



**South Hams
District Council**

DRAFT
**Hackney Carriage and Private Hire
Licensing Policy**

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Preface

This section does not form part of the policy and is for information purposes only.

This Policy will guide the Council, as the “Licensing Authority” when considering applications under the Town Police Clauses Act 1847, Town Police Clauses Act 1889 and Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on South Hams District Council the duty to carry out their licensing functions in respect of hackney carriages and private hire vehicles.

This is a general guide that has been prepared for the assistance and guidance of Hackney Carriage and Private Hire Drivers and any other person with an interest in Hackney Carriage and Private Hire licensing in the South Hams area. It does not stand on its own and South Hams District Council, its Officers and Agents, do not accept any responsibility for any loss caused by any person acting as a result of the material enclosed here.

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Foreword

Hackney carriages and private hire vehicles are an important mode of local transport, and as such have a specific role to play in a united transport system. They are able to provide safe, secure and comfortable transport, providing an on-request door-to-door service in various circumstances, including where public transport may not be available (e.g. in very rural areas), or for those with mobility difficulties.

The aim of the Policy is to control the provision of a robust taxi and private hire licensing system, which makes sure the public travel safely, receive a good level of service and drivers and operators are not overloaded by unnecessary conditions.

In setting out its Policy, the Licensing Authority seeks to promote the following objectives:

- **The safety and health of drivers and the public;**
- **Vehicle safety, comfort and access;**
- **To prevent crime and disorder and to protect the public;**
- **To encourage environmental sustainability.**

Public safety is vital, and the authority seek to make sure through licensing that all taxi and private hire vehicles are fit for purpose and that their drivers and/or operators are fit and proper persons.

This policy provides information and guidance to licence applicants, clarity for licensed vehicle owners, drivers and operators and the public as to the way that the Licensing Authority will undertake its licensing functions. In addition, the policy document looks to help the Licensing Authority in reaching a decision on a particular application or a particular enforcement issue, setting out those matters that will normally be taken into account.

This Policy will be reviewed periodically to take into account information gathered over a period of time, together with the outcomes of any updates in legislation or associated government guidance. Supporting appendices to the Policy may be updated from time to time, and therefore, applicants and all other interested persons are advised to contact the Licensing Department for up-to-date information.

In the preparation and publication of this policy the Licensing Authorities have had regard to the following:

- Guidance issued by the Department for Transport (“Taxi and Private Hire Vehicle Licensing: Best Practice Guidance” – Edition March 2010).
- Law Commission Taxi and Private Hire Services Paper No 347 – May 2014
- Local Government Association Taxi and PHV Licensing Councillor’s Handbook (England and Wales) – March 2015
- Benchmarking with other Authorities
- Consultation with Taxi Trade
- Licensing Objectives.

Nothing in this policy document should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden.

1. Introduction

- 1.1 This Policy is written pursuant to the provisions of the Town Police Clauses Act 1847, Town Police Clauses Act 1889, Local Government (Miscellaneous Provisions) Act 1976, as amended, Transport Acts of 1980 and 1985, which places on The Council the duty to carry out their licensing functions in respect of hackney carriages and private hire vehicles.
- 1.2 It is recognised that other legislation exists which impacts on taxi licensing, such as the Equality Act 2010 and therefore, aspects of this Policy pay regard to these additional legislative requirements.
- 1.3 It is intended that the Policy will take effect from **XX XX XXXX**.
- 1.4 The Policy relates to hackney carriage and private hire licensing of drivers and operators.
- 1.4 The purpose of this Policy is to assist the Licensing Authority in reaching a decision on any particular application, and in setting out those matters that are normally taken into account. Additionally, the document seeks to provide clear advice for licence holders in terms of the standards expected, and also to provide general advice to service users and the general public.
- 1.5 The Policy is subject to review every five years. Any major changes to policy made between review periods will be preceded by public consultation.

Licensing Authority Area



2 Licensing Objectives & Related Legislation

2.1 The Licensing Authorities are committed to ensuring the provision of a professional hackney carriage and private hire service, by continued monitoring and improvement of standards and procedures, and seeks to promote the following objectives when considering applications, or when assessing the extension of an existing licence:

- **The safety and health of drivers and the public;**
- **Vehicle safety, comfort and access;**
- **To prevent crime and disorder and to protect the public;**
- **To encourage environment sustainability.**

2.2 In promoting these objectives, considerations such as those set out at paragraphs 2.3 and 2.4 will be taken into account by the Licensing Authority, and applicants and licence holders will be expected to continuously show they can meet or exceed specifications set by the Licensing Authority.

2.3 Safety and Health of Driver and the Public:

- Consideration of history of convictions and cautions;
- Driver training, qualification and performance;
- Health and fitness of applicant for driver licence, or existing licence holder;
- Regular driver health checks;
- Knowledge of South Hams District Council area.

2.4 Vehicle Safety, Comfort and Access:

- Standards of vehicle appearance and comfort;
- Use and location of ranks;
- Provision of disabled facilities;
- Provision for all age groups;
- Provision of safe and comfortable premises for customers to use if applicable.

2.5 To Prevent Crime and Disorder and to Protect the Public:

- Vetting, qualification, training and monitoring of licence holders;
- Operating rules and disciplinary processes;
- Measures to prevent noise and light nuisance from taxi activities;
- Commitment to work with Licensing Authority, Police and other statutory authorities.

2.6 The Licensing Authority is aware that applying licensing requirements which are unduly severe may unreasonably limit the supply of taxi and private hire services, and can lead to negative safety implications. Therefore, the Licensing Authority has considered each of its licensing requirements in relation to the proportion of risk it aims to address.

2.7 The Licensing Authority also recognises that the licensing function is only one means of securing the delivery of the above objectives. The Licensing Authority will therefore continue to work in partnership with other stakeholders, such as the Police, Crime & Disorder Partnerships and the Vehicle and Operator Services Agency (VOSA) towards the promotion of the objectives.

2.8 In undertaking its licensing function, the Licensing Authority will have regard to the following legislation:

- Town and Police Clauses Act 1847
- Town Police Clauses Act 1889
- Transport Act 1980 & 1985
- Road Traffic Acts
- The Local Government (Miscellaneous Provisions) Act 1976, as amended
- Disability Discrimination Act 1995, as amended
- Environmental Protection Act 1990
- Health Act 2006
- The Smoke-free (Premises and Enforcement) Regulations 2006
- The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007
- The Equality Act 2010
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000
- The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002

2.6 The Licensing Authority will also have regard to other legislation, strategies, policies and a range of guidance in its decision-making.

3. Consultation

3.1 Before determining this Policy, the Licensing Authority has consulted with numerous persons and organisations including the following:

- Taxi Trade within the South Hams area
- Taxi Trade Representative/s
- Department for Transport (including VOSA)
- Devon County Council Highways Transport Services
- Driving Standards Agency
- Chief Officer of Police, Devon & Cornwall Constabulary
- Town and Parish Councils in West Devon Borough Council Area
- Citizens Advice Bureau
- Age UK
- Local and National Representatives of Child Safety Groups
- Living Options Devon
- Local and National Representatives of Disability Groups
- Home Office

3.2 Consultees were permitted to make representations in writing or via electronic means e.g. email response. All consultation responses have been taken into account when finalising the policy.

4. Departure from Policy

4.1 In exercising its discretion in carrying out its functions, the Licensing Authority will have regard to this Policy and the objectives set out within. However, notwithstanding this Policy, the Licensing Authority will consider each application and enforcement action on its own merits.

4.2 Where it is necessary for the Licensing Authority to depart significantly from this Policy, clear and substantive reasons for doing so will be given. Such a decision will not set a precedent for other applications of a similar nature.

PART ONE – Hackney Carriage and Private Hire Drivers

5. Drivers' Licensing Requirements

5.1 Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 require that a district council will not grant a licence to drive a private hire or hackney carriage vehicle unless they are satisfied that the applicant is a 'fit and proper person' to hold a driver's licence.

5.2 The term 'fit and proper person' for the purposes of hackney carriage and private hire licensing is not legally defined. However, in deciding whether a person is fit and proper' to hold a licence, the Licensing Authority will use the test of:

Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter, or any other person for whom they care, to get into a licensed vehicle with the applicant alone?

The wording of this test originates from Button, J. T. H. (1999), Taxis – Licensing Law and Practice, Butterworths, London.

5.3 When determining whether a person is "fit and proper", the Licensing Authority will consider the applicant's knowledge of the local area and matters related to the work of a licensed driver; their driving experience; driving qualifications; medical fitness; criminal record; previous history as a licensed driver or operator; any other matter considered relevant to the protection of the public or driver. In addition, the Licensing Authority may also consider further information from other sources, including the Police, other Licensing Authorities and Statutory Agencies.

5.4 A driver will be required to maintain their ability to be a 'fit and proper person' while licensed and must report any driving offences, changes to medical conditions, civil or criminal offences for which they have been interviewed or charged.

5.5 If the Licensing Authority suspects that a driver may no longer meet the standards required, Officers may need to conduct further enquiries to verify any information provided as to the fitness of a person to hold a licence. By submitting an application for a licence or holding a licence, the applicant gives their consent to the release of data where necessary.

5.6 Applicants should note that to make a false statutory declaration is a serious criminal offence, punishable upon conviction by imprisonment for a term not exceeding two years or to a fine to be decided by the court or both. This statutory declaration may in certain circumstances, be forwarded to the police for examination.

Dual Driver Licences

5.7 The Licensing Authority issues a dual Hackney Carriage and Private Hire driver licence to give the holder the flexibility to drive either type of vehicle. Licence holders are required to obey with any conditions or byelaws that are relevant to the work they are carrying out at any time, which will be dependent on the licensed vehicle being used.

Driver Knowledge and Proficiency

- 5.8 Hackney carriage and private hire drivers must hold a valid full UK driving licence (licence issued in accordance with Part III of the Road Traffic Act 1972 (as amended)) and this licence must have been held for no less than 12 months at the time of application.
- 5.9 An applicant who meets the licensing requirements by benefit of an acceptable non-UK driving licence must obtain a full UK driving licence within 12 months of issue of the hackney carriage/private hire driver licence.
- 5.10 Hackney Carriage and Private Hire drivers are expected to have a good working knowledge of the South Hams and the surrounding area, as well as the Highway Code and relevant legislation. Applicants will be tested on their knowledge of the above and must pass a test to a set standard. The test will be conducted in English only at the Council Offices. Failure to attend without prior notice will mean forfeiture of any monies paid. Oral tests will only be conducted under exceptional circumstances which can be discussed when initially applying.
- 5.11 Applicants must demonstrate an adequate and reasonable level of spoken English and be able to converse with authorised officers and members of the public. The purpose of the requirement is to ensure that members of the public and drivers are safeguarded by making sure that licensed drivers can communicate and give and understand most instructions. 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 procedure for the English assessment is detailed at Appendix E.
- 5.12 If the Licensing Authority has concerns that an existing driver cannot demonstrate an adequate or reasonable level of spoken English and/or a suitable qualification may be referred to the Licensing Committee with the recommendation that they undertake an independent assessment of their spoken English.
- 5.13 Hackney carriage and private hire drivers, as a profession, have a responsibility for the safe transportation of fare-paying passengers. Therefore, the Licensing Authority as part of its application procedure requires that an assessment of the drivers' ability must be obtained by all new applicants. Similarly, where an existing licensed driver receives an endorsement/s or penalty points the Licensing Authority may require that person to undertake the same assessment.
- 5.14 The driving assessment would be achieved by successful completion of a standard taxi driving assessment, as approved by the Licensing Authority. The test is reflective of modern driving practices; the standard is set at a level suitable for the full driving licence holder, which is therefore of a higher level than the learner driver test.
- 5.15 It is a requirement that all applicants for new or renewal applications must have completed a Passenger Assistance Training Scheme (PATS) training course with a certificated trainer, as approved by the Licensing Authority. A certificate to prove that the course has been completed must be presented with the application.
- 5.16 As part of the Councils' commitment to protecting the safety of those most vulnerable in our communities, and recognising the important role that taxi drivers play as eyes and ears within the community there is an additional requirement that all driver renewal

applications shall be accompanied by evidence that the applicant has attended a Safeguarding Awareness Workshop relating to Children and Vulnerable Adults.

- 5.17 All new drivers must attend a Safeguarding Awareness Workshop within 12 months of their licence being granted. Failure to do so will result in the licence being suspended or not renewed.
- 5.18 The Licensing Authority, at its discretion, may require specific training to be undertaken by an applicant or a licensed driver where considered suitable.

Medical Examination and Exemptions

- 5.19 The Licensing Authority requires that all new drivers complete a medical examination prior to making an application, and will require further medical assessments as detailed below. The medical examination will make sure that the applicant/licence holder satisfies all the requirements of the DVLA Group II medical standards of fitness to drive.
- 5.20 The medical assessment may be undertaken by either a Licensing Authority approved medical centre or the driver's own GP surgery. The applicant will be responsible for making sure that their medical records are available to the medical practitioner so that the medical assessment can be completed. A medical certificate in the agreed format must be provided to the Licensing Authority following the assessment, no older than three months at the time of the application being completed.
- 5.21 The requirements for applicants/licensed drivers regarding medical examination are as follows:
- Upon new driver application
 - Every 5 years from the age of 45 years (*in intervening years, licence holders are required to declare that there has been no change in their medical standard*)
 - Every year where the driver is aged 65 years or over.
 - Or any time as required by the Licensing Authority or medical practitioner
- 5.22 Drivers who suffer from certain medical conditions may be required to provide more frequent medical assessments in relation to the specific medical condition.
- 5.23 Where there is any doubt as to the medical fitness of the applicant, the Licensing Authority may ask the applicant to take further medical examination at a Licensing Authority approved medical centre at the applicant's/licence holder's own expense.
- 5.24 Where there remains any doubt about the medical fitness of the applicant/licence holder, following the additional assessment described in the previous paragraph, the Licensing Authority will review the medical evidence. They will then make a final decision as to the suitability of the applicant/licence holder to drive a hackney carriage or private hire vehicle in light of the medical evidence available.
- 5.25 All licence holders are required to inform their Licensing Authority of any illness, condition or any other matter that affects their ability to drive.
- 5.26 Exemption from carrying guide, hearing and certain other assistance dogs accompanying disabled persons, can only be sought on medical grounds. Therefore, applicants will need to show any allergies or phobias by providing medical evidence to the Licensing Authority.

5.27 It is important that applications for the exemption are made before taking a medical examination.

5.28 If an application for exemption is successful, the Licensing Authority will issue the driver with a Notice of Exemption. This Exemption must be exhibited in the vehicle by fixing it, facing outwards, either on the windscreen or in a prominent position on the dashboard.

6. Disclosure Barring Service (DBS), Criminal Disclosures, and Certificates of Good Conduct

6.1 Due to the nature of their role, Hackney Carriage and Private Hire drivers are included as 'exceptions' from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Therefore, all applicants and licensed drivers must reveal on their application form any caution or conviction, even if it is 'spent' for other purposes. All offences will appear on an Enhanced Disclosure and Barring Service (DBS) certificate. There are certain circumstances where old or minor cautions and convictions may be 'protected' and will not appear on a DBS certificate, more information on this can be found in the 'DBS Filtering Guide' available on the DBS website.

6.2 The Licensing Authority requires that all new applicants submit to a DBS check upon application for a Hackney Carriage and Private Hire driver licence. The check must be made through the Licensing Authority's electronic DBS checking service.

6.3 All new applicants and current licence holders must subscribe to the DBS Update Service for the required annual fee as set by the DBS. If the subscription remains up-to-date, the licence holder will not be required to complete another DBS application unless there are changes to their criminal record status

6.4 If the applicant has subscribed to the 'Update Service', their subscription is up-to-date and written authorisation to do so has been given, the Licensing Authority will be able to access the online Update Service to carry out a 'Status Check'. The status will be checked annually, but may be completed at any time if there is reason to do so. For example, if there is the reasonable belief that the licence holder has obtained a criminal conviction which has not been notified to the Licensing Authority.

6.5 If the subscription lapses, the next time a DBS check is required a new DBS application must be completed, including the full DBS application fee.

6.6 Applicants will be required to prove that they have the correct permissions in place to work in the UK, before being granted a licence. Applicants will be required to provide, amongst other documents, a birth certificate or valid passport. Additional proof of identity will be required for the enhanced DBS check, the full requirements of which may be found on the DBS website. The Licensing Authority will operate its application procedures in line with guidance issued by the UK Border Agency on Prevention of Illegal Working and its associated Code of Practice.

6.7 For new driver applications, if you have lived outside of the UK for a continuous period of 6 months or more at any time since your eighteenth birthday, you must obtain a Certificate of Good Conduct which must be under 6 months old. A Certificate of Good Conduct (or equivalent) authenticated and translated by the relevant embassy is required. The GOV.UK website provides information about obtaining these certificates, or similar documents from other countries.

- 6.8 Failure to inform the Licensing Authority, without delay, of any convictions, cautions and fixed penalty notices during the licensing application and/or licensing period (i.e. once the licence is granted) may result in the application being refused or the licence being suspended or revoked. Similarly, where convictions, cautions or fixed penalty notices are notified, depending on the nature of the incident, this may result in suspension or revocation of the driver licence.
- 6.9 All applicants for the grant/renewal of a licence requiring a DBS check, or by request during the licence period, shall be responsible for the costs of gaining the DBS certificate.

DVLA Licence Checking

- 6.12 The Licensing Authority will need an applicant to sign a mandate form in order that a DVLA licence check can be carried out at any time while licensed as a Hackney Carriage and Private Hire driver. This will allow the Licensing Authority to access information relating to DVLA driving licence entitlements and endorsements.

7. Relevance of Convictions, Cautions, Fixed Penalties and other relevant information

- 7.1 When considering convictions and cautions recorded against an applicant or an existing licence holder, the Licensing Authority will have regard to the “Convictions & Cautions Policy” set out in **Appendix A**.
- 7.2 In assessing whether an applicant or licence holder is a ‘fit and proper’ person to hold a licence, the Licensing Authority will consider each case on its own merit.
- 7.3 The Licensing Authority will take account of cautions, whether spent or unspent, fixed penalty notices and other information, but only if they are relevant to an application for a licence or impact on the continuance of an existing driver licence. Upon receipt of the Disclosure and Barring Service check, the Licensing Authority will consider whether any, or all, of the spent convictions have any real relevance to the issue of whether the applicant or licence holder is a fit and proper person to hold a licence. In certain cases, the matter may be referred to the Licensing Committee for a decision.
- 7.4 The Licensing Authority will have regard to fixed penalties when considering if an applicant is a fit and proper person. Failure to inform the Licensing Authority of any fixed penalty notices obtained during the application or licence period may result in possible refusal of the application or suspension or withdrawal of the licence.
- 7.5 In relation to cautions, the Licensing Authorities will have regard to the nature of the incident when considering its relevance to an application or continuance of an existing driver licence.
- 7.6 In relation to previous convictions, the Licensing Authority will have regard to the following:
- Whether the conviction/s are spent or unspent;
 - The nature of the offence/s;
 - The age of the offence/s;
 - The apparent seriousness, as gauged by the penalty applied.

- 7.7 In general terms, the more recent, serious and relevant to the Licensing Authority's licensing objectives the offence is, the less likely the application will be granted or that an existing licence will be permitted to remain in effect.

8 Grant and Renewal of Driver Licences

New Applications

- 8.1 The Licensing Authority will normally issue a three-year licence unless a reasonable request for a licence of a shorter period is made. The Licensing Authority retain discretion to issue licences of a shorter period if it considers appropriate.

Renewal Applications

- 8.2 The Licensing Authority will normally issue a three-year licence upon renewal, unless a reasonable request for a licence for a shorter period is made. The Licensing Authority retains discretion to issue licences of a shorter period if it considers this to be reasonable given the individual circumstances.
- 8.3 Applications must be made on the specified application form, which is available to download from the Council's website or upon request to the Licensing Team. The Licensing Authority will not accept the application as being served until all prescribed supporting documentation is provided.
- 8.4 Although there is no statutory duty placed on the Council to issue reminders, holders of existing driver licences will be reminded in advance of their licence expiring and the requirement to renew. It is recommended that drivers note their licence expiry date and apply to renew in good time. It remains the licence holder's responsibility to ensure that licences are renewed in time.
- 8.5 The reminder service is not a statutory requirement. Failure to receive a reminder is not a valid reason for not renewing a licence in time or for supplying the Council with a required document.
- 8.6 Failure to renew a licence before the expiry date will result in the applicant being required to make an application for the grant of a new licence and comply with all the associated requirements of the new application process. If the licence renewal is submitted late as a result of exceptional circumstances it may be accepted. 'Exceptional' in this instance will only apply where failure to renew on time is due to unforeseen circumstances, for example where the applicant has been unable to apply due to an emergency situation.

9. Code of Good Conduct and Penalty Point System

- 9.1 The Licensing Authority has introduced a Code of Good Conduct for Hackney Carriage and Private Hire drivers, which serves to promote the Licensing Authority's licensing objectives. Failure to meet with these standards may lead to the Licensing Authority determining that a licensed driver is no longer a 'fit and proper' person to hold a licence.
- 9.2 The Code is provided at **Appendix B** and should be read together with the other statutory and policy requirements in this document. By accepting a licence from the Licensing Authority, licensed drivers will be deemed to have read and accepted the Council's Code of Good Conduct, therefore agreeing to follow its contents.

Penalty Point System

- 9.3 The introduction of the Penalty Points System is to provide an effective enforcement process for Licensing Officers in respect of Hackney Carriage and Private Hire Driver and Vehicle Licence holders who are found to be in breach of local or national conditions and policies relating to the licensing functions.
- 9.4 The emphasis of the Penalty Points System is to increase and guarantee the safety and wellbeing of members of the public as well as compliance with legal requirements. The system is only intended to ensure compliance by those licence holders who it is proved have breached or are in breach of the rules and regulations that they should be complying with.
- 9.5 The system operates in line with penalty points endorsed on a driving licence and that where 12 unspent penalty points are accumulated this will result in automatic referral to a Licensing Committee. Where a referral is made to a Licensing Committee, it will be that Committee's decision on what further action if any should be taken.
- 9.6 Where penalty points are administered by an Officer and the licence holder wishes to dispute the matter, the licence holder may request for the matter to be referred to a Licensing Committee.
- 9.7 Any licence holder has the right to appeal against a Licensing Committee decision to the Magistrates Court within 21 days of notification of the Committee's decision.
- 9.8 Details on when penalty points may be given are found at **Appendix C**.
- 9.9 The issuing of penalty points does not preclude the Licensing Authority from taking further enforcement action where there has been a breach of any of the regulations of the Local Government (Miscellaneous Provisions) Act 1976 or the Town Police Clauses Acts

10. Smoking

- 10.1 Smoking in a smoke-free place is prohibited under the Health Act 2006. A 'smoke-free place' includes a licensed Hackney Carriage or Private Hire vehicle. In the context of the Health Act, smoking relates to the smoking of cigarettes and other tobacco products.
- 10.2 The driver of a licensed vehicle must not smoke in the vehicle at any time, including when the vehicles is being used for social, domestic and pleasure purposes.
- 10.3 The driver of a licensed vehicle must not allow any other person or fare-paying passengers to smoke in a licensed vehicle.
- 10.4 This also includes a ban on electronic inhaler type cigarettes or vaporisers, which mimic the action of smoking.

APPENDIX A

Hackney Carriage and Private Hire Licensing Criminal Convictions Policy

1. Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the Licensing Authority when deciding whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver or operator licence.
- 1.2 The prime aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
- That a person is a fit and proper person
 - That the person does not pose a threat to the public
 - That the public are safeguarded from dishonest person
 - The safeguarding of children, young persons and vulnerable adults
- 1.3 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
- Applicants for drivers' licences
 - Existing licensed drivers whose licences are being reviewed
 - Licensing officers
 - Members of the licensing committee/ panel (or other relevant decision making body)
 - Magistrates hearing appeals against local authority decisions
- 1.4 Where officers under the Council's Scheme of Delegation, have powers to grant licences, they will use these guidelines when making a decision to grant a licence. In all other cases, applications for licences will be referred to the licensing committee/panel (or other relevant decision-making body). While officers and the committee/panel will have regard to the guidelines contained in the policy, each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.

2. General policy

- 2.1 There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:
- a. Remain free of conviction for an appropriate period; and
 - b. 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 generally be regarded as satisfactory evidence that a person is a fit and proper person to hold a licence.

2.3 Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction [Nottingham City Licensing Authority v. Mohammed Farooq (1998)].

3. Appeals

3.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].

4. Powers

4.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

4.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

4.3 In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

5. Consideration of disclosed criminal history

5.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operator's licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- 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 they form part of a pattern of offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant

5.2 Existing holders of drivers' licences are required to notify the licensing authority in writing within twenty-eight days of receiving a driving licence endorsement, fixed

penalty notice or criminal conviction (including cautions).

- 5.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing officer in confidence for advice.
- 5.4 The licensing authority conducts disclosures from the Disclosure and Barring Service (DBS) of any applicant for a driver licence. The licensing authority follows the DBS's Code of Practice on the fair use and storage of disclosure information. A copy is available on request.
- 5.5 Applicants applying for the grant or a renewal of a drivers' licence will be required to get a disclosure at their own expense. The licensing authority stands by the DBS's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.
- 5.6 More information about the DBS can be found on their website.
- 5.7 The licensing authority is also permitted to use other records and information that may be available to it in deciding applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police.
- 5.8 It is an offence for any person, knowingly or recklessly, to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

6 Serious offences involving violence

- 6.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.
- 6.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.
- 6.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Terrorism offences
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 10 years prior to the date of application:
- Arson
 - Malicious wounding or grievous bodily harm which is racially aggravated
 - Actual bodily harm which is racially aggravated
 - Grievous bodily harm with intent

- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault with racially aggravated
- Violent disorder
- Resisting arrest
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 5 years prior to the date of application:

- Racially-aggravated criminal damage
- Racially-aggravated offence
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.7 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

6.8 In the event of a licence being granted, not revoked or suspended, a strict warning both verbally and in writing should be administered.

7. Possession of a weapon

7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to transport the public.

7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

8. Sex and indecency offences

8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely examined. Those with convictions for the more serious sexual offences will generally be refused. For other offences,

applicants will be expected to show a substantial period (normally at least 5 years) free of conviction for such offences before a licence will be granted.

- 8.2 (a) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as:
- Rape
 - Assault by penetration
 - Offences involving children or vulnerable adults
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 8.3 (b) Before an application is allowed, an applicant should be free of conviction for at least 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:
- Sexual assault
 - Indecent assault
 - Possession of indecent photographs, child pornography etc.
 - Exploitation of prostitution
 - Trafficking for sexual exploitation
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 8.4 (c) Before a licence is granted, an applicant should be free of conviction for at least 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:
- Indecent exposure
 - Soliciting (kerb crawling)
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 8.5 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.
- 8.6 A licence will not normally be granted if an applicant has more than one conviction for a sex or indecency offence.

9. Dishonesty

- 9.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deal with such property in accordance with the standards set out in Appendix B in relation to lost property. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Furthermore, it is fairly easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to a dishonest driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.
- 9.2 In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:
- theft
 - burglary

- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

10. Drugs

- 10.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.
- 10.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 years.
- 10.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.
- 10.4 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.
- 10.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

11 Driving offences involving the loss of life

- 11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

A licence will not normally be granted unless the applicant is free of conviction for 7 years or (or at least 3 years must have passed since the completion of the sentence, whichever is longer) if he has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

- 11.2 Before a licence is granted, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he has a conviction for:

- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers

12 Drink driving/driving under the influence of drugs

- 12.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily exclude an applicant from proceeding on the restoration of his DVLA driving licence but s/he should be warned as to the significant risk to his/her licence status in the event of re-offending. More than one conviction for these offences raises major doubts as to the applicant's fitness to drive the public and would generally cause an application to be refused. At least 3 years, after the restoration of the driving licence following a drink-drive conviction should pass before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

13 Outstanding charges or summonses

- 13.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings. Where information is received through the Notifiable Occupations Scheme on existing licence holders, consideration will be made at committee.
- 13.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.
- 13.3 A suspension or withdrawal of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]

14 Non-conviction information

- 14.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include serious violent offences and serious sex offences.
- 14.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

15 Cautions

- 15.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

16 Pending Investigation

- 16.1 The Licensing Authority may, at its discretion, revoke a driver's licence where it deems it necessary to do so pending an investigation by either the Licensing Authority or the

Police. This decision will only be taken where it is thought necessary in the interest of public safety.

17 Licensing offences

- 17.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed.

18 Insurance offences

- 18.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years; however strict warning should be given to future behaviour. More than one conviction for these offences would normally prevent a licence being granted or renewed.
- 18.2 At least three years should pass (after the restoration of the DVLA driving licence), before a licence would normally be granted for a hackney carriage or private hire drivers licence. An operator found guilty of aiding and abetting the driving of passengers for hire and reward while without insurance will have his/her operators' licence revoked immediately and prevented from holding a licence for three years.

19 Overseas residents

- 19.1 If an applicant has spent six continuous months or more overseas the licensing authority will expect to see evidence of a criminal record check from the country/countries covering the period.

20 Licences issued by other licensing authorities

- 20.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

21 Summary

- 21.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.
- 21.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.
- 21.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the prime concern is the protection of the public.

20 Appeals

- 20.1 Any applicant refused a driver's licence or where a licensed driver's licence is suspended or revoked on the grounds that the Licensing Authority is not a fit and proper person to hold such a licence, there is a right of appeal to this decision to the Magistrates' Court within 21 days of the notice of refusal, suspension or revocation.

21 Principles of the Rehabilitation of Offenders Act 1974 (as amended by the Legal Aid, Sentencing and Punishment of Offenders Act 2012)

- 21.1 Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be ignored completely.
- 21.2 The possibility of rehabilitation and the length of time before rehabilitation occurs depends on the sentence imposed, and not the offence committed.
- 21.3 Despite the above, the principles of the Act do not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of taxis is listed as a "Regulated Occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.
- 21.4 Although the Act does not prevent judicial authorities (inclusive of the Licensing Authority) from taking spent convictions into account; such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a fit and proper person to hold a licence.
- 21.5 The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.
- 21.6 The rehabilitation periods to which reference is most commonly made are set out below. For a detailed commentary on the periods of rehabilitation applicable to all sentencing options, reference will need to be made to a specialist textbook on the Act.

21.7 Sentence Rehabilitation Period

Custodial sentence over 4 years	Never spent
Custodial sentence over 30 up to 48 months	7 years
Custodial sentence over 6 up to 30 months	4 years
Custodial sentence less than 6 months	2 years
Community Order	1 year

Buffer period for adults, this applies from the end date of the sentence.

The following are the rehabilitation periods for sentences that do not have a buffer period and runs from the date of conviction:

Fine	1 year
Conditional discharge	Period of order
Absolute discharge	None
Conditional caution	3 months or when caution stops to having effect
Simple caution	Spent immediately
Compensation order	On the discharge of the order
Binding over, Attendance centre and Hospital order	Period of order

Once a conviction becomes spent it remains spent even if a person is convicted of other offences.

APPENDIX B

Hackney Carriage & Private Hire Driver Code of Conduct

The Council expects Hackney Carriage and Private Hire Drivers to follow the following;

In this code of good conduct 'the Council' means South Hams Council, 'Driver' means a person holding a Hackney Carriage and Private Hire Drivers licence issued by the Council and 'Vehicle' means a Hackney Carriage or Private Hire Vehicle licensed by the Council.

Notes: Failure to follow the Hackney Carriage and Private Hire Drivers Code of Conduct may result in penalty points being issued, suspension or revocation of the licence pursuant to S.61 of the Local Government (Miscellaneous Provisions) Act 1976.

1. Identification of drivers

- a) The driver will at all times whilst using a Hackney Carriage/Private Hire vehicle wear or display their Hackney Carriage and Private Hire Drivers badge in such a position and manner that is plainly visible.
- b) The badge must be shown, if requested, to the hirer of the vehicle or to any 'authorised officer' of the Council or Police Officer, as defined in the Local Government (Miscellaneous Provisions) Act 1976.

2. Hackney Carriage/Private Hire Vehicle

The driver shall not use a Hackney Carriage/Private Hire vehicle unless it conforms with South Hams District Council's Hackney Carriage and Private Hire vehicle conditions (see page **XX** onwards).

3. Hackney Carriage and Private Hire Drivers Licence (badge)

- a) The driver will be issued with a Hackney Carriage/Private Hire Drivers licence and identification badge. These documents remain the property of South Hams District Council.
- b) At the request of an authorised officer of the Council, the licence and/or identification badge must be returned to the Licensing Department.
- c) The driver shall upon the expiry date (without prior renewal to that expiry date), revocation or suspension of the licence, return the licence and driver's identification badge to the Council immediately.

4. Lost property

- a) The driver should carefully search the vehicle for any property which may have accidentally been left behind after each journey. Driver discretion will be required as to whether the item left behind is likely to have significant monetary or sentimental value.
- b) If the driver has found items of such nature accidentally left in their vehicle they must notify their operator. If the passenger contacts the operator or the Council, the driver must arrange for the passenger to collect the goods within 48 hours, alternatively, hand in to the nearest police station.

5. Licence plate

- a) The driver will make sure that the Hackney Carriage/Private Hire Vehicle licence (plate) is securely fixed to the rear of the vehicle at all times, whether working as a Hackney Carriage/Private Hire vehicle or not.
- b) The driver will make sure that the Hackney Carriage/Private Hire Vehicle licence (plate) is not hidden or damaged and is kept clean so that it is clearly visible at all times.

6. Convictions, cautions and fixed penalties

- a) Following any conviction or the issue of a fixed penalty notice which results in penalty points being endorsed on the licence holder's DVLA driving licence, the licence holder must notify the licensing authority within 5 working days of the endorsement of the licence.

A further Taxi driving test may be requested by a Licensing Officer if there is a complaint regarding the standard/quality of their driving.

- b) In the event of a conviction before a court resulting in disqualification from driving, a licensed driver shall immediately inform the licensing authority and surrender their driver licence.

7. Change of address

- a) The driver will notify the Council in writing of any change of address during the period of the licence within 5 working days of such change taking place.
- b) The driver's DVLA driving licence must be registered at the driver's current address.

8. Accidents

The driver shall inform the Council in writing or by telephone within 72 hours of any vehicle accident in which the driver is involved (whilst driving a Hackney Carriage/Private Hire Vehicle).

9. Conduct of driver

- a) The driver shall at all times be clean and respectable in their dress and person and behave in a civil and orderly manner.
- b) The driver shall at all times take all reasonable steps to make sure the safety of passengers carried in, entering or leaving the vehicle.
- c) The driver shall not smoke in the vehicle or allow any passengers to smoke in the vehicle (this includes the use of electronic cigarettes / vaporisers).
- d) The driver shall not play any audio (other than for the purposes of sending/receiving messages from the Operators base) that is loud, offensive or that causes a nuisance to the hirer.
- e) While driving, the driver shall not use their hand-held mobile phone, PDA or any other device.
- f) Drivers should not begin any conversations with a passenger that is likely to cause offence.

g) Drivers should not possess in their taxis any item that could be construed as an offensive weapon.

10. Passengers

a) The driver shall not carry more than the number of passengers, including babies and children, stated on the Hackney Carriage/Private Hire Vehicle licence.

b) The driver shall not allow any child under 12 years of age or under 1.35 metres in height to be carried in the front of the vehicle.

c) The driver shall not at any time by calling out or otherwise pester any person to hire their vehicle.

d) The driver shall not rank unlawfully.

e) The driver shall not permit any person to be carried in the vehicle without the consent of the hirer.

11. Written receipts

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

12. Carrying animals

a) The driver shall not carry any animals, which belong to, or are in the custody of him/her, in the vehicle when it is being hired.

b) The driver must (unless in possession of an exemption certificate) accept bookings made by, or on behalf of, a disabled person who is accompanied by a guide, hearing or assistance dog.

c) The driver must (unless in possession of an exemption certificate) accept a booking by a person who will be accompanied by such a disabled person.

d) The driver must not make an additional charge for carrying the passenger's assistance dog.

e) A driver who has a proven medical condition that prevents him/her from carrying an assistance dog in their vehicle must obtain a Driver Exemption Certificate (from the Council on production of medical evidence of the condition). This Certificate must be clearly displayed at all times when driving the Hackney Carriage Vehicle. The driver is responsible for informing their Operator (if applicable) and the Council if they have a medical condition affecting their ability to carry assistance dogs during the period of their licence.

13. Health of a driver

a) The driver must inform the Council without delay about the start or worsening of any health condition likely to cause them to be a source of danger to the public when driving either now or in the future. Examples are contained in the DVLA Medical Notification Guidance and include, but not limited to:

- giddiness
- fainting

- blackouts
- Epilepsy
- strokes
- Multiple Sclerosis
- Parkinson's Disease
- heart disease
- Angina
- coronaries
- high blood pressure
- Arthritis
- disorder of vision
- mental illness
- alcoholism
- drug taking
- loss of limb or loss of use of limb
- Diabetes

b) Drivers who are in doubt about whether or not their health condition is one which should be reported should consult their Doctor and refer to the DVLA (Group 2) Medical Rules and Standards which are updated every 6 months.

c) All applicants must submit a Certificate of Fitness which must be undertaken at the Council's approved medical centre. When a driver reaches the age of 45, a further Certificate of Fitness is required, then every 5 years until they reach the age of 65 and then annually.

d) The Licensing Office may at any time request the driver be referred to the Councils approved medical centre for a further medical examination.

14. Renewal of licences

a) Applications to renew a Hackney Carriage/Private Hire Driver licence must be made before the end of the current licence and must be submitted on the appropriate application forms. It is advisable to make an application at least 30 days in advance to ensure that there is no delay or break in licence period.

b) All current Hackney Carriage/Private Hire Drivers licence holders are required to have a DBS check and maintain a subscription to the 'DBS Update Service' for the period of their licence. This will be carried out at the time of submission or renewal application.

c) All current Hackney Carriage Drivers licence holders are to have their DVLA/EU drivers licence checked with the DVLA annually.

Note: Expired licences cannot be renewed. You will be required to successfully complete the new driver application procedure before a badge will be issued.

15. Seat belt regulations

Hackney Carriage drivers are exempt by virtue of Regulations 5(h) of the Motor Vehicles (Wearing of Seat Belts) Regulations 1982, providing they are seeking hire, answering a call for hire or carrying a passenger, and the vehicle is carrying a plate showing it a licensed Hackney Carriage.

16. Child restraints

- a) If the correct child restraint is not available then a child under 3 years of age may travel unrestrained in the rear of a Hackney Carriage/Private Hire vehicle.
- b) If the correct child restraint is not available then a child aged 3 to 11 and less than 1.35 metres (approx. 4ft 5ins) may use an adult belt when travelling in a Hackney Carriage/Private Hire vehicle.

17. Certificate of insurance

- a) The driver will be responsible for ensuring that they have valid insurance to use their vehicle for Hackney Carriage or Private Hire purposes.

Note: The conditions concerning insurance of motor vehicles are contained in part 6 of the Road Traffic Act 1988.

18. Obstruction of an authorised officer

Any person who:-

- a) wilfully obstructs an authorised officer or constable acting in pursuance of this Act; or
- b) without reasonable excuse fails to obey any requirement properly made to him by such officer or constable; or
- c) without reasonable cause fails to give an officer or constable acting any other assistance or information which he may reasonably require of such person for the purposes of the performance of his functions under this part of the Act or the Act of 1847; shall be guilty of an offence.

Note: The Hackney Carriage/Private Hire Driver's licence is subject to the penalty points system and the licence holder is required to read and comply with the provisions of the system at all times - see penalty points system at **Appendix C**.

APPENDIX C

Penalty Points System

Offence/Cause	Penalty/Points	Person Responsible	Period to Stay on File
1. Failure to wear or clearly display HC/PH driver licence	3	Driver	12 months
2. Failure to display HC/PH vehicle licence (plate) correctly	3	Driver	12 months
3. Failure to produce Insurance Certificate within 5 working days on request	3	Driver/Proprietor	12 months
4. Failure to produce Certificate of Compliance within 5 working days on request	3	Driver/Proprietor	12 months
5. Failure to produce DVLA Driving Licence within 5 working days on request	3	Driver	12 months
6. Failure to notify the Licensing Authority of a change of address within 5 working days	3	Driver	12 months
7. Failure to notify the Licensing Authority of damage to vehicle within 3 working days.	3	Driver	12 months
8. Failure to notify the Licensing Authority of vehicle involved in a Road Traffic Accident within 3 working days.	3	Driver	12 months
9. Failure to notify the Licensing Authority of a change of use of a motor vehicle within 5 working days	3	Proprietor	12 months
10. Failure to notify the Licensing Authority of a transfer or purchase of vehicle within 5 working days	3	Proprietor	12 months
11. Upholstery and/or exterior in an unreasonable condition	3	Driver	12 months
12. Failure to display no smoking stickers	3	Driver	12 months
13. Defective Tyres	3 points per defective tyre and or stop notice	Driver	12 months
14. Private Hire Vehicle parking in or at a Hackney Carriage stand	3	Driver	12 months

15. Hackney Carriage Vehicle leaving vehicle unattended in or at a Hackney Carriage stand	3	Driver	12 months
16. Charging more than displayed on the taxi meter (if fitted)	3	Driver	12 months
17. Failure to obey an Officers request	3	Driver	12 months
18. Not displaying Tariff on Meter (where applicable)	6	Driver	12 months
19. Refusal to carry guide dogs, hearing dogs or service dogs (unless exempt)	6	Driver	12 months
20. Making a surcharge for the carriage of wheelchairs	6	Driver	12 months
21. No valid Insurance Certificate	6 and or referral to Licensing Committee	Driver	36 months
22. No valid Certificate of Compliance (MOT)	6 and or referral to Licensing Committee	Driver	36 months
23. Failure to notify the Licensing Authority of a motoring conviction within 5 working days	6 and or referral to Licensing Committee	Driver	18 months
24. Failure to notify the Licensing Authority of a criminal conviction or caution within 5 working days	6 and or referral to Licensing Committee	Driver	18 months
25. Carrying excess passengers	6 and or referral to Licensing Committee	Driver	18 months
26. Being aggressive, and or, using threatening and abusive language towards Licensing Officers	6 and or referral to Licensing Committee	Driver	18 months
27. Any other reasonable cause Section 60 Local Government Miscellaneous Provisions Act 1976	6 and or referral to Licensing Committee	Driver	12 months
28. Failure to attend a Licensing Committee when informed, or requested to do so	1 – 6 for Licensing Committee to determine	Driver	12 months
29. Appearance before a Licensing Committee reference allegations of misconduct	1 – 12 for Licensing Committee to determine	Driver	12 months

APPENDIX D

Hackney Carriage & Private Hire Driver Licensing Application Process

The information below details the Licensing Authority's compulsory requirements for new and renewal Hackney Carriage and Private Hire driver licence applications. The following is given as guidance only as to the processes followed and documents required. If an applicant has specific queries they should contact the Licensing Team.

Please note that a driver's licence badge issued by South Hams District Council will allow you to drive only vehicles that are licensed by South Hams District Council.

Please note that as an applicant or driver licensed by South Hams District Council, you will be required to visit our Totnes office in person during the application process and on occasion whilst you hold a licence for the purposes of inspection, production of paperwork or for any other reason.

Applications for new drivers

The application process will involve you meeting a number of requirements at an additional cost. The steps laid out below are a suggestion of how you may wish to continue to gain all documents necessary to make a valid application:

Overview

- Application form
- One passport sized photograph
- Taxi driving test certificate
- Valid passport, birth certificate, or other proof of entitlement to work in the UK
- DBS certificate process through the electronic DBS check provider
- Overseas criminal record check (Certificate of Good Conduct) issued within the last 6 months – where applicable.
- DVLA driving licence photo card (old style paper licences issued before 1998)
- DVLA check mandate form
- Group II medical certificate issued by the designated medical assessment centre or your own GP within the last 3 months
- Passenger Assistance Training Scheme certificate
- Completion of the Licensing Authority Knowledge Test
- Required fee

Step 1:

Hackney Carriage and Private Hire driver application form

This form requires you to detail any previous convictions and medical issues that you may have that may impact on your ability to obtain a licence in agreement with the Licensing Authority's policies. By submitting this information before completing the other required steps, we are able to give you an early view of whether your application will be successful or not.

As part of our checks we will require you to provide identification to prove your right to work in the UK, as a minimum requirement we will need to see your passport or birth certificate. The Licensing Authority will operate its application procedures in line with guidance issued by the UK Border Agency on Prevention of Illegal Working and its associated Code of Practice.

Step 2:

Sit and pass the knowledge test.

The knowledge test assesses your knowledge of the local area, the Highway Code, numeracy and the legislation which is relevant to you as a licensed driver. Tests will normally be held on one day per month at the Council offices in Totnes. Applicants may arrange to sit the test on an alternative day at West Devon Borough Council offices in Tavistock if more convenient.

You will need to bring documents to show evidence of your entitlement to work in the UK (valid passport, birth certificate or other proof of entitlement) and proof of address, with you to your knowledge test. Without these documents you will not be able to sit the test.

We only accept and process applications that have successfully completed these tests. The fee for the test must be paid before the test can be taken. The cost of the test is non-refundable and the same fee is payable to re-sit a failed test.

Step 3:

Apply for Enhanced DBS check and DVLA mandate form

Enhanced DBS checks are undertaken through an electronic checking service. You will need to provide the required identification documents as listed on the DBS website to us so that the check may be submitted. Alternatively you may take your documents to a Crown Post Office to be verified.

The DBS certificate must be presented to us within three months of being issued. You must sign up to the DBS Update Service within **nineteen days** of your certificate being issued. If this is not done, you will be required to submit a new DBS check 12 months after the issue of the licence including payment of the full DBS fee.

If you have any convictions, cautions or fixed penalty notices which fall within the Council's convictions policy, the application will be determined by the Licensing Committee.

A DVLA mandate form must be completed and signed so that we are able to check your DVLA record at any time during your licence period.

Step 4:

Provide Certificate of Good Conduct (where applicable)

If you have lived outside of the UK for a continuous period of 6 months or more at any time since your tenth birthday, you must obtain a Certificate of Good Conduct which must be under 6 months old. You must contact your Consulate for more information on this, not the licensing department. Asylum seekers who hold a Home Office issued application registration document together with a positive verification letter from the Home Office's Employer Checking Service stating that the named individual is permitted to work in the UK will be exempt from the requirement to submit a recent certificate of good conduct. We will

require to see any Certificate of Good Conduct that you may have regardless of the age of the document.

Step 5:

Sit the Taxi driver test as provided by the Licensing Authority approved provider

A certificate showing successful completion of the practical taxi test must be provided. You do not require the wheelchair assessment. You can book your test online at the DVSA website. If you have any queries regarding this element, you must contact the DVSA and not the licensing department. The DSA test may be undertaken at any of the DVSA test centers.

Step 6:

Obtain the Passenger Assistance Training Scheme certificate

It is a requirement that all applicants for new or renewal applications must have completed a Passenger Assistance Training Scheme (PATS) training course with a certificated MiDAS trainer which will include modules A, B1, B2, C1, C2. A certificate to prove that the course has been completed must be presented with the application

Step 7:

Group II Medical Certificate

Contact your own GP or the Council's appointed medical assessment provider to arrange a Group II medical examination. Group II medical guidance can be found online at GOV.UK. You will need to provide the medical assessor with your medical record for the assessment to be completed.

Step 8:

Passport sized photograph

Provide one passport sized photograph of yourself. It must be in colour, clear. If you wear glasses for driving, you must wear the glasses in your photograph. Get your passport ready (or other proof of entitlement to work in the UK) as well as your full EU or UK driving licence, which you must have held for at least 12 months.

Step 9:

All steps completed

Once you have received your Enhanced DBS certificate and all other steps have been completed, you can call into our offices on any weekday between 9am and 5pm to submit your application and to make payment.

Please note that you will need to supply all your original certificates which will be returned to you once your application has been processed.

We do not accept incomplete applications under any circumstances.

We will contact you on the telephone number or email address given in your application to let you know when the licence has been issued, or if there are any issues with your

application. If your application is approved you will be sent your driver licence certificate and identification badge by post.

Applications for renewal of driver licence

Applications for renewals must be received by the Council prior to the expiry date of the licence to ensure that the licence does not lapse.

If a licence lapses, the driver will be required to apply for a new driver licence by meeting all the criteria listed in the previous section relating to applications for new driver licences. If the licence renewal is submitted late as a result of exceptional circumstances it may be accepted. 'Exceptional' in this instance will only apply where failure to renew on time is due to unforeseen circumstances, for example where the applicant has been unable to apply due to an emergency situation

Overview

- Application form
- One passport sized photograph
- DBS certificate processed through the electronic DBS check provider – **unless signed up to the DBS Update Service**
- Overseas criminal record check (Certificate of Good Conduct) issued within the last 6 months – **where applicable.**
- Copy of DVLA driving licence photo card (old style paper licence issued before 1998)
- DVLA check mandate form (if required)
- Group II medical certificate issued by the designated medical assessment centre or your own GP within the last 3 months (if required)
- Required fee

Further details relating to the above requirements may be found in the previous new driver application section.

Unless a new Enhanced DBS check is required, the renewal application may be submitted by post or handed in to the Council offices. If a new DBS check is required, you will need to contact the Licensing Team to make an appointment (Tuesdays or Thursdays from 9am to 5pm).

If the documentation is complete, the application will be accepted. If any of the required documentation is not submitted then the application may not be processed.

The successful completion of this procedure will be indicated by the issue of a Hackney Carriage and Private Hire driver licence.

Suspension / revocation / refusal to renew

The Licensing Authority has the power to suspend, revoke or refuse to renew a licence.

If considered necessary in the interest of public safety, a suspension or revocation may take immediate effect.

APPENDIX E

Spoken English Assessment Test Procedure

(Guidance for Officers and new Applicants)

1. It is a requirement of South Hams District Council that ALL new applicants for both Hackney Carriage and Private Hire Driver licenses can demonstrate an adequate and reasonable level of spoken English.
2. 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.
3. The criteria for all new applicants for Hackney Carriage and Private Hire Driver licences are:
 - (a) Applicants for whom English is not their first language may be asked to provide evidence of having gained a qualification that was taught and assessed in English.
 - (b) Applicants who have some difficulty understanding spoken advice on the telephone or face to face and who have similar issues expressing themselves in English will be asked to provide a certificate showing the successful completion of a course of study or qualification in any subject or skill that was taught and assessed in English. (Examples are but not limited to, GCSE's, 'O Levels' GCE, NVQ, BTEC, RFQ, City and Guilds or similar, Degree, HND, HNC etc or a qualification equivalent to any previously listed issued by a recognised examining body in an English speaking country other than the UK). The weight given to the subject and grade achieved will be assessed on a case by case basis.
 - (c) 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.
 - (d) Applicants who are clearly fluent English speakers will require no further assessment and may proceed with their application in full.
4. The initial assessment of all new applicants' level of spoken English, whether on the telephone or in person will be made by a Case Manager. Where in the opinion of the Case Manager the applicant does not have an adequate or reasonable level of spoken English the applicant will be informed of the spoken English requirement and procedure.
5. Applicants who have difficulty in clearly expressing themselves and who cannot produce a suitable qualification listed above will be referred to the Licensing

Specialist who will make a second assessment and if necessary advise the applicant of the requirement to undertake the spoken English assessment test.

6. The Licensing Specialist's decision is final.

TAKING THE TEST

7. The spoken English assessment test is a pre-application requirement undertaken at the applicant's own expense at a cost of £40.00 (payable before the test is taken) and must be successfully completed before proceeding with the full application procedure.
8. The applicant will be required to submit a completed application form (no fee to be paid at that time) together with photographic proof of identification i.e. passport and/or driving licence. A photograph will also be taken of the applicant at the time of submission of the application form and the applicant's identity will also be confirmed at the time of taking the test.
9. Tests will be taken in a South Hams or West Devon Council building. (Totnes or Tavistock)
10. If the applicant has a mobile telephone it must be switched off to avoid any interruptions.
11. Applicants will be told that the tests are recorded by the test provider and any attempt to cheat, for example by using their mobile telephone to attempt to get a fluent English speaker to complete the test will be detected by the system and the applicant will be automatically failed and will not be permitted to undertake another test or proceed with their application.
12. Test dates will depend on demand and room booking availability.

TEST PROCESS

13. On the day of the test, the applicant will be escorted to the designated room by a Case Manager. The Case Manager will dial the number to the test provider and pass the telephone to the applicant and leave the room.
14. The English test assessment consists of a 15 minute exercise, taken by telephone during which applicants will be tested on various aspects of their speaking and listening ability.
15. The assessment is provided by a specialist education and testing company and consists of:
 1. Repeating back sentences that are read to the applicant over the phone.
 2. Answering simple questions asked over the phone.
 3. Constructing sentences from fragments read to the applicant over the phone (sentences divided into 3 or 4 parts)
 4. Answering open questions asked over the phone (speaking for up to 30 seconds per question).

16. The test is entirely automated, and questions will be asked by a variety of voices.
17. All of the questions will relate to normal life and the applicant's day-to-day activities; there are no trick questions.
18. The applicant will also be graded separately on sentence usage, vocabulary, fluency and pronunciation, all of which contribute to the overall score.
19. At the end of the test the Case Manager will contact the test provider via the website, access the applicant's result, a report will be produced (a copy of which will be provided to the applicant) with a score indicating their overall ability.
20. The test scoring will be set at CEFR Level B2.
21. For licensing purposes, the Council will require applicants to score at least **56** out of **80**. This indicates a good overall ability in use of the English language, where applicants will be able to speak fluently on a range of everyday topics and be able to give and understand most instructions.
22. When passed, the pass certificate will be downloaded direct from the test providers website the same day and provided to the applicant.
23. Failure to pass the minimum CEFR level B2 (56 out of 80) will require a further test to be taken.
24. There is no right of appeal where the applicant has failed to attain the minimum pass level of 56.
25. Unsuccessful applicants should be given an information sheet with the contacts of local colleges and courses where they may undertake further study to improve their spoken English. All training will be done at the applicant's own expense.
26. No person may re-sit the test within 28 days of taking a previous test.
27. Returning applicants may demonstrate a reasonable standard of spoken English either through the production of a certificate demonstrating the successful completion of an accredited spoken English qualification at level 1 or above, or successfully completing the spoken English assessment test detailed above.
28. Applicants choosing to re-take the spoken English assessment test will have to pay the required fee.