

# Private Hire Licensing Policy

2024-2029



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## Version Control

Version	Description of version	Effective Date
1.0	Final	05/01/2021
1.1	Amended safeguarding section	01/04/2021
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2.0	Review after Best Practice Update	18/11/2024
2.1	Amended Appendix 1 and operator's base location	19/03/2025
2.2	Add paragraph 3.65 in relation to fast-track private hire driver's licence applications	27/05/2026

## Approvals

Approved by	Date
Environment & Development Services Committee	12/11/2020
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## 1 INTRODUCTION

### Powers and Duties

- 1.1 This Statement of Licensing Policy (“the Policy”) is written pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976 (“the Act”), as amended, which places on South Derbyshire District Council (“the Council”) the duty to carry out its licensing functions in respect of private hire vehicles, drivers, and operators.

### Objectives

- 1.2 The private hire trade has a specific role to play in an integrated transport system. The trade are able to provide services in situations where public transport is either not available (for example in rural areas, or outside “normal” hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties.
- 1.3 In setting out this Policy, the Council seeks to promote the following objectives:
- the protection of the health and safety of the public;
  - the maintenance of a professional and respected private hire trade;
  - access to an efficient and effective local transport service;
  - the protection of our local environment.
- 1.4 It is the aim of the Council in this context, to use the licensing powers available to ensure that licensed vehicles in the district are safe, comfortable, properly insured and available where and when required, and that operators and drivers of these vehicles have been sufficiently vetted so as to be considered “fit and proper”.
- 1.5 The Council in composing this Policy has been mindful of the need to justify each requirement against the risk it seeks to address, or objective it seeks to promote. Where the cost of implementing a proposed requirement was not commensurate with the perceived benefit in either of these areas, the introduction of the requirement was not pursued.
- 1.6 In carrying out their regulatory functions, the Council will have regard to this Policy and in particular, the objectives set out above. Notwithstanding the existence of this Policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart substantially from this Policy, clear and compelling reasons will be given for doing so.
- 1.7 The Policy refers to guidance that is available to applicants, drivers and operators to assist them with the application processes and the running of the service. This Policy, relevant application forms and the current fees are available on the Council’s website.

### Background to Policy

- 1.8 The Council gave a commitment to subject the Policy to regular review. Statutory Guidance for Licensing Authorities (“the Guidance”) has been issued by the Department for Transport under Section 177 of the Policing and Crime Act 2017 and internal procedures have been further revised.
- 1.9 There is recognition within the Guidance that unduly stringent licensing requirements are likely to unreasonably restrict the supply of private hire vehicles by increasing the cost of their operation, or by restricting access to the trade. The Council is aware, therefore, that a too

restrictive approach may be detrimental to the public interest and could have adverse safety implications.

- 1.10 In light of this and for the Council to maintain a modern, forward thinking licensing function, the Policy was initially in place in 2014 with a full review completed in 2017. The Policy was further amended in 2019 to incorporate changes introduced by legislation and amendments to criminal record checks and the Conviction Policy. This Policy is intended to ensure that both the trade, public and Officers have a document that fully explains the licensing procedures in a clear and transparent manner. The Policy was amended in 2020 to make changes in line with the Secretary of State's Taxi and Private Hire Standards.
- 1.11 The Department of Transport's Taxi and Private Vehicle Licensing Best Practice Guidance for Licensing Authorities was updated in November 2023. In light of the updated Best Practice Guidance and the changing landscape of the taxi and private hire trade, the Council has undertaken an earlier full review of the private hire service to incorporate the recommendations from the Best Practice Guidance and to modernise the existing service.

### Policy Duration

- 1.11 This Policy will take effect from # for a period of five years.
- 1.12 Prior to the end of the five-year period, a full consultation will be undertaken with a view to publishing a new Policy to take effect no later than the date of expiry of the existing Policy.
- 1.13 The Policy will be kept under constant review and amended as and when necessary to reflect changes in legislation and case law.

## 2 VEHICLES

### Specifications and Conditions

- 2.1 The Council has a wide range of discretion over the types of vehicle that they can license as private hire vehicles.
- 2.2 The Council is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a private hire vehicle licence. Private hire vehicles provide a necessary service to the public, however, it is appropriate to set standards for the external and internal condition of the vehicle and the mechanical fitness of the vehicle.
- 2.3 All private hire vehicles must meet the standards as laid down by the Council with regard to standard of appearance. Vehicles must be right hand drive, be able to carry no more than 8 passengers, have a minimum of 4 doors and must not have an engine capacity of less than 990cc. Vehicles with any unrepaired accident damage, panels of a different colour to the rest of the vehicle, missing trims, dirty or damaged upholstery or generally shabby appearance will not be licensed.

### Appearance of the Vehicles

- 2.4 The exterior of all licensed vehicles must be maintained in a clean, safe and proper manner at all times. In particular, the exterior of the vehicle must:
  - (i) be free of dents;
  - (ii) be free of visible rust;

- (iii) be free of any scratches over 10cm in length;
- (iv) be free of unrepaired accident damage;
- (v) have uniform paintwork equivalent to that applied by the manufacturer;
- (vi) not be missing any exterior trim;
- (vii) have no less than 2mm of tread on each tyre at the time of each depot test.
- (viii) have all 4 hub caps (if part of the original specification) present, matching and scuff free; and
- (ix) be maintained in an acceptable state of cleanliness.

2.5 The interior of all licensed vehicles must be maintained in a clean, safe and proper manner at all times. In particular, the interior of the vehicle must:

- (i) be free of stains to the upholstery including carpets, and door trim;
- (ii) be free of splits and tears to the passenger seats;
- (iii) be maintained in an acceptable state of cleanliness;
- (iv) have no edges or damaged items likely to cause injury to a passenger;
- (v) be free from damp and odour that may cause passenger discomfort; and
- (vi) provide seats functioning in accordance with the manufacturers' specification.

2.5 All drivers of private hire vehicles are required to undertake a walkaround check of the vehicle before it is used for private hire purposes. The driver of the private hire vehicle is required to retain the vehicle checklist as proof that they have undertaken the required vehicle check. Failure to carry out the vehicle checks may result in action being taken against the driver, operator and/or proprietor of the vehicle particularly if the vehicle is found to be defective. A model vehicle checklist is available on the Council's website.

### Liquid Petroleum Gas (LPG)

2.6 An applicant for a licence involving a vehicle that has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming satisfactory installation, examination and testing of the vehicle in accordance with the LPG Industry's Code of Practice. This certification is required to ensure that the vehicle is considered safe by an approved inspector.

2.7 Any licence holder wishing to convert their licensed vehicle to run on LPG must notify the Council prior to any conversion taking place. Once the conversion has taken place, the licence holder must provide the Council with a certificate issued by a member of the LPG Industry confirming satisfactory installation, examination and testing of the vehicle in accordance with LPG Industry's Code of Practice. This certification is required to ensure that the vehicle is considered safe by an approved inspector. The licence will be suspended until the changes have been made. The licence plate must be returned to the Council.

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

### Wheelchair Accessible

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

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

- 2.10 The Council maintains a designated list of wheelchair accessible private hire vehicles placing duties on the drivers of these vehicles under section 165 of the Equality Act 2010 in relation to wheelchair users.
- 2.11 The private hire trade should be aware of a good practice guide produced by the Equality and Human Rights Commission, as private hire operators also have a duty under the Equality Act 2010 to ensure disabled people are not discriminated against or treated less favourably.
- 2.12 The licence holder and all other drivers of wheelchair accessible vehicles must be suitably trained on how to use the equipment in the licensed vehicle and how to handle a person in a wheelchair. A Wheelchair Test Assessment pass certificate will be required for all drivers of the wheelchair accessible vehicle. The pass certificates must be provided to the Council on application and before any additional driver drives the wheelchair accessible vehicle.
- 2.13 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must be tested every 6 months in accordance with the requirements of the relevant legislation. Any such equipment must be maintained in good working order and be always available for use. The certificate must be provided to the Council. Failure to provide an updated certificate before the expiry of the current document will result in the licence being suspended until such a time as a new satisfactory document has been received.
- 2.14 Wheelchair accessible vehicles must be less than 15 years old from the date of registration on initial grant of a private hire vehicle licence. A wheelchair accessible vehicle may continue to be licensed until it reaches 20 years of age provided the vehicle complies with the list at 2.16 below except for (ii) as a MOT pass certificate is required every 6 months for a wheelchair accessible vehicle.

### Age of Vehicles

- 2.15 On the initial grant of a private hire vehicle licence, all vehicles must be less than 15 years old from the date of first registration. The date will be taken from the V5C logbook.
- 2.16 A licensed vehicle may continue to be licensed until it reaches 15 years of age from the date of first registration if it:
- (i) is mechanically tested by the Council Depot every 6 months,
  - (ii) obtains a MOT pass certificate; and
  - (iii) is compliant with the standards of appearance for a private hire vehicle (detailed at 2.3, 2.4 and 2.5 above).
- 2.17 Once a licensed vehicle reaches 15 years old, the licence will not be renewed.
- 2.18 From 1<sup>st</sup> January 2027, all private hire vehicles must be compliant with the EURO 6 emission standards. Emissions testing will take place every 6 months during the Depot test. If a vehicle fails to meet the EURO 6 emissions standards, the grant or renewal application may be refused, or the vehicle licence may be revoked. If the vehicle proprietor is aggrieved by the decision of the Depot any concerns can be raised with the Licensing Department to determine whether the requirements of the Council have been met or not.

- 2.19 All vehicles, regardless of age, must be maintained in an exceptional condition as detailed at 2.4 and 2.5 of this Policy. If a vehicle fails to meet the exceptional condition requirements, the grant or renewal application may be refused, or the vehicle licence may be revoked. If the vehicle proprietor is aggrieved by the decision of the Depot any concerns can be raised with the Licensing Department to determine whether the requirements of the Council have been met or not.

### Vehicle Testing

- 2.20 All vehicles over 3 years of age must have a valid MOT pass certificate upon first application and annually thereafter.
- 2.21 In addition to the MOT testing, the vehicle must also be mechanically tested and inspected by the Council's depot every 6 months.
- 2.22 A valid MOT certificate and compliance test pass sheet must continuously be in place throughout the course of the licence. Failure to provide an updated MOT certificate or compliance test pass sheet before the expiry of the current documents will result in the licence being suspended until such a time as new satisfactory documents have been received.
- 2.23 The licence of any vehicle which fails its inspection requirements will be immediately suspended on public safety grounds until such time as the vehicle has been re-examined and the necessary pass certificates obtained. The licence plate must be returned to the Authorised Officer within 7 days of receipt of the suspension notice. The licence holder must not use the vehicle after they have been served this suspension notice until such time as the inspection requirements are met, the relevant fee paid, and the licence holder is in receipt of a letter confirming that the suspension has been lifted by an Authorised Officer.
- 2.24 Any vehicle licence suspended due to failing to meet its inspection requirements will automatically be revoked two months after the date of suspension in accordance with the Act.
- 2.25 In addition to the above testing requirements, all licensed vehicles must be liable to be randomly inspected and tested by an Authorised Officer. These tests will be undertaken at the Council Offices, or any other location. The tests may be conducted in conjunction with the Police and/or DVSA inspectors. If it is discovered during an inspection that a vehicle is not being properly maintained, a suspension notice may be served under section 68 of the Act on public safety grounds. This notice will specify the defects and the action required to remedy the problem. The vehicle may not be used for private hire work until an Authorised Officer lifts the suspension. The licence plate must be returned to the Authorised Officer within 7 days of receipt of the suspension notice.
- 2.26 Failure to comply with the requirements of a section 68 notice will be considered a serious breach of licensing requirements and dealt with accordingly. If the requirements of a section 68 notice are not rectified within two months, the vehicle licence will be revoked in accordance with the Act.
- 2.27 A re-test fee is payable if the vehicle fails the compliance test at the Depot. A test fee is payable if any test is carried out at the Depot in addition to the two tests included in the vehicle licence fee.

### Alteration of Vehicle

- 2.28 If a licence holder wishes to make any material alteration or change in the specification, design, condition, or appearance of the vehicle then they must notify the Council in writing before any changes are made.
- 2.29 If the vehicle is already licensed, the licence will be suspended while the changes to the vehicle are being made. The licence plate must be returned to the Council.
- 2.30 Once any changes have been made, the licence holder will need to provide the Council with a Confirmation of Compliance notification from the Driver and Vehicle Standards Agency (DVSA).

### Tinted Windows

- 2.31 For safety reasons, it must be possible to be able to observe the driver and the passenger(s) being carried in a licensed vehicle. Many licensed vehicles are used for the carriage of children and vulnerable adults and for this reason vehicles which have tinted windows which prevent clear vision into the vehicle will not be licensed. The minimum light transmission permitted for the wind screen is 75% and all other windows in the licensed vehicle must be 30%.
- 2.32 The only exception to this requirement is for executive type vehicles being used exclusively for executive hire, corporate contracts or work of a similar nature. A request for exemption should be submitted in writing with supporting evidence.
- 2.33 When purchasing new or used vehicles for use as a private hire vehicle, vehicle proprietors are advised to contact the Licensing Department to ensure the vehicle is compliant with the required light transmission values.

### Insurance

- 2.34 A valid insurance certificate must continuously be in place throughout the course of the licence. The insurance policy must cover the licence holder for hire and reward purposes and all drivers of the vehicle for that purpose. Failure to provide an updated insurance certificate before the expiry of the current documents will result in the licence being suspended until such a time as new satisfactory documents have been received.
- 2.35 Any person named on an insurance certificate must be a licensed private hire driver with this Council. The Council will not accept any insurance certificates that name any person other than a licensed private hire driver.
- 2.36 If a licensed driver is added to the insurance policy during the term of the licence, an updated insurance certificate must be sent to the Council as soon as possible.

### Taximeters

- 2.37 It is not compulsory to have a taximeter installed in a private hire vehicle. Where a taximeter is fitted, the licence holder must provide the Council with:
- (i) a calibration certificate.
  - (ii) details of the fare that the meter is set to.
- 2.38 A tariff card must be displayed in the vehicle showing the current fares payable.

- 2.39 The Council will require a new calibration certificate and new fare details each time a licence holder changes the private hire operator that they work for or the fare table changes.

### Accidents

- 2.40 With the safety of the public being a predominate factor of this Policy, all vehicles involved in an accident, collision, or damage, however minor, will be required to complete the Council's accident report form and submit to the Council within 72 hours of the accident. On receipt of an accident report form, the Authorised Officer will carry out an inspection of the damaged vehicle and decide the course of action to be taken in respect of the vehicle.
- 2.41 If the vehicle is not fit for purpose due to accident damage, the vehicle licence will be suspended with immediate effect. The licence holder must not use this vehicle after they have been served this suspension notice until such time as the inspection requirements are met, the relevant fee paid and the licence holder is in receipt of a letter confirming that the suspension has been lifted by an Authorised Officer.
- 2.42 Any vehicle licence suspended due to accident damage will automatically be revoked two months after the date of suspension in accordance with the Act.
- 2.43 The Council will not license vehicles that are categorised as Category S for insurance purposes. The Council will license vehicles that are categorised as Category N for insurance purposes if the vehicle is able to meet all the other licensing requirements detailed in this Policy.

### Signage and Advertising

- 2.44 No licensed vehicle will be permitted to have a roof sign or any other kind of fixing on the roof.
- 2.45 All licensed vehicles must display signs stating the name of the private hire operator, their telephone number, and the statement, "Advanced Bookings Only" on both external sides of the vehicle. The signs should be legible for members of the public to read easily. The signs must be always displayed on the licensed vehicle during the period of the licence.
- 2.46 For any signage in addition to the above, approval must first be obtained from the Council in writing.
- 2.47 Where a licensed vehicle is used by more than one operator the licence holder must ensure that the correct identifying signs are attached to the vehicle when fulfilling any booking.
- 2.48 No signage must include the word "TAXI", "CAB" or the words "FOR HIRE" or combinations of the above, or any other words that are likely to cause a person to believe that the vehicle is a hackney carriage and available for instant hire.
- 2.49 Written permission must be obtained from the Council prior to any commercial advertising being placed on or in the vehicle.
- 2.50 No signage must be placed in or on any of the windows of the licensed vehicle to avoid the driver's view from being obscured.

### Plate exemption

- 2.51 Licensed vehicles are required to display licence plates externally on the rear of the vehicle and a plate in the front windscreen and rear passenger windows. Exemptions may be given

for certain types of private hire vehicle not to display the rear plate, however, a letter of exemption from the Council and the licence plate must be always carried in the vehicle.

- 2.52 Exemption requests must be submitted in writing. Exemptions will only be granted to licensed vehicles used for executive hire, corporate contracts, or work of a similar nature. Evidence will be required before any exemption is granted by the Council. Vehicles that are used for a combination of 'exempt' work and normal private hire work will be required to always display the licence plate when the exemption does not apply.

### Trailers

- 2.53 The Council permits the use of trailers for private hire vehicles. The trailer must meet the requirements set out in the private hire vehicle licence conditions. An application form must be submitted to the Council with the required documentation. The trailer must be tested by the depot. A fee is payable.
- 2.54 Once the application has been received, a plate and licence will be issued. The plate must always be displayed on the rear of the trailer that the trailer is in use. The trailer must only be used with the licensed vehicle that it was presented with at the Depot test.

### Hire Vehicles

- 2.55 A hire vehicle is a vehicle provided to a licensed driver when their own vehicle cannot be used for private hire purposes usually after an accident. This vehicle must be licensed as a private hire vehicle to be used for private hire purposes. Hire vehicle companies license vehicles as private hire and/or hackney carriage with different Licensing Authorities throughout the country.
- 2.56 As a hire vehicle is only used for a short period of time and to avoid any offences being committed under the private hire legislation, a private hire vehicle licence issued to a hire company will be issued for a period of 3 months only.
- 2.57 The Council must be notified in writing as soon as the nominated licensed driver is no longer using the hire vehicle. On receipt of this notice, the private hire vehicle licence will be suspended until notification is received of any new driver. The licence plate must be returned to the Council within 7 days of the date of the suspension notice. The vehicle should not be used for private hire purposes until the licence holder has received written confirmation that the suspension has been lifted and that the proposed driver is a licensed driver with this Authority.
- 2.58 Before any hire vehicle is licensed with any other Licensing Authority, the licence must be surrendered, and the plate returned to the Council.

### Application Procedures

- 2.59 The application procedures for a private hire vehicle licence are prescribed by the Council. Applications must be made on the specified application form in accordance with the application procedure detailed on the Council's website.
- 2.60 The Council will consider all applications on their own merits once it is satisfied that the appropriate criteria have been met and the application form and supporting documents are complete.

- 2.61 Private hire vehicle licences will be issued for a maximum one-year period from the date of grant, subject to the power to grant a licence for a shorter period, should this be appropriate in the circumstances.
- 2.62 A private hire vehicle licence is issued to a specific vehicle, and proprietor, therefore, any change of vehicle or proprietor during the period of the licence would require the relevant application process to be completed.
- 2.63 The Council will undertake to send a renewal reminder to a licence holder's registered address 1 month prior to the expiry date. However, licence holders are reminded that the responsibility to renew a licence in accordance with this Policy remains their responsibility.
- 2.64 An application will not be validated until all the relevant documentation and the fee have been received. Once a valid application has been received, the Council will determine the application within **five** working days.
- 2.65 If the renewal application has not been determined when the existing licence expires, the licence holder must not use the vehicle for private hire purposes until the new licence has been received.
- 2.66 Once the date of expiry of an existing licence has passed and a valid renewal application has not been received, the licence automatically expires. Expired licences cannot be re-instated. A new licence application will be required.

#### Conditions of Licence

- 2.67 The Council is empowered to attach such conditions to a private hire vehicle licence as are considered reasonably necessary. All private hire vehicle licences will be issued with the private hire vehicle licence conditions attached.

#### Non-Standard Private Hire Vehicles (Limousines, Novelty Vehicles and Vintage and Classic Cars)

- 2.68 Stretched limousines are elongated saloon cars that have been increasingly used for mainstream private hire work. The number of stretched limousines being imported, particularly from the United States, has been increasing. Their use generally includes all private hire work plus special occasions such as days at the races, stag/hen parties and children's birthday parties.
- 2.69 A novelty vehicle is a vehicle that has been specially adapted or converted by a low volume specialist vehicle manufacturer or modifier and has been specially modified from its original design or specification. For the avoidance of doubt, any vehicle capable of being licensed as a standard private hire vehicle would not be considered a novelty vehicle.
- 2.70 Due to the nature of the work undertaken by limousines and novelty vehicles, both can be licensed for private hire work providing they carry no more than eight passengers and meet the requirements of the Act. This Council requires that all limousines and novelty cars are licensed if they undertake private hire work. In addition to the requirements for a standard private hire vehicle, the Council will require the following:
- (i) there are no more than 8 seats provided for customers and there is no facility for seats to be added after the licence has been granted.
  - (ii) proof of an Individual Vehicle Type Approval (IVA) test.

(iii) MOT certificate every 6 months.

- 2.71 All applications to license stretched limousines, or novelty vehicles as private hire vehicles will be treated on their own merits. It is, however, proposed that imported stretched limousines, and novelty type vehicles be granted an exemption from the requirement to be right hand drive and from the age restrictions and emissions standards relating to standard private hire vehicles.
- 2.72 Classic and vintage cars will be exempt from the age restrictions and emissions standards relating to standard private hire vehicles so long as they meet the relevant criteria to be licensed as a private hire vehicle.
- 2.73 Once granted, limousines, novelty vehicles, classic and vintage cars will automatically receive an exemption from displaying the external plate. The letter of exemption and plate should be always carried in the vehicle. The internal badge should be always displayed in the interior of the vehicle.
- 2.74 It would be an offence under the Licensing Act 2003 to provide facilities for the sale of alcohol within a limousine, or novelty vehicle. If a limousine is to be provided whereby part of the booking includes “free alcohol”, the premises which accepts the booking and supplies the alcohol within the vehicle would need an appropriate licence under the Licensing Act 2003, otherwise a criminal offence would be committed. Further information on this matter can be obtained from the Licensing Department.

### Dual Plating

- 2.75 The Council will not grant a private hire vehicle licence for any vehicle already licensed by another licensing authority.

### Air Quality Taxi and Private Hire Vehicles Database

- 2.76 The Council provides data to DEFRA in line with the Air Quality (Taxi and Private Hire Vehicles Database) Regulations 2019. The 2019 Regulations were introduced to assist authorities that have Clean Air Zones to differentiate between taxis, private hire vehicles and normal private vehicles to charge the correct fee if a vehicle enters their Clean Air Zone.
- 2.77 It is mandatory for Licensing Authorities to share this data and the data is shared with DEFRA on a minimum weekly basis via a secured portal. The data sent to DEFRA is limited to:
- the vehicle registration mark of the vehicle.
  - the issue date of the licence.
  - the expiry date of the licence.
  - confirmation that the vehicle is a private hire vehicle.
  - licence number.
  - whether the vehicle is a wheelchair accessible vehicle.
- 2.78 At the introduction of the 2019 Regulations, all existing private hire vehicle licence holders were notified that their data would be shared with DEFRA in line with the 2019 Regulations. All new applicants for a private hire vehicle licence are notified via a privacy statement on the application form.

- 2.79 Information will be processed in accordance with the Data Protection Act 2018 (DPA) and General Data Protection Regulation (GDPR). Any provision of data to DEFRA is necessary to comply with the statutory obligation placed on the Council by the 2019 Regulations. Data will be retained by DEFRA for a period of seven years and will not be transferred outside of the UK.
- 2.80 Details of how the Council will deal with requests by other Licensing Authorities for further information about entries on the database will be processed in line with the NR3S legislative requirements (except information will be held for a period of seven years rather than 11 years) As the Council does not have a Clean Air Zone, the Licensing Authority will not be requesting further information from other Licensing Authorities.

### Criminal Record Checks

- 2.81 All vehicle licence holders who are not licensed as a private hire driver or operator with the Council will be required to undertake a basic DBS check on an annual basis. The certificate must be less than one month old when the application is submitted to the Council.

## 3 DRIVERS

### Licences

- 3.1 Under the Act, the Council must be satisfied that an applicant is a fit and proper person to hold a private hire driver's licence.
- 3.2 Private hire drivers are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Private hire drivers should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances, should private hire drivers take the law into their own hands. Private hire drivers are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.3 All private hire driver licences will be issued for a period of three years. A private hire driver's licence may be issued for a lesser period if the Licensing and Appeals Sub-Committee think it is appropriate in the circumstances of the case or the applicant has a time-limited right to work in the UK. In addition, a private hire driver's licence may be issued for a lesser period on request of the applicant.

### Age and Experience

- 3.4 A licence will not be granted to anyone who has not held a full DVLA driving licence for a period of at least twelve months immediately prior to the application.
- 3.5 Driving licences issued by a member state of the European Union or one of the countries in the European Economic Area (EEA) are acceptable providing the applicant has held the licence for at least 12 months. An applicant who meets the licensing requirements by virtue of an acceptable non-UK driving licence must obtain a confirmation of registration document (D9) from the DVLA prior to the issue of the private hire driver's licence, which can be attached to the non-UK driving licence and used by the DVLA to monitor penalty points obtained whilst driving in the UK.
- 3.6 All private hire drivers are required to demonstrate a good level of English in order to fulfil their duties including in any emergency or challenging situations. A good level of English is required for passengers and the driver's safety.

- 3.7 An applicant's level of English will be assessed during the knowledge test appointment by assessing their ability to hold a conversation with the Licensing Officer. If there are any concerns, the applicant will be advised to take steps to improve their English language proficiency. If any concerns are raised by the Licensing Officer, then a further assessment will be carried out during an informal meeting with a Licensing Officer to assess if their English has improved. This will be in the format of a conversation with the Licensing Officer. If there are still concerns over an applicant's level of English when a full application has been submitted, then their application will be referred to the Licensing and Appeals Sub-Committee for determination.

### Driver Knowledge Tests

- 3.8 The Council recognises that private hire drivers require a working knowledge of the District as a whole, and an understanding of the laws and conditions they are required to comply with. To this extent, the Council requires all applicants to undertake a knowledge test.
- 3.9 The knowledge test will consist of:
- (i) Writing a receipt.
  - (ii) Questions on giving the correct change to customers.
  - (iii) Questions on the Council's private hire conditions and Policy.
  - (iv) Questions on the highway code.
  - (v) Questions on the legislation relating to private hire.
  - (vi) Questions on safeguarding.
  - (vii) Questions on disability awareness.
  - (viii) Road signs.
- 3.10 A fee will be payable for each test taken. The test fee will be non-refundable and subject to regular review. If an applicant fails to attend the knowledge test without notifying the Council, the fee paid will be forfeited. A further fee will be required to book on to another test date.
- 3.11 An applicant must achieve an 80% pass rate. An applicant will have 3 attempts to pass the knowledge test. Failure to pass the test on the 3<sup>rd</sup> attempt will result in the application for a private hire driver's licence being rejected and the applicant will not be permitted to sit the knowledge test for one year from the date of the 3<sup>rd</sup> failure.
- 3.12 Any person found to be cheating on the knowledge test will be disqualified from that test and the test paper will not be marked. However, the test will count towards the total of 3 attempts.
- 3.13 The Senior Licensing Officer, in consultation with the Head of Legal and Democratic Services, must be authorised to amend the administration of the knowledge test and to add/delete questions to reflect any changes in legislation or local issues. The administration of the knowledge test will be transparent, and all applicants will be made aware of the current criteria and applicable fees on application.

### Driving Practical Test

- 3.14 All applicants must complete and pass a taxi/private hire assessment course prior to application to ensure they are aware of the hazards of driving. The requirement to take a driving course helps raise the standard of driving and ensure persons are aware of other road users. The applicant must provide a signed copy of the assessment pass certificate before their application can be considered. The pass certificate must be less than 12 months old when submitted to the Council.

- 3.15 With regards to existing licensed drivers, there is no requirement to pass the taxi/private hire assessment test. However, where a driver obtains 6 points or more in a two-year period on their DVLA driving licence, there will be the requirement to pass the test. A maximum time limit of 6 months is allowed to pass the test. A copy of the pass certificate must be provided to the Council. Failure to pass the test within the 6-month period will result in the suspension of the private hire driver's licence until a certificate has been submitted.

#### Disability Awareness Training

- 3.16 To ensure compliance with the Equality Act 2010, the Council requires all drivers to undertake disability awareness training. The training will be provided by an external provider and will be arranged by the applicant. A fee will be payable. If the applicant has undertaken an equivalent training course, they will not need to complete the training if a certificate has been provided to the Council.
- 3.17 For all new applicants, the training certificate must be provided by the applicant within 6 months of the grant of the private hire driver's licence. A copy of the certificate must be submitted to the Council. Failure to complete the course within 6 months will result in the suspension of the private hire driver's licence until a certificate has been submitted.

#### Medical and Eyesight Examination

- 3.18 All drivers are required to provide a prescribed certificate to the DVLA Group 2 medical standards signed by a registered medical practitioner, and a registered ophthalmic practitioner to the effect that they are physically fit to be the driver of a private hire vehicle:
- (i) on initial application.
  - (ii) for medicals, every 5 years\* until the age of 65, and every 12 months thereafter.
  - (ii) for eye tests, every 2 years\* until the age of 65, and every 12 months thereafter.

\* unless the driver is restricted to a shorter period for medical reasons.

- 3.19 The applicant is responsible for the payment of all fees required for any medical or eye examination.
- 3.20 The Council will follow the DVLA Group 2 medical standards when considering the medical fitness of new applicants with insulin dependent diabetes and other illnesses or existing licence holders diagnosed with insulin dependent diabetes or other illnesses during the period of their licence.
- 3.21 A medical and eye test document required under section 3.15 above must be no older than 3 months at the time a valid new driver or renewal application is submitted.
- 3.22 Where there is reasonable doubt over a driver's fitness, the Council may direct the driver for a medical examination by a specified registered medical practitioner at any time. The licence holder will be responsible for the payment of all fees required for any medical examination.
- 3.23 The Council requires all licence holders, who have an illness or injury that affects their fitness to drive, to notify the Council of this fact in writing within 72 hours.

#### Medical Exemption Certificates

- 3.24 Private hire drivers must allow assistance dogs to be carried in their vehicles. Drivers of private hire vehicles have specific duties placed on them by legislation to carry and assist disabled passengers without making, or proposing to make, an extra charge for doing so. However, it is possible to apply for an exemption from carrying assistance dogs and/or providing mobility assistance duties to disabled passengers on medical grounds. To request an exemption, the driver must complete an application form. Medical evidence will be required to support the exemption request.
- 3.25 Once an exemption has been granted, the driver will be issued with a medical exemption certificate. The driver must display a notice of exemption on the nearside of and immediately behind the windscreen of the vehicle. The notice must be displayed in a manner that readily permits its removal. The notice must be displayed so that its front is clearly visible from the outside of the vehicle and its back is clearly visible from the driver's seat of the vehicle.
- 3.26 In the absence of a medical exemption certificate from the Council, it would be a criminal offence for a private hire driver to refuse to carry an assistance dog, to refuse to allow the assistance dog to remain with the passenger throughout the journey, or to make any additional charge for the carriage of the assistance dog. It would be an offence for a private hire driver to refuse the carriage of wheelchair users, fail to provide them with assistance or to charge them extra. This Council takes complaints of this nature very seriously and will look to take action against a private hire driver and/or operator on any complaint received.

#### Disclosure and Barring Service (DBS) Disclosures

- 3.27 Under the Rehabilitation of Offenders Act 1974, private hire drivers are an exempt occupation therefore all convictions even if they are considered spent can be taken into consideration when determining an applicant's fitness and propriety. All convictions, except protected cautions and convictions must be declared on the application form and failure to do so will be treated as a dishonest act.
- 3.28 All applicants are required to obtain a Disclosure and Barring Service (DBS) Enhanced Disclosure upon first application. A check of the barred lists is also carried out by this Council. The applicant or licence holder will be responsible for any associated fees. Please note that the Council will not receive a copy of the DBS certificate therefore the applicant must submit their copy to the Council. No application will be granted until a DBS certificate has been received.
- 3.29 Any applicant who has lived overseas for more than a period of six continuous months since the age of 18 will be required to submit a certificate of good conduct or similar document from the relevant embassy before an application will be considered valid. This certificate must be in English and the applicant will be responsible for any fees incurred in obtaining the certificate.
- 3.30 It is mandatory for all private hire drivers to be signed up to the DBS online checking service. The private hire driver will be responsible for any associated fees.
- 3.31 As all private hire drivers will be signed up to the DBS online checking service, the Council will carry out a criminal record check every 6 months.
- 3.32 In order to carry out an online check, the Council will require the following:
- (i) confirmation of ID in line with a DBS check.
  - (ii) original DBS certificate to an enhanced level including a check of the barred lists and checked to the required workforce.
  - (iii) consent form signed by the driver permitting the Council to carry out an online check.

- 3.33 Please note that if the online check shows that the licence holder has received any convictions or cautions since the issue of the DBS certificate then a new DBS certificate will have to be applied for and obtained. The licence holder will be responsible for any associated fees. The Council may suspend the private hire driver's licence pending the receipt of the DBS certificate.
- 3.34 If the Council is unable to carry out online criminal record check prior to the due date then notification will be sent to the driver so a new DBS certificate can be obtained. The private hire driver's licence will be suspended if a satisfactory check cannot be carried out before the due date.
- 3.35 The licence holder must notify the Council immediately if their subscription to the DBS online checking service lapses. A new DBS certificate will have to be applied for. If the online check is due, then the private hire driver's licence will be suspended until a satisfactory check can be carried out. The Council carries out an automatic check every two weeks to ensure the private hire driver remains signed up to the DBS online checking service.

#### Relevance of Convictions and Cautions upon initial application

- 3.36 Any application containing convictions, cautions, or information considered relevant to the application by the Police will be considered at the time of application in accordance with the Relevance of Convictions section of this Policy in Appendix 1.
- 3.37 In assessing whether the applicant is a 'fit and proper person' to hold a licence, the Council will consider each case on its own merits.
- 3.38 All applications will be referred to the Licensing and Appeals Sub-Committee for determination if an applicant has convictions within the timeframe of the Council's Relevance of Convictions or there is a continual history of convictions.

#### Convictions during any period of licence

- 3.39 The Council requires all licence holders who are interviewed, arrested, receive a Court summons, a notice of intended prosecution or has their vehicle seized by the Police to report this fact to the Council within 48 hours. A representative may fulfil this requirement if the licence holder is unable to.
- 3.40 The Council requires all licence holders who are charged or convicted of a sexual offence, offence involving dishonesty or violence or any motoring offence to report this information to the Council within 48 hours of being convicted or cautioned. The Council requires all licence holders who are subsequently convicted or cautioned for any other criminal offence during the period covered by their existing licence to report this information to the Council within 7 days of being convicted, or cautioned, or receiving a fixed penalty notice.
- 3.41 In the case of a deferred sentence, the penalty must be disclosed to the Council within 7 days of sentencing. Any fixed penalty notice should be reported to the Council upon acceptance of the notice as opposed to when the driving licence has been updated.

#### Right to work

- 3.42 All applicants will be required to submit proof of right to work on initial application. The proof should be submitted at the knowledge test appointment. A list of acceptable documents can

be found on the Council's website. If an applicant is not able to provide proof of right to work, then they will not be permitted to apply for a private hire driver's licence.

- 3.43 From October 2016, all existing drivers were required to submit proof of their right to work in the UK. All right to work checks on existing drivers were completed within one year of October 2016.
- 3.44 Please note that proof of an applicant's and licence holder's right to work will be stored securely on file by the Council as evidence that the right to work check has been completed.
- 3.45 If the right to work is for a limited period then the licence will only be issued up until the expiry of the right to work. The licence holder will be required to submit a renewal application if they wish to continue to work as a private hire driver after this date. Proof of their right to work will be required as part of the renewal application.
- 3.46 If a licence holder's right to work is withdrawn at any time, the licence holder is required to notify the Council immediately. In addition, the Home Office will notify the Council that the right to work has been withdrawn. If the right to work is withdrawn, then the private hire driver's licence will lapse. It is an offence to work as a private hire driver without a valid private hire driver's licence.

### Safeguarding

- 3.47 The Council requires all drivers to undertake safeguarding awareness training. The training will be provided by the Council's approved training partner. The cost of the training is to be paid directly to the provider by the applicant.
- 3.48 For all new applicants, the training must be completed within 6 months of the grant of the private hire driver's licence. A copy of the certificate must be submitted to the Council. Failure to complete the course within 6 months will result in the suspension of the private hire driver's licence until a certificate has been submitted.
- 3.49 All new applicants must complete the classroom-based safeguarding course which lasts approximately 3 hours. Details of the available courses will be provided on our website.
- 3.50 Every licence holder will have to complete refresher training every 3 years in line with the renewal of their private hire driver's licence. An application to renew the private hire driver's licence will not be determined until the refresher training has been completed. A copy of the certificate confirming that the training has been completed must be submitted with the renewal application.

### DVLA Licence Checking

- 3.51 The Council will carry out a check on a private hire driver's complete driving history from the DVLA upon initial application and annually during the period of the licence.

### National Register of Taxi Licence Refusals, Revocations and Suspensions (NR3S)

- 3.52 The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 requires all licensing authorities in England to record certain taxi and private hire driver licensing decisions relating to safeguarding or road safety concerns in a designated database. The National Register of Taxi Licence Refusals, Revocations and Suspensions (NR3S) is the database designated by the Government. The simple objective of NR3S is to ensure licensing authorities are able to make properly informed decision on whether an applicant is 'fit and

proper' in the knowledge that another licensing authority has previously reached a negative view on the same applicant. NR3S provides a mechanism for licensing authorities to establish whether an individual has had a licence revoked, suspended, or an application for one refused and identifies the licensing authority that took action.

3.53 The Council will provide information to NR3 in the following circumstances:

- when a private hire driver's licence application is refused.
- when a private hire driver's licence is revoked.
- when a private hire driver's licence is suspended

3.54 All applications for the grant or renewal of a private hire driver's licence will automatically be checked on NR3S. If a search of NR3S indicates a match with an applicant, the Council will seek further information about the entry on the register from the Licensing Authority which recorded it. Any information received because of an NR3S search will only be used in respect of the specific licence application.

3.55 The information recorded on NR3S itself will be limited to:

- name.
- date of birth.
- home address.
- national insurance number.
- driving licence number.
- name of the licensing authority recording the decision.
- contact information for the licensing authority recording the decision.
- decision taken (but not the reason for the decision).
- date of decision.
- date decision effective.
- the date any subsequent change to the decision was made and the date it takes effect.
- The end date for the suspension of the driver's licence, if relevant.

3.56 Information will be retained on NR3S for a period of 11 years.

3.57 The Council will deal with requests by other licensing authorities for further information about entries on NR3S and about the use of it will make of any further information provided to it in accordance with the 2022

3.58 Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision, or receipt of information of or under NR3S are necessary to the Council's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3S data will be transferred out of the United Kingdom.

### Application Procedure

3.59 The application procedures for a private hire driver's licence are prescribed by the Council. Applications must be made on the specified application form in accordance with the application procedure detailed on the Council's website.

3.60 The Council will undertake to send a renewal reminder to a licence holder's registered address 3 months prior to the expiry date. However, licence holders are reminded that the

responsibility to renew a licence in accordance with this Policy remains their responsibility. Drivers are advised to submit their renewal no less than 28 days before the expiry date to ensure continuity. Any driver with new adverse information on their application form may have their renewal application referred to the Licensing and Appeals Sub-Committee for determination, therefore, the driver is advised to apply for their renewal at least two months prior to their expiry date.

- 3.61 An application will not be validated until all the relevant documentation and the fee have been received. Once a valid application has been received, the Council will determine the application within **ten** working days.
- 3.62 If the renewal application has not been determined when the existing licence expires, the licence holder must not work as a private hire driver until they are in possession of the new licence and badge.
- 3.63 Once the date of expiry of an existing licence has passed and a valid renewal application has not been received, the licence automatically expires. Expired licences cannot be re-instated. A new licence application will be required.

#### Conditions of Licence

- 3.64 The Council is empowered to attach such conditions to a private hire driver's licence as are considered reasonably necessary. All private hire driver's licences will be issued with the private hire driver's licence conditions attached.

#### Fast-Track Application

- 3.65 For those drivers whose South Derbyshire District Council licence expired in the last two years, the Council offers a fast-track application process to becoming a licensed driver. Under the fast-track procedure, an applicant would not need to undertake the knowledge test, practical driving test or disability awareness training if these have previously been undertaken. In addition, the safeguarding course would not be required if the previous certificate is still in date as required by this Policy. The Council can accept a DBS issued from another Council if the DBS certificate is provided as part of the application, the applicant is signed up to the online DBS service and the certificate is to the standard required by this Council. The fast-track application process does not apply to drivers whose licences were revoked or suspended by this Council.

## 4 PRIVATE HIRE OPERATORS

### Requirements and Obligations

- 4.1 Any person who operates a private hire service utilising one or more private hire vehicles must apply to the Council for a private hire operator's licence.
- 4.2 A private hire vehicle may only be dispatched to a customer by a private hire operator who holds a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.
- 4.3 A private hire operator must ensure that every private hire vehicle has a current private hire vehicle licence and is driven by a person who holds a current private hire driver's licence, and that the vehicle is fit for purpose before being used to fulfil a booking. The operator must

ensure that all drivers of a licensed vehicle are named on the insurance policy in place for that vehicle.

- 4.4 An operator must also be able to demonstrate what steps they are taking to ensure that any licensed driver remains a fit and proper person. The operator must be able to demonstrate that they are taking steps to ensure that all private hire vehicles operated by the operator remain fit for purpose to continue to hold a private hire vehicle licence.
- 4.5 All three licences; private hire operator's licence, private hire driver's licence and private hire vehicle licence must be issued by the same Council.
- 4.6 Sub-contracting to other operators licensed by this Council and other Councils is permitted under the Act. It is advised that an operator takes steps to ensure that the operator is licensed along with the driver and vehicle dispatched to carry out the sub-contracted booking. The operator must be able to demonstrate that they have taken steps to ensure that the operator, vehicle, and driver are licensed.
- 4.7 Applications for a private hire operator's licence must be made on the prescribed form, together with the appropriate fee. The Council will decide whether the applicant is a fit and proper person to hold an operator's licence.
- 4.8 Applicants for an operator licence must provide proof that planning permission has been obtained, or that it is not required for the location they wish to license before an application will be considered.
- 4.9 All private hire operator licences will be issued for a period of five years. A private hire operator's licence may be issued for a lesser period if the Licensing and Appeals Sub-Committee think it is appropriate in the circumstances of the case or the applicant has a time-limited right to work in the UK.

### Criminal Record Checks

- 4.10 Private hire operators, that are not licensed drivers, cannot be required to produce an enhanced DBS disclosure. To satisfy the public safety objective, the Council will require a basic disclosure certificate and a certificate of good conduct from the relevant embassy where the applicant has lived overseas for more than six continuous months. The certificate must be less than one month old and be submitted with the application form. Applicants that hold a current private hire driver's licence with the Council will be exempt from this requirement.
- 4.11 A basic disclosure certificate will be required annually from any operator who is not a licensed private hire driver.
- 4.12 If the operator is a limited company, a basic disclosure certificate will be required from all directors and partners of the company on initial application and on an annual basis if these individuals are not a licensed private hire driver. It is a requirement that the Council is notified of any change of director and/or partner within a company in order that a basic disclosure certificate can be obtained from any new individuals. If any of the individuals are not fit and proper to hold a private hire operator's licence then the licence will be referred to the Licensing and Appeals Sub-Committee for consideration.
- 4.13 If the operator employs any ancillary staff to take bookings in person or over the telephone or to dispatch any bookings, a register of all staff that will take bookings or dispatch vehicles must be kept. A basic disclosure certificate will be required from all members of staff who take bookings or dispatch vehicles. These members of staff have access to information about

customers that needs to be protected by way of ensuring that the people in these positions do not impose an undue risk to the public and are not liable to be exploited by criminals. The register of members of staff must be updated by the operator when someone joins or leaves the operator's employment. A basic disclosure certificate should be obtained and provided to the Council on request.

- 4.14 An operator must produce and maintain a policy on employing ex-offenders in roles that are required to be on the register at 4.12 above.

#### DVLA Licence Checking

- 4.15 The Council will carry out a check on a private hire operator's complete driving history from the DVLA upon initial application and annually during the period of the licence

#### Right to work

- 4.16 All applicants will be required to submit proof of right to work on initial application. A list of acceptable documents can be found on the Council's website. If an applicant is not able to provide proof of right to work, then they will not be permitted to apply for a private hire operator licence.
- 4.17 Please note that proof of an applicant's and licence holder's right to work will be stored securely on file by the Council as evidence that the right to work check has been completed.
- 4.18 If the right to work is for a limited period then the licence will only be issued up until the expiry of the right to work. The licence holder will be required to submit a renewal application if they wish to continue to work as a private hire operator after this date. Proof of their right to work will be required as part of the renewal application.
- 4.19 If a licence holder's right to work is withdrawn at any time, the licence holder is required to notify the Council immediately. In addition, the Home Office will notify the Council that the right to work has been withdrawn. If the right to work is withdrawn, then the private hire operator licence will lapse. It is an offence to work as a private hire operator without a valid private hire operator licence.

#### Disability Awareness Training

- 4.20 To ensure compliance with the Equality Act 2010, the Council requires all operators and all staff in customer facing roles and people managing customer delivery to undertake disability awareness training. The training will be provided by an external provider and will be arranged by the applicant. A fee will be payable. If the applicant has undertaken an equivalent training course, they will not need to complete the training if a certificate has been provided to the Council.
- 4.21 For all new applicants, the training certificate must be provided by the applicant within 6 months of the grant of the private hire driver's licence. A copy of the certificate must be submitted to the Council. Failure to complete the course within 6 months will result in the suspension of the private hire driver's licence until a certificate has been submitted.

#### Insurance

- 4.20 Where an applicant has indicated that members of the public will be allowed to enter the bookings office/waiting area, the applicant must produce evidence that they have taken out

appropriate public liability insurance for the premises to be licensed before a private hire operator's licence can be granted.

- 4.21 Adequate employee liability insurance must be taken out for any operator who will employ any licensed driver or any other member of staff prior to any application being determined.

#### Address from which an operator may operate

- 4.22 Upon the grant of a private hire operator's licence, the Council will specify on the licence the address from which the operator may operate. This address will be the address stated on the application form. Proof of ownership or contract of use must be provided to the Council with the application form.
- 4.23 The operator must notify the Council in writing of any change of trading or home address during the period of the licence by submitting the necessary form within 7 days of such a change taking place. The operator must also provide proof of public liability insurance for the new premises, if members of the public will be allowed to enter, proof of ownership or contract of use and proof of planning permission status. A fee will be payable for the change of address.

Note: Operators are reminded that it is their responsibility to obtain appropriate planning, building control or any other relevant permissions in respect of the premises.

#### Bases outside the South Derbyshire District Council Area

- 4.24 The Council will not grant a private hire operator's licence for an operator with an operating base that is outside the South Derbyshire District except for small scale operators (operating no more than 4 cars) who are applying to have their home address licensed as a private hire operator base. The home address must be within a reasonable distance of South Derbyshire District Council. This is to ensure that proper regulation and enforcement measures may be taken by the Council.

#### Renewal of Operator's Licence

- 4.25 The Council will undertake to send a renewal reminder to an operators' registered address 2 months prior to the expiry date. However, operators are reminded that the responsibility to renew a licence in accordance with this Policy remains their responsibility. Operators are advised to submit their renewal no less than 28 days before the expiry date to ensure continuity. Any operator with new adverse information on their application form may have their renewal application referred to the Licensing and Appeals Sub-Committee for determination, therefore, the operator is advised to apply for their renewal at least two months prior to their expiry date.
- 4.26 An application will not be validated until all of the relevant documentation and the fee have been received. Once a valid application has been received, the Council will determine the application within **five** working days.
- 4.27 If the renewal application has not been determined when the existing licence expires, the licence holder must not work as a private hire operator until the new licence has been received.
- 4.28 Once the date of expiry of an existing licence has passed and a valid renewal application has not been received, the licence automatically expires. Expired licences cannot be re-instated. A new licence application will be required.

## Conditions

- 4.29 The Council has power to impose such conditions on a private hire operator's licence as is reasonably necessary. All private hire operators' licences will be issued with the private hire operator's licence conditions attached.

## 5 ENFORCEMENT

- 5.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the private hire trade.
- 5.2 The Council will adhere to the Corporate Enforcement Policy and Associated Guidance to ensure that its enforcement is reasonable, transparent, and proportionate.

## 6 FEES

### Fee Structure

- 6.1 The legislation provides that the fees charged should only cover the cost of administering the private hire licence scheme. This will include the cost of determining and issuing the licences and ensuring compliance with the relevant legislation and conditions attached to the relevant licences.
- 6.2 The fees currently payable for the grant and renewal of private hire licences are set out on the Council's website. The fee structure is reviewed annually as part of the Council's budgetary process.
- 6.3 The setting of fees is the responsibility of the Finance and Management Committee or its equivalent Committee.

### Refunds and Duplicate Copies

- 6.4 In the case of any licence where the licence holder voluntarily surrenders their licence prior to the expiry date, the Council may make a refund in respect of the whole months of the unexpired portion of the licence fee less an appropriate administrative charge.
- 6.5 Any request for a refund must be made in writing and the licence, plate and badge returned to the Council.
- 6.6 In the case of a licence that has been suspended, or revoked, no refund will be made by the Council.
- 6.7 Where the Council receives a request for a duplicate copy of any previously issued licence, an appropriate fee will be paid to cover the associated administrative costs.

## 7 AMENDMENTS TO THE POLICY

- 7.1 Any substantial amendment to this Policy will only be implemented after further consultation with the trade and the public. All substantial amendments must be authorised by the Elected Members of the Environmental and Developmental Services Committee, or its equivalent Policy Committee.

For the purpose of this section, any substantial amendment is defined as one that:

- will have a significant financial impact on licence holders or the public, or
- will have a significant procedural impact on licence holders or the public, or
- may not be perceived by the trade or the public to be consistent with the published objectives detailed in this Policy.

7.2 Any minor amendment to this Policy may be authorised by the Head of Legal and Democratic Services and approved by the Chairman of the Environmental and Developmental Services Committee or its equivalent Policy Committee and the Chairman of the Licensing Committee. For the purpose of this section, any minor amendment is an amendment not defined as substantial in section 7.1 of this Policy.

## 8 RIGHTS OF APPEAL

8.1 The Local Government (Miscellaneous Provisions) Act 1976 details an applicant's right of appeal.

8.2 In general terms, where an applicant is aggrieved by the Council's decision to refuse to grant, or refuse to renew a licence, or the Council's decision to suspend or revoke a licence, the applicant has a right of appeal to the local Magistrates' Court.

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

## 9 CONTACT DETAILS

The Licensing Department can be contacted on the following details:

**In writing:** South Derbyshire District Council  
Council Offices  
Civic Way  
Swadlincote  
Derbyshire  
DE11 0AH

**Telephone:** 01283 221000

**Email:** [licensing@southderbyshire.gov.uk](mailto:licensing@southderbyshire.gov.uk)

## APPENDIX 1

### GUIDANCE ON DETERMINING THE SUITABILITY OF APPLICANTS LICENSEES IN THE PRIVATE HIRE TRADE

#### 1 General

1.1 For the purposes of this Guidance, a conviction is defined as:

- A sentence imposed by a Court;
- A formal caution;
- A fixed penalty notice;
- Community resolution.

Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime.

- 1.2 In all the cases, the Council will consider the conviction or behavior in question and what weight should be attached to it and each case will be determined on its own merits having regard to this Guidance.
- 1.3 This Guidance is the baseline for acceptability and it must only be departed from in exceptional circumstances. Where it is appropriate for the Council to depart from this Guidance, clear and compelling reasons will be given for doing so. The purpose of this Guidance is to formulate guidelines, consistent with national guidance, which detail the Council's position on the relevance of convictions and cautions in respect of applications for the grant of new licences, and the renewal of existing licences, for private hire driver and operator licences. As the Council has the power to suspend or revoke a licence, this Guidance will also relate to the consideration of convictions and/or cautions received during the course of a licence.
- 1.4 The legislation states that the Council may grant a licence only if it is satisfied that the applicant is a 'fit and proper' person.
- 1.5 '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 partnership) is 'safe and suitable' to hold the licence.
- 1.6 In determining safety and suitability, the Council 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 taxi 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. The categories of behaviours described below are introduced as 'offences' which may or may not lead to convictions. Any such behaviours will be taken into account whether or not it resulted in convictions or other sanctions.

- 1.7 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, police decide on no further action (NFA), bailed, released under investigation or where an investigation is continuing) can and will be taken into account by the Council. 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.
- 1.8 In the case of any new applicant who is under investigation or has been charged with any offence and is awaiting trial, the determination may be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the Council to decide what action to take in light of the Guidance.
- 1.9 Any offences committed, or unacceptable behaviour reported whilst driving a taxi or private hire vehicle, concerning the use of a taxi 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 taxi and private hire trades will not be seen as mitigating factors.
- 1.10 As the Council 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.
- 1.11 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.
- 1.12 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 conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
- 1.13 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 (drivers, vehicles and operators) 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.
- 1.14 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.

- 1.15 Although the direct impact on the public varies depending upon the type of licence applied for or held, to maintain public confidence in the integrity of the taxi and private hire licensing regimes, it is suggested that the same standards are applied to all licences, except motoring convictions in relation to a private hire operator.
- 1.16 This Guidance suggests minimum periods of time that should elapse between the date of conviction or completion of the sentence (whichever is later) and the grant of a licence. Those periods are for single convictions. Where a person has more than one conviction, and can be seen as a persistent offender, this will raise serious questions about their safety and suitability. Convictions do become less important over time (hence the time periods) but multiple convictions or continued offending over any period of time will always be of significant concern to a licensing authority. 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.
- 1.17 Where an applicant/licensee is convicted of an offence, or has evidence of unsuitable behaviour, which is not detailed in this guidance, the licensing authority will take that conviction and/or behaviour into account and use these guidelines as an indication of the approach that should be taken.
- 1.18 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. It must be remembered that these are guidelines. It is for each authority to determine and adopt its own previous convictions policy, and then determine applications in the light of that policy.
- 1.19 It must always be borne in mind that these are Guidelines, not fixed periods, and if there are “truly exceptional circumstances”<sup>1</sup> the time periods can be reduced in individual cases. Such instances should only be for “truly exceptional circumstances” and not frequent occurrences. The decision makers must consider each case on its own merits, taking into account all factors, including the need to protect the public, the circumstances and effect of the offence, and any mitigation that has been offered. However, the conviction itself cannot be reconsidered.

## **2. Drivers**

- 2.1 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.
- 2.2 As stated above, where an applicant persistently offends, which shows 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.
- 2.3 In relation to single convictions, the time periods detailed in the following paragraphs should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted. For motoring offences see the paragraphs headed ‘Motoring Offences’ below.

- 2.4 As stated above, the categories of behaviours described below are introduced as “offences” which may or may not lead to convictions. Any such behaviours will be taken into account, whether or not it resulted in convictions or other sanctions.

### **Barred Lists**

- 2.5 A licence will not be granted to a person who is on any barred list.

### **Offences resulting in death**

- 2.6 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.

### **Offences involving exploitation and criminal harassment**

- 2.7 Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment or criminal harassment 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, stalking without violence, but this is not an exhaustive list.

### **Offences involving violence against persons, property, animals or the State**

- 2.8 Violence includes situations where the victim is put in fear, alarm or distress without any physical contact. It is accepted that the concept of “violence” is wide, but any such behaviour will be of concern. This Guidance does not differentiate between different levels of violence. It will be for the licensing authority to determine whether there is any justification for departing from this time period, dependant of the facts of a particular case.
- 2.9 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. Where the offence of violence was committed against child or vulnerable adult a licence will not be granted.

### **Offences involving Public Order**

- 2.10 Where an applicant has a conviction for a public order offence or similar that is not in itself an act of violence, a licence will not be granted for a period of 5 years.

### **Offences involving Possession of a weapon**

- 2.11 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.

### **Offences involving Sex, indecency or obscene materials**

- 2.12 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. This includes any sexual harassment.
- 2.13 In addition to the above, the Council will not grant a licence to any applicant who is currently on the Sex Offenders Register.

**Offences involving Dishonesty**

- 2.14 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.

**Offences involving Alcohol abuse, misuse or dependency**

- 2.15 Where an applicant has any conviction for, or related to drunkenness not in a motor vehicle, a licence will not be granted until at least 5 years have elapsed since the completion of the sentence imposed. If the applicant has a number of convictions for drunkenness and or there are indications of a medical problem associated with possible abuse, misuse of, or dependence on alcohol, the applicant will also be subject to additional medical testing/assessment before the application is considered. If the applicant was found to be dependent on alcohol, a licence will not be granted unless at least 5 years have elapsed since the dependency ceased.

**Offences involving Drugs abuse, misuse or dependency**

- 2.16 Where an applicant has any conviction for, or related to, the production, import, trade in or 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.
- 2.17 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.
- 2.18 If there are indications that an applicant or licensee has, or has had a history of, a medical problem associated with possible abuse, misuse or dependence of drugs, the applicant will also be subject to additional medical testing/assessment before the application is considered. If the applicant was found to be dependent on drugs, a licence will not be granted unless at least 5 years have elapsed since the dependency ceased.

**Offences against Discrimination**

- 2.19 Where an applicant has a conviction involving or connected with discrimination in any form, including non-compliance with the Equality Act 2010, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed. This includes e.g. refusals to carry assistance dogs or to provide mobility assistance.

**Offences involving Regulatory non-compliance**

- 2.20 Regulatory crimes include local authority offences, licensing matters, and other offences prosecuted by other authorities. It also includes matters relating to the administration of justice such as failing to surrender to bail, and any other matter where regulations or requirements have been ignored or broken. These offences demonstrate a lack of compliance with legal requirements which would clearly be a worry in relation to taxi and private hire licensees. Serious consideration would need to be given as to whether they are a safe and suitable person to hold a licence.

**Motoring convictions**

- 2.21 Taxis 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. A single occurrence of a minor traffic offence may not prohibit the grant of a licence or result in action against an existing licence. Subsequent convictions suggest the fact that the licensee may not take their professional responsibilities seriously and may therefore not be a safe and suitable person to be granted or retain a licence.
- 2.22 Where an applicant has a conviction for drink driving or driving under the influence of drugs or failing to provide a specimen in relation to a driving matter, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. With drug offences, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 2.23 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any disqualification imposed, whichever is the later.
- 2.24 Penalty points applied to a DVLA driving licence remain active for either 3 or 10 years, which may be from the date of the offence or the date of conviction depending upon the offence. They may be removed from the licence after 4 or 11 years. That action does not negate the offence that led to the points being imposed. Penalty points (and the underlying offence) will be relevant and taken into consideration for 4 or 11 years from the date of the conviction, or the date of the offence depending on the type of offence.
- 2.25 Any offence which resulted in injury to any person or damage to any property (including vehicles), or any insurance offence then a licence will not be granted until at least 7 years have elapsed since the completion of any sentence.
- 2.26 Any driver who has accumulated 12 or more points on their DVLA licence and has not been disqualified under the totting up procedure by a court as a result of making exceptional hardship arguments shall not be able to advance such arguments before the Council as they are not a relevant consideration in determining what action the authority should take. Any such driver will not be licensed for a period of 5 years from the date of the accumulation of 12 or more points.
- 2.27 Any driver who has been disqualified as a result of “totting-up”, which erases the points when the licence is restored, will not be licensed for a period of 5 years from the date of the disqualification. Other disqualifications will need to be investigated, the reasons ascertained, and a decision will be based on the results of that investigation.
- 2.28 Drivers who commit parking, obstruction and other such motoring offences that do not attract penalty points are not displaying a professional approach to their work. Persistent offenders should be reported to their licensing authority who may consider a period of suspension depending on the severity and frequency of the incidents reported.

### **Behaviours**

- 2.29 Driver behaviours that fall short of criminal behaviour but are indicators of more sinister behaviour need to be addressed to maintain confidence in the taxi trades and to stop unwanted behaviours before they evolve into criminal acts.
- 2.30 Behaviours such as:

- Asking a passenger for their contact or social media details
- Asking personal or intimate questions
- Inappropriate physical contact with passengers or invade their personal space
- Inappropriate conversations, questions or behaviour

This is more important if the passenger is a lone vulnerable individual.

- 2.31 Except in the most serious of cases, drivers should be given a warning in the first instance, if appropriate sent on refresher safeguarding training and explained how the behaviour may be perceived by a vulnerable passenger.
- 2.32 If the behaviour, on the balance of probability, is repeated and considered to be predatory in nature then any applicant should not be licensed.
- 2.33 Where an applicant or licence holder has a conviction for an offence contrary to any legislation relating to taxi or private hire activity not covered elsewhere, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **3. Private Hire Operators**

- 3.1 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.
- 3.2 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.
- 3.3 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 Council’s overall criteria, that will lead to the operator’s licence being revoked.
- 3.4 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, except motoring offences to recognise the operator is not connected with the use of a vehicle, which are outlined above.

### **4. Vehicle proprietors**

- 4.1 Vehicle proprietors (both taxi and private hire) have two principal responsibilities.
- 4.2 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 4.3 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 4.4 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.

- 4.5 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.