



General Licensing Committee

Date: Wednesday, 23 October 2024
Time: 10.00 am
Venue: Council Chamber, County Hall, Dorchester, DT1 1XJ

Members (Quorum: 3)

Derek Beer (Chair), Louise Bown (Vice-Chair), Matt Bell, Les Fry, Jill Haynes, Jack Jeanes, Cathy Lugg, Craig Monks, David Morgan, Emma Parker, Val Potheary, David Shortell, Claudia Webb, Kate Wheller and Sarah Williams

Chief Executive: Matt Prosser, County Hall, Dorchester, Dorset DT1 1XJ

For more information about this agenda please contact Democratic Services
Meeting Contact: John.Miles@dorsetcouncil.gov.uk

Members of the public are welcome to attend this meeting, apart from any items listed in the exempt part of this agenda.

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Agenda

Item		Pages
1.	APOLOGIES	
	To receive any apologies for absence.	
2.	MINUTES	
	No meetings have been held.	
3.	DECLARATIONS OF INTEREST	
	To disclose any pecuniary, other registrable or non-registrable interests as set out in the adopted Code of Conduct. In making their disclosure councillors are asked to state the agenda item, the nature of the interest and any action they propose to take as part of their declaration. If required, further advice should be sought from the Monitoring Officer in advance of the meeting.	

4. PUBLIC PARTICIPATION

Representatives of town or parish councils and members of the public who live, work, or represent an organisation within the Dorset Council area are welcome to submit either 1 question or 1 statement for each meeting. You are welcome to attend the meeting in person or via MS Teams to read out your question and to receive the response. If you submit a statement for the committee this will be circulated to all members of the committee in advance of the meeting as a supplement to the agenda and appended to the minutes for the formal record but will not be read out at the meeting.

The first 8 questions and the first 8 statements received from members of the public or organisations for each meeting will be accepted on a first come first served basis in accordance with the deadline set out below.

Further information read [Public Participation - Dorset Council](#)
All submissions must be emailed in full
to John.Miles@dorsetcouncil.gov.uk by 8.30am on 18th October 2024.

When submitting your question or statement please note that:

- You can submit 1 question or 1 statement.
- a question may include a short pre-amble to set the context.
- It must be a single question and any sub-divided questions will not be permitted.
- Each question will consist of no more than 450 words, and you will be given up to 3 minutes to present your question.
- when submitting a question please indicate who the question is for (e.g., the name of the committee or Portfolio Holder)
- Include your name, address, and contact details. Only your name will be published but we may need your other details to contact you about your question or statement in advance of the meeting.
- questions and statements received in line with the council's rules for public participation will be published as a supplement to the agenda.
- all questions, statements and responses will be published in full within the minutes of the meeting.

5. STREET TRADING CONTROLS - ADOPTION OF SCHEDULE 4 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

5 - 10

This report sets out the details of a proposal to regularise the adoption of the provisions of Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') for the whole of the Dorset Council administrative area. Schedule 4 of the 1982 Act contains provisions relating to street trading and the designation of Prohibited, Licensed, and Consent Streets, the setting of fees, the administration of licences and consents, and enforcement in the event of non-compliance.

6. STREET TRADING CONTROLS – PUBLICATION OF NEW STREET TRADING POLICY FOR CONSULTATION 11 - 56

To present the General Licensing Committee with a report to consider a new Street Trading Policy for public consultation.

7. INCREASE IN TAXI FARES FOR DORSET ZONE 57 - 140

To authorise the statutory public consultation on the proposed Hackney Carriage tariff increase in the Dorset area, excluding the Weymouth and Portland zone.

8. URGENT ITEMS

To consider any items of business which the Chair has had prior notification and considers to be urgent pursuant to section 100B (4) b) of the Local Government Act 1972. The reason for the urgency shall be recorded in the minutes.

9. EXEMPT BUSINESS

To move the exclusion of the press and the public for the following item in view of the likely disclosure of exempt information within the meaning of paragraph 3 of schedule 12 A to the Local Government Act 1972 (as amended). The public and the press will be asked to leave the meeting whilst the item of business is considered.

No exempt business scheduled for this meeting.

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General Licensing Committee

23 October 2024

Street Trading Controls – Adoption of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

For Recommendation to Council

Portfolio Holder:

Cllr G Taylor, Health and Housing

Local Councillor(s):

All Councillors

Executive Director:

Jan Britton, Executive Lead for Place

Report Author: John Newcombe

Title: Service Manager Licensing & Community Safety

Tel: 01305 838027

Email: john.newcombe@dorsetcouncil.gov.uk

Report Status: Public

Brief Summary:

This report sets out the details of a proposal to regularise the adoption of the provisions of Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') for the whole of the Dorset Council administrative area. Schedule 4 of the 1982 Act contains provisions relating to street trading and the designation of Prohibited, Licensed, and Consent Streets, the setting of fees, the administration of licences and consents, and enforcement in the event of non-compliance.

Recommendations:

That the General Licensing Committee recommends to Council:

- i) That Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended) be adopted and shall apply throughout the

- Dorset Council administrative area with effect from 6 December 2024, or such later date as is agreed by Council.
- ii) That all existing street trading delegations and designated streets remain in place subject to any future amendments.

Reasons for Recommendations:

Adoption of Schedule 4 of the Act, for the whole of the Dorset Council area would enable a new Street Trading Policy to be implemented which would be fair, consistent and equitable across the Dorset Council area. This would give the Council, as Licensing Authority greater control over street trading and would ensure that all traders are subject to the same application, enforcement and licence conditions regardless of where they trade.

There are currently existing designations for Street Trading in the former Weymouth & Portland, West Dorset, Purbeck and East Dorset Council administrative areas.

Each of the former District and Borough Council's had their own policies and procedures for Street Trading and Officers intend to introduce a new Street Trading Policy covering the whole of the Dorset Council administrative area.

1. Background

- 1.1 Street Trading is covered under the Local Government (Miscellaneous Provisions) Act 1982. Schedule 4 of the Act has not been adopted across the entire Dorset Council area however there were arrangements in place within several of the predecessor Council areas. Each predecessor Council area also had its own policy and procedures.
- 1.2 A new overarching policy and procedure is therefore required in order for Dorset Council, as Licensing Authority, to be able to exercise Street Trading functions in a fair, safe, well-regulated and equitable manner.
- 1.3 An overarching Street Trading control would also enable a new Street Trading Policy to be implemented which would take into consideration localised schemes managed through Town and Parish Councils (where they exist) as well as any existing bylaws or other restrictions (where they exist).
- 1.4 Should the General Licensing Committee agree to recommend the adoption of Schedule 4 of the Act then the intention would be to publish a draft Street Trading Policy for consultation. Once the consultation has ended, a further report will be considered by the General Licensing Committee regarding the designation of streets in accordance with the new Street Trading Policy.

2. **Financial Implications**

- 2.1 The introduction of the Dorset Council wide adoption of Schedule 4 of the Act, Consent streets, policy and associated administration and enforcement will utilise existing resources. There will be cost implications for adopting Schedule 4 of the Act and advertising the intention to designate streets. However, additional licensing income may be generated as a result of the area wide Policy.

3. **Natural Environment, Climate & Ecology Implications**

- 4.1 There are no negative implications arising from the recommendations contained within this report in terms of meeting the Council's climate change obligations.

4. **Well-being and Health Implications**

- 5.1 There could potentially be an impact on the health and wellbeing of the public if street trading controls are not implemented with traders operating from unauthorised pitches at potentially undesirable or dangerous locations.

5. **Other Implications**

- 6.1 There are no other implications arising from the recommendations contained within this report in terms of impacts on other service areas within the Council.

6. **Risk Assessment**

- 7.1 **HAVING CONSIDERED:** the risks associated with this decision; the level of risk has been identified as:
Current Risk: Low
Residual Risk: Low

7. **Equalities Impact Assessment**

- 8.1 An EqIA will be prepared as part of the wider Dorset Council Street Trading Policy consultation.

8. **Appendices**

Appendix A: Extract from the Local Government (Miscellaneous Provisions) Act 1982

9. **Background Papers**

None

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Local Government (Miscellaneous Provisions) Act 1982

1982 CHAPTER 30

PART III

STREET TRADING

3 Power of district council to adopt Schedule 4.

A district council may resolve that Schedule 4 to this Act shall apply to their district and, if a council so resolve, that Schedule shall come into force in their district on such day as may be specified in the resolution.

Changes to legislation:

There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1982, Part III.

General Licensing Committee

23 October 2024

Street Trading Controls – Publication of New Street Trading Policy for consultation

For Decision

Portfolio Holder:

Cllr G Taylor, Health and Housing

Local Councillor(s):

All Councillors

Executive Director:

Jan Britton, Executive Lead for Place

Report Author: John Newcombe

Title: Service Manager Licensing & Community Safety

Tel: 01305 838027

Email: john.newcombe@dorsetcouncil.gov.uk

Report Status: Public

Brief Summary:

To present the General Licensing Committee with a report to consider a new Street Trading Policy for public consultation.

Recommendations:

The committee is recommended to:

- (a) agree the proposed draft Street Trading Policy for public consultation.
- (b) authorise the Service Manager Licensing & Community Safety to make any further minor editorial changes to the proposed policy, prior to the document being issued for consultation

Reasons for Recommendations:

A new draft Street Trading Policy has been drafted by officers to be published for consultation which would be fair, consistent and equitable across the Dorset

Council area. This would give the Council, as Licensing Authority greater control over street trading and would ensure that all traders are subject to the same application, enforcement and licence conditions regardless of where they trade.

There are currently existing designations for Street Trading in the former Weymouth & Portland, West Dorset, Purbeck and East Dorset Council administrative areas.

Each of the former District and Borough Council's had their own policies and procedures for Street Trading and Officers intend to introduce a new Street Trading Policy covering the whole of the Dorset Council administrative area.

The Committee have previously considered a separate report detailing the adoption of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 across the Dorset Council area which would enable the introduction of an area wide Street Trading Policy.

1. Background

- 1.1 Street Trading is covered under the Local Government (Miscellaneous Provisions) Act 1982. This Act has not been adopted across the entire Dorset Council area however there were arrangements in place within several of the predecessor Council areas. Each predecessor Council area also had its own policy and procedures.
- 1.2 In addition to adopting the relevant schedule of the Legislation, a new overarching policy and procedure is required in order for Dorset Council, as Licensing Authority, to be able to exercise street trading functions in a fair, safe, well-regulated and equitable manner.
- 1.3 An overarching street trading control would also enable a new Street Trading Policy to be implemented which would take into consideration localised schemes managed through town and parish councils (where they exist) as well as any existing bylaws or other restrictions (where they exist).
- 1.4 Should the General Licensing Committee agree to recommend the publication of the draft Street Trading Policy for consultation. A full 12 week public consultation will take place which would also include Responsible Authorities, partner agencies and town and parish councils.
- 1.5 Once the consultation has ended, a further report will be brought before the General Licensing Committee regarding the adoption of streets in accordance with the new Street Trading Policy (as revised).

2. Financial Implications

- 2.1 The introduction of the Dorset Council wide adoption of the Act, consent streets, policy and associated administration and enforcement will utilise existing resources. There will be cost implications for adopting the Act advertising the intention to designate streets. However, additional licensing income may be generated as a result of the area wide Policy.

3. Natural Environment, Climate & Ecology Implications

- 4.1 There are no negative implications arising from the recommendations contained within this report in terms of meeting the Council's climate change obligations.

4. Well-being and Health Implications

- 5.1 There could potentially be an impact on the health and wellbeing of the public if street trading controls are not implemented with traders operating from unauthorised pitches at potentially undesirable or dangerous locations.

5. Other Implications

- 6.1 There are no other implications arising from the recommendations contained within this report in terms of impacts on other service areas within the Council.

6. Risk Assessment

- 7.1 **HAVING CONSIDERED:** the risks associated with this decision; the level of risk has been identified as:
Current Risk: Low
Residual Risk: Low

7. Equalities Impact Assessment

- 8.1 An EqIA will be prepared as part of the Street Trading Policy consultation.

8. Appendices

Appendix A: Predecessor Council Street Trading Policies

Appendix B: Draft Street Trading Policy

9. Background Papers

Extract from the Local Government (Miscellaneous Provisions) Act 1982

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Ref. No.	PL/RE/17
Category:	
People	
Place	Yes
Corporate	
In Constitution	

Street Trading (3 policies)

Policy Details

What is this policy for?	To provide a decision making framework and create sensitive & safe a street trading environment which enhance the character of the local environment.
Who does this policy affect?	People wishing to sell goods in the street.
Keywords	Street, trading, consent, permit, pitch, stall.
Author	<ul style="list-style-type: none"> • Steve Ricketts, Team Leader Public Health & Protection, East Dorset District Council • Ian Carter, Licensing Officer, Licensing Unit, Purbeck District Council • Sue Moore, Weymouth & Portland Borough Council
Dorset Council policy adopted from	<p>East Dorset District Council. Purbeck District Council. Weymouth & Portland Borough Council.</p> <p>Dorset Council has adopted policies from its constituent councils. Please be aware varying policies apply within the Dorset Council area. Policies will be reviewed and/or harmonised by 1 April 2021.</p>
Does this policy relate to any laws?	Local Government (Miscellaneous Provisions) Act 1982.
Is this policy linked to any other Dorset Council policies?	No.
Equality Impact Assessment (EqIA)	An EqIA will be completed when the policy is reviewed/harmonised for Dorset Council.
Other Impact Assessments	None.

Status and Approvals

Status	Live	Version	
Last review date		Next review date	
Approved by (Director)		Date approved	
Member/ Partnership Board Approval	East Dorset District Council, Purbeck District Council and Weymouth & Portland Borough Council	Date approved	30 October 2007, 23 January 2008 and 24 June 2008

Local Government (Miscellaneous Provisions) Act 1982 - Street Trading

Item for Decision: Members are requested to consider the report and agree the listed recommendations.

Contributors: Chief Executive
Contact Officer: Steve Duckett, Head of Public Health Services
Steve Ricketts, Licensing Manager

Financial Implications: None.

Council Priorities: [H&H1](#)

Recommendations: It is **RECOMMENDED** that:

- (a) Schedule 4 of Part III of the Local Government (Miscellaneous Provisions) Act 1982 shall be adopted and apply to the East Dorset District as from 20th November 2007; and
- (b) Notice be given, as required under the Act, of the intention to pass a resolution designating the streets, as shown in Appendix 1, as streets requiring consent to trade; and
- (c) Notice be given, as required under the Act, of the intention to pass a resolution designating the streets known as the A.31 and the A.338 within the East Dorset District, including all carriageways, footways, lay-bys and verges, and other open areas adjacent to and within a distance of 25 metres, as streets where trading is prohibited; and
- (d) the policies and conditions contained within this report be adopted as part of the Consent Scheme; and
- (e) the levy, review and waiving of fees be delegated to the Head of Public Health Services; and
- (f) the amendment and addition of conditions be delegated to the Head of Public Health Services; and
- (g) subject to the formal consultation process, the Licensing Committee, at its next meeting, considers resolving to bring into effect the 'designation' of the streets as from 1st April 2008.

1. Applicable Lead Member Area(s)

- 1.1 Health and Housing.

2. Crime and Disorder – Section 17 Implications

- 2.1 The prevention of crime and disorder is one of the four licensing objectives under the Licensing Act 2003.

3. Equalities Implications

- 3.1 There are no equalities implications associated with this report.

4. Risk Implications

- 4.1 Controlling trading on streets during the Folk Festival could reduce the likelihood of accidents.

5. Introduction

- 5.1 During this year's Wimborne Folk Festival concerns were expressed about the number of barbeques and open cooking appliances in the crowded streets.
- 5.2 Particular problems occurred in Cook Row and Church Street where the narrowness of the streets meant that the flow of persons resulted in bottlenecks in close proximity to open flames.
- 5.3 Clearly, if the situation is left unregulated the risk of persons being injured in those areas during the Folk Festival is high.

6. Current Situation

- 6.1 At the moment, all the stalls are organised via the Folk Festival organisers, who allocate 'pitches' to those wishing to trade. However, the arrangement relies upon the goodwill of the traders, as there are no statutory powers that the organisers can enforce.
- 6.2 Health and Safety inspections take place before the folk festival by the Council's Environmental Health Inspectors. Even so, their powers stop short of being able to relocate stalls.
- 6.3 Regulating this type of trading is best achieved by District Councils using their powers available to them in the Local Government (Miscellaneous Provisions) Act 1982.
- 6.4 In the absence of utilising the above powers, permission for trading on a street is required from the County Council, as the Highway Authority under the Highways Act 1980. The County Council has never wished to curtail trading during the folk festival, and the Highways Act is more suitable to dealing with problems akin to traffic related problems.

7. Part III, Local Government (Miscellaneous Provisions) Act 1982

- 7.1 Section 3 of the above Act enables a district council to adopt a code for the regulation and control of street trading within its area. Under the Act, a district council may choose to designate any street within its area as 'prohibited', 'licence', or 'consent'.
- 7.2 Generally speaking, a **licence street** designation is appropriate for the more formalised market type of trading in a street, which is held on a regular or permanent basis.
- 7.3 Designation of a street as a **consent street** can cover more infrequent types of trading and provides a district council with a more flexible system of control.
- 7.4 A **prohibited street** has the effect of permanently barring trading on the specified streets.

8. Options and Survey of Businesses

- 8.1 Deeming streets as 'licence streets' does not seem at all appropriate for the Folk Festival.
- 8.2 The Committee's real choices are therefore threefold :-
 - (a) Designate streets as 'Consent';

- (b) Designate streets as 'Prohibited';
 - (c) Status Quo – Allow Folk Festival Organisers to allocate pitches.
- 8.3 An informal consultation exercise has been undertaken with all the Businesses in Cook Row, Church Street, Cornmarket and West Row areas. The results of the above options were as follows :-
- (a) For 'Consent' – 9
 - (b) For 'Prohibited' - 0
 - (c) For Status Quo - 5
- 8.4 One of the comments received from the businesses was that *all* the streets in Wimborne Minster should require consent during the Folk Festival. This is not being recommended this year as the intention is to primarily solve a health and safety problem. However, if the effect of designating only certain roads means that the problem simply shifts to other areas of the town, then the policy could be reviewed for 2009.
- 8.5 Concerns have also been expressed from some traders about the access of emergency vehicles in the Cornmarket, and it would be intended to consult with the emergency services at the point of deciding the number and location of stalls. This could be done after the formal adoption of the relevant part of the Act under delegated powers.
- 8.6 During the Folk Festival De-brief concerns were also expressed about stalls being located near established businesses selling similar or same goods for sale. This has not been addressed in this report, but members may wish to consider the imposition of a condition to control this situation.

9. Other Consultations

- 9.1 The Folk Festival Organisers want it stressed that they have always been very mindful of access of emergency vehicles. They have also expressed concern at 'pedlars' trading in the town during the festival. Pedlars are licensed and enforced by the Police, and are not affected by street trading legislation. However, pedlars must always keep on the move and should basically only stop at the point of making a sale.
- 9.2 The Chamber of Trade originally asked for this matter to be investigated and broadly support the proposals.
- 9.3 The County Council and Police have made no comments at this stage of the adoption process.
- 9.4 Wimborne Minster Town Council have expressed their support for the proposals. However, they have asked that Cook Row be designated as a Prohibited Street, and that Mill Lane be included as a Consent Street.

10. Powers available under 'Consent'

- 10.1 The officers' preference is to designate Cook Row, Church Street, The Cornmarket and West Row and adjoining areas, as shown in 'Appendix 1', as 'Consent Streets.'
- 10.2 Consent streets offer a lot of flexibility. There is no duty to grant street trading consent, and no need to specify grounds for refusal.
- 10.3 Conditions can be attached to the Consent as is considered 'reasonably necessary'.

- 10.4 Consents would be issued for specific periods only and, therefore, would not be renewable.
- 10.5 It is possible that Consents would be granted throughout the year, and not just during the Folk Festival. However, there would have to be exceptional circumstances for Consents to be issued other than during the Folk Festival weekend. Such 'exceptional circumstances' would normally include trading that the Head of Public Health Services considers to benefit the 'community as a whole' or was acceptable established practice before the designation of the 'Consent' streets.

11. Fees

- 11.1 All applications for Street Consents shall be accompanied by a fee of £100 per week or part thereof.
- 11.2 All application fees shall be non-refundable, subject to the terms of the Act.
- 11.3 Fees may be waived at the discretion of the Head of Public Health Services.

12. Conditions

- 12.1 If Consent Streets are adopted, the conditions will probably need to evolve as more experience is gained on the practical issues. However, there are a number of fundamental conditions that are suggested to be attached as a matter of Council policy :-
- (a) The Council shall consider permitting trading from a stationary van, cart, barrow or other vehicle or from a portable stall;
 - (b) The trader shall only trade from the location as indicated on the Consent;
 - (c) The trader shall only trade between the dates and times as indicated on the Consent;
 - (d) The Consent shall not be transferable to any other person not named on the Consent, and named traders shall, for most of the working day, be in personal attendance of their stall/pitch;
 - (e) All traders shall comply with any requests from Statutory Bodies, including the Food and Safety Section of East Dorset District Council;
 - (f) The trader shall be responsible for the cleansing of the trading area, including the removal of litter, and ensuring that stains from any spilled fluids on pavements/roads etc, are removed.

13. Adoption of Street Consent Powers

- 13.1 If Members so agree to adopt streets as Consent, Notice of the intention to pass such a resolution must be published in a local newspaper. Representations must be received in writing not less than 28 days after such publication.
- 13.2 A copy of the Notice must be served on
- (a) Highway authority;
 - (b) Police
- 13.3 The Licensing Committee must then consider any representations received at the next meeting, now scheduled for the 23rd January 2008, and decide whether to pass such a resolution.

- 13.4 If a resolution is passed, another Notice must be published to that effect in a local newspaper on two consecutive weeks. The first publication shall not be less than 28 days before the date of the coming into force of the 'designation'.

14. Previous Adoption of Part III of the Act

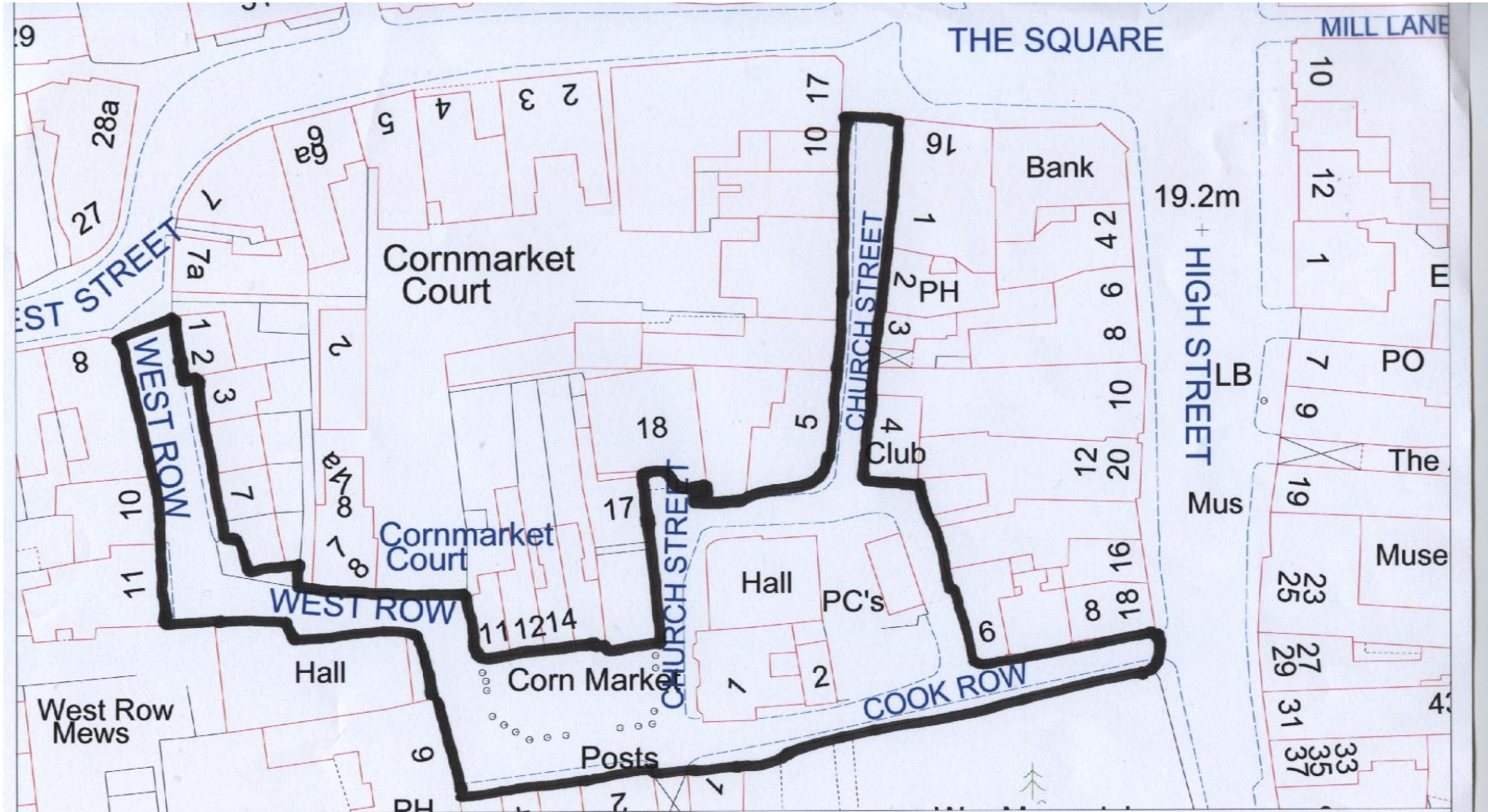
- 14.1 At the Council's Health and Housing Committee on 24th September 1986, it was resolved to adopt Part III of the Act and prohibit trading on the A31 and A338. The officers have spent a considerable amount of time finding the above prohibition resolution, but have not been able to find the necessary advertisements in the local press archives. There are no records indicating which publications may have been used for the advertisements, and these would be necessary for any legal proceedings.
- 14.2 In the circumstances, this is an opportunity to consolidate the whole of the Council's policy and to re-designate the prohibited streets. The process for designating streets as 'Prohibited' is the same as described in paragraph 13 above, and could be done at the same time as designating the Consent Streets. In this way, the whole of the Council's policy in respect of street trading would be without flaw.

15. Background Papers

- 15.1 None.

16. Appendices

- 16.1 Appendix 1 – Map showing Area of proposed Designated Consent Streets.



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	Printed By: Alice Skinner	Scale: 1:500	Date: 5 Sep 2007			

Review of Street Trading Policy

Item for Decision:	To designate certain streets within East Dorset as streets requiring consent to trade.
Contributors:	Chief Executive
Contact Officer:	Steve Ricketts, Licensing Manager
Financial Implications:	None.
Council Priorities:	H&H1
Recommendations:	It is RECOMMENDED that: a) As from 1st April 2008, the areas in Wimborne Minster, as shown in Appendix 1, including Church Street, Cook Row, The Cornmarket and West Row, be designated as streets requiring consent to trade for the purposes of Paragraph 2 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982; and b) Notice be given, as required under the Act, of the intention to pass a resolution re-designating the streets known as the A31 and A338 within the East Dorset District, including all carriageways, footways, lay-bys and verges, and other open areas adjacent to and within a distance of 25 metres, from 'prohibited' streets to streets requiring consent to trade, as from 1st September 2008.

1. Applicable Lead Member Area(s)

1.1 Community; Culture; Health and Housing;

2. Crime and Disorder – Section 17 Implications

2.1 None.

3. Equalities Implications

3.1 None.

4. Risk Implications

4.1 None.

5. Introduction

5.1 Members will recall that at the last meeting on 30th October 2007, the Committee considered a report reviewing the Council's policies in relation to street trading under the Local Government (Miscellaneous Provisions) Act 1982.

5.2 Two main decisions were resolved:-

- a. The committee resolved to bring into effect the 'designation' of the streets in Wimborne outlined in Appendix 1 as 'Consent Streets' as from 1st April 2008. This was subject to a statutory formal public consultation.

- b. The committee was also asked to consider designating the A31 and A388 as either 'consent' or 'prohibited' streets for trading purposes. It was decided that any action on this issue be deferred to this meeting following consultation with the Police and Highway Authority;

5.3 The appropriate consultation on the above decisions has now taken place.

6. Public Consultation on Proposed. Consent Streets in Wimborne

6.1 Dorset County Council support the proposals in respect of the intended Consent Streets in Wimborne, and Dorset Police have raised no objections in this respect.

6.2 Members will recall from the report submitted on 30th October 2007, that quite an extensive informal consultation exercise took place before that meeting, which might explain the absence of any other representations received during the formal consultation, as required under the Act.

6.3 With the above in mind, it would seem wholly sensible to proceed with the resolution of the last meeting, and bring into force the new street trading policy as from 1st April 2008. This will be in time for regulating the trading in the designated areas during Wimborne Folk Festival this year.

7. Consultation with Dorset Police and Highway's Authority in respect of A31 and A388

7.1 At the last meeting, it was clarified that the existing policy in relation to street trading on these roads required reviewing. In 1986 they were designated as 'Prohibited Streets' for trading purposes. However, proving proper adoption of that part of the law could prove difficult because of difficulties finding the required public notices.

7.2 In addition, during the research process it was realised that the prohibition included all open areas adjacent to and within 25 metres of the highway. In effect, this part of the policy impacted upon at least one existing trader.

7.3 Whilst Members recognised the need to review the policy, they did not want to disrupt a business without good reason.

7.4 Instead of simply readopting the prohibition of trading on the highways, members asked officers to first consult with the Highways Authority and Dorset Police on whether the location of an existing trader caused safety concerns.

7.5 Dorset Police have no safety concerns with regard to the location of the trader. However, they recognise the importance of controlling trading along the highways.

7.6 Despite speaking to staff at the Highways Agency, no comment was received from them.

8. Officers Preferred Option

8.1 Given that there are no current reasons for concern, the recommendation from the officers is to re-designate the A31 and A338 as streets requiring consent to trade.

8.2 Designating them as 'Consent Streets' would give Head of Public Health the ability to authorise current traders not causing a safety hazard. At the same time, other traders may be refused permission to trade, thereby maintaining the status quo.

9. Background Papers

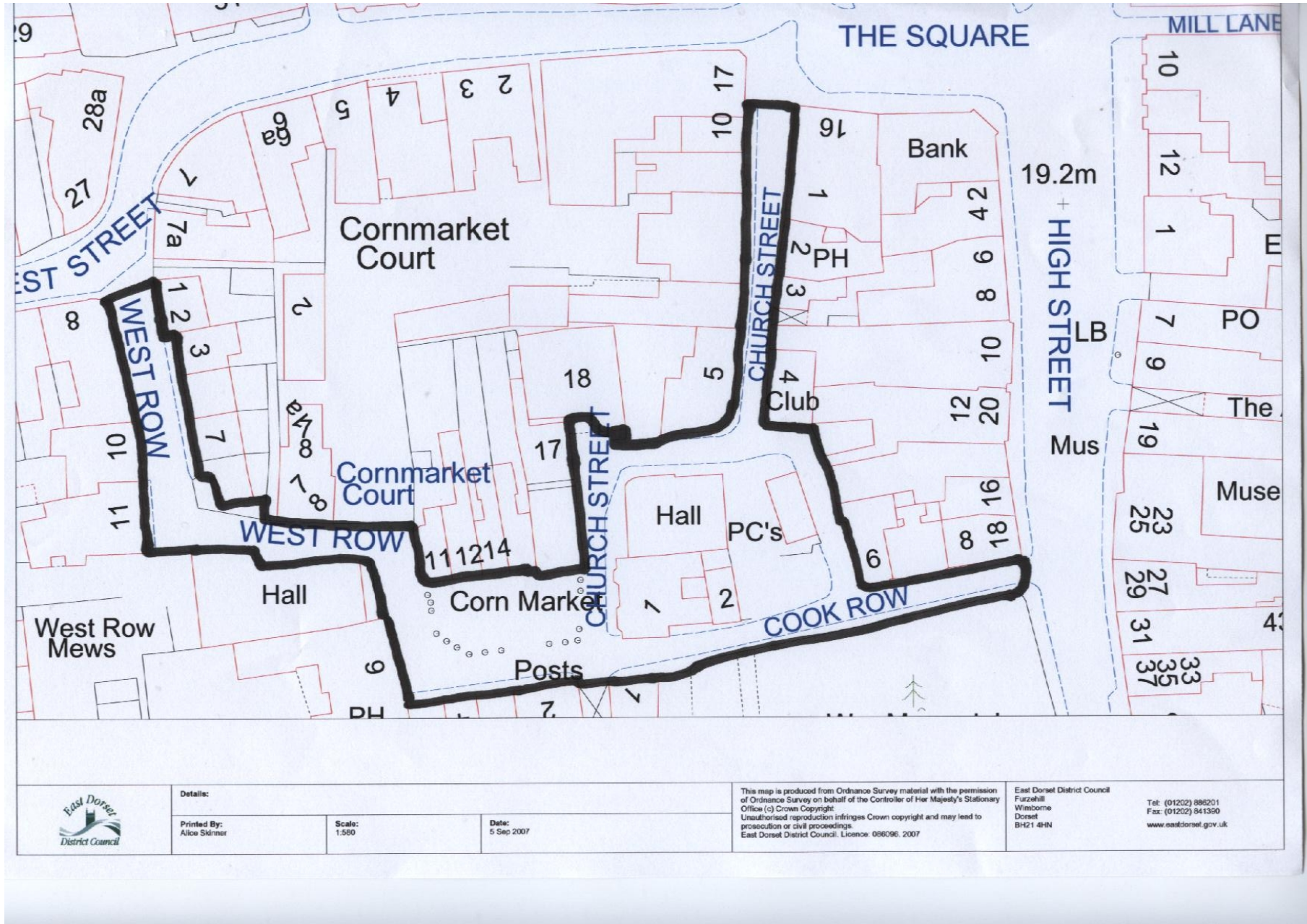
9.1 Consultation correspondence on Licensing Street Trading File


10. Appendices

10.1 Appendix 1 – Plan of Designated Consent Streets in Wimborne.

Appendix 1

Page 24



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	<p>Printed By: Alice Skinner</p>	<p>Scale: 1:500</p>	<p>Date: 5 Sep 2007</p>			

Redesignation of the A31 and A338 as streets requiring 'consent' to trade

Item for Decision:	To formally agree a resolution to adopt the A31 and A338 as 'consent' streets for purposes of street trading.
Contributors:	Chief Executive
Contact Officer:	Steve Duckett, Head of Public Health Services Steve Ricketts, Licensing Manager
Financial Implications:	None.
Council Priorities:	H&H1
Recommendations:	It is RECOMMENDED that as from 1st September 2008, the streets known as the A31 and A338 within the East Dorset District; including all carriageways, footways, lay-bys, verges and other open areas adjacent to and within a distance of 25 metres, will be re-designated from 'prohibited' streets to streets requiring 'consent' to trade for the purposes of Paragraph 2 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

1. Applicable Lead Member Area(s)

1.1 Community; Culture; Health and Housing.

2. Crime and Disorder – Section 17 Implications

2.1 There are no crime and disorder implications associated with this report.

3. Equalities Implications

3.1 There are no equalities implications associated with this report.

4. Risk Implications

4.1 There are no risk implications associated with this report.

5. Introduction

5.1 Members will recall that at the last meeting on 23rd January 2008, the Committee considered a report reviewing the Council's policies in relation to street trading under the Local Government (Miscellaneous Provisions) Act 1982 in respect of the A31 and A338.

5.2 The Committee resolved to give Notice of their intention to re-designate these streets from 'prohibited' to 'consent', subject to the required statutory consultation.

5.3 The necessary Notices to the Highways Authority and Dorset Police have been served, as well as a Public Notice in a local newspaper.

6. Consultation with Dorset Police and Highway's Authority and Public

6.1 Members will recall from the report submitted on 30th October 2007, that quite an extensive informal consultation exercise took place before that meeting, which

might explain the absence of any other representations received during the formal consultation.

- 6.2 During the informal consultation, Dorset Police recognised the importance of controlling trading along the highways.
- 6.3 Despite speaking to staff at the Highways Agency, no comment was received from them.
- 6.4 As a matter of courtesy, an existing trader has been informed of the need to obtain consent to continue trading after 1st September 2008, and has raised no objection.

7. Re-Designation of Streets

- 7.1 It would now seem wholly sensible to proceed with the resolution of the last meeting, and bring into force the new street trading policy as from 1st September 2008.
- 7.2 Once the resolution has been passed, the Council is obliged to publish the fact in two consecutive weeks in a local newspaper. The first publication must not be later than twenty eight days before the date specified in the resolution for the coming into force of the designation i.e. 1st September 2008.

8. Background Papers

- 8.1 Consultation correspondence on Licensing Street Trading File.

9. Appendices

- 9.1 None.

Apply for a street trading licence in Purbeck

Street trading includes trading on the road, highway, footway, beach or other area that the public have free access to.

Street trading is not allowed within:

- the boundary of Wareham Town Council
- the boundary of Swanage Town Council, unless a street trading consent and permit has been granted by the district council

Beyond these boundaries street trading is not controlled, although Dorset County Council and the Highways Agency are able to enforce separate legislation on most major roads in the county.

Eligibility

You must be over 17 to hold a licence.

Licences will be refused if:

- there isn't enough space in the street you wish to trade in, without causing interference or inconvenience to street users
- you wish to trade for less days than any minimum required trading days
- you are unsuitable to hold a licence due to any previous convictions or for other reasons
- you have previously failed to pay fees due under another street trading licence or have failed to use a previous street trading licence

Tacit consent applies. This means that you will be able to act as though your application is granted if you have not heard from the local authority in 28 days.

Apply for a street trading licence

You can apply for a licence or to change a licence on Gov.uk.

[Apply for a licence](#)

[Change a licence](#)

[View the Street Trading Notes for Applicants.](#)

Refused applications

We will serve a notice if we intend to refuse the application, grant it on different terms than those applied for, confine trading to a particular place in a street, vary conditions of a licence or revoke a licence.

You can write to us to request the opportunity to make representations within 7 days of the notice. Contact us to discuss this.

If you wish to appeal a decision of the council you may appeal to the local Magistrates' court within 21 days of the date you were notified of the decision. You may appeal the decision of a Magistrates' Court to the local Crown Court.

STREET TRADING POLICY 2015 to 2019

(2/6/2015 to 1/6/2019)

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1 Purpose

The purpose of the Council's street trading policy is to create a street trading environment which complements premises-based trading establishments, is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of local environments. It is further intended to highlight the requirements and standards expected of street traders in the Borough of Weymouth and Portland.

2 What is Street Trading?

Street trading means selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway or other area to which the public have access without payment. The scheme will therefore include all hot and cold food vendors, burgers, kebabs, doughnuts, etc., including ice cream vendors, and all vendors of non-food products who trade on static pitches from any vehicle, stall, barrow, trailer, or any other moveable construction. N.B. Commercial promotional activities (including sampling) also fall within this remit.

Weymouth and Portland Borough Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its area and has designated (all) streets in the area as 'consent streets' for street trading purposes.

The effect of this designation is that street trading in any street is prohibited, subject to legal exemptions, without first obtaining a street trading consent from the Council.

3 Exemptions from the need to obtain a Consent

Some types of trade are legally exempt from the need to obtain a street trading consent. These include:

- a person/persons holding a charitable street collection permit issued by the Council;
- a person legitimately trading as a Pedlar under licence issued by a Police Authority;
- trade carried out by roundsmen e.g. milkmen;
- trade carried on at a petrol filling station;
- a news vendor selling only newspapers and periodicals;
- a market trader operating at a licensed market venue;
- trading on private land may not need a consent. To confirm the situation it is advisable to contact Business Licensing. The landowner may need planning permission and it will be necessary to contact the Council's Planning Service to check.

4 Land Under the Ownership of Weymouth & Portland Borough Council

All land under the ownership of Weymouth and Portland Borough Council (which includes Weymouth, Greenhill and Preston Promenades and beaches) will be negotiated and/or advertised by the Estates section of Weymouth & Portland Borough Council.

Trading in these areas will not be permitted without the licensed consent of the Estates section.

5 Street Trading Consents for which fees are not payable

Weymouth and Portland Borough Council will not require the payment of fees (other than a nominal administration fee) for the following street trading activities:

- fetes, carnivals or similar community based and run events which are run on a not-for-profit basis;
- sales of articles by householders on land within the curtilage of their homes.

N.B. Although these activities are exempt from the payment of fees the landowner's permission must be sought on each occasion

6 Site Assessment

The Council has identified a number of suitable designated 'pitches' for street trading and maintains a map showing their location. Only applications for pitches identified and designated by the Council will be considered in the town centre and wider town centre, quayside/waterside and Hope Square area. Elsewhere in the Borough the Council will be receptive to proposals wherever possible and will deal with such applications on a case by case basis.

Consents may also be issued to mobile artists who sketch or paint, sell their own work and move from location to location.

In determining whether to grant a particular street trading consent the Council will have regard to:

- any effect on road safety, either arising from the siting of the pitch/activity or from customers visiting or leaving;
- any loss of amenity caused by noise, traffic or smell;
- existing Traffic Orders e.g. waiting restrictions;
- any potential obstruction of pedestrian or vehicular access and/or access to shops;
- any obstruction to the safe passage of pedestrians;
- the safe access and egress of customers and staff from the pitch and immediate vicinity (including adequacy of lighting);
- disabled access;
- any implications/conflicts with nearby shops and/or businesses;
- suitability for the particular varieties of street trading and activities.
- whether certain types of business could/should be focused in certain areas.

7 Nature of Goods, Activities and Trading Hours

Applications will be considered on a pitch-by-pitch basis and will have particular regard to local needs, shopping, product/service diversity and balance.

In particular, good quality craft stalls are encouraged.

Street trading hours will in all cases cease no later than 22:30.

The design and appearance of the stall, barrow, van or cart etc. used must be agreed by the Council's Head of Business Licensing and/or the Planning Officer.

8 Issue of Street Trading Consents

There is a tendering process in place for all vacant designated pitches which commences in January in any given year in order to facilitate consents being issued in time for Easter trading. Any pitches not taken up in this way are open to offer within a banded fee scale at any time during the year for periods of not less than 1 month and up to the end of the consent year.

Once issued with an annual consent, existing traders who have fully complied with the terms and conditions of their street trading consent(s) will be entitled to renew their annual consents for up to a maximum of 3 years (at prevailing corporate rate of % increase) without being subject to tender. This concession is given on the understanding that the consent holders invest in the cosmetic appearance of their stall, barrow, van or cart to ensure that a good standard is achieved and maintained throughout. If any stall, barrow, van or cart is, in the Council's opinion, falling below the expected standard the consent holder may forfeit their right to annual renewal without tender.

When an existing or new pitch becomes available in this way, the Council will publish a notice inviting applications for the said pitch. The notice will be carried by one or more of the following: Council website, Council Offices' noticeboard. It may also be carried by local publications.

Consents for shorter periods may be issued for bookings for the purpose of organised street markets, events, promotions and for mobile street artists. Consents will normally be issued for block periods and traders will not be permitted to specify set days of the week that they wish to trade.

Fees for consents should be paid in full in advance. Failure to make payments may result in the consent not being renewed or being revoked.

Any person granted a street trading consent should be aware that it may be necessary for the local authority to clean and maintain pavements, verges or the highway within the area granted a consent. If possible, prior notice will be given to the proprietor/stall holder of any work required or of any planned routine maintenance.

There may, however, be times when the permitted area will be unavailable due to utility, maintenance or construction. This is a normal function of the highway authority and utility companies and will not, therefore, be subject to compensation although effort will be made to identify an alternative trading site during such occasions.

Applications will normally be determined by the Head of Business Licensing in consultation with other appropriate Council Officers where/when appropriate. Contentious applications will be determined by Licensing Committee. Each pitch will be offered to the applicant whose proposal is considered most suitable for the particular pitch. If no suitable application is received the pitch will be re-advertised.

In cases where a previously undesignated pitch or completely new type of venture is being put forward the Council will undertake to post notices of the application on nearby street furniture in addition to circulating details to the established consultees to ensure that all interested parties are able to comment. In addition to this, details of the application must be published in the local newspaper. The onus for the advertisement is placed on the applicant with the cost being met directly by them.

Any consent granted in respect of a new pitch or completely new type of venture will only be granted for a three month period initially. Provided that there are no problems/objections during this time then a further consent (of not less than one month and up to the end of the consent year) will be granted at Officer level with no further administration fee being payable by the applicant. Any initial consent attracting problems or objections would need to be dealt with by Licensing Committee if a further consent was applied for and in these cases a further administration fee of £100 would be incurred. Objections on the grounds of competition will not be accepted as this would be against the EU Services Directive.

A consent cannot be issued to a person under the age of 17 years. An application may be refused if the applicant is unsuitable to hold the consent by reason of providing unsatisfactory references, having been convicted of an offence or for any other reason.

9 Food Safety Requirements

Food Premises (Registration) Regulations 1991

All food businesses which trade in the street for more than five days in a five week period are required to register with the Local Authority where the business operates or, in the case of a mobile vehicle, the Local Authority where the vehicle is kept. Registration must take place at least 28 days before the business starts trading. Registration is free and simply informs the Council that a business will be starting up. It does not mean that the Council has approved the business as complying with the law nor does it give the business any special rights to trade.

Food Safety Act 1990 (as amended)
Food Hygiene (England) Regulations 2006
General Food Regulations 2004

This legislation requires that any food (including drink and water) which is put on the market, is safe for consumption. Also covered by this law is food that may be given away or offered as a prize. In addition to the above legislative requirements, food business operators are also required to carry out food safety management. This is a system for ensuring the safety of food and the keeping of monitoring records. This needs to be done by food business operators to show compliance with the hazard analysis principles of the food operation.

Further advice can be obtained from the Local Authority and guidance can be found in the 'Industry Guide to Good Hygiene Practice: Market and Fairs Guide'. Detailed food safety requirements are available as part of the guidance which supports this policy.

10 Fee Structure

The Head of Business Licensing, in consultation with other appropriate Council Officers and Brief Holder(s), has delegated authority to set fees and to annually review the fee structure.

The fee structure/scale of charges will be reviewed based on monies offered at the tendering stage (if applicable) and once set, will be in force for the remainder of the consent year.

The Council is not bound to accept the highest or any tender that it may receive.

It should also be noted that the fee structure does not include any rates which may be payable. The onus/liability is on the consent holder for the payment of rates when/where applicable.

There is a discounted fee for fetes, carnivals, or similar community based and run events which are organised on a not for profit or charitable basis. However, if an organization wishes to benefit from this discount they must provide full certified accounts of income received, legitimate expenses incurred and, if applicable, full details of monies given to charity (which must be 100% of the net proceeds). Event organisers/organisations which cannot comply with the above requirements will be charged at commercial rates.

Good quality craft stalls will also benefit from a discounted fee.

11 Conditions and Enforcement

Standard conditions will be attached to every street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.

Specific conditions will also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size of the pitch.

The proprietor or stall holder will fully indemnify the Council against all costs, claims, expenses, demands, charges or liability of any description arising out of, or in connection with

the granting of the street trading consent whatever and however arising as a result of the activities.

It will also be necessary to provide evidence that public liability insurance to the minimum value of £5 million has been obtained and that the business is registered with the Council if food sales are proposed. Applications will not be considered without this evidence.

The proprietor or stall holder may be held liable for any damage caused to the verge, pavement, highway or any other item of street furniture caused through the operation of his/her business.

Persons trading without a consent and who are not exempt (see 3 for examples) will be the subject of enforcement action in accordance with the Council's Enforcement Policy. This will include any person who holds a certificate granted under the Pedlars Act 1871, but who fails to operate in accordance with the Act.

12 Revocation

The Council may revoke a street trading consent after it has been granted. This may be for a variety of reasons such as non-compliance with conditions, non-payment or because other agencies such as the utility companies require access to the trading location.

In such event the person or company issued with the street trading consent shall have no claim against the Council.

If a consent is revoked there is no statutory right of appeal against the decision other than judicial review.

13 Other relevant legislation

In addition to conditions attached by the Licensing Authority applicants' attention is drawn to the requirements of other relevant legislation which may impact on their business.

13.1 Health and Safety

All businesses are required to comply with the relevant statutory requirements of the Health and Safety at Work etc. Act 1974 and associated regulations. These set out the requirements of the health, safety and welfare of staff and users. Further advice can be obtained from the Local Authority or the Health and Safety Executive website: www.hse.gov.uk

13.2 Safety Policy

If an employer employs more than five people, he/she is required by law to produce a written health and safety policy which their staff must read, understand and follow.

The written policy must:

- i) state their general policy on health and safety;
- ii) state who is responsible for carrying out the policy;
- iii) be revised whenever appropriate.

13.3 Risk Assessment

Any person granted a street trading consent must carry out an assessment of the health and safety risks associated with their business. To do this they must look for the hazards (the things which can do harm) associated with their business. Then they must decide who might be harmed (them, their staff, customers or other members of the public) and how. The next step is to evaluate the risks (the chance, high or low, that somebody will be harmed by the hazard) and decide whether the existing precautions are adequate or whether more should be done. If they employ more than four people they have to record their findings. Finally, they need to review their assessment on a regular basis and revise it if necessary.

Further information is available in the HSE Booklet 'Five Steps to Risk Assessment'

Persons granted a street trading consent should also be aware of the Regulatory Reform (Fire Safety) Order (RRFSO). Further information is available at www.dorsetfire.gov.uk.

13.4 First Aid

The consent holder must provide a proper first aid kit and all staff must know where to find it. The kit must contain plenty of waterproof dressings (blue if possible), bandages and protective finger stalls. The level of first aid cover should be determined through the risk assessment process.

13.5 Fire fighting equipment

The consent holder must provide equipment appropriate to the types of fire they may face eg. cooking fat, LPG, electrical etc. This will normally consist of a fire blanket and a dry powder fire extinguisher both of which should be located near to the door or entrance of the vehicle or stall.

13.6 Liquefied petroleum gas (LPG)

All LPG installations must be in accordance with the UKLPG code of practice.

13.7 Electrical safety

If an electrical generator is used or a connection is made to a permanent electricity supply the consent holder must ensure that the electrical installation is safe. If there is any doubt as to the integrity of the supply or installation the Council may ask for them to provide a safety certificate from a competent person or body. In most circumstances an inspection by an NICEIC or ECA approved electrician will be satisfactory.

At no time should electric cables be draped across roadway, public footpaths or any other area where the public have access.

13.8 Electricity Generators

If a generator is to be used to supply electricity for any stall or vehicle it shall be maintained in good condition and operate without producing any visible smoke. The generator shall be suitably silenced so that it cannot be heard by anyone at the nearest premises. N.B. Any person failing to comply with this requirement will be required to either replace the generator or get a permanent electricity supply installed at their own expense and within a specified timescale determined on a case by case basis.

14 Social Inclusion

The Council will fulfil its duty to ensure that disabled persons and those from ethnic minority groups have an equal opportunity to apply for and operate street trading consents.

15 General

Through its tourism service and by other means, the Council will seek opportunities to promote appropriate street trading activities.

This policy will complement and inform other Council initiatives including those on street entertainment and life in the public realm.

This policy will be the subject of periodic monitoring. The aim is to review the policy every 5 years (or less if warranted).

This policy will inform the detailed conditions attached to every street trading consent.

This policy will be applied in a manner which is consistent with the Council's equalities policies.

Useful Contacts:

Business Licensing:	01305 838028
Environmental Health:	01305 838432
Planning (Duty Planner):	01305 838336

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Street Trading Policy

Draft v.4 12.10.24

1. Introduction

- 1.1 The powers to control street trading within our area are conferred by Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, which has been adopted by the Council. Under Schedule 4 of the Act the Council, as Licensing Authority, is able to manage street trading by designating streets as consent streets, licence streets, or prohibited streets.
- 1.2 This policy sets out the Council's approach for managing street trading and the process for applications and making decisions.
- 1.3 This new revised policy was approved by the General Licensing Committee on XX/XX/XXXX and came into effect on XX/XX/XXXX.
- 1.4 Street trading consents are processed and issued by the Licensing Team;

Licensing Team
Dorset Council
County Hall
Dorchester
DT1 1XJ
Phone: 01305 221000
Email: licensing@dorsetcouncil.gov.uk

2. Policy Objectives

- 2.1 The aims and objectives of this policy are:
 - to recognise the valuable contribution that street trading can make to the local culture and economy, and the services that street traders provide to residents and visitors - street trading can provide people with a flexible way of working, to meet the demands of the public where and when such demands arise
 - to ensure the safety of customers and other persons using the locations where street traders are located
 - to balance the needs of the wider community, local community and street traders against the needs of those who may be adversely affected by street trading activities
 - to provide consistency and transparency in the way in which we deal with street trading
 - to provide applicants and consent holders with advice and guidance on our approach to the administration and enforcement of street trading

3 Review of the policy

- 3.1 This policy will be kept under review and where any significant amendments are considered necessary these will be approved by the General Licensing Committee after appropriate and relevant consultations have taken place.

3.2 Consultees will include (but are not limited to):

- Dorset Police
- Dorset & Wiltshire Fire and Rescue
- Dorset Council Highways
- Dorset Council Parking
- Dorset Council Trading Standards
- Dorset Council Planning
- Dorset Council Environmental Health
- Dorset Council Community Safety
- Dorset Council Economic Development
- Town & Parish Councils
- Ward Members
- Current street traders
- Local businesses
- Residents

3.3 Minor amendments that reflect changes in legislation or that do not impact on the aims and objectives of the policy, will be made with the approval of the Service Manager Licensing & Community Safety and the Chair of the Licensing Committee.

4. What is street trading?

4.1 Definitions and Resolution

4.2 The Local Government (Miscellaneous Provisions) Act 1982 defines street trading as the selling or exposing or offering for sale any article, including a living thing, in a street.

4.3 The Act states that a street includes any road, footway, beach, or other area to which the public have access without payment.

4.4 The Council has designated **all streets** within Dorset Council's administrative boundary as **consent streets**.

4.5 A street trading consent is therefore needed for trading on:

- streets, laybys, pavements or any land including verges controlled by Dorset Council unless there is payment for entry
- streets, laybys, pavements, or any land, including verges which are privately owned and the public can access, unless payment is made for entry. This includes private car parks such as superstore car parks.

4.6 Exemptions from needing street trading consent

The following are exempted in the legislation and do not need street trading consent:

- a market that is granted through a charter or order
- A news vendor selling periodicals or newspapers
- trading at a petrol station forecourt
- trading at a shop or in a street adjoining a shop as part of the business or shop (selling the same goods that are sold within the shop)

- trading as a roundsperson who has defined customers and routes. It has been established in law that mobile ice cream sales are not normally deemed to be roundspersons
- service providers, e.g. hair-braiding, face painting and henna tattoos, etc. The act which governs street trading relates to the selling of articles and as such, it is the Licensing Authority's view, that people who provide a service e.g. hair-braiders, are **not** considered to be trading for the purposes of the legislation. However, if quantities of accessories used in hair braiding are also offered for sale then this may be street trading and may require consent.
- Pedlars with a valid Pedlars certificate (See Annex C)
- Roundsmen
- Persons offering advice or signing people up for schemes
- Trading on trunk roads

4.7 Exemption for individual charity stalls with a street collection permit

- Individual charity stalls in a street can apply for a street collection permit which allows collecting money for a charitable cause (including through the sale of items). If a street collection permit is granted there is no requirement for a street trading consent. Please contact the licensing team for further information on applying for street collection permits.

4.9 Indoor market areas

- Indoor market areas do not constitute street trading as they can be classed as shops which are exempt from street trading legislation.

4.11 Events with an entrance fee

- Events that have an entry fee do not constitute street trading and do not need street trading consent

4.13 Community and charitable events

- Community and charity events are important in terms of promoting local causes and participation in local matters. We feel we should assist organisers of these types of events in order to encourage community engagement. These types of events will normally be organised by a town or parish council, Dorset Council or by a recognised group or charity with aims of engaging with and providing support to the local community. Any trading activity would be incidental to the event and where the event organiser does not charge a pitch or similar fee to trade at the event then it may be possible for us to waive the fee or charge a nominal amount.

5. Types of consents

5.1 We issue the following **four** types of street trading consent: All applications for street consent require at least **21 days notice** to be given to the Licensing Team.

- Static unit consent - static street trading consents are issued for a stall or vehicle which returns to one place every day or for regular periods of time. The unit or stall

must be removed each day at the end of the trading period unless planning rules allow otherwise. A static street trading consent may be granted for any period not exceeding 12 months.

- Mobile unit consent - mobile street trading consents are issued to traders who wish to move from place to place. A mobile consent trader must not remain in one place for more than 30 minutes at a time and not return to the same site within 2 hours. A typical mobile consent would be an ice-cream van. A mobile street trading consent only permits trading within our area. If the unit goes into areas outside of Dorset it will also need consent from the relevant authority. A mobile street trading consent may be granted for any period not exceeding 12 months.
- Short term consent - short term consents are issued to traders who wish to conduct a short-term trial in order to consider whether they could be successful at a certain location selling their specific goods. The consent is considered a trial consent and only one will be issued to an individual. They are granted for a period between one and 12 days. Any trader who wishes to continue trading after the 12-day period will need to submit a further application for the full 12 months. There is no consultation fee charged for this type of consent.
- Multiuser consent- multiuser consents are issued to specific individuals or organisations managing an event. Multiuser consents can cover a number of stalls. The multiuser must meet the criteria set below:
 - ✓ it has a nominated organiser
 - ✓ it has the approval of the local Council and landowner
 - ✓ it adds value to the town's trade through the provision of specialist products
 - ✓ it does not operate in detriment to the local community

If the application is made by an organisation they must nominate a named individual who will be responsible for managing use of the consent. The consent will be issued for a maximum of 12 months and can be renewed.

The consent holder will be responsible for ensuring compliance with times and location permitted by the consent and the conditions attached at all times whilst the consent is being used to facilitate street trading as well as any relevant bylaws.

The consent holder will be responsible for ensuring that any local residents, businesses or shops are not obstructed by the stall/stalls and that all emergency exits to buildings are kept clear. The consent holder must ensure that stalls can be moved quickly in the event that access is needed for emergency vehicles.

The consent holder will be required to keep records of all traders that trade under the consent which will include:

- event date
- company name
- individuals name
- trader name (if different)

- address
- date of birth
- National Insurance number
- food registration certificate number
- vehicle registration (if relevant)
- contact details
- type of goods sold

This information will be required by the licensing team

As part of the application process we will consult all businesses in the vicinity of the multiuser consent. If, at any point after the grant of the consent, any existing or new occupiers of businesses or residential properties make objection to stalls being located outside of their premises the consent may be reviewed which could result in it being varied or amended.

It should be noted that multiuser consents may incur other fees and charges if the land used belongs to us. This will be in addition to the street trading consent fees.

6. Choosing a trading location/pitch

6.1 Before applying for a street trading consent, **applicants must first identify a suitable trading pitch or site**. It is for the applicant to identify a suitable pitch having regard to the requirements in this policy and their business needs. We **do not** hold a list of available trading pitches.

6.2 A suitable pitch must meet the following criteria:

- ✓ be safe for other street users including traffic and pedestrians
- ✓ be safe for customers using the street trading unit
- ✓ not cause any potential for obstruction, interference, inconvenience or nuisance to other street users including other traders, traffic and pedestrians
- ✓ not cause any potential for nuisance to residents and other businesses for example noise and/or smell
- ✓ the goods being sold complement and do not conflict with the goods sold by other established retailers within vicinity

6.3 Account must be taken of the following:

- access roads on industrial estates, where heavy lorries manoeuvre, are generally unsuitable places for static units
- locations close to residential properties are unlikely to be suitable due to the potential noise and smell nuisance to residents
- lay-bys on main roads must have good visibility to ensure the safety for traffic entering and leaving the trading site/lay-by
- there should be suitable parking spaces for customer and trading vehicles
- units should not cause loss of parking spaces to residents or businesses
- units in town centres must not impede the movement of pedestrians or delivery vehicles or block the frontage of shops or access to existing premises

7. Suitability of the applicant

7.2 Applications cannot be considered from anyone under the age of 17.

- 7.2 When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a consent including whether the applicant has any unspent convictions under the Rehabilitation of Offenders Act 1974.
- 7.3 Where the criminal conviction certificate provided by the applicant shows current offences (i.e. those that are unspent under the Rehabilitation of Offenders Act 1974, we will consider the following:
- whether the conviction is relevant
 - the seriousness of the offence
 - the length of time since the offence occurred
 - whether there is a pattern of offending behaviour
 - whether that person's circumstances have changed since the offence occurred
 - the circumstances of the offence and the explanation offered by that person
- 7.4 **Annex A** is a list of the offences that we consider relevant to a street trading consent application.

8. Goods for sale

- 8.1 Traders wishing to sell food items must be registered as a food business with the council in whose area the trading unit is stored when it is not at the trading site. Or, if food is pre-prepared before the unit goes to the trading site, you must be registered with the Council in whose area the food preparation is undertaken.
- 8.2 Vehicles on the side of the road - this refers to vehicles placed on the highway and advertised for sale and includes any vehicle displaying signs that name an individual or business; or displays notices/signs intended to sell the vehicle. This authority may take enforcement action against person who are advertising vehicles for sale on the public highway, currently it is the Environmental Enforcement Team that deal with these matters. For the purposes of this part of the policy, public highway includes footpaths and adjacent verges and public open land as well as the road itself. It does not include private land. Where any vehicle is offered for sale on the highway that is not taxed and insured, the council or police may also refer it to the DVLA Enforcement Team. Enforcement also may be taken under the Highways Act 1980 and the Clean Neighbourhoods and Environment Act 2005. Street trading consents are not issued for the purpose of selling vehicles on the highway.
- 8.3 Alcohol - If you intend to sell alcohol you will need authorisation under the Licensing Act 2003 in addition to street trading consent. Please contact the licensing team for further advice.

9. Assistants/employees

- 9.1 You will be required to confirm the right to work of any persons you employ to assist you under your street trading consent. Any trader found to allow an illegal worker to work as part of their trading activities is likely to have their street trading consent reviewed and/or revoked.
- 9.2 We will require the name, address, date of birth, National Insurance number, a basic criminal check (not more than 30 days old) and a photograph of all persons assisting on a regular basis. The basic criminal check must be updated at least every 12 months. We would

consider any person who works on the unit, without the consent holder being present, for more than 14 days a year, as assisting on a regular basis.

10. Waste

- 10.1 A street trading consent holder is responsible for disposal of refuse and must not use council, highway or other public waste bins unless there is a specific arrangement in place. The consent holder has a duty of care to dispose of commercial waste lawfully.
- 10.2 There must be no disposal of liquid waste down the drains or onto the pavement, road or grassland. This includes waste cooking oil.

11. Trading hours

- 11.1 An application should specify what hours the applicant wishes to trade. Evening and nighttime hours are likely to have more impact on local residents in terms of noise and disturbance. Applications for later times are more likely to raise objections which may lead to those times being refused or additional conditions imposed.
- 11.2 The consent holder will be permitted 30 minutes preparation time prior to the start of their trading hours in order to set up the trading vehicle and there will be 30 minutes to close down and pack up. Consent holders are not permitted to trade during set up and closing times. Multiuser consent holders will be permitted 90 minutes prior and after trading times to set up and close down the stalls.
- 11.3 Traders who wish to serve hot food and drink between 11pm and 5am will also need a licence for late night refreshment issued under the Licensing Act 2003. Please contact the licensing team for further information.

12. Planning permission

- 12.1 A street trading consent is given to units where the unit is removed every day at the end of the trading period. If a unit is permanently located at a site it may also require planning permission. Units that are removed every day may also potentially require planning permission in addition to street trading consent. This will be dependent on the amount of time and days that the unit is located at the site. Please contact the planning team for further advice.
- 12.2 If a unit that holds street trading consent is not removed every day at the end of the trading period and it is considered that the unit is in fact permanently located in one position, then street trading consent may be revoked.

13. How to apply for street trading consent (all consent types)

- 13.1 Advice for new applicants
- 13.2 On receipt of an application we will undertake a consultation exercise in order to seek the views of other agencies and, if relevant, neighbouring businesses and residents. There is a non-refundable fee to cover the cost of administering the consultation (this is not applicable to short term consents).
- 13.3 The consultation process will normally take at least 14 days and a decision will then be normally made within seven days of the consultation ending. All applicants should therefore allow a minimum 21 days for their applications to be processed.

- 13.4 Once a decision is made to grant a street trading consent there is a consent fee. This must be paid before the consent is issued and trading can commence.
- 13.5 Submitting an application
- 13.6 The following must be submitted with the initial application:
- ✓ application form
 - ✓ notice of intention (including description of the goods for sale and trading hours etc.)
 - ✓ proof of eligibility of the applicant to work in the UK (where applicable)
 - ✓ plan showing the proposed trading location with position of the unit(s) shown in red. (not required for mobile units)
 - ✓ written permission from a landowner if the street trading activity is to be carried out on any land owned privately
 - ✓ payment of a non-refundable consultation fee to cover initial administration and consultation costs (this not required for short term consents)
 - ✓ a picture, illustration or photograph of the stall or stand
 - ✓ the dimensions of the stall or stand
- 13.7 If, following consultation the location is deemed suitable, the following must be submitted before a final decision is made and the consent issued:
- ✓ third party public liability insurance up to £10,000,000.
 - ✓ a basic criminal disclosure check that is not more than one month old for the applicant and any person/s that will be assisting on a regular basis. Basic criminal disclosure checks can be obtained from the Disclosure and Barring Service. Information can be found on [GOV.UK](https://www.gov.uk) (not applicable to short term consents).
 - ✓ one passport sized photograph of the applicant and any person/s that will be assisting with the trading on a regular basis. (Not applicable to multiuser and short term consents).
- 13.8 Consultation
- 13.9 Consultation static consents and multiuser consents - on receipt of a valid static or multiuser application we will consult with the following:
- Dorset Police
 - Dorset Council highways
 - Relevant town or parish council(s)
 - Dorset Councillor(s) for the ward(s) concerned
 - Environmental Health at Dorset Council
 - Planning officers at Dorset Council
 - where appropriate local residents and businesses within close proximity of the proposed site
 - the relevant department/individual when it's in relation to public owned land
- 13.10 We will allow up to five working days to prepare for the beginning of the 14 days consultation for people/relevant bodies to make comments in relation to the application.
- 13.11 Consultation mobile and short term consents
- 13.12 On receipt of a valid mobile or short term consent application we will consult with the following:

- Dorset Police
- relevant town or parish council
- relevant ward councillor(s)
- Environmental Health officers at Dorset Council
- the relevant department/individual when it's in relation to public owned land

13.13 We will allow up to five working days to prepare for the beginning of the 14 days consultation for people/relevant bodies to make comments in relation to the application.6.4 Determining applications

13.14 The Service Manager for Licensing & Community Safety has delegated powers to issue or refuse an application following the consultation period.

13.15 Account will be taken of objections and/or letters of support made during the consultation period. The authority will consider the suitability of the site and the applicant taking account of, but not exclusively, the criteria in this policy.

13.16 Each application will be decided on its own merits however, in deciding whether to grant a particular street trading consent the Council will have regard to any representations made from the consultees and: -

- any effect on road safety, either arising from the siting of the pitch/activity or from customers visiting or leaving.
- any loss of amenity caused by noise, traffic or smell.
- existing Traffic Orders e.g. waiting restrictions.
- any potential obstruction of pedestrian or vehicular access and/or access to shops.
- any obstruction to the safe passage of pedestrians.
- the safe access and egress of customers and staff from the pitch and immediate vicinity (including adequacy of lighting).
- disabled access.
- any implications/conflicts with nearby shops and/or businesses.
- suitability for the varieties of street trading and activities - the Council would not normally grant a consent for the sale of goods or services which conflict with those provided by nearby shops.
- hours of trading - street trading hours would normally mirror those of shops in the immediate vicinity but will in all cases cease no later than 22:00.

14. Street trading identification badges

14.1 On grant of a street trading consent a street trading identification badge (except for short term consents and multiuser consents) will be issued. The badge must be worn by the person it relates to where it can be clearly seen by the public at all times the person is trading. If the badge is lost or damaged the consent holder must contact us as soon as possible. A charge will be made for a replacement badge.

15. Fees and charges

15.1 A list of the current street trading consent fees and charges is available by contacting the Licensing Team.

15.2 Initial applications (apart from short term consents) must be accompanied by payment of a non-refundable administration fee to cover initial administration and consultation to

determine suitability of the site. The consultation exercise will not commence until this payment is made.

- 15.3 Once a decision is made to grant a consent the full consent fee must be paid before the consent will be issued.
- 15.4 The fees will normally be reviewed on an annual basis.
- 15.5 Street trading fees may be waived in relation to charitable or community events at the discretion of the Service Manager for Licensing & Community Safety. Each request will be judged on its own merits, however the following criteria will be considered:
- ✓ the street trading is part of an organised event with an organising group/committee/individual
 - ✓ the primary purpose of the event is fundraising for a charitable cause or is for the benefit of the community
 - ✓ the event does not take place any more than once a year
 - ✓ stalls are pre-booked
- 15.6 Payment methods - payment can be made online or by debit or credit card – can be used in our offices or by phone to the licensing team between normal office opening hours on 01305 221000

16. Responsibilities of the consent holder

- 16.1 The consent holder must act in accordance with the conditions attached to the consent.
- 16.2 A street trading consent entitles the applicant to trade lawfully in the location(s) specified in the consent. Please note there are many other users of streets and the consent does not grant exclusive rights of occupation or ownership of a specific location.
- 16.3 A street trading consent is not a permit to disregard other laws or usual restrictions. For example:
- always observe parking restrictions and do not obstruct the highway or entry or exit roads to private property
 - other relevant legislation such as the Food Hygiene (England) Regulations 2006, Health & Safety At Work etc Act 1974 and Part II, section 34 of the Environmental Protection Act 1990 (disposing of waste) must be complied with
 - a consent holder must not cause a nuisance to the occupants of neighbouring properties from noise, litter, disposal of waste or any other antisocial activity.
- 16.4 Changes to the unit – the consent holder must contact the licensing section if you want to change your unit. You may need to make a new application or a variation application if the change is significant and impacts on the objectives of this policy.
- 16.5 Changes of assistants - the consent holder must provide the licensing section with a photograph and basic criminal record disclosure that is not more than 30 days old for any new persons that assist on a regular basis.

17. Renewal

- 17.1 Applications to renew an existing street trading consent must be made at least 21 days prior to the expiry of the existing consent.

17.2 A renewal application may be refused if the renewal application is made late.

17.3 The following must be submitted with a renewal application:

- renewal application form
- renewal fee
- copy of current third party liability insurance up to £5,000,000

17.4 Additional requirements at renewal:

- a basic criminal disclosure for the consent holder and any persons that assist on a regular basis from the Disclosure and Barring Service that is not more than 30 days old.
- one recently taken passport size photograph of the consent holder and any persons that assist on a regular basis (not required for multiuser consents)

18. Transfer of consents

18.1 Street trading consents are non-transferable. If there is an agreement between a current consent holder and a proposed new consent holder to take over an existing unit and location, the original consent holder must surrender their consent and the proposed new consent holder must submit a new application.

18.2 The proposed new consent holder, who has made the agreement with the existing consent holder, will be given priority in applying for the location provided that the new application is submitted within five working days after the current consent holder surrenders their consent. The applicant will need to follow the process for submitting a new application.

19. Variation of consents

19.1 A street trading consent may be varied to change the terms of the consent. This includes variations relating to trading times and periods. This does not include a change of consent holder or a change of location. A variation application should be submitted with the following:

- variation application form
- notice of intention
- written permission for the proposed change from the landowner if the street trading activity is carried out on any land owned privately
- photograph of the new/changed unit if applicable
- payment of the non-refundable consultation fee

19.2 Consultation will be in accordance with the new application process. However if the variation is of a minor nature, then the consultation may be reduced at the discretion of the Service Manager for Licensing & Community Safety.

20. Conditions attached to consents

20.1 When granting or renewing a street trading consent we may attach such conditions to it as we consider reasonably necessary

20.2 Street trading consents will usually be granted subject to the standard conditions detailed in **Annex B** to this policy

20.3 Where appropriate, additional conditions may be added to a specific consent.

21. Refusal, revocation and appeals

- 21.1 A consent may be revoked at any time by us if appropriate and justified and we shall not in any circumstances be liable to pay any compensation to the holder in respect of such revocation.
- 21.2 The Act does not provide an applicant or a consent holder with any direct right of appeal against a decision to refuse the grant, variation or renewal of a street trading consent, the revocation of a street trading consent, or against any restrictions or conditions imposed on a street trading consent.
- 21.3 If an applicant or any relevant party wishes to make representations in respect of a decision to grant, refuse or revoke a street trading consent the applicant/consent holder/relevant party should put this in writing with the reasons to the licensing team within 28 days of being notified of the decision. The request will be reviewed by the Service Manager for Licensing & Community Safety, who will consider whether it is reasonable and proportionate for the matter to be considered by a Licensing Sub-Committee. The review of the decision will take account of the reasons for the original decision and the representations made or any further evidence put forward by the Licensing Authority, applicant, consent holder or any other party.

22. Enforcement

- 22.1 General principles
- 22.2 It is recognised that well-directed enforcement activity from us benefits not only the public but also responsible members of the trade.
- 22.3 All decisions and enforcement actions taken by the licensing authority will be in accordance with our Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.
- 22.4 Consent Holders must allow access to our authorised officers and police officers at all reasonable times.

23. Offences

- 23.1 The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 relevant to the Dorset Council area:
- engaging in street trading in a consent street without consent
 - breaches of a condition in relation to trading location or unit or trading period
 - breaches of a condition attached to the granted consent
- 23.2 A person found guilty of the above offences may be liable on conviction to a fine of up to level 3 on the standard scale.

24. Complaints

- 24.1 Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.
- 24.2 If a complaint is found to be justified then the following actions may be taken by officers under delegated authority:

- verbal warning
- written warning
- simple caution
- prosecution
- revoke the consent

Annex A Relevant Offences

Relevant offences when determining suitability of an applicant for a street trading consent

Dishonesty

A street trading consent will not be granted unless three to five years have lapsed since a conviction for an offence that involves dishonesty, for example theft or fraud, or completion of any sentence imposed whichever is later.

Violence

If an applicant has been convicted for an offence for violence which involves loss of life, a street trading consent will not be granted. In other cases a street trading consent will not be granted unless three to 10 years have lapsed since a conviction for an offence relating to violence or completion of any sentence imposed whichever is later.

Drugs

A street trading consent will not be granted unless five to 10 years have lapsed since a conviction relating to the supply or importation of drugs or completion of any sentence imposed whichever is later. A street trading consent will not be granted unless three to five years have lapsed since a conviction for an offence relating to the possession of drugs or completion of any sentence imposed whichever is later.

Sexual and indecency offences

A street trading consent will not be granted where there are convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003, or for indecent exposure.

Exploitation

A street trading consent will not be granted if there are convictions relation to exploitation of another individual. This will include slavery, child sexual exploitation and grooming.

Motoring convictions

In most cases, motoring offences are unlikely to be relevant when considering a street trading consent application. However, there may be instances where the offences are of a very serious nature or may be relevant to the type of street trading activity. In those cases a street trading consent will not be granted unless three to five years have lapsed since any such convictions or completion of any sentence imposed whichever is later.

Street trading legislation

We take a serious view on applicants who have been convicted of street trading offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. In particular, a street

trading consent will not be granted unless two years have lapsed since any offence under the 1982 Act or if there is more than one conviction then five years must have lapsed.

Formal cautions and fixed penalty notices

For the purposes of these guidelines, we will treat formal cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

Existing consent holders convicted of an offence

We may consider revoking the consent if the consent holder is convicted of an offence and in particular there will be concern if the offence falls into one of the categories detailed above.

Annex B

Standard conditions applicable to holders of a street trading consent issued under the Local Government (Miscellaneous Provisions) Act 1982.

It is important that the consent holder should understand and at all times observe these conditions. Any breach of any condition could result in revocation of the street trading consent.

1. Street trading can only take place in accordance with the times and permissions of the consent.
2. A consent may be revoked at any time and the Licensing Authority shall not, in any circumstances, be liable to pay any compensation the holder in respect of such revocation.
3. The consent holder shall return this consent to us immediately on revocation or surrender of the consent.
4. Any consent holder found to be employing persons who do not have the right to work in the UK will have their consent immediately revoked.
5. The consent holder shall not assign, underlet or part with his/her interest or possession under this consent without informing the Council in writing.
6. Consent holders shall permanently and clearly display on the street trading unit, in a conspicuous position readily visible to the public, the valid consent that has been issued us (static and mobile consents only).
7. The consent holder and any assistants shall sell/offer for sale only such goods or types of goods as may be specified in the street trading consent granted to the consent holder
8. The consent holder shall at all times maintain a valid third party public liability insurance policy of at least £5,000,000 to the satisfaction of the Licensing Authority and shall produce a valid certificate of such insurance at any time upon request by an authorised officer.
9. The consent holder shall keep their trading site and immediate adjacent area in a clean and tidy condition during permitted trading hours and also leave the site in a clean and tidy condition and unobstructed at the end of each period of use under the terms of this consent. For these purposes the term 'immediate adjacent area' refers to all public land within a 20 metres radius from the trading location over which the public have access.
10. No waste matter shall be discharged into or allowed to enter any highway drain or water course.
11. Every static street trading unit and any vehicles or equipment associated with it shall be removed from the site at the end of the day. The unit must not be left on site when not in use unless express written consent has been given by the Service Manager for Licensing & Community Safety.

12. The consent relates only to the unit described in the application or as defined on the certificate of consent and cannot be altered without express written permission of the Service Manager for Licensing & Community Safety.
13. The use of awnings; external display stands and the positioning of tables, chairs and sunshades around the unit are also prohibited without the express written permission of the Service Manager for Licensing & Community Safety.
14. The display of advertising signs, other than on the unit itself, is prohibited without the written permission of the Service Manager for Licensing & Community Safety. Signage must also have planning permission where applicable.
15. Holders of a mobile street trading consent must not trade in one place for more than 30 minutes at a time and must not return to the same location within two hours.
16. No street trading unit shall be located and no street trading activity shall be carried on to cause obstruction of any street or endanger persons using the street.
17. The consent holder shall not trade in such a way as to cause a statutory or public nuisance to persons using the street, public place, or occupiers of premises in the vicinity. Noise from equipment (including amplified audio equipment) used in connection with the consented street trading activity shall also not give rise to a statutory or public nuisance.
18. The consent holder shall make adequate arrangements to ensure that all persons connected with the operation of the unit have the means and opportunity to visit suitable toilet facilities when necessary. The consent holder shall ensure that the facilities available are made use of where required.
19. The consent holder shall comply with the requirements of Part II, section 34 of the Environmental Protection Act 1990 with respect to waste resulting from his/her trading. The consent holder will make available the relevant documentation as proof of compliance at the request of one of our authorised officers
20. If, and when required, the consent holder shall present the street trading unit to and Authorised Officer for inspection within 72 hours of the request being made.
21. The Licensing Authority reserve the right to refuse to renew a static street trading consent if the applicant has not, without reasonable cause, traded at the site on a regular basis in the previous 6 months. In such circumstances the street trading consent may be granted to another applicant.
22. Street trading shall not be carried on at any time unless the appropriate fee for the street trading consent has been duly paid to the Licensing Authority.
23. The consent holder shall at all times conduct business in a clean, honest, civil and business like manner without interfering with the business of other traders and consent holders.
24. Nothing contained in these conditions shall relieve the consent holder or their employees or agents from any legal duty or liability and the consent holder shall indemnify the Licensing Authority in respect of all claims, actions, demands or costs arising from this consent.
25. The Licensing Authority may vary or make additions to the conditions applying for any or all street trading consents, at any time giving due notice.
26. The trader shall not directly or indirectly hawk, tout or solicit custom for or advertise by way of handbill, public address system or otherwise without the express written consent of the Service Manager for Licensing & Community Safety.
27. The Licensing Authority reserves the right to exercise its powers under the Local Government (Miscellaneous Provisions) Act 1982 to prohibit any street trading for a maximum of six days in any one year where it is considered necessary by the Licensing Authority subject to notice in writing at least 14 days prior to removing the consent day(s).
28. The Council retains the right to alter the given sale area in case of unforeseen circumstances.

29. Traders shall follow any recommendations/advice given to them by an Authorised Officer or a Police Officer.
30. Traders/trading assistants must report the loss of a consent notice to the Council's licensing service within 72 hours of losing it.
31. The consent holder(s) shall notify Licensing Team within 72 hours of any relevant convictions or proceedings as listed in Annex A Relevant Offences.
32. Traders/trading assistants must not trade under the influence of any illegal or intoxicating substance. Any traders found with illegal substances on their pitch or in their possession will have their consent revoked.
33. Goods may not be of an inflammable, corrosive or otherwise dangerous nature.
34. All goods shall be clearly priced, and goods sold by weight or number shall show the unit of quantity in which they are being offered for sale. A street trader offering a service shall make clear the nature and cost of that service.
35. All goods sold shall comply with relevant trademark, counterfeit and product safety regulations.
36. Trading may only take place on the days and during the times specified on the consent without special authorisation being given in writing from the Service Manager for Licensing & Community Safety.
37. The trading area shall not exceed that for which consent has been granted.
38. No mobile generators shall be used without the express permission of the Council. Where permission is granted, generators shall be so positioned that: - they do not present a danger to the public, do not present a fire or similar hazard to the stall, goods displayed thereon or adjoining premises and do not give rise to a nuisance by reasons of noise, vibration, smoke or smell.
39. The street trading consent holder will be responsible for ensuring compliance with all relevant legislation and regulations covering the siting, operation and management of the sale area (including relevant food safety, health & safety, road traffic, planning and highways legislation if applicable) and for the payment of any fees so required.

Annex C Pedlars

A Pedlar is someone who holds a Pedlars Certificate issued under the Pedlars Act 1871 issued by the police. The Certificate enables them to trade anywhere without any further need for any other consent. They can only be granted to people without a criminal record and must be renewed each year.

The term "pedlar" means "any hawker, pedlar, petty chapman, tinker, caster of metals, or other person who, without any horse or other beast bearing or drawing burden, travels and trades on foot and goes from town to town or to other men's houses, carrying to sell or exposing for sale any goods, wares, or merchandise, or procuring orders for goods, wares, or merchandise immediately to be delivered". Pedlars Act 1871 section 3

The following information has been taken from the [Pedlars Info website](#).

"A pedlar may trade privately at the door of a person's house or in a public street, market or fair. Trading by a person within conditions of a Pedlars Certificate is not Street Trading for the purposes of local Street Trading regulation according to Local Authority licences or consents issued for static street trading pitches within given spaces. A pedlar's means of trading must be mobile and movable

so as not to cause obstruction or public liability on the highway. A pedlar may use a pedestrian scale mobile device to carry and display goods. A pedlar is also described as a hawker amongst other descriptions. A pedlar is entitled to remain static whilst serving customers. Although it is not 'necessary' to carry a certificate to trade foodstuffs nothing prohibits obtaining a certificate for the purpose to avoid commission of a local Street Trading offence."

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General Licensing Committee

23 October 2024

Increase in Taxi Fares for Dorset Zone

For Recommendation to the Portfolio Holder

Cabinet Member and Portfolio:
Cllr G Taylor, Health and Housing

Local Councillor(s):
All Councillors

Executive Director:
Jan Britton, Executive Lead for Place

Report Author: Aileen Powell
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Report Status: Public

Brief Summary

To authorise the statutory public consultation on the proposed Hackney Carriage tariff increase in the Dorset area, excluding the Weymouth and Portland zone.

Recommendations

To recommend to the Cabinet Member for Health and Housing that they:

- Authorise the undertaking of the statutory public consultation on the suggested tariff increase.
- Agree that the new tariff will come into effect on 1 January 2025 if no objections are received after the public consultation.

Reason for Recommendation

To ensure openness and transparency in the Council's decision making, and to ensure that those persons affected by changes are given the opportunity to have an input into it.

1. **Background**

- 1.1 The Dorset Council Taxi Licensing Policy split the Council's area into two zones, see paragraphs 2.16 - 2.19 of the Policy which is attached in full at Appendix A.
- 1.2 Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 sets out the legislative provisions for setting the tariff. The legislation is attached at Appendix B.

2. **New Fares**

- 2.1 The fares for the Dorset Zone were last changed in April 2022, when the new Taxi Licensing Policy came into effect. Prior to this they were changed by the various predecessor Councils on an 'ad hoc' basis as and when the trade requested it.
- 2.2 The consultation with the trade has resulted in 26 responses in favour of the increase, with one proprietor against it apart from the addition of a booking fee and one just wanting the first mile price raised.
- 2.3 Before any increase can be agreed a statutory public consultation needs to be held. If no objections are received the changes could be implemented from 1 January. If responses are received from the public the matter will be brought back to the General Licensing Committee to consider the objections.

3. **Financial Implications**

The funding for the public consultation of the fares will come from existing budgets. The Taxi and Private Hire Licensing regime is self-funding, so any advertising costs are met from this. There are no further financial implications for Dorset Council arising from the recommendations of this report. However, subject to the outcome of the consultation, passengers may see an increase in the amount they are charged for their journeys.

4. **Natural Environment, Climate & Ecology Implications**

There are no negative implications arising from the recommendations contained within this report in terms of meeting the Council's climate change obligations.

5. **Well-being and Health Implications**

There could potentially be an impact on the health and wellbeing of the public if the hackney carriage fares are set too high, which could make this form of transport inaccessible to some. The same could however be said if the fares are set too low resulting in a reduction of vehicles as they become uneconomical to run.

6. **Other Implications**

There are no other implications arising from the recommendations contained within this report in terms of impacts on other service areas within the Council.

7. **Risk Assessment**

HAVING CONSIDERED: the risks associated with this decision; the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

8. **Equalities Impact Assessment**

An EqIA was prepared as part of the wider Dorset Council Taxi Licensing Policy consultation.

9. **Appendices**

Appendix A Dorset Council Taxi Licensing Policy

Appendix B Extract of Legislation

Appendix C Existing Tariff

Appendix D Proposed Tariff

10. **Background Papers**

Local Government (Miscellaneous Provisions) Act 1976

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Taxi Licensing Policy

2022

1 Dec 2021

Abstract

A policy to cover the Licensing of Hackney Carriage Vehicles and Drivers and Private Hire Vehicles, Drivers and Operators under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976

Further copies of this document can be obtained from:

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Dorset
DT1 1XJ

Tel: 01305 251010

Email: licensingteamb@dorsetcouncil.gov.uk

Web: <https://www.dorsetcouncil.gov.uk/business-consumers-licences/licences-and-permits/taxi-private-hire-vehicle-licences/taxi-and-private-hire-vehicle-licences.aspx>

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Section 1 - Purpose and Scope of the Taxi Licensing Policy

Purpose

- 1.1. The purpose of licensing drivers, vehicles and operators for public or private hire is for the protection of the public who use this form of public transport. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust that the driver is honest, competent, safe and trustworthy, that the car being used is suitable, safe and well maintained. Passengers should also be confident that the people who take the bookings for those cars are trustworthy and will safeguard confidential information.
- 1.2. This policy will set out how Dorset Council will manage applications, make decisions about who can drive and what vehicles will be licenced, what is expected from those that are licenced and how the Council will deal with complaints. The policy will be used to assist officers, the Licensing Committee and Sub-Committees to make decisions that are fair, clear and consistent. It will also inform the travelling public of what they can expect from a vehicle, driver or operator licensed by Dorset Council.
- 1.3. The Criminal Conviction Policy at Appendix G will come into effect on 1 December 2021. The remainder of this policy takes effect from 1 April 2022.

Formulating the Policy

- 1.4. In creating this policy, and in all matters relating to the licensing of taxis and private hire vehicles Dorset Council will have regard to:
 - The law¹
 - The Department for Transport Statutory Taxi & Private Hire Vehicle Standards July 2020 (DfT Standards)²
 - The Department for Transport Taxi and Private Hire Vehicle Best Practice Guidance March 2020 (DfT Best Practice)³
 - Freight Transport Association Hackney Carriage and Private Hire Vehicles National Inspection Standards August 2012 (FTA National Standards)⁴
 - Institute of Licensing Guidance on Determining the Suitability of Applicants April 2018 (IoL - Safe and Suitable)⁵
 - Dorset Council's Plan 2020 to 2024⁶ (DC Plan)
- 1.5. The Policing and Crime Act 2017 enabled the Secretary of State for Transport to issue statutory standards in July 2020 which contains several recommendations that the Department for Transport (DfT) expects Councils to incorporate in their taxi licensing policies unless there is a compelling reason not to. This policy has been prepared incorporating all the recommendations contained within the DfT Standards.

¹ [Town Police Clauses Act 1847](#), [Local Government Miscellaneous Provisions Act 1976](#), [Transport Act 1980](#)
[Equalities Act 2010](#)

² [Statutory & Best Practice Guidance for taxi and PHV licensing authorities \(publishing.service.gov.uk\)](#)

³ [Taxi and Private Hire Vehicle Licensing: Best Practice Guidance \(publishing.service.gov.uk\)](#)

⁴ [GetFile.aspx \(logistics.org.uk\)](#)

⁵ [Guidance on Suitability Web Version \(16 May 2018\).pdf \(instituteoflicensing.org\)](#)

⁶ [Dorset Council's Plan](#)

- 1.6. Dorset Council was formed on 1 April 2019 from four District Councils, one Borough Council and the County Council. The policies of the five predecessor District and Borough Councils have been considered and areas of good practice within them is contained within the Dorset Council Taxi Licensing Policy.
- 1.7. Several small focus groups consisting of Councillors, the trade, officers and Equality Groups have helped formulate this draft policy and the policy will be put out to public consultation for 12 weeks. All consultation responses will be considered before the final version of the Policy is presented to Full Council for adoption.
- 1.8. Any reference to “Taxi” in this policy includes both Hackney Carriages and Private Hire Vehicles.
- 1.9. This policy will be subject to a full review during 2026 with a view to a revised Policy being implemented at the beginning of 2027. There will also be an annual interim review of the Policy to incorporate any emerging issues that may need to be addressed.

Consultation

- 1.10. In preparing this policy the council has consulted with and considered the views of a wide range of people and organisations including:
 - Existing licence holders and their representatives
 - Representatives of local business
 - Local residents and their representatives
 - Local Councillors
 - Parish and town councils
 - Local members of parliament
 - Dorset Police
 - Dorset Council – Children’s Services
 - Dorset Council – Adults Services
 - Dorset Council – School Contract Service
 - Dorset Council – Highways
 - Dorset Council - Fleet
 - Adjoining Councils
 - Dorset Disability Forum

Process for Adoption of the Policy

- 1.11. The draft policy will go through a number of committee meetings for consideration prior to adoption;
 - i. Licensing Committee
 - ii. Consultation
 - iii. Place and Resources Overview Committee
 - iv. Licensing Committee

Section 2 - General Principles

Importance of the Taxi Trade

- 2.1. Dorset Council recognises that the taxi trade is a fundamental component of the public transport network, especially in more rural areas of Dorset where it can be the only form of public transport. It is a heavily regulated industry for good reason, but Dorset Council will look to reduce the burden to licence holders where possible but only when the primary aim of the regulation, which is the safety of passengers, is not compromised to any degree.
- 2.2. The Council will hold meetings with the taxi trade at least twice a year and will send out regular newsletters to the taxi trade and to the Councillors sitting on the Licensing Committee.
- 2.3. Dorset Council is committed to providing online application processes across all areas to enable interactions with the Council to be completed at a time and in a place that suits the user. Currently applications for licences can be completed online in most areas already, and it is planned that this will be available across the whole area as soon as practicable.

Protection of Children

- 2.4. Whilst the safety of everyone who uses licensed vehicles is of paramount importance, there are special concerns around children after well publicised cases of Safeguarding in other areas of the country. Most licensed drivers have completed a classroom-based form of Safeguarding training. Dorset Council will continue to support specialised training in this area for all new applicants to ensure they are aware of how to identify, and how to report any concerns they have that may indicate child exploitation, including County Lines involvement, Female Genital Mutilation or children being groomed. For any licensed drivers who have not completed any classroom based Safeguarding training this will need to be completed during the term of their next licence. Training will be regularly updated to incorporate any emerging trends. The licensing team will liaise with both the police and Dorset Council's children's service teams to ensure there is a joined-up approach to protecting young people, and we will undertake to advise drivers and operators of any areas of concern that they need to be aware of. As training evolves and becomes available, it may be incorporated into requirements for the renewal of driver's licences. Before any changes to mandatory training are made, all current drivers and all operators who may take on new drivers will be consulted, and enough time will be allowed for any current licence holder to complete the training during their next licence term.

Adults at Risk

- 2.5. The DfT Standards were brought in to protect adults who are at risk as well as children. Adults at risk are defined in section 42 of the Care Act 2014 and apply to any adult who; -
 - a. has needs for care and support (whether or not the Authority is meeting any of those needs),
 - b. is experiencing or is at risk of abuse or neglect and
 - c. As a result of those needs is unable to protect themselves against the abuse or neglect or the risk of it.

Dorset Council and Dorset Police have a joined-up approach to safeguarding and have a Multi-Agency Safeguarding Group which will both pass on and receive information relating to any complaints concerning vulnerable adults and taxis. All complaints that relate to a Vulnerable Adult will be referred to the MASH and there will be a co-ordinated response to any such matters. Taxis are such a vital method of transport for Vulnerable Adults that swift action may be taken if the safety of any Vulnerable Adult is in any way put at risk. It is important that every person travelling in a taxi not only is safe but feels safe as well.

The Council is committed to improving the safety of residents and visitors to Dorset and is currently reviewing the content of its mandatory safeguarding courses to include additional areas for improvement, including for example Domestic Abuse Awareness Training. Taxi drivers are valuable members of the community and can be a first point of contact for vulnerable adults in need of assistance and licence holders will be trained to spot the signs of abuse and respond appropriately where necessary, including signposting to services where potential victims can go for assistance.

Equalities

- 2.6. Dorset Council is committed to building strong, healthy communities which will support inclusivity⁷. Addressing equality issues has historically involved keeping lists of Wheelchair Accessible Vehicles (WAVs). However not all people with disabilities use wheelchairs and so in formulating this policy Dorset Council is looking to undertake its duty under the Equalities Act by encouraging training in a diverse range of disabilities, creating a rating system based on the completion of training courses which will be advertised on the Council's web site and introducing an Equality Charter to inform drivers and operators of the standards that are expected of them, and to inform the travelling public of what standard of service they may expect.
- 2.7. It is estimated that around 1 in 5 people have one or more disabilities, many of which will be hidden. Rather than thinking in terms of specific disability this policy seeks to set an expectation that ALL people no matter what challenges they face have the same opportunity to access this form of public transport that is vital to being able to travel about in and out of Dorset. We want to ensure that equality is not a matter of treating everyone the same way, it is a matter of making sure that everyone can use a taxi safely and in comfort and that drivers and operators will take actions to ensure that anyone with a disability of any kind does not feel disadvantaged. This goes beyond allowing anyone using a dog to sit with them in a licensed vehicle to actively assisting elderly passengers with frames or walkers, to treating blind people with extra consideration when they exit a vehicle to ensure they are aware of where they are.
- 2.8. The "Equality Charter" (found at appendix A) will be used as a measure to judge complaints by. Dorset Council commit to actively promoting compliance with the Charter and driving out the inequality and the treatment of the disabled as 'second class' citizens and will deal with any reported incidents of either direct or in-direct discrimination by written warning if it is a first complaint or if it is a repeat complaint, by referral directly to a Sub-Committee.
- 2.9. The Council will work with third party providers to create training modules which will be made available that will lead to accreditation and a star rating system. These will be developed to include specific disabilities or types of disabilities and may also expand to training courses in additional

⁷ [Strong, healthy communities \(dorsetcouncil.gov.uk\)](http://dorsetcouncil.gov.uk)

areas for example, in suicide awareness. These courses are introduced to improve the quality of service and it will be a prerequisite that anyone signing up for the course may promote their services via their contact details being included in lists that are available to potential passengers.

- 2.10. We will provide a directory of drivers or operators who have passed specific training modules on our web site and make available in a written or other suitable format to anyone who requests it.

Suitable Vehicles

- 2.11. Dorset Council recognises that action needs to be taken to protect the environment and the Licensing Team will work with the DC Highways Team to ensure a joined-up approach for any policies or strategies based on sustainability, such as the Electric Vehicle Charging Strategy. The Council will encourage the use of electric vehicles, and other Ultra Low Emission Vehicles by exploring the potential for reduced fees for applications for these types of vehicles. Any fees, or any changes to those fees will be subject to a separate consultation.
- 2.12. There are different approaches that can be taken to ensuring that vehicles are suitable to be licensed either by age, mileage or type. The area covered by Dorset Council is varied and the work carried out by licensed vehicles is equally varied. Therefore, the Council will not stipulate what types of vehicles may be licensed but will only licence a vehicle to carry the number of full-sized adult seats.
- 2.13. The work with focus groups suggest that it is the maintenance and upkeep of vehicles that is the most important consideration to assess the suitability of a vehicle rather than assigning an arbitrary age or mileage limit. For that reason, all vehicles will be inspected twice yearly by an approved garage to ensure compliance with the FTA Inspection Standards⁸, or any subsequent National Standard.
- 2.14. Vehicles may also be subject to spot checks by licensing officers, with or without partner agencies, to ensure they comply with the Vehicle Code of Practice found at appendix C.

Insurance Write Offs

- 2.15. Insurance write offs will not be licensed if they fall in categories A, B or S as these vehicles will have been written off after suffering structural damage. Vehicles written off under Cat N may be licensed as they will not have been written off for sustaining any structural damage and will have to undergo comprehensive mechanical safety checks⁹.

Zones

- 2.16. It is the Dorset Council's ambition that all licences should be aligned with the area covered by Dorset Council, in line with the recommendation in the DfT Best Practice¹⁰. It is recognised that this may cause issues, particularly in the one area where there is a limit on the number of hackney carriages that are licensed. The Unmet Demand Survey carried out in 2020 for Weymouth found that there was no unmet demand in general, although there was some unmet demand for

⁸ [GetFile.aspx \(logistics.org.uk\)](#)

⁹ [What is an insurance write-off? Your Guide to Cat A, B, S \(C\) & N \(D\) | RAC Drive](#)

¹⁰ [Paragraphs 89 – 91 DfT Best Practice](#)

wheelchair accessible vehicles (WAVs). Hackney Carriage owners in Weymouth pay an additional premium over three years to cover the cost of the survey, which is in the region of £12K.

- 2.17. Zoning will be removed from all the Dorset Council Areas where there are currently no limits to the number of vehicles. In the area formerly covered by Weymouth and Portland Borough Council the limit of 80 Hackney Carriages will remain in place for a period of three years. The consequence of having a limit is that it enables an authority to refuse any application if it would result in the limit being exceeded. However, because the Survey did find some unmet demand for WAVs, any application for a WAV will not be refused on the basis that the limit would be exceeded.
- 2.18. In addition, to support the climate emergency and to encourage ultra-low emission vehicles (ULEVs) any application for a fully electric hackney carriage will also not be refused on the basis that the limit would be exceeded. This policy will be reviewed in 2023 and affected licence holders will be consulted on any proposals to carry out (and pay for) another survey or to remove the limit of hackney carriages in the Weymouth area instead.
- 2.19. The effect of retaining this zone for Weymouth will mean that for hackney carriages only, those vehicles plated with a Weymouth Plate will be the only vehicles allowed to stand for hire on Weymouth Ranks. Weymouth hackney carriages will only be able to ply for hire within the Weymouth Zone. All other hackney carriages will be able to use ranks in any other area of Dorset, apart from Weymouth.

Types of Licence

- 2.20. Hackney carriages and private hire vehicles are covered by different Acts of Parliament, with hackney carriages covered by the Town Police Clauses Act 1847 (TPCA47) and the Local Government Miscellaneous Provisions Act 1976 (LGMPA76)¹¹ and private hire vehicles covered only by the LGMPA76. Both hackney carriages and private hire vehicles can be booked over the phone or via a Booking App, but only hackney carriages can stand for hire on a rank or be hailed in the street.
- 2.21. Dorset Council is committed to cutting unnecessary bureaucracy. The predecessor Councils dealt with licensing drivers in a variety of ways with some of the Councils opting to issue combined driver's licences. As the same standards are applied to test the suitability of driver whether they drive a hackney carriage or a private hire vehicle this seems to be a sensible approach especially as driver's licences typically last for three years and drivers may change the type of vehicle they drive during that three years. Dorset Council will therefore issue drivers with either a combined badge and licences to drive both types of vehicle, a hackney carriage driver licence and badge or a private hire driver licence and badge depending on the needs of the applicant.

Decisions

- 2.22. This Policy enables officers to grant and issue licences to drivers, vehicles and operators where the criteria of this Policy are fully met, under delegated authority. Any matters that fall outside of the Policy will be referred to a Sub-Committee of three trained Councillors from the Council's Licensing

¹¹ [Town Police Clauses Act 1847](#), [Local Government Miscellaneous Provisions Act 1976](#),

Committee¹². All decisions will be taken with reference to the following, and any new version of them; -

- applicable law,
- this policy
- DfT Standards
- DfT Best Practice Guidance
- NTA National Standards
- IoL - Safe and Suitable

2.23. Applicants, drivers, vehicle owners or operators who are referred to a Sub-Committee will be given a copy of the officer's report containing all the information that the Sub-Committee will consider at least five working days prior to the hearing. Applicants or licence holders will be invited to attend the hearing and give any information they believe is relevant to the Sub-Committee, and they can expect to be asked questions relating to the information contained in the report. Anyone appearing at a Sub-Committee may submit a statement for the Sub-Committee to consider prior to the hearing or at the hearing itself. Applicants and licence holders can bring legal representatives or any other person who will give them support to the hearing. All Sub-Committees will be held in private and will not be open to the public or the press, however decisions that are made may be reported anonymously in a general newsletter. Organising Sub-Committees takes considerable resources and so in the event of an applicant or licence holder not attending a hearing, the Sub-Committee will decide whether to continue in their absence or to adjourn the hearing to another time. If an applicant, driver or operator fails to attend for a second hearing officers will normally recommend that there is no further adjournment and the matter is heard.

2.24. There may be circumstances where immediate decisions need to be taken on matters of importance, in which case, they will be taken by the Service Manager or Licensing Team Leader in liaison with the Chair or Vice Chair of the Licensing Committee. This will only occur in cases where there is an immediate threat to the safety of the public and any delay would be of such a high risk that normal processes do not apply, such circumstances could be in cases of potential sexual exploitation or any other matter that in the Team Leader or Service Manager's opinion pose an imminent threat to the safety of the travelling public.

Fares

2.25. Dorset Council must balance the ability of drivers to earn a living with ensuring fair access to this important mode of transport for all. Because there will be no zones, apart from the Weymouth and Portland Zone, there will be one maximum tariff set for all hackney carriages across the whole of the Council area. It is recognised that different areas may suit different tariffs and there is a need to allow an open market so there will only be a maximum limit set over which it will be an offence to charge. Vehicle proprietors are free to set their meters to a level that is equal or less than each element of the maximum allowed.

2.26. Vehicle proprietors are encouraged to clearly display the rates that they charge in a manner that can be viewed from the outside of vehicles so that customers are aware what they can expect to be charged.

¹² [Committee details - Licensing Committee - Dorset Council](#)

Licensed Vehicles should be easily identifiable.

- 2.27. It is imperative for safety reasons that licensed vehicles are easily recognisable as bona fide, licensed vehicles. All vehicles will be required to have plates on the outside rear of the vehicle, that are clearly visible to anyone travelling behind the vehicle, and smaller internal plates displayed in the windscreen of a vehicle, so they are identifiable from the front as they approach customers.
- 2.28. Door stickers or magnetised signs will be required for private hire vehicles stating “Pre-Booked Only”. These stickers must remain on the private hire vehicle at all times unless, and in exceptional circumstances where they are operating under a plate exemption when they can be removed for the time that the exemption applies. Vehicle proprietors may apply for an exemption to the requirement to have door stickers or magnets of this type.
- 2.29. There may very occasionally be exceptional circumstances where exemptions from the display of private hire vehicle plates will be considered but this will only be in exceptional circumstances, for example where the safety of the passenger(s) being transported in a plated vehicle would be compromised. Any request to obtain an exemption for the display of plates will need to be supported by evidence such as a contract or letter explaining why the passenger’s safety is compromised by the display of a plate. Any vehicle with an exemption certificate will be required to retain their plate in the boot, or other safe place if there is no boot, at all times.

Advertising.

- 2.30. Previous predecessor Council policies have included restricting third party advertisements on licensed vehicles, however it is the Council’s view that these vehicles form part of the public transport network and other providers are permitted to have advertisements for third parties both inside and outside of vehicles, so taxis should also, within specific parameters.
- 2.31. Advertisements can provide alternative sources of income to taxi proprietors which will be allowed as it means that proprietors do not have to rely solely on fares for their earnings.
- 2.32. This must be balanced with the requirement to ensure that taxis are easily identifiable to any hirer and to ensure the safety and comfort of passengers. Therefore, third party advertisements are permissible, but they must be restricted to areas of the vehicle that do not contain important information such as the name of the operator or any identifying licence plates, signs or numbers.
- 2.33. Any vehicle proprietor should send pictures or diagrams of any proposed advertisements and where they will be placed on the vehicle into the Licensing Team. Officers will only object to their placement if: -
- a) they interfere with the identification of the vehicle or obscure window screens or back windows enough to cause a potential hazard or block the view of passengers, or
 - b) the content of the advertisement contravenes any of the following guidelines;
 - Does not comply with the Advertising Standards Authority’s advertising code; www.asa.org.uk

- Does not uphold the rules laid out in the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (CAP Code) www.cap.org.uk/Advertising-Codes/Non-broadcast-HTML.aspx
- Involves unlawful prejudice and/or discrimination.
- Promotes smoking.
- Promotes the irresponsible consumption of alcohol.
- Promotes gambling or betting, except licenced or registered lotteries benefiting local good causes e.g. society or local authority lotteries.
- Promotes pornography or adult content.
- Promotes weaponry.
- Promotes payday lenders or financial organisations with punitive interest rates.
- Appears to promote racial or sexual discrimination, or discrimination on the basis of disability, faith, gender or age (or other protected characteristic.)

Any operator not satisfied with a decision of an officer may request that the matter is referred to a licensing sub-committee.

- 2.34. Any advertisement must comply with the British Code of Advertising Practice issued by and amended from time to time by the Advertising Standards Agency so all advertisements must be legal, decent, honest, and truthful. The code can be found here: <https://www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcast-code.html>

Codes

- 2.35. In addition to the Equality Charter Dorset Council has set out “codes of practice” which all licensed drivers are expected to adhere to, and which will be used when drivers and vehicles are inspected, when complaints are received and investigated and to assist with decision making. There are codes to cover vehicle cleanliness and the appearance and behaviour of drivers to other drivers, other road users, passengers and officers of the Council.

Complaint Handling

- 2.36. All complaints that are received by Dorset Council will be investigated, but not all will result in any action being taken. Records will be kept of all complaints made and any action taken. Any patterns identified in relation to a company or a particular driver may result in actions such as written warnings or referrals to a Sub-Committee to consider whether the licence holder remains a “fit and proper person” to hold a licence.
- 2.37. If a complaint is found to be justified, that the driver, operator or vehicle owner has not complied with either a condition of licence or a code of practice, they may receive a verbal warning for a first complaint. Should a second complaint be investigated and upheld the licence holder could normally expect to be issued with a written warning. Any further complaints would normally be reported to Sub-Committee to consider whether the licence holder remains a “fit and proper person” to hold a licence. However, there may be times when a matter will remain at a verbal warning stage,

equally there may be occasions when a matter is so serious it needs to be escalated straight to a Sub-Committee hearing without either a verbal or written warning having been issued.

- 2.38. Any complaints about discrimination, inappropriate sexual behaviour or language involving children will be treated particularly robustly and where there is a credible and immediate threat to a child or other passengers an immediate suspension of a licence will be considered by the Licensing Team Leader or the Service Manager in consultation with the Chair or Vice Chair of the Licensing Committee.

Inspections

- 2.39. All vehicles, 12 months or older, will have to comply with scheduled mechanical inspections every six months. Any failure to present a vehicle to a booked appointment may result in the suspension of the vehicle licence, unless there are exceptional circumstances, or the vehicle is re-booked and re-presented at the garage within 14 days.
- 2.40. Vehicle licences may also be suspended if they fail the mechanical inspection if the failure is, in the professional opinion of the mechanic carrying out the inspection, likely to affect the safety or suitability of the vehicle.
- 2.41. Drivers, vehicles and operators may be inspected on an ad hoc basis by officers of the Council. Licence holders will be expected to co-operate with these inspections it is not intended that these inspections will be overburdensome.

Sharing Information

- 2.42. Dorset Council may share information about drivers, vehicles and operators with the Police, other teams within the Council, HMRC and other Government Departments and other Local Authorities. This will be limited to matters relating to prevention or detection of crime, fraud initiatives, investigation of complaints or any matter that may relate to Dorset Council Contracts.
- 2.43. Dorset Council will record any revocations or any decisions to refuse to licence on the Local Government National Register of Taxi and Private Hire Licence Revocations and Refusals (NR3)¹³.

CCTV and Dash Cams

- 2.44. Dorset Council covers a large and diverse area and there is no evidence available to suggest that the use of CCTV should be made mandatory, suitable evidence would relate to the prevention of crime and to consider a mandatory requirement there would need to be large numbers of complaints or reported incidents of violence towards drivers.
- 2.45. However, the value of CCTV and Dash Cams are recognised as is the footage they capture. Dorset Council encourages any use of cameras that comply with the Data Protection Principles as laid out

¹³ [National Register of Taxi and Private Hire Licence Revocations and Refusals \(NR3\) | Local Government Association](#)

by the Information Commissioners Office (ICO)¹⁴. Officers may ask to see the Data Protection Impact Assessment (DPIA) that should be completed before installing any CCTV.

- 2.46. Proprietors should inform the Licensing Team when any cameras are fitted. Where it is installed, officers will expect to receive any data relating to a complaint that is requested and any failure to supply the data will be taken into consideration and may result in a matter being referred to a Sub-Committee.

Criminal Convictions and Rehabilitation

- 2.47. The Council takes its responsibilities very seriously and welcomes the national guidance on determining the suitability of applicants and licence holders that was produced in April 2018 by the Institute of Licensing in partnership with the Lawyers in Local Government (LLG), National Association of Licensing Enforcement Officers (NALEO) and the Local Government Association (LGA). Dorset Council adopts this guide as its Criminal Conviction Policy, the full version can be found at Appendix G.

Disclosure and Barring Service Checks (DBS checks)

- 2.48. Previous policies have required that Enhanced Disclosure and Barring Service Checks (DBS checks) will be carried out every three years for drivers, with annual Basic DBS Checks being required for any private hire operator or vehicle proprietor who does not hold a taxi driver's licence. In line with the Statutory Guidance, drivers will now be required to sign up to the update service or have DBS checks completed every six months. Vehicle proprietors and Operators without drivers licences will continue to need a basic check completed when they initially licence and Operators will also be required to evidence they have seen Basic DBS checks for all their booking and dispatch staff. Further details about the DBS checks can be found in paragraphs 3.8 – 3.13 for drivers, 4.16 for vehicle proprietors and 5.2 and 5.7 for operators and their staff.

Approved Garages

- 2.49. Inspections will be able to be carried out at any garage that the Council has approved. Only garages authorised to carry out MOTs may apply to be on the list of approved garages, and they will have to sign an agreement to;
- inspect vehicles to the standard as set out in the FTA National Inspection Standards
 - inspect the exterior and interior of the vehicle for cleanliness and damage,
 - test any meters or signs,
 - send information to the Council electronically, and
 - inform the Licensing Team immediately of any failures.
- 2.50. Contracts for approved garages will be issued annually and will automatically lapse if the garage is no longer authorised by DVSA to carry out MOT Inspections. Any complaints will be investigated, and the Licensing Team may carry out testing of approved garages for quality control purposes to ensure that standards are maintained throughout the term of the contract

¹⁴ [Installing CCTV? Things you need to do first | ICO](#)

Section 3 - Drivers

Introduction

- 3.1. Dorset Council will only grant any driver's licences to an applicant who is over 18, has held a driving licence for at least 12 months and the Council are satisfied is a "fit and proper person" to hold such a licence.

Fit and Proper

- 3.2. To assist the Council to decide whether a person is fit and proper the following checks will be made-
- Right to work in the UK
 - UK driving licence
 - Criminal record
 - Medical history
 - Driving ability
 - Ability to speak and understand English
 - Knowledge of the law and this DC Taxi Policy
 - Knowledge of the area
 - Understanding and awareness of CSE
 - Confirm [registration for tax](#)
- 3.3. The application form must be completed accurately and honestly as if evidence is found that an applicant or licence holder has provided false information or omitted any relevant information in any application or submission to the Council, the application may be refused or any licence issued as a consequence of the incorrect or omitted information may be revoked.
- 3.4. This policy has been produced following the Statutory Taxi and Private Hire Vehicle Standards produced by the Department of Transport in July 2020. In every consideration of an application Dorset Council will take regard to these standards, the DfT Best Practice Guidance and IoL - Safe and Suitable, and any updated versions, when making any decisions relating to drivers.

Right to work in the UK

- 3.5. Applicants must provide proof that they have a statutory right to work in the UK and checks will be made with the relevant agencies. Any applicant who has a limited right to work will not be issued a driver licence for a period longer than that limited period. The current list of documents that are acceptable for ID checks is available on the web page¹⁵ as this list may be subject to change in line with any Government requirements.
- 3.6. National insurance numbers will be recorded and shared yearly with the Government as part of the National Fraud Initiative.

¹⁵ [Taxi and private hire licences - Dorset Council](#)

UK Driving Licence

- 3.7. Applicants must be over 18 years of age and have held a full driving licence issued in the UK for at least 12 months. Drivers holding only foreign driving licences must obtain a GB counterpart document, if it is available, or obtain a Full UK driving licence.

Criminal Record Check

- 3.8. A criminal record check on a driver is seen as an important safety measure. Dorset Council require an Enhanced Disclosure and a check of the Adults and Children's Barring Lists to be completed by all applicants for driver's licences. The Council is an approved Disclosure and Barring Service registered body; therefore, applicants must deal with the Disclosure and Barring Service through the Council and the required fee incorporated within the application fee.
- 3.9. The Rehabilitation of Offenders Act 1974 does not apply to applicants for drivers' licences and applicants are required to disclose all convictions, including those that would normally be regarded as spent, as well as arrests, charges or cautions on their application form. Applicants with relevant offences, cautions, charges or arrests or who have failed to declare them on their forms will be referred to a Licensing Sub-Committee for consideration.
- 3.10. Dorset Council is bound by rules of confidentiality and will not divulge information obtained to any third parties or keep copies of any completed criminal record checks after a decision has been made. An applicant for a DBS disclosure will be sent a DBS Certificate to their home address. If there is any content disclosed, they will be required to present the original Certificate to the Licensing Team within 14 days. The DBS Certificate will be used to process the application and then returned to the driver after a decision has been made.
- 3.11. Because of the very strict need for confidentiality for an enhanced check this information cannot be shared with any other department within the Council. If an applicant will be undertaking any School Contract work, they will have to complete checks with that department, this is because the coding under which the DBS check is undertaken is different for a general taxi licence and one for working with children or adults.
- 3.12. Applicants who have been resident in another country for more than three consecutive months will be required to provide a certificate of good conduct from each country within which they have resided.
- 3.13. New DBS disclosures will be required every 6 months once a licence is granted, unless the licence holder subscribes to the DBS update service. If the update service is not subscribed to, Dorset Council will require a new check within 2 weeks either side of the 6-month anniversary of the granting of a licence. These checks will be undertaken by Dorset Council and will subject to a fee.

Driver Knowledge and Suitability Test

- 3.14. A Knowledge and Suitability Test (KaST) will be used to consider the suitability of an applicant for a licence. The content will vary from time to time to reflect any emerging issues. The test will consist of; -
- a discussion about why the applicant wishes to become a driver and how and where they will be working,
 - a formal question and answer element testing that they have a good understanding of the law covering both types of licence, the Highway Code, the conditions that will be attached

to licences, and anything else contained within this policy including the contents of the appendices,

- a geographical element to ensure that they have a good knowledge of the area that they will be working in,
- an English language element to ensure that the driver can communicate with passengers, and,
- a numerical element to ensure that a driver can give the correct change in cash transactions.

3.15. If a person has previously completed a knowledge test and subsequently surrenders the licence and they decide to apply again, a new test will not be required if they re-apply for a licence within 12 months. If more than 12 months has elapsed since the licence was surrendered, or the licence was refused or revoked a new test will have to be undertaken and passed if a new licence is applied for.

Child Safeguarding Awareness Training

3.16. All new applicants for a driver licence will have to have completed a training course as specified by the Council on spotting and reporting signs relating to Child Safeguarding Awareness.

3.17. The training programme will cover the key areas of responsibility for licenced drivers with the overall aim of equipping them with the skills and knowledge to spot the signs of safeguarding and know what to do if they come across anything that may give rise to concerns. The exact nature of the training may change from time to time or if the current provider becomes unavailable.

Driving Proficiency

3.18. The Driving Standards Agency (DSA) provides a driving test specifically designed for hackney carriage and private hire drivers, if an applicant has passed this test or holds an advanced driving qualification, they will not be required to undertake any further test or assessment.

3.19. If an applicant does not hold an advanced driving qualification, they will be required to undertake, and pass, a driving assessment with an approved instructor at their own expense. A full list of approved instructors can be found on the web site¹⁶, and may be updated and changed from time to time.

3.20. If a person has previously completed a driving assessment and subsequently surrenders the licence and then they decide to apply again, a new assessment will not be required if they re-apply for a licence within 12 months. If more than 12 months has elapsed since the licence was surrendered, or the licence was refused or revoked a new assessment will have to be undertaken and passed if a new licence is applied for.

Medical Examination

3.21. Dorset Council requires all applicants to meet the Group 2 Standards of Medical Fitness (as applied by the DVLA to the licensing of lorry and bus drivers) as this is the appropriate standard for licensed hackney carriage and private hire drivers. This is a higher standard of fitness than is required because drivers will be driving for a living and this is the standard that is required for other public transport drivers.

¹⁶ [Taxi and private hire licences - Dorset Council](#)

- 3.22. The medical must be completed using the Council form and must be submitted at the initial application. A fresh medical will be required at every subsequent renewal. All fees for the medical must be met by the applicant. Any medical certificate submitted must be less than one month old.
- 3.23. The medical must be either at the applicant's normal medical practice or by another doctor if, and only if they have access to the applicants full medical record, a summary of that record provided by the applicants doctor or access to an 'App' which holds the medical record. If the medical is carried out by another doctor, we will require applicants to sign a declaration to say they have disclosed all relevant information relating to their health, and the Doctor or health professional completing the form to declare they have had access to the relevant health records.
- 3.24. Licence holders must advise Dorset Council, in writing and within 48 hours, of any deterioration in their health that may affect their driving capabilities.

Cost of a licence

- 3.25. The fee for a licence will be made up of two parts, the application fee which covers the Council's costs in considering the application. This fee is payable in all circumstances and must be made at the time of applying. If a licence is granted there will be an additional licence fee which covers the costs of compliance. Applicants may pay both fees at the time of application and if they are unsuccessful the licence fee element will be refunded, or, they may just choose to pay the application fee initially until a decision has been made regarding the licence, however the licence will not be issued until the remainder of the required fee is received.
- 3.26. Payments should be made by card either online or over the phone. Cheques may be accepted but this may cause delays in issuing licences to allow the funds to clear.
- 3.27. All licences issued will be for a "Combined Driver Licence" that will incorporate licences to drive both types of vehicles. This is because the tests for both type of licence are the same and as licences are issued for three years it allows a licence holder who has been considered as safe and suitable to drive both types of vehicle they wish to during the life of the licence. Dorset Council may grant licences for a lesser period if necessary.

Procedure for applying for a licence.

- 3.28. Applicants for licences will need to complete all the relevant forms, tests, assessments and training before a decision will be taken as to whether they are 'Fit and Proper persons' to hold a licence.

Decisions on Applications

- 3.29. Once the application has been made and all the additional checks and information have been received and if there is no adverse information that is revealed on any of the checks the application will be decided by Licensing Officers under delegated authority.
- 3.30. In any circumstance when information is revealed on checks, or assessments are failed the Council will consider each case on its merits. It will take account of cautions and convictions, whether spent or unspent, but only as far as they are relevant to an application for a licence. If there is content on a DBS or medical form, or when a test has been failed the application will be referred to the Licensing Team Leader or Service Manager in the first instance.
- 3.31. An applicant with a single historical spent conviction or a single motoring offence will be considered by the Licensing Team Leader or the Service Manager with the discretion to refer to a Sub-

Committee if they are not certain whether the revealed conviction poses a threat to the safety of the travelling public.

- 3.32. Any application where more than one relevant offence is revealed or where more than one current motoring conviction exists will be referred to a Sub-Committee for a decision.
- 3.33. Where there is any doubt as to the medical fitness of the applicant or licensed driver, the Council may request more information from the applicant's doctor or may require the applicant or licensed driver to undergo and pay for a further medical examination by a medical professional appointed by the Council.
- 3.34. If there are still concerns about the fitness of any applicant or licensed driver following the first medical or a further medical examination the Licensing Sub-Committee will review the medical evidence and make any final decision considering the medical evidence available.
- 3.35. Licences will normally be granted subject to the model set of conditions; however, these may be supplemented on a case-by-case basis by a Sub-Committee.

Length of Licence

- 3.36. Drivers' licences will be issued for three years unless an applicant specifically requests a one-year licence. Driver's licences will not be issued for shorter periods or for a probationary period.

Refusals

- 3.37. Any refusal to issue a licence will be recorded on the Local Government Association National Register (NR3)¹⁷.

Licensed Drivers

- 3.38. Dorset Council expect that drivers will continue to be 'Fit and Proper Persons' throughout the time that they are licenced. Licenced drivers are expected to
 - Inform us within 48 hours of any criminal charges, convictions, arrests, or cautions
 - Inform us within 48 hours of any motoring convictions (points, fines or bans)
 - Inform us within 48 hours of any significant changes to their health
 - Comply with the conditions of their licence,
 - Always have their ID badges clearly visible whilst they are working,
 - Comply with the Driver's Code of Practice at appendix B covering conduct, dress and cleanliness.
- 3.39. If a licensed driver fails to inform the Licensing Team within 48 hours of any of the above, that failure will be taken into consideration by officers or Sub-Committees when they are required to make decisions about retaining or renewing their licence(s).

DBS check every 6 months or update service

- 3.40. The Statutory Guidance states that DBS checks on drivers should be undertaken every six months so if an applicant or licence holder has not signed up to the DBS update service and fails to complete

¹⁷ [National Register of Taxi and Private Hire Licence Revocations and Refusals \(NR3\) | Local Government Association](#)

a DBS re-check after 6 monthly, then unless there are exceptional circumstance their licence will be suspended on the 7-month date and they will be unable to drive until the check is completed and the certificate returned.

Conditions of Licence

- 3.41. Drivers' licences will be issued with the model conditions attached, these can be found in Appendix D.
- 3.42. Any breaches of the conditions of a licence can be dealt with by a verbal warning, a written warning or being reported to a Sub-Committee. Usually, a stepped approach would be taken. The action that is deemed by officers to be appropriate will take into account the severity of the breach and any history of previous breaches by the licence holder. If the matter is referred to the Sub-Committee, this will take the form of a hearing when the licence holder will be offered the opportunity to address the Sub-Committee before any decision is made.

Drivers Badges

- 3.43. Once granted, a badge will be issued which shall remain the property of Dorset Council and must be surrendered if the licences are suspended or revoked by the Council. The badge shall be always displayed on the driver's person when they are acting as a licensed driver. The display may be around the driver's neck, attached to clothing by a clip, displayed on the dashboard in a holder or worn on the arm of the driver.

Notification of Convictions/Charges/Arrests

- 3.44. Any convictions that are obtained whilst a driver holds a licence will be treated in line with the criminal conviction policy for new drivers. If the taxi team have not been informed of any arrest or charge relating to the conviction this will be considered when considering the offence and may lead to a stronger sanction.
- 3.45. Drivers who are convicted of any criminal or motoring offence or issued with a police caution during the period of their licence must disclose the conviction and the penalty imposed, in writing to the Licensing Team within 48 hours of receiving the caution or conviction. This also applies if drivers are arrested and released.
- 3.46. Each case will be dealt with on its individual merits and in line with the IOL Safe and Suitable which Dorset Council has adopted as it's Criminal Convictions Policy and will normally result in an appearance before a Sub-Committee to decide whether the driver remains a fit and proper person to hold a licence.
- 3.47. Any revocations will be entered on LGA NR3 Register

Notification of Changes to Health

- 3.48. If a licensed driver has any significant changes to their health relating to any of the health conditions that are contained within the current Group 2 Standards contained in the DVLA "Fitness to Drive"¹⁸ they must inform the Licensing Team within 48 hours. The Council will consider any information in line with the medical criteria for licensing group 2 drivers that is current at the time and if that

¹⁸ [Fitness to drive](#)

means that the driver is no longer fit to the Group 2 standard their licence will be suspended until they can meet the standard, as evidenced by information from their doctor or specialist, or have a new medical undertaken by a doctor with full knowledge of the medical history.

- 3.49. Failure to advise the Licensing Team of any medical change may be viewed as evidence of dishonesty and be referred to a Licensing Sub-Committee.

Driver Code of Practice

- 3.50. Anything that serves to enhance the professional image of the hackney carriage and private hire trade and promotes the concept that drivers of licensed vehicles are vocational drivers is to be welcomed. To support this Dorset Council has a Driver Code of Practice, found at Appendix B, this should be read in conjunction with the other statutory and policy requirements set out in this document.
- 3.51. The code sets out the minimum standards Dorset Council considers appropriate in the drivers it licences and includes appearance, behaviour and hygiene.
- 3.52. Any breaches of this code will be treated on its merits and failure to observe the code may lead to a verbal warning, a written warning or a hearing before a Licensing Sub-Committee where consideration will always be given to any history of complaints when the decision as to the course of action that is appropriate in the circumstances.

Renewal of Licences

- 3.53. Although every effort will be made to remind licence holders in the month preceding their expiry, when their licences are due to be renewed, it remains the responsibility of the licence holder to ensure that applications to renew are made at least five working days before the expiry date. Application forms, appropriate fees, and supporting documentation, must be submitted at the time of application. Applicants for renewals will need to ensure appointments for medicals are made well before the expiry date to ensure they are completed in the month before the expiry date.
- 3.54. At every renewal the Council will need to consider whether a driver remains a fit and proper person. For that reason, at every renewal application an applicant will have to undertake: -
- a fresh DBS check unless they have previously signed up to the DBS update service,
 - a new medical,
 - a check of DVLA licence for validity and points and a check of the history of complaints or any warnings that have been issued will be made.
 - Complete a [tax check](#)
- 3.55. It may be that drivers who were previously considered to be fit and proper under previous policies will need to have their applications scrutinised under the new policy. In these cases, consideration will be given to the length of time they have held a licence with the Council.
- 3.56. Any refusals to renew a licence will be entered on the LGA NR3 Register.

Section 4 - Vehicles

Introduction

- 4.1. Under section 47(2) of the Local Government (Miscellaneous Provisions) Act 1976 a council may require any hackney carriage licensed by them under the Town Police Clauses Act of 1847 to

be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage. Vehicle licences will be issued for one year and may be transferred between proprietors on the production of an updated V5 Registration document. Licences are specific to one vehicle and may not lawfully be transferred to a different vehicle.

Type of Vehicle

- 4.2. Dorset Council do not make any stipulation regarding the design and size, or appearance of the vehicles they will licence as either hackney carriages or private hire vehicles. This is due to the large and varied geographical nature of the Council's area.
- 4.3. Dorset Council has signed a climate emergency motion and will welcome applications for any vehicle that is either hybrid or fully electrically powered. In the Weymouth area where there is a restriction on the number of vehicles licensed as hackney carriages, licences for vehicles that are fully electrically powered will not be refused on the grounds that the limit would be exceeded.
- 4.4. Comfort in the vehicles is important and we will therefore licence a vehicle for the number of seats that an average adult can comfortably fit into. Each seat must meet the following criteria; -
 - the distance from the top of the seat cushions to the roof at its lowest point must not be less than 800 millimeters (31.5 inches)
 - each seat must allow at least 400 millimeters (15.8 inches) in width per person.
 - the distance between the rear of the front seats and the squab of the back seat must not be less than 750 millimeters (29.5 inches) to allow enough leg room
- 4.5. The Council will plate the vehicle for the number of adults that can comfortably sit in it and this may be any number between 1 passenger and 8 passengers.
- 4.6. Any vehicle that has previously been licensed for seats that do not meet the seat measurements will continue to be licensed for the life of the vehicle.

Applications for Vehicle Licences

- 4.7. The suitability and safety of a vehicle will be checked to the same standard whether it is the first time it is licensed or whether it has been licensed before. Applicants will have to complete an application form or complete an online application, submit the current MOT, Insurance Certificate and V5 document and pay the relevant fee. No decision will be made until a mechanical Inspection form has been completed by an approved inspector and all the documentation has been supplied.
- 4.8. Any changes or renewals to these documents must be sent by post or email to Dorset Council. Officers may also require sight of such documents during the life of the licence to ensure continuous compliance.

Identification of Licensed Vehicles

- 4.9. The Council does require that there are specific distinguishing marks to ensure that a vehicle can be clearly identified by any person approaching it or using it.
- 4.10. Hackney carriages are required to have; -
 - a roof sign that must be capable of being lit,
 - a rear plate displayed on the outside of the vehicle and

- an internal plate, either on the windscreen in a suitable holder or fixed to the dashboard that is clearly visible from the nearside front of the vehicle

4.11. Private hire vehicles be required to have; -

- a door sticker or magnetised sign with the words “pre-booked only”
- a rear plate affixed to the outside of the vehicle
- an internal plate either on the windscreen in a suitable holder or fixed to the dashboard that is clearly visible from the nearside front of the vehicle

4.12. Private hire vehicles will not be permitted to have a roof sign of any description as this could lead a person to believe they were a hackney carriage.

Mechanical Safety

4.13. All vehicles will have to be mechanically sound, safe and comfortable. Before a licence is considered it will have to have a valid MOT if it is to be a hackney carriage and is more than one year old or more than three years old if it is to be a private hire vehicle.

4.14. Because licensed vehicles will normally do higher mileages than a domestic use vehicle it will have to be inspected and certified by an approved garage within 2 weeks of an application being submitted and before it is licensed. It will thereafter be inspected by an approved garage at the midway point of the licence, and prior to any renewal of the licence being granted.

4.15. All inspections will be carried out to the FTA National Standards¹⁹ or any subsequent National Standards.

Non-driver Proprietors

4.16. Most vehicles will be owned and driven by licensed hackney or private hire drivers, however there is nothing in law to prevent an unlicensed person from applying to hold a vehicle licence. In such circumstances the Council will require the applicant to produce a suitable DBS check to ensure that they are a suitable person to hold such a licence and that public safety is not compromised.

Renewals of Licenses for Vehicles

4.17. All vehicle licences will be issued for one year and the Council will treat a renewal of a vehicle licence in the same way as a new licence and will require the same proof of mechanical soundness, insurance and ownership before a licence will be renewed.

4.18. Renewal applications must be made before the current licence expires, any late renewals will be treated as new applications and the vehicle must not be driven whilst the application is being processed and until the new plate and/or paper licence is issued.

Transfers of Licences

4.19. Transfers of ownership of vehicles must be notified to the Council within 48 hours. There can be no transfer of licences between vehicles as there is no legislative provision for this.

¹⁹ [GetFile.aspx \(logistics.org.uk\)](http://logistics.org.uk)

Condition of Vehicles

- 4.20. The Council expects all vehicles to be kept clean in good condition throughout their life as a licensed vehicle. It is expected that all vehicles will remain compliant and if there is any fault with the vehicle that would be likely to cause it to fail an inspection it will not be used.
- 4.21. Licensing Officers may carry out periodic ad-hoc inspections of vehicles and the Council has adopted a Vehicle Code of Practice, which can be found at Appendix C to assist both proprietors of vehicles and the Officers to make decisions about vehicle standards at this type of inspection.

Accidental Damage

- 4.22. From time to time any vehicle can be involved in an accident. Proprietors of vehicles that have been in accidents must inform the Council within 48 hours of any accident that results in damage that needs to be repaired or is significant.
- 4.23. If the repair is for a prolonged period and when a replacement vehicle will be required, the Council may issue a licence for a temporary vehicle. Replacement vehicles need to be of the same standard as any other vehicle and will therefore be subject to the same process as any new vehicle. However, as they will only be required for a brief time the licence will only be subject to the application fee and will only be valid for 1 month. Should the repair take longer than 1 month, but no more than 6 months, temporary licences will be extended free of charge.

Plate Exemptions

- 4.24. Plate exemptions will only be granted by exception and only if there is a need to remove a plate for matters relating to the safety of the occupant. Exemptions will only be granted if there has been evidence produced that satisfies the Council that there is a real and credible threat to safety of the person(s) travelling.

CCTV

- 4.25. Dorset Council encourages any use of cameras that complies with the Data Protection Principles as laid out by the Information Commissioners Office (ICO)²⁰.
- 4.26 Proprietors should inform the Licensing Team when any cameras are fitted and where it is installed officers may ask to see the Data Protection Impact Assessment (DPIA) that should have been completed before the installation any CCTV and will expect to receive any data relating to any complaint. Any failure to supply footage that is requested may result in a verbal or written warning or the matter may be referred to a Sub-Committee.

Trailers

- 4.27. Trailers are permitted to be used with a licensed vehicle as long as they have been tested by the approved garage and found to be suitable in line with the FTA National Standards²¹ or any subsequent National Standards issued by the DfT.

²⁰ [Installing CCTV? Things you need to do first | ICO](#)

²¹ [GetFile.aspx \(logistics.org.uk\)](#)

Section 5 - Operators

Introduction

- 5.1. As with any other licence the overriding concern is the safety of the travelling public. An Operator's Licence is required to allow a person to take bookings for private hire vehicles. All private hire vehicles must be linked to a licensed operator and owners of vehicles should inform the Licensing Team of any changes to the operator they are affiliated with.

Applications for Operators Licences

- 5.2. Often applicants for private hire operators licences already hold private hire or hackney carriage drivers licences and so have been subject to a number of tests to determine whether they are a fit and proper person, a currently licensed driver who applies to become an operator will not normally be subject to any further DBS checks. If the applicant does not hold a current private hire or hackney carriage licence with Dorset Council, they will be required to produce a basic disclosure certificate from the DBS which will have to be re-checked annually in line with the Statutory Guidance.
- 5.3. Licences will be granted for a period of five years, however they may be suspended if the annual DBS check is not supplied. Applicants may only require a licence for a year and the Council will consider applications for shorter periods on request.
- 5.4. All applicants for operator licences, whether new or renewal, will be asked to produce a copy of their record keeping facilities prior to a licence being issued.

Record Keeping

- 5.5. By law (section 56 LGMP76) operators must keep records and in line with the Statutory Guidance Dorset Council requires that records are kept of:-
 - Name of the passenger
 - Time of the request
 - Pick up point
 - Destination
 - Name of the driver
 - Licence number of driver
 - Vehicle registration
 - Name of person who took the booking
 - Name of dispatcher of the vehicle
- 5.6. New applicants will be expected to demonstrate their record keeping facilities to the Council before a licence is granted and Licensing Officers will routinely inspect the record keeping of all operators. All records will be kept for a minimum of six months and must be produced within 48 hours of any request for production by an authorised officer.

Booking and Dispatch Staff

- 5.7. Operators must keep a register of all their booking staff and all booking staff will be required to have an annual basic disclosure check (DBS).

Use of a Passenger Carrying Vehicle driver or Vehicle to fulfil a booking

- 5.8. The Statutory Guidance clearly states that private hire bookings should not be undertaken by PCV vehicles and drivers as they are not subject to the same level of checks as private hire drivers, any operator found to be using a vehicle that is not a licensed private hire vehicle or a hackney carriage may receive a verbal or written warning or may be referred to a Sub-Committee for consideration of their continuing suitability to hold a licence.

Renewal of Operators Licences

- 5.9. Only a current licence can be renewed so it is imperative that any application to renew a licence is received before the existing licence expires. Any applications received after the expiry date of the previous licence will be treated as a new application and the operator will have to cease operating until such time as the new licence is granted. Renewal notices may be sent out as a courtesy, but it is the responsibility of the licence holder to ensure they renew on time.

Complaints against drivers

- 5.10. Operators are expected to keep a written or computerised record of all complaints in a format that can be produced and shown to a visiting authorised officer on demand, or in a format that can be easily read if the request is by letter or email. We expect operators to report any serious complaints, any complaints that relate to inappropriate behaviour, or any complaints that lead to disciplinary measures. Complaints falling into these categories must be reported to the Licensing Team within 48 hours. All dismissals or any driver leaving their operation should also be reported within 48 hours.

Section 6 - Appendices

Appendix A - Equality Charter

Introduction

This charter has been drafted as a result of stakeholder engagement received when the new Taxi Policy was being developed. We were told that there were still instances, sadly too frequently, of people being refused travel, for example if they had guide dogs or walking aides, this is clearly unacceptable and feedback was that it made those affected feel like “second class citizens”.

This charter will set out the behaviours relating to equality issues that people using taxis in Dorset can expect to see. Any instances where this behaviour is not exhibited by a hackney carriage or private hire driver, or operator will be taken very seriously, and Dorset Council may take any driver falling short of this charter to a Sub-Committee to consider whether they are a “fit and proper” person to continue to hold a licence.

Equality

Equality is not about treating everyone the same – it is about giving everyone the same opportunity to use the taxi service. This means that some people will need more assistance in booking a vehicle, getting into a vehicle and alighting from a vehicle.

Dorset Council will take a three-staged approach to tackling inequality issues in taxis: -

1. Creating a Charter to set out expectations.
2. Working with providers to build a suite of training modules.
3. Developing a small accessibility toolkit to assist people travel comfortably.

This Charter will fulfil the first stage.

Expectations

Every customer, their friends and family, carers, personal assistants and travel companions, should be treated with courtesy and recognition of the diversity of conditions and impairments experienced and the impacts of these. This should be done from the perspective of the Social Model of Disability, which recognises that people are disabled by their environments, in terms of the physical, social and attitudinal barriers which are created by a society which fails to plan for and adapt to the diversity of experiences of individuals and therefore, the duty that services have to remove, as far as possible, those barriers.

Everyone should be treated with recognition that they are unique, without assumptions and a person-centered approach taken. Everyone involved in the customers’ journey, from the council licensing and inspecting operators to booking staff and drivers, should be aware of and sensitive to individuals and their supporters’ needs, without depriving customers of their independence. Time and help should be given freely and offered when appropriate, no-one should be disadvantaged nor left to struggle and aids and adaptations (including assistance or therapy dogs), accommodated willingly and without question.

Customers and their supporters are not defined by their experiences of disability and should not face intrusive or inappropriate questions or comments.

All information, signage and language issues by the Council and taxi operators at all stages must be fully inclusive and appreciate the diversity of customers' experiences, across all nine protected characteristics and the additional characteristics adopted by Dorset Council. This includes disability, gender identity and sexual and romantic identities and it is expected that everyone will feel taxi operators and transport are a safe space for them. Language should be gender neutral, not make assumptions, welcoming and inclusive of people and provide support whenever needed to maintain the safety of people both within and outside the taxi (e.g. as a place of solace and support if at risk of or under threat of physical or verbal harm).

All taxi operators and Dorset Council as the licensing authority, should offer and promote a transparent and accessible feedback and complaints mechanism. The standards of behaviour and treatment customers should rightly expect should be advertised via the booking system they use, whether this by telephone, app, website etc. and in the vehicles themselves. This information should be available in a variety of different formats, to be fully inclusive of people who may have communication barriers. Dorset Council should seek to offer a variety of mechanisms which take account of people's preferences and access issues, including those who are not digitally connected and those who need facilitated access. Feedback should be proactively sought via the same mechanism as is used to book a journey and the council, as the licensing authority, should seek to engage with a range of different community organisations representing diverse experiences, such as Dorset Disability Equality Forum, Help and Kindness, LGBT+ Voices Dorset Forum, Dorset Race Equality Council, Citizens Advice Central Dorset and LGBT+ Dorset Equality Network to name but a few.

Guide and Assistance Dogs

Drivers must take all assistance and therapy dogs unless they have a medical exemption certificate. If a driver has a medical exemption certificate, this should be advised at the point of booking and an alternative be explored if necessary. All customers should be able to decide how and where their dog travels with them.

Booking

When booking a journey, whether by phone, online or app, a checklist/series of questions should be asked to understand and be able to support the passenger's needs as well as possible. It is important this is not left until the driver picks up, so they have all the correct information, are able to support as needed and the vehicle is suitable for the passenger to proceed with their journey without delay/problem.

The driver must pick up this information and reliably use it. Collection of this information needs to be routinised by call handlers and made easily accessible whether booking online or via an app. The "spiel" must not be rushed through but pride incited in call handlers and drivers so they feel upskilled and positive about giving the service. All operators and drivers should be aware of and sensitive to the diversity of conditions people experience and able to respond appropriate to these.

It may not always be appropriate for the passenger to be interacted with directly - they may be uncomfortable or unable to communicate independently. The option to record an alternative contact should be facilitated via all booking methods and utilised if information is needed to be communicated, such as if the taxi is going to be late. This may apply for example in cases where the passenger has dementia or learning disabilities.

Return journeys should be bookable at the point of booking or taking the outward journey, to give reassurance that the person can get back at their chosen time and complete their journey.

Taxis should run punctually and should reasonably be expected to arrive within five minutes of their booked time, especially if it has been pre-ordered and if it is operating under contract from the

council. Unreliability can cause additional problems for passengers with additional needs and carers or supporters who have to deal with high levels of anxiety, distress and/or uncertainty. Contact via the booking method should be routinised if there are any delays or anticipated issues with providing the booked service.

Different payment methods, including cash, should be available as standard, to protect disabled people from potential vulnerabilities associated with different payment types, e.g. sharing card details. The cost of the journey should be made clear at time of booking so clients can have the exact amount of cash ready, if that is the desired payment method.

Booking methods, whether by phone, online or app, must effectively convey all requirements and drivers meet the requirements where agreed.

Boarding

All passengers should reasonably expect to enter a freshly cleaned and safe vehicle, including having interior and exterior door handles and frames wiped down between bookings.

Drivers must not refuse, as often happens, to take people with particular conditions, which results in high levels of distress and the person being stranded. All drivers should willingly and freely assist, for example by opening car doors and dropping passengers off where it is safe, not simply where it is convenient for the driver.

Journey

Drivers should be confident not only of the quickest routes but of the context of a route, to inspire passengers and reduce their anxiety. Space should be respected, as well as preferences to not communicate or ways of communicating. Communication should be compassionate and genuine, without being patronising or condescending.

Getting out the taxi

People may need physical and emotional support getting in and out of taxis and making sure they get to where they need to go. Drop offs should be in a suitable place and the passenger may need taking into the building and/or be handed over to someone else. Drivers should make every effort to drop the client off as near to the venue entrance as possible & they should not be dropped off where a road needs to be crossed. Drivers should be sensitive to people's speed of action and movement and not show any impatience. If the passenger is visually impaired, drivers should give guidance to them as to exactly where they are positioned so that they can be aware of their surroundings.

Appendix B – Driver’s Code of Practice

The Council recognises the valuable service provided by licensed drivers and operators. The following Code of Conduct will be used as a reference when any complaints are received that relate to the conduct of a licensed driver or operator. A driver or operator will always be given an opportunity to respond to any complaint before officers make a decision as to whether a warning is warranted. Serious substantiated reports may result in a hearing before a Licensing Sub-Committee. The Sub-Committee will consider the severity of the misconduct, this code, any previous appearances before them and any other information put to them.

Customer Care

Passengers are entitled to expect a vehicle that is odour free and clean inside and out. This includes the boot or any luggage space.

A vehicle should be kept free of any rubbish.

The driver should always drive in an appropriate manner for their passengers, taking special care if they are vulnerable, old, young, nervous or disabled.

In the event of a pre-booked vehicle being unable to fulfil a booking the driver or operator will be expected to let the customer know as soon as possible to allow for alternative arrangements to be made.

Treating people with courtesy and having a sympathetic manner is very important - especially when dealing with complaints from customers. Drivers and operators are always expected to remain polite and well-mannered towards customers.

Nuisance

Drivers should do their best not to cause a nuisance to their passengers, other drivers or other members of the public. This can include, but is not limited to, sounding a horn to attract a passengers attention, this may annoy others especially if it is early in the morning or repeated every day.

Radios should only be played with the consent of the hirer and should not cause a nuisance to anyone either inside or outside of the vehicle.

Leaving car engines running can cause fumes and noise nuisance, particularly in the middle of a town at quiet times, or if several cars are sitting at the same place at the same time.

If parking a licensed vehicle when it is not in use due consideration should be given to the potential impact on neighbours. Care should be given not to annoy neighbours by blocking other cars in or obstructing the road or driveways.

Inappropriate behaviour

The following behaviours are unacceptable;

- Rude gestures or aggressive or threatening behaviour to other drivers or members of the public,
- Road rage,
- Rude or offensive notes on windows of premises or vehicles,
- Swearing at other drivers or members of the public.

Inappropriate behaviour towards other licensed drivers

It is important that drivers have respect for each other and treat other members of their profession fairly. Complaints of cutting up or blocking other licensed drivers on the rank in order to secure a better position at the rank will be deemed to be inappropriate as will appropriating other drivers pre-booked fares.

Disregarding requests from an Officer of the Council

Disregarding repeated reminders for things like incorrect plate display or producing an insurance certificate could lead to the licence holder being required to attend the Licensing Sub-Committee.

Mobile Phones

Whilst Officers are unable to prosecute drivers for using handheld mobile phones or other devices Dorset Council consider this unacceptable behaviour as it may put the safety of the travelling public at risk. Any sightings by officers or substantiated complaints will be put before a Sub-Committee and or reported to the Police.

Money

If a customer asks for a receipt, drivers are expected to be able to comply with their request.

While the law is quite clear on these points a driver or operator should make sure their passenger knows whether the fare is an agreed fare or will be run on the meter before the journey starts and preferably at the time of booking. Drivers should give a specific figure and not give an estimate as this can lead to disputes and complaints.

Dress

It is not for the Council to tell drivers what to wear, however as Dorset Council licensed drivers a certain level of appearance and hygiene is expected. The wearing of offensive t-shirts, revealing clothing or dirty clothes may offend passengers and should be avoided.

The same goes for tattoos, if there is any possibility that a tattoo could cause offence or upset to any customer it should be covered up.

Should complaints be received a common-sense approach will be taken by Officers and the Sub-Committee as to whether a reasonable person is likely to be offended.

Personal Hygiene

Drivers should maintain high standards of personal hygiene

Appendix C - Vehicle Code of Practice

The vehicle should be maintained to a high standard, with vehicles cleaned and valeted on a frequent basis, especially during times of bad weather.

Exteriors

Vehicles should be clean and free of damage. Cleanliness will be judged on the amount of dried mud on the vehicle, any finger marks on the boot opening, whether the plate and registration number are clearly visible.

The door handles must be fully operational and clean to the touch.

Vehicles should be free from damage, and repairs should be professional and properly finished. This will be judged by the number of scratches and dents that are clearly visible to any passenger about to enter the vehicle.

All lights should be functioning.

All tyres must comply with the legal limits.

Interiors

Vehicle seats should be clean with no stains. Floor and ceiling coverings must be clean and have no stains.

All seat belts should be working and not damaged.

All door and window controls must be operational.

A good proportion of the boot or luggage space should be clean and available for passenger mobility aids, luggage or any other bags.

Child Seats - The law allows a child in a taxi to be carried without the need for a child seat or belt in the back seat. Over 3's should be in the back with a seat belt. [Child car seats: the law: When a child can travel without a car seat - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/child-car-seats-the-law-when-a-child-can-travel-without-a-car-seat)

Appendix D - Driver Licence Conditions

These conditions of licence are made pursuant to Section 51(2) of the Local Government (Miscellaneous Provisions) Act 1976.

Driver Badge

The driver must at all times, when driving a licensed vehicle for hire or reward, wear the driver's badge issued by the Council on a prominent visible place on the outer clothing.

The driver's badge remains the property of the Council. Upon expiry of the licence and badge (whether application to renew has been made or not) the badge must be returned to the Council within 7 days of expiry or other such time as the Council may specify.

The badge must be returned to the Council immediately should the licence be suspended, revoked or becomes invalid for any reason (e.g. on expiry).

Conduct of Driver

The driver must behave in a civil and orderly manner and comply with all reasonable requirements of any person hiring or being conveyed in the vehicle.

The driver must afford all reasonable assistance with passenger luggage as may be required.

At the conclusion of the journey the driver must similarly offer all reasonable assistance to passengers leaving the vehicle and assist them with luggage or any disability aids or wheelchair.

Particular care must be taken with unaccompanied children and vulnerable adults. Drivers must remain alert safeguarding matters related to children and vulnerable adults. Drivers should ensure that children and vulnerable adults leave the vehicle directly onto the kerb and immediately outside their destination (if it is safe and legal to do so).

The driver must take all reasonable steps to ensure the safety of passengers entering or conveyed in or alighting from the vehicle, especially those passengers with a disability.

The driver must not smoke tobacco or like substance in the vehicle at any time as detailed by the Health Act 2006. Drivers should also refrain from vaping or other similar activities in licensed vehicles.

The driver must not, without the express consent of the hirer, drink or eat in the vehicle (water may be drunk) or play any radio or sound reproducing instrument or equipment in the vehicle other than for the sending or receiving messages in connection with the operation of the vehicle.

Standard of Vehicle

The driver must at all times when driving a licensed vehicle ensure that such vehicle is maintained in a roadworthy and clean condition.

The driver of a licensed vehicle must ensure that none of the markings / signs / notices that are required to be displayed on the vehicle become concealed from public view or be so damaged or defaced that any figure or material particular is rendered illegible.

The driver of a private hire vehicle must be in attendance at an appointed time and place punctually unless delayed or prevented by sufficient cause.

Drivers must undertake an inspection of any vehicle that they are driving whilst working as a private hire / Hackney Carriage driver. This inspection must be undertaken at least daily and before the first carriage of fare paying passengers in the vehicle whilst it is being driven by the licence holder. The checks to be carried out by the driver must include all vehicle maintenance items listed in the annex to the Highway Code entitled 'vehicle maintenance, safety and security'.

The driver must ensure that in cases where the vehicle has been fitted with a CCTV system, it is operational at all times that the vehicle is being used as a licensed vehicle (i.e. for the carriage of fare paying passengers). The system does not need to be operational during other times (for example when being used for domestic purposes). Video recording must be active at all times. The driver must not tamper or otherwise interfere with the system or the footage that is contained within it (nor must the driver allow the system to be tampered or interfered with by any person that does not have the council's express authority to do so), except as would be expected in order to operate the system in accordance with the manufacturer's directions.

Fares and Farecards

Drivers of hackney carriages must ensure that the fare card is displayed in a clearly accessible place.

Drivers of a private hire vehicles must ensure that a notice is visibly displayed for the benefit of passengers to the effect that in the absence of a published fare scale, the fare should be agreed between passenger(s) and driver before commencement of the journey.

When a fare scale is used in a private hire vehicle, the driver must ensure that the fare scale is displayed and must give an accurate reflection of the charge, including any specific additions (i.e. Bank Holiday and after midnight loading) the customer may be expected to pay.

The driver must not, if driving a licensed vehicle fitted with a taximeter, or other approved device, cause the fare recorded thereon to be cancelled or concealed until the hirer has had the opportunity of examining it and has paid the fare.

The driver must not demand from any hirer of a private hire vehicle a fare in excess of any previously agreed for that hiring between the hirer and the operator or if the vehicle is fitted with a taximeter and there has been no previous agreement as to the fare, the fare shown on the face of the taximeter.

The driver must, if requested by the hirer, provide a receipt for the fare paid, such receipt to bear the name and the badge number of the driver.

Passengers

The licence holder must not cause or suffer or permit to be conveyed in a licensed vehicle a greater number of persons exclusive of the driver than the number of persons specified in the licence.

The driver must ensure that seat belt legislation is complied with in respect of all children conveyed in the vehicle.

The driver must not, without the consent of the hirer of the vehicle, convey or permit to be conveyed any other person in that vehicle.

The driver must provide all reasonable assistance to passengers and especially those with a disability.

All drivers must comply with the requirements of The Equality Act 2010 duty to assist passengers in Wheelchairs Section 36 of the Disability Discrimination Act 1995 places a duty on the driver of a designated¹ wheelchair accessible Hackney Carriages 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 the wheelchair;
- To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- To give the passenger such mobility assistance as is reasonably required.

Duty to carry guide dogs and assistance dogs

The driver must not fail or refuse to carry out a booking by or on behalf of a person with disabilities who is accompanied by an 'assistance dog' unless the driver has a Medical Exemption granted by the Licensing Authority and is displaying the Exemption Certificate in the approved manner or in the vehicle. Any animal belonging to or in the custody of any passenger should remain with that passenger and be conveyed in the front or rear of the vehicle. Drivers are advised to have a blanket / towel which is kept in the boot of the licensed vehicle to be used where they may have concerns about excess dog hair being left in the vehicle.

Found Property

The driver must, following the setting down of passengers, ascertain if any property belonging to the hirer(s) has been left in the vehicle and if not immediately able to return any such property must follow the guidelines contained within Dorset Police's Found Property Policy, unless an alternative arrangement has been made with the owner of the property. Dorset Police's policy can be found here: <https://www.dorset.police.uk/do-it-online/report-lost-and-found-property/found-property/>

Medical Condition(s)

The licence holder must notify the Council in writing within 48 hours of any change in medical condition.

Convictions, Cautions and Arrests

The licence holder must notify the Council in writing within 48 hours², providing full details of any conviction, binding over, caution, warning, reprimand or arrest for any matter (whether or not charged) imposed on them during the period of the licence.

Disclosure and Barring Service Online Update Service

All licence holders must subscribe to the Disclosure and Barring Service Online Update Service. Any costs associated with maintaining this subscription must be met by the licence holder.

The licence holder must give permission for the council to undertake checks of their DBS status should the council consider it necessary to do so. The council will use the update service to monitor the criminal record of licence holders.

Change of Operator

The licence holder must notify the Council in writing of any change of operator through whom they work.

Change of Address and Email Address

The licence holder must notify the Council in writing/email within 2 working days of any change of their home address or email address taking place during the period of the licence, whether permanent or temporary.

Customer and Other Personal Information

Drivers must ensure that any personal information obtained during the course of their business is stored securely, and only retained for as long as is absolutely necessary. Access to this information must be restricted to those that will use it for the purpose for which it has been collected. Personal information must not be used for any other purpose other than that for which it was collected without the express permission of the individual to which the information relates. For example, telephone numbers provided by customers so that they can be alerted / updated by SMS text message with regard to a booking they have made must only be used for this purpose. The information must not be retained by the driver after the text message has been sent, and / or used for any other purpose (such as unsolicited marketing calls).

Duty to Cooperate on Regulatory Matters

Licensed drivers must co-operate with authorised officers of the council in all matters relating to the regulation of the licensed vehicle trade. However nothing in this condition affects the licence holders statutory protection afforded by other legislation.

Appearance of Driver

If a licensed driver alters their appearance significantly (for example by growing / removing a beard or moustache, changing hair colour etc), they must request a replacement ID badge from the council at the earliest opportunity and supply them with a up to date photograph that is an accurate portrayal of their current appearance.

Accidents

If at any time the vehicle is involved in an accident, however minor, the driver must inform the Council of this fact as soon as possible and in any event within 48 hours (by telephone or email).

Appendix E - Vehicle Licence Conditions

These conditions of licence are made pursuant to of the Local Government (Miscellaneous Provisions) Act 1976 the Town and Police Clauses Act 1847.

The licence holder must observe and carry out the requirements of the Local Government (Miscellaneous Provisions) Act 1976, Part II, and any orders or regulations made thereunder.

Internal and External Licence Plates to be Displayed

The External Plate relating to that Licensed Vehicle shall be fixed to and displayed on the outside body of the Licensed Vehicle. The External Plate must be unobstructed and its contents should be legible from a distance of at least five (5) metres.

The Internal Plate relating to that Licensed Vehicle shall be fixed to and displayed on the left hand internal side of the windscreen of the Licensed Hackney Vehicle in such a position and manner so that there is nothing that covers its surface that would impair its legibility. The Internal Plate must be clearly visible to a person sitting in any rear seat of the Licensed Vehicle and seeking to view the Internal Plate looking either between the front seats or over the top of the passenger side front seat.

Luggage

A roof rack may only be used when excess luggage is to be carried and any luggage so carried shall be safely secured and shall not exceed such weight or size that as can safely be carried on the vehicle.

Before any trailer is used with a licensed vehicle it will have been inspected at one of the Councils approved garages and an inspection form complying with Appendix A of the FTA will have been sent to the Council.

Roof Signs

Licensed Hackney Carriages shall always be fitted with a roof sign indicating that it is a taxi. The roof sign should be on and/or above the roof of the Licensed Hackney Vehicle and will display the word "TAXI" to the front of the vehicle. In addition to the word "TAXI" the front of a Taxi Sign may only display a company name.

At all times that the Licensed Hackney Carriage is available for hire the roof sign will always be illuminated with an internal light source so that it is clearly visible to a person standing no less than five (5) metres from the vehicle.

Private Hire Vehicles must not display any type of roof sign.

Other Signs and Notices, including Advertisements

Any third-party advertisements must be restricted to areas of the vehicle that do not contain important information such as the name of the operator or any identifying licence plates, signs or numbers.

Before any third-party advertisement is displayed on Licensed Vehicles pictures or diagrams of the proposed advertisements and where they will be placed on the vehicle must be submitted to the Council

Any advertisement must not be placed in a position where it would interfere with the identification of the vehicle or obscure window screens or back windows enough to cause a potential hazard or block the view of passengers.

Any advertisement must comply with the British Code of Advertising Practice issued by and amended from time to time by the Advertising Standards Agency so all advertisements must be legal, decent, honest, and truthful. The code can be found here: <https://www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcast-code.html>

No adverts may be displayed that: -

- Involves unlawful prejudice and/or discrimination.
- Promotes smoking.
- Promotes the irresponsible consumption of alcohol.
- Promotes gambling or betting, except licenced or registered lotteries benefiting local good causes e.g. society or local authority lotteries.
- Promotes pornography or adult content.
- Promotes weaponry.
- Promotes payday lenders or financial organisations with punitive interest rates.
- Appears to promote racial or sexual discrimination, or discrimination on the basis of disability, faith, gender or age (or other protected characteristic.)

Additional Equipment

Any Lifting or Pulling Equipment fitted to a licensed vehicle will not be used unless it has been examined in accordance with all legislative requirements relating to that Lifting or Pulling Equipment and is without any defect.

Tyres

A spare wheel tyre appropriate for the vehicle must be carried when the vehicle is being used for hire and reward.

All tyres fitted to the vehicle or carried as a spare must comply with the Motor Vehicles (Construction and Use) Regulations 1986 and Motor Vehicle (Tests) Regulations 1981.

Re-cut and Re-moulded Tyres are not acceptable for M1 passenger vehicles and re-mould tyres shall only be acceptable if they carry a recognised approval marking (currently BSAU144e) and display the following information clearly displayed on each tyre:

- Nominal size;
- Construction type (e.g. radial ply);
- Load capacity; and

- Speed capability Space Saver Tyres.

The carrying and use of Space saver tyres and tyre sealant kits will only be approved with the support of a method statement. The method statement will detail the drivers and vehicle owners responsibility with regard to the maximum permitted speed and restrictions of use and highlight that they are ONLY a temporary measure to complete the journey in which the puncture occurred.

An approved repair to BS AU159 or a replacement tyre must be undertaken before any further fares are carried. Run flat tyres fitted to any vehicle by the manufacturer will not be replaced by any other type or make either individually or all of them. The use of these tyres must be supported by a method statement (such as the manufacturers handbook for the vehicle) specifying the capability and restrictions of use following a puncture. In all cases the Tyre Pressure Monitoring System (TPMS) must be working correctly and if required, be reset when a tyre(s) are renewed ore replaced. Worn or damaged run flat tyres must be replaced by the same make and size.

No smoking

The Health Act 2006 came in to force on 1 July 2007 and from that date it required all enclosed public and work places to be smoke free. This also includes vehicles used for public transport. The legislation covers all hackney carriages and private hire vehicles. Any commercial vehicle carrying members of the public will be required to be smoke free at all times (even when no passengers are being carried).

The legislation requires a manager to ensure all commercial vehicles used to transport members of the public are smoke free. A no smoking sign must be displayed in the vehicle. Electronic cigarettes must not to be used/smoked in hackney and private hire vehicles at any time.

Valid Insurance

A Licensed Hackney Vehicle shall at all times that it is being used as a Hackney Carriage have as a minimum third-party insurance that complies with the requirements of Part VI of the Road Traffic Act 1988, or any other relevant legislation that imposes insurance requirements for motor vehicles.

Alterations

No alterations or modifications shall be made to a Licensed Hackney Vehicle without the prior written consent of the Council.

Inspections

Licensed vehicles will be inspected at an approved garage on the six-monthly anniversary of the date of the grant of the licence. Inspections can be arranged two weeks either side of this date.

Updating details

The licence holder must notify the Council in writing/email within 48 hours of any change of his/her address taking place during the period of the licence, whether permanent or temporary.

The licence holder must notify the Council in writing/email within 48 hours of any change of his/her contact numbers and/or email address taking place during the period of the licence, whether permanent or temporary * The 5 working days excludes a Saturday or a Sunday, Christmas Eve, Christmas Day, Good Friday, Bank Holidays or any other day on which the Licensing Office is closed.

Reporting of accidents

The licence holder must report any accident or damage to the vehicle within 1 day of the incident and provide full details

Appendix F - Operator Licence Conditions

These conditions of licence are made pursuant to of the Local Government (Miscellaneous Provisions) Act 1976 the Town and Police Clauses Act 1847.

All operators must comply with the requirements of The Equality Act 2010.

Record Keeping

Operators will keep records in a suitable book, the pages of which are numbered consecutively, a computer record or other durable recording format of: -

- a) Booking Records
- b) Driver Records
- c) Vehicle Records
- d) Booking and dispatch staff Register
- e) Complaints Records

All records must be kept in a format that can be inspected by an authorised officer or produced to an authorised officer following receipt of a written request for those records. All records must be kept for a minimum of six months.

The Booking Records will include particulars of every booking of a private hire vehicle invited or accepted by him and must include: -

- a) The time and date of the booking
- b) The name of the hirer or passenger
- c) The time of the pick-up
- d) The point of pick-up
- e) The destination
- f) The licence number of the vehicle allocated for the booking
- g) The name of the driver allocated for the booking
- h) The name of any individual who took the bookings (where applicable)
- i) The name of any individual that dispatched the vehicle (where applicable)
- j) Details of any sub-contract.

When the Operator passes the hiring to another company the record shall include the name, address, and Council with which that Operator is licensed. The records must be kept in a format that can be inspected by an authorised officer or produced to an authorised officer following receipt of a written request for those records.

The Driver Records will include a record of the following particulars of all licensed drivers:

- a) The full names of the driver
- b) The permanent address of the driver
- c) The driver's date of birth
- d) The driver's licence (badge) number
- e) The start and expiry dates of the driver's licence issued by the Council
- f) The dates the driver's engagement/employment was commenced and terminated.

All records must be kept in a format that can be inspected by an authorised officer or produced to an authorised officer following receipt of a written request for those records. All records must be kept for a minimum of six months.

The Vehicle Records will contain details of all the vehicles operated and will include; -

- a) The registration number of the vehicle

- b) The number of the identification plate provided by the Council pursuant to s.48(5) of the 1976 Act
- c) The make and model of the vehicle
- d) The name and address of the proprietor(s) of the vehicle
- e) The number of passengers permitted to be carried in the vehicle, as shown on the licence
- f) The start and expiry dates of the vehicle's licence issued by the Council
- g) The date on which the vehicle was added to the operator's fleet
- h) The date on which the vehicle was withdrawn from the operator's fleet.

All records must be kept in a format that can be inspected by an authorised officer or produced to an authorised officer following receipt of a written request for those records. All records must be kept for a minimum of six months.

The Booking and Dispatch Staff Register will record details of all employee who take booking and dispatch vehicles. The Register will include the date that the operator had sight of a Basic DBS check, which must have been completed before any period of employment is started.

The Operator must have a written policy outlining how they will treat any disclosure of information that is revealed on a DBS Certificate.

The operator shall ensure all staff who take bookings and dispatch vehicles have been provided with suitable training in the awareness of and reporting of safeguarding concerns which includes human trafficking, county lines and child sexual exploitation. The operator will keep records for all staff who have received training.

The Complaints Records should contain:

- a) The date of the Complaint
- b) The name and contact details of the complainant
- c) The details of the journey
- d) The details of the complaint
- e) The action taken by the operator in response to the complaint.
- f) The operator shall notify the Council in writing, preferably email, within 48 hours, of any complaints that are either a safeguarding issue or are of a serious nature. Safeguarding issues would be anything that related to a child or a vulnerable adult. Operators should also report any drivers who receive multiple complaints.

All records must be kept in a format that can be inspected by an authorised officer or produced to an authorised officer following receipt of a written request for those records. All records must be kept for a minimum of six months.

Standard of Service

The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose shall in particular: -

- a) Ensure that when a private hire vehicle has been hired to attend at the appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place;
- b) Keep clean, heated, ventilated, and lit any premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting;
- c) Ensure that any waiting area provided by the operator has adequate seating facilities;
- d) Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.

- e) Ensure that all vehicles dispatched by them are always maintained in a safe and roadworthy condition.
- f) Publish a complaint handling procedure, detailing how members of the public may make complaints to the Operator, in respect of any aspect of the service provided, and investigate any complaints received in a timely manner, making details of such complaints and investigations available to authorised Council.

Updating Details

Change of Operator's Home Address The operator shall notify the Council in writing of any change of his/her home address during the period of the licence within seven days of such change taking place.

If an operator wishes to change the base from which they operate they will be required to submit a new application. (Note: all operators' business premises must be within the Dorset Council Boundary).

The operator shall within seven days disclose to the Council in writing details of any conviction or caution imposed on them (or, if the operator is a Company, of any its directors) during the period of the licence.

Public Liability Insurance

Operators shall always have a current valid policy of public liability insurance for any premises they are licensed to operate from if those premises are open to the public.

If the premises are open to the public the Certificate of Insurance must be displayed.

Appendix G – Criminal Conviction Policy

The Full Policy that has been adopted can be found online at [guidance-on-suitability](#)

Foreword

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 be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty. The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one's driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise.

Therefore, this guidance is to be welcomed. It rightly emphasises that any circumstance relating to the licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to licensing authorities as to how they ought to approach their important task of making determinations about the safety and suitability of drivers and operators.

While, of course, licensing is a local function, it seems absurd that precisely the same conduct might result in a short period without a licence in one district, and a much longer period in a neighbouring district. If a driver is suitable in district A, they are surely suitable in district B, and vice versa. If, as is hoped, this guidance becomes widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the system of licensing. Adherence to the guidance may also provide protection to licensing authorities on appeal.

The guidance is therefore commended to licensing authorities. It is hoped that, in due course, it will sit at the elbow of every councillor and officer working in taxi licensing.

Philip Kolvin QC, Cornerstone Barristers

April 2018

Chapter 1 - Introduction

- 1.1 This guidance has been produced by the Institute of Licensing working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation. We are grateful to all three organisations for their contributions. This guidance is formally endorsed by all of those organisations.
- 1.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.4 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.
- 1.5 There is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision. This guidance complements the LGA's Taxi and Private Hire Licensing Councillor's Handbook and any forthcoming Government guidance. Local authorities should also be aware of the forthcoming National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences.
- 1.6 This document is intended to provide guidance on determining suitability, taking into account the character of the applicant or licensee. It can then be used by local authorities as a basis for their own policies: in particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.
- 1.7 A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the

¹ Except vehicle proprietors. In those cases there is no "fit and proper" requirement, but the authority has an absolute discretion over granting a licence.

authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*².

- 1.8 In Chapter 2 this Guidance explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.7 and Chapters 3 and 4.
- 1.9 This Guidance contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.
- 1.10 This Guidance cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and the other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national minimum standards.
- 1.11 In preparing this document the Institute's Working Party has consulted with and considered the issues from all perspectives including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.

² [2007] 1 WLR 2067

Chapter 2 - Offenders and Offending - An Overview

- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'.³ With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.
- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done, is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of re-offending and harm⁴. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

³ DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 8

⁴ Kemshall, H. (2008). Understanding the Management of High Risk Offenders (Crime and Justice). Open University Press

- 2.6 Flaud⁵ noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place⁶.
- 2.7 The National Offender Management Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards static and dynamic factors.
- 2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future⁷. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%⁸. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences⁹.
- 2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity¹⁰. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.
- 2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population¹¹. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

⁵ Flaud, R. (1982). Cited in, Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

⁶ Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

⁷ Craig, L. A. and Browne, K. B (2008). *Assessing Risk in Sex Offenders: A Practitioner's Guide* Paperback.

⁸ Ministry of Justice (2017) *Proven reoffending statistics: July 2014 to June 2015*, London: Ministry of Justice.

⁹ Ministry of Justice (2015): *Transforming Rehabilitation: a summary of evidence on reducing reoffending*. London: Ministry of Justice.

¹⁰ McGuire, J. (2008). A review of effective interventions for reducing aggression and violence. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363(1503), 2577-2597

¹¹ Nash, M. (1999) *Police, Probation and Protecting the Public*. London: Blackwell Press.

Risk of re-offending:

- 2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as “any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual’s ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time”¹².
- 2.12 Kurlychek, 2007 in her study noted that “a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age”¹³.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over¹⁴. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships¹⁵. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males¹⁶.
- 2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist¹⁷. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.
- 2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance¹⁸. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some

¹² National Offender Management Service (2016). Public Protection Manual Edition. Proven Reoffending Statistics Quarterly Bulletin, October 2015 to December 2015

¹³ Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

¹⁴ Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364.

¹⁵ Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

¹⁶ Trueman, C.N. (2015). Women and Crime. The History Learning Site. Ingatestone: Essex.

¹⁷ Farrell, S (2005). Understanding Desistance from Crime: Emerging Theoretical Directions in Resettlement and Rehabilitation (Crime and Justice) Paperback.

¹⁸ Maguire, M., Morgan, R. and Reiner, R. (2002). The Oxford Handbook of Criminology. 3rd Edition. Oxford: Oxford University Press.

ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”¹⁹.

- 2.16 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person’s ability to sustain such change. This can be a long process that can only be achieved over time.

¹⁹ Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

Chapter 3 - 'Taxi' Licensing Overview

- 3.1 Taxis are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver's hands.
- 3.2 Local authorities (districts, unitaries and Welsh Councils) and TfL are responsible for hackney carriage and private hire licensing.
- 3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the DfT *"Taxi and Private Hire Licensing – Best Practice Guide"* para 8 which states:

"The aim of local authority licensing of the taxi and PHV trades is to protect the public."
- 3.4 Within the two licensing regimes, there are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver and private hire operator.
- 3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.
- 3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.
- 3.9 What is the role of each of these, and how do authorities determine an application, or take action against a licence?

Taxi Drivers

- 3.10 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory

criteria to be met before a licence can be granted and many authorities grant “dual” or “combined” licences to cover driving both types of vehicle.

- 3.11 An applicant must hold a full DVLA or equivalent driver’s licence, have the right to work in the UK, and be a “fit and proper” person²⁰.
- 3.12 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.
- 3.13 An applicant must also have the right to remain, and work in the UK²¹.
- 3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.²²
- 3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*²³. Silber J said:

“... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”

- 3.16 This is reflected in a test widely used by local authorities:

‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’²⁴

- 3.17 It is suggested that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.

²⁰ Local Government (Miscellaneous Provisions) Act 1976. Section 51(1) covers private hire drivers, and section 59(1) covers hackney carriage drivers.

²¹ Local Government (Miscellaneous Provisions) Act 1976 S51(1)(a)(ii) in respect of private hire drivers and S59(1)(a)(ii) in respect of hackney carriage drivers.

²² “Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales” - Home Office, 1st December 2016 available at <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

²³ [2002] EWHC 1145 (Admin), [2003] RTR 199

²⁴ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 10.21

3.18 How can a local authority assess and then judge whether or not someone is safe and suitable to hold a drivers' licence?

3.19 The local authority has the power to require an applicant to provide:

“such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”²⁵

This “information” can include any pre-conditions or tests that they consider necessary

3.20 Some of these are universal, such as medical assessments²⁶. Others are required by some authorities, but not others. These include:

- Enhanced DBS certificates and sign-up to the update service;
- Knowledge tests;
- Driving tests;
- Disability Awareness;
- Signed Declarations;
- Spoken English tests.

3.21 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.

3.22 Both 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 declared²⁷) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker²⁸.

3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks²⁹ and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.

²⁵ Local Government (Miscellaneous Provisions) Act 1976 s57(1)

²⁶ See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

²⁷ “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates.

²⁸ See *Adamson v Waveney District Council* [1997] 2 All ER 898

²⁹ “For Taxi [driver] Licensing purposes the correct level of check is always the Enhanced level check, with the Adults and Children’s Barred list check. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2” DBS email 31st August 2017.

- 3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.
- 3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability³⁰.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account³¹. This then leads to the question of whether the stance taken by local authorities is robust enough to achieve that overriding aim of public protection.
- 3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.30 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been)

³⁰ As recommended by the DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 59

³¹ *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199 and *Cherwell District Council v Anwar*[2011] EWHC 2943 (Admin)

to assault another sexually has demonstrated completely unacceptable standards of behaviour.

- 3.31 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.
- 3.32 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.33 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.
- 3.34 As a society, we need to ask the question “who is driving my taxi?” and be secure in the knowledge that the answer is “a safe and suitable person”. The vast majority of drivers are decent, law abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public’s confidence in the trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi drivers. This is detrimental to all involved.

Private Hire Operators

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same

authority³². A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person³³.

- 3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.
- 3.39 Although this is by no means a perfect system, it does give local authorities a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.
- 3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used:
- “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”³⁴
- 3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they

³² See *Dittah v Birmingham City Council, Choudhry v Birmingham City Council* [1993] RTR 356 QBD

³³ Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

³⁴ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 12.35

obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.

- 3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation³⁵. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

Vehicle Proprietors

- 3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.44 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.
- 3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence³⁶ and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.
- 3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.
- 3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be

³⁵ See s57(1)(c) of the 1976 Act.

³⁶ S37 of the 1847 Act in relation to hackney carriages; section 48 of the 1976 Act to private hire vehicles.

satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?"³⁷

³⁷ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 8.98

Chapter 4 - Guidance on Determination

- 4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 4.2 Many members of our society use, and even rely on, hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.
- 4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 4.4 The purpose of this document is to offer guidance on how licensing authorities can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, a policy can be robust, and if necessary, say never, and each case is then considered on its own merits in the light of that policy.

Pre-application requirements

- 4.5 Licensing authorities are entitled to set their own pre-application requirements. These will vary depending upon the type of licence in question but can include some or all of the following (these are not exhaustive lists):

Vehicles:

- Basic DBS checks;
- Specifications e.g. minimum number of doors, minimum seat size, headroom, boot space etc;
- Mechanical tests and tests of the maintenance of the vehicle e.g. ripped seats etc;
- Emission limits/vehicle age limits;
- Wheelchair accessibility requirements.

Drivers:

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;
- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

Operators:

- Basic DBS checks;
- Details of their vetting procedures for their staff;
- Knowledge of the licensing area.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership³⁸) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.

³⁸Section 57(2)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction³⁹. Fixed penalties and community resolutions will also be considered in the same way as a conviction⁴⁰.
- 4.12 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. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 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.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.15 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.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 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.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated

³⁹ This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

⁴⁰ This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

- 4.19 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.
- 4.20 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.
- 4.21 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 4.23 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.
- 4.24 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. 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.

Drivers

- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
- 4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

- 4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

Crimes resulting in death

- 4.29 Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

- 4.30 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 exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence

- 4.31 Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

- 4.32 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 7 years have elapsed since the completion of any sentence imposed.

Sex and indecency offences

- 4.33 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.
- 4.34 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

Dishonesty

- 4.35 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Drugs

- 4.36 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.
- 4.37 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 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

- 4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Motoring convictions

- 4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

- 4.40 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 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 4.41 Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

- 4.42 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not normally be granted until at least 5 years have elapsed since the completion of any sentence imposed.
- 4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not normally be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

- 4.44 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Vehicle use offences

- 4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Private Hire Operators

- 4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.

4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

Vehicle proprietors

4.50 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.

4.51 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.

4.52 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.

4.53 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.

4.54 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

Acknowledgements

In December 2015, the Institute of Licensing established a working party to look at the creation of a model or standard set of guidelines in relation to assessing the suitability of applicants and licence holders in relation to taxi drivers, operators and vehicle proprietors, taking into account the character of the applicant or licensee.

The core project group comprised:

- Stephen Turner, Solicitor at Hull City Council, Licensing Lead for Lawyers in Local Government and Vice Chair of the North East Region IoL (Project Group Chair)
- Jim Button, Solicitor at James Button & Co and President of IoL
- Philip Kolvin QC, Cornerstone Barristers and Patron of IoL
- John Miley, Licensing Manager for Broxtowe Borough Council, National Chair for NALEO and Vice Chair of the East Midlands Region IoL
- Linda Cannon, previously Licensing Manager for Basingstoke & Dean and Hart Councils, and now private licensing consultant and Chair of the South East Region IoL
- Phil Bates, Licensing Manager for Southampton City Council
- Sue Nelson, Executive Officer of IoL

This Guidance is the result of the work of the project team and includes consideration of antecedent history of the applicant or licence holder and its relevance to their 'character' as well as consideration of convictions, cautions and non-conviction information.

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- Ben Atrill
- Suzy Lamplugh Trust
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- Professor of Criminology Fiona Measham, Durham University
- Councillor Philip Evans, Conwy County Borough Council
- Councillors Catriona Morris and Mick Legg, Milton Keynes Council
- Louise Scott Garner
- Jenna Parker, Institute of Licensing

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The Local Government Association (LGA) is the national voice of local government. www.local.gov.uk



Lawyers in Local Government (LLG). www.lawyersinlocalgovernment.org



National Association of Licensing and Enforcement Officers (NALEO).
www.naleo.org.uk

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Local Government (Miscellaneous Provisions) Act 1976

1976 CHAPTER 57

PART II

HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

65 Fixing of fares for hackney carriages.

- (1) A district council may fix the rates or fares within the district as well for time as distance, and all other charges in connection with the hire of a vehicle or with the arrangements for the hire of a vehicle, to be paid in respect of the hire of hackney carriages by means of a table (hereafter in this section referred to as a “table of fares”) made or varied in accordance with the provisions of this section.
- (2)
 - (a) When a district council make or vary a table of fares they shall publish in at least one local newspaper circulating in the district a notice setting out the table of fares or the variation thereof and specifying the period, which shall not be less than fourteen days from the date of the first publication of the notice, within which and the manner in which objections to the table of fares or variation can be made.
 - (b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of fourteen days from the date of the first publication thereof be deposited at the offices of the council which published the notice, and shall at all reasonable hours be open to public inspection without payment.
- (3) If no objection to a table of fares or variation is duly made within the period specified in the notice referred to in subsection (2) of this section, or if all objections so made are withdrawn, the table of fares or variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.
- (4) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the

Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Section 65. (See end of Document for details)

table of fares shall come into force with or without modifications as decided by them after consideration of the objections.

- (5) A table of fares made or varied under this section shall have effect for the purposes of the Act of 1847 as if it were included in hackney carriage byelaws made thereunder.
- (6) On the coming into operation of a table of fares made by a council under this section for the district, any hackney carriage byelaws fixing the rates and fares or any table of fares previously made under this section for the district, as the case may be, shall cease to have effect.
- (7) Section 236(8) (except the words “when confirmed”) and section 238 of the ^{M1}Local Government Act 1972 (except paragraphs (c) and (d) of that section) shall extend and apply to a table of fares made or varied under this section [^{F1}by a district council in England] as they apply to byelaws made by a district council [^{F2}in England] .
- [^{F3}(7A) Section 8(5) and section 19 of the Local Government Byelaws (Wales) Act 2012 shall extend and apply to a table of fares made or varied under this section by a council for a county or county borough in Wales as they apply to byelaws made by a council for a county or county borough in Wales.]

Textual Amendments

- F1** Words in s. 65(7) inserted (31.3.2015) by [Local Government Byelaws \(Wales\) Act 2012 \(anaw 2\)](#), s. 22(2), [Sch. 2 para. 10\(2\)\(a\)](#); S.I. 2015/1025, art. 2(r) (with art. 3)
- F2** Words in s. 65(7) inserted (31.3.2015) by [Local Government Byelaws \(Wales\) Act 2012 \(anaw 2\)](#), s. 22(2), [Sch. 2 para. 10\(2\)\(b\)](#); S.I. 2015/1025, art. 2(r) (with art. 3)
- F3** S. 65(7A) inserted (31.3.2015) by [Local Government Byelaws \(Wales\) Act 2012 \(anaw 2\)](#), s. 22(2), [Sch. 2 para. 10\(3\)](#); S.I. 2015/1025, art. 2(r) (with art. 3)

Marginal Citations

- M1** 1972 c. 70.

Changes to legislation:

There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Section 65.

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LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976,

PART II SECTION 65(2)(a)

FIXING OF FARES FOR HACKNEY CARRIAGES

Dorset Council are proposing that the following Table of Fares which will come into effect on 1 April 2022 for the whole of the district **apart from** the area known as the Weymouth & Portland Zone, which is the area previously covered by Weymouth & Portland Borough Council.

Tariff 1: Day Rate	Chargeable from 7am until 10pm
Initial Charge	£3.00
First Mile	£4.40
Each Additional Mile	£2.80

Tariff 2: Evening Rate	Chargeable from 10pm until 7am
Initial Charge	£4.50
First Mile	£6.60
Each Additional Mile	£4.20

Tariff 3: Day Rate	Chargeable on Christmas Day, Boxing Day, New Year's Day, Plus from 6pm on Christmas Eve and New Year's Eve
Initial Charge	£6.00
First Mile	£8.80
Each Additional Mile	£5.60

Extras	
NO CHARGE FOR ANY ASSISTANCE DOG OR WHEELCHAIR	
Proprietors of Hackney Carriages licensed to carry and actually carrying 5, 6, 7, or 8 passengers are entitled to Charge 1 and ½ times each Tariff.	
For the soiling of the vehicle by the passenger(s) / animals	£100
For each item of luggage, bicycle, perambulator or animal	30p

Detailed Breakdown	Tariff 1	Tariff 2	Tariff 3
Initial distance (All tariffs)	880.03 yards		
Subsequent additional distance units	125.71 yards		
Subsequent additional fare units	20 pence	30 pence	40 pence
Time unit (meter not recording distance)	60 seconds	60 seconds	60 seconds
Each additional time unit	30 pence	40 pence	60 pence

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LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976,

PART II SECTION 65(2)(a)

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Tariff 2: Evening Rate	Chargeable from 10pm until 7am
Initial Charge	£4.50
First Mile	£7.20
Each Additional Mile	£4.50

Tariff 3: Day Rate	Chargeable on Christmas Day, Boxing Day, New Year's Day, Plus from 6pm on Christmas Eve and New Year's Eve
Initial Charge	£6.00
First Mile	£9.60
Each Additional Mile	£6.00

Extras	
NO CHARGE FOR ANY ASSISTANCE DOG OR WHEELCHAIR	
Proprietors of Hackney Carriages licensed to carry <u>and actually carrying</u> 5, 6, 7, or 8 passengers are entitled to Charge 1 and ½ times each Tariff.	
For the soiling of the vehicle by the passenger(s) / animals	£100
For each item of luggage, bicycle, perambulator or animal	30p
Booking Fee for Pre-Booked Journeys	90p

Detailed Breakdown	Tariff 1	Tariff 2	Tariff 3
Initial distance (All tariffs)	704 yards		
Subsequent additional distance units	117.33 yards		
Subsequent additional fare units	20 pence	30 pence	40 pence
Initial waiting time	3 minutes 48 seconds		
Time unit (meter not recording distance)	38 seconds		
Each additional time unit	20 pence	40 pence	60 pence

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