

# CONSULTATION

## Common Licensing Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire



## Introduction

The Department for Transport (DfT) published its Statutory Taxi and Private Hire Vehicle Standards in July 2020 with a strong focus to protect all passengers and users of taxis and private hire transport services.

The statutory guidance makes it clear that the Government expects the recommendations contained within it to be implemented unless there is a compelling local reason not to. Furthermore, it is noted that the statutory standards document sets out a framework of policies that, under section 177(4), licensing authorities “must have regard” to when exercising their licensing and safeguarding functions.

In light of the DfT statutory standards and requirements contained within it, the licensing authorities in Gloucestershire have collectively undertaken a review of their hackney carriage and private hire licensing policies. The result of this combined effort is the subject of this consultation. Working together, the licensing authorities in Gloucestershire have drafted proposed common licensing standards for the county based on the requirements in the statutory standards document.

We welcome feedback and comments on the draft common licensing standards outlined below ([“Common Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire”](#)).

## Scope

The principal focus of this consultation is driver and private hire operator licensing.

Licensing matters not in scope of this consultation, as outlined below in the draft common standards, will remain unchanged by this consultation. This means that licensing matters relating to, for example, vehicle standards, are not included in the scope of this consultation and therefore in the common approach proposed at this stage.

The statutory standards do however include a number of other considerations such as CCTV in licensed vehicles and wider enforcement matters. Although not included in this consultation, the licensing authorities in Gloucestershire will, in due course, undertake further consultation on these matters.

## Cheltenham Supplementary

Cheltenham Borough Council has included a supplementary consultation on a number of local policy issues. This supplementary is entirely separate from the substantive common licensing standards consultation.

## Responding to the consultation

The consultation will be open **for 12 weeks from Tuesday 13 April 2021** to Tuesday 6 July 2021.

Each licensing authority in Gloucestershire will consult individually with its own licensed trade, Members and communities. In addition, Cheltenham Borough Council will host the consultation for wider stakeholders to be included in the consultation.

Local Consultation	
Local licensed trade	Individual Licensing Authority <a href="#">Link to consultations</a>
Elected Members	Individual Licensing Authority <a href="#">Link to consultations</a>

Parish Councils	Individual Licensing Authority <a href="#">Link to consultations</a>
Local residents and communities	Individual Licensing Authority <a href="#">Link to consultations</a>
<b>Wider Consultation</b>	
	Where to respond
Gloucestershire Constabulary	Hosted by Cheltenham Borough Council <a href="mailto:taxiconsultation@cheltenham.gov.uk">taxiconsultation@cheltenham.gov.uk</a>
Gloucestershire County Council - Integrated Transport Unit	Hosted by Cheltenham Borough Council <a href="mailto:taxiconsultation@cheltenham.gov.uk">taxiconsultation@cheltenham.gov.uk</a>
Gloucestershire County Council - Chair, Gloucestershire Economic Growth Scrutiny Committee	Hosted by Cheltenham Borough Council <a href="mailto:taxiconsultation@cheltenham.gov.uk">taxiconsultation@cheltenham.gov.uk</a>
Gloucestershire Children's Safeguarding Executive	Hosted by Cheltenham Borough Council <a href="mailto:taxiconsultation@cheltenham.gov.uk">taxiconsultation@cheltenham.gov.uk</a>
Neighbouring Authorities	Hosted by Cheltenham Borough Council <a href="mailto:taxiconsultation@cheltenham.gov.uk">taxiconsultation@cheltenham.gov.uk</a>
Gloucestershire Police & Crime Commissioner	Hosted by Cheltenham Borough Council <a href="mailto:taxiconsultation@cheltenham.gov.uk">taxiconsultation@cheltenham.gov.uk</a>
Any other responses	Hosted by Cheltenham Borough Council <a href="mailto:taxiconsultation@cheltenham.gov.uk">taxiconsultation@cheltenham.gov.uk</a>

Consultation responses must be submitted in writing either by email as outlined above or by post to

Common Taxi Standards Consultation  
Cheltenham Borough Council Licensing  
Municipal Offices  
Promenade  
Cheltenham  
GL50 9SA

Please include your full name, address and capacity (i.e. licence holder, local resident, elected Members etc.)

#### [Privacy Statement](#)

Please refer to the "[Licensing consultations privacy statement](#)" for more information on how we may process your personal information.

# Common Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire

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## Introduction

1. Following the publication of the Department for Transport's ("DfT") Statutory Taxi and Private Hire Vehicle Standards ("the statutory guidance"), the licensing authorities for Gloucestershire has adopted common standards for licensing of hackney carriage and private hire drivers, vehicle proprietors and operators. Please refer to the scope below for further information. These common standards are based on the statutory guidance.
2. The purpose of these common standards is to set a common basic licensing standard for all licence holders and new applicants to promote best practice, maintain high safeguarding standards and to reduce the burden on licence holders and businesses.
3. The scope of the common standards are outlined below and individual licensing authorities retain the right to set its own licensing standards for aspects that are not included in scope.

## Licensing Authorities

The Gloucestershire licensing authorities that have signed up to the common standards are:

1. Cotswold District Council
2. Forest of Dean District Council
3. Gloucester City Council
4. Stroud District Council
5. Cheltenham Borough Council
6. Tewkesbury Borough Council

## General Principles

### Licensing Policies

Each licensing authority that has adopted these common standards will have a comprehensive and a cohesive licensing policy document that brings together procedures on taxi and private hire vehicle licensing including these common standards.

Licensing policy documents will be reviewed every five years or more frequently should there be significant issues arising in their area, and their performance annually. Changes to adopted policies will be consulted on as appropriate including the local licensed trade, with licensing authorities that have adopted these common standards and other key stakeholders.

Any changes in licensing policy and/or requirements will be followed by a review of the licences already issued in accordance with the statutory guidance and on a case to case basis.

### Ancillary Policies

Although not in scope of these common licensing standards, each licensing authority that has adopted these common standards will have in place the following ancillary policies:

- Whistleblowing policy and procedure for raising concerns about licensing matters and procedures
- Data sharing agreements and processes to enable sharing licensing information with other licensing authorities
- Procedure(s) for immediate suspension and revocation of licences as circumstances dictate.

## Regulatory Structure

Each licensing authority that has adopted these common standards will operate its licensing function in accordance with its own scheme of delegation.

## Enforcing the Licensing Regime

The licensing authorities that have adopted these common standards collectively acknowledge the importance of a fair and robust enforcement scheme and approach.

To this end, the following measures have been adopted:

1. Common Enforcement and Complaints Policy & Procedure (Appendix C)
2. Joint authorisation of enforcement officers off the licensing authorities that have adopted these common standards;
3. Information sharing agreements between the licensing authorities that have adopted these common standards

## Specific Policies & Procedures

### Fit & Proper

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. The question of whether a person is a fit and proper person will be based on the following standard:

*Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?*

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

The overriding consideration will be safeguarding the public. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the Licensing Sub-Committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Licensing officers are delegated in accordance with the table set out in **Appendix A** including for dealing with serious matters that may require the immediate action in relation to a licence.

### Information Sharing

#### Criminal records checks and information

The assessment of fit and proper includes, amongst other things, an assessment of an applicant or licensee's character and any relevant information relating to current or previous history.

Hackney carriage and private hire applicants or licensees will be subject to enhanced criminal records checks through the Disclosure & Barring Service (DBS) including checks against the national barred list.

The DBS check must satisfy the following:

- Workforce must state 'Other Workforce'
- Child and Adult Barring lists must be included

**Appendix B**, outlines the common standards for rehabilitation times relating to criminal records and other relevant matters outlined.

Hackney carriage and private hire applicants or licensees must be subscribed to the DBS's Update Service.

Each of the licensing authorities that have adopted these common standards will undertake six monthly enhanced DBS checks including checks against the children and adult Barred Lists for licensed drivers. The six month checking requirement will be brought into scope once these standards have been adopted (Autumn 2021).

In the interests of public safety, a licence is unlikely to be granted to any individual that appears on either barred list.

Each of the licensing authorities that have adopted these common standards will have also subscribe to the national refusals database (NR3). Hackney carriage and private hire applicants or licensees must declare on application whether they have had a hackney carriage and private hire driver's licence refused or revoked by another authority. Each applicant and licensee's application will be checked against the NR3 database to confirm if the information declared is correct and accurate.

Licence refusals and revocations will also be recorded on NR3 database. A decision to refuse or revoke a licence where this decision related to a risk of harm to a child or vulnerable adult, will be referred to the DBS and Gloucestershire Constabulary.

#### [Licensee self-reporting](#)

Licence holders are required to notify the issuing authority **within 48 hours** of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.

An arrest for any of the offences mentioned above is likely to result in a review by the issuing authority as to whether the licence holder is fit to continue.

Please also refer to the relevance of convictions policy at **Appendix B** for more information on the relevance of other convictions, arrests, cautions and criminal investigations.

#### [Complaints against licensees](#)

Licensees are required to display, in their licensed vehicles, guidance for passengers on making complaints directly to the licensing authority. The guidance for passengers must be displayed where it can easily be read. Signage to be displayed in licensed vehicles showing the guidance will be issued by the licensing authority. The signage will include:

- the licensing authority's name, contact email and address,
- the vehicle plate number for reference when making complaint,
- the licensing authority's website address where there will be further information for passengers about how to make complaint.

Licensees who are found to not be displaying the complaint guidance face a suspension of their vehicle licence and a possible review of their driving licence.

Complaints will be recorded, investigated and appropriate action taken in accordance with the Enforcement and Complaints policy at **Appendix C**.

#### [Certificate of Good Character](#)

Where any applicant has been resident abroad at any time from the age of 18 prior to an application they must provide a Certificate of Good Conduct, a Criminal Record Check or similar document from each and every country within which they have been resident.

Residency for these purposes is considered by this Licensing Authority as where the person has lived in a country for longer than 6 months in a given calendar year. Where this Certificate has been produced in a non-English language, the applicant is required to produce a translation of the Certificate from the Embassy or Consulate of that country and provide the original document. An exception might be permitted where a refugee has been allowed to stay in the UK and has been given asylum, and this exception will only apply to that country.

[Criminal records checks for overseas applicants](#), will assist you further in obtaining this document.

#### Immediate suspension and revocation of licences

Where it comes to the attention of a licensing authority that the fitness of a licence holder has been called into question, which raises concerns as to whether the relevant licence holder should be allowed to continue to operate under their licence and that decision cannot wait until the next scheduled Licensing Sub-Committee, the licensing authority will decide if immediate action is necessary under its own scheme of delegation. Immediate action can include a decision to suspend or revoke the licence.

Circumstances that might give rise to concern about the fitness of a licence holder would include, for example, serious complaint, criminal investigation, serious allegation, formal caution, conviction or any other circumstances deemed sufficiently serious that requires immediate action.

For the avoidance of doubt, licence holder relates to a driver, vehicle and/or operator licence.



## Hackney Carriage & Private Hire Drivers

### Duration of licences

Hackney carriage and private hire driving licences will be granted for a standard period of three years.

Individual licensing authorities retain the right to issue shorter driving licences in exceptional circumstances where circumstances deems this appropriate.

### Mandatory Training

Applicants for a hackney carriage or private hire driving licence must undertake mandatory safeguarding and equality awareness training prior to the issue of their licence. A common training approach and provision has been adopted by licensing authorities that have adopted these common standards.

Existing licensees will be required to undertake refreshers training every three years as a condition of the grant of their licence.

### Language proficiency

The assessment of fit and proper includes an assessment of an applicant or licensee's English language proficiency. A lack of English language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

Applicants for a hackney carriage or private hire driving licence must therefore have a sufficient English language proficiency and be able to demonstrate this.

Some applicants may not be required to take the English proficiency test. This is the case if they can demonstrate their ability to communicate in English by providing an appropriate educational certificate for a qualification related to English. Acceptable qualifications may include a GCSE (or equivalent) in a subject such as English language or literature, a degree in a subject containing substantial English content, or an NVQ or BTEC in a subject that requires its students to communicate well in English.

If applicants are unable to provide such a certificate, or if the licensing officer is not satisfied that the certificates provided sufficiently demonstrate the applicant's ability to communicate in English, the applicant will need to pass the English proficiency test.

English language proficiency requirements will apply to new applicants from date of adoption of these standards however, discretion remains to refer existing licence holder for an assessment on a case to case basis.

## Hackney Carriage & Private Hire vehicle proprietors

### Criminality checks for vehicle proprietors

Licensed vehicle proprietors will be subject to an annual basic disclosure check from the DBS unless they are also a licensed hackney carriage or private hire driver licensed with the same authority where they hold the vehicle licence.

Whether a licensed vehicle proprietor is fit and proper will be determined based on the definition set by the common licensing standards and the relevance of convictions policy at Appendix A.

Should the licensed vehicle proprietor cease to hold a driver hackney carriage or private hire driver licence a basic certificate should will be required immediately.

A refusal to license an individual as a hackney carriage or private hire driver or to suspend or revoke a driver licence, does not automatically mean that that individual cannot be issued or continue to hold a hackney carriage of private hire vehicle or private hire vehicle operator licence.

Under these circumstances, a decision on the fitness and propriety of a vehicle proprietor will be made independent of a driver licence refusal, based on the appropriate information and taking into consideration the individual circumstances of each case. An important consideration will be the information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

## Private Hire Operators

### Duration of licences

Private hire operating licences will be granted for a standard period of five years.

Individual licensing authorities retain the right to issue shorter driving licences in exceptional circumstances where circumstances deems this appropriate.

### Criminality checks for private hire vehicle operators

Licensed private hire operator(s) will be subject to an annual basic disclosure check from the DBS unless they are also a licensed hackney carriage or private hire driver licensed with the same authority where they hold the operating licence.

Whether a private hire operator(s) is fit and proper will be determined based on the definition set by the common licensing standards and the relevance of convictions policy at **Appendix B**.

Should the private hire operator(s) cease to hold a driver hackney carriage or private hire driver licence, a basic certificate should will be required immediately.

Refusal to license in individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence.

Under these circumstances, a decision on the fitness and propriety of a private hire operator(s) will be made independent of a driver licence refusal, based on the appropriate information and taking into consideration the individual circumstances of each case. An important consideration will be the information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

A private hire vehicle operator licence may be applied for by a company or partnership. In this case, the 'fit and proper' test will apply to each of the directors or partners in that company or partnership.

A licensed private hire operator issued to a company or partnership must advise the licensing authority of any change in directors or partners. Any change to directors or partners will require additional criminality checks.

### Booking and dispatch staff

Licensed private hire operator(s) will be subject to a licence condition ensuring that all booking and dispatch staff have had a basic DBS check. In addition, private hire operators must ensure they have written policies and procedures in place to:

- a. ensure criminality checks are undertaken on all booking and dispatch staff at appropriate intervals; and
- b. set out its approach on employing all booking and dispatch staff that are ex-offenders.

Where a licensed private hire operator has outsourced its booking and dispatch function that licensed private hire operator must ensure the third-party have adequate arrangements in place as outlined above.

### Record keeping

As a common standard enforced by way of a licensing condition, all licensed private hire operators will be required to record the following information for each booking accepted:

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

For Consultation

## Appendix A - Table of Delegations

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Licensing Officers</b>
Full policy review	All cases		
Application for driver's licence, with no convictions			All cases
Application for driver's licence, with relevant convictions		Cases where referral for determination required, other than traffic offences	Cases in relation to traffic offences
Suspension of driver's licence (public safety)		All cases where referral for determination required	
Revocation of driver's licence (public safety, immigration)		Cases where referral for determination required	Cases where immediate effect required
Application for vehicle licence			All cases
Suspension of vehicle licence (public safety)			All cases with a reasonable cause
Revocation of vehicle licence (public safety)		Cases where referral for determination required	Cases where immediate effect required
Application for operator's licence			All cases
Application for operator's licence, with relevant convictions		All cases where referral for determination required	
Suspension of operator's licence (public safety)		All cases where referral for determination required	
Revocation of operator's licence (public safety)		Cases where referral for determination required	Cases where immediate effect required
Assistance dogs in taxis: exemption certificate request forms			All cases

Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases
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For Consultation

## Appendix B – Relevance of Convictions Policy

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### GLOUCESTERSHIRE LICENSING AUTHORITIES – TAXI AND PRIVATE HIRE CONVICTIONS POLICY

#### INFORMATION FOR APPLICANTS AND EXISTING LICENCE HOLDERS

1. This policy is intended to provide guidance on determining suitability of new applicants and existing licence holders where the applicant or licence holder has been convicted of a criminal or driving offence.
2. The policy lists the types of offences that may give concern to the Licensing Authority. For the more serious offences the expectation is that an application will be refused or an existing licence holder will have their licence revoked. For other offences the policy gives the timescales that it is expected will have elapsed since the conviction before an application will be granted.
3. The Policy states that each case will be treated on its own merits. Where an applicant or Licence Holder has an offence listed in this policy it will not necessarily mean an automatic barring or revocation. However, the applicant or licence holder can expect that their application or licence will be put before a Licensing Sub-Committee for consideration who will take account of this policy. The obligation will be on the applicant or licence holder to put forward reasons and/or evidence in support of their case for the Licensing Sub-Committee to consider.
4. If an application is refused or a licence is revoked the applicant or licence holder will have right of appeal to the Magistrate's Court. The application to the Magistrates Court should be made within 21 days of the applicant or licence holder being notified by the Licensing Authority of the decision to refuse or revoke.
5. Where a licence holder is convicted of an offence where the Licensing Authority believes that the safety of the public may be at immediate risk, the licence may be suspended/revoked with immediate effect. The licence holder will have right of appeal to the Magistrates Court against a suspension issued with immediate effect however they may **not** use the licence until any decision is made by the Court.
6. Existing licence holders that have been granted licences previous to this policy coming into effect may have convictions on their record that fall within the timescales within this policy. The Licensing Authority will have made decisions on those licences based on policies in place at the time where the timescales may have been lesser or those offences not included. It is not reasonable that those licences should be automatically be revoked. The Licensing Authority will review all existing licences in light of this policy and where the Licensing Authority has concerns about a particular licence holder and/or there are further offences, breaches or complaint, the licence holder may be reviewed by a Licensing Sub-Committee who will take into account all matters including any previous offences that may now fall within this current policy. In particular, serious account will be taken of any history of safeguarding matters. Where appropriate, existing licence holders may be requested to apply for a new enhanced DBS certificate in order that the Council can review historic offences in line with this policy.

## OVERVIEW

7. The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must have the confidence that the driver is safe and suitable.
8. Taxi legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence. If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
9. These guidelines apply to all new applications for a taxi or private hire driver licence and all licensed taxi and private hire drivers.
10. In addition, where relevant, they will also be applied to taxi and private hire vehicle licence applicants and licence holders, and private hire operator licence applicants and licence holders. Where such applicants and licence holders are not applying for, or already hold a taxi or private hire driver licence they will be required to provide a basic criminal conviction checks on application and then at regular intervals. The Licensing Authority will take account of any current criminal convictions showing on the basic criminal conviction check, or criminal conviction received, in accordance with this policy.
11. Taxi legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence.
12. This policy is based on the Statutory Taxi and Private Hire Vehicle Standards issued by the Department of Transport in July 2020, Annex - Assessment of Previous Convictions. <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>
- 13. The Licensing Authority will consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.**
14. In each case appropriate weight should be given to the evidence provided. This will include assessing the risk of re-offending and harm.
15. The Licensing Authority will be looking at the entirety of the individual when making the decision whether an applicant or licence holder is a safe and suitable person. Time periods are relevant and weighty considerations, but they are not the only determining factor. Other factors that the Licensing Authority will take into account when making a decision include but are not exhaustively:
  - Relevance and date of the offence
  - Sentence imposed by the court
  - Age of person and circumstances when the offence was committed
  - Subsequent periods of good behaviour
  - Overall conviction history
  - Any history of complaints made to the Licensing Authority against an existing licence holder. Unproven complaints may in some circumstances be taken into account if it is considered that there is a strong likelihood that the complaints are justified and the nature and/or number of complaints raise concern regarding suitability of applicant
  - Whether the applicant has intentionally misled the Licensing Authority or has lied as part of the application process



- Information provided by other agencies or other services at the Licensing Authority. This may include information disclosed by the Police or Safeguarding Services
  - Any other matters that are relevant
16. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime.
  17. A caution is regarded in exactly the same way as a conviction.
  18. Fixed penalties and community resolutions will also be considered in the same way as a conviction.
  19. Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered
  20. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. This places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.
  21. It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered.
  22. Within this document, any reference to “conviction” will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
  23. In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
  24. Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
  25. In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
  26. It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver’s, vehicle and operator’s) and it must be understood that any convictions or other actions on the part of the

licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.

27. Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
28. Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
29. These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person.
30. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

## **OFFENCES**

### **Crimes resulting in death**

31. Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury (where there was an intention or strong likelihood of death) of another person they will not be licensed. A licence holder who is convicted of the above will have their licence revoked.

### **Exploitation**

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

### **Offences involving violence against the person**

33. Licensed drivers have close regular contact with the public who could be at risk from violent behaviour. Drivers are often entrusted with the care of children, young persons and vulnerable adults. The Licensing Authority seeks to protect the safety of the public and minimise risk.
34. Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed. A licence holder convicted of the above will have their licence revoked

Examples of Violent offences include (this is not an exhaustive list)

- a. Arson
- b. Malicious wounding or grievous bodily harm
- c. Actual bodily harm
- d. Grievous bodily harm with intent

- e. Robbery
- f. Riot
- g. Assault Police
- h. Any racially aggravated assault
- i. Violent disorder
- j. Resisting arrest
- k. Common assault/battery
- l. Affray
- m. Obstruction

### **Possession of a weapon**

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

### **Sexual offences**

36. As licensed drivers often carry unaccompanied and vulnerable passengers, the Licensing Authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences should be considered as serious.

37. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. A licence holder convicted of the above will have their licence revoked

38. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list. A licence holder who goes on any of the above will have their licence revoked

39. Sexual/Indecency Offences include (this is not an exhaustive list)

- a. Rape
- b. Assault by penetration
- c. Offences involving children or vulnerable adults
- d. Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
- e. Making or distributing obscene material
- f. Possession of indecent photographs depicting child pornography.
- g. Sexual assault
- h. Indecent assault
- i. Exploitation of prostitution
- j. Soliciting (kerb crawling)
- k. Making obscene / indecent telephone calls
- l. Indecent exposure
- m. Any similar offences (including attempted or conspiracy to commit) offences

40. Any licence holder charged with, convicted or issued with a formal caution for any of the offences mentioned above should expect to have their licence revoked with immediate effect.

## **Dishonesty**

41. Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways. In certain situations, drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station. For these reasons convictions of dishonesty are treated very seriously
42. Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. A licence holder convicted of any of the above will have their licence revoked
43. Dishonesty offence includes (this is not an exhaustive list)
  - a. Theft
  - b. Burglary
  - c. Fraud
  - d. Benefit fraud
  - e. Handling or receiving stolen goods
  - f. Forgery
  - g. Conspiracy to defraud
  - h. Obtaining money or property by deception
  - i. Other deception
  - j. Any similar offence

## **Drugs**

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

## **Discrimination**

46. Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. A licence holder convicted of the above will have their licence revoked
47. Examples of Discrimination offences include (this is not exhaustive list)
  - a. Racially aggravated common assault
  - b. Any racially-aggravated offence against a person or property.

- c. Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- d. Offences under Equality Act 2010
- e. Any offence considered as hate crime. Hate crime is any criminal offence which is perceived by the victim, or anybody else, to be motivated by hostility or prejudice towards someone's: race, religion, sexual orientation, transgender identity, disability.

### **Motoring convictions**

48. Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.
49. For the purposes of this policy a minor traffic offence is one where the DVLA has imposed no more than 3 penalty points on the applicant's DVLA driving licence for the offence. A major conviction is one where the DVLA has imposed more than 3 penalty points on the applicant's DVLA driving licence for the offence. There is more information about endorsement codes and penalty points on the Government's website. <https://www.gov.uk/penalty-points-endorsements/endorsement-codes-and-penalty-points>
50. For the purposes of this policy, a 'valid' traffic offence is the same definition as used by the DVLA. Points that stay on a DVLA licence for 4 years are 'valid' for 3 years. Points that stay on a DVLA driving licence for 11 years they are 'valid' for 10 years. There is more information on the Government's website <https://www.gov.uk/penalty-points-endorsements/how-long-endorsements-stay-on-your-driving-licence>
51. Where an applicant has more than one minor traffic offence a licence would be refused whilst the relevant points remain 'valid' on their driving licence.
52. Where an applicant has a major conviction the application will be refused whilst the relevant points remain 'valid' on their driving licence.
53. Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the Licensing Authority considers that the licensee remains a fit and proper person to retain a licence.
54. Where there is a second occurrence of a minor traffic offence, whilst the first minor traffic offence is valid, or a single occurrence of a major traffic offence of up to 6 points, a licence holder can agree to complete a driving assessment, at their own expense, through an approved provider, as an alternative to a review/revocation of their licence by a Licensing Sub-Committee
55. Where a licence holder has more than 6 valid penalty points for driving offences their licence will be revoked.

### **Drink driving/driving under the influence of drugs**

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

### **Using a hand-held device whilst driving**

57. Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later. A licence holder convicted of the above will have their licence revoked.
58. Where the offence is dealt with as driving offence and penalty points have been imposed on a DVLA licence, the licence will not be granted until at least four years have passed. This is the length of time these points remain current of the DVLA licence. A licence holder who has had penalty points imposed on their DVLA licence for using a held-hand mobile telephone or a hand-held device, will have their licence revoked.

### **Hackney Carriage and Private Hire Offences**

59. Where an applicant has any offences under any relevant hackney carriage or private hire legislation a licence will not be granted until at least 7 years have elapsed since the conviction. A licence holder convicted of the above will have their licence revoked

## Appendix C - Enforcement and Complaints Policy & Procedure

### Enforcement

This policy takes a risk based proportionate, targeted and flexible approach to inspection and enforcement and where appropriate will work with external agencies such as the Police.

When a potential breach or offence is identified Licensing Officers will investigate the matter.

If it is in relation to a licensed vehicle the licence holder may be requested to bring in the vehicle for an inspection by a Licensing Officer or to take the vehicle to an MOT approved garage for a full inspection.

If it is in relation to a licensed driver or operator the licence holder may be requested to attend an interview. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law the interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

### Complaints by the Public

The public are able to make complaints to the licensing service about licensed drivers and operators. This could include such issues as offensive comments by a driver, unsafe driving, failure or lateness of attending bookings and refusal to take guide dogs.

Licensing Officers will normally ask the complainant to put their complaint in writing or by email giving details of the nature of the complaint with date, time and location if relevant.

All such complaints will be recorded and investigated and the licence holder notified. Licensing Officers may request the licence holder to attend an interview in order determine the facts. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law that interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

Some complaints such as those alleging a serious criminal offence, traffic offence, violence or verbal abuse may be referred to the Police.

### Actions that may be Taken Following Enforcement or Complaint

When deciding what action to take the Licensing Officers will consider each case on its own merits and will consider all relevant matters including:

- Seriousness of the offence, breach or complaint
- Any history of previous offences, breaches and/or complaints
- Consequences of non-compliance
- Effectiveness of any action
- Danger to the public
- In the case of an unproven allegation the seriousness of the allegation and the likelihood and risk of danger to the public

Action	Examples (but not an exhaustive list)
Take no action	<ul style="list-style-type: none"> <li>Breach, offence or complaint is proven to be false.</li> <li>Matter is minor or unproven and there is no previous history</li> </ul>
Verbal or written advice for example recommendation to re-take driver assessment test	<ul style="list-style-type: none"> <li>Matter is minor and/or due to misunderstanding by the licence holder</li> </ul>
Verbal or written warning	<ul style="list-style-type: none"> <li>Complaint made by the public</li> <li>Minor traffic offence</li> <li>Contravention of the code of conduct or dress code</li> </ul>
Fixed penalty notice	<ul style="list-style-type: none"> <li>Smoking offences in a licensed vehicle</li> </ul>
Immediate suspension or revocation of licence	<ul style="list-style-type: none"> <li>Suspension of vehicle (S 68) issued when on inspection of a vehicle Officers believe that it has a defect or is potentially unsafe for passengers or the meter is defective</li> <li>Suspension of driver licence (s 61 (2B) if in interest of public safety for example failing a medical, safeguarding or serious criminal allegations</li> <li>Suspension of driver licence (s 61) if driver fails to provide relevant documentation by expiry e.g. DBS/Medical</li> </ul>
Suspension of licence – 21 days notice	<ul style="list-style-type: none"> <li>Suspension of a vehicle licence (s60) for failure to have a Council Vehicle Inspection or provide relevant document or visual condition of vehicle is not satisfactory</li> </ul>
Simple caution issued by authorised officer	<ul style="list-style-type: none"> <li>A licence holder admits to committing a less serious offence and the issuing of such a caution is likely to reduce re-offending</li> </ul>
Review of the licence by the Licensing Sub-Committee	<ul style="list-style-type: none"> <li>A licence holder receives criminal conviction, police caution, major motoring offence, safeguarding concern or serious complaint or allegation</li> <li>A licence holder has a history of complaints and/or offences. In the case of complaints by the public these complaints could be unproven if there is previous history of such complaints or a likelihood that the complaint is justified and the public could be at risk</li> <li>A licence holder that had received more than 3 warnings from Officers for breaches of conditions, policy or legislation within a 12 month period</li> <li>A licensed driver who has accumulated more than 6 current points on their driving licence</li> <li>Any matter where a possible outcome is the revocation of the licence</li> </ul>
Prosecution	<ul style="list-style-type: none"> <li>Using an unlicensed vehicle</li> <li>Unlicensed driver driving a licensed vehicle</li> <li>Unlicensed operator</li> <li>Driving without valid insurance</li> <li>Refusing to carry a guide dog</li> </ul>



	<ul style="list-style-type: none"> <li>• Exceeding the number of passengers on the plate</li> </ul>
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### **Review of the Licence by the Licensing Sub-Committee**

The licence holder will be invited to a Licensing Sub-Committee meeting. The licence holder will be given reasonable notice of the meeting. However if the licence holder does not attend without reasonable cause the panel may undertake the review in his/her absence. The licence holder may bring another person with them to the review to support or represent them or they may wish to put comments in writing for the panel to consider. After considering all the facts the panel may take any action they feel appropriate. Below is a list of possible actions.

- No action
- Oral or written warning
- Requirement to take action within a time period for example recommendation to take a anger management course, safeguarding or disability awareness training, speed awareness course or driving assessment
- Suspend the licence until an action or requirement has been met
- Suspend the licence for a period of time as a deterrent to ensure future compliance
- Revoke the licence
- Recommend a simple caution
- Recommend prosecution

### **Right of Appeal**

A licence holder has a right of appeal to the Magistrates Court for any decision by the Council to refuse, suspend or revoke a driver, vehicle licence or operator licence or against any conditions added to a licence. This appeal must be made within 21 days of the notification of the Council's decision.

There is an exception to the above right of appeal in the case of a decision to refuse to grant a Hackney Carriage vehicle licence. In this case the right of appeal is to the Crown Court.

There is no right of appeal against an immediate suspension of a vehicle licence (s68).

### 1. Driver Medicals

Cheltenham Borough Council is proposing to amend the driver licensing medical requirement. At present, the policy requires a driver to obtain full medical records from their own GP. We are consulting on including an additional provision that would allow driver to option to obtain medical based on a 'summary of medical records' from a suitably qualified medical practitioner.

The current requirement goes against developing common practice on driver medicals. Based on advice, all of the important medical information required to safely determine a candidate's fitness to drive is easy to review on a good computerised summary of medical records. This summary is easier to access and less time consuming for the driver, and is also less onerous for the surgeries dealing with these requests.

**Do you agree with the proposal to amend the policy that would allow drivers the option to obtain a medical based on a 'summary of medical records' from their own GP or another suitably qualified medical practitioner?**

**Do you have any other comments to make in relation to this proposal?**

### 2. Vehicle fitness test pass certificates

The current taxi and private hire licensing policy does not currently prescribe a maximum time limit for valid vehicle fitness test pass certificates. We acknowledge there are times when a vehicle fitness test could be out of sync with licence renewals or other circumstances that might require an additional vehicle fitness test. By setting a maximum time limit for vehicle fitness test pass certificates, the need for additional testing could be avoided without compromising on public safety.

For a vehicle licence renewal, we propose to only accept a vehicle fitness test pass certificate issued a maximum of 8 weeks before the vehicle licence renewal date.

**Do you agree with this proposal? Do you have any other comments to make in relation to this proposal?**

### 3. Taximeter calibration tests

The council is considering removing the requirement for annual taximeter calibration tests. If approved, the council will require a taximeter calibration test on initial application, for fare changes and at the request of the council for individual vehicles where concerns have been raised about the accuracy of the taximeter calibration.

**Do you agree with this proposal? Do you have any other comments to make in relation to this proposal?**

#### 4. Policy on medical exemptions

The council proposes a formal policy on processing applications for medical exemptions from the duties placed on licence holders under the Equality Act 2010. A draft policy is attached at the end of this supplementary.

**Do you have any other comments to make in relation to the draft medical exemption policy?**

Other proposed changes:

1. Clarifying in the policy that the council will accept temporary cover notes where an annual certificate was not available at the time of licensing
2. Clarifying that the council does not issue reminders for 6 monthly MOTs. These are a condition of the individual vehicle licence and printed on the licence. We seek to further clarify that failure to comply with the 6 month MOT requirement will result in a vehicle licence suspension for a maximum period of 2 months.
3. Appendix C, paragraph e – add clarification that 5 year age limit is assessed at the point of licensing to clarify that the vehicle must be less than 5 years old on the date when the licensing application is submitted.
4. Additional policy section on Equality Duties of drivers, operators and proprietors - We are proposing to include a new section in the policy on the statutory equality duties placed on licensed drivers, operators and proprietors. The section will reflect the statutory duties in the Equality Act but with reference to local enforcement approach and policies.

#### 5. Strengthening Enforcement

The council will continue to work with all stakeholders in respect of the night time economy in Cheltenham. It shall continue to ensure that people feel safe. The council will take a zero tolerance policy to justified or substantiated complaints involving drivers against women passengers. Due process will be followed in all instances, but inappropriate words and actions will not be tolerated.

The council will take a harsh line with any licensed driver that is found to have not carried out any legal responsibilities in connection with equality legislation, and in particular in carrying disabled people.

The council may carry out test purchase exercises in respect of the following activities:

- Monitoring/ auditing proper use of the taximeter;
- Monitoring/ auditing compliance with duties under the Equality Act 2010.

# Medical Exemption Policy

## 1. Background Information

The Equality Act 2010 means that employers and service providers must make 'reasonable adjustments' or changes to take account of the needs of disabled employees and customers.

Cheltenham Borough Council is committed to an accessible public transport system in which disabled people have the same opportunities to travel as other members of society. Taxis and Private Hire vehicles are a vital link in the transport chain. It is important that people who use wheelchairs or guide, hearing or other assistance dogs can have confidence that drivers will accept them and their wheelchair or assistance dog and carry them at no extra charge.

The Equality Act 2010, Section 165, places the following duties on drivers of designated wheelchair accessible Taxis and Private Hire Vehicles;

- To carry the passenger while in the wheelchair;
- Not to make any additional charge for doing so;
- If the passenger chooses to sit in a passenger seat, to carry their wheelchair;
- To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- To give the passenger such mobility assistance as is reasonably required

In addition, Sections 168 and 170 places the following duty on drivers of Taxis and Private Hire vehicles;

- To carry the passenger's dog, allowing it to remain with the passenger and not make any additional charge for doing so.

A driver who fails to comply with any of the above is guilty of an offence and may receive a fine if convicted.

## 2. What is a Medical Exemption?

In some circumstances a driver of a designated Taxi or Private Hire vehicle may be unable to fulfil the requirements of the Equality Act 2010 for medical reasons, either short or longer term.

Section 166 of the Act allows licensing authorities to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with the duties.

Sections 169 and 171 of the Act allow licensing authorities to exempt drivers from the duties to transport assistance dogs if they are satisfied that it is appropriate to do so on medical grounds.

## 3. How to apply for a Medical Exemption

To apply for a Medical Exemption Certificate, a driver must submit an exemption application form and obtain a doctor's note detailing exactly what duties cannot be undertaken and why.

Upon receipt of the doctor's note, the Licensing Section will provide a temporary exemption certificate which will cover the driver for a period of up to three months. The Licensing Section will also initiate a driver referral to the preferred, authorised Occupational Health provider, the cost of which must be borne by the applicant.

If the doctor's note states that the driver is unfit to carry passengers in wheelchairs and/ or assistance dogs for a specified period of time, a temporary exemption notice will be issued with an expiry date in line with the information provided on the doctor's note. Upon expiry, the Licensing Section will deem drivers fit to undertake all duties unless a second doctor's note is received. Upon receipt of a second doctor's note, the referral process will be initiated as detailed above.

Upon expiry of the temporary exemption certificate, the certificate must be returned to Licensing Section. Failure to do so in a reasonable timeframe might result in the suspension of a driver's licence on the basis of being fit and proper.

When the referral process is initiated, the driver will receive further information from the Occupational Health provider. The licensing section will contact the driver to discuss the outcome of the referral.

- If the driver is declared fit for work, the temporary exemption certificate must be returned to the Licensing Section.
- In the event of a recommendation to make reasonable adjustments, the licensing section will consider an extension to the temporary exemption certificate to allow the driver to make necessary reasonable adjustments.
- If the driver is declared permanently unfit to carry passengers in wheelchairs and/ or assistance dogs an Exemption Certificate will be issued. The exemption may be reviewed every one to five years, with reference to expert medical evidence, and each case will be reviewed on its own merits.

#### 4. Appeals Process

If the driver does not agree with the decision to refuse the application for a medical exemption, they are able to appeal the decision to the magistrates' court. The driver has 28 days from the date of refusal to appeal.