

AGENDA

LICENSING COMMITTEE

THURSDAY, 3 DECEMBER 2020

10.00 AM

**A VIRTUAL MEETING VIA ZOOM VIDEO
CONFERRING SYSTEM**

Committee Officer: Linda Albon
Tel: 01354 622229
e-mail: memberservices@fenland.gov.uk

Due to the COVID-19 outbreak and the restrictions by the Government on gatherings of people, this meeting will be conducted remotely using the Zoom video conferencing system. There will be no access to this meeting at the Council offices but you can view the meeting on YouTube, apart from any items marked confidential.

This meeting can be viewed via You Tube: <https://youtu.be/Eeq3Uy1A5fk>

- 1 To receive apologies for absence.
- 2 Previous Minutes. (Pages 3 - 4)
To confirm the minutes of the meeting held 17 September 2020.
- 3 To report additional items for consideration which the Chairman deems urgent by virtue of the special circumstances to be now specified.
- 4 Members to declare any personal and prejudicial interests under the Local Code of Conduct in respect of any item to be discussed at the meeting.
- 5 Review of Licensing Statement of Policy Document - Licensing Act 2003 following responses received during consultation. (Pages 5 - 52)

To update Members on the outcome of the public consultation for the draft policy

document and for Members to consider the results of the consultation on the draft Statement of Licensing Policy for the period 2021-2026.

6 Review of Hackney Carriage and Private Hire Licensing Policy. (Pages 53 - 156)

To seek Licensing Committee approval for formal consultation with the trade, the public and other interested parties on the Hackney Carriage and Private Hire Licensing Policy, and for Members to approve consultation on the draft Hackney Carriage and Private Hire Licensing Policy for the period of 2021-2026.

7 Items which the Chairman has under item 3 deemed urgent.

Wednesday, 25 November 2020

Members: Councillor M Humphrey (Chairman), Councillor R Skoulding (Vice-Chairman), Councillor D Connor, Councillor Miss S Hoy, Councillor A Lynn, Councillor A Maul, Councillor Mrs K Mayor, Councillor N Meekins, Councillor W Rackley, Councillor M Tanfield, Councillor D Topgood and Councillor S Wilkes

LICENSING COMMITTEE



THURSDAY, 17 SEPTEMBER 2020 - 11.30 AM

PRESENT: Councillor M Humphrey, Councillor R Skoulding, Councillor D Connor, Councillor Miss S Hoy, Councillor A Lynn, Councillor A Maul, Councillor Mrs K Mayor, Councillor N Meekins, Councillor W Rackley, Councillor M Tanfield and Councillor D Topgood

APOLOGIES: Councillor S Wilkes

OFFICERS IN ATTENDANCE: Michelle Bishop (Licensing Manager) and Colin Miles (Legal Representative)

OBSERVING: Councillor C Marks, Andy Fox (Environmental Protection Officer) and Dan Horn (Head of Housing & Neighbourhood Services)

Councillor Humphrey welcomed members of the public and press watching the livestream of the Cabinet meeting via YouTube due to Government guidance on social distancing. The meeting was held in accordance with the provision set out in the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 and with Fenland District Council's Virtual Meeting Protocol.

LIC1/20 APPOINTMENT OF THE CHAIRMAN FOR THE MUNICIPAL YEAR

It was proposed by Councillor Lynn, seconded by Councillor Skoulding and resolved that Councillor Humphrey be elected as Chairman of the Licensing Committee for the Municipal Year.

LIC2/20 APPOINTMENT OF A VICE-CHAIRMAN FOR THE MUNICIPAL YEAR

It was proposed by Councillor Humphrey, seconded by Councillor Connor and resolved that Councillor Skoulding be elected as Vice-Chairman of the Licensing Committee for the Municipal Year.

LIC3/20 PREVIOUS MINUTES

The minutes of the meeting held 14 January 2020 were agreed.

LIC4/20 REVIEW OF STATEMENT OF LICENSING POLICY

Members considered the draft Statement of Licensing Policy 2021-26 presented by Michelle Bishop.

Councillor Humphrey thanked Michelle Bishop and said that although it was a large document, it was easy to see the changes that had been made.


Members AGREED:

- **To approve the draft Statement of Licensing Policy document under the Licensing Act 2003 for a consultation period of no less than four weeks, and**

- **That officers report back to Committee with the outcomes of the consideration to agree a final version to be referred to full Council for adoption.**

11.45 am

Chairman

Agenda Item No:	5	
Committee:	Licensing	
Date:	03 December 2020	
Report Title:	Review of Licensing Statement of Policy Document - Licensing Act 2003 following responses received during consultation.	

1 Purpose / Summary

- To update Members on the outcome of the public consultation for the draft policy document
- Members to consider the results of the consultation on the draft Statement of Licensing Policy for the period of 2021 - 2026

2 Key issues

- On 17 September 2020, the Licensing Committee approved the draft policy for consultation. A copy of the minutes can be seen at <https://www.fenland.gov.uk/localgov/ieListDocuments.aspx?CId=138&MId=2481&Ver=4>
- The consultation for the draft policy took place from 21 September 2020 until 15 November 2020
- Three consultation responses were received in respect of the draft policy, these can be seen at **APPENDIX B**
- One response was received from the community from a Councillor which was in support of the draft policy.
- Two responses from Responsible Authority Officers.... FDC Environmental Health and Public Health which were both in support of the draft policy.

3 Recommendations

- Recommendation to Full Council that the draft Statement of Licensing Policy be approved for the period of 2021 - 2026. A copy of the draft report can be seen at APPENDIX A

Wards Affected	All Wards
Forward Plan Reference	N/A

Portfolio Holder(s)	Councillor Sam Clark, Portfolio Holder with responsibilities for Licensing
Report Originator(s)	Michelle Bishop, Licensing Manager, Tel: 01354 622542, Email: mbishop@fenland.gov.uk
Contact Officer(s)	Dan Horn, Head of Housing & Community Support, Tel 01354 654321, Email: dhorn@fenland.gov.uk Carol Pilson, Corporate Director, Tel: 01354 622360, Email: cpilson@fenland.gov.uk
Background Paper(s)	Licensing Act 2003, Section 182 Guidance The Council's Licensing Policy Statement Current Licensing Policy Government Policies and Guidance

1 Background / introduction

- 1.1 The Council as the Licensing Authority has a statutory duty to review its Statement of Licensing Policy under the Licensing Act 2003 every five years.
- 1.2 The current policy was adopted at Full Council and came into effect on 12 May 2016.
- 1.3 The Licensing Act 2003 requires each Licensing Authority to prepare and publish a Statement of Licensing policy under the Licensing Act. The statement sets out how the authority intends to approach its licensing responsibilities and how it intends to promote the four licensing objectives namely:
 - the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm
- 1.4 The Licensing Policy is to be renewed every five years and the draft policy will cover the period of 2021 - 2026
- 1.5 On 17 September 2020, the Licensing Committee approved the draft policy for consultation. A copy of the minutes can be seen at <https://www.fenland.gov.uk/localgov/ieListDocuments.aspx?CId=138&MId=2481&Ver=4>

2 Considerations

- 2.1 The consultation on the draft Statement of Licensing Policy took place from 21 September 2020 until 15 November 2020.
- 2.2 All Responsible Authorities were notified by email of the draft Licensing Policy. Notification of the draft policy was also given to Town/Parish Councils, made available on our Council's website and in the Customer Service centres.
- 2.3 The draft policy was publicised in the local newspaper and promoted on social media using Facebook/Twitter.
- 2.4 Responsible Authorities, resident associations and other public consultees were invited to comment on the draft policy.
- 2.5 Three responses were received, one from a member of the community and the other two from Responsible Authority Officers.... FDC Environmental Health and Public Health, both of which are in support of the draft policy to be approved. The details of the response can be seen below.

Response 1

On the whole I am impressed by the document but have 2 concerns which I may have misread or misunderstood,

1. Page 9 item 1.4 reduce the supply and use of illegal drugs in licensed premises

Surely that should read Stop the supply and use of illegal drugs in licensed premises, it implies that some drugs will be allowed and that can't be right, the license holder & staff have a duty to make sure the premises are not used for that. If the Landlord or

Licensee do nothing that is wrong, they should be actively engaged in stopping it being used in their premises.

2. Page 32 item 6.7 Review of Licenses use of licensed premises for the sale and distribution of Class A drugs and or laundering of the proceeds of drug crimes.

Shouldn't that be use of licensed premises for the sale and distribution of all illegal drugs, ie not just Class A, class B & C shouldn't be allowed either.

Response 2

I have no representations

Response 3

I have read the consultation and I am supportive of the Policy

2.6 In response to the feedback the wording for these two points have been amended and reflect the changes to the draft policy.

3 Community impact

3.1 Community Impact Assessment was undertaken in relation to the draft policy for the Statement of Licensing Policy. The impact assessment can be seen at **APPENDIX B**.

4 Conclusions

4.1 The recommendation to the Licensing Committee is to:

- Recommend to Full Council that it adopts the revised Statement of Licensing Policy as attached at **APPENDIX A** of the report.

Policy title: Statement of Licensing Policy

Effective from 2021 - 2026



Statement of Licensing Policy.....	1
Summary of Changes.....	5
Preface.....	76
1 INTRODUCTION.....	87
1.1 Foreword.....	87
1.2 Licensing Committee.....	87
1.3 Licensing Function.....	98
1.4 Key Aims.....	98
2 LICENSING OBJECTIVES.....	109
2.1 Prevention of Crime and Disorder.....	119
2.2 Public Safety.....	1244
2.3 Prevention of Public Nuisance.....	1342
2.4 Protection of Children From Harm.....	1443
3 STATEMENT OF LICENSING POLICY.....	1746
3.1 Regulated Entertainment.....	1746
3.2 Other Legislation.....	1846
3.3 Policy Consultation.....	1847
3.4 Disclaimer.....	1947
3.5 Stake Holders.....	1948
3.6 Need for Licensed Premises.....	1948
4 LINKS TO STRATEGIES AND PLANS.....	1948
5 LICENSING PROCESS.....	2049
5.1 Applications - Overview.....	2049
5.2 Delegation of Function.....	2120
5.3 Licensing Committee Hearings.....	2220
5.4 Applications for Premises Licence/Club Certificate.....	2224
5.5 Applications to Vary a Premises Licence/Club Premises Certificate.....	2322
5.6 Licence Conditions.....	2422
5.7 Shadow Licence.....	2523
5.8 Licencing Hours.....	2524
5.9 Permitted temporary activities (TEN's).....	2625
5.10 Large scale events.....	2625
5.11 Applications for Personal Licenses.....	2726
5.12 Responsible Authorities and Other Persons.....	2927
5.13 Representations.....	3028
6 COMPLIANCE.....	3029
6.1 Cultural Activites.....	3129
6.2 Duplication.....	3129

6.3	Enforcement	.3129
6.4	Inspection of licensed Premises	.3230
6.5	Complaints regarding licensed premises	.3230
6.6	Annual Fees for premises Licence and Club Premises Certificates	.3234
6.7	Review Of Licenses	.3334
6.8	Crime and Policing Act 2014	.3432
6.9	Immigration Act 2016	.3533
6.10	Regulated Entertainment	.3634
6.11	Planning and Building Control	.3634
7	SPECIAL POLICIES	.3735
7.1	Cumulative Impact of a Concentration of Licensed Premises	.3735
7.2	Early Morning Restriction Orders (EMRO)	.3735
7.3	Late Night Levy	.3836
7.4	Public Spaces Protection Orders (PSPO)	.3836
8	FURTHER ADVICE AND GUIDANCE	.3836
8.1	Other Relevant Legislation	.3937
Appendix title: A- RESPONSIBLE AUTHORITIES		.4240

Summary of Changes

<u>Section</u>	<u>Title</u>	<u>Comments/Updates</u>
<u>1.1, 1.3 & 1.4</u>	<u>Introduction</u>	<u>New Sections added to explain the policy</u>
<u>4</u>	<u>Links to Strategies and Plans</u>	<u>New section added for into of GDPR under the DPA 2018</u>
<u>5.3</u>	<u>Licensing Committee</u>	<u>New Section added to further explain the process</u>
<u>5.6</u>	<u>Licence Conditions</u>	<u>Addition of wording to clarify</u>
<u>5.7</u>	<u>Shadow Licence</u>	<u>New section added to update applicants</u>
<u>5.8</u>	<u>Licensing Hours</u>	<u>New section added to update applicants</u>
<u>5.10</u>	<u>Large scale events</u>	<u>New section added to update applicants</u>
<u>5.11</u>	<u>Personal Licence</u>	<u>Updated to include Home Office as a Relevant Authority</u>
<u>6.4</u>	<u>Inspection of Licensed Premises</u>	<u>New section to reflect the Responsible Authority Officer group (RAO) and inspection programme.</u>
<u>6.5</u>	<u>Complaints regarding Licensed Premises</u>	<u>New section to explain the process</u>
<u>6.6</u>	<u>Annual Fees</u>	<u>New Section added to remind applicants of the yearly fee required</u>
<u>6.7</u>	<u>Review of licenses</u>	<u>New section to explain the process</u>
<u>6.8</u>	<u>Crime & Police Act 2014</u>	<u>New Section updated to include the legislation</u>
<u>6.8</u>	<u>Immigration Act 2016</u>	<u>New Section added to include the legislation</u>
<u>7.1</u>	<u>CummulativeCumulative Impact Policy</u>	<u>Amended wording to reflect the change in the Licensing Act 2003</u>
<u>7.4</u>	<u>Special Policy - PSPO's</u>	<u>Section added to reflect the Public Spaces Protection order's (PSPO's)</u>
<u>8</u>	<u>Further Guidance</u>	<u>Updated section - Added the website and Email address</u> <u>Reflection of the paid Pre-Application service that is available.</u>

Published: - TBC

Effective: - 01 January 2021

DRAFT

Preface

This Statement of Licensing Policy has been prepared by Fenland District Council acting as the licensing authority under [section 5 of the Licensing Act 2003](#). It represents the authority's policy with respect to the exercise of its licensing functions for the licensing of the sale and supply of alcohol, certain forms of entertainment and the provision of late night refreshment

[This statement of licensing policy will be kept under review throughout its period of validity and amended as considered necessary. Any amendments will be subject to consultation, with the exception of changes that may be required in line with legislation requirements.](#)

The statement ~~comes into~~ takes effect from [01 January 2021 and will be scheduled for review in 2026-12-May-2046](#).

The Act has introduced greater flexibility for the entertainment industry, which can have a positive impact upon local communities in Fenland. This is balanced by tougher controls for the police and the licensing authority and an opportunity for other businesses and residents to raise concerns in the event of those greater freedoms having an adverse effect on our communities.

~~The licensing authority consulted widely in the preparation of the Statement and took into account the views submitted in its adoption.~~

Fenland District Council covers an area of 54,645 hectares and is situated in the north-east of Cambridgeshire between the larger and contrasting centres of Cambridge, Peterborough, King's Lynn and Huntingdon. The area is predominantly rural in character with four market towns at Chatteris, March, Whittlesey and Wisbech plus a number of villages and hamlets. It has a population of approximately 95,262.

Fenland district offers a wide and developing variety of culture, history, businesses, recreation and dwellings with transport infrastructure provided by the mainline railway to London, Peterborough, Cambridge and Stansted Airport, and local bus services.

1 INTRODUCTION

1.1 Foreword

The licensing regime implemented by the Act and operated by Fenland District Council as licensing authority is about the appropriate control of licensed premises, qualifying clubs and temporary events. It also covers the people who manage these premises or hold personal licences within the terms of the Act. Applications covered by the Act and relevant to this statement include:

- personal licences
- premises licences – including provisional statements
- variations
- transfers
- interim authorities
- temporary events
- club premises certificates
- designated premises supervisors

~~Fenland District Council is the “Licensing Authority” under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, personal licences and authorising temporary event notices in the district in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.~~

Each application will be determined on its own merits having regard to the licensing objectives; relevant guidance including that issued under Section 182 of the Licensing Act 2003, and local criteria.

However, it should be recognised that this policy covers a wide variety of premises and activities undertaken therein, including theatres, cinemas, restaurants, pubs, nightclubs, private members’ clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 23:00 hours. For this reason, it is not practical to detail all the possible factors that could influence the achievement of the licensing objectives in any given scenario.

4.1.2 Licensing Committee

The Licensing Act gained Royal Assent on 10 July 2003 and replaced regimes previously administered by either the Licensing Justices or the local authority with a unified system of licensing under the control of the local authority. The new regime came into effect on 24 November 2005. The council set up a Licensing Committee as part of these changes

The Licensing Authority is required to discharge its licensing function through a committee of between 10 and 15 ~~42~~ members known as the Licensing Committee. The

Council has appointed a Licensing Committee compatible with this requirement and a Licensing Sub-Committee has been established to determine applications. The quorum of the Sub-Committee is three of members, which operates on the basis of convening panels of 3 members drawn from the 12 members.

No licensing functions may be discharged by the Council's executive. The vast majority of licensing functions cannot be undertaken by the Council itself, but are the responsibility of a special Licensing Committee which has been established by the Council. The responsibilities and powers are detailed in the Act. Fenland's statutory Licensing Committee comprises twelve councillors appointed by the whole Licensing Authority, that is, the Full Council.

1.3 Licensing Function

The licensing authority recognises that the provision of entertainment is a major contributor to the economy of the council's area. It makes for a vibrant and attractive area, which subsequently has a positive effect on employment. The licensing authority also recognises that owners and occupiers of commercial premises have a legitimate expectation of an environment that makes and keeps their businesses sustainable.

The licensing authority welcomes the opportunity to encourage the development of the cultural, artistic, leisure and hospitality sectors in Fenland. It will assist all applicants in endeavouring to meet their aspirations within the law.

The licensing authority also has regard to wider considerations affecting the residential population and the amenity of any area. These include dropping litter and street fouling, noise and street crime. It is, however, recognised that the licence holder has limited control over individuals once they are away from the premises.

The licensing authority recognises that the diverse range of licensed premises throughout Fenland makes a major contribution to attracting both initial and repeat visitors to both the historic localities, and diverse venues.

1.4 Key Aims

The key aims of this statement of licensing policy are for the council as the licensing authority to:

- Promote and give precedence to the licensing objectives.
- Recognise the need to assist in building a fair, vibrant, and prosperous society in Fenland that properly balances the rights of residential communities, the business sector and other relevant parties.
- Secure the safety and amenity of residential communities whilst facilitating a sustainable, diverse, entertainment and hospitality sector in Fenland.
- Integrate its aims and objectives with other initiatives that will:
- create an attractive and vibrant area, which has a positive effect on employment

- reduce local crime, disorder and anti-social behaviour
- reduce alcohol harm
- stop the supply and use of illegal drugs in licensed premises
- encourage the self-sufficiency of local communities
- reduce the burden of unnecessary regulation on businesses and promote self-help
- reduce the health impacts of alcohol misuse and dependence: reduce the impact of alcohol related incidences on Emergency Services
- continue its commitment to working in partnership with other agencies and organisations through both formal and informal arrangements towards the promotion and achievement of the objectives set out in this policy
- give direction to applicants, so that they can make informed decisions in respect of their own ventures.

When assessing applications, the Licensing Authority must be satisfied that the measures proposed in the applicant's operating schedule aim to achieve the four licensing objectives

However, it should be recognised that this policy covers a wide variety of premises and activities undertaken therein, including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 23:00 hours. For this reason, it is not practical to detail all the possible factors that could influence the achievement of the licensing objectives in any given scenario.

2 LICENSING OBJECTIVES

The 2003 Act requires the Licensing Authority to undertake its various licensing functions in a manner that promotes the four licensing objectives.

These are

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

These objectives are the only matters to be taken into account in determining the application and any conditions to be attached must be necessary to achieve the licensing objectives.

In respect of each of the four licensing objectives, applicants will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract, larger audiences.

The section below sets out the Local Authority policy in relation to each objective:

10

2.1 Prevention of Crime and Disorder

The District Council acknowledges that the Police are the main source of advice on Crime and Disorder

Fenland District Council is committed to improving further the quality of life for the people of the district by continuing to reduce crime and the fear of crime.

Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty upon Fenland District Council, Cambridgeshire Police, Cambridgeshire County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.

The promotion of the licensing objective to prevent crime and disorder places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.

When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact upon crime and disorder have been considered. These could include

- under-age drinking
- drunkenness on premises
- public drunkenness
- drugs
- violent behaviour
- anti-social behaviour.

Within the operating schedule for premises from which alcohol will be sold, the premises licence holder must specify a personal licence holder as the 'Designated Premises Supervisor' (DPS). The Licensing Authority will normally expect the premises licence holder to give the DPS the day-to-day responsibility for running the premises.

Although there is no legal obligation for the DPS to be on the premises at all times, the Licensing Authority acknowledges that the premises licence holder and the DPS, in particular with regard to the sale of alcohol, remain responsible at all times, including in their absence from the premises, for compliance with the terms of the Licensing Act 2003 and conditions attached to the premises licence to promote the licensing objectives.

In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

Whilst the Licensing Act 2003 requires each sale of alcohol to be made or authorised by a personal licence holder, there is no requirement for every sale to be made by a personal licence holder or for them to be personally present at every transaction. In determining whether real authorisation is given, the Guidance issued by the Secretary of State encourages the practice of an overt act of authorisation, such as a specific written statement being given by personal licence holders to persons not holding a personal licence to make sales of alcohol in their absence.

Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending upon the nature and location of such events, these can have serious crime and disorder implications.

Organisers of these events are encouraged to submit their notification as soon as reasonably practicable, giving at least ten working days minimum statutory notice, to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder. The Licensing Authority acknowledges that 'ten working days' notice' means ten working days exclusive of the day on which the event is to start and exclusive of the day on which the notice is given.

2.2 Public Safety

Fenland District Council is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.

Licence holders have a responsibility to ensure the safety of those using their premises as part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning.

When addressing the issue of public safety, an applicant must demonstrate that those factors that impact upon the standards of public safety have been considered.

The following non exhaustive examples of good management practice are given to assist applicants who may wish to take account of them when preparing their operating schedule, having regard to their particular type of premises and/or activities:

- suitable and sufficient risk assessments
- effective and responsible management of premises

- provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- adoption of best practice guidance (e.g. licensing trade voluntary codes of practice, including those relating to drinks promotions)
- provision of effective CCTV in and around premises
- The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. The District Council expects applicants to consider these when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they will achieve that.

2.3 Prevention of Public Nuisance

Licensed premises have a significant potential to impact adversely upon communities through public nuisances that arise from their operation. Fenland District Council wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.

The Licensing Authority intends to interpret “public nuisance” in its widest sense and takes it to include such issues as noise, light, odour, litter and anti- social behaviour, where these matters impact upon those living, working or otherwise engaged in normal activity in an area.

In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours unless there are exceptional reasons relating to disturbance or disorder.

Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
- the hours of opening, particularly between 23.00 and 07.00
- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- the design and layout of premises and, in particular, the presence of noise-limiting features

- the availability of public transport
- 'wind down period' between the end of the licensable activities and closure of the premises
- last admission time.

The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- effective and responsible management of premises
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly
- control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries
- adoption of best practice guidance (e.g. licensing trade voluntary codes of practice, including those relating to drinks promotions)
- installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- management of people, including staff, and traffic (and resulting queues) arriving and leaving premises
- liaison with public transport providers
- siting of external lighting, including security lighting
- management arrangements for collection and disposal of litter
- effective ventilation systems to prevent nuisance from odour.

2.4 Protection of Children From Harm

It is an offence under the 2003 Act to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice.

In addition it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate, or temporary event notice. Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity.

Between 5am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and even many pubs where the main business activity is the consumption of both food and drink. This does not mean that children should automatically be admitted to such premises.

It is not intended that the definition 'exclusively or primarily' in relation to the consumption of alcohol should be applied in a particular way by reference to turnover, floor space or any similar measure. The expression should be given its ordinary and natural meaning in the context of the particular circumstances. It will normally be quite clear that the business being operated at the premises is predominantly the sale and consumption of alcohol. Mixed businesses may be harder to pigeonhole and we would advise operators to consult with enforcement agencies where necessary about their respective interpretations of the activities taking place on the premises before any moves are taken which may lead to prosecution

The protection of children from harm is a most important issue. It is hoped that family-friendly premises will thrive but the risk of harm to children remains a paramount consideration when determining applications.

The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family-friendly leisure. Clearly, this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.

The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programs or videos. This includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances, children are more vulnerable and their needs will require special consideration.

Conditions requiring the admission of children to any premises cannot be justified and will not be attached to licenses or certificates.

The Licensing Authority considers that, on the one hand, there should be no presumption of giving children access or, on the other hand, no presumption of preventing their access to licensed premises. The Licensing Authority has no intention of imposing conditions requiring the admission of children and where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.

Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.

Whilst children may be protected adequately from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact upon harm to children have been considered. Areas that will give particular concern in respect of children include:

- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with evidence of under-age drinking
- with a known association with drug taking or dealing

- where there is a strong element of gambling on the premises, and
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

Venue operators seeking premises licences and club premises certificates may also volunteer such prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations are made, these volunteered prohibitions and restrictions will become conditions attaching to the licence or certificate and will be enforceable as such. No other conditions concerning the presence of children on premises will be imposed by the District Council in these circumstances.

The District Council recognises the Cambridgeshire Safeguarding and Standards Unit as the lead responsible authority in relation to the protection of children from harm.

The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- effective and responsible management of premises
- provision of a sufficient number of people employed or engaged to secure the protection of children from harm
- appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
- adoption of best practice guidance (e.g. licensing trade voluntary codes of practice, including those relating to drinks promotions)
- limitations on the hours when children may be present, in all or parts of the premises
- limitations or exclusions by age when certain activities are taking place
- imposition of requirements for children to be accompanied by an adult
- acceptance of PASS accredited 'proof of age' cards and/or 'new type' UK driving licences with photographic ID
- measures to ensure that children do not purchase, acquire or consume alcohol
- measures to ensure that children are not exposed to incidences of violence or disorder.

These examples can be adopted in any combination.

In the case of film exhibitions, the Licensing Authority will expect licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or Fenland District Council. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to conduct an assessment of the

suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary

3 STATEMENT OF LICENSING POLICY

The 2003 Act further requires that the Licensing Authority publishes a 'Statement of Licensing Policy' which sets out the policies that the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

The Licensing Authority for Fenland ('the Council') makes this Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003 ('The Act').

The policy sets out how Fenland will exercise its licensing functions. Licensing functions are the duties and powers of the Council in its capacity as 'the Licensing Authority'. ~~No licensing functions may be discharged by the Council's executive. The vast majority of licensing functions cannot be undertaken by the Council itself, but are the responsibility of a special Licensing Committee which has been established by the Council. The responsibilities and powers are detailed in the Act. Fenland's statutory Licensing Committee comprises twelve councillors appointed by the whole Licensing Authority, that is, the Full Council.~~

The licensing authority under the Licensing Act 2003 and is responsible for the licensing of licensable activities as defined under the Act.

These are:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- The provision of regulated entertainment;
- The provision of late night refreshment (i.e. the supply of hot food or hot drink between 11pm & 5am).

3.1 Regulated Entertainment

This is where the entertainment takes place in the presence of an audience and is provided for the purpose of entertaining that audience. The descriptions of entertainment are:

- A performance of a play,
- An exhibition of a film,
- An indoor sporting event,
- A boxing or wrestling entertainment,
- A performance of live music,
- Any playing of recorded music,
- A performance of dance,

Entertainment of a similar description to a performance of live music, recorded music or performance of dance.

~~2.5 This policy shall apply to all applications and notices given under the Act in respect of the following:~~

- ~~• Premises licences;~~
- ~~• Club Premises Certificates;~~
- ~~• Personal Licences;~~
- ~~• Temporary Event Notices~~

3.2 Other Legislation

This policy statement will not seek to regulate matters which are provided for in other legislation e.g. planning, health & safety, fire safety etc.

The Secretary of State has provided guidance on the relationship between planning and licensing stating that they are separate regimes. Where the Licensing Authority receives relevant representations that a licensing proposal is contrary to a planning consent and that to grant a licence for such activity would be likely to affect the licensing objectives then a refusal, or the attaching of conditions to prevent such a use until the position has been regularised may be appropriate. It would be expected that a responsible and prudent applicant would ensure that an appropriate planning consent was in place before submitting a licence application.

3.3 Policy Consultation

This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the Home Office Guidance issued under Section 182 of the Act.

The 2003 Act further requires the Licensing Authority to monitor, review, and, where appropriate, amend its Statement of Licensing Policy

Before determining its policy for any five year period, the Licensing Authority will consult the community and in particular:

- a) The chief officer of police for the area (Cambridgeshire Constabulary);
- b) The fire authority for the area (Cambridgeshire Fire and Rescue Service);
- c) Persons/bodies representative of local holders of premises licences;
- d) Persons/bodies representative of local holders of club premises;
- e) Persons/bodies representative of local holders of personal licences; and
- f) Persons/bodies representative of businesses and residents in its area.

The views of all these persons/bodies listed will be given appropriate weight when the policy is determined. It is recognised that it may be difficult to identify persons or bodies' representative for all parts of industry affected by the provisions of the 2003 Act, but the Licensing Authority will make reasonable efforts to identify persons or bodies concerned.

The consultation process was conducted by way of an email to those identified and also via publication on the council's website. Responses received were listed on a matrix document and each point made was given due consideration

In determining its policy, the Licensing Authority will have regard to the guidance issued under Section 182 of the Licensing Act 2003 ~~and give appropriate weight to the views of those it has consulted.~~

This Statement of Licensing Policy was reviewed in 20~~20~~16, circulated for consultation between ~~10 Februaryxx~~ 20~~20~~16 and ~~9 Marchxx~~ 20~~20~~16 prior to being ratified by Council on ~~12 Mayxx~~ 20~~20~~16

2.63.4 Disclaimer

Advice and guidance contained in the Statement of Licensing Policy is intended only to assist readers and should not be regarded as legal advice. Readers are strongly advised to seek their own individual legal advice if they are unsure of the requirements of the Licensing Act 2003 or of the Guidance or Regulations issued under the Act.

2.73.5 Consultation Stake Holders

There are a number of groups which have a stake in the leisure industry, including providers, customers, residents and enforcers, all of which have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.

In developing this policy statement, the Licensing Authority consulted widely. Along with the statutory consultees (the Responsible Authorities), the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

2.83.6 Need for Licensed Premises

There can be confusion about the difference between "need" and the "cumulative impact" of premises on the licensing objectives. "Need" concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a Licensing Authority in discharging its licensing functions or for its Statement of Licensing Policy.

4 LINKS TO STRATEGIES AND PLANS

3 Links to other Strategies

In preparing this Statement of Licensing Policy, the Licensing Authority has had regard to and consulted with those involved in Fenland District Council's local strategies on crime prevention, planning, transport, culture, tourism, community, eGovernment and economic development, to ensure the proper co-ordination and integration of the aims and actions of these policies. Review and amendment of these strategies will be considered for their impact upon this Statement of Licensing Policy.

This Statement of Licensing Policy will have key links to Cambridgeshire's Health & Wellbeing Board, [the Clinical Commissioning Groups emerging Primary Care Network](#)

19

Formatted: Normal Text

and [Fenland District Council's Health and Wellbeing Strategy](#), ~~local work undertaken by the Fenland Health and Wellbeing Partnership~~. Public Health has been working closely with representations from Fenland District Council and Fenland Community Safety Partnership to work collaboratively to address alcohol misuse and we welcome an inclusion of the role of this partnership and associated strategies in this section.

The Licensing Authority recognise that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

~~The Licensing Authority also recognises its responsibilities under the Data Protection Act 2018, and the General Data Protection Regulation (GDPR) when it comes to handling and storing personal data, and has created a data retention and sharing policy which is available via the Council's website~~

5 LICENSING PROCESS

3.4.5.1 Applications - Overview

When considering applications, the Licensing Authority will have regard to

- the Licensing Act 2003 and the licensing objectives
- Home Office Guidance issued under Section 182 of the Licensing Act 2003
- any supporting regulations
- this Statement of Licensing Policy.

This does not, however, undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.

~~The Licensing Authority recognises that, in some circumstances, longer licensing hours for the sale of alcohol may help to avoid concentrations of customers leaving premises simultaneously and to reduce the potential for disorder. It also recognises that overly restrictive hours may inhibit the development of night time economies that are important for investment, employment and tourism.~~

~~When determining applications by the Licensing Committee, the Licensing Authority will seek to balance those factors against its duty to promote the four licensing objectives and the rights of residents to peace and quiet.~~

When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation.

When one part of Fenland District Council seeks a premises license from the Licensing Authority, the Licensing Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly and impartially by the committee. Those making representations genuinely aggrieved by a positive decision in favour of a local authority application by the Licensing Authority are entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision made.

It should be noted that incomplete applications will not be accepted and processed, but will be returned with an explanation of why it is incomplete.

The licensing authority welcomes applications made via Fenland District Council's electronic application facility.

3.25.2 Administration Delegation of Function

The District Council appreciates the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process. The District Council delegates decisions and functions and has appointed officers and established sub-committees to deal with them.

Where under the provisions of the Act, there are no relevant representations on an application for the grant of a premises licence or club premises certificate or police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters will be dealt with by officers to speed matters through the system.

With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. The Council has an approved scheme of delegation of functions under the Licensing Act 2003

The Act itself requires that applications be granted unless a representation or objection is raised. Where a function is delegated to an officer they will be responsible for liaising with the applicant, interested parties and the responsible authorities to ensure that any licence granted is subject to proportionate and necessary conditions. Where objections/representations are made, the officer will liaise with the applicant, those making the representation and the responsible authorities to see if a settlement is possible to overcome the representations without the need for the matter to go before the licensing subcommittee. Only where issues are raised which cannot be agreed will the application be referred through to the licensing sub-committee for determination.

3-35.3 Licensing Committee Hearings

Whilst contested licensing applications are quasi-judicial in nature, the licensing sub-committee will try to keep the proceedings as informal as possible. However, some degree of formality is needed to ensure that all parties receive a fair hearing. The procedures are designed to ensure that all parties are able to express their views openly and fairly. The procedure is inquisitorial rather than adversarial and, whilst applicants, individuals and businesses who may be affected, and responsible authorities are entitled to bring legal representation with them if they wish, this is not a requirement.

Whilst the licensing sub-committee usually meets in public, it does have power to hear certain applications in private and to receive legal advice similarly. A decision is made publicly when the matter has been determined.

The licensing sub-committee will determine each case on its individual merits whilst taking into consideration the terms of this policy document. Where the licensing sub-committee determines that it is appropriate to attach conditions to a licence or certificate it will ensure that those conditions are focused on the direct impact of the activities taking place at the premises concerned. Such conditions will be proportionate to the activity to be controlled and will only be imposed in the interests of the licensing objectives.

The licensing authority will expect the applicant to have had due regard to the contents of this policy and the attached appendices that provide guidance only.

A decision of the licensing authority can be the subject of an appeal at the magistrates' court. As a consequence the licensing authority will record full reasons for any decision(s) made. The refusal of an application does not prevent a further application being made, but the licensing authority would expect the applicant to carefully consider the issues of concern before doing so.

Regulation 24 of the Licensing Act 2003 (Hearings) Regulations requires the District Council to give all parties at licensing hearings an equal maximum period of time to present their case.

~~For the purpose of this regulation it is the District Council's policy that a maximum of 15 minutes will be allowed.~~

Copies of applications and letters of representation will be included within the report and distributed prior to hearings before a Licensing Sub Committee. Applicants, Responsible Authorities, and Other Persons wishing to present additional evidence in support of their application/representations should do so at least 3 working days before the hearing starts. Failure to do so may result in the Licensing Sub-Committee dis regarding this additional evidence.

~~In all cases, applicants and those making representation in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority~~

5.4 Applications for Premises Licence/Club Certificate

Where no premises licence or club premises certificate exists in respect of a premises, an application for a new premises licence or club premises certificate must be made to enable the carrying out of licensable activities.

3.4 — Premises Licence/Club Premises Certificate Applications

Applications for the grant or variation of a premises licence or club premises certificate should be accompanied by ~~a two~~ sets of plans, ~~one of~~ which will be endorsed and issued with the premises licence/club premises certificate.

Applications for the grant or variation of a premises licence or club premises certificate should be accompanied by a '~~certificate of display~~copy of the public notice'. This acknowledges the applicants understanding for the requirement of displaying notices and should avoid any undue delay in the application process.

Applications for the grant or variation of a premises licence or club premises certificate should be accompanied by a '~~certificate of service~~copy of the public notice'. This acknowledges the applicants understanding for giving a copy of the application to the responsible authorities and should avoid any undue delay in the application process.

Where applications have to be advertised, licensing officers will routinely check that public notices are displayed at the premises and in a local newspaper as part of the application validation process.

The District Council is required under the Act to suspend premises licenses and club premises certificates where the annual fee has not been paid. The District Council will invoice each licence/certificate holder when the annual ~~fee~~ is due. Where the fee has not been paid or there has been no claim of administrative error, the District Council will serve a notice to suspend the licence until such time as the fee has been paid.

5.5 Applications to Vary a Premises Licence/Club Premises Certificate

An application to vary an existing premises licence or club premises certificate should be made where the proposed variation is in respect of changes to the types of licensable activities that are to be undertaken and/or the hours that those activities are to take place, or where structural changes are to be made to the premises.

Where the proposed variation to a premises licence or club premises certificate is in respect of structural alterations, the application must always be accompanied by a plan of the proposed alterations in addition to the existing premises licence or club premises certificate and the plan to which it relates.

If the actual date when the alterations have been completed differs from that requested, applicants must inform the licensing authority so that the premises licence or club premises certificate can be issued correctly. Failure to do so may result in an offence being committed under Section 136 of the Licensing Act 2003 of carrying on a licensable activity otherwise than under and in accordance with an authorisation.

3.55.6 Licence Conditions

The District Council will not impose conditions unless it has received a representation from a responsible authority, such as the police or an environmental health officer, or Other Persons, such as a local resident or local business, which is a relevant representation, or is offered in the applicant's Operating Schedule. Any conditions will be proportional and appropriate to achieve the Licensing Objectives.

Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act.

The Licensing Authority may not impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions as are necessary to promote the licensing objectives arising out of consideration of the representations.

The Licensing Authority actively promotes the benefits of partnership working between the Council and local businesses to enhance business operations and thereby achieve the community benefits of minimisation of waste, enhancement of the street scene, promotion of community safety, reduction of the fear of crime and the encouragement of tourism and inward investment.

To maximise the efficiency of administering licences and reduce the necessity for hearings, the Licensing Authority will actively encourage applicants and clubs to consult with Responsible Authorities and seek professional guidance from Council services, when operating schedules are being prepared to allow for proper liaison to take place in such areas as noise reduction, CCTV, refuse and litter, etc., to avoid representations being necessary. The Licensing Authority accepts that while some applicants may find it useful to contact the Responsible Authorities and Council services for advice and professional assistance, others will not need to do so, and that applications cannot be refused on the basis that such consultation has not taken place.

Where relevant representations are made, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to various authorisations and others in possession of relevant authorisations, to secure achievement of the licensing objectives.

Any conditions arising from the operating schedule or as a result of representations will focus primarily upon the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters that are within the control of individual licensees.

The Licensing Authority acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms

may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned.

If an applicant volunteers a prohibition or restriction in his/her operating schedule because his/her own risk assessment has determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence or certificate and will be enforceable as such. The Licensing Authority reserves the legal right to amend the wording of offered prohibitions or restrictions to ensure they are clear and enforceable, but will ensure that the amended wording does not go beyond the original offering

The Licensing Authority will consider all applications on an individual basis and any condition attached to such a licence will be tailored to each individual premise, depending upon the facts of each particular application, to avoid the imposition of disproportionate, unnecessary and other burdensome conditions on those premises. Standard conditions, other than mandatory conditions, will, therefore, be avoided and no condition will be imposed that cannot be shown to be necessary for promotion of the licensing objectives.

5.7 Shadow Licence

Nothing within the 2003 Act prevents two or more authorisations having effect concurrently in respect of the whole or a part of the same premises or in respect of the same person. (section 2, Licensing Act 2003). The s.182 Guidance further provides at paragraph 8.19. "There is nothing in the 2003 Act which prevents an application being made for a premises licence at premises where a premises licence is already held."

Shadow Licences may occur where for example a Landlord seeks to protect the Premises Licence by creating a 'shadow licence' where the licensed premises are operated by a tenant. Shadow licences are usually created on the same terms as the existing premises licence.

When granting a licence on a premises that already holds a premises licence, the responsible authorities may seek to add conditions to the additional licence, that mirror the current premises licence or may seek to impose a 'cooling off' period before trading can begin. Responsible authorities are also able to review the shadow licence whenever the original licence is under review. It must always be clear to the responsible authorities as to which licence is in operation to avoid two individuals trading within the same licensed area at the same time under a different premises licence.

5.8 Licensing Hours

The licensing authority deals with the issue of licensing hours on the individual merits of each application. However, when issuing a licence with hours extending beyond 11pm, higher standards of control generally need to be included in operating schedules in order to promote the licensing objectives, especially for premises, which are situated in,

or near, residential areas or in areas where crime and / or anti-social behaviour takes place. There is no presumption within the legislation for longer opening hours.

In considering all licence applications, the licensing authority takes into account the adequacy of the measures proposed to deal with the potential for nuisance and/or public disorder and has regard to all the circumstances of the case.

Where no representations are received an application is approved as applied for. Where a hearing or a review takes place the licensing authority may set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area. In addition the licensing authority may in the case of an application refuse to grant a licence and at a review, revoke an existing licence. Throughout the application process consultation with relevant partners is welcomed and encouraged.

The licensing authority recognises that having fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people leave licensed premises at the same time. The licensing authority aims, through the promotion of the licensing objectives, to reduce the potential for concentrations of people and thus achieve a slower dispersal of people from licensed premises through longer opening times when appropriate.

The licensing authority does not seek to adopt fixed terminal hours in designated areas (known as "zoning"), as this can lead to the significant movement of people across boundaries in search of premises opening later.

Shops, stores and supermarkets are generally permitted to sell alcohol for consumption off the premises during their normal trading hours, unless there are exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder and public nuisance.

3.65.9 Permitted temporary activities (TEN's) Temporary Event Notices

The Act requires that a minimum of 10 working days' notice must be given for a standard temporary event notice and a minimum of 5 working days' notice for a late temporary event notice. Section 193 of the Act defines a 'working day' as any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales. 'Working days' notice means working days exclusive of the day on which the event is to start, and exclusive of the day on which the notice is given.

There is no discretion to relax either the 10 working days' notice or the five working days' notice so the District Council encourage notice givers to provide the earliest possible notice within 12 months of events likely to take place.

5.10 Large scale events

These are events that are temporary but more than 499 people are expected to attend. Much larger crowds may be attracted to large-scale events and the risk to public safety

26

Formatted: Numbered Text

and to crime and disorder, as well as public nuisance, may be considerable. The licensing authority and all other statutory consultees, should be given at the earliest opportunity, notice of such major events to discuss operating schedules with the organiser, prior to a formal application being submitted. It is the responsibility of the event organizer / applicant to provide the licensing authority and all other statutory consultees, at the earliest opportunity, notice of such major events. This will enable discussion about operating schedules prior to a formal application being submitted.

It is expected that the applicant will consider how their event will take place safely and how it will impact on the surrounding area. For large events such as festivals the licensing authority will expect to receive an event management plan to be submitted with their application for a licence. An event management plan should be a working document to include information which outlines how the premises will be run during the event. Details should be provided of (although not limited to):

- Roles and responsibilities of the event organiser
- Crowd management
- Contractor management
- Electrical, gas and water supply
- Temporary structures
- Fire safety
- Medical and first aid provision
- Site accessibility
- Traffic Management
- Security staff/stewards/marshals
- Incident management
- Health and Safety management for members of the public
- Welfare provision for members of the public

Formatted: Bullet point

The licensing authority requires they are given at least six months' notice to allow for a sufficient lead in time. Failure to consult in sufficient time may result in an objection on the grounds that insufficient time has been allowed to properly assess and consult to ensure that, in particular, public safety is not undermined.

Formatted: Bullet point, Indent: Left: 2 cm

Fenland Council has an established Events Safety Advisory Group (ESAG). This includes relevant council officers, representatives of the emergency services and the voluntary first aid sector. ESAG's aim is to advise on safety at public events held throughout Fenland, regardless of whether or not a premises licence or a temporary event notice is required. Event organisers are encouraged to make contact with the Licensing team for advice at the earliest opportunity when planning their community events.

3.75.11 ~~Personal Licenses~~ Applications for Personal Licenses

The Police and Home Office Immigration will have the right to object to a person applying for a personal licence if that person has a relevant unspent conviction (at the time of application) or if they obtain a relevant conviction during the application period of their licence.

An individual may seek a personal licence regardless of whether or not they have current employment or business interests associated with the use of the licence. Applications cannot be made in the name of a corporate body.

The licensing authority must grant a personal licence if the applicant:

- is aged 18 years or over
- is in possession of a relevant licensing qualification or is a person of a prescribed description
- has not forfeited a personal licence in the previous five years, beginning with the day the application was made
- has not been convicted of any relevant offence under Schedule 4 of the Act, or a foreign offence
- has the right to work in the UK
- has paid the appropriate fee to the licensing authority

Applicants with unspent criminal convictions for the relevant offences set out in the Licensing Act 2003 are encouraged to first discuss their intended application with the police and licensing authority before making an application.

In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, applicants will be required to produce a relevant criminal record office basic disclosure certificate, with the application form, together with a signed disclosure form by them.

The licensing authority and police may arrange a joint interview with a prospective personal licence holder(s) to discuss the circumstances surrounding their conviction(s). Ultimately, the police may be minded to object to the grant of the personal licence. In these circumstances, the applicant is entitled to a hearing before the licensing sub-committee. The application will be refused, based on the police's objection, if the licensing authority considers it appropriate for the crime prevention objective to do so.

Fenland District Council licensing authority will be the 'relevant licensing authority' for all personal licences, regardless of the subsequent place of residence of the holder. It will maintain all notified changes of address on its database.

The Policing and Crime Act 2017 amended the Licensing Act 2003 to allow the Licensing Authority to suspend, for up to 6 months, or revoke a Personal Licence upon a Personal Licence Holder being convicted of a Relevant Offence.

~~An application for a personal licence and 'disclosure of convictions and declaration' form should be dated by the applicant within one calendar month of the application being received by the District Council. This is to ensure that the information on the application is as current as the basic disclosure.~~

~~Basic disclosures with a 'Care of' address will not be accepted by the District Council. The disclosure must have been obtained against an applicant's residential address. For third party applications, confirmation in writing will be acceptable stating the residential address used during the process of obtaining the disclosure.~~

5.12 Responsible Authorities and Other Persons

Responsible authorities are public bodies that are statutory consultees that must be notified of licensing applications. A list of the responsible authorities in respect of applications and notices made to the District Council can be found at Appendix A to this policy or alternatively at www.fenland.gov.uk/licensing

An "other person" is defined as any person who lives or is involved in a business in the relevant authority's area, who is likely to be affected by the application.

The Licensing Authority will also consider the term 'involved in any businesses in its widest possible context, which might include partnerships, charities, faith groups and medical practices:

Cambridgeshire County Council Director of Public Health (DPH) are now responsible authorities with all of the powers and responsibilities this brings. This Licensing Authority acknowledges that DPH will be useful in providing evidence of alcohol-related health harms when there is a revision of policy particularly in relation to cumulative impact policies or early morning restriction orders. This Licensing Authority envisages that DPH's will also be useful in providing evidence such as alcohol-related A & E admissions or ambulance service data that might be directly relevant to an application under the Act.

When dealing with licensing applications for premises licences and club premises certificates the District Council is obliged to consider representations from two categories of persons, referred to as responsible authorities and other persons. This allows for a broad range of comment to be received both for and against the licensing applications.

The District Council has carefully considered its role as the Licensing Authority as a Responsible Authority under the Act. It achieves separation of responsibilities through procedures and approved delegations within the authority to ensure procedural fairness and eliminate conflicts of interest.

The District Council does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be exceptional circumstances where this approach may be required.

In cases where this Licensing Authority is also acting as responsible authority there will be a separation of powers between those officers who exercise that role and those who administer the licensing application to ensure procedural fairness and eliminate conflicts of interest.

3.85.13 Representations

Any Responsible Authority or Other Person may make relevant representations on applications for the grant of a premises licence or club premises certificate and request reviews of licences or certificates that have been granted.

A representation will only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation in relation to Other Persons must not be frivolous or vexatious.

Only the Chief Officer of Police may make representations in respect of the grant of a personal licence relating only to the crime prevention objective of the Act.

As the Licensing Authority must be satisfied that the representation is made by an Other Person, which can generally only be determined by reference to the name and address of the person making it, this authority will not consider any representation that fails to provide those details.

Where relevant representations are made, the Licensing Authority must provide copies of those representations to the applicant or his/her representative. The Licensing Authority accepts that in exceptional circumstances an Other Person may not wish for his/her personal details to be disclosed to the applicant.

Where the Licensing Authority considers that a relevant representation has been made and that exceptional circumstances exist, details of the name and address may be deleted from the copy of the representation that is provided to the applicant or his/her representative.

In all cases, applicants and those making representations that are genuinely aggrieved by a decision of the Licensing Committee are entitled to appeal to the Magistrates' Court against the decision of the committee.

Where the Responsible Authorities or Other Persons do not raise any relevant representations about the application made to the Licensing Authority, the Licensing Authority will grant the premises licence or club premises certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed by the Licensing Act 2003.

6 COMPLIANCE

3.96.1 Cultural Activities

The Licensing Authority recognises the need to encourage and promote a broad range of entertainment for the wider cultural benefit of the communities. A natural concern to prevent disturbance in neighbourhoods will always be carefully balanced with these wider cultural benefits, particularly the cultural benefits for young people. In determining what conditions should be attached to licence and certificates as a matter of necessity for the promotion of the licensing objectives, the Licensing Authority is aware of the need to avoid measures which deter regulated entertainment by imposing indirect costs of a disproportionate nature.

3.106.2 Duplication

The District Council has a firm commitment to avoid duplication with other regulatory regimes so far as possible. For example legislation governing health and safety at work and fire safety will place a range of general duties on the self-employed, employers and operators of venues both in respect of employees and of the general public when on the premises in question. Similarly, many aspects of fire safety will be covered by existing and future legislation. Conditions in respect of public safety will only be attached to premises licences and club premises certificates that are 'necessary' for the promotion of that licensing objective and if already provided for in other legislation, they cannot be considered as necessary in the context of licensing law. Such regulations will not however always cover the unique circumstances that arise in connection with licensable activities particularly regulated entertainment, at specific premises and tailored conditions may be necessary.

3.116.3 Enforcement

The District Council recognises that most licence, certificate and notice holders seek to comply with the law. Notwithstanding, any enforcement action will take a graduated approach and in the first instance will include education and guidance. Where holders of authorisations continue to flout the law or act irresponsibly then firm action, including prosecution ~~may~~ will be taken.

Fenland District Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can trade fairly. The administration and enforcement of the licensing regime is one of these services. The authority has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, Fenland District Council is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.

The Enforcement Concordat is based upon the principles that businesses should

- receive clear explanations from enforcers of what they need to do and by when
- have opportunities to resolve differences before enforcement action is taken, unless immediate action is needed
- receive an explanation of their rights of appeal.

A copy of the Council's Enforcement Policy is available [on www.fenland.gov.uk](http://www.fenland.gov.uk) upon request.

The Licensing Authority recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives that it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or break the law consistently.

6.4 Inspection of licensed Premises

The licensing authority aim to inspect premises on a risk based approach to secure compliance with the Licensing Act and to promote the licensing objectives.

Authorised officers will have the discretion as to which premises require a 'during performance' inspection and the frequency when they are undertaken. Where appropriate, joint visits will take place encompassing a number of relevant agencies.

The Licensing Authority works in partnership with all of the Responsible Authorities under the Licensing Act 2003 on enforcement issues. This joint working protocol provides for a more efficient deployment of staff and police officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises. In particular, these protocols should also provide for the targeting of agreed problem and high-risk premises, which require greater attention, while providing a lighter touch in respect of low risk premises, which are well run.

The 2003 Act does not require inspections to take place save at the discretion of those charged with this role. The principal of risk assessment and targeting will prevail and inspections will not be taken routinely but if and when they are judged necessary. This should ensure that resources are more effectively concentrated on problem premises.

6.5 Complaints regarding licensed premises

The licensing authority will investigate or refer to other relevant agencies/council services complaints received against licensed premises where appropriate, normally providing that the complainant's personal details and the nature of the issue(s) must be provided from the outset. For certain matters the complainant may be encouraged to raise the issue of concern directly with the licensee.

In exceptional circumstances the personal details referred to above may not be required, whilst the facts of the complaint are referred onto the police.

6.6 Annual Fees for premises Licence and Club Premises Certificates

The Police Reform and Social Responsibility Act 2011 introduced a requirement for Licensing Authorities to suspend Premises Licences and Club Premises Certificates when the annual fee is not paid by the due date.

Where a licence or certificate holder disputes the presented fee, or claims an administrative error prior to the annual fee due date, the suspension will start after the 21 day permitted grace period has expired.

3.126.7 Review Of Licenses

Where possible and appropriate, the Licensing Authority and the Responsible Authorities will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

The Act sets out the arrangements to enable a review of a premises licence where it is alleged that the licensing objectives are not being promoted. This arrangement will follow an application from a responsible authority or any other person. The Section 182 guidance will be used to ensure that all matters for review are considered appropriately. The process shall not be subject to abuse by disaffected parties. Matters for consideration must be relevant, and not vexatious, frivolous or repetitious. However, matters involving the following may be considered as serious shortcomings by the licensing sub-committee at their hearings:

- use of licensed premises for the sale and distribution of illegal drugs and/or the laundering of the proceeds of drug crimes
- use of licensed premises for the sale and/or distribution of firearms
- evasion of copyright in respect of "pirated" films and music
- underage purchase and/or consumption of alcohol
- use of licensed premises for prostitution or the sale of unlawful pornography
- use of licensed premises for unlawful gaming
- use of licensed premises as a base for organised criminal activity
- the closure of the premises by a senior police officer, or an environmental health officer due to noise nuisance
- use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks
- use of licensed premises for the sale of smuggled tobacco or goods
- the use of licensed premises for the sale of stolen goods
- where the police are frequently called to attend to incidents of disorder
- prolonged and/or repeated instances of public nuisance
- where serious risks to public safety have been identified, and the management is unable or unwilling to correct those
- where serious risks to children have been identified e.g. repeat underage sales
- significant or repetitive breaches of licence conditions/licensing law
- failure to act on previous warnings/advice/uncooperative attitude towards authorised officers.

In a hearing to determine an application for a licence or consider a review application, the overriding principle adopted by the licensing authority is that each application will be

Formatted: Bullet point

considered on its own individual merits. Licence conditions applied at such a hearing will be tailored to the individual premises and activities and only those necessary to meet the licensing objectives will be applied.

Upon review of a premises licence, the licensing authority must, having regard to the application for review and any relevant representations, take such steps as it considers necessary for the promotion of the licensing objectives. Such steps might be:

- the modification of the conditions of the licence
- the exclusion of a licensable activity from the scope of the licence
- the removal of the designated premises supervisor
- the suspension of the licence for a period not exceeding three months
- the revocation of the licence.

Any Responsible Authority or Other Person may apply for a review of a Premises licence or a club premises certificate by serving a notice containing details of the application on the holder of the licence or certificate and to each of the Responsible Authorities.

~~An application for review will only be 'relevant' if the grounds upon which it is made relate to the promotion of at least one of the four licensing objectives and is not frivolous, vexatious or repetitious. An evidential basis will be required to be presented to the Licensing Authority.~~

Where an Other Person applies for a review, the Licensing Authority must be satisfied that the application is relevant. There is no appeal to the decision of the Licensing Authority other than by the way of Judicial Review.

This Authority will not consider any application that fails to provide the name and address applicable to the Other Persons

6.8 Crime and Policing Act 2014

A senior police officer, of the rank of superintendent or higher, or an inspector of weights and measures, may issue a closure notice where there is evidence that a person has committed the new offence of persistently selling alcohol to children at the premises in question, and he considers that the evidence is such that there would be a realistic prospect of conviction if the offender was prosecuted for it.

A closure notice will prohibit sales of alcohol at the premises in question for a period not exceeding 48 hours; and will offer the opportunity to discharge all criminal liability in respect of the alleged offence by the acceptance of the prohibition proposed in the notice. The premises licence holder will have fourteen days to decide whether or not to accept the proposed prohibition or to elect to be tried for the offence. Where the licence holder decides to accept the prohibition, it must take effect not less than fourteen days after the date on which the notice was served at a time specified in the closure notice.

Closure notices may be served by police officers, trading standards officers and community support officers.

Anti- Social Behaviour, Crime and Policing Act 2014 permits an authorised officer acting on behalf of the council, to require the immediate closure, for a period of up to 24 hours of any licensed premises if it is considered that noise emanating from within its curtilage is causing a public noise nuisance. The 'test' is a lesser one than required to determine a statutory noise nuisance and the statutory defence of 'best practicable means' is not available.

The licensing authority also recognises that there are other tools and powers at their, and their partner agencies', disposal. All powers are subject to change and amendments, in particular by the Anti-Social Behaviour, Crime and Policing Act 2014. More details can be made available on request to the licensing authority.

6.9 Immigration Act 2016

The Immigration Act 2016 amends the Licensing Act 2003 to provide Immigration Officers enforcement powers. An Immigration Officer will be able to issue an "illegal working closure notice" for up to 48 hours if he or she is satisfied, on reasonable grounds, that an employer operating at the premises is employing a person who does not have the correct work status.

The closure notice prohibits access to the premises unless authorised in writing by the immigration officer.

An application to the Court for a compliance order must be made by the immigration officer and heard within 48hrs after service of the closure notice. The Court may issue the compliance order if satisfied, on the balance of probabilities, that an illegal worker was working on the premises and that it is necessary to make the order to prevent the employer at the premises from employing illegal workers.

The Court can make an order which includes, prohibiting the access to the premises; requiring right to work checks to be carried out; requiring right to work documents to be produced and specifying times for an immigration officer to enter the premises. A compliance order can have effect for a maximum of 12 months, but the immigration officer may apply for this to be extended.

The Court will notify the licensing authority of the order and the licensing authority must then review the premises licence. If an offence is committed in relation to the compliance order, the court can impose a prison sentence for up to 51 weeks or a fine.

The licensing authority will have regard to the European Convention on Human Rights particularly:

- Article 6- entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal and
- Article 8 - the right to respect for home and private life; and
- Article 1 of the First Protocol - that every person is entitled to the peaceful enjoyment of their possessions, as they may interface with the licensing objectives.

3.136.10 Regulated Entertainment

Having regard to Fenland District Council's equality and diversity policies and the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified in 1976, a diverse provision of cultural activities is welcomed for the benefit of communities.

The Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, circuses, etc. to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events.

The Licensing Authority will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children & young people.

3.146.11 Planning and Building Control

The licensing authority will ensure that planning, building control and licensing regimes will be separated to avoid duplication and inefficiency.

The licensing authority would normally expect that applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, the licensing authority acknowledges that applications for premises licences or club premises certificates may be made prior to any relevant planning permission having been sought or granted by the planning authority. Applicants would be expected to ensure that all relevant permissions are obtained.

The licensing authority recognises that licensing applications should not be a re-run of planning applications nor should they cut across decisions taken by the planning committee or following appeals against decisions taken by the Council's planning committee. The licensing authority's licensing committee will not be bound by decisions made by the Council's planning committee and vice versa.

Where the granting of any variation to a premises licence or club premises certificate involves a material alteration to a premise, the licensing authority would expect the applicant to apply for relevant planning permission or building control consent where appropriate.

The licensing authority recognises that when, as a condition of planning permission a terminal hour has been set for the use of the premises for commercial purposes, and where these hours are different from the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

7 SPECIAL POLICIES

The Licensing Act 2003 permits a Licensing Authority to introduce a number of special policies within its Statement of Licensing Policy where evidence exists to support the introduction of such a special policy. **OTHER LICENSING AUTHORITY POWERS**

3.457.1 Cumulative Impact of a Concentration of Licensed Premises

“Cumulative impact” means the potential impact upon the promotion of the licensing objectives where there are a number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider in developing its Statement of Licensing Policy.

The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases, the amenity of local residents can be placed under severe pressure but may not be attributable to any individual premises.

The Licensing Authority ~~may adopt~~ **has adopted** a special policy on cumulative impact based on evidence that a significant number of licensed premises concentrated in one area are resulting, in unacceptable levels of crime and disorder or public nuisance.

During the adoption of such policy, Section 5A of the Licensing Act will be observed and any policy of this nature will be considered by the Licensing Sub - Committee.

3.467.2 Early Morning Restriction Orders (EMRO)

The power for this licensing authority to introduce an EMRO is specified in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. These provisions and the regulations prescribing the requirements in relation to the process were brought in force on 31st October 2012. Government Guidance has also been produced.

The legislation provides this licensing authority with the discretion to restrict sales of alcohol by introducing an EMRO to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of this licensing authority's area and if relevant on specific days and at specific times. This licensing authority must be satisfied that such an order would be appropriate to promote licensing objectives.

The only exemptions relating to EMRO's are New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service. The decision to implement an EMRO will be evidence based. The function of making, varying or revoking an EMRO is specifically excluded from the delegation of functions and may not be delegated to the Licensing Committee.

3.477.3 Late Night Levy

The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31st October 2012.

Regulations have been brought into force setting out the way in which the levy must be applied and administered, and arrangements for expenses, exemptions and reductions. Government Guidance has been produced.

These new powers enable licensing authorities to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night time economy. The function of making, varying or ceasing the requirement for a levy may not be delegated to the licensing committee.

7.4 Public Spaces Protection Orders (PSPO)

Public Space Protection Orders (PSPO's) replaced Designated Public Place Orders (DPPPO's) when the Anti-social Behaviour Crime and Policing Act 2014 came into effect.

Fenland District Council's Community Safety Partnership is responsible for the introduction and management of PSPO's within the district

48 FURTHER ADVICE AND GUIDANCE

The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act 2003 provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority and the Responsible Authorities will offer as much advice and guidance to applicants as resources permit.

The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that he/she discusses his/her proposal with the Licensing Section and those from who they think representations are likely prior to submitting an application. Once an application has been lodged, there are statutory timescales imposed upon the

application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

All application forms and further advice can be obtained from Fenland District Council's licensing pages - www.fenland.gov.uk/licensing

You can also contact a member of the team by emailing licensing@fenland.gov.uk

If additional assistance is required the Licensing Authority provides a paid for licensing pre - application advice service for all applicants. Full details are available on the Council's website.

8.1 **Other Relevant Legislation**

~~Having regard to Fenland District Council's equality and diversity policies and the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified in 1976, a diverse provision of cultural activities is welcomed for the benefit of communities.~~

~~The Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, circuses, etc. to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events.~~

~~The Licensing Authority will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children & young people.~~ **Adult Entertainment**

The District Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and premises offering regular entertainment of a sexual nature must be licensed as a sex establishment under those provisions. The District Council acknowledges that there is an exemption which allows sexual entertainment to be provided at premises licensed under the Licensing Act 2003, as long as it is provided on no more than 11 occasions within 12 months and with at least 1 month between each occasion. Premises using this exemption should ensure that procedures are in place to exclude children when entertainment of this nature is offered.

Gaming Machines

Automatic entitlement in licensed premises. There is provision in the Gambling Act 2005 (GA2005) for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines of category C and/or D.

Gaming Machine Permit

~~If~~ a premises wishes to have more than 2 machines of categories C and/or D, then it needs to apply for a permit and the District Council will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under section 25 of the Act, and such matters as licensing officers consider relevant.

Exempt Gaming

39

Premises licensed under the Licensing Act 2003 may offer gaming such as poker and bingo provided the stakes and prizes do not exceed permitted levels. Details of these limits are available from the District Council or the Gambling Commission.

DRAFT

Appendix title: A- RESPONSIBLE AUTHORITIES

Cambridgeshire Constabulary

Police Licensing Officer (Fenland)

March Police Station, Burrowmoor Road March, Cambridgeshire PE15 9RB

Telephone: 101 Ext 6440

Email: licensingnorth@cambs.pnn.police.uk

Cambridgeshire Fire and Rescue Service

Chief Fire Officer Hinchingsbrook Cottage Brampton Road Huntingdon PE29 2NA

Telephone: 01480 444500

Email: fireprotectionnorthconsultations@cambsfire.gov.uk

The Body Responsible for the Protection of Children from Harm

Safeguarding & Standards Unit Licence applications

PO Box 144, St Ives Cambridgeshire PE27 9AU

Telephone: 01223 706380 Email:

ReferralCentre.Children@cambridgeshire.gov.uk

Web: www.cambridgeshire.gov.uk

Local Authority Planning Authority

Fenland District Council Development Services

Fenland Hall, County Road March, Cambridgeshire PE15 8NQ

Telephone: 01354 654321

Email: planning@fenland.gov.uk

Public Health

Cambridgeshire County Council Public Health Programmes Scott House

Box No SCO 2213, 5 George Street Huntingdon Cambridgeshire PE29 3AD

Email: PublicHealth.AdminTeam@cambridgeshire.gov.uk

Local Authority Environment and Health Services

Fenland District Council

Environmental Health

Fenland Hall, County Road Cambridgeshire PE15 8NQ Telephone: 01354 654321

Email: envhealth@fenland.gov.uk

The Body Responsible for Health and Safety

Fenland District Council

Environmental Health

Fenland Hall, County Road March, Cambridgeshire PE15 8NQ Telephone: 01354 654321
Email: envhealth@fenland.gov.uk

Local Authority Licensing Compliance Officer

Licensing Compliance Officer - Andy Fox

Fenland Hall, County Road March, Cambridgeshire PE15 8NQ Telephone: 01354 654321

Email: Afox@fenland.gov.uk

Web: www.fenland.gov.uk

Weights and Measures (Trading Standards)

Supporting Businesses and Communities

Cambridgeshire County Council PO Box 450

Great Cambourne Cambridge, CB23 6ZR

Helpline: 0345 0455206

Email: ts.administration@cambridgeshire.gov.uk

Local Authority Environment and Health Services

Fenland District Council

Environmental & Leisure Support Team Fenland Hall

County Road Cambridgeshire PE15 8NQ Telephone: 01354 654321

Email: envhealth@fenland.gov.uk

Web: www.fenland.gov.uk

Home Office Immigration

Email: alcohol@homeoffice.gov.uk

Assessing Equality – The Equality Act 2010

Customer Impact Assessment

Name and brief description of policy being analysed

Briefly summarise the policy including any key information such as aims, context etc; note timescales and milestones for new policies; use plain language – NO JARGON; refer to other documents if required

Policy being reviewed - Statement of Licensing Policy 2021 – 2026 (LA03)

The Council as the Licensing Authority has a statutory duty to review its Statement of Licensing Policy under the Licensing Act 2003 every five years. The current policy was adopted at Full Council and came into effect on 12 May 2016.

The Licensing Act requires each Licensing Authority to prepare and publish a Statement of Licensing Policy under the Licensing Act. The policy sets out how the authority intends to approach its licensing responsibilities and how it intends to promote the four licensing objectives namely:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

The Licensing Policy is to be renewed every five years and the draft policy will cover the period of 2021 - 2026

Information used for customer analysis

Note relevant consultation; who took part and key findings; refer to, or attach other documents if needed; include dates where possible

The Responsible Authority Officers act as a main consultee:

Fenland District Council – Environmental Health

Fenland District Council – Health & Safety

Cambridgeshire Constabulary

Cambridgeshire Fire & Rescue

Safeguarding & Standards – Protection of Children from harm

Assessing Equality – The Equality Act 2010

Fenland District Council -Planning Authority
 Public Health
 Trading Standards
 Town Councils

Public Consultation


Comments were requested from the Public Consultation that took place from 21 September 2020 until 15 November 2020. The draft policy was advertised in the local newspaper and by social media feeds for example Facebook. It was also available on our Council website and in our Customer, service centres

This CIA has considered any comments made during the consultation process and will also reflect any changes that are made with the draft policy prior to Licensing Committee approval on 03 December 2020

	Could particularly benefit	Neutral	May adversely impact	Explanations	Is action possible or required?	Details of actions or explanations if actions are not possible Please note details of any actions to be placed in your Service Plan
Race	<input type="checkbox"/>	✓	<input type="checkbox"/>	Officers have considered all the equality strands. This Customer Impact Assessment does not raise any negative equality issues. Officers have concluded that the Statement of Licensing Policy will have positive impacts in ensuring that the Licensing Objectives within the policy are upheld. There is no evidence that the policy may result in adverse impacts on equality.	N	
Sex	<input type="checkbox"/>	✓	<input type="checkbox"/>		N	
Gender reassignment	<input type="checkbox"/>	✓	<input type="checkbox"/>		N	
Disability	<input type="checkbox"/>	✓	<input type="checkbox"/>		N	
Age	✓	<input type="checkbox"/>	<input type="checkbox"/>		N	
Sexual orientation	<input type="checkbox"/>	✓	<input type="checkbox"/>		N	
Religion or belief	<input type="checkbox"/>	✓	<input type="checkbox"/>		N	
Pregnancy & maternity	<input type="checkbox"/>	✓	<input type="checkbox"/>		N	

Assessing Equality – The Equality Act 2010

Marriage & civil partnership	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		N	
Human Rights	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		N	
Socio Economic	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Delivery of the Licensing Policy will have a positive impact as it encourages responsible consumption of alcohol as a mandatory condition on all licences granted.	Y / N	
Multiple/ Cross Cutting	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Y / N	
Outcome(s) of customer analysis						
a) Will the policy/ procedure impact on the whole population of Fenland and/ or identified groups within the population; negative <input type="checkbox"/> neutral <input type="checkbox"/> positive <input type="checkbox"/>						
No major change needed <input checked="" type="checkbox"/> Adjust the policy <input type="checkbox"/> Adverse impact but continue <input type="checkbox"/> Stop and remove / reconsider policy <input type="checkbox"/>						
Arrangements for future monitoring:						
Note when analysis will be reviewed; include any equality indicators and performance against those indicators						
The next CIA analysis will take place when the Licensing Policy is reviewed in 2026						
Details of any data/ Research used (both FDC & Partners):						
Results of the public Consultation carried out from 21 September 2020 until 15 November 2020						
Completed by:						
Name: Michelle Bishop						
Position: Licensing Manager						
Approved by (manager signature):				Date published: This should be the date the analysis was published on the website		
Details of any Committee approved by (if applicable):				Date endorsed by Members if applicable:		

Agenda Item No:	6	
Committee:	Licensing	
Date:	03 December 2020	
Report Title:	Review of Hackney Carriage and Private Hire Licensing Policy	

1 Purpose / Summary

- To seek Licensing Committee approval for formal consultation with the trade, the public and other interested parties on the Hackney Carriage and Private Hire Licensing Policy.
- Members approve consultation on the draft Hackney Carriage and Private Hire Licensing Policy for the period of 2021 - 2026

2 Key issues

- Full Council adopted the current Hackney Carriage and Private Hire licensing policy on 12 May 2016.
- In determining its statement of policy, the licensing authority must give appropriate weight to the views of those it has consulted. Therefore, member's approval of the draft policy for consultation is sought.
- This report provides the proposed updated policy statement as set out in Appendix A. This does include track changes as the policy has been completely amended in both format and content.
- Changes made in relation to New Statutory Guidance released in July 2020 have prompt a review of our current policy.
- The LGA encourages best practice in the adoption of a formal statement of policy for relevant convictions.
- It is best practice to publish a policy which sets out our general approach to regulation and enforcement activities in relation to taxi and private hire services to maintain a consistent approach, build public confidence and assist in supporting business.
- In developing this draft policy, a working party of taxi drivers held a meeting to talk through the new guidance and capture some initial thoughts from the trade which has helped inform the draft policy for consultation

3 Recommendations

- That Members approve the draft policy document for Hackney Carriage & Private Hire licensing as detailed within this report for a consultation period of no less than six weeks to allow for a public consultation to allow us to capture the views of both the trade and public

- That officers report back to committee with the outcomes of the consideration to agree a final version to be referred to full council for adoption.

Wards Affected	All Wards
Forward Plan Reference	N/A
Portfolio Holder(s)	Councillor Sam Clark, Portfolio Holder with responsibilities for Licensing
Report Originator(s)	Michelle Bishop, Licensing Manager, Tel: 01354 622542, Email: mbishop@fenland.gov.uk
Contact Officer(s)	Dan Horn, Head of Housing & Community Support, Tel 01354 654321, Email: dhorn@fenland.gov.uk Carol Pilson, Corporate Director, Tel: 01354 622360, Email: cpilson@fenland.gov.uk
Background Paper(s)	Part II of the Local Government (Miscellaneous Provisions) Act 1976 Town Police Clauses Act 1847 Department of Transport – Taxi and Private Hire Vehicle Licensing issued July 2020 Institute of Licensing (IOL) – Determining the suitability of a Hackney Carriage and Private Hire driver issued April 2018 LGA Taxi and PHV licensing Councillors' Handbook

1 Background / introduction

- 1.1 Fenland District Council has responsibility for licensing Hackney Carriage and Private Hire vehicles, drivers and operators within the district. To date this responsibility has been exercised in accordance with several policies and developed over the years. A comprehensive review of these policies and procedures has been prompted by recent changes in the release of statutory guidance.
- 1.2 The policy is intended to strike a balance between the right of an applicant to make an application for a taxi or private hire licence, against the right of any person to travel in any taxi or private hire vehicle in safety and comfort. A successful balance will help the taxi and private hire businesses to develop whilst providing assurance to the public through our policy objectives.
- 1.3 A review of the current licensing policy has taken place and it was decided that due to the amount of content change and layout it would be more beneficial for us to draft a new version. This policy has also considered the latest statutory guidance produced by the Department of Transport which was released in July 2020.
- 1.4 The proposed draft Hackney Carriage and Private Hire Licensing Policy is attached at **APPENDIX A**.
- 1.5 During the developing of this policy, a working party was set up which included members of the taxi trade. All Licensed drivers had the opportunity to apply to be part of the working group and those taking up this opportunity were a key stakeholder in formulating this new policy.
- 1.6 The revised licensing policy seeks to provide guidance to applicants and members of the public, whilst looking to promote the following objectives:
- The protection of the environment;
 - Public Safety;
 - Ensuring an efficient and effective hackney carriage and private hire provision;
 - To provide and maintain a professional and respected hackney carriage and private hire trade by continued monitoring and improvement of standards of service.
- 1.7 The Hackney Carriage and Private Hire policy can be reviewed and revised by the licensing authority at any time, but in accordance with the latest Statutory Guidance we should look to be reviewing it every five years.

2 Considerations

- 2.1 The revised policy is set out in Appendix A. This a new version of the policy to allow us to take into account the contents and layout changes.
- 2.2 The below table highlights the main areas of change and where new sections have been added due to legislation updates or additional information to further support both the trade and the customer.

Section	Title	Comments/Updates
All	Introduction	New Sections added to explain the policy in more detail.

2.5	Environmental Considerations	Section has been added to reflect the Euro 5 emission standards on all new licensed vehicles
2.6	Vehicle Idling	Section added to raise awareness regarding Vehicle Idling and the areas in which it must not take place. Also a future incentive for Electric and Hybrid licensed vehicles.
2.7	Vehicles – Maximum Age	This section introduces an age policy for both new licence vehicles and renewals for existing ones.
2.11	New Vehicles to incorporate wheelchair accessible vehicles (WAV's)	This section has been introduced to clarify our WAV vehicles. This is in relation to Hackney Carriage vehicles, currently we have; 89 licence plates issued (they do run in numerical order), to ensure we consider the needs of the public Only 1 WAV vehicle which is a London style Taxi The proposal is once we have issued a total of 110 HC plates to active vehicles, any new ones that are added will have to be wheelchair accessible.
2.12	Vehicle Category Write-Off's	Section amended to reflect the amended category from C & D to S & N
2.17	Vehicle Advertising	Amended section to clarify the types of external advertising permitted
2.25	Fire Extinguishers	Amended to reflect that Fire Extinguishers are no longer required in the vehicles
2.26	First Aid Kits	Amended section to align the requirement with the Health & Safety legislation.
2.37	Insurance	Section updated to reflect we will only except a full 12 months insurance certificate following a cover note. No monthly insurance certificates to be accepted
2.43	CCTV	Section updated to confirm this is not mandatory but process to follow should they wish to install

3.3	Knowledge Test	Updated section to reflect the new requirement to the Knowledge test to incorporate both written and verbal.
3.5	Medical Examination & Eye Test	Updated section to clarify the requirement
3.7	DBS Certification	Updated section to reflect the new requirement for DBS checks to be carried out every 6 months therefore requesting that the online update service is mandatory
3.10	Safeguarding & Disability Awareness Training	New section to reflect the requirement for all licensed drivers to undertake this training
3.14	DVLA check	Updated section to reflect all DVLA checks are now carried out online using the DVLA share code
3.15	National Register – NR3	New section added to reflect the use of NR3, which is a database of all drivers that have been revoked/refused from holding a Local authority licence. This will be used to check all new drivers and renewal applications
4.3	Private Hire Conditions	Section added to reflect new requirement that all staff members working as dispatches for the operator must have a Basic DBS check
4.11	Private Hire Records	Section amended to clearly clarify what records a PH Operator must keep
5.2 – 5.3	Vehicle & Driver application procedure	Section added to clarify to applicants what documents are required
5.5 – 5.6	Submitting applications and issuing of plates/badges	Section added to clarify the new process for accepting applications via online method of email and issuing of plates/badges via post
6.2 and Appendix D	Penalty Points (PP)	Section updated to clarify the issuing of PP and how these will be aligned to the offence level should you be prosecuted for the offence.
6.3	Role of the Licensing Sub-Committee (LC)_	Section updated to clarify when applications or renewals will be referred to the LC
6.6 – 6.10	Enforcement Action	Sections updated to clarify our process and the actions that we

		may take
10.1 – 10.2	Trade Forum	New section added to inform the trade of the opportunity to join our working party and how to apply.
Appendix A	Fit & Proper (Safe & Suitable)	New Appendix added to highlight the importance of this when determining an application
Appendix B	Relevant Convictions & Cautions	Appendix updated to expand on the requirements
Appendix C	Driver Code of Conduct	Appendix added to clarify the driver's standards we are expecting from all licence holders
Appendix F	Right to work	Appendix added to reflect new legislation requirement from Dec 2016 for all drivers and PH Operators to have valid right to work checks completed.
Appendix G	Multi Seating configuration	New Appendix added to show the seating configuration required in vehicles.

3 Community impact

3.1 Community Impact Assessment will be undertaken in relation to the draft Hackney Carriage & Private Hire policy.

4 Conclusions

4.1 The recommendation to the Licensing Committee is to:

- That Members approve the draft Hackney Carriage and Private Hire Licensing policy document as detailed within this report for a consultation period of no less than six weeks as attached at **APPENDIX A** of the report.



Hackney Carriage and Private Hire Licensing Policy

2021 - 2026

CONTENTS

Contents

.....	8
PART 1 - INTRODUCTION	8
1.1 Powers and Duties	8
1.2 Policy Objectives	8
1.2 Hackney carriages and private hire vehicles; what's the difference	9
1.3 Departure from the Policy	10
1.4 Policy Duration	11
PART 2 - VEHICLES	12
2.1 Limitation of Numbers	12
2.2 Specifications and Conditions	12
2.3 Accessibility	1312
2.4 List of Wheelchair Accessible Vehicles (WAV's)	13
2.5 Environmental Considerations	14
2.6 Vehicle Idling	14
2.7 Maximum Age of Vehicles	1514
2.8 Vehicle Testing	15
2.9 Officer Inspections	1716
2.10 Vehicle Type	17
2.11 New Vehicles	17
2.12 Vehicle Types & Category write-off's	1817
2.13 Vehicle Specification	18
2.14 Vehicle Signage	1918
2.15 Vehicle Livery	19
2.16 Licence plates	2019
2.17 Third Party Advertising	20
2.18 Seating in Multi-Passenger Vehicles	2221
2.19 Doors	2221
2.20 Tyres	22
2.21 Drivers' Vehicle Mirrors	2322
2.22 Seats - Minimum Interior Dimensions	2322
2.23 Seat Belts	2423
2.24 Fire Extinguishers	2423

2.25	First Aid Kits	2423
2.26	Ventilation.....	24
2.27	Luggage	24
2.28	Maintenance and Condition of the Vehicle	2524
2.29	Modifications	25
2.30	Communications Devices	25
2.31	Meters.....	25
2.32	Trailers	2726
2.33	Disability Access	27
2.34	Vehicles Powered by Liquid Petroleum Gas (LPG)	2827
2.35	Tinted Windows	28
2.36	Insurance.....	28
2.37	Change of Ownership.....	29
2.38	Inspection.....	29
2.39	Unauthorised Use	29
2.40	Accident Reporting.....	3029
2.41	Miscellaneous	3130
2.42	Security/CCTV	3130
2.43	Stretched Limousines & Novelty Vehicles	31
2.44	Funeral and Wedding Vehicles.....	3231
2.45	Voluntary Sector Transport.....	32
2.46	Dual Plating	32
	PART 3 - DRIVERS	33
3.1	Licenses	33
3.2	Age and Experience	33
3.3	Driver Knowledge Tests.....	33
3.4	Driving Proficiency and Qualifications	34
3.5	Medical Examination including Eyesight Test.....	34
3.6	Medical Exemption Certificates	36
3.7	Disclosure & Barring Service (DBS) Disclosures	37
3.8	Relevance of Convictions and Cautions	37
3.9	Convictions during period of licence.....	38
3.10	Safeguarding & Disability Awareness Training	38
3.11	Right to Work	39
3.12	Conditions of Licence	39
3.13	Driver Code of Conduct.....	39

3.14	DVLA Licence Checking	39
3.15	National Register - NR3 Checks.....	39
	PART 4 - PRIVATE HIRE OPERATORS.....	41
4.1	Requirements and Obligations	41
4.2	Disclosure & Barring Service (DBS) Disclosures	41
4.3	Conditions	41
4.4	Public Liability Insurance.....	42
4.5	Licence Duration	42
4.6	Address from which an Operator may Operate.....	42
4.7	Operating Bases	42
4.8	Right to Work.....	42
4.9	Sub-contracting of Private Hire Bookings	43
4.10	Standards of Service.....	43
4.11	Records.....	43
4.12	Complaints	44
4.13	Disclosure of Convictions	44
4.14	Private Hire Insurance.....	45
4.15	Private Hire Driver Licenses	45
4.16	Planning Consent	45
	PART 5 – APPLICATION PROCEDURE	46
5.1	General.....	46
5.2	Vehicles	46
5.3	Drivers	46
5.4	Operators	47
5.5	Submitting Applications and Documentation.....	47
5.6	Issue of vehicle plates and driver badges	48
5.7	Return of vehicle plates and licence badges.....	48
5.8	New Driver Knowledge Tests	48
5.9	Disclosure & Barring Service (DBS) Disclosures	49
5.10	The consideration of applications.....	50
	PART 6 – DISCIPLINARY AND ENFORCEMENT MEASURES	51
6.1	Enforcement	51
6.2	Penalty Points Scheme	51
6.3	Referrals to the Licensing Sub-Committee.....	52
6.4	Informal Action	53
6.5	Suspension	53

6.6	Section 68 (Stop) Notices	54
6.7	Revocation	54
6.8	Refusal to Renew	54
6.9	Simple Cautions.....	54
6.10	Prosecution	55
6.11	Complaints against Drivers	56
	PART 7 – FARES	57
7.1	Hackney Carriages.....	57
7.2	Private Hire Vehicles	57
	PART 8 – LICENCE FEES	58
8.1	Fee Structure.....	58
8.2	Payments.....	58
8.3	Refunds and Duplicate Copies	58
	PART 9 – HACKNEY CARRIAGE RANKS (STANDS)	59
9.1	Taxi Ranks/Stands	59
9.2	Waiting on Stands	59
9.3	Plying for Hire.....	59
	PART 10 – TRADE FORUM	60
10.1	Working Party	60
10.2	Apply to become a member	60
	PART 11 – RIGHT OF APPEAL	61
11.1	Legislation	61
12.2	Appeal process.....	61
	PART 12 – DELEGATED POWERS	62
12.1	Authorised Officers	62
12.2	Licensing Manager	62
12.3	Licensing Sub-Committee	62
	PART 13 – DEFINITIONS	63
	List of Policy Definitions.....	63
	APPENDIX A	65
	THE DEFINITION OF ‘FIT AND PROPER’	65
	APPENDIX B	67
	THE RELEVANCE OF CAUTIONS AND CONVICTIONS	67
	General Principles	67
	History.....	67
	DVLA Penalty Points.....	68

Major Traffic Offences	68
Major Traffic Offences resulting in Death	69
Drunkenness	69
Drug Offences	70
Sexual or Indecency Offences	70
Violent Offences.....	71
Dishonesty.....	72
Other Offences and Special Circumstances	72
Summary	72
Existing Licence Holders.....	73
Principles of the Rehabilitation of Offenders Act 1974 (“the 1974 Act”)	73
Mitigation and/or Exceptional Circumstances.....	74
APPENDIX C - DRIVER CODE OF CONDUCT.....	75
General Responsibilities of a Licensed Driver	75
Driver Dress Code.....	75
Driver Conduct	76
Lost Property.....	77
Carriage of Animals.....	77
Carriages of Passengers with Wheelchairs	78
APPENDIX D - PENALTY POINTS SCHEME.....	79
Guidance Notes.....	79
Issuing Process	79
Appeal Process	80
Table of Offences	80
APPENDIX E	87
CONDITIONS FOR LICENSING STRETCHED LIMOUSINES.....	87
Permitted Vehicle Types	87
Legislation	87
APPENDIX F - RIGHT TO WORK	89
Guidance Notes.....	89
List A.....	90
List B.....	91
APPENDIX G	92
APPROVED SEATING CONFIGURATIONS IN MULTI-PASSENGER VEHICLES	92
APPENDIX H	93
VEHICLE COMPLIANCE STANDARDS	93

Guidance93
APPENDIX I – FENLAND DISTRICT COUNCIL BYELAWS.....94

PART 1 - INTRODUCTION

1.1 Powers and Duties

Fenland District Council (the Council) is responsible for the licensing of Hackney Carriage and Private Hire Vehicles (collectively referred to as taxis), their Drivers, Operators and Proprietors in the District.

This Policy sets out the standard that the Council will use to inform its decisions on applications for licenses, their renewal and consideration of their continuance. This Policy will also be useful for members of the hackney carriage and private hire trades, those seeking licenses, the travelling public and others in the community.

Licence holders and applicants for licenses will find guidance on the application processes in the Appendices to this Policy and on the Council website. If a member of the public has a concern or question about the taxi trade, they should get in touch with The Licensing team at the Council at: licensing@fenland.gov.uk

This Statement of Licensing Policy is written pursuant to the powers conferred by the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on Fenland District Council (“the Council”) the duty to carry out its licensing functions in respect of Taxis, Drivers, Operators and Proprietors in the District

This policy has also considered and will continue to refer to the following documents:

- a) Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades issued by the Institute of Licensing IOL (dated April 2018)
- b) Statutory Taxi & Private Hire Vehicle Standards issued by the Department for Transport (dated July 2020)

1.2 Policy Objectives

Hackney carriages and private hire vehicles have a specific role to play in an integrated transport system. They can provide safe, secure and comfortable transport, providing an on-request door to door service in various circumstances, including where public transport may not be available or for those with mobility difficulties.

In setting out its policy, the Council seeks to promote the following objectives:

- (a) The protection of the environment;
- (b) Public Safety;
- (c) Ensuring an efficient and effective hackney carriage and private hire

- provision;
- (d) To provide and maintain a professional and respected hackney carriage and private hire trade by continued monitoring and improvement of standards of service.

The aim of the licensing process, in this context, is to regulate the hackney carriage and private hire trade in order to promote the above objectives. It is the Council's wish to facilitate professional and responsible businesses, which display sensitivity to the wishes and needs of the general public, whilst maintaining the current high standard of service provision.

When considering this Policy, the Council have tried to ensure that each requirement is properly justified by the risk it seeks to address, balancing the cost of the requirement against the benefit to the public.

Licenses issued by the Council

- (a) Hackney carriage driver's licence (HCD)
- (b) Hackney carriage vehicle licence (HCV)
- (c) Private hire driver's licence (PHD)
- (d) Private hire vehicle licence (PHV)
- (e) Private hire operator's licence (PHO)

Note that the licence the Council issues to individuals who wish to drive taxis or private hire vehicles are referred to as a '**driver's licence**', and the licence issued to all motor road vehicle drivers by the DVLA is referred to as a '**driving licence**'.

The Council does not issue school transport permits, these are issued by Cambridgeshire County Council.

Any badge, licence or vehicle plate issued to any person remains the property of the Council.

1.2 Hackney carriages and private hire vehicles; what's the difference

The licences, fares, insurance and working practices of the vehicles are different.

Only hackney carriages may use the word 'Taxi' or 'Cabs' in their name, advertising or signage.

Other differences are set out in this table:

	Private Hire	Hackney Carriage
Bookings		
Can be pre-booked	✓	✓
Can wait in a hackney carriage rank	✗	✓
Can be hailed	✗	✓
Fares		
Set by the council	✗	✓
Uses a taximeter	✗	✓
Set by Operator	✓	✗
Visual differences		
Illuminated roof sign	✗	✓
'Black cab' type allowed	✗	✓
Cab or Taxi in name	✗	✓
Licence plate position	Rear	Rear
Internal plate	✓	✓

1.3 Departure from the Policy

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out therein.

Notwithstanding the existence of this Policy, each application or enforcement measure will be considered on its own merits with regard to the licensing objectives. However, it is likely that departures from policy will be restricted to exceptional circumstances, not used to circumvent the reasonable requirements of the Policy.

Substantial departure from Policy

Where it is necessary for the Council to depart substantially from this Policy, clear and compelling reasons for doing so must be given. The Licensing Sub – Committee may authorise a departure from the Policy in accordance with this section if they consider it necessary in the specific circumstances.

Minor departure from Policy

Where an applicant is able to demonstrate that a minor departure from this Policy, based on the individual circumstances of that application, would

still ensure that the policy objectives are achieved, the Licensing Manager may authorise a licence to be issued. An example of this could be a short delay within the admin process whereby we are waiting for an updated insurance certificate to be sent.

1.4 Policy Duration

This Policy will take effect from XX XX 2021.

Administrative amendments to this Policy (required by virtue of legislative changes, revised statutory guidance, a Council restructure or administrative procedural changes) may be made by the Licensing Manager. Amendments under this section are restricted to those required to accurately reflect the current legal or administrative position rather than amendments that change the focus of local policy.

The Policy will be reviewed every five years in line with the requirement of the Statutory guidance that was introduced in July 2020, to ensure it remains fit-for-purpose and either amended where necessary or approved for continuation.

In the event of any significant amendment to the Policy, a full consultation will be undertaken prior to consideration by the Licensing Committee who will make a recommendation for consideration by Council.

For the purpose of this section, a significant amendment is defined as one that:

- a) will have significant financial impact on applicants, licence holders or the public,
- b) will have a significant procedural impact on applicants, licence holders or the public, or
- c) may not be perceived by the trade or the public to be consistent with the policy objectives.
- d) It does not relate to mandatory changes in legislation and/or statutory guidance

PART 2 - VEHICLES

2.1 Limitation of Numbers

The Council currently has no limit on the number of hackney carriages which may be licensed within the District and has no intention of introducing one unless evidence of 'no significant unmet demand' can be provided. The cost of any 'unmet demand' survey would need to be borne by the existing licence holders and re-evaluated every three (3) years to maintain a cap.

To assess the unmet demand for Hackney Carriage vehicles, this would be carried out through an independent survey, of which the results data would be analyzed, and a decision made if as a Council we had sufficient licensed vehicles to cope with the demand

No powers exist for licensing authorities to limit the number of private hire vehicles that they licence.

2.2 Specifications and Conditions

Licensing authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriages or private hire vehicles and The Best Practice Guidance suggests that local licensing authorities should adopt the principle of specifying as many different types of vehicle as possible.

The Council is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a hackney carriage or private hire vehicle licence. Hackney carriage and private hire vehicles provide a necessary service to the public; however, it is appropriate to set standards for the external and internal condition of the vehicle, provided that the standards are reasonable and proportionate.

Part 2 of this Policy sets out the Council's minimum standards of vehicle specification, which apply in respect of all licensed vehicle applications. This specification will need to be met prior to licensing and maintained throughout the duration of the licence. This will be achieved by attaching the following licence condition to all hackney carriage and private hire vehicle licenses:

"This licence is granted subject to compliance with the Council's Hackney Carriage and Private Hire Licensing Policy vehicle specification requirements (Part 2 of the Policy) throughout the duration of the licence period."

2.3 Accessibility

In regulating the hackney carriage and private hire trade the Council aim to meet the diverse needs of all accessibility requirements in the district. This includes wheelchair users, the visually impaired, the elderly and other groups that may be disabled or otherwise have accessibility requirements. The Council do not place any restrictions on PHV types. However, if the vehicle is to be wheelchair accessible, to ensure public safety, PHV applicants will be required to provide the V5 document that shows that the vehicle has been defined as wheelchair accessible or the certificate of conformance

The Council is committed to social inclusion and ensuring a wide variety of opportunities is available to those with mobility difficulties in order to enjoy a high quality of life. It fully supports the view of the Equality and Human Rights Commission that,

“Making successful journeys is critical to the social inclusion of disabled people. Without the ability to travel, disabled people are denied access to life opportunities. Their access to education, shopping, employment, healthcare, as well as social and family life is significantly improved when journeys become accessible.”

It is defensible that different accessibility considerations should apply between hackney carriages and private hire vehicles in that hackney carriages can be hired in the street or at a rank, by the customer dealing directly with a driver whereas private hire vehicles can only be booked through an operator.

2.4 List of Wheelchair Accessible Vehicles (WAV's)

Section 167 of the Equality Act 2010 allows the Council to designate accessible vehicles as subject to the requirements of the Act making it a criminal offence to refuse a passenger with a wheelchair or charge an additional fare. In support of the Council's desire to provide accessible transport for those with disabilities, all wheelchair accessible hackney carriages and private hire vehicles will be designated for this purpose.

Section 165 – 167 of the Equalities Act 2010 (the 2010 Act) came into force 7th April 2017 and allows local authorities to create a list of designated wheelchair accessible vehicles (a S167 List).

The Council will publish a S167 List of wheelchair accessible vehicles. This means that any vehicle that meets the Council's definition of a wheelchair accessible vehicle will be designated on the list.

By the Council creating the S167 List, this brings into effect the duties placed on drivers under section 165 of the 2010 Act, making it a criminal offence if the driver of a designated vehicle fails to comply with the duties specified

under section 165

Drivers who, for medical reasons, are unable to accept wheelchair passengers or assistance dogs can apply to the Council for an exemption certificate.

Such a certificate will only be issued on production of appropriate medical evidence. Exemption certificates, which show the photograph of the driver, must be displayed in the vehicle at all times whilst licensed as a hackney carriage or private hire vehicle.

In the absence of a medical exemption certificate from the Council, it would be a criminal offence for any hackney carriage or private hire driver to refuse to carry an assistance dog or a passenger with a wheelchair, to refuse to allow the assistance dog to remain with the passenger throughout the journey, or to make any additional charge for the carriage of the assistance dog or wheelchair.

2.5 Environmental Considerations

The Council have given careful consideration to the recommendation in the Guidance that, in the interests of the environment, tougher emissions standards should be introduced for all licensed vehicles and considers its responsibility in protecting the environment to be a strong factor within the licensing policy.

That said, the Council believes its requirement for all new licensed vehicles to be less than five (5) years old when first licensed is proportionate, therefore meeting Euro 6 emission standards for both petrol and diesel vehicles.

However this flexible approach is allowed in conjunction with its six-monthly testing requirements for all vehicles over five (5) years old to offset the need not to require tougher emission standards for licensed vehicles

2.6 Vehicle Idling

Clearly emissions from hackney carriages and private hire vehicles could be further reduced through education and raised awareness of environmental issues. Simple measures such as:

- (a) better and more frequent vehicle maintenance and servicing; or
- (b) switching off engines when stationary or idling, particularly at hackney carriage ranks and schools can make a significant environmental impact considering the number of licensed vehicles.

The Hackney Carriage and Private Hire trade members have an important role to play in raising awareness of environmental issues.

The Council encourages the use of cleaner, low emission vehicles as hackney carriages or private hire vehicles and will offer a subsidised licence fee for electric or hybrid vehicles from April 2022.

2.7 Maximum Age of Vehicles

The Best Practice Guidance reminds licensing authorities that it is perfectly possible for an older vehicle to be in good condition and that the setting of an age limit beyond which they will not licence vehicles may be arbitrary and disproportionate. The limits set by the Council are considered necessary and proportionate to promote public safety and the other objectives of this Policy however it is accepted that a greater frequency of testing may be appropriate for older vehicles.

When first licensed by the Council, all new vehicles must be less than five (5) years old from the date of first registration.

Existing licensed vehicles will not be licensed after the age of 14 years. (The age of the vehicle will be taken from the V5 registration document for the vehicle).

Existing vehicle proprietors will have 2 years from the date this policy comes into effect to change their vehicles.

Hackney carriages and private hire vehicles may be licensed until such time that the vehicle cannot comply with the Council's testing requirements.

A licensed hackney carriage may be transferred to a private hire vehicle, or vice versa, at any time provided it complies with the Council's vehicle testing requirements.

2.8 Vehicle Testing

In order to comply with the Council's vehicle testing requirements a vehicle must obtain a current MOT pass certificate and a current Compliance pass certificate from the Council's nominated testing facility, both of which must be dated no earlier than one calendar (1) month prior to the licence commencement date.

Vehicles that are less than one (1) year old will be exempt from producing a current MOT pass certificate but will be required to obtain a Compliance pass certificate.

All vehicles will be subject to annual testing requirements (MOT and Compliance Test) until they reach five (5) years old. Each application for a grant or renewal of a vehicle licence must be accompanied with proof of Compliance pass Certificate.

Once a vehicle reaches five (5) years old it will be subject to six-monthly testing requirement of a Compliance Test.

For the avoidance of doubt, any vehicle renewal application that would take the licence beyond the age of five (5) years. This will facilitate the vehicle being tested at six-monthly intervals as required.

The Council's nominated testing facility is:

- a) MOT
Any testing facility currently registered with the Department for Transport to undertake MOT testing.
- b) Compliance Certificate
Undertaken by approved premises in Fenland District

Vehicle Failures

The licence of any vehicle which fails its testing requirements will be subject to either an automatic suspension or a time limited period for the vehicle failure to be rectified and re-examined. Until such time as the vehicle has been re-examined and the necessary pass certificates obtained, the Council, or its nominated testing facility, may retain the vehicle licence plate until such time as the inspection requirements are met.

All vehicles that fail a compliance test must pay the re-inspection fee before this can be re-booked.

MOT advisories

With public safety being a significant objective of this Policy, the Council expects licensed vehicles to be of the highest possible standard. Accordingly, any MOT advisory relating to tyres or brakes must be rectified before a licence is granted. The Council also reserve the right to extend this requirement to other MOT advisories where they deem it necessary for the protection of the public.

Vehicles involved in an Accident

With the safety of the public being a predominate factor of this Policy, all vehicles involved in an accident, however minor, will be required to obtain a compliance test approval to continue operating. Upon inspection following an accident, any vehicle that would fail to meet the vehicle testing requirements will be automatically suspended until such time as the vehicle has been re-examined and the necessary approval given.

In the case of only cosmetic damage, a timescale for repair will be set by the Council at the end of which the vehicle must be presented to the Council's nominated inspection facility. If the vehicle would not pass a Certificate of Compliance examination, that vehicle cannot continue to

operate as a hackney carriage or private hire vehicle until such time as the vehicle would meet the testing requirements.

2.9 Officer Inspections

In addition to the above testing requirements, the Council will undertake its own program of inspections. These tests will be undertaken at any other location within the District as advised by a Council Officer and will ensure that vehicles maintain the high standard of testing throughout its licence period.

In the event of any concern in relation to mechanical vehicle safety, the vehicle will be referred to the Council's nominated testing facility for a formal assessment. Where the testing requirements would not be met, the Officer may either agree a period of time for rectification and re-inspection or suspend the vehicle until such time as the testing requirements would be met.

2.10 Vehicle Type

Left-hand drive vehicles will not be considered suitable for licensing, save for stretched limousines which will be subject to the specification requirements detailed in **Appendix E**. This is to ensure that passengers travelling in the front passenger seat can exit the vehicle directly onto the footway rather than directly into the carriageway.

2.11 New Vehicles

Hackney carriages

All vehicle applications for a new hackney carriage licence, must be either:

- a) a 'London' type hackney carriage, or
- b) a suitable wheelchair accessible vehicle, approved by the Council, this will take effect from when we have issued with an active licence for One hundred and ten (110) hackney carriages

For the avoidance of doubt, this does not mean plate number HCV110 this is the total number of hackney carriage licenses in a status of issued.

Private hire vehicles

All vehicles for new private hire licence applications must be either:

- a) a saloon, estate, MPV or hatchback vehicle with a least four (4) side doors, or
- b) a purpose-built minibus designed to carry not less than (4) nor more than eight (8) passengers.

Renewal applications

~~Any hackney carriage or private hire vehicle with a valid licence as at 1~~

April 2021 may be renewed or transferred to a new vehicle without having to meet the new vehicle requirements

2.12 Vehicle Types & Category write-off's

Vehicle Types

Licensed vehicles shall ordinarily have European Community Whole Vehicle Type Approval (see <http://www.dft.gov.uk/vca/vehicletype/index.asp>) and be compliant with the relevant Road Vehicles (Construction and Use) Regulations in effect at the time of application

In the absence of European Community Whole Vehicle Type Approval, or if a vehicle has been modified in any way since manufacture, vehicles can be considered for licensing that have:

- a) National Small Series Type Approval (see <http://www.dft.gov.uk/vca/vehicletype/index.asp>), or
- b) Individual Vehicle Approval (see <http://www.dft.gov.uk/vca/vehicletype/index.asp>)

However, Individual Type Approval will not be accepted:

- a) where the seatbelts fitted to the vehicle are not those fitted by the manufacturer and tested in accordance with the vehicle's original type approval, or
- b) where the vehicle has been fitted with seating/wheelchair tracking which may invalidate the original type approval for any seats fitted to the vehicle except where suitable evidence is provided by the applicant(s) that this is not the case.

Category write – off's

An application for a vehicle licence will not be accepted if the category is showing as either S or N. This means the vehicle has been previously written off and is deemed to be not suitable to be a licensed vehicle.

2.13 Vehicle Specification

All hackney carriage and private hire vehicles must:

- a) be capable of carrying not less than four (4) nor more than eight (8) passengers,
- b) have no damage affecting the structural safety of the vehicle,
- c) not have been written off for insurance purposes at any time,
- d) have sufficient means by which any passenger in the vehicle may communicate directly with the driver,
- e) be maintained in sound and roadworthy condition at all times,
- f) serviced in accordance with manufacturers' recommendations.

2.14 Vehicle Roof Sign and PH Door Signage

Hackney Carriage Vehicles

All Hackney carriage vehicles must be fitted with an illuminated external sign mounted on or above the roof of the vehicle or have a built-in illuminated roof sign.

Roof signs fitted upon a Hackney Carriage Vehicle must be white in colour and shall be securely fitted to the vehicle. Roof signs must be of a design and shape approved by the District Council.

All Hackney Carriage Vehicle roof signs shall display the wording 'taxi' on the front and the words 'Fenland District Council' together with the carriage licence number on the back (except in the case of a London Style cab).

The sign shall be capable of being illuminated internally in such a manner that the word 'TAXI', Fenland District Council and the carriage licence number, is always illuminated when the vehicle is plying for hire, but not otherwise.

All wording shall be black in colour and the word 'TAXI' must not be less than 90mm in height. Wording on the rear of the roof light must not be less than 25mm in height

Private hire vehicles

A private hire vehicle must not carry a roof sign of any description, mounted or built-in, or any markings that may give the impression that it is a hackney carriage.

A private hire vehicle must display Council-approved signage on both front doors of the vehicle. Signage will be displayed in oval shape and on a yellow background with the Fenland Logo, Wording stating Pre-Booked Only, Telephone number and text stating – Insurance invalid unless booked with the operator.

Once you have been issued your new Operator/Vehicle licence we will supply you with a PDF document which will allow you to have the signage printed and affixed by your chosen sign writer.

2.15 Vehicle Livery

The Council believes that the requirements of this policy ensure that hackney carriages and private hire vehicles are easily distinguishable and that there is no current requirement for specific vehicle livery

However, the Council will keep the issue of livery under review and if it believes that livery would be of benefit to the public, either in terms of

specific vehicle colors and/or a Council logo, then a public consultation will be undertaken prior to any livery being introduced.

2.16 Licence plates

At all times when a vehicle is licensed as a hackney carriage or private hire vehicle, unless an exemption has been granted, the vehicle must display the licence plate provided by the Council, securely fixed externally in a prominent position on or above the rear bumper of the vehicle.

At all times when a vehicle is licensed as a hackney carriage or private hire vehicle, the vehicle must display the internal vehicle licence plate provided by the Council, securely fixed in a prominent position to the front windscreen or dashboard.

The licence plates must always be clearly identifiable and legible to the public.

Private Hire Plate and Door Sticker Exemptions

This may be given to private hire vehicles used for executive hire, corporate contracts, school contracts or work of a similar nature. In order to qualify for an exemption, you must complete the template form stating why you are requesting this. Once you have received approval the following must take place;

- a) a written letter of exemption issued by the Council must always be carried in the vehicle,
- b) the licence plate must always be carried in the vehicle,
- c) the internal plate issued by the Council must be displayed on the front windscreen of the vehicle, and
- d) the vehicle must be undertaking the nature of work for which the exemption was granted. If any of these four criteria are not met, then an exception will not be granted.

For the avoidance of doubt, vehicles that are used for a combination of 'exempt' work and normal private hire work will always be required to display external licence plates when the exemption does not apply.

2.17 Third Party Advertising

Third Party advertising is only permitted with prior written approval of the Council.

The following advertising will not be permitted:

- a. Anything of a religious or political nature;
- b. Alcohol or tobacco products;
- c. Any matter of a sexual nature or likely to cause offence;

d. Any matter which is insulting, offensive or abusive.

The content of any advertising on the vehicle shall be legal, decent and truthful. No words, letters or graphics may be displayed on any windows of the vehicle.

No advertisement will be permitted which impedes the vision of the driver. The Council reserves the right to require the licensee to remove the advertisement from display on the vehicle if the content of the advertisement changes without written permission of the Council or for any reason affecting the appearance of the advertisement.

All materials used and affixed for advertising purposes on Hackney Carriage Vehicles must comply with current legislation which includes the Motor Vehicle (Construction and Use) Regulations and must not provide any risk of injury to drivers /passengers or pedestrians.

No secondary advertising of any kind will be permitted including the name of the company preparing the vehicle or the name of the advertising agency.

All advertisements must comply with the UK Advertising Standards Authority (ASA) Codes and it is the responsibility of the vehicle proprietor to ensure that they do so.

Advertising to do with crime and disorder or public safety issues such as advertising "Crime Stoppers" or Crime Prevention Matters will be permitted.

Exterior Advertising

The following surfaces are permitted for the use of exterior advertising on licensed Hackney Carriages, subject to the requirements above:

Doors only - advertising material covering the exterior lower panels of rear doors on both sides of the vehicle

Boot lid - advertising on the boot lid is permitted other than where it in any way obscures the licence plate.

Interior Advertising

Interior advertisements are permitted on the rear window but must be:

- a) no more than ten (10) centimetres in height,
- b) positioned so that they do not obstruct the driver's view in any way, and
- iii) be restricted to the name, logo or insignia, telephone number, or other contact details of the owner or operator of the vehicle.

For the purpose of this section, the display of 'no smoking' signage as required by legislation or signage indicating that the vehicle is able to convey passengers in wheelchairs (provided that the vehicle has been manufactured or properly adapted for that purpose) is not considered to be advertising.

Any advertising or signage on a private hire vehicle must not include the words "taxi", "cab", "hackney carriage" or "for hire", save for the

word “taxi” being part of the company name.

2.18 Seating in Multi-Passenger Vehicles

The Council will licence vehicles for seating arrangements of up to eight (8) passengers where all licensing requirements are satisfied.

All vehicles licensed to carry in excess of four (4) passengers will only be licensed in accordance with the seating layouts detailed in **Appendix G**, unless the Original Manufacturer’s Specification provides an alternative arrangement. Any seating arrangements not illustrated in **Appendix G** will be considered by the Council in relation to safety requirements however it should not be assumed that permission will automatically be granted.

2.19 Doors

All licensed hackney carriages or private hire vehicles must have at least three side-opening passenger doors, which must be easily opened from the inside and the outside.

All vehicles must have sufficient, safe and suitable access and egress from the vehicle for the driver and all passengers, excluding the rear exit and the driver’s front door (with the exemption of WAV vehicles).

2.20 Tyres

The licensed vehicle must be fitted with either all radial or all cross-ply tyres, including the spare wheel. All tyres, including the spare wheel, must be suitable for use on the vehicle and conform to the requirements of the Original Manufacturers’ Specification.

Run-flat tyres and ‘space-saver’ tyres are acceptable on licensed vehicles provided they conform to the Original Manufacturers’ Specification.

If a ‘space-saver’ spare tyre is used on a licensed vehicle it must only be for completing the current fare and returning to a garage to obtain a suitable replacement. No further fares may be taken whilst the ‘space-saver’ spare tyre is being used on the vehicle.

Original Manufacturers’ Specification ‘tyre repair kits / compressor’ are permitted within licensed vehicles provided they comply with the relevant British Standards. If a ‘tyre repair kit / compressor’ is used on a licensed vehicle in lieu of a spare tyre it must only be for the duration of completing the current fare and returning to a garage to obtain a suitable replacement. No further fares may be taken whilst the tyre repaired with the ‘tyre repair kit / compressor’ is being used on the vehicle.

2.21 Drivers' Vehicle Mirrors

External rear view mirrors must be fitted to both sides of all licensed vehicles.

All licensed vehicles must have an internal rear-view mirror appropriately fitted in accordance with appropriate legislation and/or manufacturers' specification.

2.22 Seats - Minimum Interior Dimensions

The following minimum dimensions are applicable to both Hackney Carriage and Private Hire vehicles.

Proprietors should bear in mind that the manufacturers' claimed seating capacity may not always be the same as the Council's licensed seating capacity scheme as detailed below.

Height - From the top of the seat cushions to the roof at the lowest part (inside) must not be less than 865 mm (34 inches approx.)

Seat Depth - fixed passenger seats (measured from the back of the seat to the front edge of the seat cushion) must be no less than 406 mm (16 inches approx.)

Seat Width - fixed passenger seats (measured along the front edge of the seat) must allow at least 406 mm (16 inches approx.) per person. There must also be a minimum of 1371mm (54 inches) between the inner door handles.

Legroom – each passenger seat shall provide sufficient legroom for passengers to be seated in comfort.

Facing seats - the distance between the seat backs measured in a horizontal plane along the top surface of the seating cushion must be not less than 1300 mm (51 inches approx.). The distance between the front edges of the seat cushions must be not less than 425 mm (16 $\frac{3}{4}$ inches approx.).

Access to every passenger seat must be unobstructed and be easily accessible to passengers without the need for seats to be folded or removed and without the need for more than one (1) passenger to move.

Unless the Original Manufacturers' Specification states otherwise, the front seat of the vehicle next to the driver will be regarded as a seat for one (1) passenger only.

2.23 Seat Belts

All vehicles must be fitted with fully operational seat belts, one for each passenger to be carried, fully compliant with the relevant British Standard, except where legislation specifically provides an exemption.

In relation to the carriage of all passengers, including children, the requirements of all relevant legislation must be complied with. As a guide a child over 12, or over 135 cm (approx. 4' 5") in height may ride in the front seat of a Licensed vehicle providing they wear the fitted seatbelt.

2.24 Fire Extinguishers

This council deems that it is not a necessary requirement for the vehicle to carry an extinguishing. The advice given is that in the event of a fire the driver and passengers leave the vehicle immediately and keep a safe distance.

2.25 First Aid Kits

In line with the Health & Safety legislation, all licensed vehicles must carry a first aid kit, this shall be used in an emergency to treat minor injuries and therefore must always be easily accessible.

The contents of the first aid kit must be in date and comply with health & safety requirements.

It must be marked with the vehicle registration number or licence plate number.

2.26 Ventilation

Windows must be provided to all passenger compartments along with adequate means of opening and closing, not less than one (1) window on either side of the vehicle, in both the front and rear passenger compartments.

Rear passenger windows must be capable of being opened by passengers when seated unless air conditioning is available, in which case the air conditioning must be operated by the driver upon request.

2.27 Luggage

Adequate storage for passenger luggage must be available and all luggage carried must be suitably secured in place without obstructing any emergency exits.

If the licensed vehicle is an estate, hatchback, or multi-passenger type vehicle, it must be fitted with a guard-rail or manufacturer's specification compartment cover to prevent luggage from entering the rear

passenger compartments.

2.28 Maintenance and Condition of the Vehicle

The exterior of all licensed vehicles shall be maintained in a clean, safe and proper manner always. In particular, the exterior of the vehicle shall:

- a) be free of large and/or sharp-edged dents,
- b) be free of visible rust,
- c) be free of unrepaired accident damage,
- d) have uniform paintwork equivalent to that applied by the manufacturer, and
- e) be maintained in an acceptable state of cleanliness.

The interior of all licensed vehicles shall be maintained in a clean, safe and satisfactory manner always. In particular, the interior of the vehicle shall:

- f) be free of all stains to the upholstery or seat covers if fitted.
- g) be free of all splits and tears to the seats,
- h) be maintained in an acceptable state of cleanliness, and
- i) provide seats functioning in accordance with the Original Manufacturers' Specification.

2.29 Modifications

No material alteration or change in the specification, design, condition or appearance of any licensed vehicle may be made without compliance with road traffic legislation, insurance requirements, and written approval for the change(s) from the Council.

2.30 Communications Devices

All two-way radio equipment must be of a type currently approved by and must be fitted securely in accordance with guidelines published by, the Radio Communications Agency. They must not be fitted as to obscure the drivers view through the front window screen.

The use of radio scanning devices is prohibited, and such devices must not be fitted or carried in the vehicle.

2.31 Meters

Hackney carriages

An approved taximeter must be fitted in all hackney carriages and must be correctly calibrated, sealed and fully functional in accordance with the current Council approved fare structure. All taximeters must be appropriately stamped to ensure compliance with The Measuring

Instruments (Taximeters) Regulations 2006, or any subsequent legislation.

The taximeter must not be capable of being manually overridden to ensure that the correct tariff is charged based on the actual date and time of the journey, and must be set at the correct date and time at all times throughout the period of the vehicle licence.

The taximeter shall be positioned so that the display on the face of the meter may always be clearly visible to any person being conveyed in the vehicle. The dial of the taximeter shall be kept properly illuminated throughout any part of the hiring including during the hours of darkness and 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 a journey.

An official copy of the Council's fare tariff must be clearly displayed and legible in the vehicle to be plainly visible to passengers carried therein.

The vehicle taximeter must be brought into operation at the commencement of the journey and the fare demanded by the driver shall not be greater than that fixed by this Council in connection with the fare tariff for the hire of hackney carriages. For the avoidance of doubt, the taximeter should not be started until the passenger is in the vehicle ready to commence the journey.

In the event of such a journey commencing in but ending outside the District, the customer may be charged for the journey of such fare as was agreed before the hiring was affected. 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 fare tariff for the hire of hackney carriages.

On occasions, a journey will commence during one tariff period and end within another tariff period. For the avoidance of doubt, the tariff that is in operation at the time of the commencement of a journey must remain throughout that journey.

Private Hire

Private hire vehicles are not required to be fitted with a taximeter however where a taximeter or other device for recording fares is fitted, it must be of a type approved by the Council.

Private hire operators must agree the cost of the journey with the passenger(s) prior to undertaking the journey. At the conclusion of the journey, the fare charged should not exceed the amount previously

agreed. If the operator intends to use the taximeter to calculate the fare, they must seek agreement from the passenger(s) at the time of accepting the booking, including the agreed point at which the meter would be engaged.

2.32 Trailers

Trailers may only be used with the prior approval of the Council and then subject to the following requirements:

- a) the driver's DVLA driving licence must cover the categories that allow the towing of trailers,
- b) the trailer must always comply with all requirements of road traffic legislation and the current Road Vehicles (Construction and Use) Regulations,
- c) the vehicle insurance must include cover for towing a trailer,
- d) trailers must not be left unattended anywhere on the highway,
- e) a suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use;
- f) trailers must display an identical licence plate to the licensed vehicle,
- g) trailers cannot be used on a hackney carriage rank and should only be used for specific pre- booked journeys, not whilst plying for hire.

2.33 Disability Access

In the case of all licensed vehicles which are built or adapted for disabled passengers, the design of the vehicle must ensure that any wheelchair is loaded from the side or the rear of the vehicle.

Where a vehicle is utilised for the carriage of passengers in a wheelchair, the following conditions shall apply:

- a) access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus,
- b) internal wheelchair anchorage must be of the manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit,
- c) a suitable restraint must be available for the occupant of a wheelchair.
- d) access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper,
- e) ramps and lifts must be securely stored in the vehicle before it may move off,
- f) access ramps and/or lifts must be maintained in full working order at all times when the vehicle is available for hire.

Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307).

Where a vehicle is designed or adapted to carry a wheelchair, the proprietor shall ensure that the driver has received sufficient training to safely load and convey wheelchair bound passengers.

2.34 Vehicles Powered by Liquid Petroleum Gas (LPG)

An applicant for a licence involving a vehicle that has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming satisfactory installation, examination and testing of the vehicle in accordance with the LPG Association Code of Practice.

If an LPG conversion involves installation of an LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that a reasonable amount of space shall remain free for the stowage of passenger luggage and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle.

2.35 Tinted Windows

The front windscreen, front driver's side window and front passenger's side window must ordinarily be clear glass. Exemption from this requirement may be given for original manufacturer's specification 'light tint' glass that does not prevent the identification of the driver and passengers from outside the vehicle.

The rear windscreen of any vehicle shall not have been treated so that less than 75% of light is transmitted through it, nor the rear passenger compartment side windows of any vehicle so that less than 70% of light is transmitted through them, unless the following criteria can be met:

- a) the vehicle is licensed as private hire vehicle only,
- b) the vehicle is a stretched limousine vehicle,
- c) the vehicle will not be engaged at any time for the carriage of school children,
- d) the private hire operator must, unless such a vehicle has been specifically requested, inform a hirer that such a vehicle will be supplied.

This section does not preclude or supersede any requirements provided for in any relevant legislation relating to road traffic vehicles.

2.36 Insurance

There shall be a policy of insurance, or such security as complies with the requirements of Part VI of the Road Traffic Act 1972, throughout the duration of the vehicle licence including appropriate cover for hackney

carriage or private hire (as applicable).

Certificates of Insurance or cover notes that do not provide appropriate cover for a minimum of the first calendar month of a licence period will not be accepted by the Council. Failure to comply with this requirement will preclude a licence from being issued.

Where a cover note is provided as part of a licence application, a full Certificate for a twelve (12) month period of Insurance must be provided prior to the expiry of the cover note.

The registered owner of the licensed vehicle shall ensure that it is always adequately insured to the satisfaction of the Council and all relevant legislation that it is available for the carrying of passengers. In the absence of appropriate insurance, the licensed vehicle cannot be used for the carrying of passengers.

As case law has established that a vehicle licensed as a hackney carriage or private hire vehicle always remains a licensed vehicle until the licence expires or is surrendered, only appropriately licensed hackney carriage or private hire drivers may drive the vehicle. The Council will not, therefore, accept any Certificate of Insurance that includes persons that do not hold a valid hackney carriage or private hire driver licence (as appropriate) for the vehicle.

2.37 Change of Ownership

Any change to the person(s) or company named on a vehicle licence must be notified to the Council within fourteen (14) days of such change.

When the holder of a vehicle licence wishes to transfer the licence to another person he must notify the Council, in writing, using the prescribed application form and paying the appropriate fee before such change takes place. Transfer of the licence will not be granted until such time as the prescribed procedure has been completed and a new vehicle licence has been issued.

2.38 Inspection

All hackney carriage and private hire vehicles must be available for inspection, at any location within the District, at all times when requested by an Authorised Officer of the Council or a Police Officer.

All vehicle documentation must be produced within twenty-four (24) hours, or such other time as specified, when requested by an Authorised Officer of the Council or a Police Officer.

2.39 Unauthorised Use

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

For the avoidance of doubt, case law has established that once licensed as a hackney carriage or private hire vehicle, the vehicle always remains a licensed vehicle until the licence expires, is surrendered, is suspended or is revoked. Even if a licensed vehicle is being used for private purposes, it must still meet all the requirements of a licensed vehicle, for example displaying a licence plate, complying with all requirements of this Policy and being driven by a licensed driver.

2.40 Accident Reporting

In accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976, any accident to a hackney carriage or private hire vehicle causing damage materially affecting:

- a) the safety, performance or appearance of the vehicle, or
- b) the comfort or convenience of the passengers,

must be reported to the Council as soon as reasonably practicable, and in any case within seventy-two (72) hours of the occurrence thereof.

Following an accident or damage to a licensed vehicle, if it is the intention of the owner or operator to continue licensed use, the vehicle must immediately be inspected by an authorised council officer to determine its fitness for continued use.

On some occasions it may be required for a vehicle compliance test to be undertaken to ascertain any damage. If the Council's nominated testing facility determines that the vehicle is fit for continued use, the timescale for cosmetic repairs must be agreed with a Council Licensing Officer.

The Council may suspend the use of a licensed vehicle until it is suitably repaired and conforms to the Council's testing requirements.

A licensed vehicle which has suffered major accident damage or requires substantial mechanical repair may be temporarily replaced by a hire vehicle of a similar type, provided:

- a) the damage to, or defect in, the vehicle has been reported to the Council,
- b) an application is made in the prescribed manner for a temporary vehicle licence,
- c) the replacement vehicle meets the requirements of this Policy and is suitable to be used for hire purposes.

2.41 Miscellaneous

The proprietor of a hackney carriage or private hire vehicle shall not knowingly cause or permit the vehicle to be used for any illegal or immoral purpose.

2.42 Security/CCTV

The hackney carriage and private hire trade provide a valuable public service, especially late at night when other forms of public transport are no longer available. Security for drivers and passengers is of paramount importance and CCTV cameras can be a valuable deterrent. That said, mandatory CCTV is not a requirement as the Council considers this a matter best left to the judgement of the owners and drivers themselves.

If CCTV is installed in a vehicle, it will be the responsibility of the operator/proprietor to handle relevant data gathered in a secure manner and register with the Information Commissioner's Office (ICO). You will also be required to display the correct signage to notify customers accordingly.

2.43 Stretched Limousines & Novelty Vehicles

Stretched limousines are generally used for all private hire work plus special occasions such as days at the races, stag/hen parties and children's birthday parties.

For the purposes of this Policy, a stretch limousine is defined as follows: *"A stretch limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures that;*

- a) can carry up to but not exceeding 8 passengers;*
- b) is not a decommissioned military or emergency service vehicle."*

Any stretched limousines capable of carrying eight (8) passengers or less which are offered for private hire does require a licence from the Council. In accordance with the Best Practice Guidance, all applications to licence stretched limousines as private hire vehicles will be treated on their own merits. Any stretched limousine capable of carrying more than eight (8) passengers requires licensing by the Traffic Commissioners as a public service vehicle.

Any stretched limousine approved for licensing as a private hire vehicle will be subject to specification set out in **Appendix E**, which will be attached as conditions to all limousines licensed as a private hire vehicle.

It would be an offence under the Licensing Act 2003 to provide facilities for the sale of alcohol within a limousine. If a limousine is to be provided

whereby part of the booking includes “free alcohol”, the premises which accepts the booking and supplies the alcohol within the vehicle would need an appropriate licence under the Licensing Act 2003, otherwise a criminal offence would be committed.

2.44 Funeral and Wedding Vehicles

There is no requirement for a vehicle to be licensed where it is being used in connection with a funeral or is being wholly or mainly used by a person carrying on the business of a Funeral Director for the purpose of funerals.

A vehicle does not need to be licensed whilst it is being used in connection with a wedding. For clarity, the exemption applies only to services directly relating to the wedding service itself, for example transporting the bride and/or groom to the wedding service, from the service to the reception and from the service/reception to home. Transporting the married couple to other locations such as the airport would be considered a licensable activity.

2.45 Voluntary Sector Transport

The Council will assess each individual organisation on its own merits to determine whether it will require licensing as a private hire business.

To make an initial enquiry and discuss your query please contact the licensing team.

2.46 Dual Plating

The Council will not grant a hackney carriage or private hire vehicle licence for any vehicle already licensed by another licensing authority.

3.1 Licenses

Due to similarity of a hackney carriage and private hire driver, this section will apply equally to private hire and hackney carriage drivers unless otherwise stated.

The Council requires that separate driver licenses be ordinarily held in respect of hackney carriage and private hire vehicles. However, with effect from the date of this policy we will no longer be issuing 'dual licenses'.

For the avoidance of doubt, if you are issued with a hackney carriage drivers licence then you will also receive private hire driver status. But if issued with a private hire drivers licence then you will only be able to operate as a private hire driver.

3.2 Age and Experience

A licence will not be granted to anyone who has not held a full driving licence, for a period of at least twelve (12) months immediately prior to the application.

An applicant who meets the licensing requirements by virtue of an acceptable non-UK driving licence must obtain a full UK driving licence within twelve (12) months of the issue of the hackney carriage or private hire driver licence. Where this requirement is not satisfied, the hackney carriage or private hire driver licence will be automatically suspended pending compliance.

3.3 Driver Knowledge Tests

Hackney carriage drivers clearly need a good working knowledge of the District for which they are licensed, because hackney carriages can be hired immediately, directly with the driver at ranks or on the street.

In order to determine fitness to hold a licence, applicants for a hackney carriage driver's licence are required to undertake a knowledge test based on local geography, places of interest, basic knowledge of English language & math's and the Council's Licensing Policy.

In addition, applicants are required to take a short verbal test to show their understanding and communication of the English language.

To hold a private hire drivers licence you will also be required to undertake the knowledge test, however we recognise that the same instant knowledge is not required as there would be an opportunity to research

the required route so this part will not be included.

A knowledge test pass is only valid for a period of six (6) months. If a driver licence has not been granted within a period of six (6) months following the successful knowledge test, a further knowledge test pass will be required prior to a licence being granted. The exception to this would be if a delay occurred during the administration process

The fee set for the knowledge test only includes the one (1) test, any subsequent re-tests will be charged at the set fee.

An applicant may only sit a maximum of four (4) knowledge tests during a twelve (12) month period. Failure to achieve a pass mark during this period will result in a drivers licence not being issued and the applicant will need to re-apply at a later stage.

Further details of the respective tests are set out in Part 5 of this Policy.

3.4 Driving Proficiency and Qualifications

The Council believes that as a profession, hackney carriage and private hire drivers have a special responsibility for the safe transportation of fare paying passengers and therefore they must complete an advanced driving assessment, details of this can be found on our website.

Whilst the Council has no current plans to make it a mandatory requirement for a driver to obtain a professional qualification, for example a BTEC Level 2 Award in Transporting Passengers by Taxi and Private Hire, the Council would encourage drivers to consider completing this.

3.5 Medical Examination including Eyesight Test

In order to promote the Council's public safety licensing objective, it will be a requirement to produce a medical assessment from a registered medical practitioner confirming the applicant/licence holder's fitness to drive. A new medical certificate will be required at the following intervals:

- a) The applicant is a new driver;
- b) The licence holder is aged forty-five (45) years of age and every subsequent five (5) years from then
- c) The licence holder is aged sixty-five (65) years of age and every subsequent twelve (12) months; or
- d) The applicant/licence holder has a health condition that may impact upon their ability to drive a hackney carriage or private hire vehicle

Applicants may still apply for a three-year licence, however, must produce further medical certification at the required age period or at a shorter

period where recommended by the medical practitioner.

The medical assessment required by this section must:

- a) be completed on the Council's prescribed medical form (available on the Council website),
- b) be completed by the applicant's GP, a member of the applicant's GP's surgery, or a GP having access to the applicant's full medical history,
- c) less than six (6) month's old at the licence start date,
- d) contain an assessment of fitness to drive based on the DVLA Group 2 Medical Standards for Vocational Drivers.
- e) A separate Eye test examination maybe required if the GP is unable to complete this, the date of this must be less than six (6) months old at the licence start date.

If required to obtain a medical certificate, the applicant will be responsible for paying the fee for the examination to the relevant surgery. On completion of the examination, the confidential assessment must be submitted to the Council accompanied by any relevant supporting documentation.

Holders of current PSV and/or HGV Licenses, where the holder can produce proof of a current medical assessment, will not be required to undergo a further medical examination provided the requirements are met.

Licence holders must advise the Council of any deterioration in their health that may affect their driving capabilities. For the avoidance of doubt, the following medical conditions must be notified to the Council as soon as reasonably practicable however this list is not exhaustive:

- f) any heart-related condition
- g) any eyesight related condition
- h) diabetes (Type 1 or Type 2)
- i) epilepsy
- j) sudden attacks of giddiness or fainting
- k) conditions causing excessive daytime sleepiness such as sleep apnea
- l) alcohol or drug dependency
- m) mental or psychological disorders
- n) any other condition that may affect the ability to drive

Where there is any doubt as to the medical fitness of the applicant, the Council may require the applicant to undergo further medical assessment, at the applicant's own expense.

3.6 Medical Exemption Certificates

Carriage of wheelchairs: medical exemption certificates

Given that the main reasons for a hackney carriage or private hire vehicle driver to request a medical exemption are likely to be back or muscle-related injuries, which are not likely to be conducive to driving for long periods, the Council expect the number of drivers likely to be eligible for an exemption to be low.

Drivers will need to provide medical evidence to support their application. Most drivers with a medical condition severe enough to warrant an exemption are likely to be under a specialist / consultant medical practitioner and the Council will require evidence of the condition to be provided from them.

Carriage of assistance dogs: medical exemption certificates

The main reasons a hackney carriage or private hire vehicle driver may wish to apply for a medical exemption are:

- a) if they have a condition such as severe asthma, that is aggravated by contact with dogs;
- b) if they are allergic to dogs; or
- c) if they have an acute phobia to dogs.

The Council therefore expect the number of drivers likely to be eligible for an exemption to be very low.

Drivers will need to provide medical evidence to support their application. If a driver has severe asthma or a known allergy to dogs, they are likely to have a medical history and an appropriate medical specialist should hold relevant information about their condition. If a driver has a chronic phobia to dogs, the Council would expect this to be supported by a report from a psychiatrist or clinical psychologist before a driver is granted an exemption. Most drivers with a medical condition severe enough to warrant an exemption are likely to be under a specialist / consultant medical practitioner and the Council will require evidence of the condition to be provided from them.

Suitable medical professionals: medical exemption certificates

Examples of suitable medical professionals include, but are not limited to:

- a) medical specialist / consultant;
- b) specialist nurse (for example, an asthma nurse);

In exceptional circumstances, where no other alternatives are available, the Council may consider evidence from the applicant's General Practitioner. The applicant will be responsible for all costs associated in the provision of the necessary medical evidence.

3.7 Disclosure & Barring Service (DBS) Disclosures

A DBS check on a driver is seen as an essential safety measure in assessing whether an applicant is suitable to hold a licence, therefore an Enhanced Disclosure provided by the Disclosure & Barring Service is required by all applicants, whether new or renewal applications.

Before an application for a driver licence will be considered, the applicant must provide a current (less than three months old) Enhanced DBS Disclosure; the only exception would be where an applicant has registered with the DBS for the online checking service and the Council has seen the latest DBS to which the online check refers.

We will be carrying out DBS checks on licensed drivers at every six (6) month interval. Therefore, to ensure this is completed in a timely manner it is a mandatory requirement that all licensed drivers sign up to the DBS online checking service. Failure to have this in place and an adequate check not being completed, will result in either a temporary suspension of the drivers licence or a delay in the renewal process.

The Rehabilitation of Offenders Act 1974 does not apply to applicants for both hackney and private hire driving licenses; therefore, applicants are required to disclose all convictions, including those that would normally be regarded as spent.

The Council is not an accredited Disclosure & Barring Service body therefore any requirement for new checks are passed to a neighbouring authority to process on our behalf. The applicant will be responsible for the payment of the appropriate fee.

In the case of applicants with less than five (5) years residence in the UK, a Certificate of Good Conduct will be required from the relevant Embassy in addition to an Enhanced DBS Disclosure covering their time in the UK. All Certificates of Good Conduct must be translated into English by an accredited translator and accompanied by a declaration to that effect.

The Council is bound by rules of confidentiality and will not divulge information obtained to any third party. The applicant for a DBS certificate will be sent a certificate to their home address and will need to provide the certificate to the Council who do not receive a copy. Once the Council have obtained the necessary information from a DBS certificate, no information from the DBS will be retained by the Council.

3.8 Relevance of Convictions and Cautions

In relation to the consideration of convictions and cautions recorded against applicants, the Council will adopt the guidelines set out in

Appendix B of this Policy.

3.9 Convictions during period of licence

Where offences resulting in conviction are committed by licensed drivers in the course of their business or otherwise, it is important, in the interests of consistency and transparency that a procedure should be in place to consider what effect this should have on their hackney carriage or private hire driver's licence.

Driver's licence holders, who are convicted or cautioned for any criminal or motoring offence during the period covered by their existing licence, must disclose the conviction or caution and the penalty involved to the Council within seven (7) days of the conviction. In the case of a deferred sentence, the penalty must be disclosed to the Council within seven (7) days of sentencing. For these purposes, any offence resulting in the acceptance of a fixed penalty notice will be considered to be a conviction.

Should an applicant, applying as a new driver or renewal, have seven (7) or more points on the DVLA driving licence and or any previous convictions then their application will be referred to a Licensing Panel hearing to ascertain whether the applicant is a 'fit and proper person' to hold a licence.

3.10 Safeguarding & Disability Awareness Training

The Council acknowledges the importance of safeguarding and disability awareness training to all licensed drivers and operators, particularly about the prevention of child sexual exploitation, but additionally regarding vulnerable adults and children.

The Council are currently working on an inhouse training programme, which will be in place by April 2021, it will be a mandatory requirement for all new drivers and operators prior to the grant of a licence to complete this.

All existing drivers and operators will be given a period of twelve (12) months to complete this training; failure to do so will result in a licence not being renewed until such time as the training requirement has been fulfilled.

A renewal applicant will be expected to undertake this training;

- a) every six (6) years or soon
- b) if an officer or the Licensing Sub-Committee, feel it necessary for the driver to demonstrate they are safe & suitable to be a licensed driver.

3.11 Right to Work

All applicants will be required, prior to the grant of a licence, to demonstrate their right to work in the UK. Once this requirement has been satisfied, further proof will not be required unless the right to work is time-restricted, in which case further proof will be required to demonstrate continuity of right to work. Further information is available in **Appendix F**.

3.12 Conditions of Licence

The Council is not permitted to attach conditions to a hackney carriage driver's licence however it is empowered to attach such conditions to a private hire driver's licence as are considered necessary.

For consistency, conditions will not be attached to driver licenses however the Council consider continued compliance with this Policy as an essential requirement of the 'fit and proper' person test. Failure to comply with all policy requirements is likely to result in enforcement action being taken.

3.13 Driver Code of Conduct

Adopting a Driver Code of Conduct for hackney carriage and private hire licence holders serves to promote the Council's licensing objectives in respect of the hackney carriage and private hire trades; the standards expected of licence holders are detailed in **Appendix C**. This Code of Conduct is an integral part of the 'fit and proper' assessment.

3.14 DVLA Licence Checking

In order to ensure that the Council have a driver's complete driving history, thus enabling a fully informed decision to be made in respect of an application, the Council upon new and renewal application will request you to provide a DVLA share code.

By providing this code it will allow us to check your DVLA licence and history from the DVLA website. The application form declaration includes a section where the applicant signs to give their consent for this check.

Any anomalies between the DVLA record and the applicant's driving licence will be brought to the attention of the DVLA and the Police.

3.15 National Register - NR3 Checks

This Council has subscribed to the National Register of Hackney Carriage and PHV driver licence refusals and revocations, the 'national register of refusals and revocations' or NR3 as it is most commonly known. The

council will search the national database in all cases where an application is made for a new hackney carriage or private hire driver licence and when an application is made for the renewal of these licences.

Whilst completing these checks if any areas of concern are identified they will be addressed with the applicant immediately and may lead to a suspension or revocation of their licence.

PART 4 - PRIVATE HIRE OPERATORS

4.1 Requirements and Obligations

Any person who operates a private hire service utilising one or more private hire vehicles must apply to the Council for a Private Hire Operator Licence. A private hire vehicle may only be dispatched to a customer by a private hire operator who holds a private hire operator licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.

A private hire operator must ensure that every private hire vehicle has a current private hire vehicle licence and is driven by a person who holds a current private hire driver licence. All three licenses, private hire operator, private hire vehicle and private hire driver, must be issued by the same licensing authority.

It is for the Council to decide whether the applicant is a 'fit and proper person' to hold a private hire operator licence.

4.2 Disclosure & Barring Service (DBS) Disclosures

Private hire operators cannot be required to produce an Enhanced DBS disclosure therefore a Basic Disclosure from the Disclosure & Barring Service, or a certificate of good conduct from the relevant embassy for overseas applicants, is considered appropriate in promoting the policy objectives. A reference covering the applicant's financial record and/or business history may also be considered appropriate in addition to these requirements in some instances.

Before an application for a private hire operator licence will be considered, the applicant must provide a current (less than 3 months old) Basic DBS Disclosure of Criminal Convictions, or a Certificate of Good Conduct from the relevant embassy in the case of an overseas applicant. Applicants that hold a current hackney carriage or private hire driver licence with the Council will be exempt from this requirement.

4.3 Conditions

The Council has power to impose such conditions on a private hire operator licence as it considers reasonable, necessary and proportionate. The following conditions will be attached to all private hire operator licenses issued by the Council:

- a) This licence is granted subject to compliance with the requirements of Part 4 of the Council's Hackney Carriage and Private Hire Licensing Policy throughout the duration of the licence period

- b) All private hire booking records as per section 4.11 must be kept for a minimum of 12 months
- c) Any staff member working as a vehicle dispatcher on behalf of the licensed operator must have a valid Basic DBS Disclosure of Criminal Convictions check dated less than 3 months old from commencement of employment.

4.4 Public Liability Insurance

It is considered appropriate for a licensing authority to check that appropriate public liability insurance has been taken out for premises that are open to the public. Before an application for a private hire operator licence is granted, the applicant must either produce evidence that they have taken out appropriate public liability insurance for the premises to be licensed or sign a declaration that their premises is not open to the public.

4.5 Licence Duration

The Council will issue a successful applicant for a private hire operator licence with a one or five-year licence from the date of grant, although we do encourage applying for a five-year licence.

4.6 Address from which an Operator may Operate

Upon the grant of a private hire operator licence, the Council will specify on the licence the address from which the operator may accept bookings and dispatch vehicles. This address will ordinarily be the address stated on the application form.

The operator must notify the Council in writing of any proposed change of address during the period of the licence in order that the Council can consider its suitability. The operator may not change operating address until such time as the change has been approved in writing by the Council. The operator must also provide proof of public liability insurance for the new premises or sign a declaration that their new premises is not open to the public prior to the change being approved.

4.7 Operating Bases

A private hire operator licence issued by the Council will be required for any operator with an operating base that is inside the District of Fenland.

4.8 Right to Work

All applicants will be required, prior to the grant of a licence, to demonstrate their right to work in the UK. Once this requirement has been satisfied, further proof will not be required unless the right to work is time-restricted, in which case further proof will be required to demonstrate continuity of right to work. Further information is available in **Appendix F**.

4.9 Sub-contracting of Private Hire Bookings

Legislation now allows for a licensed private hire operator to sub-contract a booking to another licensed private hire operator, whether in the same district or not. Both operators must be licensed within the area in which their operating base is located and should record details of the booking in the normal way.

All three licenses (operator, driver and vehicle) must still be issued by the same local authority. For example, an operator licensed to operate in district A and district B cannot take a booking in district A and use a vehicle and driver licensed in district B. They can however sub-contract the booking to the operating base in district B using a vehicle and driver licensed in district B.

4.10 Standards of Service

The operator shall:

- a) provide a prompt, efficient and reliable service to members of the public,
- b) ensure that their office staff act in a civil and courteous manner at all times,
- c) ensure that booked vehicles arrive punctually at the appointed place,
- d) ensure that premises provided for the purpose of booking or waiting are kept clean and are adequately lit, heated and ventilated with adequate seating facilities,
- e) ensure compliance with legislation regarding the length of employee working hours.

4.11 Records

Booking records shall be kept in a non-erasable form in a suitable log or book, the pages of which are numbered consecutively, or in an appropriate electronic format.

Prior to each journey, the operator shall record the following particulars of every booking of a private hire vehicle accepted:

- a) date of the booking,
- b) name, address and contact number of the hirer,
- c) time of pick-up
- d) address of the point of pick-up,
- e) address of the destination drop off,
- f) licence number (or other identification) of the driver allocated to the booking,
- g) plate number (or other identification) of the vehicle allocated to the booking,
- h) fare agreed between the operator and hirer at the time of booking.

The operator shall keep the following records for all private hire vehicles operated by them:

- a) type, make, model, colour and engine size of vehicles,
- b) year when the vehicle was first licensed for private hire,
- c) vehicle registration numbers,
- d) number of seats for passengers,
- e) owner of the vehicles,
- f) insurance details of vehicles,
- g) method of charging, i.e. whether or not a meter is fitted,
- h) private hire vehicle plate number.

The operator shall keep the following records for all drivers of private hire vehicles operated by them:

- a) driver's name, address and contact number,
- b) driver's licence number issued by local authority,
- c) date employment commenced,
- d) date employment ceased,
- e) any change of address, including the date the address changed
- f) any illness, disability or condition which may affect the driver's ability to safely carry out his duties,
- g) expiry date of both the DVLA & driver licence issued.

All records maintained by the operator shall be kept for at least twelve (12) months after entry and shall be produced for inspection, on request, by any Authorised Officer of the Council or any Police Officer.

The operator shall be required to register your details with the Information Commission's Officer (ICO), this is a requirement under GDPR as you will be retaining personal data.

4.12 Complaints

The operator shall notify the Council in writing of any complaints concerning a contract for hire arising from their business that they feel prudent to do so, for example for their own protection against frivolous or vexatious complaints or allegations of misconduct against a driver. Such notification must include the action taken, or proposed, as a result of the complaint.

4.13 Disclosure of Convictions

The operator shall, within seven (7) days of conviction, notify the Council in writing of any conviction or fixed penalty imposed on them during the licence period of their operator licence. If the operator is a company or partnership, this requirement shall equally apply if any of the directors or partners receives a conviction or fixed penalty.

4.14 Private Hire Insurance

The operator shall ensure that a certificate of motor insurance covers every private hire vehicle operated by them under the operator licence.

4.15 Private Hire Driver Licenses

The operator shall ensure that every driver working under their operator licence has obtained a private hire driver licence from the same licensing authority which issued the private hire operator licence. The operator shall use their best endeavour to ensure that all drivers have a badge issued by the Council and that the drivers always wear the badge whilst available for hire.

4.16 Planning Consent

To operate a private hire business from home, planning permission may be required. A private hire operator licence will not be granted without evidence that either planning permission has been issued for the premises concerned, or planning permission is not required for the limited use proposed.

PART 5 – APPLICATION PROCEDURE

5.1 General

This Part of the Policy is intended to give an indication of the application process relating to all application types. In line with its commitment to smarter ways of working, the Council reserve the right to make changes to the administrative process provided that the focus of the policy objectives are maintained.

Where the administrative process is amended, the Licensing Manager may amend this Part of the Policy in accordance with the delegation set out in part 12

5.2 Vehicles

An application for a vehicle licence will only be considered complete when all the following documents have been received:

- a) prescribed application form, fully completed
- b) appropriate fee
- c) V5 registration document
 - ❖ which must show the vehicle as belonging to the applicant either wholly or jointly with any other person(s);
 - ❖ once the V5 has been provided for the grant of a new vehicle licence, it need not be re-submitted with subsequent renewal applications unless the details of the vehicle or registered keeper change.
- d) current valid insurance certificate or cover note
 - ❖ the certificate must include the appropriate usage as a hackney carriage or private hire vehicle;
 - ❖ the certificate must cover a minimum of one (1) calendar month from the start date of the licence;
 - ❖ the certificate must not contain the name(s) of any driver not licensed with the Council;
 - ❖ if a cover note is provided, a full certificate of insurance (a period of no less than twelve (12) months must be provided before the expiry date of the cover note.
- e) MOT certificate dated no more than thirty (30) days old at the date of the compliance test.
- f) Compliance Certificate
- g) Hackney Carriage Meter certificate (New Vehicle)

5.3 Drivers

An application for a driver licence will only be considered complete when all the following documents have been received:

- a) prescribed application form, fully completed
- b) appropriate fee
- c) a current valid full driving licence
- d) enhanced Disclosure & Barring Service (DBS) certificate, unless registered with the online DBS checking service
- e) knowledge test passes (new applicants only)
- f) medical certificate (new applicants or renewals where the applicant has reached the prescribed age requiring a further check.
- g) proof of right to work in the UK (new applicants and where applicable)
- h) a passport-sized, clear and easily identifiable photograph of the applicant

All new applicants can submit the above documentation whilst waiting to take the knowledge test assessment.

5.4 Operators

An application for an operator licence will only be considered complete when all the following documents have been received:

- a) prescribed application form, fully completed
- b) appropriate fee
- c) inspection of the operating premises by a licensing officer
- d) basic Disclosure & Barring Service (DBS) disclosure, unless licensed as a driver with the Council

5.5 Submitting Applications and Documentation

Renewal application forms, appropriate fees and all supporting documentation should be submitted at least fourteen (14) days prior to the expiry of the previous licence. Incomplete applications may be returned to the applicant for resubmission when complete. A licence will not be renewed without all supporting documentation and the correct fee being received and satisfying the requirements of this policy. It is the licence holder's sole responsibility for ensuring they make their application in accordance with this Policy.

When submitting renewal applications, applicants should be aware that it may take up to five (5) working days to process and issue a licence once all relevant information and the fee have been received. If a licence has not been issued at the point when an existing licence expires, the licence holder must cease operating until the new licence has been received.

Documentation must be emailed to the licensing department via email address licensing@fenland.gov.uk

Any original documentation for example right to work check, DBS certificate and DVLA licence can be verified during the knowledge test whilst visiting the council offices.

5.6 Issue of vehicle plates and driver badges

Once the application has been processed and the licence is issued, all Licence plates, licence badges and paper licenses will be posted out to the applicant's home address.

5.7 Return of vehicle plates and licence badges

All licence plates and licence badges remain the property of the Council and must be returned:

- a) upon written request within seven (7) days of such a request,
- b) within seven (7) days of expiry or surrender, or
- c) immediately upon suspension or revocation.

A licence plate and a licence badge signify the existence of a current valid licence but are not licenses in their own right therefore there is no reason why a renewed licence plate or licence badge cannot be displayed from the point of receipt.

Renewed licence plates and licence badges which are posted to the licence holder, the existing plate or badge must be returned within seven (7) days of receipt. Posted to the Council offices or placed in the post box situated at either The Base/Fenland Hall, March or The Boathouse, Wisbech.

5.8 New Driver Knowledge Tests

In order to maintain the high standards that the Council expects of its hackney carriage drivers operating within the District, all new drivers are required to pass a knowledge test consisting of both written and verbal questions. All parts must be passed to be considered for a hackney carriage or private hire driver licence. The written part is split into four (4) sections;

- 1) Legislation and policy knowledge
- 2) Landmarks
- 3) Basic Written literacy and numeracy
- 4) Routes (This section is for Hackney Carriage only)

Applicants will be tested on their knowledge of Fenland District and significant locations in the surrounding areas where they are likely to be required to travel to.

Questions for the knowledge test may include:

- a) the shortest route between locations based on the town where the applicant will predominately ply for hire;
- b) the shortest route between prominent locations based on the District as a whole
- c) the locations of prominent points of interest across the District such as hotels, surgeries, schools, etc;
- d) the highway code;

- e) the Council's Hackney Carriage and Private Hire Licensing Policy and relevant legislation;
- f) customer care; and
- g) basic numeracy, including the calculation of change for a given fare.

A maximum of two (2) hours will be allowed for this part of the knowledge test and a pass of 80% must be achieved in each section as follows:

- 1) Policy and Legislation
- 2) Landmarks
- 3) Basic Written literacy and numeracy
- 4) Routes (This section is for Hackney Carriage only)

Verbal Part - Test

Twenty (20) minutes is allowed for the fifteen (15) question verbal test and the pass mark is twelve (12) correct answers. In addition, all three (3) safeguarding questions contained within the test must be answered correctly.

In addition to scoring twelve (12) correct answers, a licensing officer must be satisfied that the applicant has sufficient communication skills for a licensed driver therefore the test may be recorded.

Driver Test Failure

Four (4) attempts are permitted at passing the knowledge test in a twelve (12) month period. In the event of a re-test taking place then each section must be taken as a whole test. The fee will include one test, any subsequent re-tests will be incurring a fee at the applicant's expense.

Booking Tests

Both written and verbal knowledge test are available on a monthly basis, save for exceptional circumstances. All bookings must be accompanied by the appropriate test fee paid at the time of booking; a cancellation fee will be charged for non-attendance without twenty-four (24) hours prior notice.

To book a knowledge test you can email licensing@fenland.gov.uk, please include a copy of your receipt as proof of payment. These tests only take place once a month and are normally held every third Tuesday

5.9 Disclosure & Barring Service (DBS) Disclosures

No application for a hackney carriage or private hire driver licence will be considered without an enhanced DBS disclosure satisfying the requirements of this Policy.

If you need to apply for a new DBS, this can be arranged following the submission of your new/renewal application.

The Council requires applicants to register with the online DBS checking service. This will enable the Council to check an existing DBS every six (6) months during the term of the licence and upon each renewal.

5.10 The consideration of applications

Upon receipt of a completed application form, including the fee and all supporting documentation, the Council will consider the application. Where the application is incomplete, it will not be considered until all the missing details or documents are supplied.

For an application to be considered as a renewal application, the fully completed application form and correct fee must be received prior to the expiry date of the previous licence. Accompanying documentation can then follow as it becomes available.

Failure to comply with this requirement will ordinarily result in the applicant having to re-apply as a new applicant and meet all the requirements of this Policy in respect of new applications.

PART 6 – DISCIPLINARY AND ENFORCEMENT MEASURES

6.1 Enforcement

It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the hackney carriage and private hire vehicle trade. In pursuing its objective to encourage responsible hackney carriage and private hire businesses, the Council will operate a proportionate disciplinary and enforcement regime. In order to balance the promotion of public safety with the need to prevent unnecessary interference in a licence holder's business, the Council will only intervene where it is necessary and proportionate to do so. Where defects are such that use of a vehicle needs to be immediately prohibited, livelihood interference is inevitable.

All enforcement action will be based upon the seriousness of the breach and the possible consequences arising from it.

Enforcement action must always be consistent, proportionate and reasonable whilst ensuring that the public receive adequate protection. Determination of enforcement action may consider, but will not be limited to, the following:

- a) seriousness of any offence(s);
- b) driver's or operator's past history;
- c) consequence of non-compliance;
- d) likely effectiveness of the various enforcement options;
- e) risk to the public.

The Council will ensure that its enforcement is in line with this Policy and also consider the Council's Enforcement Policy.

6.2 Penalty Points Scheme

In order to ensure compliance with the Council's Hackney Carriage and Private Hire Licensing Policy and to monitor licence holder's ability to fulfil the 'fit and proper' test, a penalty points system will be utilised as described in **Appendix D**. This will serve both as an early warning system to licence holders who fail to meet the Council's required standards and as a consistent and transparent method of enforcement,

The Penalty Points System will not, however, compromise the Council's ability to enforce breaches of statute or the Council's Licensing Policy in the Courts should an offence necessitate such action.

6.3 Referrals to the Licensing Sub-Committee

Whilst the day to day enforcement of hackney carriage and private hire licensing, including the issuing of penalty points, is a function carried out by licensing officers under the supervision of the licensing manager, serious disciplinary matters will be referred to the Licensing Sub-Committee.

Serious disciplinary matters will include, but are not limited to:

- a) an accumulation of twelve (12) or more penalty points as detailed in **Appendix D** during a rolling twelve (12) month period.
- b) refusal to carry a passenger without good reason;
- c) unlawful plying for hire;
- d) more than one offence of touting for business;
- e) insurance offences;
- (v) overcharging; and
- (vi) any conviction relevant to **Appendix B**.

The Licensing Sub-Committee will consider the impact of the breach, or an accumulation of penalty points, on the fitness of an individual to hold a hackney carriage or private hire licence and take appropriate action.

The individual or company will be entitled to attend a hearing with the Licensing Sub-Committee to answer allegations and/or provide any mitigating circumstances.

Prior to attending the hearing, the investigating officer will provide a written report containing all the information necessary to understand the allegation(s), the relevant sections of this Policy, the options available to the Licensing Sub-Committee and any other relevant information. The report will be provided to the individual or company at least five (5) days prior to the hearing.

The Licensing Sub-Committee may decide to take one or more of the following actions:

- a) no action;
- b) informal action (verbal or written warnings or penalty points);
- c) require the production of driving licenses or other specified documentation at the Council Offices;
- d) use statutory notices (s68 stop notices, etc.);
- e) suspend a licence;
- f) revoke a licence;
- g) other appropriate action as deemed necessary, including any combination of the above.

Alternative to enforcement action for first time smoking offences

To support the initiatives of Cambridgeshire & Peterborough tobacco alliance strategy, in addition to offering health benefits to offenders, first time smoking offenders may be offered a fixed period of time, at the Council's discretion, to attend an official 'stop smoking' course.

Alternative to enforcement action when there are driving standards concerns

Where concerns are raised in respect of a driver's standard of driving, the driver may be required to re-take an appropriate driving standard assessment at the discretion of the Council. Failure to achieve a pass within a specified period will result in the suspension of the driver until such time as a pass is achieved. Where necessary for public safety, a driver may be suspended immediately until such time as a pass is achieved.

6.4 Informal Action

Informal action to secure compliance includes offering advice, verbal or written warnings, and the issuing of penalty points.

Informal enforcement action may be appropriate in, but not limited to, the following scenarios:

- a) the act or omission is not serious enough to warrant formal action;
- b) it can reasonably be expected that informal action will achieve future compliance;
- c) confidence in the driver or operator is ordinarily high; or
- d) the consequences of non-compliance will not pose a significant risk to public safety.

6.5 Suspension

Vehicles

Hackney carriage and private hire vehicles must be kept in an efficient, safe, tidy and clean condition at all times. Compliance with the vehicle specification and conditions of this Policy is essential and will be enforced by periodic, random vehicle inspections by the Council. Where it is found that any vehicle is not being properly maintained, a defect(s) notice will be served on the licence holder setting out the defect(s) and the required action.

Where there is a risk to public safety the further use of the vehicle will be suspended until the defects have been remedied. The suspension will not then be lifted until the vehicle has undergone a further test at the Council's nominated testing facility, at the licence holder's expense, and meets the testing requirements of this Policy.

Drivers

The Council may exercise its discretion to suspend the operation of a driver's licence for a specified period at the discretion of the Licensing Manager. Following any temporary suspension issued, the Licensing Manager would then look to refer the licence holder to the Licensing Sub-Committee because they have been convicted of a serious criminal offence or have accumulated twelve or more penalty points under the

Council's penalty points system.

6.6 Section 68 (Stop) Notices

An Authorised Officer of the Council or a Police Officer may serve notice in writing for a hackney carriage or private hire vehicle, or the taximeter affixed to such a vehicle, to be examined at the Council's nominated testing facility at a time specified in the notice. This notice may only be served if there are concerns as to the condition of the vehicle or the accuracy of the taximeter.

In addition, the vehicle licence may be suspended until such time as the Council's testing requirements have been complied with if it is deemed necessary for public safety. The suspension notice will remain in force until the issuing officer has issued written confirmation that the Council's testing requirements have been met.

If the issuing officer is not satisfied that appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two (2) months from date of issue, the vehicle licence will be deemed automatically revoked.

6.7 Revocation

Where a licence holder has been referred to the Licensing Sub-Committee because they have:

- a) committed a criminal offence;
 - b) have accumulated twelve (12) or more penalty points issued under **Appendix D**;
 - c) no longer meet the 'fit and proper' test set out in **Appendix A**; or
 - (iii) for any other reason whereby the policy objectives would not be met,
- the Licensing Sub-Committee may revoke the licence. Ordinarily, any revocation is held pending the period for appeal expiring or, in the case of an appeal, the appeal being determined. Where necessary for public safety, the Licensing Sub-Committee may determine that a revocation takes immediate effect and is not held pending an appeal.

6.8 Refusal to Renew

As an alternative to revocation, the Licensing Sub-Committee may decide that the appropriate action, in a situation where the licence is shortly to expire, is to order that the licence shall not be renewed. The Licensing Sub-Committee may suspend the existing licence for the remainder of its licence period depending on the individual merits of the case.

6.9 Simple Cautions

The purpose of a Simple Caution as an alternative to prosecution is to:

- a) deal quickly and efficiently with less serious offences;

- b) divert less serious offences away from the Courts; and
- c) reduce the likelihood of repeat offences.

In the interests of natural justice, the following criteria must be met before a Simple Caution is administered:

- d) there must be sufficient evidence of guilt to give a realistic prospect of a conviction;
- e) the offender must admit the offence; and
- f) the offender must understand the significance of the caution and give informed consent to be cautioned.

Where a person declines the offer of a Simple Caution, it will be necessary to consider taking alternative enforcement action; whilst this would ordinarily mean prosecution, this is not inevitable.

6.10 Prosecution

The decision to prosecute is significant as it may impact on the licence holder's future employability. Generally, the circumstances that may warrant a prosecution include, but are not limited to:

- a) blatant disregard for legislation and/or this Policy, particularly where the economic benefits are substantial and provide advantage of those licence holders who are law-abiding and compliant with this Policy;
- b) when there has been blatant and/or reckless disregard for the safety of passengers or other road users;
- c) where there have been repeated breaches of legislation or the requirements of this Policy;
- d) where an offence is prevalent, and a clear message needs to be sent; or
- e) where a contravention has caused serious public concern.

A decision on whether to prosecute may consider, but is not limited to, the following:

- a) the seriousness of the offence or contravention;
- b) the risk or harm to the public;
- c) identifiable victims (including the impact on the victims);
- d) failure to comply with statutory notices, warnings, or other enforcement sanctions;
- e) disregard of public safety for financial reward;
- f) the offender's previous history, in particular repeated offences or contraventions;
- g) the ability and willingness of witnesses to co-operate;
- h) the likelihood of future compliance;
- i) the probable public benefit of a prosecution and the importance of the case in establishing precedent or addressing public concern;
- j) whether other action, such as a Simple Caution, would be more appropriate or effective.

6.11 Complaints against Drivers

Complaints against hackney carriage and private hire drivers are relatively low in Fenland District, however, when received usually relate to overcharging or unprofessional behaviour. All complaints will be fully investigated, often involving the taking of statements from the complainant, driver and any witnesses.

The investigating officer will consider all evidence and mitigating circumstances arising from the investigation before making a recommendation to the Licensing Manager who will reach a decision in accordance with the Council Enforcement Policy and this Policy.

The outcome of any complaint will be advised to the complainant in the form of a written response.

7.1 Hackney Carriages

Hackney Carriage Fares, set by the Council, are a maximum and can be negotiated downwards by the hirer. The Council considers it good practice to review the fare scales at regular intervals, and will, therefore, consider the fare scales when a request is received by the trade.

When determining the level of fares, consideration will be given to what it is reasonable to expect the travelling public to pay as well as the need to give the drivers an incentive to provide a cost- effective service at the times it is needed.

The fare for any journey that starts and ends within the Fenland District cannot exceed the metered fare based on the Council's maximum fare tariff. The meter should only be started when the passenger(s) is/are in the vehicle and the journey commences.

The maximum fares currently prescribed by the Council are set out on the Council's website. A table of authorised 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.

The Council will review the fares tariff when a request is received from a minimum of three (3) licensed drivers. The Council will consult with the trade and follow the appropriate procedures detailed in the Local Government (Miscellaneous Provisions) Act 1976.

A hackney carriage driver must, if requested by the passenger, provide a written receipt for the fare paid.

7.2 Private Hire Vehicles

The fare for a journey in a private hire vehicle must be agreed with the private hire operator at the time of booking. The driver should charge no more than the fare agreed with the operator at the time of booking.

The agreement between the hirer and the operator can either be for a fixed monetary sum, or an agreement that the fare will be calculated using the meter within the vehicle. In the case of a metered fare, the starting point for engaging the meter must be agreed at the time of booking.

A private hire driver must, if requested by the passenger, provide a written receipt for the fare paid.

PART 8 – LICENCE FEES

8.1 Fee Structure

The legislation and established case law provide that licence fees should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands, and administering the control and supervision of hackney carriages and private hire vehicles. In simple terms, the

Council can only set fees on a 'reasonable cost recovery' basis and cannot make a profit from licence fees when analysed over a typical three-year cycle.

Discretionary services that do not fall within the remit, such as pre-application advice, knowledge testing, Safeguarding Course, DBS appointments, etc. will be charged for separately utilising the same 'reasonable cost recovery' basis. This is to ensure that the cost of these applicant-specific services is not incorporated into the licence fees paid by existing licence holders.

The fees currently payable for the grant and renewal of hackney carriage and private hire licenses are set out on the Council's website. The fee structure is reviewed annually as part of the Council's budgetary process.

8.2 Payments

The Council can accept payment by debit or credit card, or BACS payments. The Council is unable to accept cash payments.

A payment can be made by accessing our website - <https://www.fenland.gov.uk/pay> or by contacting the customer service team on 01354 654321

8.3 Refunds and Duplicate Copies

In the case of any licence where the licence holder voluntarily surrenders their licence prior to the expiry date, the Council may make a refund in respect of the whole months of the unexpired portion of the licence fee.

Where the Council receives a request for a duplicate copy of any previously issued licence, an appropriate fee will be paid to cover the associated administrative costs.

In the case of a licence that has been suspended, revoked or otherwise ends early due to disciplinary matters, no refund will be made by the Council.

PART 9 – HACKNEY CARRIAGE RANKS (STANDS)

9.1 Taxi Ranks/Stands

The Council will periodically review the provision of hackney carriage ranks/stands within the District. If there is evidence of the need to amend the existing provisions, a full consultation would be undertaken prior to any amendments. Comments are welcomed from either the trade or the public regarding the suitability of existing provision.

9.2 Waiting on Stands

It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on any stand for hackney carriages. Drivers of hackney carriages may only wait on a stand whilst plying for hire or waiting for a fare; drivers who park on a stand and leave their vehicle unattended are committing an offence.

Whilst the law states it is an offence to leave a vehicle unattended on a hackney stand, discretion will be allowed for drivers leaving their vehicles in acceptable circumstances, for example 'comfort breaks'. Leaving a hackney carriage unattended on a stand for any other circumstances, for example shopping, will be dealt with as an offence in accordance with this Policy.

9.3 Plying for Hire

For the avoidance of doubt, the Council does not have a by-law requiring hackney carriages to return to a taxi stand between fares. Hackney carriages can, therefore, park and be available for hire in any position where an ordinary member of the public can lawfully park. Hackney carriages are, however, subject to road traffic regulations and should not park in any position that obstructs the highway, the highway being both the road and the footway.

PART 10 – TRADE FORUM

10.1 Working Party

The Council wishes to encourage discussions between the trade and the licensing authority in order to promote a successful working relationship. To facilitate this, the Council has already set up a Hackney Carriage and Private Hire Working party to help facilitate the production of this policy.

We will continue to have meetings as required in order to maintain good communication and working relations between the trade and local authority. This is a combined mix of both Hackney Carriage and Private Hire drivers, and we would encourage this to continue to ensure a balanced view.

10.2 Apply to become a member

Membership, terms of reference and work plan will be determined in accordance with prevailing circumstances and further details will be contained within a Forum Page on the Council's website.

PART 11 – RIGHT OF APPEAL

11.1 Legislation

The Local Government (Miscellaneous Provisions) Act 1976 Sections 48, 52 and 77 detail an applicant's right of appeal.

In general terms, where an applicant is aggrieved by the Council's decision to refuse to grant, refuse to renew, suspend or revoke a licence, or impose conditions on a licence the applicant has a right of appeal to the local Magistrates' Court. The only two exceptions are:

- a) in the case of a refusal to grant or renew a hackney carriage vehicle licence where the appeal lies directly to the Crown Court, and
- b) the decision to suspend a hackney carriage or private hire vehicle licence under s68 of the 1976 Act against which there is no right of appeal

12.2 Appeal process

Any appeal must be lodged at the Court within twenty-one days of the applicant receiving notification of the Council's decision. The appeal must state the grounds upon which the appeal is based.

A further right of appeal against the decision of the Magistrates' Court lies with the Crown Court.

PART 12 – DELEGATED POWERS

12.1 Authorised Officers

All Officers of the Council, duly authorised under the Council's Scheme of Delegation and supported by specific written delegations, are responsible for the day to day operation of the Council's Hackney Carriage and Private Hire Licensing Policy, save for any issues delegated to the Licensing sub-Committee

All Officers of the Council, duly authorised under the Council's Scheme of Delegation and supported by specific written delegations may issue penalty points in accordance with **Appendix D**.

12.2 Licensing Manager

The following powers are specifically reserved to the Licensing Manager (or, any officer delegated to act in association with the Licensing Manager):

- a) the authorisation of applications that are compliant with this Policy,
- b) minor departures from Policy
- c) any minor amendment with regards to administration procedures as set out in section 1.3.
- d) the issuing of Stop Notices under s68 of the 1976 Act,
- e) temporary suspension of licensed drivers pending a disciplinary hearing before the Licensing Sub-Committee,

12.3 Licensing Sub-Committee

The following powers are specifically reserved to the Licensing Sub – Committee

- a) suspension or revocation of existing licenses
- b) refusal to renew existing licenses,
- c) refusal of new applications,
- d) any major amendments to this Policy in accordance with section 1.3
- e) setting of hackney carriage and private hire licensing fees and charges,
- f) setting of hackney carriage fare tariffs

PART 13 – DEFINITIONS

List of Policy Definitions

All references in this policy document can be linked to the following definitions

Term	Definition
the 1976 Act	the Local Government (Miscellaneous Provisions) Act 1976
Authorised Council Officer	Any officer of the Council authorised under the Council's Scheme of Delegation as contained within the Constitution
Statutory Guidance	Statutory Taxi & Private Hire Vehicle Standards issued by the Department for Transport (dated July 2020)
IOL Guidance	Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades issued by The Institute of Licensing (dated April 2018)
the Council or the Licensing Authority	Fenland District Council
the trade	any holder of a current driver, vehicle or operator licence issued by Fenland District Council
the District	The geographical region contained within the boundaries of Fenland District
the Licensing Manager	The current post-holder (or the manager of the service area following any subsequent restructure) or any nominated deputy authorised by the Council's Scheme of Delegation
the licence plate or the plate	The vehicle licence plate issued to all vehicles and required to be displayed externally at the rear of all licensed vehicles
this Policy	Fenland District Council's Hackney Carriage and Private Hire Licensing Policy
proprietor licence	either a hackney carriage or private hire vehicle licence
Licensing Committee and Licensing Sub-Committee	The Elected Members Responsible Licensing and can act as a whole committee or can appoint members of the committee to form a sub-committee.

Registered Medical Practitioner	Any person with suitable qualifications in medicine and currently registered with the General Medical Council that is suitably qualified to perform the function of a General Practitioner (Doctor) or higher
driver Licence	Any reference to the term driver licence, unless prefixed by DVLA, refers to a hackney carriage or private hire driver's licence (within the context of the specific paragraph) issued by the Council
vehicle licence	Any reference to the term vehicle licence refers to a hackney carriage or private hire proprietor licence (within the context of the specific paragraph) issued by the Council

Hackney Carriage (as defined by s 38 of the Town Police Clauses Act 1847)

Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance, and every carriage standing upon any street within the prescribed distance, having thereon any numbered plate required by this or the special Act to be fixed upon a hackney carriage, or having thereon any plate resembling or intended to resemble any such plate as aforesaid, shall be deemed to be a hackney carriage within the meaning of this Act; and in all proceedings at law or otherwise the term "hackney carriage" shall be sufficient to describe such carriage: Provided always, that no stage coach used for the purpose of standing or plying for passengers to be carried for hire at separate fares, and duly licensed for that purpose, and having thereon the proper numbered plates required by law to be placed on such stage coaches, shall be deemed to be a hackney carriage within the meaning of this Act.

Private Hire Vehicle (as defined by s 80 of the Local Government (Miscellaneous Provisions) Act 1976)

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

APPENDIX A

THE DEFINITION OF 'FIT AND PROPER'

The legislation clearly states that the Council may grant a licence only if it is satisfied that the applicant is a 'fit and proper' person. We will also refer to the expression "safe and suitable" as another interpretation to the meaning "fit and proper"

At the time of an application, the onus is on the applicant to demonstrate that they meet this requirement, not on the Council to demonstrate that the applicant does not.

When considering disciplinary or enforcement action, **the onus is on the Council to demonstrate that the licence holder no longer meets this requirement.**

Definition of 'Fit and Proper'

In the absence of a judicially approved definition of "fit and proper", the Council use the test of:

"Would the Officer charged with the ability to grant a licence allow a person for whom they care or any other person, to get into a licensed vehicle with the applicant day or night?"

IOL Guidance

In deciding any applications as to a driver's suitability to be licensed, we will have full regard to the guidance document issued by the Institute of Licensing – *Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades.*

In order to further assist in understanding the interpretation of this definition, the Council will be considering issues that assist them in determining whether or not applicants are safe drivers with a good driving record, are mentally and physically fit, are honest, and that they are persons who would not take advantage of their position to abuse, assault or defraud members of the public.

It should be borne in mind that drivers may carry vulnerable members of the public such as elderly persons, unaccompanied children, disabled persons, persons who are incapacitated from alcohol, lone women and foreign visitors. Some examples of areas of concern that the Council will consider include, but are not limited to:

a) Honesty and trustworthiness

Drivers often have knowledge that a customer is leaving a property empty; they have opportunities to defraud drunken, vulnerable or foreign persons; or they have opportunities to abuse their position of trust. For example, all passengers would expect to be charged the correct fare for the journey and be given the correct change; they would expect any lost property to be handed over to the police; and they would expect confidentiality to be maintained between

themselves and the driver.

b) Professionalism

Drivers are often subject to unpleasant, abusive or dishonest behaviour, albeit from a small minority of passengers. Although this is clearly unacceptable behaviour, the Council expects drivers to remain professional at all times and unacceptable behaviour by passengers does not excuse in any way aggressive or abusive conduct by drivers.

Confrontation should be avoided, and all disputes should be resolved through the formal legal channels. Under no circumstances must drivers take the law into their own hands.

c) Good and safe driving ability

Passengers are paying for a service whereby they expect to reach their chosen destination promptly and safely. Drivers must be fully conversant with all road traffic legislation and this Policy and drive in a professional, lawful and safe manner at all times.

APPENDIX B

THE RELEVANCE OF CAUTIONS AND CONVICTIONS

General Principles

The over-riding consideration for the Council in its determination of applications is the promotion of the licensing objectives detailed within section 1.2 of this Policy, public safety.

Although regard will be taken of this Policy, each application will be determined on its own merits.

Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons will be given for doing so. The purpose of this Appendix is to formulate guidelines, consistent with national guidance, which detail the Council's current stance on the relevance of convictions and cautions in respect of applications for the grant of new licenses, and the renewal of existing licenses, for hackney carriage and private hire vehicle, driver and operator licenses.

If a court has found an applicant guilty of an offence, that person cannot subsequently claim to the Council that they did not commit the offence. If they seek to do so, their representation will not be considered as this is entirely a matter for the courts. The applicant can, however, offer any mitigating circumstances relating to the offence that they wish the Council to consider.

For the purpose of this Policy, the acceptance of a Fixed Penalty Notice will be treated as a conviction. A caution may be treated as a conviction depending on the individual merits and mitigating circumstances of each case.

Period free from conviction

Any reference to a period free from conviction relates to the period commencing from either:

- a) where a custodial sentence has been imposed, from the end of the custodial period; or
- b) in any other case, from the date of conviction.

History

The Council may take into account an applicant's history as a licence holder with this, or any other, Council. In considering whether a person is 'fit and proper' the Council may consider such matters as the applicant's complaint history, their compliance with this Policy, their co-operation with licensing officers' requests, and any other reasonable matters.

DVLA Penalty Points

Hackney carriage and private hire drivers should provide a professional service to the public and must always be aware of the safety of passengers and other road users. Any traffic offence shows a lack of responsibility whilst driving either in terms of vehicle maintenance or the level of driving standards.

Convictions or cautions for traffic offences will not automatically preclude an applicant from obtaining a licence, however, the number, nature and frequency of such offences will be considered. In some circumstances it may be appropriate to issue a licence together with a written warning as to future driving standards detailing the likely effect of further offences. Where there is a significant history of driving offences, an application is likely to be refused.

Six unspent penalty points or less on a current DVLA driving licence

In cases of six (6) unspent penalty points or less on an applicant's DVLA driving licence, an application will usually be granted. A licence granted under these circumstances is likely to be issued together with a verbal warning as to future driving standards detailing the likely effect of further offences.

Seven unspent penalty points on a current DVLA driving licence

In cases of seven (7) unspent penalty points on an applicant's DVLA driving licence, an application may be granted depending on the nature of the offences and the frequency. Although all applications received both new and renewal showing seven (7) or more points on the DVLA licence will be referred to the Licensing Sub-Committee for them to determine the application.

Major Traffic Offences

For the purposes of this section, major traffic offences include, but is not limited to:

- a) driving whilst disqualified,
- b) failure to stop after an accident,
- c) driving without valid insurance,
- d) careless driving, and
- e) driving a vehicle with mechanical defectives (such as brakes, steering, tyres, etc.)
- f) dangerous driving.

If the applicant has been convicted of one major traffic offence, then a licence application will be referred to the Licensing Sub-committee for them to determine.

"Totting Up" under section 35 of the Road Traffic Offenders Act 1988

Where an applicant/licence holder has been disqualified from driving by

the courts under the “totting up” procedure, the Council will normally refuse an application until there has been a period of twelve (12) months free of relevant convictions. If the applicant has demonstrated to the court “exceptional hardship” and avoided a driving disqualification, applications will still normally be refused until there has been a period of twelve (12) months free of relevant convictions. The Council believe that the risk to the public is sufficient to maintain this consistent stance.

Failure to Declare Motoring Offences

Where an applicant/licence holder fails to disclose motoring offences on their application form, even if they have been declared on previous applications or are spent, the Council will normally deal with this by way of the issuing of penalty points. If, however, the Council determines that there was a premeditated intention to deceive, the matter will be considered as an offence of dishonesty and dealt with in accordance with that section of this policy.

Major Traffic Offences resulting in Death

The driving offences of causing death by:

- a) dangerous driving,
- b) careless driving,
- c) driving under the influence of alcohol or drugs, or
- d) driving unlicensed, disqualified or uninsured,

due to their nature, will be considered by the Council to be an unacceptable risk to public safety and an application will normally be refused.

Drunkness

Separate consideration will be given to convictions for drunkness whilst in charge of a vehicle as opposed to drunkness whilst not in charge of a vehicle due to the differing risk to the public.

In Charge of a Motor Vehicle

The Council considers driving or being in charge of a vehicle whilst under the influence of alcohol as a serious offence causing a high element of risk to the public; however, an isolated incident will not automatically preclude an application from being granted.

- a) A single conviction for any alcohol-related driving offence will normally preclude an application from being granted for a period of five (5) years from the restoration of the DVLA driving licence.
- b) More than one conviction for any alcohol-related driving offence represents an unacceptable risk to the public and an application will be refused.

Not in Charge of a Motor Vehicle

An isolated conviction for drunkness not associated with driving or being in charge of a motor vehicle will not automatically preclude an application.

- a) Where there is an isolated conviction for disorder and/or drunkenness, a licence will normally be granted together with a verbal warning as to future driving standards detailing the likely effect of further offences.
- b) More than two (2) convictions for disorder and/or drunkenness will normally lead to refusal of an application until such time as a period of three (3) years free of convictions has elapsed.

Drug Offences

The Council considers all offences related to controlled substances as a serious risk to the public.

An applicant with one conviction for any Class A drug related offence, including supplying or trafficking, will be required to show a period of ten (10) years free of convictions before an application is considered.

An applicant with more than one conviction for any Class A drug related offence, including supplying or trafficking, will be considered an unacceptable risk to public safety and an application will be refused.

An applicant with a conviction for any Class B drug related offence, including supplying or trafficking, will be required to show a minimum period of five (5) years free of convictions before an application is considered. The length of period over and above the minimum five (5) years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

An applicant with a conviction for any Class C drug related offence will be required to show a period of at least three (3) years free of convictions before an application will be considered.

In all cases, where an applicant has been medically classed as an addict, an application will be precluded until such time as a period of five (5) years has elapsed since the completion of a recognised detoxification programme.

Sexual or Indecency Offences

As hackney carriage and private hire drivers often carry unaccompanied and/or vulnerable people, any applicant with a conviction or caution for any sexual or indecency offence (other than a major offence) will normally be refused a licence until such time as they have been free of convictions for a period of seven (7) to twelve (12) years. The length of period over and above the minimum seven (7) years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

Major Sexual or Indecency Offences

For the purpose of this Policy, the following offences will be considered as major sexual or indecency offences with the highest element of risk to the public:

- a) rape;
- b) indecent or sexual assault;
- c) assault by penetration;
- d) making, distributing or possession of child pornography;
- e) trafficking and/or preparatory offences (defined by the Sexual Offences Act 2003); or
- f) sexual offences involving children or vulnerable adults

Any applicant with a conviction for a major sexual or indecency offence will be considered an unacceptable risk to the public and any application will be refused.

Violent Offences

The Council considers all violence related offences as a serious risk to the public; offence of public order will be treated as a violent offence for the purposes of this Policy.

An application will be refused where the applicant has been convicted of:

- a) murder or attempted murder,
- b) manslaughter,
- c) any offence involving the possession of a firearm,
- d) any terrorism-related offence, or
- e) racially aggravated grievous bodily harm or malicious wounding.

An application will be refused where the applicant has been convicted of:

- f) arson,
- a) possession of a weapon (other than a firearm),
- b) any racially aggravated offence,
- c) any offence that may be categorised as domestic violence,
- d) violent disorder or riot.

unless there has been a period of ten (10) years free of conviction.

An application will normally be refused where the applicant has a conviction for a violent offence, other than those listed above, unless there has been a period of five (5) to ten (10) years free of convictions. The length of period over and above the minimum five (5) years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

Multiple Offences

Whilst an isolated conviction for a violent offence, other than those listed above, will not normally permanently exclude an application, the Council will have grave concern for public safety if an applicant has committed multiple violent offences.

An application will be refused in cases where an applicant has three (3) or

more separate convictions for violent offences.

Dishonesty

Hackney carriage and private hire drivers are expected to be persons of trust; it is comparatively easy for dishonest drivers to defraud the public, for example, by demanding more than the legal fare or giving incorrect change. Overseas visitors can be confused by the difference in currency and become vulnerable to an unscrupulous driver. Equally, any customer can be defrauded by a driver taking them by any other than the shortest route or by them retaining lost property left in the vehicle. As members of the public entrust themselves to the care of licensed drivers, the Council considers offences involving dishonesty as a serious risk to public safety.

An applicant that has been convicted of an offence related to dishonesty will normally be refused a licence until such time as they have been free of convictions for a period of five (5) to ten(10) years. The length of period over and above the minimum five years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

Other Offences and Special Circumstances

If the applicant has declared any other offences not specifically covered by this policy on the relevance of convictions, or the specific circumstances of the application justify it, the application may be referred to the Licensing Sub-Committee for determination in line with the principles of this policy.

In particular, if an applicant/licence holder is not precluded by any one section of this policy but has a series of convictions that in their totality cause concern as to their ability to meet the 'fit and proper' test, the application may be referred to the Licensing Sub-Committee for determination in line with the principles of this policy.

Summary

Except in the most serious of circumstances, an applicant having a previous or current conviction will not normally be permanently excluded from obtaining a hackney carriage or private hire driver's licence.

The Council believe that a person convicted of an offence, who is required to wait for the expiry of a rehabilitation period prior to their application being considered, is more likely to value their licence and ensure that future convictions are avoided.

The Council's over-riding policy objective is to safeguard the safety of the general public by ensuring that all licensed drivers are safe, competent, and are able to maintain their vehicles to an acceptable standard.

By producing clear and transparent guidelines on the relevance of convictions, the Council is seeking to maintain the high standard of hackney carriage and private hire drivers, proprietors and operators within Fenland.

Existing Licence Holders

Any existing licence holder convicted of an offence during the period of their current licence will be subject to the above policy relating to the relevance of convictions as though they were a new applicant

Existing licence holders should be aware that if the Council receives notification from the police that a driver is being investigated for an offence that would preclude the grant of a licence or is likely to result in the revocation of an existing licence, their licence will normally be revoked with immediate effect pending the outcome of the investigation.

- a) In the event that no charges are laid against the licence holder, the licence will ordinarily be reinstated for its original duration.
- b) In the event that the licence holder is found not guilty, the licence will ordinarily be reinstated for its original duration, save for any previous or ongoing concerns relating to the licence holder's ability to meet the 'fit and proper' test.

In this situation the licence holder would be suspended and referred to the Licensing Sub-committee for them to make a decision based on the principles of this policy.

Principles of the Rehabilitation of Offenders Act 1974 ("the 1974 Act")

Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely. The possibility of rehabilitation, and the length of time before rehabilitation occurs, depends on the sentence imposed and not the offence committed. Where a person is sentenced to imprisonment for a period exceeding thirty months, the conviction can never be spent.

Despite the above general principles, the Act does not apply to applicants for hackney carriage and private hire drivers' licenses. This is because the driving of these vehicles is listed as a "regulated occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

Although the 1974 Act does not prevent any judicial authority, including the Council acting as the licensing authority, from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a 'fit and proper person' to hold a licence. The determination as to whether certain

convictions are spent, therefore, may be a relevant exercise.

Mitigation and/or Exceptional Circumstances

Where the Licensing Sub-Committee are considering whether an applicant meets the 'fit and proper' person test, the applicant will be entitled to provide them with any written mitigating circumstances.

The applicant will be invited to attend a Licensing Hearing. Prior to attending the hearing, the applicant will be provided with a committee report containing all the information necessary for the Licensing Sub-Committee to review at the hearing. The report will be provided to the applicant at least five (5) days prior to the hearing.

APPENDIX C - DRIVER CODE OF CONDUCT

General Responsibilities of a Licensed Driver

Licensed drivers shall use their best endeavour to promote the image of the trade by:

- a) complying with all aspects of this Policy,
- b) maintaining their vehicles in a safe and satisfactory condition at all times,
- c) attending punctually when undertaking pre-booked hiring,
- d) assisting passengers entering into and alighting from the vehicle,
- e) offering passengers reasonable assistance with luggage, and
- f) behaving in a civil, orderly and responsible manner at all times.

To avoid nuisance to residents when picking up or waiting for a fare, a licensed driver shall:

- a) not sound the vehicle's horn illegally to attract the passenger's attention,
- b) keep the volume of all audio equipment to a reasonable level, and
- c) switch off the engine when required to wait.

Whilst waiting on hackney carriage ranks, a licensed driver shall:

- a) rank in an orderly manner and proceed promptly along the rank in accordance with rank protocol, and
- b) remain in the vehicle where possible,
- c) no vehicle idling.

Whilst waiting at private hire operator premises, a licensed driver shall:

- a) not undertake servicing or repair of vehicles on the highway,
- b) not undertake servicing or repair of vehicles on the premises unless appropriate planning permission has been obtained, and
- c) take whatever action is necessary to ensure that the business operation does not cause unnecessary disturbance to residents.

Driver Dress Code

The Council believes that licensed drivers have a responsibility to dress professionally and appropriately whilst undertaking hackney carriage or private hire work to promote confidence amongst members of the public, especially visitors to the District.

In order to raise the profile of the licensed trade, drivers should always operate in a professional manner and conform to minimum standard of dress and personal hygiene.

The following are deemed unacceptable: -

- a) Clothing not kept in a clean condition or which is torn or damaged;
- b) Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend;

- c) Sportswear (e.g. football/rugby kits, track suits, beach wear etc.);
- d) Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel;
- e) Drivers not having either the top or bottom half of their bodies suitably clothed;
- f) Shorts, other than tailored shorts;

Driver Conduct

The driver shall be respectably dressed, clean and tidy in appearance always whilst their vehicle is being made available for hire.

The driver shall always, when acting in accordance with the drivers licence granted to them, wear or display such badge as supplied by the Council in such position and manner as to be plainly and distinctly visible at all times.

The driver shall not lend the badge to any other person or cause or permit any other person to wear it.

On termination or surrender of a driver's licence, the driver shall return the badge to the Council immediately.

The driver shall behave in a civil, polite and orderly manner at all times and shall take all reasonable precautions to ensure the safety of persons conveyed in, or entering or alighting from, the vehicle.

The driver shall not willfully or negligently cause or permit the vehicle licence plate to be concealed from public view or allow the licence plate to be so defaced as to make any information illegible.

The driver who has agreed to, or has been hired to, be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by enough cause, punctually attend with such vehicle at such appointed time and place.

The driver, when hired to drive to a destination, shall proceed to that destination by either the shortest available route, or the believed cheapest route considering all known factors such as roadworks, delays, etc.

The driver shall not convey, or permit to be conveyed, in such vehicle any greater number of persons than the number of persons specified on the Vehicle Licence.

The driver shall convey a reasonable amount of luggage and afford reasonable assistance in loading and unloading luggage.

The driver must not solicit, by calling out or otherwise beg any person to hire or be carried for hire.

The vehicle shall be presented in a clean and tidy condition for each journey.

The driver shall not smoke or 'vape' in a licensed vehicle at any time.

The driver shall not drink or eat in the vehicle whilst conveying passengers.

The driver must ensure that the noise emitted from any sound equipment in the vehicle does not cause annoyance to any persons, whether inside or outside the vehicle.

The driver shall not operate the horn as a means of signaling that the vehicle has arrived.

Drivers must not use a mobile phone whilst driving unless it is designed for hands-free operation.

The driver must notify the Council within a period of seven (7) days of:

- a) any criminal conviction, caution, or fixed penalty notice,
- b) any driving endorsement,
- c) any change of medical condition that may impact on the ability to drive,

Lost Property

A licensed driver shall diligently search the vehicle periodically for any property which may have been accidentally left therein.

In the event of lost property being found that is identifiable to a known passenger, the driver shall either return the property to the passenger forthwith or contact the passenger to arrange its return.

Any property found that is not identifiable to a passenger and not subsequently claimed within two (2) days should be taken to the nearest police station and/or left in the custody of a police officer after obtaining a receipt.

Carriage of Animals

A driver may not carry any animal not belonging to a passenger in a licensed vehicle whilst available for hire or carrying passengers.

Animals, other than assistance dogs, in the custody of passengers may be carried at the driver's discretion, provided they are restrained in a safe manner.

Assistance Dogs

A driver must carry assistance dogs when requested to do so by a passenger unless they have been issued with a medical exemption certificate. Assistance dogs include guide dogs for blind or partially sighted persons, hearing dogs for the hard of hearing or deaf persons, and any other assistance dog which assist a disabled person with a physical or mental impairment.

Carriages of Passengers with Wheelchairs

Passengers with wheelchairs often prefer to travel in normal saloon, estate or multi-passenger vehicles rather than a specially adapted wheelchair accessible vehicle. In these circumstances, a driver **must** carry a passenger with a wheelchair unless the vehicle is unable to accommodate the wheelchair within the luggage compartment.

Drivers of wheelchair accessible vehicles must:

- a) not refuse to carry any passenger with a wheelchair,
- b) not charge any additional fare for passengers with wheelchairs,
- c) be fully conversant with the correct method of operating all ramps, lifts and wheelchair restraints fitted to the vehicle,
- d) ensure that all wheelchairs are firmly secured in the vehicle using an approved restraining system and that the wheelchair brakes have been applied prior to commencing the journey,
- e) ensure that all ramps, lifts and wheelchair restraints fitted to the vehicle are always available in full working order when the vehicle is available for hire.

APPENDIX D - PENALTY POINTS SCHEME

Guidance Notes

The Penalty Points Scheme will operate as follows:

The Council's Enforcement Policy will be fully considered by the enforcing officer when determining the way any breach of legislation or the requirements of this Policy are dealt with. Where it is decided that the use of the penalty points system is appropriate, the points will be issued in accordance with this Appendix. If this appendix allows a range of points for the incident, the enforcing officer will determine the appropriate number of points proportionate to the offence.

Before penalty points are issued, there must be sufficient evidence to prove, on the balance of probabilities, the offence or breach of licensing requirements. The issuing of penalty points is not a formal sanction in its own right; it is merely an open and transparent method of how a driver will be assessed in terms of the 'fit and proper person' test. The points system is predominately an internal management tool for ensuring that drivers who repeatedly contravene regulations and/or this Policy are assessed by the Licensing Manager.

Issuing Process

Points issued to either a proprietor or driver (includes both Hackney Carriage and Private Hire) will be confirmed in writing within ten (10) working days from the discovery of the contravention or the conclusion of an investigation into a complaint, whichever is the later.

When issued, the penalty points will remain "live" for a period of twelve (12) months from the date they are imposed so that only points accumulated in a rolling twelve (12) month period will be considered.

If a driver, proprietor or operator accumulates twelve (12) or more points within a period of one (1) year from the date they are imposed, they will be required to attend a Licensing hearing with the Licensing Sub-Committee, where the appropriate action to be taken in accordance with this Policy.

Once the matter has been dealt with, the points will be removed if a suspension or revocation is imposed. If the "live" period is extended or a written warning given, however, the points will remain "live" for the normal one-year period.

Even though penalty points have been issued by an Authorised Officer of the Council, if it is subsequently found that the driver has previously been issued with penalty points, or has been formally cautioned, for similar

offences, the Council reserve the right to cancel the penalty points and deal with the matter in accordance with the Enforcement Policy and the provisions of Part 6 of this Policy. The penalty points system will operate without prejudice to the Council's ability to take other action under appropriate legislation or as provided for by this Policy.

Appeal Process

There is no right of appeal against the award of penalty points by an Authorised Officer of the Council as this is not a formal sanction.

Table of Offences

The penalty points are issued in conjunction with the level of fine that could be issued by the courts should the applicant be prosecuted for the offence.

The following abbreviations are used.

TPCA – Town Police Clauses Act 1847
 LGMPA – Local Government (Miscellaneous Provisions) Act 1976
 EA – Equality Act 2010
 TA – Transport Act 1980
 HC – Hackney Carriage
 PH – Private Hire

Levels of Fines;

Level 1 £250, Level 2 £500, Level 3 £1,000 Level 4 £2,500 Level 5 £5,000

HACKNEY CARRIAGE VEHICLE PROPRIETORS' PROVISIONS				
Legislation	Code	Offence	Maximum Penalty	Penalty Points
s.40 TPCA	H01	Giving false information on an application for HC proprietors licence	Level 1	2
s. 44 TPCA	H02	Failure to notify change of address of HC proprietor	Level 1	2
s. 45 TPCA	H03	Plying for hire without a HC proprietor's licence	Level 4	8
s.47 TPCA	H04	Driving a HC without a HC driver's licence	Level 3	6
s.47 TPCA	H05	Lending or parting with a HC driver's licence	Level 3	6
s.47 TPCA	H06	HC proprietor employing an unlicensed driver	Level 3	6
s.48 TPCA	H07	Failure by HC proprietor to hold a HC driver's licence	Level 1	2
s.48 TPCA	H08	Failure by HC proprietor to produce HC driver's licence	Level 1	2
s.52 TPCA	H09	Failure to display HC plate	Level 1	2

s.54 TPCA	H10	Demanding more than the agreed fare	Level 1	2
s.49 LGMPA	H11	Failure to notify transfer of HC proprietor's licence	Level 3	6
s.50(1) LGMPA	H12	Failure to present HC for inspection as required	Level 3	6
s.50(2) LGMPA	H13	Failure to inform local authority where HC is stored if requested	Level 3	6
s.50(3) LGMPA	H14	Failure to report an accident involving a HC to local authority within 72 hours	Level 3	6
s.50(4) LGMPA	H15	Failure to produce HC proprietors' licence or insurance certificate	Level 3	6
s.57 LGMPA	H16	Making false statement or withholding information to obtain HC vehicle's licence	Level 3	6
s.58(2) LGMPA	H17	Failure to return plate after notice given after expiry, revocation or suspension of HC proprietors licence	Level 3 plus daily fine of £10	6
s.71 LGMPA	H18	Interfering with a taximeter or allowing a vehicle to be used without an approved and tested taximeter	Level 3	6
s.73(1)(a) LGMPA	H19	Obstruction of authorised officer or constable	Level 3	6
s.73(1)(b) LGMPA	H20	Failure to comply with requirement of authorised officer or constable	Level 3	6
s.73(1)(c) LGMP A	H21	Failure to give information or assistance to authorised officer or constable	Level 3	6
s.73(2) LGMPA	H22	Making a false statement to authorised persons	Level 3	6

HACKNEY CARRIAGE DRIVERS' PROVISIONS				
Legislation	Code	Offence	Maximum Penalty	Penalty Points
s.47 TPCA	D01	Driving a HC without a HC driver's licence	Level 3	6
s.52 TPCA	D02	Driver refusing to carry the prescribed number	Level 1	2
s.53 TPCA	D03	Refusal (without reasonable excuse) to take a fare	Level 2	4
s.54 TPCA	D04	Charging more than the agreed fare	Level 1	2

s.55 TPCA	D05	Obtaining more than the legal fare	Level 3- and 1-months imprisonment until the excess is re-funded	6
s.56 TPCA	D06	Travelling less than the lawful distance for an agreed fare	Level 1	2
s.57 TPCA	D07	Failing to wait after a deposit to wait has been paid	Level 1	2
s.58 TPCA	D08	Charging more than the legal fare	Level 3	6
s.59 TPCA	D09	Carrying any other person than the hirer without consent	Level 1	2
s.60 TPCA	D10	Driving a HC without proprietors' consent	Level 1	2
s.60 TPCA	D11	Person allowing another to drive HC without proprietor's consent	Level 1	2
s.61 TPCA	D12	Drunken driving of a HC	Level 1	2
s.61 TPCA	D13	Wanton or furious driving or wilful misconduct leading to injury or danger	Level 1	2
s.62 TPCA	D14	Driver leaving HC unattended	Level 1	2
s.64 TPCA	D15	HC driver obstructing other HC drivers	Level 1	2
s.53(3) LGMPA	D16	Failure to produce HC driver's licence	Level 3	6
s.54 LGMPA	D17	Failing to wear driver's badge when acting in accordance with a hackney carriage driver's licence	Level 3	6
s.57 LGMPA	D18	Making false statement or withholding information to obtain HC driver's licence	Level 3	6
s.61(2) LGMPA	D19	Failure to surrender drivers' licence after suspension, revocation or refusal to renew	Level 3	6
s.66 LGMPA	D20	Charging more than the meter fare for a journey ending outside the district, without prior agreement	Level 3	6
s.67 LGMPA	D21	Charging more than the meter fare when HC used as a private hire vehicle	Level 3	6
s.69 LGMPA	D22	Unnecessarily prolonging a journey	Level 3	6
s.71 LGMPA	D23	Interfering with a taximeter.	Level 3	6
s.73(1)(a) LGMPA	D24	Obstruction of authorised officer or constable	Level 3	6
s.73(1)(b) LGMPA	D25	Failure to comply with requirement of authorised officer or constable	Level 3	6

s.73(1)(c) LGMP A	D26	Failure to give information or assistance to authorised officer or constable	Level 3	6
s.73(2) LGMPA	D27	Making a false statement to authorised persons	Level 3	6

PRIVATE HIRE VEHICLE PROPRIETORS' PROVISIONS				
Legislation	Code	Offence	Maximum Penalty	Penalty Points
s.46(1)(a) LGMPA	P01	Using an unlicensed PH vehicle	Level 3	6
s.46(1)(c) LGMP A	P02	Proprietor of a PH vehicle using an unlicensed driver	Level 3	6
s.48(6) LGMPA	P03	Failure to display PH vehicle plate in prescribed manner	Level 3	6
s.49 LGMPA	P04	Failure to notify transfer of PH vehicle licence within 14 days	Level 3	6
s.50(1) LGMPA	P05	Failure to present PH vehicle for inspection as required	Level 3	6
s.50(2) LGMPA	P06	Failure to inform local authority where PH vehicle is stored if requested	Level 3	6
s.50(3) LGMPA	P07	Failure to report an accident involving a PH vehicle to local authority within 72 hours	Level 3	6
s.50(4) LGMPA	P08	Failure to produce PH vehicle licence and insurance certificate	Level 3	6
s.57 LGMPA	P09	Making false statement or withholding information to obtain private hire vehicle's licence	Level 3	6
s.58(2) LGMPA	P10	Failure to return plate after notice given after expiry, revocation or suspension of PH vehicle licence	Level 3 plus daily fine of £10 per day	6
s.71 LGMPA	P11	Interfering with a taximeter	Level 3	6
s.73(1)(a) LGMPA	P12	Obstruction of authorised officer or constable	Level 3	6
s.73(1)(b) LGMPA	P13	Failure to comply with requirement of authorised officer or constable	Level 3	6
s.73(1)(c)	P14	Failure to give information or assistance to authorised officer or constable	Level 3	6
s.73(2) LGMPA	P15	Making a false statement to authorised persons	Level 3	6

s.46(1)(b) LGMPA	D28	Driving a PH vehicle without a PH driver's licence	Level 3	6
s.48(6) LGMPA	D29	Failure to display PH vehicle plate in prescribed manner	Level 3	6
s.53(3) LGMPA	D30	Failure to produce PH driver's licence	Level 3	6
s.54(2) LGMPA	D31	Failure to wear PH driver's badge	Level 3	6
s.57 LGMPA	D32	Making a false statement or withholding information to obtain a PH driver's licence	Level 3	6
s.61(2) LGMPA	D33	Failure to surrender driver's licence after suspension, revocation or refusal to renew	Level 3	6
s.64 LGMPA	D34	Permitting any vehicle other than a HC to wait on a HC stand	Level 3	6
s.69 LGMPA	D35	Unnecessarily prolonging a journey	Level 3	6

s.71 LGMPA	D36	Interfering with a taximeter	Level 3	6
s.73(1)(a) LGMPA	D37	Obstruction of authorised officer or constable	Level 3	6
s.73(1)(b) LGMPA	D38	Failure to comply with requirement of authorised officer or constable	Level 3	6
s.73(1)(c)	D39	Failure to give information or assistance to authorised officer or constable	Level 3	6
s.73(2) LGMPA	D40	Making a false statement to authorised persons	Level 3	6

PRIVATE HIRE OPERATORS' PROVISIONS				
Legislation	Code	Offence	Maximum Penalty	Penalty Points
s.46(1)(d) LGMPA	O01	Operating a PH vehicle without a PH operator's licence	Level 3	6
s.46(1)(e) LGMPA	O02	Operating a vehicle as a PH vehicle when the vehicle or driver is not licensed as a PH vehicle or PH driver	Level 3	6
s.56(2) LGMPA	O03	Failure by PH operator to keep a record of bookings	Level 3	6
s.56(3) LGMPA	O04	Failure by PH operator to keep records of PH vehicles operated by him	Level 3	6
s.56(4) LGMPA	O05	Failure to produce PH operator's licence on request	Level 3	6
s.57 LGMPA	O06	Making a false statement or withholding information to obtain a PH operator's	Level 3	6

		licence		
s.73(1)(a) LGMPA	O07	Obstruction of authorised officer or constable	Level 3	6
s.73(1)(b) LGMPA	O08	Failure to comply with requirement of authorised officer or constable	Level 3	6
s.73(1)(c)	O09	Failure to give information or assistance to authorised officer or constable	Level 3	6
s.73(2) LGMPA	O10	Making a false statement to authorised persons	Level 3	6

EQUALITY ACT 2010				
Legislation	Code	Offence	Maximum Penalty	Penalty Points
s. 168 (2)(a) EA 2010	EA1	Refusal by HC driver to carry an assistance dog unless in possession of an exemption certificate	Level 3	6
s. 168 (2)(b) EA 2010	EA2	HC driver making an additional charge for carrying an assistance dog accompanying a disabled passenger	Level 3	6
s. 170 (1)(a) EA 2010	EA3	Refusal by PH operator to accept booking if the booking is requested by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person	Level 3	6
s. 170 (2) EA 2010	EA4	PH operator making an additional charge for carrying an assistance dog accompanying a disabled passenger	Level 3	6
s. 170 (3)(a) EA 2010	EA5	PH driver failing or refusing to carry out a booking accepted by the operator if the booking is made by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person,	Level 3	6
s. 170 (3)(b) EA 2010	EA6	PH driver failing or refusing to carry out a booking accepted by the operator if the booking is that the disabled person is accompanied by an assistance dog.	Level 3	6

Transport Act 1980				
Legislation	Code	Offence	Maximum Penalty	Penalty Points
s.64(2)(a) TA 1980	TR1	Driving a Private Hire vehicle with a roof sign that contravenes section 64(1) of the Act	Level 3	6
s.64(2)(a)	TR2	Causing or permitting a Private Hire vehicle to be driven with a roof sign that contravenes section 64(2)(b)	Level 3	6
Fenland District Council Hackney Carriage and Private Hire Driver Conditions				
Code	Offence		Max Penalty	Penalty Points
Fenland District Council Hackney Carriage and Private Hire Driver Conditions				
FDC01	Failure to comply with Hackney Carriage/Private Hire Vehicle Drivers Conditions of Licence			4
Fenland District Council Hackney Carriage and Private Hire Vehicle Licence Conditions				
FDC02	Failure to comply with Hackney Carriage/Private Hire Vehicle Conditions of Licence			4
Fenland District Council Operator Licence Conditions				
FDC03	Failure to comply with Private Hire Vehicle Operator Conditions of Licence			4

APPENDIX E

CONDITIONS FOR LICENSING STRETCHED LIMOUSINES

Permitted Vehicle Types

Left-hand drive limousines will be permitted as private hire vehicles

Sideways facing seating will be permitted in limousines providing that it conforms to all relevant road traffic vehicle legislation.

All limousines licensed as private hire vehicles must hold a valid Individual Vehicle Approval Certificate and be fitted with tyres of appropriate size and grade for that Approval.

All limousines licensed as private hire vehicles must obtain six-monthly test certificates showing that the vehicle has satisfied the standards of the appropriate MOT Class. The vehicle licence holder is responsible for sourcing a garage approved to carry out such tests and providing documentation attesting to the garage's compliance with the Council's vehicle testing requirements.

All limousines licensed as private hire vehicles must:

- a) reduce their seating capacity to a maximum of eight (8) passengers,
- b) not carry more than eight (8) passengers, including children, at any time,
- c) not carry passengers in any seats in the driver's compartment,
- d) ensure that any advertising of the limousine states the maximum seating capacity.

Legislation

Seatbelts complying to all relevant legislation must be fitted to all forward and rear facing seats and must always be worn by passengers whilst the vehicle is in motion. There is no legal requirement for seatbelts to be fitted on sideways facing seats, however if they are fitted, they must always be worn by passengers whilst the vehicle is in motion.

If alcohol drinks are to be provided in the vehicle:

- a) an appropriate licence under the Licensing Act 2003 must be in effect,
- b) alcohol may only be sold whilst the vehicle is stationary,
- c) whilst the vehicle is in motion, all receptacles containing alcohol shall be securely stored,
- d) if any occupants of the vehicle are below the age of eighteen (18) years old, the vehicle must not contain any alcohol,
- e) all drinking receptacles used in the vehicle must be made of shatterproof glass, plastic or polycarbonate.

The driver shall not play or permit the performance of any media that,

given its age classification or content, is unsuitable for the age of the youngest passenger in the vehicle.

Limousines licensed as private hire vehicles are not permitted to carry luggage within the passenger compartment of the vehicle.

Limousines licensed as private hire vehicles must carry a safety hammer capable of being used to break the window glass of the vehicle. The hammer must be securely located within the driver's compartment.

Limousines that are licensed private hire vehicles may only be booked from and dispatched by a licensed private hire operator and driven by a licensed private hire driver; all three licenses must be issued by the same licensing authority.

APPENDIX F - RIGHT TO WORK

Guidance Notes

From 1 December 2016, the Council is under a new legal duty to ensure that both the driver and operator licenses are only issued to applicants who have lawful immigration status and the right to work in the UK. By law, the Council cannot issue a licence to any applicant that does not satisfy this requirement. This change of law applies to all applicants regardless of where they were born, how long they have lived in the UK and, if they already hold a driver or operator licence, how long they have held that licence.

All applicants will need to attend the Council Offices where a council officer will check your original valid documentation evidencing your right to work in the UK (this can be arranged at the same time as attending for a knowledge test or a DBS appointment). You must attend in person and bring evidence of your right to work in the UK. Only certain types of documentation are acceptable.

- a) For applicants who are British Citizens
All you need to provide is a British passport confirming you are a British Citizen
If you do not have a British passport you can produce any of the other documents contained within **List A**.
- b) For applicants who are not British Citizens but have no restrictions on their right to work in the UK
All you need to provide is any of the other documents contained within **List A**.
- c) For applicants who have restrictions on their right to work in the UK
You will need to produce any of the documents contained within **List B**. If your documentation proves a right to work that expires prior to the normal licence expiry date, your licence will only be granted for the period we have proof of a right to work.

If you have a VISA that confirms your right to reside in the UK, but it is attached to an expired passport we cannot accept this as proof. You will need to apply to the Home Office to obtain acceptable proof, such as a biometric residence permit. Once a valid application to the Home Office has been confirmed, a six-month licence can be granted to allow time for the Home office to process the application.

You must bring original documentation (not a photocopy) and it is your responsibility to make sure you can provide acceptable forms of documentation.

The council officer will check that your documentation is acceptable based on either List A or List B (depending on your circumstances), check that the document is an original and relates to the person providing it, and

take a photocopy for Council records.

If the documentation you provide demonstrates that you have a permanent right to work in the UK (from **List A**) you will not be required to produce documentation for future applications.

In other cases, you will be required to provide your documentation when you next apply to renew your licence so that your right to work can be verified again at that point in time.

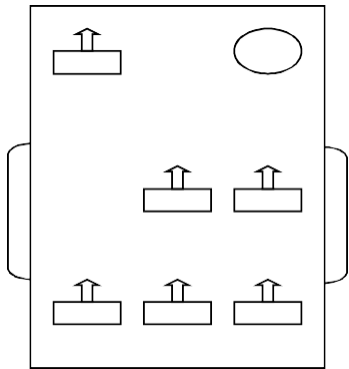
List A

- a) A passport showing the holder, or a person named in the passport as the child of the holder, is a British Citizen or a citizen of the UK and Colonies having the right of abode in the UK.
- b) A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- c) A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- d) A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- e) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- f) A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- g) A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- h) A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- i) A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- j) A certificate of registration or naturalisation as a British Citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

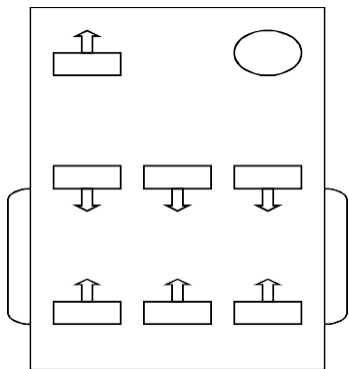
List B

- a) A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
- b) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
- c) A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
- d) A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- e) A Certificate of Application issued by the Home Office under regulation 17(3) or 18A(2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with Verification from the Home Office Evidence and Enquiry Unit. *This licence may be granted for six months from the date of the Certificate of Application.*
- f) A Verification issued by the Home Office Evidence and Enquiry Unit to you, which indicates that the named person may stay in the UK because they have an in-time application, appeal or administrative review and which is outstanding. *This licence may be issued for six months from the date of the licence decision.*

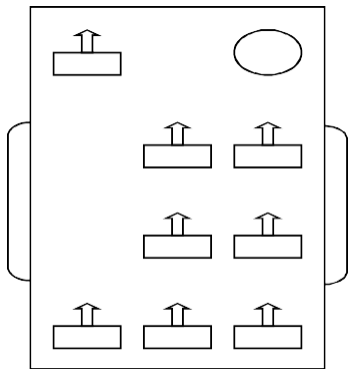
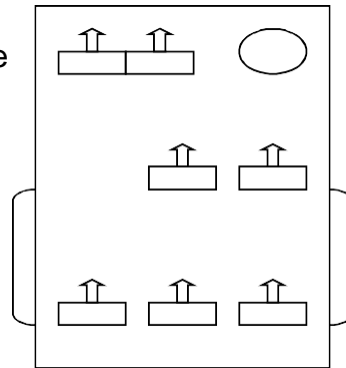
APPENDIX G
APPROVED SEATING CONFIGURATIONS IN MULTI-PASSENGER



Six-seater vehicle



Seven-seater vehicle



Eight-seater vehicle

○ Driver

□ Passenger Seat ↑ Passenger facing

⌈ Door

APPENDIX H VEHICLE COMPLIANCE STANDARDS

Guidance

Standards of vehicle test to be applied in addition to the statutory requirements of the MOT test.

This document is intended to provide practical guidance to the Council's vehicle testers charged with assessing vehicles being issued with a Certificate of Compliance.

It will also give a general insight into the type of examination the vehicle will be subjected to before it can be issued with a Certificate of Compliance.

It is the responsibility of owners, operators and drivers to ensure that their vehicles always comply with the current rules and regulations of the appropriate Road Traffic Act and current Construction and Use Regulations.

Where a vehicle is found not to conform to the requirements of an MOT test and/or the compliance test standards, that vehicle may have its licence suspended until the Council's authorised officers are satisfied that the vehicle is fit to be licensed.

No adaptations, alterations, modifications, additional equipment, optional extras except for tow bars fitted to a professional standard, are to be fitted to the vehicles without the prior approval of the Council.

Any owner wishing to alter or modify the vehicle, including the fitting of extras or alternative parts to those supplied by the manufacturer must seek prior permission from the Council.

Certain modifications may require special inspection by the Council's Authorised Officer or his/her nominee before approval is given. (A fee may be applicable).

When a vehicle presented for compliance test fails that vehicle will have to be re-submitted for a full compliance test and the fee charged will be the re-test fee.

All compliance failure items must be resolved before a vehicle licence plate can be issued.

APPENDIX I – FENLAND DISTRICT COUNCIL BYELAWS

These Byelaws were made under Section 68 of the Town Police Clauses Act, 1847, and Section 171 of the Public Health Act, 1875, by the Fenland District Council with respect to hackney carriages in Fenland District.

Interpretation

1) Throughout these byelaws “the Council” means the District Council of Fenland and “the District” means Fenland District.

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

- 2) a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto;
- b) A proprietor or driver of a hackney carriage shall;

Not willfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire; not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

Provisions regulating how hackney carriages are to be furnished or provided

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

53

- i) provide at least two doors for the use of persons conveyed in such a separate means of ingress and egress for the driver.

4) (1) The proprietor of a hackney carriage shall cause any taximeter, with which the carriage is provided to be so constructed, attached, and maintained as to

comply with the following requirements, that is to say:

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

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

- 5) The driver of a hackney carriage provided with a taximeter shall; -
 - a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
 - b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring;
 - c) cause the dial of the taximeter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness; this being the time between half- an-hour after sunset to half-an-hour before sunrise, and also at any other time at the request of the hirer.

54

- 6) A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof or with the seals affixed thereto.
- 7) Every proprietor of a hackney carriage not provided with a taximeter fitted with a flag or other device bearing the words "for hire" shall cause the carriage to be provided with a sign so constructed as to comply with the following requirements, that is to say:
 - a) the sign shall bear the words "For Hire" in plain letters at least one and a half inches in height and
 - b) the sign shall be capable of being so operated that it indicates clearly and conveniently to persons outside the carriage whether or not the vehicle is for hire.
- 8) The driver of a hackney carriage provided with a sign in pursuance of Byelaw 7 shall
 - a) when standing, or plying for hire, operate the sign so that the words "For Hire" is clearly and conveniently legible by persons outside the carriage;
 - b) as soon as the carriage is hired, whether by distance or by time, operate the said sign so that the words "For Hire" are not conveniently legible to persons outside the carriage.
- 9) the driver of a hackney carriage shall, when plying for hire in any street and not actually hired,
 - a) where appropriate proceed with reasonable speed to one of the stands fixed by the Council, where appropriate, in that behalf except that in March the driver shall not station the carriage in the stand if the other two places in the stand are occupied by carriages owned by his firm or by the firm for which he is driving;
 - b) on arriving at a stand in Wisbech not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction;
 - c) in respect of b) above from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
- 10) a proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the

purpose.

- 11) The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
- 12) The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.

55

- 13) A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
- 14) If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when, hired, wear that badge in such position and manner as to be plainly visible.
- 15) The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage,
 - a. conveys a reasonable quantity of luggage; b. afford reasonable assistance in loading and unloading;
 - c. affords reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.

Provisions fixing the rates or fares to be paid for hackney carriages within the district, and securing the due publication of such fares

- 16) The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council the rate or fare being calculated by distance unless the hirer express at the commencement of the hiring his desire to engage by time.

Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.

- 17) a. The proprietor of a hackney carriage shall cause a statement of the fares fixed by the Council in that behalf to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- b. The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the

letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

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

- 18) The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
- 19) The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him,

56

- a. carries it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to the office of the Council, and leave it in the custody of the officer in charge of the office on his giving a receipt for it.
- b. is entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.