengers in the vehicle.  
As stated.
- d) Check that a table of fares, as agreed by the Council, is displayed in the vehicle in a prominent position so as to be clearly seen by all passengers in the Hackney Carriage.  
As stated.

## Advertisements

### Vehicle Advertisement Conditions

In order that advertisements on vehicles are of a standard type, the following conditions shall apply:-

- a. That no advertisement be displayed without the written approval of the Licensing Service.
- b. That the advertisement shall be to a design that if fitted to the rear windows of the vehicle, passenger can see through them and the interior of the vehicle and passengers can be viewed from the exterior.
- c. That no advertisement shall be of a sexual, religious or political nature and that it shall not be likely to cause offence.
- d. In the case of private hire vehicles, the proposed advertisement is to be submitted for approval by a licensed operator not by individual vehicle owners.
- e. No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without the approval of the Council at any time while the licence is in force.

### Signs and Notices etc.

The proprietor shall cause to be affixed and maintained in the vehicle in a conspicuous position in accordance with the directions of the Council any sign or notice relating to licensed vehicles which the Council may from time to time require.

A private hire vehicle must not display:-

- Any sign or notice which consists of or includes the word 'taxi' or 'cab' whether in the singular or plural or 'hire' or any word of similar meaning or appearance to any of those words whether alone or as part of another word; or
- any sign, notice, mark, illumination or other feature which, having regard to that time and place at which it is displayed, may suggest to a person seeking to hire a taxi that the vehicle is a taxi.

**Taxi Ranks**

The Council has two Hackney Carriage Ranks situated in West Bridgford:

1. Bridgford Road outside the Co-operative Store, part of this rank is for 24 hour use and the remainder is for use during the evening/night time.
2. Central Avenue in the layby outside Central News, this rank is for use during the evening/night time.

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## Private Hire Operator's Conditions

### 1. Records

The records to be kept by the Operator under Section 56 (2) of the Act shall be kept in a suitable register, computer or in such a form as the Council shall have approved and the following particulars shall be entered concerning every booking.

- a) The time and date of the booking.
- b) The name and if appropriate address of the hirer.
- c) How the booking was made, e.g. telephone/personal/on line etc.
- d) The time of pick up and full address.
- e) The point of pick up if any.
- f) The destination.
- g) The licence number or the call sign of the vehicle allocated.
- h) The time at which the driver was allocated the booking.
- i) The name or call sign of the driver allocated to the booking.

Records kept in accordance with the above shall be preserved for a period of not less than **2 years** following the date of the last entry.

The Operator shall keep at his operating base premises records of the following information in relation to all Private Hire Vehicles operated by him such records to be in the form attached or in such other form as the Council shall have previously approved.

- a) Vehicle registration number and licence number.
- b) The make and colour.
- c) Name and address of licensed proprietor/owner.
- d) Name and address of licensed driver(s) of the vehicle and badge numbers.
- e) The licences of drivers and vehicles will be retained by the Operator whilst ever they are working for them.
- f) The above records will be produced on request to any constable or authorised officer of the Council for inspection at any reasonable time and on renewal of the licence.

### 2. Insurance

The Operator shall keep, after having first seen the original, a copy of all cover notes and certificates of insurance issued to the said drivers/proprietors. The dates shown on such documents must show continuation of cover throughout the period that the vehicle is working in connection with the said Operator. When a "block" policy is held by the Operator a full list of all vehicles and drivers covered should be kept for at least **one year**.

- a) Name and address of insurance company (and broker if applicable) insuring the use of the vehicle.
- b) Date of commencement of any policy of insurance and of any cover notes issued with policy and cover note numbers relating to the use of the vehicle.
- c) Date of expiry of the policy and of any cover notes issued.
- d) Persons entitled under the terms of the policy to drive the vehicle and details of any limitations as to use (e.g. Private Hire or Public Hire).

### **3. Standard of Service**

The Operator shall at all reasonable times provide a prompt, efficient and reliable service to members of the public and shall in particular ensure that:

- a) When a vehicle has been hired to attend at an appointed time and place the vehicle shall unless delayed or prevented by sufficient cause attend punctually.
- b) The premises provided by the Operator will be within the Borough or at premises approved by the Council within a distance that affords easy access to officers of the Council. The premises, either for waiting or booking shall be kept clean, adequately heated, ventilated and well-lit and also adequate seating provided.
- c) Any telephone facilities and dispatch equipment are maintained in an effective working order.
- d) Any complaints received by the Operator shall be referred in writing to the Council, together with any action taken, where appropriate.
- e) All vehicles operated by him shall be maintained in a satisfactory and road worthy condition; and they shall ensure that any defects to vehicles are recorded and corrected.
- f) The Operator shall ensure, without prejudice to any other liabilities imposed under the Act that all vehicles and drivers owned, controlled or operated in association with the Operator shall observe and perform the conditions of their licence.
- g) The Operator will monitor drivers working hours to ensure they are safe to transport the public. Although there is no legal framework for taxi driver's hours, it is incumbent upon the Operator to ensure drivers do not work long hours and that they are fit to driver and thus will not put the public at risk.

### **4. Reference to the Council**

It shall be the duty of the licensed Operator to inform the Council of the following:

- a) Any arrest or convictions incurred by him or any partner, director or company secretary during the period of the licence for any offence. They must be reported to the Council in writing within **48 hours** of arrest and in the case of convictions within **7 days**.
- b) Change of address, in writing within **7 days**.

### **5. Driver and Vehicle Identification - Keeping of Records**

A record will be kept of all vehicle identification numbers and the vehicle and drivers to which vehicle identification number refers. In the event of a vehicle identification being allocated for a temporary period, a record must be kept of the relevant dates and the vehicle and driver concerned.

### **6. Driver and Vehicle Licences**

It shall be the duty of the licensed Operator to ensure that the licences of all vehicles and drivers that are currently working for him/her are current, irrespective of any manager or assistants he/she may employ.

### **7. Complaint Book**

Each Operator shall keep records of all complaints made to him or his agents or managers relative to any aspect of his business or persons at that time working with or employed by that Operator. The records shall be available at all times for inspection by an authorised officer of the Council.

## **8. Door Signs/Advertisements**

When an Operator wishes to provide drivers/proprietors with door advertising panels the below procedure must be followed:

- a) The door sign/panels shall be approved by an Authorised Officer of the Council, before being taken into use.
- b) It shall contain the name of the company, the telephone number, and the words "Advanced Bookings Only".
- c) It shall not show the words "TAXI" or any word of similar meaning or appearance which may be taken to indicate that the vehicle is a Hackney Carriage which is licensed to ply for hire.
- d) It shall be displayed on either one or both sides of the vehicle only in the form originally authorised by the Council unless agreed otherwise by the Council.
- e) No other signage or advertisements will be displayed on the vehicle without prior approval of the Council, and in no circumstances will they obscure the view into the vehicle from outside to ensure passenger safety.

## **9. Planning Consent for Operating Base**

Planning consent for each operating base must be maintained during the period of a licence. Any material change since the licence was granted in any of the circumstances of the Operator, on the basis of which the licence was granted, must be reported to the Council immediately.

**FAILURE TO COMPLY WITH THE CONDITIONS SET OUT IN THIS DOCUMENT MAY RESULT IN PENALTY POINTS BEING AWARDED AGAINST YOU AND/OR YOUR LICENCE BEING SUSPENDED OR REVOKED**

### Enforcement and Penalty Points Scheme

On 1<sup>st</sup> August 1993 Rushcliffe Borough Council introduced the above scheme to raise the awareness of Operators, Owners and Drivers and also to assist in the enforcement of the conditions attached to licences and some aspects of the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

The scheme will operate from the date of issue of any of the drivers, vehicle or operators licences, and should a breach of the condition or Act be detected points may be issue against the licence holder, up to the maximums shown on the table overleaf.

Generally you will be informed verbally if any points are to be awarded against you and why. Also you will be given a copy of the Councils' form identifying the offence and indicating how many points have been issued. You will then have your own written record of the number of points accrued.

	<b>Offence/Breach of Condition</b>	<b>Points</b>
1	Using a mobile phone without the use of hands free facility whilst driving or whilst the vehicle is stationary with the engine running.	3
2	Failure to display your licence badge in a visible position.	3
3	Failure to produce relevant documents within a specified timescale when requested by an Authorised Officer in writing.*	3
4	Unsatisfactory appearance of vehicle, interior or exterior.*	3
5	Double parking on a highway or, if pre-booked, failure to move on after 5 minutes from double yellow lines when requested by an authorized officer	3
6	Failure to display external licence plates*	6
7	Failure to carry a working fire extinguisher*	3
8	Failure to carry a complete first aid kit*	3
9	Displaying unsuitable, inappropriate or unauthorized signs or advertisements in or on the vehicle	3
10	Using a non-calibrated taximeter or tampering with the meter or seals in any way	6
11	Obstruction of an authorized officer or police officer	6

12	Evidence of smoking in the vehicle	3
13	Failure to immediately notify the Licensing Section of a change in medical circumstances that may affect your ability to drive or the safe transportation of passengers (including eyesight)**	3 to 12
14	Unsatisfactory appearance of driver (dress and cleanliness) in accordance with RBC Hackney Carriage licence conditions.	3
15	Failure to observe rank discipline in accordance with RBC Hackney Carriage Drivers licence conditions	3
16	Waiting on double yellow lines	3
17	Failure to issue a receipt on request	3
18	Unsatisfactory behaviour or conduct of driver	6
19	Failure to notify the Licensing Service immediately of any change of particulars including motoring or criminal convictions, cautions, change of address etc.	3
20	Failure to give reasonable assistance with the loading / unloading of luggage	3
21	Failure to clearly display a current table of fares card and/or all other internal signs/notices required to be in the vehicle	3
22	Failure to carry a legal spare wheel and the facilities to correctly fit such a wheel	3
23	Sounding your horn in a way to cause alarm, harassment or distress to others	3
24	Failure to report within 72 hours of an accident or damage to a licensed vehicle*	3
25	Failure to attend punctually at a specified time and place without sufficient cause or unreasonable prolongation of journey	3
26	Failing to carry an assistance dog without a medical exemption issued by Rushcliffe Borough Council	12
27	Providing false or misleading information on any licensing application form*	6
28	Carrying more passengers than the amount stated on the vehicle licence plate	12



29	Refusing to accept hiring without reasonable cause	3
30	Failure to ensure that all wheelchairs being carried in a licensed vehicle have been correctly loaded, secured and unloaded	6
31	Failure to hand in lost property to a police station with 24 hours	3
32	Failure to comply with any of Rushcliffe Borough Council s vehicle, drive and operator conditions that are not already stated above.*	3

\* would not always relate to both driver and vehicle owner

\*\* depending on circumstances, 12 points will only be given if it effects their ability to drive

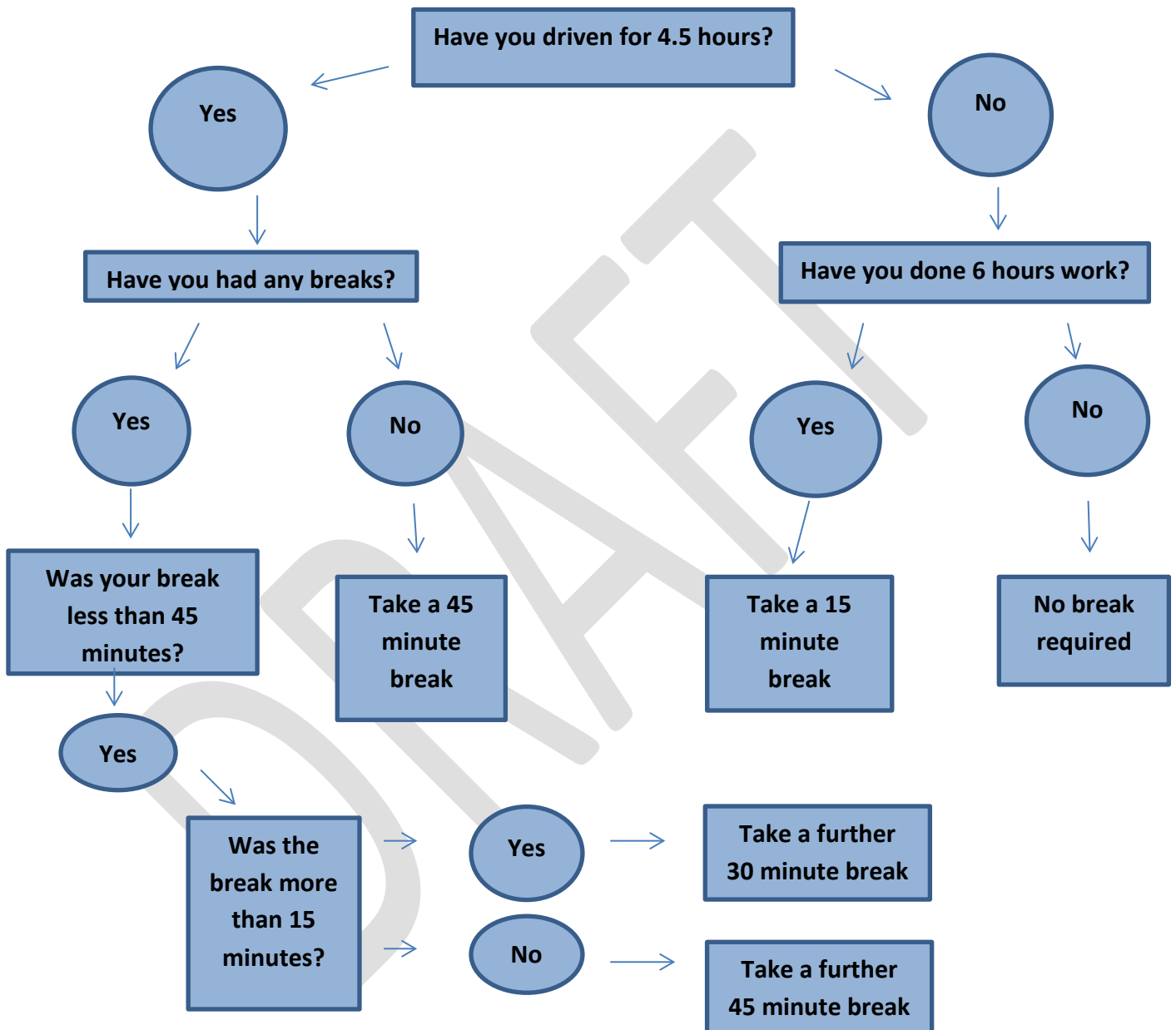
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### Code of Conduct When working with Vulnerable Passengers

A vulnerable passenger is a passenger whose age or disability means that they are more susceptible to harm than a typical passenger. This may be a child, an elderly person or somebody with learning difficulties, for example. When working with vulnerable persons the following points should be observed:

- Drivers should carry photo ID at all times, and wear it in accordance with the conditions of licence.
- The driver / operator must confirm that appropriate provision has been made for the vulnerable person prior to accepting the booking or commencing the journey. This does not necessarily mean that the driver / operator is responsible for the provision of appropriate measures, however they should check that they are in place.
- When making a journey with vulnerable passengers, photo-identification should be produced to the carer responsible for the vulnerable person. If necessary, you should obtain a record of the carer's contact details if there is no chaperone.
- If a vulnerable passenger is refused service a responsible person should be informed so that alternative arrangements can be made. For example, this situation may arise if the customer has an assistance dog and the driver has a medical exemption granted by the council.
- Always ask if a vulnerable passenger needs help, do not assume.
- Drivers should remain professional at all times and should not:
  - Touch a vulnerable person inappropriately
  - Make offensive or inappropriate comments (such as the use of swearing or sexualised or discriminatory language)
  - Behave in a way that may make a vulnerable passenger feel intimidated or threatened
  - Attempt to misuse personal details obtained via the business about a vulnerable person.
- A log should be maintained by drivers when a service has been provided to a vulnerable passenger including the details of any incidents occurring / actions taken or refusals of service.
- If you are concerned about the safety, welfare or behaviour of a vulnerable person, you should report this to the police by telephoning 101 (or in appropriate cases by calling 999).
- If you are concerned about someone else's conduct, you should report your concerns to the police (101) or Crimestoppers (0800 555111) or the Safeguarding hub on 0300 500 80 90.

Guidance Notes on Driver Working Hours – Do I need a break?



**REMEMBER TIREDNESS KILLS – TAKE A BREAK**

## Report of the Executive Manager - Neighbourhoods

### 1. Summary

- 1.1 This report requests that the Council adopts new model Byelaws to include the regulation of Semi-Permanent Tattooing.

### 2. Recommendation

- a) It is RECOMMENDED that Byelaws in the form shown at **Appendix 1** be sealed by the Council, and
- b) The Executive Manager - Neighbourhoods be authorised to advertise the making of the Byelaws and to apply to the Secretary of State for their confirmation.

### 3. Reasons for Recommendation

- 3.1 To enable the registration of semi-permanent tattooing treatments and ensuring they are delivered in a safe and regulated manner. The additional controls will ensure increased health protection and reduce the risk of transmission of blood-borne virus infections such as HIV, hepatitis B, hepatitis C and other infections during the delivery of these treatments.

### 4. Supporting Evidence

- 4.1 In 1985, the Council made byelaws relating to Acupuncture, Tattooing, Ear Piercing and Electrolysis under the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
- 4.2 The Department of Health have since issued guidance under Section 120 of the Local Government Act 2003 which includes new model Byelaws relating to the above subjects with the addition of semi-permanent skin-colouring which is also known as semi-permanent tattooing or micro pigmentation.
- 4.3 This type of treatment is now becoming more common and the Council has become aware of a number of persons within the Borough who wish to provide these treatments. The treatment is a technique which involves injecting vegetable/chemical dyes into the skin, for example, as eye liner or lip liner, for areola reconstruction or to apply tattoo motifs. The pigmentation lasts for several years and is reputed to be non-permanent unlike traditional tattooing.
- 4.4 Should Council pass a resolution authorising the affixing of the common seal to the Byelaws as shown in **Appendix 1**, and authorise the procedure to apply to the Secretary of State for confirmation, it will be necessary to then advertise

the intention to apply for confirmation of the Byelaws in a local newspaper. One month after publication of the notice, the Council can apply to the Secretary of State for confirmation of the Byelaws.

- 4.5 Once this process is complete, it will allow the Council to register persons providing these new treatments and to replace the Council’s current Byelaws with the new model Byelaws for all new registrations of the types of treatments detailed in this report.

**5. Risk and Uncertainties**

- 5.1 Unless these new model Byelaws are adopted, the provision of semi-permanent tattooing will go unregulated in the Borough.

**6. Implications**

**6.1 Finance**

The Council may see a small increase in income associated with the registration fees however these are one off and not renewable.

**6.2 Legal**

Legal advice has been sought in the development of this proposal. The new Byelaws will require the Secretary of State’s approval once confirmed and notice has been given in the local newspaper.

**6.3 Corporate Priorities**

Effective controls of such treatments are part of the Council’s wider duties for ensuring public protection. In turn, public protection is an important foundation for the Council’s priority of ‘maintaining and enhancing our resident’s quality of life’.

**6.4 Other Implications**

There are no perceived adverse or disproportionate impacts for any particular protected equality group as a result of adopting these recommendations.

<b>For more information contact:</b>	David Banks Executive Manager - Neighbourhoods 0115 914 8438 <a href="mailto:dbanks@rushcliffe.gov.uk">dbanks@rushcliffe.gov.uk</a>
<b>Background papers Available for Inspection:</b>	None
<b>List of appendices (if any):</b>	Appendix 1: Model Byelaws

## RUSHCLIFFE BOROUGH COUNCIL BYELAWS

### ACUPUNCTURE, TATTOOING, SEMI-PERMANENT SKIN-COLOURING, COSMETIC PIERCING AND ELECTROLYSIS

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by **Rushcliffe Borough Council** in pursuance of sections 14(7) or 15(7) or both of the Act.

#### Interpretation

1. (1) In these byelaws, unless the context otherwise requires—

“The Act” means the Local Government (Miscellaneous Provisions) Act 1982;

“client” means any person undergoing treatment;

“hygienic piercing instrument” means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either—

- (a) the lobe or upper flat cartilage of the ear, or
- (b) either side of the nose in the mid-crease area above the nostril;

“operator” means any person giving treatment, including a proprietor;

“premises” means any premises registered under sections 14(2) or 15(2) of the Act;

“proprietor” means any person registered under sections 14(1) or 15(1) of the Act;

“treatment” means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

“the treatment area” means any part of premises where treatment is given to clients.

(2) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2. (1) For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that—

- (a) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;
  - (b) any waste material, or other litter arising from treatment is handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;
  - (c) any needle used in treatment is single-use and disposable, as far as is practicable, or otherwise is sterilized for each treatment, is suitably stored after treatment and is disposed of in accordance with relevant legislation and guidance as advised by the local authority;
  - (d) any furniture or fitting in premises is kept clean and in such good repair as to enable it to be cleaned effectively;
  - (e) any table, couch or seat used by a client in the treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment has a smooth impervious surface which is disinfected—
    - (i) immediately after use; and
    - (ii) at the end of each working day.
  - (f) any table, couch, or other item of furniture used in treatment is covered by a disposable paper sheet which is changed for each client;
  - (g) no eating, drinking, or smoking is permitted in the treatment area and a notice or notices reading “No Smoking”, and “No Eating or Drinking” is prominently displayed there.
- (2)(a) Subject to sub-paragraph (b), where premises are registered under section 14(2) (acupuncture) or 15(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the 1982 Act, a proprietor shall ensure that treatment is given in a treatment area used solely for giving treatment;
- (b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.
- (3) (a) Subject to sub-paragraph (b), where premises are registered under section 15(2) (tattooing, semi-permanent skin-colouring and cosmetic piercing) of the 1982 Act, a proprietor shall ensure that the floor of the treatment area is provided with a smooth impervious surface;
- (b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.
- 3. (1)** For the purpose of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment—
- (a) an operator shall ensure that—
    - (i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment—

- (aa) is clean and in good repair and, so far as is appropriate, is sterile;
  - (bb) has not previously been used in connection with another client unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilized.
  - (ii) any needle, metal instrument, or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument that touches a client is sterile;
  - (iii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;
  - (iv) any dye used for tattooing or semi-permanent skin-colouring is sterile and inert;
  - (v) any container used to hold dye for tattooing or semi-permanent skin-colouring is either disposed of at the end of each treatment or is cleaned and sterilized before re-use.
- (b) a proprietor shall provide—
- (i) adequate facilities and equipment for—
    - (aa) cleansing; and
    - (bb) sterilization, unless only pre-sterilized items are used.
  - (ii) sufficient and safe gas points and electrical socket outlets;
  - (iii) an adequate and constant supply of clean hot and cold water on the premises;
  - (iv) clean and suitable storage which enables contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1)(a)(i), (ii), (iii), (iv) and (v) to be avoided as far as possible.

4. (1) For the purpose of securing the cleanliness of operators, a proprietor—

- (a) shall ensure that an operator—
  - (i) keeps his hands and nails clean and his nails short;
  - (ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;
  - (iii) wears disposable examination gloves that have not previously been used with another client, unless giving acupuncture otherwise than in the circumstances described in paragraph 4(3);
  - (iv) wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with another client;
  - (v) does not smoke or consume food or drink in the treatment area; and
- (b) shall provide—
  - (i) suitable and sufficient washing facilities appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, soap or detergent; and
  - (ii) suitable and sufficient sanitary accommodation for operators.

(2) Where an operator carries out treatment using only a hygienic piercing instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the washing facilities that the proprietor provides need not be for the sole use of the operator.



- (3) Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable examination gloves that have not previously been used with another client if—
- (a) the client is bleeding or has an open lesion on an exposed part of his body; or
  - (b) the client is known to be infected with a blood-borne virus; or
  - (c) the operator has an open lesion on his hand; or
  - (d) the operator is handling items that may be contaminated with blood or other body fluids.
5. A person registered in accordance with sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in paragraphs 3(1)(a) and 4(1)(a).
6. The byelaws relating to Acupuncture and Ear-piercing and electrolysis that were made by Rushcliffe Borough Council on the 16 October 1984 and were confirmed by the Department of Health and Social Security on 21 May 1985 are revoked.

The Common Seal of RUSHCLIFFE  
BOROUGH COUNCIL was hereunto  
affixed in the presence of:

Mayor

Senior Solicitor

The foregoing byelaws are hereby confirmed by the Secretary of State for Health  
on \_\_\_\_\_ and shall come into operation on \_\_\_\_\_

Member of the Senior Civil Service  
Department of Health

## **NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS**

Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Local Government (Miscellaneous Provisions) Act 1982 provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act. A person who contravenes section 16(9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale (see section 16(10)). Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 also provides that any person who contravenes these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under Part VIII of the Act is found guilty of contravening these byelaws the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of the person's registration. A court which orders the suspension of or cancellation of a person's registration may also order the suspension or cancellation of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under the relevant sub-sections of section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Nothing in these byelaws extends to the practice of acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis by or under the supervision of a person who is registered as a medical practitioner, or to premises in which the practice of acupuncture, or business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried out by or under the supervision of such a person.

Nothing in these byelaws extends to the practice of acupuncture by or under the supervision of a person who is registered as a dentist, or to premises in which the practice of acupuncture is carried out by or under the supervision of such a person. The legislative provisions relevant to acupuncture are those in section 14. The provisions relevant to treatment other than acupuncture are in section 15.

The key differences in the application of requirements in respect of the various treatments are as follows:

*The references in the introductory text to provisions of section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 **only apply to acupuncture.***

*The references in the introductory text to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) Act 1982 **do not apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 14 (acupuncture) **only apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) **do not apply to acupuncture.***

*The requirement in paragraph 2(2) that treatment is given in a treatment area used solely for giving treatment **applies to a cupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis but not to ear-piercing or nose-piercing using a hygienic piercing instrument.***

*The requirement in paragraph 2(3) that the floor of the treatment area be provided with a smooth impervious surface **applies to tattooing, semi-permanent skin-colouring and cosmetic piercing but not to a cupuncture or electrolysis or ear-piercing or nose-piercing using a hygienic piercing instrument.***

*The requirements relating to dye or a container used to hold dye used for treatment in paragraphs 3(1) (a) (iv) and (v) **apply to tattooing and semi-permanent skin-colouring.***

*The requirement in paragraph 4(1)(a)(iii) that an operator wears disposable examination gloves that have not previously been used with another client **does not apply to a cupuncture or otherwise than in the circumstances described in paragraph 4(3).***

*The provisions of paragraph 4(2) in relation to washing facilities **apply to cosmetic piercing using only a hygienic piercing instrument.***

*The exception whereby the byelaws do not apply to treatment carried out by or under the supervision of a **dentist applies only to a cupuncture (see section 14(8) of the Act).***

## Report of the Chief Executive

### 1. Summary

- 1.1 The Chief Executive and Monitoring Officer are responsible for ensuring that the Council's Constitution is maintained. During 2016, the Corporate Governance Group has undertaken a light touch review of the Constitution to reflect legislative changes. In addition, changes have been incorporated in order to clarify responsibilities for functions and ensure that the wording reflects the structure of the Council. The scope of the review is limited to these elements only.
- 1.2 The Corporate Governance Group met to consider the Constitution on 28 July and 8 September 2016. The Group's observations and proposed changes were incorporated into a version of the Constitution considered at Cabinet on 11 October 2016. These changes have been summarised in **Appendix A** and reflected in the copy of the Constitution circulated separately.
- 1.3 The Corporate Governance Group have also received a further report on 1 December 2016 to consider and agree on a mechanism and timetable to conduct a more in depth review of the constitution.

### 2. Recommendation

It is RECOMMENDED that the Constitution as amended be APPROVED.

### 3. Reasons for Recommendation

- 3.1 To comply with relevant legislation and ensure that the Constitution reflects both the law as it stands presently and the structure of the Authority.

### 4. Supporting Evidence

- 4.1. A light touch review of the Constitution has taken place in order to ensure its provisions are in line with both legislation and the structure of the Authority.
- 4.2. Changes that have been necessary include provisions to bring the Constitution in to line with the changes brought about through The Localism Act 2011 that removed the Statutory Petition Scheme that had previously been introduced by the Local Democracy, Economic Development and Construction Act 2009. The Constitution has been amended in order to reflect this change in law.

## 5. Risk and Uncertainties

- 5.1. Failure to update the Constitution leaves the risk of the governance framework of the Council being outdated and not complying with relevant legislation such as the Localism Act.

## 6. Implications

### 6.1. Finance

The Constitution, and in particular the financial regulations, underpin the good financial governance of the Authority. There are no direct financial implications arising from the report.

### 6.2. Legal

The Constitution underpins and provides authority for the governance arrangements of the Council and it is essential that it is maintained so as to provide this framework.

### 6.3. Corporate Priorities

The Constitution enables delivery of the Corporate Priorities.

### 6.4. Other Implications

None.

<b>For more information contact:</b>	Allen Graham Chief Executive 0115 914 8520 email <a href="mailto:agraham@rushcliffe.gov.uk">agraham@rushcliffe.gov.uk</a>
<b>Background papers Available for Inspection:</b>	Report to Cabinet – 11 October 2016 Reports to Corporate Governance Group – 28 July, 8 September and 1 December 2016
<b>List of appendices (if any):</b>	Appendix A – summary of changes proposed by Corporate Governance Group

## APPENDIX A

Section	Reference	Description of proposed change
Part 1 – Summary and explanation	How the Council operates	Factual amendment to reflect change in number of Councillors.
Part 2 – Articles of the Constitution	Article 1	No change
	Article 2 Members of the Council	Proposed minor amendments to reflect current Council structure and practices.  Para 2.3 Insert – represents their communities and bring their values into the Council’s decision-making process, i.e. become advocates of and for their communities  Page 8 – Knowledge – delete - basic understanding of local government finances and audit processes
	Article 3 Citizens and the Council	Proposed minor amendments to reflect current Council structure and practices.  (b) Citizens have a right to: Insert – (v) register and vote; and (vi) respond to consultations.
	Article 4 The Full Council	Proposed minor amendments to reflect current Council structure.
	Article 5 Chairing the Council	No change
	Article 6 Scrutiny Committees	No change
	Article 7 Cabinet	Proposed minor amendments to reflect current Council structure and revised remit of Cabinet portfolio holders.
	Article 8 Regulatory and other Committees and Member Groups	Proposed minor amendments to reflect current Council structure. In addition the remit of the Employment Appeals Committee has been amended to include absence and the Local Development Framework Group remit has been updated.
	Article 9 The Standards Committee	9.1 – Insert – and associated legislation.
	Article 10	No change
	Article 11 Joint Arrangements	Procedure for appointments to Joint Committees clarified. Insert 11.3 - Appointments to joint committees will be made by: <ul style="list-style-type: none"> <li>• The Council, where all the functions of the joint committee are the responsibility of the Council</li> <li>• The Council with the agreement of the Cabinet, where some of the functions of the joint committee are the responsibility of the Council and some are the responsibility of the Cabinet</li> <li>• The Cabinet, where all of the functions of the joint committee are the responsibility of the Cabinet.</li> </ul>

Section	Reference	Description of proposed change
	Article 12 Officers	Proposed minor amendments to reflect current Council structure and practices.
	Article 13 Decision Making	Proposed minor amendments to reflect current Council structure and practices. Plus Increased clarity with regard to Chief Executive's role in support of decision making.  Insert 13.9 - Officers' role in support of decision-making  The Chief Executive will have primary responsibility for ensuring that all decisions taken by the Council, the Cabinet or any other Council body are taken according to a proper process and full consideration of all relevant facts and circumstances
	Article 14 Finance, contracts and legal matters	Proposed minor amendments to reflect current Council structure and practices, including amendment to the authorisation of the official seal for contracts.
	Article 15	No change
	Article 16	No change
Part 3 – Responsibility and Functions	Throughout Part 3	Proposed minor amendments to reflect current Council structure and practices.
Part 4 – Rules of Procedure	10.6 – 10.14 21.1 – 21.7	Proposed removal of the provision for a statutory petition scheme.
	Throughout Part 4	Minor amendments to reflect current Council structure and practices.
	Standing Orders relating to contracts	Proposed amendments to update and clarify procedures and requirements in relations to contracts. Some proposed increases to financial thresholds to bring into line with current prices.
	Officer Employment	Update of provisions relating to officer recruitment, employment and dismissal in accordance with scheme as agreed by Full Council June 2015.
Part 5 – Codes and Protocols	Throughout Part 5	Minor amendments to reflect current Council structure and practices.
	RBC's Petition Scheme	Amendments to reflect removal of a national petition scheme.
	Corporate Information Security Access Policies	Proposed strengthening of corporate information security access policies to reflect current legislative and best practice requirements.
Part 6 – Members Allowances Scheme		Updated to reflect legislative changes and approved recommendations of the independent review panel and reaffirmed by Full Council March 2015.



**Council**

**8 December 2016**

**Arrangements for the Monitoring Officer  
Role**

**10**

## **Report of the Chief Executive**

### **1. Summary**

- 1.1 As resolved at Council on 10 December 2015, the role of Monitoring Officer has been shared with Broxtowe Borough Council. Mr Philip Horsfield was therefore appointed as the Council's Monitoring Officer and it was stated that this would continue until such time that the Chief Executive brought a further report to Council.
- 1.2 Notification from Broxtowe Borough Council has recently been received informing Rushcliffe Borough Council of a temporary suspension of the joint sharing of the Monitoring Officer role, resulting in Mr Phillip Horsfield not being available to Rushcliffe Borough Council. Therefore, whilst further clarification or a resolution of the intentions of Broxtowe Borough Council is secured, this report recommends the temporary appointment for a period of up to six months of Mr Glen O'Connell, an experienced Monitoring Officer, currently employed by Nottingham City Council.

### **2. Monitoring Officer Designation**

- 2.1 The sharing of the Monitoring Officer role with Broxtowe Borough Council has contributed to ongoing revenue savings being secured following the rationalisation of the Executive Management Team.
- 2.2 The joint arrangement with Broxtowe Borough Council was beginning to produce the advantages of collaborative working, however due to internal issues, Broxtowe Borough Council notified the Council that they wanted to suspend the existing arrangement for a period of up to 6 months.
- 2.3 As part of enquiries, Mr Glen O'Connell was identified as being both experienced, qualified and available to undertake the role on a temporary basis. It was also identified that due to some immediate Council requirements, that his skills and experience could add value to maintaining momentum in the following areas of work:
- 1) Review of the constitution
  - 2) Initiating procedures for public speaking
  - 3) Generating enhanced governance structures to support emerging company structures.
- 2.4 It is therefore recommended that Mr Glen O'Connell is appointed and designated as the Council's Monitoring Officer for a maximum period of 6 months. This will enable Broxtowe Borough Council to clarify their ability to



support Rushcliffe Borough Council in the future. It will also enable the Chief Executive to explore alternative options if this is necessary.

2.5 There has been an agreement reached between myself and the Chief Executive of Nottingham City Council that Mr Glen O'Connell will make himself available at the premises of Rushcliffe Borough Council for two days a week plus additional time if required.

2.6 Following discussions with Mr O'Connell to assist him and provide greater resilience and capacity during the interim period, he has indicated that, if appointed, he would nominate Mr Paul Cox as an additional Deputy Monitoring Officer in addition to the current appointment of Mr Nigel Carter.

### **3. Recommendation**

It is RECOMMENDED that

- a) Mr Glen O'Connell is appointed and designated as the Council's Monitoring Officer for a period of six months;
- b) That a further report be brought to the Council by the Chief Executive detailing the outcomes of a review with Broxtowe Borough Council and recommending actions to secure the long term appointment of a Monitoring Officer.

### **4. Implications**

#### **4.1 Finance**

The costs of Mr O'Connell can be met from existing budgets in both 2016/17 (£16,290 provision being made) and the draft budget for 2017/18 (£10,860 provision being made). Calculated within the provision is the potential for an additional 7 hours work per month above and beyond the agreed 2 days per week, this will enable further contingency should it be required.

#### **4.2 Legal**

4.2.1 There is a statutory requirement under Section 5 of the Local Government and Housing Act 1989 for the Council to appoint a Monitoring Officer. The role of this officer is to conduct certain functions contained within this part of the Act and other relevant legislation. In essence, the Monitoring Officer oversees legality and governance issues, particularly in the conduct of business, and has a duty to report to the Council if they think any proposal, decision or omission would give rise to unlawfulness or maladministration. Under section 5 of the 1989 Act, it is also the Monitoring Officer's responsibility to nominate any required deputies.

4.2.2 The Monitoring Officer will also promote and maintain high standards of probity and will advise Members on compliance with the Council's Code of Conduct. In addition, the Monitoring Officer will ensure decisions, reports and other papers are publicly available and Registers of Interest are maintained.

<b>For more information contact:</b>	Allen Graham Chief Executive 0115 914 8349 agraham@rushcliffe.gov.uk
<b>Background papers Available for Inspection:</b>	None
<b>List of appendices (if any):</b>	None