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**To all; Drivers and Private Hire  
Operators**

Thursday, 27 May 2021

Dear Sir/Madam,

**\*\*IMPORTANT INFORMATION – PLEASE READ\*\***

## **HACKNEY CARRIAGE/PRIVATE HIRE NEWSLETTER**

Welcome to the eleventh edition of the Hackney & Private Hire Newsletter for Charnwood.

The Charnwood Licensing Team have developed this newsletter, following a number of requests by the local taxi trade to keep them up to date with the latest legislation and Government/Council policy changes that affect you.

**A BIG THANK YOU !** - 2020/2021 has been a tough year for all of us and the Licensing staff would like to thank you for your patience and facing the challenging times that life has thrown at us all whilst adjusting to the pandemic. Hopefully we are beginning to see the return to some normality.

### **Covid 19 Taxi Guidance Updated**

The Government has updated the Covid 19 Guidance for taxi drivers following the move to step 3 of the Roadmap. The guidance can be found at the following link

[Coronavirus \(COVID-19\): taxis and PHVs - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/coronavirus-covid-19-taxi-and-phvs)

### **\*\* This affects you \*\* - The Hackney Carriage and Private Hire Licensing Policy has been amended for the DfT 'Statutory Taxi and Private Hire Vehicle Standards'**

In July 2020 the Department of Transport (DfT) introduced new guidance document, the 'Statutory and Private Hire Vehicle Standards' (The Standards) which replaced the relevant sections of the Best Practice Guidance issued by the Department of Transport in 2010. Where there is a conflict between the two documents, the 'Standards' take precedence.



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The DfT expects these recommendations to be given consideration, implemented and adopted within any existing hackney carriage and private hire policy that local authorities have unless there is compelling local reason not to.

The 'Standards' were considered alongside Charnwood's existing Hackney Carriage and Private Hire Licensing 2020 Policy by the Licensing Committee on the 16<sup>th</sup> February 2021, and were asked to approve policy changes prior to consultation with the public and trade.

A consultation email and letters (where no email address was held by the Licensing Section) were sent to all licensed Charnwood drivers and Private Hire operators dated the 25<sup>th</sup> February explaining the new Dft Statutory guidance, explaining the guidance set out core minimum standards that all licensing authorities were expected to meet in order to safeguard vulnerable passengers and increase safety for the travelling public in general.

The email and letter included a hyperlink to access the 'Statutory Guidance on Taxi and Private hire Vehicle Standards' and a link to a Council web page which included the proposed draft policy and a list of the proposed changes. A hard copy could also be requested from the licensing section.

The consultation email and letter advised that any comments were to be received in writing by the Licensing Section by 4.00pm on the 26<sup>th</sup> March 2021.

Please be advised that no comments, positive or negative, were received within the Consultation period.

Therefore the following changes in line with 'the Standards' have been made to the existing Charnwood Hackney Carriage and Private Hire Licensing Policy and come into effect **1<sup>st</sup> June 2021**;

## **1. Review of Policy**

The current Hackney Carriage and Private Hire Policy is reviewed every three years. The DfT Standards recommends that licensing authorities should review their licensing policies every 5 years, but that interim reviews should be considered if significant issues arise in their area. The Policy will be reviewed every 5 years with interim reviews as required.

## **2. Whistleblowing**

A new section at 1.9 of the Policy has been added relating to whistleblowing enabling licensed drivers to feel confident reporting issues to their operator or the Licensing section which may be contrary to the Law whilst protecting their identity and giving a link to the GOV.uk website for advice.

## **3. Fit and Proper**

Under the heading of Fit and Proper Person Test at page 12 of the Policy additional items added to the list take into consideration when assessing the suitability of an applicant or licence holder such as the reasons for any entry on the NR3 register, whether they satisfy the harm test.

An additional sentence has also been added next to Police within this section to advise the use of Common Law Police Disclosure to obtain details on an applicant if they have been arrested, bailed, not charged or suspected of being involved in an offence. (Previously the Notifiable Occupation Scheme).

4. Under Driver Conduct , section 2.5 under the heading '**Convictions**' an additional sentence has been added to advise that 'licence holders are required to notify the Licensing Section within 48 hours of an arrest and release charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence'.
5. At point 2.11 of the policy an additional sentence has been added to advise that 'In the interests of public safety, Charnwood will not issue a licence to any individual that appears on either barred list'.

A further sentence has been added to advise that 'a decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult will be referred to the Disclosure and Barring Service (DBS) The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role.'

## 6. **DBS**

Since the 1<sup>st</sup> April 2020 it is a condition of licence that all new applicants and existing drivers on renewing their DBS are required to subscribe to the DBS update service. The DFT Standards at point section 6 states that '*All licensed drivers are required to maintain continuous registration with the DBS update service to enable the licensing authority to routinely check for new information **every 6 months**. Drivers that do not subscribe to the update service will still be subject to a check every 6 months*'.

This would mean that any driver failing to sign up to and maintain continuous registration to the DBS Update Service would be required to complete a new DBS application every 6 months with the licensing section. Each enhanced DBS application currently costs £40.00 opposed to the £13.00 annually to maintain the Update Service.

## 7. **Knowledge Test**

A lack of language proficiency could impact on the driver's ability to understand written documents, such as policies and guidance. Oral proficiency will be of relevance in the identification of potential exploitation through communication with passengers and their interaction with others. The 'Standards' recommends that a licensing authorities test of a drivers proficiency should cover both oral and written English Language Skills to achieve these objectives.

The Council's current Knowledge test is a written paper only and has not been carried out during the Coronavirus Pandemic. Due to Covid this is to be reviewed as to how this can be delivered in the future and an oral and written aspect will be introduced.

## **8. Vehicle Proprietors**

As with driver licensing, the objective of a vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have not links to serious crime. Although vehicle proprietors may not have direct contact with passengers they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Enhanced DBS and barred list checks are not available for vehicle licensing, only licensed drivers. The 'Standards' recommends criminality checks for vehicle proprietors (owners), in the form of a 'basic' disclosure from the DBS and that the check is undertaken every 6 months. This would not be required for those that are already a licensed driver. A new section on Vehicle Proprietors (owners) has been added at Section 3 of the policy to advise that any vehicle proprietor (owner) who is not a licensed driver with Charnwood will require a Basic DBS certificate.

## **9. CCTV**

The 'Standards' recommends that all licensing authorities should consult to identify if there are local circumstances which indicate that the mandating of installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicles including children or vulnerable adults and taking into account potential privacy issues.

No negative or positive comments in respect of CCTV were received.

Currently the Policy at Section 3, point 3.20 advises the trade that CCTV can be a valuable deterrent but does not request CCTV to be a mandatory requirement of the licensing regime, as it is considered best to be left to the judgement of the owners and drivers themselves.

This is to remain as is and kept under review.

## **10. Private Hire Operators**

Enhanced DBS and barred list checks are not currently available for private hire vehicle operator licensing. Under the current licensing policy every applicant for a private hire operator's licence (unless they are already currently a licensed driver with the Council) is required to complete a Basic DBS check and a Statutory Declaration every 3 years. A Basic Disclosure only shows an unspent conviction which is why a statutory declaration is requested, signed by a solicitor.

The 'Standards' state that licensing authorities should require a basic disclosure form from the DBS annually. This would not be required for an applicant already licensed as a driver with the Council.

The policy has been changed to advise that a DBS Basic Disclosure will be required annually from each director etc. that isn't a licensed driver.

## **11.0 Booking and Dispatch Staff.**

The 'Standards' Section 8.8, pg.30 recommend that all licensing authorities should, as a condition of granting an operator's licence, require a register be kept of all staff, that will take bookings or dispatch vehicles.

An additional section has been included within the Policy at Page 56, point 4.14 under the heading 'Conditions of Licence' entitled 'Booking and Dispatch Staff' that states;

'Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that has contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.

Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff, that have contact with the public and/or oversee the dispatching of vehicles, does not pose a risk to the public. It is a condition of granting an operator licence, that you are required to keep an up to date register of all staff that will take bookings or dispatch vehicles.'

### **Basic DBS Disclosure for Booking and Dispatch Staff.**

The 'Standards' recommends that Private Hire Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff.

Under the additional heading of 'Booking and Dispatch Staff' an additional paragraph has been added that states;

'Any staff listed on their register of 'booking and dispatch staff' should have provided, as part of their employment contract, a recent Basic DBS Disclosure. These checks should be conducted on any individuals added to the register and are compatible with the company's policy on 'employing ex-offenders.

A record that the operator has had sight of a basic DBS certificate should be stated and retained for the duration that the individual remains on the register (the actual certificate itself should not be retained by the operator).

When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract to advise the operators of any convictions while they are employed in the role’.

Should a member of booking and dispatch staff leave and return a new DBS certificate is required and a record made that the new DBS certificate has been seen.

The register is required to be a ‘living document’ that maintains records of all of those in the role of booking and dispatch staff for the same duration as booking records are required to be kept, i.e. 6 months.

Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Should they choose to outsource these functions they should require evidence that comparable protections are applied by the company to which they outsource their functions.’

## **Employing Ex-Offenders Policy**

The ‘Standards’ recommends that on application, Private Hire Operators should be required to provide to the Licensing Authority a copy of their policy on employing ex-offenders in roles of ‘Booking and Dispatch Staff.’

Under the additional heading of ‘Booking and Dispatch Staff’ an additional paragraph has been added that states every applicant for an Operator’s licence, on applying and on renewal, will be required to provide a copy of their policy on employing ex-offenders in roles of ‘Booking and Dispatch Staff.’

The Council’s operator application form will be amended to include this on the application check list.

## **12. PSV Vehicles and PCV Drivers**

The DfT ‘Standards’ covers the use of Passengers Carrying Vehicles (PCV) licensed drivers.

PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator, that they will receive a private hire vehicle licensed vehicle and driver.

An additional section is to be included within the Policy at Page 57, point 4.15 under the heading ‘Your duties as an operator’ entitled ‘PSV Vehicles and PCV drivers’ that states;

‘The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator’s licence without the informed consent of the booker.

Where a private hire vehicle is unsuitable , for example where a larger vehicle is needed because more than 8 passengers seats are required or to accommodate luggage, the booker should be informed that a PSV is necessary and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS.'

### **13. Enforcing the Licensing Regime**

The 'Standards' states that where the need arises, licensing authorities can jointly authorise officers from other authorities so that compliance and enforcement can be taken against licensees from outside the area.

If the need arises this is something that all Leicestershire Councils would need to consider and a suitable protocol and authorisations would need to be agreed at that time.

### **14. Section 6 of the Policy**

Section 6 of the policy entitled 'How to apply' has been removed from the Policy as the processes for renewal drivers and grant/renewal plates have changed and continue to evolve.

Licensing advice can be obtained by contacting [licensing@charnwood.gov.uk](mailto:licensing@charnwood.gov.uk). The Councils web pages and driver/vehicle instructions will also be updated

Please be aware that it is hoped that licensing processes will continue to develop and move more online with potentially a new licensing database being introduced.

This will take time, alongside day to day work, please be patient and bear with the licensing team.

## **New Legislation Change in 2022**

### **Tax Conditionality**

The Finance Bill 2021 contains a clause that will introduce tax conditionality to licence applications for taxi (hackney carriage) and private hire drivers, private hire vehicle operators and scrap metal dealers. This will come into effect from 4<sup>th</sup> April 2022.

### **First Time Applicants**

Before making a decision on a grant application the licensing authority will need to direct the applicant to HMRC's published guidance about their tax obligations. This will be available on gov.uk. Licensing will also need to obtain a simple confirmation that the applicant is aware of this guidance. No taxi check will be required for such applicants.

## **Subsequent Applications**

This will include renewals and also those where an applicant currently holds a similar licence with one licensing authority and is seeking to be able to operate within an area covered by another licensing authority. A tax check will be required for these applicants.

The tax check will confirm whether an individual or company was appropriately registered for tax and whether income from the licensed activity has been reported on a tax return.

HMRC is currently developing simple digital service that will enable licence applicants to complete the tax check and will provide assistance for applicants who are digitally excluded. His service will also allow licensing bodies, to confirm that a tax check has been completed.

HMRC advise that the tax check will NOT go into people's financial history. It will be a basic check to confirm that applicants are appropriately registered for tax and that income from the licensed activity is reported to HMRC.

Any queries or complaints about the service once up and running will need to be directed to HMRC not the licensing section as we will simply need to obtain the confirmation from the HMRC that the tax check has been completed by the applicant.

The digital service will go live in April 2022 and we await further guidance at this time.

## **GENERAL MATTERS.**

A gentle reminder that vehicle tests **cannot** be carried out before 28 days prior to expiry.

All drivers are requested to check the details on the compliance certificate are correct before leaving the garage.

**When returning a vehicle plate** it must be accompanied by all other livery – door signs, internal plate, licence document, and in the case of surrender the front plate. A Vehicle plate return form must be completed and returned at the same time.

## **Ranks**

Please observe rank etiquette and stand on a Hackney Rank to wait for passengers. Do NOT block the turning circle on Biggin Street for other users.

## **Licensing Office**

You will be aware that over the last 15 months you have dealt directly with licensing as opposed to the Customer Service Centre. Licensing Staff/Officers continue to predominantly work from home and Licensing are unlikely to return to the office full time. It is likely to be 50% of the week in the office for the foreseeable future.

Please be aware that incoming 'post' continues to be quarantined by the Council, so where possible contact Licensing via e-mail. Please be aware that on receipt of your email you will receive an acknowledgement to say that you will hear from licensing within 5



working days. Please be patient and ensure that your renewal documentation is received in good time for renewal. There is no guarantee of plates being immediately available due to staff office cover.

For the benefit of you all, the Licensing team have created a taxi driver news page (which also gives access to previous newsletters). This news page can be found at:  
[https://www.charnwood.gov.uk/pages/taxi\\_driver\\_news](https://www.charnwood.gov.uk/pages/taxi_driver_news)

**New Drivers** continue to be delayed whilst we consider evolving processes and how the knowledge test is to be carried out safely by all involved.

## **Loughborough Pollution**

Complaints have been received in Licensing concerning hackney carriages leaving their engines idling on Biggin Street. Idling.

All vehicles are subject to enhanced safety checks, 6 monthly, including emissions tests in line with the current MOT standard. Any licence conditions issued as part of a Licence can only apply to the safety standards of the vehicle and not in relation to a vehicle idling on a rank or outside of venues.

However on speaking to the Environmental Protection team the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 do enable local authorities in England to issue fixed penalty notices (FPNs) to drivers who allow their vehicle engines to run unnecessarily while the vehicle is stationary. Pollution from vehicles can have a significant effect on local air quality and contributes to airborne levels of NOx and particulates. The purpose of the regulations is therefore to encourage motorists to have regard to the local environment and their contribution to it, and are normally applied as part of the Local Authority's strategy to tackle poor air quality. The regulations are not intended to target motorists who leave their engines running when parked for a few seconds but for more serious offenders e.g. coaches or heavy goods vehicles which park in busy town centres where there are air quality concerns.

Currently air quality levels in Loughborough are improving with town centre concentrations of NO2 around the area of the inner relief road significantly beneath the Air Quality Objective levels. Therefore Environmental Protection have not have not introduced enforcement relating to engines being run unnecessarily.

Please be aware that concerns about a specific vehicle can be reported to the Licensing Section in writing via [licensing@charnwood.gov.uk](mailto:licensing@charnwood.gov.uk) and the licensing team and Environmental Protection Team can investigate.

## **Update DBS Service**

The licensing team are spending a considerable amount of time chasing renewal drivers who have submitted their DBS application to Personnel Checks and on submitting their application form to Licensing with their DBS Certificate they have not registered with the DBS Update Service.

This has been a requirement of your licence since the 1<sup>st</sup> April 2020 and details as to how to register for the update service are within the Policy. It is a condition of licence that all existing drivers on renewing their DBS after the introduction of this Policy in April 2020, are required to subscribe to the DBS update service. All new and renewing Drivers **MUST** enrol on the DBS update service **within 30 days** of the date of their disclosure certificate.

Once you receive your DBS certificate you can join the DBS Update Service by clicking on the link below;

<https://www.gov.uk/dbs-update-service>

Under the heading 'Register' click on the link to register and subscribe – you will need your certificate number and subscription must be done within 30 days of the date of the certificate.

Once subscribed – submit your DBS certificate and your signed DBS Consent Form to the Licensing Section with your application form and all other required documents.

Failure to sign up to the update service will result in you having to pay for another DBS enhanced application within 6 months as per the requirements under the Dft Taxi Standards.