



THE ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

Private Hire Driver & Vehicle Draft Policy & Conditions

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

The law relating to Private Hire Drivers and Vehicles is contained within the Local Government (Miscellaneous Provisions) Act 1976.

All previous Policies and Conditions are hereby revoked from the date when this document is approved by the Licensing Panel.

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PRIVATE HIRE DRIVERS & LICENSING REQUIREMENTS

In this document, any reference to 'Licensing Officers' means the Enforcement Principal, Team Leader Licensing, the Licensing Enforcement Officers or the Assistant Licensing Enforcement Officers.

1. PRIVATE HIRE DRIVERS (PD) – REQUIREMENTS

- 1.1 Each application will be considered on its own merits, taking into account all relevant information and circumstances and having regard to the criteria detailed below.
- 1.2 Should any applicant fail to be regarded as a fit and proper person to hold a Private Hire Drivers licence, their application should be refused.
- 1.2 Should any licence holder become regarded as not being a fit and proper person to hold a Private Hire Drivers licence, their licence may be suspended or revoked.

2. APPLICATION REQUIREMENTS

- (a) All applicants must have held a full UK, NI or EU driving licence for a minimum of 2 years before an application for a PHD licence can be made. (This excludes the holding of a provisional licence).
- (b) All new applicants must complete a Data Protection Mandate form in order for their DVLA/EU drivers licence to be checked and verified by the DVLA.
- (c) All new applicants must complete an enhanced Disclosure & Barring Service Disclosure Form and upon receipt of result, present it alongside the PHD licence application. The Disclosure & Barring Service Disclosure (DBS) can only be accepted at the time of licensing if it is less than 3 months from the date of issue.
- (d) The Disclosure & Barring Service Disclosure (DBS) does not check for criminal convictions outside the UK, and should an applicant not have been a resident in the UK for the preceding five years, a Certificate of Good Conduct should be obtained from the appropriate Embassy or High Commission. A certified English translation of this document must be produced by the applicant at his own cost. If this cannot be provided, the application shall be refused.
- (e) All applicants must provide proof of the right to work and reside in the UK. This can be done by providing a valid UK or European Union passport. Holders of other passports must show a valid visa that has at least six months remaining before its expiry at time of application. A licence will only be granted until the expiry of the visa, and will only be renewed or extended on the production of a valid visa issued by the Home Office. Under no circumstances will letters from any source be accepted as proof of right to work. Applicants without a passport wishing to be able to work must have a valid ARC card or ISD document issued by the Home Office
- (f) All applicants must have completed and passed a Driving Standards Agency (DSA) Hackney/Private Hire Test Assessment within the last 12 months, prior to any PHD licence being issued. (Drivers currently licensed by the Royal Borough of Windsor and Maidenhead are exempt from having to take the DSA Test unless there is a complaint about the standard/quality of their driving).
- (g) Applicants are expected to have a good knowledge of the Royal Borough of Windsor and Maidenhead's area and the surrounding area as well as the Highway Code.

- (h) Applicants have 12 months from submission of application to complete the application process.
- (i) All applicants must submit a Certificate of Fitness which must be signed and stamped by their own General Practitioner. Medicals are required at first application and then every five years, until the licence holder reaches the age of 65. Thereafter, a Certificate of Fitness must be provided every year.
- (j) Applicants for 3 year licence must have a DVLA check each year with a new driver's badge and current photograph.

Nothing in this policy shall preclude a licence holder from being required to undergo a medical examination or to provide DVLA licence information at any time as may be directed by the Council's Licensing Officers.

3. FIT AND PROPER

- (a) A licence shall not be granted where an applicant has been convicted of an offence of dishonesty, violence, a sexual offence or an offence relating to alcohol, drugs or controlled substances and has not yet been rehabilitated in terms of the Rehabilitation of Offenders Act 1974 (as amended), the Guidelines Relating to the Relevance of Convictions and The Royal Borough of Windsor and Maidenhead's policies and procedures, in respect of that offence. In addition where there are relevant spent convictions, these may also be considered. See 'Policy & Guidance on Convictions & Cautions'.
- (b) A conviction for any of the offences listed in the paragraph above will result in immediate licence suspension by the Licensing Officers. Should a Private Hire driver's licence holder be charged with an offence that is deemed to be of such a nature that it poses a serious risk to the public, the Licence shall be immediately suspended until such time that the issue has been resolved.
- (c) Where a conviction is not in respect of a relevant offence and is not of a nature which would have any bearing on whether the applicant is a fit and proper person to hold a driver's licence, then such a conviction will be disregarded other than in consideration of an overall adherence to the law.
- (d) A licence may be suspended or revoked in accordance with the approved penalty point system (see penalty point system).
- (e) If a licence has been revoked, a new application will not be accepted until one (1) year has elapsed from the date of revocation or any time which the Licensing Officers decide.
- (f) There is a right of appeal against any Licensing Officer's decision to the Council's Appeals Panel.

PRIVATE HIRE DRIVER CONDITIONS

The Council attaches the following conditions to Private Hire Drivers Licences; In these conditions 'the Council' means the Royal Borough of Windsor and Maidenhead, 'Driver' means a person holding a Private Hire Driver's licence issued by the Council and 'Vehicle' means a Private Hire Vehicle licensed by the Council. 'Licensing Officers' means the Council's Enforcement Principal, Team Leader Licensing, Licensing Enforcement Officers or Assistant Licensing Enforcement Officers.

NOTES: Failure to adhere to the Private Hire Drivers Conditions may result in prosecution, suspension or revocation of the licence pursuant to S.61 of the Local Government (Miscellaneous Provisions) Act 1976.

1. IDENTIFICATION OF DRIVERS

- (a) The Driver shall at all times whilst using a Private Hire Vehicle wear or display his Private Hire Drivers badge in such a position and manner that is plainly visible.
- (b) The badge must be shown, if requested, to the hirer of the vehicle or to any 'authorised officer' of the Council or Police Officer, as defined in the Local Government (Miscellaneous Provisions) Act 1976.

2. PRIVATE HIRE VEHICLE

The Driver shall not use a Private Hire Vehicle unless it complies with the Royal Borough of Windsor and Maidenhead's Private Hire Vehicle conditions.

3. ADVERTISEMENTS

The Driver shall not place, or permit to be placed, any printed written material on the vehicle.

4. PROMPT ATTENDANCE AND SHORTEST ROUTE

- (a) The driver shall, on attendance of a booking from the licensed Private Hire Operator, be in attendance at the appointed time and place unless delayed or prevented by sufficient cause.
- (b) The driver when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.

5. PRIVATE HIRE DRIVERS LICENCE (BADGE)

- (a) The Driver shall be issued with a Private Hire Driver Licence and identification badge. These documents remain the property of the Royal Borough of Windsor and Maidenhead.
- (b) At the request of a Licensing Officer, the Licence and/or identification badge must be returned to the Council
- (c) The Driver shall upon the expiry date (without prior renewal to that expiry date), revocation or suspension of the Licence return the Licence and driver's identification badge to the Council immediately.

6. ASSISTANCE WITH LUGGAGE

The Driver shall, when requested by any person hiring or seeking to hire the vehicle;

- (a) convey a reasonable amount of luggage
- (b) afford reasonable assistance in loading and unloading
- (c) afford reasonable assistance in removing the luggage to or from the pick up or destination point of any passenger.

7. LOST PROPERTY

- (a) The Driver shall, immediately after the termination of any hiring or as soon as practicable after carefully searching the vehicle for any property which may have accidentally been left behind.
- (b) If the Driver has found any property accidentally left in their vehicle he must notify the Operator. If the passenger contacts the Operator immediately the driver must arrange for the passenger to collect the goods; if not, as soon as possible (and in any event within 48 hours) the property should be handed in to the nearest Police Station.

8. CARRIAGE OF OTHER PERSONS

- (a) The Driver shall not permit any person to be carried in the vehicle without the consent of the hirer.
- (b) The Driver shall not carry, or permit to be carried, a greater number of passengers than that stated on the Private Hire Vehicle Licence Plate.

9. LICENCE PLATE

- (a) The Driver shall ensure that the Private Hire Vehicle Licence Plate is securely affixed to the rear of the vehicle at all times whether working as a Private Hire Vehicle or not.
- (b) The Driver shall ensure that the Private Hire Vehicle Licence Plate is not concealed or damaged and is kept clean so that it is clearly visible at all times.

10. CONVICTIONS, CAUTIONS AND FIXED PENALTIES

The Driver shall within 7 days, disclose to the Council in writing any details of any convictions, Police caution or fixed penalty (e.g. points on driving licence) other than a parking fine imposed on him during the course of the licence – please see Penalty Points chart on page 15 for further guidance.

11. CHANGE OF ADDRESS

- (a) The Driver shall notify the Council in writing of any change of address during the period of the licence within 7 days of such change taking place.
- (b) The Driver's DVLA driving licence must be registered at the Drivers current address.

12. ACCIDENTS

The Driver shall notify the Council in writing of any vehicle accident in which the Driver is involved whilst driving a Private Hire Vehicle. This notification must be received within 72 hours of the accident taking place.

13. CONDUCT OF DRIVER

- (a) The Driver shall at all times be clean and respectable in his dress and person and behave in a civil and orderly manner.
- (b) The Driver shall at all times take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the Vehicle.
- (c) The Driver shall not drink or eat in the vehicle.
- (d) The Driver shall not smoke in the vehicle or allow any passengers to smoke in the vehicle (for further information see policy relating to the Health Act 2006).
- (e) The Driver shall not play any audio or sound (other than for the purposes of sending/receiving messages from the Operators base) that is loud, offensive or that causes a nuisance to the hirer.

Drivers may not initiate any dialogue of a sexual nature with a passenger. Licensed drivers are not permitted to become involved sexually, or have sexual contact, even with consent, whilst in a licensed vehicle with any passenger.

14. PASSENGERS

- (a) The Driver shall not convey or permit to be conveyed (in a Private Hire Vehicle) a greater number of persons than that prescribed on the Vehicle Licence.
- (b) The Driver shall not allow any child under the age of twelve years or more than one person above the age of twelve years to be carried in the front of the vehicle.
- (c) The Driver shall not at any time by calling out or otherwise importune any person to hire his Vehicle.
- (d) The Driver must only accept a fare that has been properly booked and passed to the Driver via the licensed Private Hire Operator for whom he works.
- (e) The Driver shall not cause or permit a Private Hire Vehicle to stand on any road in such a manner as to suggest that it is plying for hire or that it is a Hackney Carriage Vehicle.
- (f) The Driver shall not rank unlawfully.

15. WRITTEN RECEIPTS

The Driver shall if requested by the hirer provide them with a written receipt for the fair paid.

16. CARRYING ANIMALS

- (a) The Driver shall not carry any animals that belong to or are in the custody of him in the Vehicle when it is being hired.
- (b) The Driver must (unless in possession of an exemption certificate, see below) accept bookings made by or on behalf of a disabled person who is accompanied by a guide, hearing or assistance dog.
- (c) The Driver must (unless in possession of an exemption certificate, see below) accept a booking by a person who will be accompanied by such a disabled person.
- (d) The Driver must not make an additional charge for carrying the passenger's assistance dog.
- (e) A Driver who has a proven medical condition that prevents him from carrying an assistance dog in his vehicle must obtain a Driver Exemption Certificate (from the Council on production of medical evidence of the condition). This Certificate must be clearly displayed at all times when driving the Private Hire Vehicle. The Driver is responsible for informing his Operator and the Council if he has a medical condition affecting his ability to carry assistance dogs during the period of their licence.

17. HEALTH OF A DRIVER

- (a) The Driver must inform the Council without delay about the onset or worsening of any health condition likely to cause him to be a source of danger to the public when driving either now or in the future. Examples are contained in the DVLA Medical Notification Guidance and include;
 - giddiness
 - fainting
 - blackouts
 - epilepsy
 - strokes
 - multiple sclerosis
 - Parkinson's disease
 - heart disease
 - angina
 - coronaries
 - high blood pressure
 - arthritis
 - disorder of vision
 - mental illness
 - alcoholism
 - drug taking
 - loss of limb or loss of use of limb
- (b) Drivers who are in doubt about whether or not their health condition is one which should be reported should consult their Doctor and refer to the DVLA (Group 2) Medical rules and Standards which are updated every 6 months.
- (c) A Certificate of Fitness signed by the driver's own General Practitioner who knows and has access to his medical history shall be produced at the time of the initial application and then every 5 years, until the driver reaches the age of 65. Thereafter, a Certificate of Fitness shall be provided every year.

18. RENEWAL OF LICENCES

- (a) Applications to renew a licence can be made 30 days before the expiry of the current licence and must be submitted on the appropriate application forms.
- (b) All current PHD licence holders are required to undergo a Disclosure & Barring Service Disclosure (DBS) check every 3 years. This will be carried out at the time of the renewal application.
- (c) All current PHD licence holders are to have their DVLA/EU drivers licence checked with the DVLA annually. This will be carried out at the time of the renewal application.

Note

An application for the renewal of a licence made after the date of expiry of the previously held licence will be dealt with as a new application.

19. SEAT BELT REGULATIONS

Private Hire Drivers are only exempt from wearing a seat belt if the vehicle is being used to carry passengers for hire.

20. CHILD RESTRAINTS

- (a) If the correct child restraint is not available then a child under 3 years of age may travel unrestrained in the rear of a Private Hire or Hackney Carriage vehicle.
- (b) If the correct child restraint is not available then a child aged 3 to 11 and less than 1.35 metres (approx 4ft 5ins) may use an adult belt when travelling in a Private Hire or Hackney Carriage vehicle if the correct child restraint is not available

21. CERTIFICATE OF INSURANCE

The Driver will be responsible for ensuring that any vehicle in his charge is insured for use as a Private Hire Vehicle and that he is personally insured to drive the vehicle.

Note

The conditions relating to insurance of motor vehicles are contained in part 6 of the Road Traffic Act 1988.

22. OBSTRUCTION OF AN AUTHORISED OFFICER

Any person who:-

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

shall be guilty of an offence.

23. PENALTY POINTS

The Private Hire Driver's Licence is subject to the penalty points system and the licence holder is required to read and comply with the provisions of the system at all times – see page 17 for further details

24. PENALTIES

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

25. APPEAL

- (a) There is a right of appeal against a decision of a Licensing Officer to the Council's Appeals Panel.
- (b) Where a licence has been revoked or suspended, or where a new application has been refused, an appeal against the Council's decision can be made to the East Berkshire Magistrates Court within 21 days.

26. REVOCAATION

Licensing Officers are authorised to automatically revoke the licence of a driver who has been disqualified from driving. A minimum period of 12 months must elapse from the end of disqualification before an application can be accepted.

PLEASE NOTE:

Section 77 of the Local Government (Miscellaneous Provisions) Act 1976 provides the right of appeal to a Magistrates Court in respect of any requirement, refusal or any other decision of a Borough Council against which a right of appeal is conferred by the Act. A person wishing to exercise their right under this provision should make representation with 21 days of the date of the licence to the Magistrates Court.

PRIVATE HIRE VEHICLE CONDITIONS

The Council attaches the following conditions to Private Hire Vehicle Licences; In these conditions 'the Council' means The Royal Borough of Windsor and Maidenhead, 'Driver' means a person holding a Private Hire Drivers licence issued by the Council and 'Vehicle' means a Private Hire Vehicle licensed by the Council. Licensing Officer means the Council's Enforcement Principal, Team Leader Licensing, the Licensing Enforcement Officers and Assistant Licensing Enforcement Officers.

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

1. PRE-LICENSING CONDITIONS

In order that a reliable Private Hire service of an acceptable standard is provided within the Royal Borough of Windsor and Maidenhead, a person to be considered for a Private Hire Vehicle Licence on the first or subsequent occasions shall have a vehicle which is in satisfactory mechanical order and body condition and in operational order in every respect. This vehicle is to be a saloon, hatchback or estate vehicle, a minibus or a multi-passenger vehicle of eight or less passenger seats.

- (a) A minimum of 4 doors, each adjacent to and allowing direct access to and from the seats.
- (b) Rear seat accommodation for not less than 3 persons (for saloons and estates).
- (c) In addition to the Driver up to 2 passenger seats in the front of the vehicle, provided each seat is separate and has its own lap/diagonal seat belt. (For a limousine, a bench seat with an armrest to accommodate 1 person in addition to the Driver).
- (d) All private hire vehicles shall be fitted with appropriate seat belts to the front and rear seats. The number of seat belts fitted to the vehicle shall correspond with the number of passengers the vehicle is licensed to carry in forward facing seats, plus a belt for the driver.
- (e) Accommodation for not less than four passengers.
- (f) Adequate luggage accommodation.
- (g) All vehicles must be right hand drive.
- (h) The inside and outside of a private hire vehicle shall be clean and free from damage, well maintained and in every way fit for public service. The applicant shall submit the vehicle for such inspection as the Council may require. Vehicles submitted for test/inspection shall be in such a condition as to be suitable for inspection.
 - **Vehicles should be free from excessive oil leaks**
 - **All vehicles should be thoroughly clean inside and out**
 - **Vehicles not meeting these conditions will not be inspected**

2. PRIVATE HIRE VEHICLE AGE POLICY

- (a) Any new vehicle to be licensed as a Private Hire vehicle, either permanent or temporary to be no older than 5 years from the date of first registration.
- (b) That condition (a) above will apply to all new and current licence holders.
- (c) The vehicle once licensed can be licensed to a maximum of 12 years from the date of first registration.
- (d) That for any vehicle imported into the UK, the date requirements will apply from the date of manufacture.
- (e) Exceptions to 2(a), (c) and (d) can be made for some vehicles on written application to the Council. Such vehicles will include prestigious vehicles in excellent condition.

The applicant must pay the relevant fee as set from time to time by the Council's Licensing Panel. If a licence is issued refunds will not be given.

3. DOCUMENTATION

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

- (a) An insurance certificate or cover note which expressly indicates insurance cover for Private Hire or Hire and Reward.
- (b) The vehicle registration document showing the current owner's name and address.
- (c) A valid current Certificate of Compliance which must be no older than 28 days on issue of the Licence.
- (d) All vehicles over 9 years from the date of first registration require a Certificate of Compliance every 6 months.

No Certificate of Compliance is required within a period of 1 year from the date of first registration.

- (e) All vehicle licence holders must carry the original / photocopy of the original of the following documents in their vehicles at all times:
 - Driving licence (photo card)
 - Insurance
 - Certificate of Compliance

4. SAFETY EQUIPMENT

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

5. **LICENCE PLATE**

The licence holder/Driver shall ensure that;

- (a) The Private Hire licence plate shall be securely affixed to the outside rear of the vehicle at all times, regardless of whether or not the vehicle is being used for Private Hire purposes.
- (b) The Private Hire Vehicle Licence plate should not be concealed or damaged and must be kept clean so that it is clearly visible at all times.
- (c) An internal identification plate is clearly displayed within the vehicle, showing the Private Hire Vehicle Licence and registration numbers, matching the design approved by the licensing officers

Where a proprietor of a private hire vehicle has been granted dispensation under Section 75(3) of the Act, he is permitted to remove the plate from the vehicle.

Such dispensation will be granted and remain valid where:-

- (a) The applicant has provided written contracts from businesses that require their service specifying the requirement for the vehicle not to display a plate.
- (b) The driver of the vehicle wears uniform with some form of company logo, i.e. suit accompanied with a company tie.
- (c) The dispensation certificate and the plate are kept in the vehicle at all times during contract work.
- (d) The plate must be displayed at all times when the vehicle is being used in relation to Private Hire which is not subject to a regular business contract in accordance with Condition 5(c).

6. **ADVERTISEMENTS**

Drivers are not allowed to display any form of advertisement on or in the vehicle.

7. **SIGNAGE FOR PRIVATE HIRE VEHICLES**

- (a) A Company sticker must be displayed in the middle of the front windscreen displaying the name (logo and colours) of the operator.
- (b) All signs to be displayed must have been approved by the Licensing Officers.
- (c) All Drivers can only display the signs given to them by their Private Hire Operator.
- (d) The display of roof signs of any description or the display of the word "TAXI" or "CAB" whether in the singular or plural and whether alone or as part of another word is prohibited.
- (e) The words "FOR HIRE" or any form of wording which in any way suggests that the vehicle on which it is displayed is presently available to take up any passengers wishing to hire it, or would be so available if not already hired, is prohibited.

8. USAGE

- (a) Whilst a vehicle is licensed as a Private Hire Vehicle it must not be driven by any other person other than a Driver properly licensed by the Royal Borough of Windsor and Maidenhead.
- (b) If the proprietor permits or employs any other person to drive the vehicle, they must inspect the Private Hire Drivers Licence and Badge and record the details of the licence in a proper register for that purpose.

9. CARRIAGE OF ASSISTANCE DOGS

The proprietor shall ensure the Driver of the vehicle complies with the requirements to carry a Guide Hearing or Assistance Dog when requested, unless the Driver is a holder of an Exemption Certificate (see Private Hire Driver Conditions).

10. CHANGE OF ADDRESS

If the vehicle licence holder changes address then he must inform the Council of such change, in writing within 7 working days.

11. PRODUCTION OF DOCUMENTATION

On request, a Private Hire Vehicle licence holder/proprietor shall produce to an authorised officer of the Council or Police Constable the following document within five working days;

- (a) Current Certificate of Compliance
- (b) Insurance document for Private Hire/Hire and Reward covering the appropriate period.
- (c) Vehicle Registration document or any other evidence of proprietorship of the vehicle.

12. ACCIDENTS

The licence holder/proprietor must notify the Licensing Officer of any accident in which the vehicle has been involved within 72 hours of the occurrence.

13. BYELAWS AND REGULATIONS

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

14. CONVICTIONS, CAUTIONS AND FIXED PENALTIES

The Driver shall, within 7 days, disclose to the Council in writing any details of any conviction, Police caution or fixed penalty (e.g. points on driving licence) other than a parking fine imposed on him during the course of the licence.

15. SURRENDER OF LICENCE

If the Proprietor/Licence holder cease to use the vehicle for the purpose for which it was licensed he shall surrender the licence and return the plate, which remains the property of the Royal Borough of Windsor and Maidenhead. No refunds are payable on surrender of licences.

16. OBSTRUCTION OF AUTHORISED OFFICERS

Any person who:-

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

shall be guilty of an offence.

17. PENALTY POINTS

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

18. PENALTIES

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

19. APPEALS

- (a) Where a licence has been revoked or suspended, or where a new application has been refused, an appeal against the Licensing Officer's decision may be made to the Council's Appeal Panel.
- (b) An appeal can be made to a Magistrates' Court within 21 days.

20. REVOCAATION

Licensing Officers are authorised to automatically revoke the licence of a driver who has been disqualified from driving. A minimum period of 12 months must elapse from the end of the disqualification before an application can be accepted.

Penalty Points System

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

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

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

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

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

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

The Licensing Panel will allow the licence holder the opportunity to challenge the imposition of individual sets of penalty points.

Where penalty points are administered by a Licensing Officer and the licence holder wishes to dispute the matter, the licence holder may request for the matter to be referred to the Council's Appeals Panel.

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

Failing to have a Private Hire Driver or Hackney Carriage Driver badge in his possession	3 Points
Not having a fire extinguisher and/or first aid kit in the vehicle	3 Points
A vehicle issued with Dispensation and not having the plate in the vehicle or the Dispensation Certificate in the vehicle	3 Points
Failing to notify the Licensing Officer of any points or convictions being imposed by the Courts	6 Points
Failing to notify a change of address within 7 days	3 Points
Driving an unlicensed vehicle as a Private Hire Vehicle	6 Points
Allowing an unlicensed driver to drive a Private Hire Vehicle	6 Points
Failing to renew a Hackney Carriage or Private Hire Vehicle driver licence or vehicle licence within the correct time (unless extenuating circumstances apply)	3 Points
Unlawfully plying for hire in Private Hire Vehicle	Referral to Licensing Panel to consider revocation of Licence
Failing to display an identity plate on the vehicle	3 Points
Failing to notify the Licensing Officer of being involved in an accident	3 Points
Private Hire Operators failing to notify the Licensing Officer of any complaints received	3 Points
Private Hire Operators failing to maintain their records in the correct format	3 Points
Failing to attend the Town Hall when directed by the Licensing Officer	Referral to Licensing Panel to consider revocation of Licence
Allowing more passengers to be carried in the vehicle than authorised by the Private Hire Vehicle licence	6 Points
Causing or permitting a Hackney Carriage to wait on double yellow lines, other than to allow passengers to board or alight	3 Points
Causing or permitting a Private Hire Vehicle or Hackney Carriage to wait on a single yellow line, in contravention of the notices displayed, other than to allow passengers to board or alight	3 Points
Causing or permitting a Private Hire Vehicle or Hackney Carriage to wait on a single yellow line, in contravention of the notices displayed, other than to allow passengers to board or alight	3 Points

THE ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

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

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

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

A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but must show 5 years free from conviction, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances.

The disclosure of a criminal record or other information will not debar an applicant from gaining a licence unless the Authority considers that the conviction renders the applicant unsuitable. In making a decision, the Licensing Authority will consider the nature of the offence(s), when the offence(s) took place and the age of the applicant when the offence(s) was committed and any other factors which may be relevant. The Licensing Authority may wish to refer to any guidelines to which it adheres and applicants may have applications refused by Officers under delegated powers in accordance with those guidelines. There is a right of appeal from an officer decision to an Appeals Panel in every case.

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

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

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

Each case will be decided on its own merits.

Listed below are the guidelines that the Licensing Authority will refer to:-

MINOR TRAFFIC OFFENCES

Convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding etc. should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of a person's driving licence then a Hackney Carriage or private hire licence may be granted after its restoration but a warning should be issued as to future conduct.

MAJOR TRAFFIC OFFENCES

An isolated conviction for reckless driving or driving without due care and attention should normally merit a warning as to future driving and advice of the standard expected on Hackney Carriage and private hire drivers. More than one conviction of this type of offence within the previous five years should merit refusal and no further application should be considered until the period of five years free from conviction has elapsed.

DRUNKENNESS

With a motor vehicle, a serious view should be taken of convictions of driving or being in charge of vehicle whilst under the influence of alcohol. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least five years should elapse (after restoration of the driving licence) before an applicant is considered for a licence. If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic, a period of five years should elapse after treatment is complete before a further licence application is considered.

NOT IN A MOTOR VEHICLE

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness should indicate a medical problem necessitating a medical examination (see above). In some cases a warning should be sufficient.

DRUGS

An applicant with a conviction for a drug related offence should be required to show a period of at least five years free from conviction before an application is entertained, or five years after detoxification treatment if her/she was an addict.

INDECENCY OFFENCES

As Hackney Carriage and private hire drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences should be refused until they can show a substantial period (at least 5 years) free of such offences. More than one conviction of this kind should preclude consideration for at least five years. In either case, if a licence is granted a strong warning as to future conduct should be issued.

VIOLENCE

As Hackney Carriage and private hire drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least five years free from such convictions should be shown before an application is entertained and even then a strict warning should be administered.

DISHONESTY

Hackney Carriage and private hire drivers are expected to be persons of trust. The wide-scale practice of delivering unaccompanied property is indicative of the trust that people place in drivers. Moreover it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the changes in currency and become 'fair game' for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 5 years free of conviction should be required before entertaining an application.

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

Convictions under these Acts are taken very seriously, as the legislation is in place to protect members of the public. In particular, an application will not normally be entertained where the applicant has been convicted of an offence under the Acts at any time during the 12 calendar months prior to the application or has more than one conviction during the last two years prior to the application.

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

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

DISCLOSURE GUIDANCE / REQUIREMENTS

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

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

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

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

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

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

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

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