

DRAFT



Hackney Carriage and Private Hire Policy

Issued 2022

Document Control Sheet

Document title	Hackney Carriage and Private Hire Policy
Summary of purpose	To introduce an overarching taxi and private hire policy based on recommendations in the Department for Transport's (DfT) statutory guidance, pulling together all the Council's policies, conditions, byelaws and procedures into one document.
Prepared by	Gill Gibson
Status	Final
Version number	2
Approved by	Council
Approval date	24 February 2022
Date of implementation	1 April 2022
Review frequency	5 years
Next review date	April 2027
Circulation	Trade and other interested stakeholders
Published on the Council's website	Yes

Validity Statement

This document is due for review by the date shown above, after which it may become invalid. Users of the strategy or policy should ensure that they are consulting the currently valid version of the document.



MALDON DISTRICT
COUNCIL

Contents

1. Introduction
2. Delegation
3. Gathering and sharing information
4. Decision-making
5. Drivers
6. Vehicles and Vehicle Proprietors
7. Private Hire Operators
8. Enforcement
9. Data Protection

Appendix A – Assessment of Criminal Convictions

Appendix B – Equality Act: Taxis, Private Hire Vehicles and Driver Requirements

Appendix C – Pre-licensing and Licensing Conditions for Hackney Carriages & Drivers

Appendix D – Pre-licensing and Licensing Conditions for Private Hire Vehicles, Drivers & Operators

Appendix E – Maldon District Council Byelaws

Appendix F – Approved testing stations, vehicle inspection sheet and report

Appendix G – Hackney Carriage and Private Hire Vehicle Inspection Standards Manual

Appendix H – Covid safety tips

1. Introduction

The over-riding aim of the licensing regime is to protect the public. This policy provides guidance to applicants, existing licence-holders and the public of the Council's standards and procedures in place to fulfil its function as a licensing authority.

To protect the public, the Council will: -

- determine if an applicant is a fit and proper person;
- act if a licence-holder is no longer considered a fit and proper person;
- implement measures to safeguard children and vulnerable adults;
- determine if vehicles are safe;
- improve air quality by placing conditions on vehicles.

This policy will be reviewed as and when required and at least every 5 years.

2. Delegation

The Planning and Licensing Committee is empowered to discharge the Council's powers, duties and functions in respect of hackney carriage and private hire licences. It is responsible for determining whether applicants meet the fit and proper person test.

The Licensing Sub-Committee is delegated on behalf of the Planning and Licensing Committee to determine applications where: -

- the applicant has unspent convictions; or
- endorsements exceeding 6 points* accrued on his/her domestic driving licence (where the application is for a driver's licence).

*This allows more serious and persistent breaches to be determined by Committee.

The Senior Specialist is delegated to: -

- determine all other hackney carriage (taxi) and private hire licences;
- in consultation with the Chairman of the Planning and Licensing Committee, suspend or revoke hackney carriage and private hire licences;
- authorise officers and appoint contractors who are appropriately qualified and experienced to discharge the powers and duties delegated.

3. Gathering and sharing information

The Council will consider a range of information when deciding to grant a licence and to meet the ongoing obligation to ensure a licensee remains suitable to hold a licence.

3.1 The Disclosure and Barring Service (DBS)

The Council will require either a basic or enhanced DBS (includes barred lists) check for all applicants. Those with enhanced certificates can subscribe to the DBS Update Service, this allows individuals and nominees to access their records. The Department for Transport's statutory standards require these update checks to be carried out six monthly. Subscription

to the service removes the need for further certificates to be requested, unless there has been a change or the subscription to that service has failed to be maintained by the licence holder. This reduces the administrative burden and mitigates potential delays in relicensing.

To facilitate regular DBS checks, drivers must register with the DBS update service: an annual fee is required to ensure continuation of the service. The Council (or its agent) will check the disclosure status every 6 months.

Basic DBS checks will be undertaken annually for vehicle proprietors on renewal of the licence. Private hire operators (including all partners or directors) will need to submit annual basic DBS checks. These basic checks will not be required, if applicants or licence holders are drivers and current DBS checks have already been undertaken.

3.2 Applicant and Licensee self-reporting

Applicants and licensees are required to disclose if they hold or have previously held a licence with another authority. They are also required to disclose if they have had a licence application refused or a licence revoked or suspended by another licensing authority.

Licence-holders are required to notify the Council of arrest and release, criminal charge or conviction (including cautions), and fixed penalty notice in writing within 48 hours. Licensed drivers must also notify the Council of domestic driving licence endorsements during the term of the licence.

The Council will consider whether a licence holder is fit to continue to hold the licence based on the balance of probabilities. A failure to disclose an arrest (regardless of the outcome), charge or conviction brings into question the honesty of the licence holder and their status as a fit and proper person.

3.3 Referrals to the DBS

If the Council refuses or revokes a licence where the licence holder is considered to present a risk of harm to a child or vulnerable adult, they will be referred to the DBS. A referral will be made when it is believed that the person has: -

- harmed or poses a risk of harm to a child or vulnerable adult;
- satisfied the 'harm test' – for more information, see <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs#what-is-harm>;
- received a caution or conviction for a relevant offence; and
- has worked or might work in a regulated activity.

These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should they receive applications.

3.4 Working with other agencies

One of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire services is to ensure that decisions are made with the fullest knowledge possible. The Council will work with other agencies to gain as much information as possible about applicants and to monitor the ongoing suitability of existing licensees.

The Council will engage with Essex Police and neighbouring licensing authorities to highlight potential risks to the public, sharing information if it is appropriate to do so. Common Law Police Disclosure allows the Police to pass on timely and relevant information. Information is shared as soon as possible following an arrest or charge, rather than on conviction, allowing measures to protect the public to be put in place immediately.

The Council will make use of and contribute to the NR3 register: a national register of hackney carriage (taxi) and private hire driver licence refusals and revocations which was commissioned by the LGA as part of a national anti-fraud network (NAFN). If there is notification that an applicant has been refused a licence or had one revoked, the Council will contact the relevant licensing authority for more information. The relevance of information received will be considered when determining the applicant's fitness to be licensed. Likewise, the Council will share details of revocations or refusals of licences with other licensing authorities on request, in line with the data sharing agreement between the Council and the NAFN and national data protection legislation.

Should the Council receive information that a licence holder did not disclose relevant information, it may consider whether the non-disclosure represents dishonesty and may review whether the applicant or licence holder is or remains a 'fit and proper' person.

The Council will, where it is appropriate to do so, work with the taxi and private hire trade to raise awareness of local criminal activities that may engage with their services. By working with licensees, the Council can assist in the identification of activities that might be related to 'county lines', modern slavery and exploitation of vulnerable groups and individuals.

4. Decision-making

Members and officers that determine whether a licence is granted are required to undertake training. Officers acting on behalf of licensing authority will be suitably qualified commensurate with their role.

Training for Members of a licensing committee will include: -

- licensing procedures;
- natural justice;
- understanding the risks of child sexual abuse and exploitation;
- disability and equality awareness; and
- making of difficult and potentially controversial decisions.

Training will include the use of case study material to provide context and real scenarios. All training will be formally recorded.

If an applicant or licence holder has any convictions, warnings, cautions or charges awaiting trial, the Council will consider: -

- how relevant the offence(s) are;
- how serious the offence(s) are;
- when the offence(s) were committed;
- the date of conviction;
- circumstances of the individual concerned;

- sentence imposed by the court;
- the applicant's age at the time of conviction;
- whether there is a pattern of offending;
- any other character check considered reasonable (e.g. personal references); and
- any other relevant factors.

Existing licence-holders are required to notify the Council in writing within 48 hours of arrest and release, criminal charge or conviction (including cautions), and fixed penalty notices. In addition, drivers must also notify the Council of receiving driving endorsements within 48 hours.

Applicants are entitled to a fair and impartial determination of their application. Each case will be determined on its own merits within the constraints of policy and relevant legislation. Should a decision maker have a prejudicial interest in a case - financial or a personal - with those involved they should declare their interest at the earliest opportunity. This must be prior to any discussions or decisions.

The Council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Unless specifically prevented through policy, the Council may consider that a person with a conviction(s) need not be automatically barred from obtaining a licence. Normally an applicant would be required to: -

- remain free of conviction for an appropriate period; and
- show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). Simply remaining free of conviction may not be regarded as adequate evidence that a person is a fit and proper person).

Where an applicant has been convicted of a criminal offence, the Council cannot review the merits of the conviction. When determining an application, decision-makers must have regard to the Taxi and Private Hire Assessment of Criminal Convictions – appendix A.

In determining whether a person is fit and proper, Members can ask themselves the following question: "Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?"

The discharge of licensing functions will be undertaken in accordance with the following general principles: -

- policies will be used as internal guidance and are supported by a member/officer code of conduct;
- implications of the Human Rights Act;
- rules of natural justice;
- decisions must be reasonable and proportionate;
- hearings to be fairly conducted and allow for consideration of all relevant factors;
- decision makers must avoid bias and predetermination;
- data protection legislation.

4.1 'Fit and proper person' checks

When considering the suitability of applicants, the safeguarding of the public is paramount. All applicants (drivers, vehicle proprietors and private hire operators) are required to pass the 'fit and proper person' test. All decisions on the suitability of an applicant or licensee will be made on the balance of probability. This means that an applicant or licensee will not be 'given the benefit of doubt'.

If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', the licence will not be granted or, if already granted, suspended or revoked. The threshold used is lower than for a criminal conviction (beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction or met the criminal threshold of proof.

Enhanced disclosures from the Disclosure and Barring Service (DBS), which includes the adult and child barred lists, are required for drivers. Basic disclosures are required for vehicle proprietors and private hire operators (unless they are drivers and recent criminal record checks have already been undertaken).

The Council will also use other records and information in determining applications, including those wanting to renew a licence. This may include information held by the Council or other Councils and information disclosed by the Police. All applicants must have the right to live and work in the UK – see Home Office website for details.

4.2 NR3 Register

In relation to drivers only, checks will also be undertaken on the National Register of Refusals and Revocations also known as NR3, part of the National Anti-Fraud Network (NAFN). The register has been developed to support public safety through the potential sharing of information that is relevant when considering whether an individual is a fit and proper person to hold a licence.

The Council will record details of hackney carriage or private hire driver licences that have been refused or revoked. Details will be kept on the register for a period of 25 years as it is sufficiently serious for it to remain relevant to future licence applications. For example, where it concerns an issue of sexual misconduct in relation to a passenger. The data retention period for the register has, therefore, been set to reflect the potential gravity of some revocations and refusals, and the need for this information to be shared.

The information recorded on NR3 itself will be limited to: -

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective

It is an offence for any person to knowingly make a false declaration or to omit any material facts when making an application. Where an applicant has given a false statement or declaration, the licence will normally be refused or revoked if already issued.

In the interests of public safety, the Council will not normally issue a licence to any individual that appears on either barred list. If there are exceptional circumstances which means that, based on the balance of probabilities, the Council considers an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion will be recorded.

4.3 Vehicle proprietors and private hire operators

A refusal to license a driver or to suspend or revoke a driver's licence does not automatically mean that person cannot be issued or continue to hold either a vehicle or private hire operator's licence. These decisions will be independent of the driver's licence and based on appropriate information (the Council will only consider what would be disclosed on a basic check). The Council acknowledges the different roles that a driver and a proprietor or operator perform and will assess convictions and information accordingly.

Vehicle and private hire operator licences may be applied for by a company or partnership. The Council will apply the 'fit and proper' test to each of the directors or partners in that company or partnership. Vehicle proprietors and private hire operators must notify the Council of any change in directors or partners and submit a basic disclosure and barring service (DBS) check for each unless they are subscribed to the enhanced DBS update service.

Where the Council is notified of a vehicle licence being transferred to a third party, the Council will expect to see a current DBS check from the new proprietor(s). This will not be necessary if a new proprietor is an existing driver or private hire operator licensed by the Council and DBS checks have already been undertaken (within the last 12 months if a basic check or subscribed to the DBS update service following an enhanced check).

4.4 Time spent outside the UK

If the applicant has spent 6 continuous months or more living outside the UK, they must provide a criminal record check from the country/countries covering this period. This must be of a similar standard to DBS checks. If these records are not available, a 'Certificate of Good Character' must be produced – see Home Office guidance. Please note that any such information must be produced with an English translation provided by an independent, competent translator.

4.5 Duration of licences

The standard length of licences: -

- 1 year for vehicles (taxis and private hire)
- 3 years for drivers
- 5 years for operators

Shorter duration licences will only be issued when the Council thinks it is appropriate in the specific circumstances of the case. For example, if a licensee has requested one; where

required (e.g. when the licence holder's leave to remain in the UK is time-limited); or when the licence is only required to meet a short-term demand. Licences will not be issued on a 'probationary' basis. The fee for shorter duration licences will be the same as for standard length licences as the same amount of work is required to process the application regardless of the duration of the licence.

5. Drivers

Relevant documentation must be submitted with each application (applications will be invalid until **all** relevant documentation has been received). Licences will only be granted where the applicant is 21 years of age or older and has: -

- the right to live and work in the UK;
- a minimum of 3 years post-qualification driving experience and held a full UK driving licence for at least 1 year;
- successfully completed training from the Council's approved training provider and provided a certificate of completion, including the separate topographical test (roads, routes and places of interest);
- adequate literacy and numeracy skills, including sufficient ability to speak and understand English, to provide the service that they wish to be licensed for (assessed as part of the training requirement).

Applicants must also submit the following documentation: -

- enhanced criminal record check within 28 days of application (drivers are required to sign up to the DBS update service so that DBS status checks can be undertaken every 6 months);
- current certificate of medical fitness (to group 2 standard);
- ~~DVLA Driving entitlement consent form—3 year mandate (the Council or its nominated agent will undertake annual checks) – this is no longer required by the licensing authority as a third party undertakes these checks on the Council's behalf – it is proposed that this is removed from the licensing conditions and, therefore, the policy needs to reflect the conditions;~~
- passport standard photograph.

5.1 Drivers

The 'fit and proper person' test will be applied to all drivers. The Council will consider all convictions recorded against the applicant, whether spent or not. For more information, see section 4 of this Policy and the Taxi and Private Hire Assessment of Criminal Convictions, appendix A. Licences will not normally be granted if the applicant is on a child and/or vulnerable adult barring list. Other intelligence will also be considered when determining an application (e.g. complaints; information from the Police and other agencies, including information on the NR3 register; certificate of training; etc.)

5.2 Medical assessment

The Council recognises that licensed drivers should have more stringent medical standards than those applicable to normal car drivers because they: -

- carry members of the public who have expectations of a safe journey;
- are on the road for longer hours than most car drivers; and
- may have to assist disabled passengers and handle luggage.

Drivers are, therefore, required to pass a Group 2 Standards of Medical Fitness as applied by the DVLA for lorry and bus drivers. This must be submitted to the Council along with their application. All applicants (both first time applicants or those wishing to renew their licence) shall provide a medical examination form (available on the Council's website). A medical assessment can be carried out by your G.P., another registered G.P. practice or a suitably qualified medical practitioner and the applicant's full medical history is provided if required by the medical assessor.

Once a licence holder reaches 65 years of age, a medical examination form must be completed annually and submitted to the Council. Failure to submit this within a reasonable timeframe will result in the licence being suspended until a satisfactory medical examination certificate has been received.

Licence holders with certain medical conditions (for example certain neurological conditions) may also be required to submit annual medical forms and adhere to additional requirements to retain their driver's licence.

Licence holders must advise the Council of any deterioration or other change in their health that may affect their driving capabilities.

The Council reserves the right to ask for a medical certificate at any time throughout the life of the licence at the licence holder's expense. This must be provided within 7 days.

5.3 Medical exemptions

Drivers are required to assist disabled passengers. If a driver is incapable of providing this assistance, he/she can apply for an exemption certificate. For more information, see Equality Act: Taxis, Private Hire Vehicles and Driver Requirements, appendix B.

5.4 Training

All taxi and private hire drivers must undertake training from the Council's approved training provider at their own expense. Details of current providers can be found on the Council's website. The training will cover: -

- disability awareness and safeguarding issues;
- knowledge of relevant legislation, byelaws, Council policies and licensing conditions relating to hackney carriages and private hire;
- an assessment of the applicant's literacy and numeracy skills.

This is required to: -

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable;
- understand how to respond and report safeguarding concerns and where to get advice;
- ensure compliance with the law and licensing conditions;

- ensure that the applicant has suitable reading, writing and numeracy skills so that they can understand the requirements for holding a driver's licence and are able to communicate effectively with passengers.

Existing licence holders are required to have training on renewal of their licence. Once drivers satisfactorily complete training, they will require refresher training every 3 years, however, where a licence expires before a renewal application is made, full rather than refresher training will be required.

All applicants must successfully complete the training and provide a satisfactory certificate of completion together with their application (for both new and renewal applications) before a licence can be determined. A fee is payable direct to the training provider each time training is undertaken.

The Council may require drivers to undertake other training during the life of the licence where proportionate and necessary. For example, following a complaint or as part of a decision made by Committee in pursuance of the licensing objectives and this Policy.

5.5 Geographical knowledge tests

New applicants for a dual driver's licence are required to pass a geographical knowledge test of the district of Maldon. This test to be undertaken with the Council's approved training provider at their own expense. A new applicant must pass the knowledge test within 2 years of an application and will be allowed 4 attempts during this period. Applicants who fail to pass within 2 years will be required to wait a calendar year before reapplying for a driver's licence. A separate fee is payable to the training provider each time the test is taken.

5.6 Renewals

It is the licence holder's responsibility to make applications for renewal prior to expiry of their licence: it is recommended that this is done 2 months before the expiry date. If made during this period, the new licence will commence immediately following the current licence. Applications forms are available on the Council's website. Licences will not be extended beyond the expiry date. If the licence expires, any further application will be treated as new and the driver will need to re-sit the knowledge test and undertake the required training unless either were received within the previous 3 years. Drivers will be unable to operate until a new licence is issued where a licence has been allowed to expire.

6. Vehicles and vehicle proprietors

Relevant documentation must be submitted with each application (applications will be invalid until all relevant documentation has been received).

Licences will only be granted where the vehicle proprietor: -

- is 21 years of age;
- has the right to live and work in the UK;

and submits a

- basic criminal record check within 28 days of application (unless a taxi/private hire driver or a private hire operator where enhanced or basic checks have already been

undertaken) - in the case of a company or partnership, each of the partners and/or directors are required to submit a basic DBS check and the Council to be advised of any new partners/directors during the period of the licence;

- bill of sale or vehicle registration document or registration counterfoil;
- valid and appropriate certificate of motor insurance;
- vehicle inspection certificate – MOT (if applicable);
- mechanical inspection certificate completed by a garage approved by the Council.

6.1 Vehicle proprietors

The 'fit and proper person' test will be applied to each vehicle proprietor. The Council will consider whether an applicant or licence holder with a criminal conviction (but not those relating to driving) meet the 'fit and proper' threshold. For more information, see section 4 of this Policy and the Taxi and Private Hire Assessment of Criminal Convictions, appendix A.

6.2 Vehicle standards

Vehicles are subject to high mileage and wear and tear, therefore, a stringent maintenance and inspection regime is required to protect all concerned. The Council considers the MOT inspection manual for private passenger and light commercial vehicles issued by VOSA as the basic inspection standard. Vehicles must also comply with the standards set out in the hackney carriage and private hire vehicle pre-licensing and licensing conditions (appendix C and D). See section 6.4 for more details on vehicle inspections and frequency of MOTs.

In relation to equality and accessibility issues, refer to the Council's Policy - Equality Act: Taxis, Private Hire Vehicles and Driver Requirements, appendix B.

6.3 Air quality and environmental considerations

Emissions from licensed vehicles to be reduced to improve air quality within the district of Maldon. All new and replacement vehicles licenced after 1st ~~April~~ ~~January~~ 2022 are required to comply with the Euro 6 emissions standards.

6.4 Vehicle inspection and MOTs

In addition to routine maintenance, servicing and MOTs, vehicles must be inspected by a garage approved by the Council (see appendix F) when applying for a vehicle licence. Approved garages must inspect vehicles in accordance with the Council's Hackney Carriage and Private Hire Vehicle Inspection Standards manual (appendix G). This manual has been developed from a best practice guide produced by the Department for Transport Hackney Carriage and Private Hire Inspection Technical Officer Group.

Thereafter, vehicles must then be inspected at intervals specified in the licensing conditions. Where considered necessary, authorised licensing officers may require additional mechanical inspections at the licence holder's expense.

Vehicles must pass MOTs at the following intervals: -

- hackney carriages – 1 year from first registration;
- private hire vehicles – 3 years from first registration;

and annually thereafter.

Licence holders who fail to maintain their vehicles in a safe and roadworthy condition may have their licence(s) suspended or revoked by the Council.

If a licensed vehicle is damaged, the proprietor must report this damage to the Council within 72 hours. The licence holder may be requested to present the vehicle for inspection by authorised licensing officers.

6.5 Safety: CCTV and screens

Closed circuit television (CCTV) and screens are not mandatory licensing requirements. Proprietors and operators may install these to protect drivers and discourage criminal behaviour following a full risk assessment as set out by the information commissioner. They must also be formally registered as a data controller. For more information, see <https://ico.org.uk/for-organisations/sme-web-hub/checklists/data-protection-self-assessment/cctv-checklist/>

Installation must: -

- be undertaken by a competent person;
- not interfere with vehicle construction or other equipment;
- not increase the risk of injury or discomfort to the driver and passengers;
- be included in maintenance and inspection regimes;
- meet any applicable safety certification requirements.

The Council must be informed of any installations if the licence has already been issued. Installations should be present at the time of mechanical inspections and noted on the examination record. Screens must be of the solid polycarbonate type. Specific conditions may be applied to a licence on a case by case basis. Guidance on this installation can be found at: <https://www.gov.uk/government/publications/coronavirus-covid-19-safety-screens-for-taxis-and-phvs/coronavirus-covid-19-safety-screens-for-taxis-and-phvs>.

Where CCTV is fitted, proprietors and operators will become 'data controllers' and must comply with all aspects of data protection and the CCTV codes of practice. There must be clear signage that the vehicle uses CCTV. Further information can be found through the Information Commissioners Office (<https://ico.org.uk/>).

CCTV must not routinely be used to record conversations of passengers. Sound must only be used by way of a panic switch as advised by the ICO and can be activated by either the driver or passenger in extreme circumstances, e.g. threat of physical violence. The footage should only be accessed by the Police or authorised licensing officers of the Council, not by the proprietor, operator or driver. Footage must be kept for no longer than necessary and in accordance with the owner's own data retention policy.

6.6 Renewals

It is the licence holder's responsibility to make applications for renewal prior to expiry of their licence: it is recommended that this is done within 2 months of the expiry date. Applications forms are available on the Council's website. Licences will not be extended beyond the expiry date: if the licence lapses, all applications will be treated as new and vehicles will be unable to operate until a new licence is issued.

Where officers are unable to grant licences in accordance with the scheme of delegation, the licence will be deemed to be granted until it can be determined by Committee (unless there is a compelling reason for it not to be e.g. safety risk to the public).

It is recommended that vehicles are examined at an approved testing station within 1 month prior to the expiry date so that repair work and re-testing can be completed. Mechanical inspections carried out within 1 month of the expiry of the previous examination will take effect from the date of expiry and not from the date of the test (as with MOTs). Mechanical inspections carried out after the date of expiry will be valid from the date of the expiry and not the date of the inspection (as with MOTs).

6.7 Private hire vehicles

Vehicles used to carry passengers for hire and reward, including those contracted by an organisation, must be licensed as a private hire vehicle. As a general guide, this shall include executive hire, chauffeur services, airport travel, stretch limousines and novelty vehicles. Vehicles used **only** for weddings or funerals are exempt from being licensed.

Vehicles, including limousines and speciality vehicles, will be licensed for a maximum seating capacity of 8 passengers or less. Limousines and speciality vehicles may be subject to additional specialist conditions: these will prevail when in conflict with the Council's standard conditions.

Operators may seek permission to waive certain conditions. Operators are recommended to contact the Council's Licensing team to discuss whether a speciality vehicle is likely to be granted a licence prior to purchase, including the waiver of conditions, to avoid unnecessary expense. Each application will be determined on a case by case basis.

The Council is empowered to add any reasonable condition to an operator's licence in addition to the standard conditions.

6.8 Waiver of conditions (plate exemptions)

Vehicles that are granted plate exemptions are expected to undertake executive chauffeur work and not normal day to day private hire work. If standard private hire work is being undertaken, exemptions granted may be forfeited.

Examples of the type of services that might benefit from 'plate exempt' status include: -

- contracts with national or local government to convey personnel on official business;
- contracts associated with VIP and close protection;
- contracts with large companies to convey managing directors and clients.

Examples of the services that may not be considered suitable for 'plate exempt' status: -

- school and social service contracts;
- routine journeys to public transport hubs;
- journeys to entertainment venues, e.g. theatres, sporting venues, hospitality.

The list is not exhaustive and intended only to be indicative.

Vehicles with exemptions must not display any advertisements, signage, logos or insignias advertising the operating company inside or outside the vehicle.

Operators and proprietors who wish to apply for an exemption certificate must complete the application form and provide adequate supporting documentation (e.g. business cards, advertising materials, web address, etc.) to establish that the vehicle will be used solely for executive bookings. The Council may request further supporting information. The need for plate exemption shall be for the applicant to evidence and not for the authority to disprove.

The decision whether to grant exemption status is delegated to the lead Licensing Officer and their decision may be reviewed by the Senior Specialist. The applicant must be able to demonstrate a benefit to the customer rather than the business.

Limitations may be placed on the licence allowing only **certain** types of work to be undertaken without having to display vehicle and driver licences. Exempted vehicles are subject to additional conditions: these will prevail when in conflict with standard conditions.

If a vehicle is no longer to be used for the purpose identified in the exemption application, the exemption plate and certificate must be surrendered and returned to the Council. If still to be used for hire, the authority will provide the appropriate licence plates and door stickers, etc.

6.9 Vehicle transfer or replacement

To **transfer** ownership of a licensed vehicle, the licence holder must notify the Council in writing within 14 days giving the name and address of the person to whom the vehicle has been transferred. This can be done by emailing licensing@maldon.gov.uk. A proprietor who fails to give notice without reasonable excuse is guilty of an offence and may lead to prosecution.

New owners must make an application to transfer the vehicle licence: a form is available on the Council's website. Each new owner(s) must provide: -

- a basic DBS check (unless the Council is already in possession of a current one);
- a valid certificate of appropriate motor insurance;
- a bill of sale or a vehicle registration document or a registration counterfoil.

Vehicle proprietors will need to meet all policy requirements and licensing conditions. The vehicle must not be hired out until the new vehicle licence is issued.

To **replace** a licensed vehicle, details of the new vehicle must be provided to the Council. Licence plates for the new vehicle will not be issued until the old plates have been returned to the Council and all documentation has been received and licensing conditions met.

6.10 Fares and Fees

Fares: fare tariffs can only be established in respect of hackney carriages. Due to the rural nature of the Maldon district and taking into consideration trade feedback, the Council has no approved fare system. Fares are a matter to be agreed between the licence holder and the hirer. If requested, a written receipt of the cost of the fare to be provided to the customer. As cash payments are becoming the exception, proprietors of licensed vehicles are encouraged to provide electronic payment methods.

Fees: the law allows the Council to recover the costs involved in granting licences. Changes in the fee will be advertised as required and the relevant Committee will consider any comments received. Fees can be found on the Council's website.

6.11 Taxi Stands

There are 2 stands within the district of Maldon: -

- High Street, Maldon
- Mill Road, Maldon

If first in line, drivers must remain with their vehicle and be available for immediate hire. There is no obligation, however, for a customer to take the first available taxi and a fare can not be refused without reasonable cause.

A proprietor or driver when standing or plying for hire must not call out or importune a person to hire or use others to do so. It is an offence to breach Maldon District Council's byelaws.

7. Private hire operators

Although private hire vehicle operators may not have direct contact with passengers, they must ensure that vehicles and drivers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Any person who operates a private hire service must apply for a private hire operator's licence – application forms are available on the Council's website. Relevant documentation must be submitted with each application (applications will be invalid until all relevant documentation has been received). Every application must be accompanied by satisfactory evidence that the operator has: -

- the right to live and work in the country;
- a basic disclosure from the DBS (within 28 days of application) (unless a licensed driver or vehicle proprietor where a recent check has been undertaken) – to be

provided annually*; if a company or partnership, each of the directors or partners are required to submit a DBS check;

- a register of all employees that will take bookings and/or dispatch vehicles plus evidence that DBS checks have been obtained for each of them; DBS disclosures must be recent (within 28 days of the check);
- an ex-offenders' policy for employing individuals with convictions.

* Basic DBS disclosures are required annually unless signed up to the DBS update service following the issue of an enhanced check certificate.

7.1 Fit and proper person

The 'fit and proper person' test will be applied to all operators. The Council will consider whether an applicant or licence holder with a criminal conviction, but not those relating to traffic offences, meet the 'fit and proper' threshold. For more information, see section 4 of this policy and the Assessment of Criminal Convictions, appendix A. If a company or partnership, a basic DBS disclosure will be required for each director or partner. The Council must be informed of any changes in directors or partners during the period of the licence: basic DBS checks must be submitted for each.

If operators (including directors and partners) are also licensed by the Council as drivers or vehicle proprietors and a DBS check has been completed, there will be no requirement for the operator to submit a further basic DBS disclosure. Under these circumstances, the applicant is considered a fit and proper person unless there are other extenuating circumstances that might indicate otherwise. If a driver or vehicle licence is refused, suspended or revoked, this may not automatically affect their operator's licence.

The Council will normally only consider information that would be disclosed in a basic DBS check. This may need to be decided by a Committee based on all relevant information. Should the person cease to hold a driver licence, annual basic DBS disclosures will be required for the remaining duration of the licence.

Operators must undertake their own basic DBS checks on all employees engaged in the booking or dispatch of vehicles. DBS disclosures need to be recent and within 28 days of taking up employment. Alternatively, a responsible organisation may undertake these checks on the operator's behalf.

All employees in bookings and dispatch must be suitable for the role. Employees must inform the operator of any convictions when employed in this role as part of their employment contract. Suitability for this role shall not be solely reliant upon the DBS check, but, may take into account requirements of the ex-offenders' policy or other information known to the licence holder.

7.2 Employee register

Operators must maintain a register of employees involved in bookings and/or dispatch, evidencing that they have had sight of a basic DBS disclosure for each. Basic DBS checks must be undertaken on any individuals added to the register. Records of DBS checks must be maintained whilst the employee remains on the register.

Should an employee cease to be on the register and later re-entered, the operator must request a new basic DBS certificate and record sight of this. The register must be provided to authorised licensing officers upon request.

If employing ex-offenders for bookings or dispatch, it must be compatible with the operator's ex-offenders' policy. Those with a conviction for offences provided in the Assessment of Criminal Convictions, appendix A, other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car. The operator must consider this when establishing their ex-offenders' employment policy.

Operators may outsource booking and dispatch functions, but they cannot pass on responsibility or the obligation to protect children and vulnerable adults. Operators are required to evidence that comparable protections are applied by the company to which they outsource these functions.

If any person on the register or an outsourced company is not found to be suitable to carry out the work of the operator, the matter will be referred to Committee for determination. The operator will be accountable and required to demonstrate that they undertook all reasonable steps to ensure the person or outsourced company were suitable.

7.3 Record of Bookings

There is a legal requirement for private hire operators to keep records of every booking invited or accepted whether from a member of the public or another operator. Before the commencement of any journey and to comply with licensing conditions, a record of the booking must be kept for 12 months. For details of the records to be kept, see licensing conditions, appendix D.

7.4 Renewal

It is the licence holder's responsibility to make applications for renewal prior to expiry of their licence: it is recommended that this is done 2 months before the expiry date. Applications forms are available on the Council's website. Licences will not be extended beyond the expiry date: if the licence lapses, all applications will be treated as new and operators will be unable to operate until a new licence is issued.

8. Enforcement

The Council is committed to providing an adequately resourced licensing service where decision-makers are suitably trained and supported by robust policies, systems and procedures. This will help prevent those that are not deemed 'fit and proper' being licensed and will allow for suitable monitoring and enforcement of existing licence-holders.

The Council will, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area.

8.1 Complaints

Those wishing to complain about drivers, vehicles and private hire operators may do so by contacting the Council. This can be done on the Council's website or by emailing licensing@maldon.gov.uk. All complaints will be logged and investigated: where necessary, further action will be taken, e.g. further training, formal review of the licence or enforcement.

To facilitate passengers making complaints, a notice must be displayed inside licensed vehicles so that it is clearly visible to all passengers. Complaints will be recorded, forming intelligence that will be considered during the application process for renewal of licences.

Operators and vehicle proprietors must make a record of complaints made directly to them. Each complaint must be investigated, and action taken if required. Vehicle proprietors and operators should liaise with licensing officers if they have any concerns about drivers. Where the nature of the complaint amounts to a criminal offence or non-compliance with hackney carriage and private hire licensing conditions, the Council must be informed as soon as possible (and within 72 hours).

Licence holders must co-operate with any investigation by authorised licensing officers of the Council or the licensing authority of any other area through which they travel. Vehicle proprietors and operators must disclose records relating to complaints when lawfully requested. Any refusal, undue delay or obstruction may bring into question the suitability of the licence holder.

Complaints will not be accepted from persons who wish to remain anonymous, however, identities will not be released to the licence holder if there is a genuine concern for personal safety. Complaints considered to be repetitive, vexatious or malicious in nature will not be investigated and the complainant informed accordingly.

8.2 Whistleblowing

The Council is committed to the highest possible standards of openness and accountability. Employees can report any suspected malpractice or wrongdoing – see the Council's whistleblowing policy for further information. Where staff raise concerns, these will be dealt with openly and fairly.

8.3 Powers

In the interest of public safety, the Council can refuse, suspend or revoke a licence if the applicant/licence holder is not considered a fit and proper person. The Council can suspend or revoke a driver's licence where he/she has been convicted of an: -

- offence involving dishonesty; indecency; or violence;

- offence under or failed to comply with the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976;
- immigration offence or required to pay an immigration penalty; or
- any other reasonable cause.

Common law police disclosure focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately. The Senior Specialist in consultation with the Chair or Deputy Chair of the Licensing Committee may consider all information available and decide as soon as possible whether to suspend or revoke a hackney carriage or private hire licence.

Before any decision is made, the Council will consider all available evidence and a driver will be given the opportunity to state their case. If a period of suspension is imposed, it cannot be extended or changed to revocation later unless further information is made available. A decision to revoke a licence does not, however, prevent the Council from reissuing or restoring a licence where further information is made available affecting the balance of probability.

For example, if allegations against a driver were later considered to be unfounded, a licence could be re-issued if it had been revoked. A suspension may be appropriate if a minor issue that can be addressed through, for example, additional training. In this instance, the licence would be returned to the driver once the training had been completed.

The Council will keep appropriate records for all licences refused, suspended or revoked and will share this information as required with other Licensing Authorities if appropriate to do so and in line with data protection requirements.

8.4 Appeals

Any person who has their driver or operator's licence application: -

- refused or their licence suspended or revoked on the grounds of not being a fit and proper person; or
- wishes to challenge a licensing condition;

has a right of appeal to the Magistrates' Court within 21 days of being given notice of refusal, suspension, revocation or to challenge the requirements of a licence condition.

If a vehicle licence is suspended, revoked, refused or had a licence condition attached, the applicant or licence holder has a right of appeal to the Crown Court in the case of a hackney carriage or Magistrates Court in respect of a private hire vehicle.

9. Data Protection

All information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches and the provision or receipt of information are necessary to the Council's statutory licensing functions of ensuring that all drivers, vehicle proprietors and private hire operators are fit and proper to hold a licence.

If you wish to raise any issue related to the data protection legislation, including any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer. This includes submitting a subject access request. For more information, see the Council's website.