

Private Hire and Hackney Carriage Driver Policy and Conditions 2018

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Policy & Conditions 2018

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Related legislation, policy documents & guidance	
Town Police Clauses Act 1847	
Local Government (Miscellaneous Provisions) Act 1976	
Transport Act 1985	
DfT Best Practice Guidance	www.gov.uk
Road Safety Act 2006	
Equality Act 2010	
Rehabilitation of Offences Act 1976	
Immigration Act 2016	
Health Act 2006	
SBC Conviction & Caution Policy	
SBC Regulatory Services Enforcement Policy	
SBC Disclosure & Barring Service Policy	
SBC Private Hire Vehicle Policy	
SBC Private Hire Operator Policy	
SBC Hackney Carriage Bye-Laws	
SBC Statement of Licensing Policy	
Penalty points	

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1. Introduction

This document is a general guide for applicants and all licensed private hire, hackney carriage and combined licence drivers. The Council, its authorised officers or agents do not accept any responsibility for any loss incurred by any person acting as a result of the information detailed within this policy.

Each application will be determined on its own merits.

Failure to fully comply with the private hire and hackney carriage driver legislation or conditions may result in enforcement action which could include suspension, revocation or prosecution.

This policy will be fully reviewed subject to any legislative changes or any recommendations by the Department for Transport (DfT) in their 'best practice' guidance.

2. Definitions

'the application' shall mean the application made by an individual(s) or company for the grant or renewal of a licence.

'applicants'- shall mean any person applying for a private hire, hackney carriage or combined drivers licence

'the Council' shall mean Slough Borough Council

'Authorised officer' shall mean any officer authorised by the Councils scheme of delegations.

'Hirer' shall mean any person(s) who hires or books a vehicle

'Licensee(s)' shall mean the person(s) or company named on the licence

'Operator' shall mean any person or company granted a licence to operate private hire vehicles.

'LGMPA 1976' - Local Government Miscellaneous Provisions Act 1976

'TPCA 1847' - Town Police Clauses Act 1847

'TA 1985' - Transport Act 1985

'WAV' - Wheelchair accessible vehicle

'Taxi' – shall mean hackney carriage

3. Application requirements

Hackney Carriage, Private Hire & Combined driver licences

Section 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 require that 'a district council shall not grant a drivers licence to drive a private hire or hackney carriage unless they are satisfied that an applicant is a fit and proper person'. The fit and proper' test is the Council's overriding consideration when determining an application.

3.1 Fit and proper person – new applicants

Before a private hire, hackney carriage or combined drivers licence can be issued, the Council must establish if the applicant is 'fit and proper' to hold a licence. The following requirements must be met;

- Submission of application form and relevant fee
- Enhanced criminal record check (DBS) and registration with the DBS update service
- Certificate of medical fitness (DVSA group 2 medical standard)
- Practical driving assessment
- Local knowledge test (directions, highway code, policy & law)
- Safeguarding training
- English test (if required)
- Applicants must be aged 21 or over
- Held a full UK driving licence for a minimum of 2 years
- Passenger Assistance training (PATs) - (if applicable)
- A maximum of 6 penalty points (endorsements) on their DVSA driving licence

Applicants with an EU or international driving licence must apply for a full UK DVSA driving licence and have held it for 2 years before making an application.

All convictions, cautions, pending charges/summons or any legal action the applicant has been subject too, MUST be fully disclosed and declared at the time of application.

Full details of all the requirements will be given at the time of application.

Please note: Applicants have 12 months (from the date of submission) to complete the application process. Once 12 months has elapsed, incomplete applications will be disposed of and a new application will need to be made.

3.2 Fit and proper person – current licence holders

The Council may suspend an individual's private hire, hackney carriage or combined driver's licence, if a serious allegation or complaint is made against them and the 'fit and proper' test is put into doubt.

The Council may revoke an individual's private hire, hackney carriage or combined driver's licence if they are no longer deemed to be 'fit and proper'. This may be with immediate effect or through a referral to the Licensing Sub-Committee for decision. Further details regarding the suspension and revocation procedure can be found at point **20 & 21** of this policy.

4. Knowledge test

Applicants should have good knowledge of the local area. In addition they must have an understanding of the legislative requirements and the Council's policies, conditions and byelaws.

All new driver applicants must pass the Council's knowledge test. The test comprises of local geographical knowledge, policy and law, highway code and basic working out of fares. Applicants take the test on a computer, the questions are multiple choice and randomly generated.

5. Practical driving assessment

New applicants

Applicants are required to complete and pass a practical driving assessment through a recognised driver testing agency.

If more than one year has elapsed (at the time of application) since an applicant undertook and passed a practical driving assessment, then a new assessment will be required.

Current licence holders

A practical driving assessment may be required if concerns are raised over an existing licence holders driving ability. This may be due to (but not limited to) motoring convictions, multiple endorsements on their DVSA licence, a history of complaints regarding their standard of driving or involvement in any road traffic accidents.

If an existing licence holder is required to undertake and pass a practical driving assessment, their drivers licence (hackney carriage, private hire or combined) will be suspended until they have undertaken and passed the practical test.

6. Medical fitness

All driver applicants must produce a medical certificate using the Council's prescribed form. Applicants/licensed drivers must meet the DVSA group 2 medical standards of fitness to drive. The medical must be carried out by the applicants/licensed drivers registered GP or by a qualified medical practitioner who has full access to their medical records.

For new applicants, the medical certificate should be no more than 3 months old at the time the licence is issued.

Medical requirements for current licence holders are as follows;

- Every 5 years from 50 years of age
- Annually from 65 years of age.

Licensed drivers with insulin dependent diabetes will be required to have an annual medical to ensure their condition is being well managed and is under control.

Licensed drivers are required to notify the Licensing Authority of any illness, condition or any other matter that affects their health. Individuals should consult their Doctor and refer to the current DVSA (Group 2) Medical Rules and Standards.

Where there is any doubt over a licence holder's medical fitness to drive, a new medical certificate will be required (at their own expense). The Council will review the medical evidence and make any decision based on the medical evidence available.

Additional information may be requested, for example if the applicant/driver is receiving any on-going treatment for a medical condition from a specialist consultant.

7. Disclosure of criminal convictions, cautions and FPN's

On 12th June 2018, the Licensing Committee formally resolved to adopt the Institute of Licensing (IoL) document '*Guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trade*'. This guidance document will be used in conjunction with the Council's Convictions & Cautions policy and the Regulatory Services Enforcement policy.

New applicants and current licence holders must declare to the Council any criminal or civil conviction, caution, fixed penalty notice (FPN) or if they are subject to any pending prosecution.

Private hire & hackney carriage licensing is subject to The Rehabilitation of Offenders Act 1976 (Exceptions) (Amendments) 2002 which means convictions considered to be 'spent' must still be declared and can be taken into consideration when determining an application.

Please refer to the Council's Convictions and Cautions policy, the Regulatory Services Enforcement policy and the IoL guidance for further information.

8. Disclosure & barring update service (DBS)

All new applicants and existing licence holders are required to register their DBS certificate with the Disclosure & Barring update service and must consent to the Council carrying out an annual check on the validity of the certificate.

A new DBS application will be required if applicants/drivers fail to register their DBS certificate with the DBS update.

Please refer to the Council's Disclosure and Barring Service Policy for further information.

9. Immigration Act 2016

The Immigration Act 2016 took effect on 1st December 2016 and places specific duties on local authorities with regards to both taxi and private hire driver and operator applicants and existing licence holders.

In summary the Act stipulates the following:

- Licensing authorities have to ensure applicants for taxi and private hire driver and Operator licences have permission to work before being granted a licence;

- Driver and operator licences would not be issued for a period any longer than the length of a person's permission to reside and work in the UK;
- Immigration offences and penalties are grounds for a licensing authority to revoke a licence;
- It is an offence for someone disqualified from continuing to hold a driver or operator licence for immigration reasons not to return their licence to the licensing authority.

Slough Borough Council operates the taxi and private hire licensing regime in compliance with the Immigration Act 2016 and the guidance issued by the Home Office.

10. Safeguarding vulnerable persons & children

The Council is committed to ensuring the safety and welfare of all vulnerable persons including children and young people who may be travelling in licensed vehicles.

Safeguarding training is a mandatory requirement for all licensed drivers and private hire operators. A specific 'Safeguarding your Passengers' training program has been developed by Slough Borough Council. All current driver and operator licence holders, along with new applicants must attend the training. Refresher training is required every 3 years.

11. English test

Applicants who cannot demonstrate an adequate or reasonable level of spoken English and/or a suitable qualification will be required to undertake an independent assessment of their spoken English. The purposes of this requirement are:

- Ensure that members of the public are safeguarded by ensuring licensed drivers can competently communicate and give and understand most instructions.
- Ensure that applicants are safeguarded by ensuring licensed drivers can competently communicate and give and understand most instructions.
- Ensure impartiality and fairness in determining applications.
- Accommodate all eligible applications.

12. Certificate of good conduct

If an applicant has lived in the UK for less than 5 years, then a 'Certificate of Good Conduct' (or similar document) will be required from the relevant Embassy or High Commission. A certificate of good conduct is an extract from the judicial record or an equivalent document issued by a competent judicial administration or authority.

It is the applicant's responsibility to obtain the certificate and it must be in English or accompanied with a certified English translation.

13. Passenger assistance training (PATs)

PATs is a practical training course relating to the needs of passengers with various disabilities. All hackney carriage and combined driver applicants are required to

undertake PATS training. Private hire applicants/drivers who licence or drive a wheelchair accessible vehicle are also required to undertake PATS training.

Applicants must undertake and pass PATS modules A, B1, B2, C1 and C2.

14. Driver conduct & conditions

Conduct of driver

- The driver should be clean, respectable in their dress and behave in a polite and civil manner.
- Drivers should take reasonable steps to ensure their passengers safety, especially when getting in and out of the vehicle. Drivers should pay particular attention when picking up and dropping off passengers in busy locations.
- Drivers must not eat or drink in a licensed vehicle whilst carrying passengers.
- In accordance with the requirements of the Health Act 2006, smoking is not permitted, by either the driver or passenger, in any licensed vehicle at any time.
- Driver must not play any audio or video that is offensive or causes a nuisance to their passengers.
- Drivers must not initiate, respond to or engage in any dialogue of a sexual nature with a passenger, including communication by telephone, social media, email or any other form of communication.
- Drivers must not become involved sexually or have sexual contact, **even with consent**, with a passenger whilst on duty or in a licensed vehicle.
- Drivers must not contact a passenger once a journey has been completed and must not share a passenger's personal information including their address and telephone number.
- Drivers must not carry more passengers (including babies and children) than the number stated on their private hire vehicle licence. Even if a baby or small child is sitting on an adults lap, they are still to be counted as a passenger.

15. Private hire/hackney carriage & combined identification (ID) badge

All licence holders are issued with an identification (ID) badge. The licence holder must either wear their ID badge or clearly display it in the licensed vehicle at all times.

The ID badge must be shown, if requested, to any passenger in the vehicle or to an authorised officer or police officer.

16. Renewal Application

Application for renewal must be made before the expiry date of the licence, no more than 30 days in advance.

17. Prompt attendance & shortest route

Once a driver accepts a booking, they should attend at the appointed time and place. If they are delayed they should contact the hirer to inform them.

Drivers should travel to the destination (unless the hirer/passenger gives specific directions) by the shortest available route.

18. Assistance with luggage

Drivers are required to carry a reasonable amount of luggage and if requested, should assist the hirer/passenger with loading and unloading.

19. Lost property

At the end of each journey, drivers should check the vehicle for any property which may have been accidentally left.

Private hire drivers must notify their operator if any property has been left by a passenger. Arrangements should be made with the passenger for collection of the property within 48 hours. Alternatively the property should be handed in to the nearest Police Station.

20. Change of name or address

The licence holder must notify the Council of a change of name or address within 7 days of moving or changing names.

The licence holder must notify the DVSA of a change of address within 7 days of moving. Once the updated DVSA licence has been issued, it must be produced to the Council within 7 days.

21. Accidents

The driver/licence holder must notify the Council within **72 hours** of any accident/incident involving a licensed vehicle. Where possible, pictures should be taken of any vehicle damage and arrangements made for an officer to inspect the vehicle.

22. Private hire - plying for hire

Private hire drivers can only carry passengers who have made a booking **in advance**, through a **licensed private hire operator**. The booking must be made by

the passenger, directly to the operator. Once the booking has been 'dispatched' to the driver by the operator, the journey can commence.

Drivers of private hire vehicles must not 'call out' or otherwise importune (encourage) any person to hire their vehicle.

23. Written receipts

The driver must, if requested by the hirer, provide a written receipt for the fare paid.

24. Equalities Act 2010

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. Sections 160 to 173 of the Equality Act 2010 relate specifically to taxis and private hire vehicles (PHVs) and takes effect on 6th April 2017.

Sections 165, 166 and 167 of the Equality Act 2010 deal with the imposition of duties on the drivers of wheelchair accessible taxis and private hire vehicles to assist passengers who use wheelchairs, as well as provide exemptions for both drivers and vehicles.

24.1 Duties to assist passengers in wheelchairs

Equality Act 2010 (Section 165) places a duty on a driver of designated wheelchair accessible hackney carriages and private hire vehicles. The duties are;

- To convey the passenger while in the wheelchair
- Not to make any additional charge for doing so

If the passenger chooses to sit in a passenger seat;

- To take such steps as are necessary to ensure that the passenger is conveyed in safety and reasonable comfort; and
- To give the passengers such mobility assistance as is reasonably required, enabling the passenger to get in or out of the vehicle and to secure/convey the wheelchair as appropriate.

Section 166 of the Act allows Licensing Authorities to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the drivers physical condition makes it unreasonably difficult for him or her to comply with the duties.

Section 167 of the Act allows Licensing Authorities to maintain a list of 'Designated Vehicles', that is, a list of wheelchair accessible vehicles in their area. The consequence of being on the list is that the driver must undertake the duties in section 165.

24.2 Guide dogs and assistance dogs (section 168 to 171 of Equality Act 2010)

It is an offence to refuse to carry any passenger with an assistance dog unless the driver has a medical exemption. Guidance has been issued by the

DfT regarding the duties to carry guide and assistance dogs and the procedure for granting a medical exemption. When dealing with exemption applications the Council will have regard to the DfT guidance.

25. Seatbelt regulations

25.1 Private hire

Private hire drivers are only exempt from wearing a seat belt if the vehicle is being used to carry fare paying passengers. A seat belt must be worn at all other times.

25.2 Hackney carriage

Hackney carriage drivers are exempt by virtue of regulations 5(h) of the Motor Vehicles (Wearing Seat Belt Regulations) from wearing a seat belt, providing they are seeking hire, answering a call for hire or carrying a passenger. The vehicle must be displaying a hackney carriage vehicle licence (plate).

26. Child restraints

(under 3 years of age)

If the correct child restraint is unavailable, then a child under 3 years of age can travel unstrained in the rear of a licensed vehicle.

(over 3 years of age)

If the correct child restraint is unavailable, then a child aged 3 to 11 and less than 1.35 metres (approx. 4 ft. 5ins) in height can use an adult seat belt when travelling in the rear of a licensed vehicle.

27. Compliance & enforcement

The Council will work in partnership with other agencies and neighbouring authorities to undertake compliance and enforcement activities. The Council will carry out enforcement operations and compliance checks which may include Thames Valley Policy, DVSA, UKBA and HMRA.

Inspections of vehicles, operating bases, documents and records will be made by licensing officers. These may be pre-arranged audits, random checks or scheduled enforcement operations.

28. Obstruction of an authorised officer

It is an offence for any person to wilfully obstruct an authorised officer of the council or police constable acting in pursuance of the 1847 or 1976 Act – LG(MP)A 1976, s73.

It is an offence for any person who, without reasonable excuse, fails to comply with a requirement properly made to them by an authorised officer of the council or police constable acting in pursuance of the 1847 or 1976 Act – LG(MP)A 1976, s73(b).

29. Document Checks

All documents produced to licensing officers must be originals and will be checked for authenticity. Random checks will be carried out throughout the year, along with routine compliance inspections.

30. Disclosure of criminal convictions, cautions and FPN's

Current licence holders must declare to the Council any criminal or civil conviction, caution, fixed penalty notice (FPN) or if they are subject to any pending prosecution, legal action or disposal. Notification must be sent to the Council in writing, within 7 days of any caution, conviction or motoring offence (including fixed penalty notices).

Please refer to the Councils Convictions and Cautions policy, the Regulatory Services Enforcement policy and the IoL guidance for further information.

31. Complaints & enforcement action

All complaints against licence holders must be received in writing. The complaint will then be fully investigated by licensing officers and appropriate action will be taken where necessary.

The hackney carriage and private hire licensing regime is in place to ensure passenger safety. The DfT guidance states enforcement is necessary to maintain high standards. Any enforcement action taken against a licensee must be reasonable and proportionate.

Officers will have regard to the 'Consumer Protection and Business Compliance' enforcement policy.

Depending on the nature and the seriousness of the offence/breach, there are various enforcement options available to officers. These options include the following;

- Verbal advice
- Written warning
- Penalty points
- Referral to the Licensing Sub-Committee
- Suspension
- Formal caution
- Revocation
- Prosecution

32. Penalty points

The penalty points system provides an effective enforcement tool for licensing officers in respect of hackney carriage, private hire & combined drivers and vehicle licence holders, as well as private hire operators who are in breach of conditions or legal requirements relating to the licensing functions of the Council.

The penalty points system is an alternative to officers prosecuting or referring licence holder to the Licensing Sub-Committee.

The system operates like the endorsements on a DVSA driving licence. Penalty points are generally valid for one year from the date issued. Where 12 unspent penalty points are accumulated by a licence holder, an automatic referral to the Licensing Sub-Committee is triggered.

Where a referral is made to a Licensing Sub-Committee, it will be the Committee's decision on what further action (if any) should be taken.

Where penalty points are issued by a licensing officer and the licence holder wishes to dispute the matter, the licence holder may request that the matter be referred to a Licensing Sub-Committee.

Where a complaint or information is received from the Police or a member of the public the matter will be investigated by a licensing officer and may result in the issue of penalty points.

33. Referral to Licensing Sub-Committee

New applicants and current licence holders will usually be referred to the Licensing Sub-Committee if there is any doubt that they meet the 'fit and proper' test to be or continue to be a licensed driver. This may be due to the following

- a conviction(s),
- caution(s),
- additional information disclosed on the DBS certificate
- their previous conduct if they have been licensed before, or
- where a serious complaint has been made i.e. for current licensed drivers

Licensing officers will prepare a report detailing the facts of the case along with any other relevant evidence that can assist the Committee in their decision. Officers will make a recommendation based on the legislative or policy requirements as well as relevant case law. Each case will be dealt with on its own merits.

There are varying options available to a Licensing Sub Committee including;

New Applicant Referrals

- a) Grant the application
- b) Grant the application with a warning regarding future conduct
- c) Grant the application with conditions
- d) Refuse the application

Current Licence Holders

- a) No action
- b) Give a warning about future conduct
- c) Impose conditions
- d) Suspend the licence
- e) Revoke the licence
- f) Suspend the licence with immediate effect where it is in the interest of public safety to do so
- g) Revoke with immediate effect where it is in the interests of public safety to do so.

Any decision made by the Sub-Committee will be made in writing, detailing fully how and why the decision was made. The right to appeal a Licensing Sub-Committee decision is to the Magistrates Court within 21 days of notification of the Committee's decision.

34. Revocation of a drivers licence

If a private hire, hackney carriage or combined driver's licence is revoked, then a minimum period of 1 year should have elapsed before a new application will be considered.

This period of time may be extended depending on the circumstances of the revocation.

35. Immediate revocation of a drivers licence

If a licensed driver is under investigation regarding a serious complaint or criminal offence and there is serious concern regarding that individual's suitability to be a licensed driver, the licence can be immediately revoked in accordance with the Road Safety Act 2006 (s52).

Powers have been delegated to the Licensing Manager who, in consultation with the Chair of the Licensing Committee, can revoke a driver's licence with immediate effect. When a licence is immediately revoked, the decision will be made in writing, detailing the reason, and will be personally served on the licence holder as soon as is reasonably practicable.

36. Appeals

Where a licence has been suspended or revoked or where a new application has been refused, an appeal against the decision by the Council may be made to the Magistrates Court within 21 days of the notice of refusal, revocation or suspension.

37. Reinstatement of a revoked licence

If a licence has been revoked with immediate effect, but following an investigation by the Police no further action is taken and the Council believes that individual remains 'fit and proper', a new application can be made and the licence re-instated. The Council will, where possible, make concession to the application process.

Please note – In certain circumstances it may be necessary for an individual to sign a 'Consent Form' so that a request can be made to the Police under the Data Protection Act 1998 before consideration can be given to re-instate the licence.

This document can be made available on audio tape, braille or in large print, and is also available on the website where it can easily be viewed in large print.

Private Hire and Hackney Carriage Driver Policy and Conditions 2018

If you would like assistance with the translation of the information in this document, please ask an English speaking person to request this by calling 01753 875110.

यदि आप इस दस्तावेज में दी गई जानकारी के अनुवाद किए जाने की सहायता चाहते हैं तो कृपया किसी अंग्रेजी भाषी व्यक्ति से यह अनुरोध करने के लिए 01753 875110 पर बात करके कहें.

ਜੇ ਤੁਸੀਂ ਇਸ ਦਸਤਾਵੇਜ਼ ਵਿਚਲੀ ਜਾਣਕਾਰੀ ਦਾ ਅਨੁਵਾਦ ਕਰਨ ਲਈ ਸਹਾਇਤਾ ਚਾਹੁੰਦੇ ਹੋ, ਤਾਂ ਕਿਸੇ ਅੰਗਰੇਜ਼ੀ ਬੋਲਣ ਵਾਲੇ ਵਿਅਕਤੀ ਨੂੰ 01753 875110 ਉੱਤੇ ਕਾਲ ਕਰਕੇ ਇਸ ਬਾਰੇ ਬੇਨਤੀ ਕਰਨ ਲਈ ਕਹੋ।

Aby uzyskać pomoc odnośnie tłumaczenia instrukcji zawartych w niniejszym dokumencie, należy zwrócić się do osoby mówiącej po angielsku, aby zadzwoniła w tej sprawie pod numer 01753 875110.

Haddii aad doonayso caawinaad ah in lagu turjibaano warbixinta dukumeentigaan ku qoran, fadlan weydiiso in qof ku hadla Inriis uu ku Waco 01753 875110 si uu kugu codsado.

اگر آپ کو اس دستاویز میں دی گئی معلومات کے ترجمے کے سلسلے میں مدد چاہئے تو، براہ کرم ایک انگریزی بولنے والے شخص سے 01753 875110 پر کال کر کے اس کی درخواست کرنے کے لئے کہیں۔