



Wednesday, 7 March 2018

## LICENSING COMMITTEE

A meeting of **Licensing Committee** will be held on

**Thursday, 15 March 2018**

commencing at **9.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,  
Torquay, TQ1 3DR

### Members of the Committee

Councillor Thomas (J) (Chairman)

Councillor Doggett (Vice-Chair)

Councillor Excell

Councillor Lewis (B)

Councillor Manning

Councillor Mills

Councillor Morey

Councillor Morris

Councillor Parrott

Councillor Pentney

Councillor Stocks

Councillor Stubley

Councillor Sykes

Councillor Thomas (D)

Councillor Tolchard

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**A prosperous and healthy Torbay**

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For information relating to this meeting or to request a copy in another format or language please contact:

**Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR**  
**01803 207087**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

[www.torbay.gov.uk](http://www.torbay.gov.uk)

# LICENSING COMMITTEE AGENDA

1. **Apologies**  
To receive any apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 3 - 4)  
To confirm as a correct record the Minutes of the meeting of this Committee held on 14 September 2017.
3. **Declarations of interest**
  - (a) To receive declarations of non pecuniary interests in respect of items on this agenda  
**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
  - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda  
**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.  
  
(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent items**  
To consider any other items that the Chairman decides are urgent
5. **Review of the Hackney Carriage and Private Hire Policy 2016** (Pages 5 - 98)  
Following a full review of the Hackney Carriage and Private Hire Licensing Policy (the Policy), this report is to inform Members of proposed alterations to the Policy and to seek agreement in principle to the changes prior to a full public consultation.



## Minutes of the Licensing Committee

14 September 2017

**-: Present :-**

Councillors Barnby, Doggett (Vice-Chair), Lewis (B), Stocks, Stubley, Sykes and Thomas (J)

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### **37. Election of Chairman/woman**

Councillor Thomas (J) was elected Chairman for the 2017/2018 Municipal Year.

(Councillor Thomas (J) in the Chair)

### **38. Appointment of Vice-Chairman/woman**

Councillor Doggett was appointed Vice-Chairman for the 2017/2018 Municipal Year.

### **39. Apologies**

Apologies for absence were received from Councillors Darling (M), Ellery, King, Parrott, Pentney, Thomas (D) and Tolchard.

### **40. Minutes**

The Minutes of the meeting of the Licensing Sub-Committee held on 27 July 2017 were confirmed as a correct record and signed by the Chairman.

### **41. Delegated Decision Report - Gambling Act 2005**

Members noted the report that informed Members of the decisions taken in relation to Gambling Act 2005 applications in Torbay by the Assistant Director of Community and Customer Services under delegated powers.

The Principal Licensing Officer advised Members that Government were considering ways to tighten advertising for gambling in particular advertising relating to fixed odd betting terminals. Members were also advised that Officers had been working with the Gambling Commission in order to comply with new requirements for local authorities to prepare Local Area Profiles. The profiles will be used to assess the local environment as a means of mapping areas of concern surrounding the licensing objectives in relation to the Gambling Act.

**42. Delegated Decision Report - Licensing Act 2003**

Members noted a report that informed them of the decisions taken in relation to Licensing Act 2003 applications by the Assistant Director Community and Customer Services under delegated powers.

Members noted the number of Temporary Event Notices and questioned whether the fees covered the costs of administering notices. The Principal Licensing Officer advised Members that the fees did not cover the costs however the fees were set nationally and that Government had been lobbied in order to increase the fees to a level that more accurately reflects the costs of the function.

**43. Informal Update on Licensing Issues**

Members were advised that the Principal Licensing Officer would be undertaking a review of the Hackney Carriage and Private Hire Policy. He explained that some areas needed to be amended in order to reflect changes to legislation such as immigration checks. Other areas for consideration were medical requirements, age of vehicles, CCTV and the knowledge test.

Members were also advised that free Child Sex Exploitation training had been offered to all licenced drivers with a view to possibly changing the policy to make such training mandatory. Members advised that subject to a full report they would be willing to support Child Sex Exploitation Training being made mandatory for all licenced drivers and that upon the policy coming into force the cost of this training would have to be met by the driver.

The Principal Licensing Officer further informed Members that in the coming months the authority will be undertaking the unmet demand survey with the results and options being present to Members in due course.

Over the next six to twelve months officers will also be updating the Sexual Entertainment Policy with particular attention being paid to the fees following recent case law that requires fees to reflect the recovery of costs.

Members welcomed the launch of the 'Ask Angela' initiative which enables patrons who are being pestered or feeling vulnerable to approach bar staff and use the phrase 'ask Angela' in order to have the person removed.

The Principal Licensing Officer also advised Members that the Licensing Team had taken on the responsibility for Pavement Café Permits, officers had spent time updating records and had recently commenced inspections of premises that had tables and chairs outside without a permit, officers will then be inspecting premises that go beyond the areas specified in the permits.

The Chairman thanked the Principal Licensing Officer and his team for their help, support and assistance.

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Chairman/woman



Public Agenda Item: **Yes**

Title: **Review of the Hackney Carriage and Private Hire Policy 2016**

Wards  
Affected: **All**

To: **Licensing Committee**                      On: **15<sup>th</sup> March 2018**

Contact Officer: **Gary O'Shea**  
☎ Telephone: **01803 207631**  
✉ E.mail: **Gary.oshea@torbay.gov.uk**

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## **1. What we are trying to achieve**

1.1 Following a full review of the Hackney Carriage and Private Hire Licensing Policy (the Policy), this report is to inform Members of proposed alterations to the Policy and to seek agreement in principle to the changes prior to a full public consultation.

## **2. Recommendation(s) for decision**

2.1 That the Licensing Committee agrees to the proposed alterations to the Hackney Carriage and Private Hire Licensing Policy as highlighted in appendix one and approves that it be released for full public consultation for a period of 8 weeks.

## **3. Key points and reasons for recommendations**

3.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976, Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.

3.2 The current Policy was originally agreed in 2012 with some amendments being made by way of an interim review in 2016. Although the Policy has served the Licensing Authority well, a full review of the Policy has been considered necessary due to a number of factors, which include changes in governing legislation, developing case law and advances in vehicle quality and technology.

3.3 As these are Policy changes, any subsequent legal challenge would be by way of a Judicial Review. This is considered unlikely for the nature of the proposed amendments.

**For more detailed information on this proposal please refer to Annex A.**

**Steve Cox**  
**Environmental Health Manager (Commercial)**

## Appendix A – Supporting information to Report

### A1. Introduction and history

- A1.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976, Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.
- A1.3 There are a significant number of changes identified to the Policy, which range from relatively minor in nature to some that are more substantial. All changes have been highlighted in the current Policy, which is attached as **Appendix one**, by use of red text for additions and red text crossed through for any deletions.
- A1.4 In order to provide further clarity and by way of full transparency, any of the proposed alterations that are considered significant in nature have been submitted in a separate document (as well as in the changes illustrated in appendix one). This document outlines the change that is being proposed, the reason that the change is proposed and provides an assessment of any potential implications that have been considered during process of the reviewing the Policy. This document is attached for Members consideration at **Appendix two**.
- A1.5 Members will note that the main changes to the Policy relate to age and experience of drivers, knowledge and proficiency of drivers, medical exemptions for drivers, DVLA driving licence checks, driver conduct, specification and condition of vehicles, vehicle compliance testing, signage and advertising (including door signs), CCTV in vehicles and Hackney Carriage Livery.
- A1.6 With regard to a livery policy for Hackney Carriage vehicles, it is proposed that two options be put forward for consultation as identified in 14.49 of the Policy in appendix one. A livery policy is considered necessary in order to create a uniform and more easily recognisable Hackney Carriage fleet, which in turn will reflect the professionalism of the trade whilst better promoting customer confidence and safety. At the very least it is believed that this will be achieved with one uniform colour e.g. white, although some areas of the Country have opted for vinyl wrapped bonnets and boots in order to create a clearer distinction. It is considered that the views of the trade and public in general would be a valuable consideration of any final decision in this regard.
- A1.7 Should the Licensing Authority ultimately opt for vinyl wrapping, the approximate cost to each vehicle operator will be in the region of £300.
- A 1.8 With regard to vehicle compliance testing, whilst the provider(s) will be identified through a full tendering process, there has been some ‘soft testing’ of appropriate VOSA authority providers, to ensure that this is a viable option. This process has identified a number of suitably qualified companies that have indicated that they would be interested in putting forward a tender for this work.
- A1.7 As these are Policy changes, legal challenge would be by way of judicial review. This is considered unlikely for the proposed amendments given that they will be subject to a full process of consultation and consideration of any responses by Licensing Committee prior to adoption of the revised Policy.

## **A2. Risk assessment of preferred option**

### **A2.1 Outline of significant key risks**

There is considered to be no significant risk, as the changes to the Policy will be subject to a full 8 week consultation and consideration of any responses received as highlighted in A1.7 (above).

## **A3. Options**

A3.1 There are three options:

- (i) Members to agree the Policy changes outlined above and release the Policy for consultation;
- (ii) Members to implement amended Policy changes and to release the Policy for consultation;
- (iii) Members refuse the recommendation.

## **A4. Summary of resource implications**

A4.1 There are no resource implications for the approval of the recommendation, as any costs associated with any Policy change will be met by the trade direct to the service provider e.g. DSA testing or are met through licence fees, which are set annually on a fully cost recoverable basis.

## **A5. What impact will there be on equalities, environmental sustainability and crime and disorder?**

A5.1 There are no crime and disorder, equality or sustainability issues regarding this report.

## **A6. Consultation and Customer Focus**

A6.1 One of the recommendations of this report, as outlined in paragraph 2.1 of the report, is that the Policy should undergo a full 8 week consultation and that any responses received should be brought back to Licensing Committee for consideration prior to adoption of the final Policy.

## **A7. Are there any implications for other Business Units?**

A7.1 There are no significant implications for other business units, if the recommendations are supported.

## **Appendices**

Appendix 1            DRAFT Hackney Carriage and Private Hire Licensing Policy 2018  
Appendix 2            Summary of the main changes proposed in this report

### **Documents available in members' rooms**

None

### **Background Papers:**

The following documents/files were used to compile this report:

Hackney Carriage and Private Hire Licensing Policy 2012 (as amended 2016)



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## **Foreword**

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 and Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on Torbay Council the duty to carry out its licensing functions in respect of Hackney Carriages and Private Hire vehicles.

We would encourage all those involved in the taxi trade, service users, residents and community groups to take time to read this consultation document and put forward representations whether in support of or against any aspect of this Policy.

### Torbay Council Equality

We are committed to acknowledging the full diversity of our community and to promoting equality of opportunity for everyone in Policy making, service delivery, employment practice, regulation and enforcement.

If you have any questions or queries about this document:

#### **Write to us at:**

Licensing Section  
Town Hall  
Castle Circus  
Torquay  
TQ1 3DR

**Or contact us by fax or email or via our website on:**

**Phone:** 01803 208025  
**Fax:** 01803 208854  
**Email:** [licensing@torbay.gov.uk](mailto:licensing@torbay.gov.uk)  
**Website:** [www.torbay.gov.uk](http://www.torbay.gov.uk)

## Licensing Authority Area

Torbay is situated on the South Devon coast, on the south west peninsular of England and comprises the three towns of Torquay, Paignton and Brixham. Torbay is an outstanding coastal destination, including 22 miles of coastline which has shaped its economic and social development over time. Historically the local economy has focused on tourism, fishing and to a lesser extent manufacturing activities.

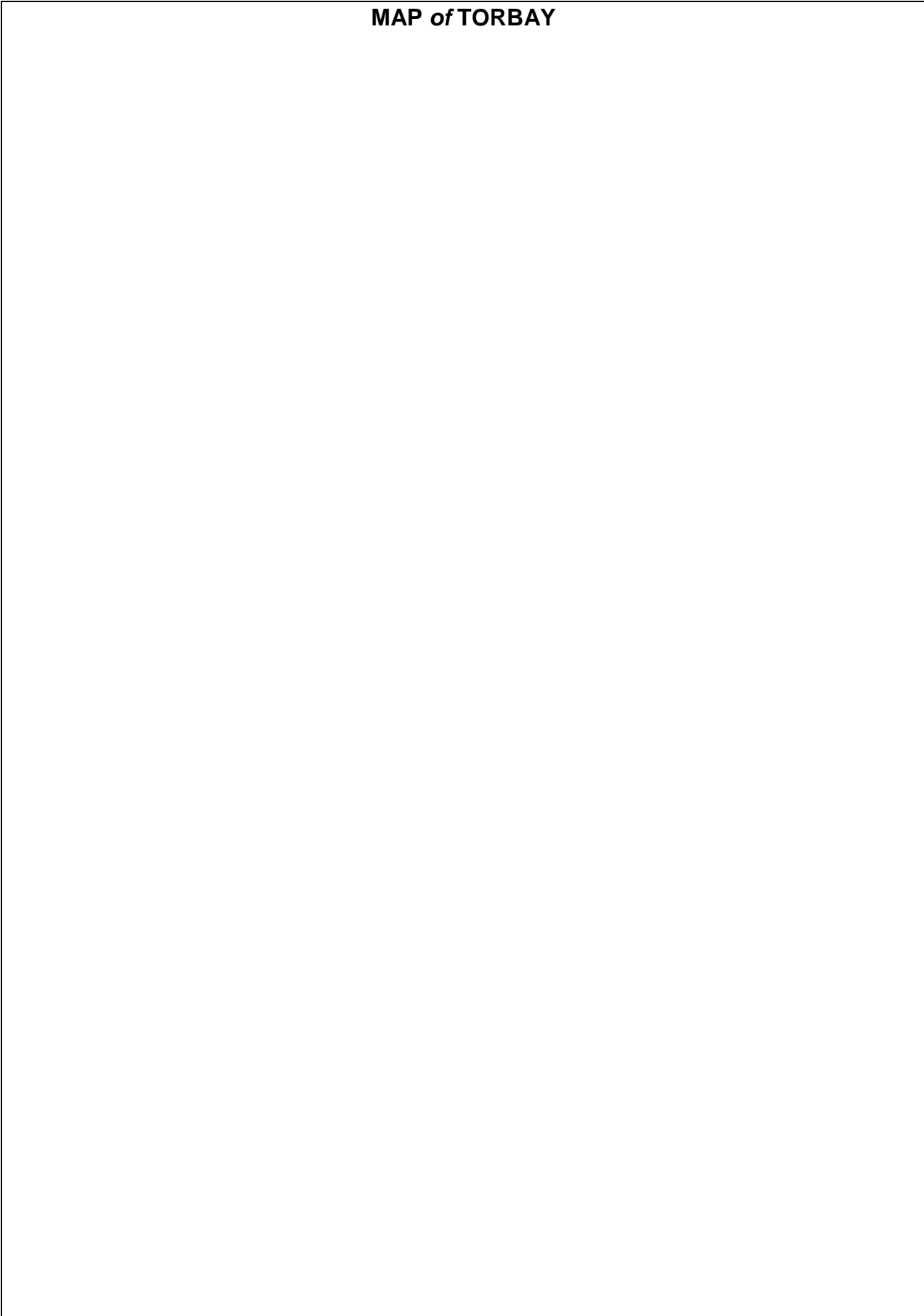
The three towns of Torbay and its environs have a combined population of around 134,000, making Torbay the second largest conurbation to the south west of Bristol. Tourism in Torbay today accounts for 1.45 million staying visitors plus 3.8 million day visitors, generating a direct and indirect spend of £442 million per annum. This represents around one third of the area's wealth and also one third of its jobs.

Torbay Council is committed to a broad corporate vision for Torbay and through the Torbay Strategic Partnership the Council has formulated a Community Plan, built around the principles of creating and developing an area that:

- Is prosperous area known to be a great place to live and learn and grow up in.
- Is able to compete on a world stage in our traditional industries of tourism and fishing.
- Communities know and support each other and enjoy some of the best quality of life in England.
- Widens opportunities and provides high quality employment and retains our young people in the Bay.
- Celebrates the differences in the three towns, builds on the strengths of these towns and brings back the feel good factor.

This page still needs updating. Waiting for information.

**MAP of TORBAY**



## Introduction Overview

Hackney Carriages and Private Hire vehicles are an important mode of local transport, and as such, have a specific role to play in an integrated 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 regulate the provision of a robust taxi and Private Hire licensing system, which ensures that the public travel safely, receive a good level of service and drivers and operators are not overly burdened 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;
- **To ensure a professional and courteous Hackney Carriage and Private Hire vehicle service.**

Public safety is paramount, and this Licensing Authority seeks to ensure through its licensing regime 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 seeks to assist the Licensing Authority in reaching a decision on a particular application or as regards a particular enforcement issue, setting out those matters that will normally be taken into account.

This Policy will be kept under review to take into account changes in legislation and best practice. Information collated over a period of time, coupled with the outcomes of any updates in legislation or associated government guidance. The Policy and 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; however information of changes will be **given to applicants at annual renewal provided to applicants and licence holders, as appropriate.**

In the preparation and publication of this Policy the Licensing Authority has had regard to the following:

- Guidance issued by the Department for Transport (“Taxi and Private Hire Vehicle Licensing: Best Practice Guidance” – Edition March 2010).
- Relevant legislation.
- Existing Torbay Council Taxi Handbook
- Discussions benchmarking with Partner Agencies and other Local 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.**

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

### **1. Introduction**

- 1.1 This Policy is written pursuant to the provisions of the Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976, as amended, Transport Acts of 1980 and 1985, which places on Torbay Council the duty to carry out its licensing functions in respect of Hackney Carriages and Private Hire vehicles.
- 1.2 It is recognised that other legislation exists which impact on taxi licensing, such as the Equality Act 2010, and therefore aspects of this Policy pay regard to these additional legislative requirements.
- 1.3 The Policy takes effect from ~~1<sup>st</sup> May 2013~~ **1<sup>st</sup> Date to be added following consultation**
- 1.4 The Policy relates to Hackney Carriage and Private Hire vehicle licensing and the licensing of drivers and operators.
- 1.5 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.
- 1.6 The Policy is subject to periodic review approximately every five years, **or earlier should it be appropriate to do so**. Any major changes to the Policy made between review periods will be preceded by public consultation.
- 1.7 Any changes in **relevant** legislation will supersede this Policy.

### **2 Licensing Objectives & Related Legislation**

- 2.1 The Licensing Authority is committed to ensuring the provision of a professional Hackney Carriage and Private Hire service, by continued monitoring and improvement of standards and procedures. The Licensing Authority also seeks to promote the **following** objectives **as set out in the overview to this Policy** when considering applications, or when assessing the continuance 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 environmental sustainability.~~
- ~~• To ensure a professional and courteous Hackney Carriage and Private Hire vehicle service~~

2.2 In promoting these objectives, considerations such as those set out at Paragraphs 2.3 ~~2.4, 2.5, and 2.6~~ to 2.7 of the Policy will be taken into account by the Licensing Authority, and applicants and licence holders will be expected to continuously demonstrate that they can meet or exceed specifications set by the Licensing Authority.

2.3 Safety and Health of Driver and the Public:

- Consideration of any convictions and/or cautions;
- Driver training, qualification and performance;
- Health and fitness of applicant for driver licence, or existing licence holder;
- Regular driver health checks;
- Vehicle specifications;
- Knowledge of the geographical area of Torbay.

2.4 Vehicle Safety, Comfort and Access:

- Standards of vehicle appearance and comfort;
- Use and location of ranks;
- Provision for disabled facilities **persons**;
- 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 To Encourage Environmental Sustainability:

- Investigate alternative fuels and conversion systems;
- Investigate the potential for providing an environmental levy or reducing licence fees for cleaner vehicles;
- Involve Taxi Trade in identifying ways to reduce vehicle emissions;
- Consideration of suitability of vehicles that are unable to comply with Euro Technology (or equivalent standard) requirements.

2.7 Professional and Courteous Service

- **Driver appearance**
- **Driver conduct**
- **Vehicle standards and suitability**

2.8 The Licensing Authority is aware that applying licensing requirements which are unduly stringent may unreasonably restrict 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.

- 2.9 The Licensing Authority recognises that its licensing function is only one means of securing the delivery of the Policy. 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 of this Policy.
- 2.10 In undertaking its licensing function, the Licensing Authority will have regard to the following legislation:
- Town and Police Clauses Act 1847
  - Transport Act 1980 & 1985
  - Road Traffic Acts
  - The Local Government (Miscellaneous Provisions) Act 1976, 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 Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002
- 2.11 The Licensing Authority will also have regard to any other relevant legislation, strategies, policies and guidance in its decision-making.

### **3. Consultation**

- 3.1 Before determining this Policy, the Licensing Authority will consult with numerous persons and organisations including the following:
- Taxi Trade within the area of Torbay
  - Taxi Trade Representative/s
  - Department for Transport (including VOSA)
  - Driving Standards Agency
  - Chief Officer of Police, Devon & Cornwall Constabulary
  - Torbay Council's Environmental Health Department, Highways Transport Services, Development Control Department, Community Safety Team
  - Town Councils within the area of Torbay
  - Citizens Advice Bureau
  - Age UK Torbay
  - Living Options Devon
  - Torbay Disability Information Service
- 3.2 Consultees are permitted to make representations in writing or via electronic means e.g. email response. **Consideration and** proper weight will be given to ~~the views of all consulted~~ **all representations** prior to this Policy taking effect.

#### 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 therein.

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.

#### 5. Drivers

##### General Licensing Requirements

5.1 It is a legal requirement that drivers of either Hackney Carriages or Private Hire vehicles obtain from the Licensing Authority a licence to drive such vehicles.

5.2 The Licensing Authority issues Joint Driver Licences, enabling drivers to operate either a Hackney Carriage or a Private Hire vehicle, without the need to obtain a separate driver licences. **These licences are referred to throughout this Policy as. 'a dual drivers licence'.**

5.3 The Licensing Authority will issue a licence to an applicant provided that the applicant has held an EEA (**European Economic Area**) e.g. European Union (EU) full driving licence for at least 12 months, and is a "fit and proper" person to hold such a licence.

5.4 When determining whether a person is "fit and proper", the Licensing Authority will ~~consider the applicant's knowledge of the local area, their driving experience, driving qualifications, medical fitness, criminal record and their previous history as a licensed driver or operator and any other matter considered relevant to ensure the safety of the public and the driver~~ require the applicant to demonstrate that:

- i) They understand the local geography of Torbay, by successfully completing a knowledge test
- ii) They are able to communicate effectively with customers, to include a basic understanding of the English language
- iii) They successfully pass a Group II standard medical assessment
- iv) They successfully complete a Driving Standards Assessment (DSA), as recognised by the Licensing Authority
- v) They satisfy the requirements of the Licensing Authority with regard to any previous or current criminal conduct and has produced an acceptable Disclosure and Barring Service (DBS) certificate to that effect
- vi) They have a satisfactory driving history, as verified through the DVLA and in accordance with the Convictions Policy at **Appendix A**
- vii) They are considered 'fit and proper' by the Licensing Authority, taking account of any other relevant information as may be requested and considered appropriate by the Licensing Authority.

##### **Age, Experience and non UK Nationals**

5.5 The Licensing Authority will not have regard to the age of an applicant when determining their suitability where it can be shown that:

- The applicant holds a valid full **United Kingdom (UK)** driving licence (licence issued in accordance with Part III of the Road Traffic Act 1972 (as amended) and that this licence must have been held for no less than 12 months at the time of application).
- ~~The applicant has reached the required medical standards entitling them to drive in the United Kingdom.~~
- An applicant who meets the licensing requirements by virtue of an acceptable non UK driving licence must ~~either~~ obtain a full UK driving licence within 12 months of the issue of ~~the Hackney Carriage/Private Hire~~ their Torbay Council dual driver's licence. ~~or~~
- ~~Obtain a 'backing sheet' e.g. counterpart from the DVLA within 12 months of the issue of the Hackney Carriage/Private Hire driver licence which can be attached to the non-UK driving licence and used by the DVLA to monitor endorsements or penalty points obtained whilst driving in the UK.~~

5.6 Where the requirement in Paragraph 5.5 above is not satisfied, the **dual drivers licence** issued by the Licensing Authority will be suspended until such time as the requirement is satisfied and any subsequent licensed driver application or renewal application will not be accepted, **whilst this remains the case**. Should a licence expire during the suspension period, it will not be renewed. Once all outstanding requirements are satisfied, the licence holder must make an application for the grant of a new Torbay Council dual driver's licence.

5.7 Applicants are advised to note that immigration checks **may** will be carried out in accordance with the provisions of the Immigration Act 2016, in order to establish in respect of all applicants that they have the right to work in the UK. These **checks** may take some time to be finalised and until such checks are concluded, they ~~are~~ **will not be** permitted to work as a licensed driver.

5.8 If the immigration status of any applicant or licence holder changes e.g. their permission to remain in the UK has been cancelled, or they have been issued with a deportation notice, or they have been convicted of an immigration offence, they must immediately notify the Licensing Authority and return and badge and/or licence that has been issued to them.

## Driver Knowledge and Proficiency

5.9 Licensed drivers require a good working knowledge of the geographical area in which they operate **and a basic understanding of the English language** in order to meet reasonable customer expectations. The Licensing Authority, ~~in an effort to determine as part of determining~~ the fitness of an applicant to hold a dual drivers licence, requires that applicants undertake a knowledge test, which examines their knowledge of local geography and knowledge of the Highway Code. This test is carried out at a place determined by the Licensing Authority and consists of questions relating to the conditions of licence, geographical knowledge of the area, an assessment of understanding of English language, the Highway Code and any other matters as may be considered appropriate or necessary from time to time.

5.10 Licensed 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 a Driving Standard Assessment (DSA) of the drivers' ability and must be obtained by all new applicants ~~prior to grant of any licence. within 6 months of the date of their first granted Licence.~~ A confirmation certificate of this successfully completed assessment must be submitted to Torbay Council's Licensing Department ~~within the said 6 month period with the application. Failure to do so will result in the automatic revocation of the issued Licence. Where this occurs, the Licensing Authority will not refund the fee paid for the said Licence.~~

- 5.11 The driving assessment is achieved by successful completion of the appropriate Driving Standards Agency Assessment (DSA) Practical Driving Test. The test is reflective of modern driving practices; the standard is set at a level suitable for the full driving licence holder.
- 5.12 Where an existing licensed driver receives over 6 (six) endorsement/s or penalty points on their licence within each licensing year, the Licensing Authority will require that person to undertake ~~the same assessment a DSA.~~ If this is not obtained within 3 months ~~of the notification to the Licensing Authority,~~ then the existing licensed drivers badge will be suspended until the necessary driving standards assessment is completed ~~and confirmation of this has been provided to the Licensing Authority.~~
- 5.14 ~~Where an existing licensed driver receives more than 9 (nine) endorsements or penalty points on their driving licence that are current at any given time, that driver will be required to appear before a Licensing Sub-Committee. This will be in order to explain the circumstances and for consideration as to whether they remain a 'fit and proper' person to continue to hold a Torbay Council dual drivers licence.~~
- 5.15 ~~Drivers who fail to notify the Licensing Authority of any endorsements received may face disciplinary action, which could result in appearance before a Licensing Sub-Committee and/or suspension or revocation of the licence issued to them.~~
- 5.16 The Licensing Authority has no current plans to make it a mandatory requirement for a driver to obtain a professional qualification – e.g. a BTEC Level 2 Award in Transporting Passengers by Taxi and Private Hire. However, the Licensing Authority would encourage drivers to undertake this qualification as a matter of good practice.
- 5.17 ~~The Licensing Authority aspires that all drivers are trained to BTEC Level [OG2]-2 Award in Transporting Passengers by Taxi and Private Hire standards or equivalent qualification which includes disability awareness training in both mental and physical issues.~~  
~~Within 6 months of being granted a Torbay Council dual drivers licence, all licence holders will be expected to have attended a child sexual exploitation (CSE) awareness course. Licensed Hackney Carriage and Private Hire Vehicles are key modes of transport and as such, may be used by perpetrators which mean that a licensed driver is placed in a position where they may be able to identify and report cases where a child is perceived to be at risk. The cost of the CSE course will be borne by the licence holder.~~
- 5.18 ~~All existing licensed drivers from 1 October 2018, will be required to attend a CSE awareness course as directed by the Licensing Authority.~~

- 5.19 Any driver, who by 1 May 2019, has not undertaken their CSE awareness training, will have their dual driver's licence suspended until such time as the training has been completed and evidenced to the Licensing Authority. If a suspension extends beyond the remaining term of the licence, the licence will lapse on the expiry date and a new application will be required. No renewal applications will be accepted at any time when there is a suspension in force.
- 5.20 The Licensing Authority at its discretion may require specific training to be undertaken where deemed appropriate. This training may include disability awareness, manual handling, equalities awareness, or anything else as deemed appropriate by the Licensing Authority.

## Medical Examination and Exemptions

- 5.21 The Licensing Authority requires that all drivers complete a medical examination at the application stage and for existing drivers during the term of the licence, as set out in Paragraph 5.22 below. The medical examination will ensure that the applicant/licensed driver satisfies all the requirements of the DVLA Group II Medical Standards of fitness to drive. The applicant/licensed driver ~~should~~ must ensure that the G.P practice at which they are registered undertakes the necessary medical examination as this is where the individual medical records are kept. Examination completed by any doctor or medical professional outside of the applicant/drivers registered GP practice will not be accepted and a further examination will be required at a cost to the driver/applicant.
- 5.22 The requirement for applicants/licensed drivers as regards to medical examination is as follows:
- Upon application
  - Every 5 years between the ages of 45 and 65
  - Every year at renewal where the driver is aged 65 years or over
  - Or anytime as required by the Council or the medical practitioner.
- 5.23 Where there is any doubt as to the medical fitness of the applicant/licence driver, the Licensing Authority may require the applicant/licence driver to undergo a further medical examination by a Doctor appointed by the Licensing Authority at the applicant's/licence driver's own expense.
- 5.24 Where there remains any doubt about the medical fitness of the applicant/licence driver, following the additional assessment described at Para 5.23 above, the Licensing Authority will have regard to the further medical evidence when making a final decision as to the suitability of the applicant/licence driver to drive a Hackney Carriage or Private Hire vehicle.
- 5.25 All licenced drivers are required to inform the Licensing Authority immediately of any illness, condition or any other matter that affects their ability to drive. Failure to comply with this requirement may result in the suspension of a dual drivers licence with immediate effect where the Licensing Authority deems it necessary on the grounds of public safety. This suspension shall remain in force pending confirmation from the drivers registered GP and/or relevant medical specialist that they are fit to drive to the required standard.

- 5.26 Exemption from carrying guide, hearing and certain other assistance dogs which accompany disabled persons, can only be sought on **strict** medical grounds. Therefore, applicants will need to **clearly** demonstrate the grounds for applying this exemption by providing medical evidence to the Licensing Authority **and a signed letter from their registered GP or other Doctor who has full access to the driver's medical records, or from a recognised specialist or consultant. All costs in obtaining this exemption shall be borne by the licensed driver.**
- 5.27 An application for the exemption ~~described in Para 5.20 above~~ to carry an **assistance dog** must be made **on the appropriate form and must be authorised and signed, as defined above. prior to undertaking a medical examination.** On receipt of this application, the Licensing Authority will subsequently instruct the applicant in writing as to the specific requirements so that it may fully consider the application.
- 5.28 If an application for exemption ~~notice from the requirement to carry an~~ **assistance dog** is successful, the Licensing Authority will issue to the driver a Notice of Exemption **and 2 window stickers for the vehicle.** The Exemption must be ~~exhibited~~ **carried in the vehicle and the stickers displayed on each rear passenger window at all times by fixing it in a prominent position on the vehicles dashboard.** Failure to carry the Exemption Notice will invalidate the exemption and in all such cases, this will be considered as though there were no exemption in place and result in enforcement action being considered against such a driver.

## **6. Disclosure & Barring Service Disclosures (DBS) – (Formerly CRB)**

- 6.1 The Licensing Authority requires that all applicants and licenced drivers complete an enhanced DBS check on application and then every three years, as part of the renewal application process. The Licensing Authority shall at their discretion, accept an enhanced DBS check obtained for another employment position. However the enhanced DBS must be no older than 60 days when produced to the Licensing Authority for consideration.
- 6.2 Since March 2002, Hackney Carriage and Private Hire drivers have been listed as Regulated Occupations in the Rehabilitation Act 1974 (schedule 1, Part III). The effect of this in relation to Hackney Carriage and Private Hire drivers is to render the Rehabilitation of Offenders Act 1974 inapplicable. Therefore any caution and/or conviction, regardless of their age, will be taken into consideration by the Licensing Authority when assessing the suitability of a new or renewal application.
- 6.3 In addition to the 3 year DBS check covered under Para 6.1 above, the Licensing Authority shall require a five year background check for all new applicants. It is a requirement of the DBS that if an applicant has lived abroad for any period of time in the last five years or is from an (EEA) Member State or other country, then a Certificate of Good Conduct (or equivalent) authenticated and translated by the relevant embassy is required. The DBS website ([www.homeoffice.gov.uk/dbs](http://www.homeoffice.gov.uk/dbs)) provides information about obtaining these certificates, or similar documents from other countries.
- 6.4 Failure to inform the Licensing Authority within 5 working days of any convictions, cautions and fixed penalty notices during the licensing application



and/or licensed period (i.e. once the licence is granted) may result in suspension or revocation of the driver licence. Similarly, where convictions, cautions or fixed penalty notices are notified, depending on the nature of the infraction, this may result in suspension or revocation of the driver licence.

- 6.5 The Licensing Authority may, where necessary, require licensed drivers to submit an additional enhanced DBS check at the licensed drivers cost. The Licensing Authority will not require this, unless it has good reason to do so – for example, the reasonable belief that the licensed driver has a criminal conviction not notified to the Licensing Authority. Failure to provide this additional enhanced DBS check may result in the licence being immediately suspended or revoked.
- 6.6 All applicants for the grant/renewal of a licence requiring a enhanced DBS check, or by request during the licence period, as set out in Para 6.5 above, shall be responsible for the costs of obtaining the enhanced DBS check.

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

- 7.1 The Licensing Authority when considering convictions and cautions recorded against an applicant or an existing licensed driver will have regard to the “Convictions & Cautions Policy” set out in **Appendix A**.
- 7.2 In assessing whether an applicant or licensed driver is a “fit and proper” person to hold a licence, the Licensing Authority will consider each case on its own merit.
- 7.3 Upon receipt of the enhanced DBS check, the Licensing Authority will assess whether any or all of the convictions and/or cautions are capable of having real relevance to the issue of whether or not the applicant or licensed driver is a fit and proper person to hold a licence. The Licensing Authority will also take into account any fixed penalty notices and other information, but only insofar as they are relevant to an application for a licence or impact on the continuance of an existing driver licence. In certain cases, the matter may be referred to the Council’s Licensing Committee for determination.
- 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 rejection of the application or suspension or revocation of the licence.
- 7.5 In relation to cautions, the Licensing Authority will have regard to the nature of the infraction when considering their 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:
- 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 the offence is, the less likely that an application will be granted or that an existing licence will be permitted to remain in effect.

## 8 Change of address

8.1 The licensed driver shall **immediately, within 5 days**, notify the Licensing Authority in writing, of any change of address or change of email address. ~~during the period of licence prior to such change taking place, and in any case within 5 working days of such change.~~

## 9 Grant and Renewal of Driver Licences

### New Applications

9.1 The Licensing Authority issues ~~one of~~ a 3 year licence or part thereof to new applicants in accordance with Torbay Councils licensing year which currently runs from the 1<sup>st</sup> May to 30<sup>th</sup> April.

9.2 ~~Other than in unforeseen or exceptional circumstances, as determined by the Licensing Authority, if any new application cannot be completed in full, within six 3 months, then it will be considered null and void. In such cases and no a refund will be issued, which will be equivalent to, the licence fee paid less any reasonable costs already incurred by the Licensing Authority.~~ If the applicant wishes to carry on with a new application after this period, they will have to resubmit all the required information again and pay the **full** relevant fee.

### Renewal Applications

9.3 The Licensing Authority will issue ~~an annual or a~~ 3 year licence to existing licence drivers, upon receipt of a completed application, which will be issued for the period of ~~12 or~~ 36 months commencing on 1<sup>st</sup> May ~~until the 30<sup>th</sup> April.~~

9.4 ~~All three yearly~~ Licences will only be issued when a new Disclosure and Barring Service check has also been undertaken.

9.5 A renewal application made after 30<sup>th</sup> April will be deemed as a lapse in licence and will result in the application being treated as a new application and not a renewal application. Therefore full application requirements will have to be satisfied ~~and the applicant will not be permitted to operate a Hackney Carriage or Private Hire Vehicle until such time as the application process has been satisfactorily concluded and a new dual driver's licence issued.~~

9.6 If a renewal application is made and the Applicant does not meet the requisite criteria, the Licensing Authority will charge a fee to issue a refund in line with Torbay Councils fees and charges.

9.7 If an application is made to renew any licenses which expired on the 30<sup>th</sup> April and they are not collected or remain unpaid, then those licenses will be cancelled 7 calendar days following. Once cancelled this will be deemed as a



lapse in licence and will result in a new application having to be made. Therefore full requirements will have to be satisfied.

## 10. Hackney Carriages and Private Hire Vehicles Byelaws

- 10.1 The Licensing Authority has adopted a number of Byelaws under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875 which all drivers must comply with depending on the type of licensed vehicle they are driving. Should it become necessary to enforce such a Byelaw, the Licensing Authority shall draw to the driver(s) attention where a specific byelaw is being breached and in an event of continuance of this breach, the Licensing Authority may initiate prosecution proceedings.

## 11. Driver Appearance

- 11.1 Whilst working as a licensed driver within Torbay, the Licensing Authority requires a minimum standard of dress code and appearance, this shall apply to both new applicants and existing licensed drivers. The dress code can be found at **Appendix I**.

## 12. DVLA Licence Checking

- 12.1 The Licensing Authority will, ~~where considered necessary~~, check the DVLA database **every 6 months** in order to establish a driver's complete driving history.
- 12.2 ~~Where this course of action is deemed necessary, the~~ The Licensing Authority will request ~~that the driver completes a consent form in order that the DVLA check can be carried out~~ that upon making a new or renewal application, the applicant consents to the Licensing Authority being authorised to carry out a DVLA check. Such checks will be conducted as part of the application process and periodically, as deemed appropriate by the Licensing Authority. Whilst these checks are currently free to obtain, any future cost of the check ~~is~~ will be borne by the applicant/licensed driver.
- 12.3 Should the necessary consent, as required in Para 12.2 above not be given by the applicant/licensed driver, this will result in the application being refused or the existing drivers licence being immediately suspended or revoked.

## ~~13—Advice to Drivers Conduct of Drivers~~

- 13.1 ~~Within the conditions of the grant of your licence you are responsible for various items, some of which may be checked by various Council Officers on demand. The list of advice to drivers is set out at~~ All drivers are expected to act professionally and in an appropriate manner at all times and are required to adhere to the specified Code of Conduct at **Appendix B**.

## 14 Vehicles

### Limitation of Vehicle Numbers

14.1 Current government guidance discourages any limitation of Hackney Carriage numbers, although it is permitted to limit such numbers provided that certain conditions are met. The Licensing Authority currently ~~imposes~~ **retains** a quantity restriction regarding the number of Hackney Carriages licensed by Torbay Council. This has been the case for many years and is supported by results from an unmet demand survey. This survey is carried out approximately every 3 years.

Specification and Conditions

14.2 The Licensing Authority has a wide discretion over the types of vehicles it licenses as Hackney Carriages or Private Hire vehicles. In general, vehicles will be licensed in accordance with the manufacturer’s design **except in circumstances where the Licensing Authority deems the manufacture’s design to be unsuitable for use as a Hackney Carriage or Private Hire Vehicle, whether due to size of vehicle, engine size, or other reason.**

14.3 The Licensing Authority has a Policy which sets out the minimum standards of vehicle specification, which apply in respect of all licensed vehicle applications. The vehicle specification and conditions are set out at **Appendix D.**

14.4 **It is the responsibility of any applicant that applies for a vehicle licence to ensure that the vehicle meets the criteria as set out in Appendix D. Vehicles not meeting the minimum specifications will not be licensed and the Licensing Authority takes no responsibility in such cases. Applicants are therefore, strongly advised to check with the Licensing Authority prior to purchase or lease of a vehicle.**

14.5 The Licensing Authority has set an age Policy, with regards to the licensing of vehicles ~~at first application stage. Details are as follows~~ which is subject to satisfactorily passing a ‘vehicle compliance test’.

14.6 **The age of a vehicle is taken from the date of the first registration in the vehicle registration document and applies to both Hackney Carriage and Private Hire Vehicles. The details of the vehicle age Policy are:**

<b>Application Type</b>	<b>Maximum Age of Vehicle</b>
Initial (first) Application (all vehicle types)	<b>4 Years AND Less than <del>60</del> 50,000 miles</b>
Renewal Application (for vehicles already licensed)	<b>Up to <del>8</del> 10 Years</b> <b>*<del>(Age taken from the date of the first registration in the Vehicle Registration Document)</del></b>
<del>Wheelchair Accessible Vehicles (WAVs)</del>	<b><del>Up to 10 Years*</del></b> <b>*<del>(Age taken from the date of the first registration in the Vehicle Registration Document)</del></b>

14.7 Once licensed, vehicles which are deemed to be in exceptional condition at the end of the maximum age limit can apply to the Licensing Authority for an annual extension. The Licensing Committee will determine whether the vehicle is

suitable for an extension, however all applications must be made 6 months prior to the expiration of the annual licence.

- 14.8 The Licensing Authority has adopted a Policy for the licensing of limousines. The Policy is provided at **Appendix E**.
- 14.9 The Licensing Authority would consider applications for 'novelty vehicles', **which may be considered on a strictly Private Hire basis** but this would need to be considered separately by a Licensing **Sub-Committee**. It should be noted **however** that **Terbay the Licensing Authority** has a restricted Policy on numbers of Hackney Carriages at this time.
- 14.10 The Licensing Authority is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a Hackney Carriage or Private Hire vehicle licence by virtue of the Local Government (Miscellaneous Provisions) Act 1976.

#### Vehicle Damage/Accident

- 14.11 The proprietor of any Hackney Carriage or Private Hire vehicle must report to the Licensing Authority, **as soon as reasonably practicable, and in any case** within seventy two hours, the occurrence of any accident involving the Hackney Carriage or Private Hire vehicle.
- 14.12 The vehicle will be inspected by an Authorised Officer and a decision made as to whether or not the vehicle is in such condition to continue in service.
- 14.13 If any damage to the vehicle is such that the Authorised Officer considers it to be in a safe condition to continue in service, the vehicle shall be permitted to remain in continued service but the identified repairs must be undertaken within a maximum of 28 days of the damage occurring. Failure to do so may result in the vehicle licence being suspended until such time that the permanent repairs have been undertaken.
- 14.14 If any damage is considered by an Authorised Officer to be extensive enough to affect the safety or general appearance of the vehicle, **the vehicle plate shall be removed and the proprietor of that vehicle must shall immediately remove the vehicle from service**. The vehicle must be repaired **and may be required to undergo a full vehicle examination at the/an approved testing station, as authorised for the purpose of such inspection(s) by the Licensing Authority**, before the plate is re-affixed and the vehicle returned to service. **Such inspection will be at the expense of the vehicle proprietor**.
- 14.15 In the case of any dispute in respect of the requirement in Para's 14.11-14.14 above, the Licensing Authority will request that the vehicle be taken to a nominated testing station for examination by a qualified mechanic and the cost of this examination will be borne by the licence holder. The Licensing Authority shall take the findings of the repairs identified by the qualified mechanic, as necessary before the vehicle is permitted to continue in service. The appropriate fee for such examination will be paid by the proprietor. If the proprietor fails to take the vehicle to the nominated testing station, then the vehicle licence will be suspended immediately. This suspension will only be lifted by the Licensing

Authority once the nominated testing station carries out an examination of the vehicle and passes it fit to continue in service.

### Accessibility

- 14.16 The Licensing Authority is committed to ensuring that a wide variety of opportunities are available to disabled persons, as regards to access to transport and to ensure disabled people are not discriminated against or treated less favourably.
- 14.17 The Licensing Authority is mindful that different accessibility considerations apply in relation to Hackney Carriages and Private Hire vehicles. As regards to Hackney Carriage vehicles, the Licensing Authority considers it important that a disabled person should be able to hire a 'taxi' on the spot with minimum delay or inconvenience - therefore, having accessible vehicles available helps to make this achievable.
- 14.18 ~~The Licensing Authority aspires to achieve 5% wheelchair accessible vehicles by [OG3] 2018 with regard to both Hackney Carriage and Private Hire vehicles.~~
- 14.19 The Licensing Authority in acknowledging the Equality Act 2010 wishes to make drivers of Hackney Carriages and Private Hire vehicles aware that certain duties are due to be placed upon those whom operate wheelchair accessible vehicles. The duties will apply to the driver of any wheelchair accessible vehicle which is on the Authority's list of "Designated Vehicles".

#### The duties are as follows:

- to carry the passenger whilst in a wheelchair
  - not to make any additional charge for doing so
  - if the passenger chooses to sit in a passenger seat, to have capacity to carry the wheelchair also
  - to take such steps as are necessary to ensure that the passenger is carried in safe and reasonable comfort; and
  - to give the passenger such mobility assistance, as is reasonably required.
  - the driver must also offer to load the passenger's luggage into and out of the vehicle.
- 14.20 ~~Before the duties, as set out in Para 14.17 above come into force, drivers~~ Drivers who suffer from a disability or a condition which would make it difficult for them to provide physical assistance, can apply to the Licensing Authority for an exemption notice to exempt them from these duties. Applicants/licensed drivers should ensure that the G.P practice where they are registered can undertake a medical assessment and complete an Exemption Application Form. This Form will then need to be produced to the Licensing Authority before a final decision can be determined on whether to issue the driver with an official Notice of Exemption.
- 14.21 If an application for exemption from duties is successful, the Licensing Authority<sup>[OG4]</sup> will issue to the driver a Notice of Exemption. This Notice must be ~~displayed~~ carried in the vehicle at all times, ~~by fixing it in a prominent position on the dashboard of the vehicle.~~ Failure to ~~display~~ carry the Notice in the prescribed manner, ~~as specified in Para 14.18 above,~~ will render the exemption void, the

licensed driver will be considered not to have held an exemption and may therefore, be subject to enforcement action, which may include initiating prosecution proceedings.

#### Duty to Carry Assistance Dogs

- 14.22 Licensed drivers are under a duty to carry, free of charge, any guide, hearing and other assistance dogs travelling with a disabled person. Since 31 March 2004, a similar duty has applied to the drivers of licensed Private Hire vehicles. In addition, Private Hire vehicle operators will be under a duty to accept a booking made by, or on behalf of a disabled person and shall not be permitted to make an additional charge for carrying an assistance dog. Any driver (aside from those holding a Notice of Exemption) , ~~for the purposes prescribed in Para 14.17 above~~) who fails to comply with this duty, could be prosecuted and may be liable to a fine not exceeding Level 3.
- 14.23 If it is brought to the attention of the Licensing Authority, by way of a complaint ~~or any other method~~, that a driver breaches the duty which is outlined in Paragraphs ~~14.21 and 14.22~~ above, the Licensing Authority may, in addition to any prosecution, seek to suspend or revoke the drivers licence.

#### Vehicle ~~Compliance~~ Testing

- 14.24 ~~Any Hackney Carriage or Private Hire vehicle being first presented for licensing, must be no older than 4 years (taken from date of first registration) and must not have more than 50,000 miles showing on the odometer. Any such vehicle shall be required to be presented for licensing with a valid MOT certificate in all cases where the vehicle is 12 months or more past the date of first registration. In addition the vehicle must be presented for testing at the/a Licensing Authority approved vehicle testing station and will only be licensed once it has satisfactorily passed a vehicle compliance test. The compliance test will be at the expense of the proprietor.~~
- 14.25 ~~Any Hackney Carriage or Private Hire vehicle being presented for renewal of the vehicle licence must be no older than 10 years from date of first registration. All vehicles presented for renewal must hold a valid MOT certificate. In addition the vehicle will be required to be presented for testing at the/a Licensing Authority approved vehicle testing station and will only be renewed once it has satisfactorily passed a vehicle compliance test. The compliance test will be at the expense of the proprietor.~~
- 14.26 ~~In the case of a vehicle that has reached 8 years or more from the date of first registration, there will be a further requirement that it be presented to the/a Licensing Authority approved vehicle testing station for a further compliance test 6 months after the date that the renewal licence was issued. This test will be at the expense of the proprietor.~~
- 14.27 The Licensing Authority may request, at any time when there is doubt as to the suitability or condition of a licensed vehicle, that the vehicle licence holder takes the vehicle to ~~an~~ ~~the/a~~ approved testing station, ~~as determined by the Licensing Authority~~, for a vehicle inspection. ~~The inspection will be based on the~~

~~specification set by the Licensing Authority and~~ costs associated with the inspection, will be met by the ~~applicant/licence holder~~ proprietor.

- 14.28 In all cases, the Licensing Authority's approved vehicle testing station(s) will conduct vehicle compliance tests in accordance with the specifications set by the Licensing Authority, as amended from time to time. If ~~the~~ at any time a vehicle fails ~~to pass~~ the vehicle compliance test, then the vehicle will be immediately suspended until necessary works are completed and the vehicle test is passed.

If the vehicle is unrepairable whether due to reasons that are mechanical, aesthetic e.g. bodywork, or inability to comply with this Policy or a related licence condition, the licence for the vehicle will be revoked/refused forthwith.

- 14.29 Failure to present the vehicle for inspection will result in the vehicle licence being immediately suspended.

### Mechanical Breakdown

- 14.30 If any vehicle becomes unfit to complete a hiring during a journey, the driver shall be entitled to demand the fare for the distance already travelled.

- 14.31 The driver shall secure alternative transport without delay to complete the journey if the hirer so wishes. If the original vehicle is repaired and completes the hiring the driver shall be entitled to the full fare with the exception of any time that the hirer waited for the repair to be executed.

- 14.32 Any such incident must be reported to the Licensing Authority **immediately** within **five working days**.

### Signage & Advertising

- 14.33 The Licensing Authority recognises that Hackney Carriage and Private Hire vehicles must be clearly distinguishable to allow the public to identify them from other vehicles and also from each other. In order to achieve this, the Licensing Authority has adopted conditions setting out the acceptable types of signage for both vehicle types. The conditions are provided at **Appendix F**.

- 14.34 The Licensing Authority shall permit advertising on Hackney Carriage vehicles. However any such advertisements must be approved by the Licensing Authority in advance of the vehicle undergoing any such modification. Advertising requests must be made in writing to the Licensing Department for approval, enclosing copies of the intended advertisement.

- 14.35 If any advertisement appears on any Hackney Carriage vehicle prior to seeking consent and subsequent written agreement from the Licensing Authority, the proprietor may be instructed to remove the advertising from the vehicle. In addition, the vehicle licence may be suspended pending consideration of a retrospective application or removal of the advertising, as applies in each individual case.



- 14.36 Under no circumstances except for company/operator information (rear doors only) will a Private Hire vehicle be permitted advertising.
- 14.37 All Hackney Carriage and Private Hire vehicles must display within the vehicle, in a prominent position a Notice, to be supplied by the Licensing Authority, advising customers what to do in the event of making a complaint
- 14.38 All exterior and interior signs supplied by the Licensing Authority must be kept in good order and must not be de-faced. Any sign which fails to meet this condition, must be replaced immediately and the cost of replacing these signs shall be borne by the licence holder.

#### Private Hire Door Signs

- 14.39 A licensed Hackney Carriage or Private Hire vehicle may only be operated by the holder of a Torbay Council dual Hackney Carriage and Private Hire drivers' licence. The affixing permanently of door signs provides clarity and confidence for the public by ensuring that the vehicle is identifiable as a licensed vehicle at all times.
- 14.40 All Private Hire vehicles shall be fitted with Licensing Authority door signs, which must be affixed to the front doors of the vehicle and must be by way of vinyl stickers and not be magnetic. The door sign will contain Torbay Council identification, the licence number of the vehicle and a statement to the effect of "Private Hire Vehicle - Pre Booked Fares Only".
- 14.41 All Hackney Carriage vehicles shall be fitted with Licensing Authority door signs, which must be affixed to the front doors of the vehicle and must be by way of vinyl stickers and not be magnetic. The door sign will contain Torbay Council identification, the licence number of the vehicle and a statement to the effect of "Licensed Hackney Carriage Vehicle".
- 14.42 If a licensed driver is witnessed by an Officer of the Licensing Authority driving a licensed vehicle without the use of Licensing Authority approved door signs being attached to that vehicle, the vehicle licence will be immediately suspended until the door signs are in place. If the same driver vehicle is then witnessed by an Officer of the Licensing Authority found to repeat this conduct within a 6 month period ~~of any verbal warning being given, that driver can expect to receive a formal written warning of any such warning~~ Should that driver then be witnessed by an Officer of the Licensing Authority to repeat this conduct within the following 3 months, then a second formal written warning will be issued and on completion of an investigation, this may result in a report being submitted to Licensing Committee with a recommendation to revoke the said drivers licence for consideration as to suspension or, in repeated cases, revocation of the vehicle and/or Torbay drivers' licence.

#### Tinted Windows

- 14.43 The Licensing Authority will not issue a licence to a vehicle which has tinted windows that were not in place at the time of manufacture. The manufacture of such windows must be compliant with VOSA regulations.

#### Security and Closed Circuit Television (CCTV)

- ~~14.44 The Hackney Carriage and Private Hire trade provide a valuable service to the public, especially late at night when other forms of public transport may cease to be available. Security for drivers and passengers is of vital importance to the Licensing Authority. CCTV camera recording equipment can be a valuable deterrent as well as protecting the driver from unjustified complaints. It is not proposed that CCTV measures should be required as part of the licensing regime, instead the decision whether to install such equipment is left to the discretion of the vehicle or business owner. Any scheme must comply with the requirements of the Data Protection Act 1984, in so much as images may not be used by persons in any way, except for the purposes of detecting issues of crime and anti-social behaviour inside vehicles or if there is a request for their images by customers. The requirements under the Data Protection Act 1984 only apply to Sole Traders, not Companies. However using images obtained by the CCTV for any other means, may result in persons being guilty of an offence. Request for images obtained via CCTV may be made by the Licensing Authority, the Police or the Trade Suppliers.~~
- ~~14.45 TaxiCam equipment is the only equipment that currently meets the requirements set out in Para 14.43 above for installation in vehicles at this time. The permission to use any other equipment would need to be obtained from a senior officer in the Councils Licensing Authority.~~
- 14.46 The Department of Transport (DoT) Best Practice Guidance, recommends licensing authorities look sympathetically on the installation of security measures, such as, a screen between driver and passengers or CCTV systems as a means of providing some protection for vehicle drivers.
- 14.47 This Licensing Authority will not require enhanced security or CCTV measures in vehicles as it is considered that they are best left to the judgement of the proprietors and drivers themselves. The Hackney Carriage and Private Hire vehicle trades are, however, encouraged to build good links with the local police force, including participation in any crime and disorder reduction partnerships.
- 14.48 If CCTV facilities are installed in a licensed vehicle, the proprietor will be responsible for ensuring the system conforms to the Licensing Authority's specification, the Data Protection Act 1998 and other relevant legislation. The necessary informative notice for passengers must also be displayed (see separate conditions for CCTV as attached at **Appendix J**)

#### Livery (Colour)

- 14.49 The Licensing Authority has not implemented a livery (colour) Policy, which comes into effect on 1<sup>st</sup> June (Date to be determined) 2018 and is outlined in appendix D.

#### Seating in Multi-Passenger Vehicles

- 14.50 The Licensing Authority will licence vehicles for seating arrangements of up to eight passengers, where all the Licensing Authority's licensing requirements are satisfied.



14.51 All seating arrangements will be considered in relation to safety requirements prior to any licence being issued. It should NOT be assumed that permission will automatically be granted and **it is the responsibility of the proprietor of the vehicle to ensure that any vehicle is compliant with the Policy at Appendix D, prior to obtaining the vehicle. The Licensing Authority will assume no responsibility for any vehicle purchased that cannot be issued a licence due to non-compliance with the vehicle specifications. If in any doubt applicants are advised to contact the Licensing Authority in advance of making any purchase, prior to making an application.**

#### Smoking, Vaping and E-Cigarettes

14.52 Smoking is prohibited in all Hackney Carriage and Private Hire vehicles **at all times, irrespective of whether or not the vehicle is available for hire.** No smoking signs shall be displayed at all times within the vehicle.

14.53 Torbay Council also prohibits the use of E or vapour cigarettes by drivers or passengers in licensed vehicles **at all times, irrespective of whether or not the vehicle is available for hire.**

14.54 A driver found smoking, using E/Vapour cigarettes or permitting these to take place in a licensed vehicle, will be subject to enforcement action by either the Licensing Authority or **the other authorised Officers of the Council. The penalties for smoking or using E/Vapour cigarettes may include, prosecution and/or suspension or revocation of the Torbay dual driver's licence.**

#### Taxi Rank Provision

14.55 The ranks currently in operation within Torbay are detailed at **Appendix G.** It should be noted that where written requests for additional rank space is made, the Licensing Authority will consider the existing provision and liaise with the Council's Highways department. The responsibility to instigate formal consultation and rank works lies with the Council's Highways Department.

### **15. Grant and Renewal of Vehicle Licences**

15.1 The Licensing Authority will consider all applications for vehicle licences on their own merits.

15.2 The Licensing Authority will, providing that all the Licensing Authority's requirements are met; issue a 12-month licence which will run from 1<sup>st</sup> May to 30<sup>th</sup> April.

15.3 All vehicles presented for licensing for the first time shall be subject to a vehicle **inspection-compliance test.**

15.4 All vehicles presented for licensing for the first time shall be under 4 years old and have a current mileage of less than **60,000 50,000** miles.

15.5 Vehicles **aged between 0 and 8 years** will be issued with an annual licence which will run from 1<sup>st</sup> May to 30<sup>th</sup> April. An MOT (not more than 90 days old), the registration document and a valid insurance certificate or cover note (faxed

copies will not be accepted) must be produced before the grant of the vehicle licence.

- 15.6 In addition to the above, vehicles aged between 0 and 8 years will be required as a condition of licence, to undergo a vehicle inspection at the/a Council approved testing station, on one occasion, approximately 6 months from the date of being issued with a licence.
- 15.7 Vehicles **aged between 8 and 10 years** will be issued with an annual licence which will run from 1<sup>st</sup> May to 30<sup>th</sup> April. An MOT (not more than 90 days old), the registration document and a valid insurance certificate or cover note (faxed copies will not be accepted) must be produced to the Licensing Authority before the Licensing Authority will grant a vehicle licence.
- 15.8 In addition to the above, vehicles aged between 8 and 10 years will be required, as a condition of licence, to undergo a vehicle inspection at the/a Licensing Authority's approved testing station on two occasions, both at time of renewal and again approximately 6 months after the date of renewal.
- ~~15.9 Wheelchair Accessible Vehicles (WAVs) **aged older than 8 years** will be issued with an annual licence which will run from 1<sup>st</sup> May to 30<sup>th</sup> April. An MOT (not more than 90 days old), the registration document and a valid insurance certificate or cover note (faxed copies will not be accepted) must be produced to the Licensing Authority before the Licensing Authority will grant a vehicle licence. Additionally a second MOT for the vehicle will be due in October and must be no older than 30 days old. If the second MOT is not submitted by the 31<sup>st</sup> October then the vehicle licence will be suspended immediately until a valid MOT is submitted to the Licensing Authority.~~
- 15.10 Applicants should also be aware that if a licence has not been issued at the point when an existing licence expires (due to incomplete paperwork provided to the Licensing Authority), the licence holder must cease using that vehicle until a complete application has been received and determined.
- 15.11 It should be noted that once the date of expiry of an existing licence has passed and a valid application for renewal (i.e. a complete application, including the appropriate fee) has not been received, the licence will automatically expire. Where this occurs, the applicant will be required to submit a new application and the vehicle will be deemed to be a new vehicle. Therefore, the vehicle must meet all the requirements of this type of application. In addition, the expired vehicle licence plate must be returned to the Licensing Authority ~~immediately or~~ within seven days of expiry.
- 15.12 Where the Applicant has made an application for the grant or renewal of a vehicle licence, the Applicant must declare and supply information in relation to the insurance and MOT of that vehicle. If at any point during the term of the licence it is found that insurance and/or the MOT is not in place or lapsed, the Licensing Authority will suspend the vehicle licence immediately until a valid insurance document and/or the MOT is submitted to the Licensing Authority. The Licensing Authority may decide to take the matter further upon investigation, which may include revocation of that licence.

- 15.13 If an application is made and the vehicle does not meet the requisite criteria, the Licensing Authority will charge a fee to issue a refund in line with Torbay Councils fees and charges.

### Replacement Vehicles

- 15.14 A vehicle licence is issued to a specific vehicle, therefore, at the point where the licence expires, the licence ceases to exist and any new vehicle would be subject to the requirements of a new vehicle licence application.
- 15.15 To assist vehicle proprietors who wish to be able to change vehicles during the period of an existing licence, the Licensing Authority operates a 'replacement vehicle Policy'. This will enable the existing licence to remain in place; however, the 'replacement' vehicle will have to meet the Licensing Authority's vehicle specification as set out in **Appendix D**.

## **16. Private Hire Operators**

- 16.1 Any person who makes provisions for the invitation for acceptance of bookings for a Private Hire vehicle or a Private Hire service, must ~~apply to the Licensing Authority for and hold, a valid~~ do so under the provision of a valid Private Hire operator licence issued by this Licensing Authority.
- 16.2 The owner/proprietor of a Private Hire vehicle may accept their own bookings under provision of their own operator's licence or, they may work for a recognised company that holds a company operator's licence that permits them to accept bookings for multiple vehicles, issued by this Licensing Authority.
- 16.3 It is an offence for any licensed driver or Private Hire vehicle proprietor to accept a booking directly unless they hold their own operator's licence issued by Torbay Council.

### Conditions

- 16.4 The Licensing Authority has power to impose conditions on a Private Hire operators' licence, as it considers reasonably necessary to do so.
- 16.5 The Licensing Authority considers that the conditions set out in **Appendix C** of this Policy meet the necessary criteria when granting a private operator's licence. As such, these conditions will be attached to all Private Hire operator licences unless at the application stage, evidence is submitted by the applicant which provides sound evidential reasoning for not doing so.

## **17. Grant and Renewal of Operator Licences**

- 17.1 The Licensing Authority will consider all applications for operator licences on its own merits.
- 17.2 The Licensing Authority issues 5 yearly licences or part thereof for Private Hire operators which run from the 1<sup>st</sup> May, these are priced in bands according to the number of vehicles that an individual, partnership or company may wish to operate.

- 17.3 If an application is made and the Applicant does not meet the requisite criteria, the Licensing Authority will charge a fee to issue a refund in line with Torbay Councils fees and charges.

The applicant for a Private Hire operator's licence shall be required:-

- 17.4 To show that the premises from which it is intended to conduct business is free from any encumbrances or restrictions for such use, and to provide the name and address of the owner of the premises.
- 17.5 To provide all necessary washing, toilet and rest room facilities for persons conducting business from the premises as required by the Health and Safety at Work legislation.
- 17.6 If waiting facilities are available for intended passengers, to provide sufficient and proper seating for those persons.

**18. Disciplinary and Enforcement Measures**

- 18.1 The Licensing Authority recognises that well-directed enforcement activity not only benefits the public but also responsible members of the Hackney Carriage and Private Hire trades.
- 18.2 The Licensing Authority will follow the principles laid out in the Regulator's Code and any recommendations from the Local Better Regulation Office. Copies can be found at [www.lbro.org.uk/](http://www.lbro.org.uk/)
- 18.3 The Licensing Authority shall take enforcement action where it considers it necessary and proportionate to do so. In doing so, it will have regard to the licensing objectives stated within this Policy. Enforcement will be risk-based, intelligence-led and targeted and managed in line with the Licensing Authority's Enforcement Policy.
- 18.4 A record of any enforcement and/or disciplinary action taken by the Licensing Authority or Local Authority, whether formal or informal, will be recorded on the licence holder's file. Such evidence of this, may be brought to the attention of the Licensing Committee, Sub-Committee or the Court, if further action is deemed necessary.

**19. Fares**

- 19.1 On receipt of a request for consideration of an increase in **Hackney Carriage fares** ~~from a member of the Torbay Hackney Carriage Association~~, the Licensing Authority will follow the procedure set out in **Appendix H** of this Policy.
- 19.2 A fares tariff is enforceable as a byelaw and it is an offence for any person to charge more than the metered fare.
- 19.3 The current tariff card must be prominently displayed to customers inside the Hackney Carriage vehicle, at all times.

- 19.4 The setting of fares for Hackney Carriages is a function of the Council's Licensing Committee.
- 19.5 The Licensing Authority may not set fares for Private Hire, as these are set and advertised at the discretion of individual Private Hire vehicle operator, as in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

## **20. Meters**

- 20.1 The Licensing Authority requires that meters to calculate fares must be calendar clocked, accurate and displaying the correct time and capable of displaying the various tariffs, as approved by the Licensing Authority. This shall include any extra charges which are payable under the approved Table of Fares.
- 20.2 The meter must be calibrated and set to the Licensing Authority agreed charging distances and tariffs currently in force.
- 20.3 Meters will be checked by the Licensing Authority from time to time, to ensure that they are accurate, to that of a metered mile distance or by waiting time.
- 20.4 Meters must be positioned in order that the fare must be clearly displayed to the passenger throughout the journey.
- 20.5 Meters in operation must not facilitate fraudulent use. Any signs of the tampering included in the breaking of seals will result in immediate action being taken by the Licensing Authority to suspend the licence pertaining to the vehicle in question. Where a licence is suspended, the vehicle proprietor shall return the licence plate to the Licensing Authority immediately. The Licensing Authority will then consider what further action, if any, to take against the driver or vehicle operator in question. Such action may result in the revocation of either or all the driver, operators or vehicle proprietors licence.

## **21. RIGHTS OF APPEAL**

The following rights of appeal are to be found in Local Government (Miscellaneous Provisions) Act 1976 (LG(MP)A1976):

- 21.1 Appeal against conditions imposed on a Hackney Carriage proprietor's licence (LG(MP)A 1976, s 47).
- 21.2 Appeal against refusal to grant a Private Hire vehicle licence, or conditions imposed on such a licence (LG(MP)A 1976, s 48)
- 21.3 Appeal against refusal to grant a Private Hire driver's licence, or conditions imposed on such a licence (LG(MP)A 1976, s 52)
- 21.4 Appeal against refusal to grant a Private Hire operator's licence, or conditions imposed on such a licence (LG(MP)A 1976, s 55)

- 21.5 Appeal against refusal to grant a Hackney Carriage driver's licence (LG(MP)A 1976, s 59)
- 21.6 Appeal against suspension, revocation or refusal to renew a Hackney Carriage or Private Hire vehicle licence, or conditions imposed on such a licence (LG(MP)A 1976, s60)
- 21.7 Appeal against suspension, revocation or refusal to renew a Hackney Carriage or Private Hire driver's licence (LG(MP)A 1976, s61)
- 21.8 Appeal against suspension, revocation or refusal to renew a Private Hire operator's licence (LG(MP)A 1976, s62)

**Local Government (Miscellaneous Provisions) Act 1976 s 77 states:**

**'Appeals:**

77-(1) sections 300 TO 302 of the Act of 1936, which relates to appeals shall have effect as if this Part of this Act were part of that Act.

(2) If any requirement, refusal or other decision of a district council against which a right of appeal is conferred by this Act-

(a) involves the execution of any work or the taking of any action; or

(b) makes it unlawful for any person to carry on a business which he was lawfully carrying on up until the time for appealing has expired, or, when an appeal is lodged, until the appeal is disposed of or withdrawn or fails for want of prosecution-

- (i) No proceedings shall be taken in respect of any failure to execute the work, or take the action; and
- (ii) That person may carry on that business.

(3) Subsection (2) of this section does not apply in relation to a decision under subsection (1) of section 61 of this Act which has immediate effect in accordance with subsection (2B) of that section'

In general, the effect of LG(MP)A 1976 s 77(2) is to stay any action pending the determination of an appeal. However there is an exception in relation to Hackney Carriage and Private Hire driver's licence, when the local authority has decided that the licence should be suspended or revoked with immediate effect in the interest of public safety

The appeal period is 21 days from the date on which 'notice of the local authority's requirement, refusal or other decision was served on the person desiring to appeal

**An appeal must be made to:**

South and West Devon Magistrates' Court, c/o Torquay & Newton Abbot County Court, Nicolson Road, Torquay. TQ2 7AZ



## APPENDIX A

**Policy for determining the relevancy of criminal convictions, cautions, reprimands and warnings in relation to Hackney Carriage or Private Hire Driver Licences**



### **Taxi and PHV Licensing Criminal Convictions' Policy**

#### **1 General Policy**

- 1.1 Each case will be decided on its own merits.
- 1.2 The Licensing Authority has a duty to ensure, so far as possible, that applicants are 'fit and proper' persons to hold licences and in the absence of a judicially approved definition of "fit and proper". **The Licensing Authority will consider this Criminal Convictions Policy as part of its assessment of applicants and licence holders.**
- 1.3 **In assessing the various information gleaned in relation to the 'fit and proper' status of an applicant or licence holder, the Licensing Authority will apply the following test: ~~use the test of~~ consider:**

*Would the Officer charged with the ability to grant a licence allow their 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.

- 1.4 The overriding consideration is the safety of the public. The Licensing Authority has a duty to ensure so far as possible that those licensed to drive Hackney Carriage and Private Hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit. An aspect of this is the extent to which previous convictions, including but not limited to convictions of dishonesty, sexual offences, traffic offences, violence and drugs, indicate that a person is not



a 'fit and proper' person and would not take advantage of passengers or abuse or assault them.

- 1.5 Simply remaining free from convictions will not generally be regarded as sufficient evidence that a person is a 'fit and proper' person to hold a licence. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public. The following examples afford a general guide on the actions to be taken where convictions are admitted or discovered.

## **2 Dishonesty**

2.1 It is essential for the public to have trust in Hackney Carriage and Private Hire drivers. The practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers and operators. However, there is scope for a dishonest driver to defraud a passenger by demanding more than the legal or agreed fare or by taking a longer route to a destination. Tourists and overseas visitors are particularly at risk from an unscrupulous driver. For this reason, the Licensing Authority will take a serious view of any offences involving dishonesty. The Licensing Authority will not normally consider an application until a period of at least three years free from convictions has elapsed. More than one conviction for this type of offence within the last five years will raise serious doubts about the applicant's fitness to hold a licence. In such cases, the Licensing Authority may reject the application.

2.2 In the case of a licensed driver being convicted of an offence involving dishonesty the Licensing Authority may suspend, revoke or refuse to renew the licence. If a licence is revoked, no further application will be considered until a period of at least three years free from the date of conviction of this type has elapsed.

2.3 Offences of Dishonesty include:

- Theft
- Burglary
- Fraud including benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Any similar offences of dishonesty where the conviction is less than three years prior to the date of application

## **3 Violence**

3.1 The Licensing Authority will take a serious view of any applicant convicted of an offence involving violence. 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.

3.2 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
- Arson with intent to endanger life
- Terrorism offences
- Or any similar offences (including attempted or conspiracy to commit offences) which replace the above

3.3 In the case of a licensed driver being convicted of any of the above offences, unless there are exceptional circumstances, the Licensing Authority will immediately revoke the licence.

3.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) that replace the offences below and the conviction is less than 10 years old prior to the date of application:

- Arson, with intent to endanger life
- 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 on Police
- Racially aggravated offences
- Violent disorder
- Resisting arrest
- Or any similar offences (including attempted or conspiracy to commit offences), which replace the above

3.5 In the case of a licensed driver being convicted of any of the above offences, the Licensing Authority may suspend or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least 10 years free from the date of conviction has elapsed.

3.6 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 5 years old prior to the date of application:

- Assault occasioning actual bodily harm
- Common assault
- Affray
- Criminal damage
- Harassment
- Or any similar offences (including attempted or conspiracy to commit offences), which replace the above

3.7 In the case of a licensed driver being convicted of any of the above offences, the Licensing Authority may suspend or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least 5 years free from the date of conviction has elapsed.

3.8 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:

- S.5 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)
- Possession of a weapon
- Obstruction
- Minor criminal damage
- Or any similar offences (including attempted or conspiracy to commit offences), which replace the above

3.9 In the case of a licensed driver convicted of any of the above offences, the Licensing Authority may suspend or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least 3 years free from convictions of this type has elapsed.

## 4 **Drugs**

4.1 The Licensing Authority will take a serious view of convictions for drug related offences. An application will normally be refused when an applicant has a conviction related to the supply of drugs and the conviction is less than five to ten years prior to the date of application. After five years have elapsed, consideration will be given if an applicant can provide evidence that they can be considered a 'fit and proper' person.

4.2 An application will generally be refused where the applicant has more than one conviction relating to the possession of drugs and the conviction is less than five years prior to the date of application.

4.3 An application from an applicant who has an isolated conviction for possession of drugs within the last three to five years will require serious consideration before a decision is made regarding their suitability.

4.3 The Licensing Authority will take a serious view of a licensed driver convicted of a drug related offence. An isolated incident will result in a strict warning about future conduct. More than one conviction for this type of offence in the last five years will raise serious doubts about the person's fitness to hold a licence. In such cases, the Licensing Authority may refuse to renew, suspend or revoke the licence or require a medical examination to be undertaken. If a licence is revoked, no further application will be considered until a period of at least five years free from convictions has elapsed.

## 5 **Sexual and indecency offences**

5.1 Hackney Carriage and Private Hire drivers frequently carry unaccompanied and/or vulnerable passengers. The Licensing Authority will therefore take a serious view of any convictions for a sexual offence. ~~A licence will~~ **Whilst all applications are considered on individual merit. It is the Policy of this Authority not normally be granted to grant an application if an applicant has more than one a conviction for a sexual offence.**

- 5.2 ~~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
- 5.3 In the case of a licensed driver convicted of any of the above offences, unless there are exceptional circumstances, the Licensing Authority will immediately revoke the licence.
- 5.4 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:
- 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
- 5.5 In the case of a licensed driver convicted of any of the above offences, the Licensing Authority may suspend or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least 10 years free from convictions of this type has elapsed.
- 5.6 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 5 years prior to the date of application:
- Indecent exposure
  - Soliciting (kerb crawling)
  - Or any similar offences (including attempted or conspiracy to commit offences) which replace the above
- 5.7 In the case of a licensed driver convicted of any of the above offences, the Licensing Authority may suspend or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least 5 years free from convictions of this type has elapsed.
- 5.8 Applications will be refused where the applicant remains on the Sex Offenders Register.

## 6 **Alcohol and Drug Related Offences**

- 6.1 With motor vehicle:

The Licensing Authority will take a serious view of an applicant convicted for driving or attempting to drive a vehicle with levels of **drugs or** alcohol in blood, breath or urine in excess of the permitted limit. A single conviction for any **drug or** alcohol related driving offence will normally preclude an application from being granted for a period of five years from the restoration of the DVLA driving licence.

6.2 More than one conviction for any **drug or** alcohol related driving offence represents an unacceptable risk to the public and an application will normally be refused.

6.3 If there is any suggestion that the applicant suffers clinical **drug or** alcohol dependence, the Licensing Authority may require a special medical examination to be undertaken. If the applicant is found to be suffering from clinical **drug or** alcohol dependence, an application will not be considered until a period of at least five years has elapsed after completion of treatment of the condition. The cost of any medical examination must be paid for by the applicant/licensed driver.

6.4 The Licensing Authority will take a serious view of a licensed driver convicted of driving or attempting to drive a vehicle **either under the influence of drugs or** with levels of alcohol in excess of the permitted limit as this will raise serious doubts about the person's fitness to hold a licence. In such cases, the Licensing Authority may suspend, revoke or refuse to renew the licence. If a licence is revoked, no further application will be considered until a period of at least five years free from convictions of this type has elapsed.

6.5 Without motor vehicle:

An isolated incident will not necessarily prevent an applicant being granted a licence. However, a number of convictions for **drug or** alcohol related offences may indicate a medical problem. In such cases, the Licensing Authority may require a medical examination to be undertaken. The cost of any medical examination must be paid for by the applicant/licensed driver.

## 7 **Minor traffic offences**

7.1 Convictions for minor traffic offences will not prevent a person from being considered for a licence. If a new applicant has six live penalty points on their driving licence for such offences then the application may be granted subject to a strong written warning. If an applicant has more than six penalty points on their licence then the application will normally be refused and no further application will be considered until a period of at least 12 months free from convictions or fixed penalties of this type has elapsed.

7.2 In the case of a licensed driver accumulating nine or more penalty points the Licensing Authority may refuse to renew, suspend or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least 12 months free from convictions of this type has elapsed. A list of minor traffic offences can be seen in table 1.

## 8 **Major traffic offences**

- 8.1 If an applicant has live endorsements or has been disqualified from driving in respect of major traffic offences then the application will normally be refused until at least five years after the most recent such convictions.
- 8.2 In the case of a licensed driver being convicted of a serious road traffic accident, the Licensing Authority may suspend or revoke the licence or an application to renew the licence being refused. If a licence is revoked, no further application will be considered until a period of at least 5 years free from the date of conviction has elapsed.
- 8.3 A list of major traffic offences can be seen in table 2.

**9 Offences by licensed drivers, proprietors or operators**

- 9.1 Any conviction which results from an offence committed by any person whilst carrying out their duties as a Hackney Carriage or Private Hire driver, proprietor or operator regarded as extremely serious may, lead to a licence being suspended or revoked or an application to renew the licence being refused.
- 9.2 More than one conviction, as outlined in Para 9.1 above, will lead to the drivers licence being revoked. This includes any offences against the Town Police Clauses Act 1847, The Local Government (Miscellaneous Provisions) Act 1976 or any breach of the conditions or byelaws made under the relevant legislation.
- 9.3 Convictions of any description committed by both Hackney Carriage proprietors, Private Hire drivers and operators during the duration of their licence must be declared to the Licensing Authority in writing immediately and in any case no later than 7 days.

**10 Cautions and Endorsable Fixed Penalties**

- 10.1 For the purpose of these guidelines, endorsable fixed penalties shall be treated as though they were convictions.

**10 Pending Investigation**

- 10.1 The Licensing Authority may, at their discretion suspend a drivers licence where is deems it appropriate to do so pending an investigation by either the Local Authority or the Police. This decision will only be taken where it is deemed necessary for the interest of Public Safety.

**Table 1: Minor traffic offences**

<b>Code</b>	<b>Offence</b>
CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use or unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyres
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger

	vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Exceeding speed limit offence
MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS40	Driving with uncorrected defective eyesight or refusing to submit to a test
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver, etc.
MW10	Contravention of special road regulations (excluding speed limit)
PC10	Undefined contravention of pedestrian crossing regulations
PC20	Contravention of pedestrian crossing regulations with moving vehicle
PC30	Contravention of pedestrian crossing regulations with stationary vehicle
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a 'stop' sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding "stop" sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

**NOTE:** Includes: Aiding, abetting, counselling or procuring any of the offences as coded above. Causing or permitting any of the offences as coded above. Inciting any of the offences as coded above.

**Table 2: Major traffic offences**

<b>Code</b>	<b>Offence</b>
AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of the court
BA30	Attempting to drive while disqualified by order of the court
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration for other road users
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death through careless driving when unfit through drugs
CD60	Causing death through careless driving with alcohol above limit
CD70	Causing death by careless driving then failing to supply a specimen for analysis
CD71	Causing death by careless driving then failing to supply a specimen for drug analysis
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving

DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR31	Driving or attempting to drive then failing to supply a specimen for drug analysis
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
DR61	Failure to supply drug specimen for analysis in circumstances driving or to drive
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
IN10	Using a vehicle uninsured against third-party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
UT50	Aggravated taking of a vehicle

**NOTE:** Includes: Aiding, abetting, counselling or procuring any of the offences as coded above. Causing or permitting any of the offences as coded above. Inciting any of the offences as coded above.



## APPENDIX B

### **Rules for Advice to Drivers Driver Code of Conduct**

- ~~1. Only a licensed driver the holder of a Torbay Council dual Hackney Carriage and Private Hire drivers licence may drive a Torbay licensed vehicle at given any time, whether the vehicle is being used for hire or reward or not.~~
- ~~2. All Drivers should to ensure that the vehicle is road safe and clean inside and out prior to commencing work~~
- ~~3. Do not use mobile telephone, radio or data sources while the vehicle is in motion~~
- ~~4. Do not tout for business or use anyone to tout for you~~
- ~~5. Bookings may only be accepted through a licensed Private Hire operator. Do not accept any booking unless you are also an operator and have taken the booking yourself or, you have accepted the booking from a licensed Check Private Hire operator. is licensed~~
- ~~6. Keep vehicle clean inside and out~~
- ~~7. Control language on radio and use any radio call sign properly.~~
- ~~8. Check road fund licence valid~~
- ~~9. Report any convictions received as soon as practicably possible and in any event within 7 days of receipt.~~
- ~~10. Always check destination (not sure what this achieves)~~
- ~~11. Use your radio call sign properly~~
- ~~12. Attend at licensing Office if called~~
- ~~13. Ensure that Torbay Council issued vehicle signs and plates are correctly displayed at all times. correct~~
- ~~14. Undertake Medical as required (doesn't need listing as repeat of licensing process)~~
- ~~15. Only drive licensed vehicles when conveying fare paying passengers~~
- ~~16. Do not tout for hire (repeat of above)~~
- ~~17. Never Stop for flag down (Private Hire Only)~~
- ~~18. Stay Off of Taxi Ranks (Private Hire Only)~~

19. ~~Ensure vehicle complies with law~~
20. ~~Ensure vehicle is insured at all times.~~
21. ~~Check road tax is clearly displayed (no longer a requirement)~~
22. ~~Report any change of Address as soon as practicably possible and in any event within 7 days.~~
23. ~~Report any found property and hand it in to the police (unless you know who has lost it and are able to reunite it with the owner within a reasonable period of time).~~
24. ~~Assist with any Police link Calls~~
25. ~~All operators must keep Records of Bookings as outlined in the terms and conditions for operators.~~
26. ~~All operators must keep a copy of valid insurance~~
27. ~~Produce any licence if required~~
28. ~~Wear I.D. badge at all times in a position where it can be clearly seen~~
29. ~~Ensure children wear seat belts~~
30. ~~Comply with Police Access requirements~~
31. ~~Never exceed number of passengers on Plate regardless of age~~
32. ~~Check car after every journey for lost property~~
33. ~~All Private Hire bookings must be pre-booked (repeat of above)~~
34. ~~Report any change of Medical Fitness and attend for a medical if required~~
35. ~~Give reasonable assistance with luggage~~
36. ~~Produce any documents required by operator for checking~~
37. ~~Driver, Vehicle and Operator MUST all be licensed in Torbay~~
38. ~~Not use private land or Council car parks as a short cut or thoroughfare~~

~~Remember Passengers hire the vehicle with the services of the driver and he/she should:-~~

39. ~~Not use the horn to make passengers aware of his./her arrival~~
40. ~~Not cause distress, by loud radio use, to passengers or others~~

~~This list is for advice only and is not exhaustive.~~

## Driver Code of Conduct

1. The driver **must** at all times, when driving a Hackney Carriage or Private Hire vehicle:
  - a) Wear their drivers badge around their neck ensuring that the photograph and licence details are clearly visible
  - b) Be clean and respectable in their dress and person and maintain a high standard of personal hygiene. Standards of dress are set out under the dress code at **Appendix I**.
  - c) Behave in a civil and orderly manner towards all persons, including, but not limited to, other road users, pedestrians, customers, the general public, other licensed operators and drivers, police officers, licensing officers and elected Members of the Council
  - d) Be courteous to all passengers e.g. greeting passengers, assisting with bags, push chairs, wheelchairs etc
  - e) Take all reasonable steps to assist passengers when they are entering or alighting from the vehicle and convey them, subject to any restrictions given, to their destination by the shortest practicable route and to ensure their safety
  - f) When requested to do so by a passenger, convey a reasonable amount of luggage and afford reasonable assistance in the loading and unloading of any luggage
  - g) Be punctual and on time for bookings, unless delayed or prevented from doing so by some reasonable cause that is beyond the drivers control.
  
2. The driver **must not**, at any time, when driving a Hackney Carriage or Private Hire vehicle:
  - a) Use offensive, racist, abusive, profane or insulting language or behaviour
  - b) Smoke or permit passengers to smoke in their vehicle (this includes the use of electronic cigarettes and vaporisers)
  - c) Use a hand held mobile phone whilst driving
  - d) Without the express permission of the hirer, eat or drink in the vehicle and only then in all cases whilst the vehicle is completely stationary
  - e) Cause or permit sound emitted from any radio or sound reproducing instrument or equipment in the vehicle to be an annoyance or nuisance to any person, whether they be inside or outside of the vehicle
  - f) Sound their vehicle's horn to alert passengers as to the arrival of the vehicle
  - g) Permit persons other than the hirer to be carried in the vehicle unless they have the full consent from the person hiring the vehicle

- h) Allow any person(s) to drive the vehicle unless they are authorised to do so by the proprietor, hold an appropriate Torbay Council dual drivers licence and are fully insured to do so
- i) Obstruct other drivers or vehicles from undertaking their normal hiring and driving activities
- j) Park, wait or leave a vehicle in a place/position that causes a nuisance or obstruction to other road users or to any member of the public. This would include, but is not restricted to;
  - Parking or waiting in designated resident only, disabled, or loading bays
  - Overhanging of Taxi ranks
  - Waiting/queuing on roundabouts, in box junctions (unless turning right) in bus stops or on yellow lines

## APPENDIX C

### Private Hire Operator Licence Conditions

The following conditions shall apply to Private Hire Operator Licences issued by Torbay Council by virtue of the Local Government (Miscellaneous Provisions) Act 1976, s55(3).

In these conditions reference to the words “you or your” shall mean the person named in this licence and where that person is a Limited Company, that Company.

#### 1. Standards of Service

- 1.1 At all reasonable times provide a punctual, well-organised and reliable service to members of the public and:
- (a) Ensure that when a Private Hire vehicle has been hired to be at a place at a pre-arranged time, that the vehicle, unless delayed or prevented by a reasonable cause, attends on time at that place;
  - (b) Ensure that any premises that you provide for accepting bookings when it is open to the public is safe, well maintained, clean, heated, ventilated and well lit, and that any seating that you provide is safe, comfortable and free from defect;
  - (c) Ensure that any telephone facilities and radio equipment provided are maintained in sound condition (e.g. is fit for purpose) and that any defects are repaired promptly; and
  - (d) Ensure that any vehicle provided by you for any booking is safe, clean, well maintained and free from defect.

#### 2. Convictions, Cautions or Fixed Penalty Notices

- 2.1 If you are convicted of any offence (this includes motoring and criminal offences), given a formal caution for any offence or have any fixed penalty notice imposed on you, then you must write to the Licensing Authority giving full details of the offence(s), caution(s) or fixed penalty notice(s) within seven days.

#### 3. Operator Office Location

- 3.1 The office must be located within Torbay to enable any authorised officer access to the premises or any records as required by statutes or conditions.

#### 4. Records

- 4.1 Keep at the operator base specified in this Licence, a bound book, the pages of which are numbered consecutively or a computer record in a form which has been approved by the Licensing Authority in writing; and enter or ensure that there is entered in the book or computer record, details of every booking of a Private Hire vehicle invited or accepted by you at the time the booking is made. The records shall contain the following details:

- (a) The time and date the booking was made;
- (b) The name and address of the hirer;
- (c) How the booking was made (i.e. by telephone, personal call, etc);
- (d) The time of the pick-up;
- (e) The address of the pick-up;
- (f) The address of the destination;
- (g) The time at which a driver was allocated to the booking;
- (h) The licence number of the vehicle allocated to the booking;
- (i) The name and licence number of the driver allocated to the booking;
- (j) Remarks (including details of any sub-contract); and
- (k) The time and date the entry was made and the name of the person making it.

4.2 Keep the records required under (1) above at the operator base specified in this Licence for a period of not less than 10 working days from the date on which they are made.

4.3 Keep at the operator base specified in this Licence, details of all the Private Hire vehicles currently operated by you under this Licence. Those records shall contain:

- (a) The licence number of the vehicle;
- (b) The issue and expiry date of the licence;
- (c) The make and registration number of the vehicle;
- (d) The name and address of the proprietor of the vehicle; and
- (e) The call sign allocated to the vehicle.

4.4 Keep or ensure that details of all licences held by Private Hire vehicle drivers currently employed by you or by the proprietor of any Private Hire vehicle which obtains bookings from you are kept at the operator base. Those records shall contain:

- (a) The name and address of the driver;
- (b) The issue and expiry date of his/her licence; and
- (c) The driver's licence number.

4.5 Keep for not less than 6 months following the date of the last entry, all records required to be kept by these conditions and produce them when required to do so by an Authorised Officer of the Licensing Authority or a Police Constable ~~as soon as is reasonable practicable and in any case~~ within 3 working days.

## 5. Computer Records

5.1 Where you use a computer to maintain the records required by these conditions you shall ensure that it is lawful for an Authorised Officer of the Licensing Authority or a Police Constable to have access to those records in accordance with the Data Protection Acts or any subsequent legislation relating to the storage and access to computer records.

5.2 Where any record required under these conditions is made on a computer, the computer program shall be designed to show the time an entry is made and to prevent alterations being made to any data that has been entered and stored on the program.

- 5.3 Where any records are kept on a computer, a facility to print a copy of any record held on any such computer and shall produce them when requested to do so by an Authorised Officer of the Licensing Authority or a Police Constable.

## 6. Change of Circumstance

- 6.1 If there is any change in any of the circumstances on which the licence was granted, you must provide written details of any changes within 5 working days of the change taking place.

## 7. Change of Address

- 7.1 If you move your home or business address, you must provide written details to the Licensing Authority within 5 working days of the change taking place.

## 8. Radio

- 8.1 No device, which can scan radio transmissions, shall be installed, carried or used in or on any premises named within this Licence (this shall not apply to a radio used for the purpose of passing messages to a Private Hire, which is supplied bookings, by the holder of this licence).

## 9. Deposit of Driver and Vehicle Licenses

- 9.1 Any operator who employs or permits anyone to drive any licensed vehicle owned by them will ensure that the **authorised drivers' Torbay Council issued dual** drivers licence is deposited with him during the period that the driver is employed or permitted to drive, the licence must be returned to the driver at the end of that period. Any vehicle employed or used by an operator must be licensed and the proprietor of the vehicle shall deposit his vehicle licence with the operator during the period that his vehicle is so employed. The operator must return the licence to the vehicle proprietor at the end of the period.

### **IMPORTANT NOTE:**

***If you fail without reasonable excuse to comply with these conditions, the Licensing Authority may consider that this amounts to reasonable cause to suspend, revoke or refuse to renew this Licence, subject to each case being considered on its merits.***

## APPENDIX D

### Vehicle Specification Standards and Schedule of Conditions

#### Specification standards applicable to all Torbay Licensed Vehicles

Licensed vehicles must be of manufacturers' specification and shall comply in all respects with the Motor Vehicle (Type approval Regulations 1980, Motor Vehicle (Type Approval) Regulations 1984 and the Road Vehicles Construction and Use Regulations 1986. In addition, all vehicles must comply in all respects with the British and European vehicle regulations and be a type to the requirements to the M1 category of European Whole Type Approval 70/156/EEC as amended.

Vehicles converted from vans which have a type approval other than M1 will not be acceptable unless they are presented with approved M1 certification for the resultant vehicle. If the vehicle has been registered with the DVLA and issued with the appropriate registration index number, no change, structural alteration or rearrangement of detail shall be carried out unless the vehicle has received subsequent M1 Whole Type Approval.

If the vehicle has a UK Single Vehicle Approval Certificate, the Licensing Authority will expect that the vehicle will have been modified in accordance with a program approved by the original vehicle manufacturer and have appropriate documentary proof.

~~There is no Policy or requirement on colour differential between Hackney Carriage and Private Hire Vehicles, but no coloured identifying strips, stripes or other markings are permitted to be placed on vehicles beyond those within the maker's specifications or placed on the vehicle at the time of manufacture without the approval of the Licensing Authority. Where vehicles do have identifying strips, stripes or other markings (present at the time of manufacture), applicants are advised to contact the Licensing Authority to discuss the vehicle's suitability prior to making an application to license the vehicle in question.~~

~~The vehicle must at all times be maintained in a satisfactory mechanical order and body condition and is operational in every respect, having regard to the following conditions.~~

#### **CONDITIONS RELATING TO HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES MADE UNDER LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

Every Hackney Carriage and Private Hire vehicle must comply in all respects with these specifications and conditions.

Whilst these specifications may have been complied with, a licence may nevertheless be withheld if the Licensing Authority is of the opinion that any vehicle is unsuitable for public use.

#### **INTERPRETATION**



- (a) The “*Licensing Authority*” means Torbay Council.
- (b) The “*Authorised Officer*” means the Licensing Officer of the Council.
- (c) The “*vehicle*” means the vehicle subject of the Hackney Carriage/Private Hire vehicle-licence to which the conditions are attached.
- (d) The “*proprietor*” means the person for the time being shown on the Hackney Carriage/Private Hire vehicle licence as the proprietor of the vehicle.
- (e) The “*driver*” means the driver for the time being of the vehicle.
- (f) Any obligation in these conditions not to do any act or thing shall be deemed to include an obligation not to cause or permit that act or thing to be done.
- (g) Any reference to any statute or subordinate legislation shall be deemed to include a reference to any amendment or re-enactment.

## **CONDITIONS APPLICATION**

New specifications relating to colour, type or design of vehicles, will not immediately apply to vehicles that have been licensed ~~at the time of~~ prior to this Policy coming into force. Such vehicles will be considered suitable for renewal of the vehicle licence, ~~when presented for renewal will continue to have their licence renewed~~, up to the maximum age limit of 10 years from the date of first registration provided that they remain suitable for licensing in every other respect.

~~Once an existing licensed vehicle reaches 10 years from the date of first registration the maximum permitted age limit, or if it requires earlier permanent replacement, it must, in all circumstances be replaced with a vehicle that meets all of the new criteria as specified in the following conditions:~~ must comply in all respects with all vehicle specifications.

### **Use of a Hackney Carriage vehicle**

1. A Hackney Carriage vehicle may be hailed anywhere within the geographical area of Licensing Authority and may wait (provided it is in compliance with the ‘use of ranks’ as outlined in this Policy) on any rank within the Licensing Authority’s area when plying for hire.
2. Once being presented for hire, it is an offence under section 53 of the Town Police Clauses Act 1847, other than for exceptional reason ~~to refuse to take any fare~~. Any ~~breach of this requirement may result in disciplinary action~~ against the driver of the vehicle.
3. There is a requirement that a Hackney Carriage vehicle must be operated predominantly within the Torbay Council area.
4. Under sections 46 and 48 of the Local Government (Miscellaneous Provisions) Act 1976 it is unlawful for any Hackney Carriage vehicle to ‘ply for hire’, to sit on a rank or to accept a ‘hail’ from any person otherwise than in the issuing Licensing Authority’s area. A Hackney Carriage may however, operate for the purpose of

private hire anywhere in England and Wales, subject to a requirement that it is predominantly operating in the Torbay Council area.

### **Use of a Private Hire Vehicle**

1. A Private Hire vehicle is permitted to accept pre booked fares only. They may not stop if hailed and may not at any time be caused to stop on any Hackney Carriage rank.
2. Whilst it is not necessary for a Private Hire vehicle to return to its operating base when waiting for a fare, drivers of these vehicles must at all times obey any parking or waiting restrictions. For example, at no time should a Private Hire vehicle be caused to wait in a resident only bay, disabled bay, on yellow lines, zig zags, box junctions etc other than for reason of emergency or to avoid a hazard.
3. Any Private Hire vehicle, singularly or with others, which give the appearance that it is available for immediate hiring, commits an offence. No more than two vehicles may congregate in any one location giving the appearance that they are a rank and may be plying for hire. As part of the Operator's licence issued for the vehicle, when un-engaged must be parked legally and not within 500 meters from an appointed Hackney Carriage rank.

### **Wheelchair Accessible Vehicles (WAV)**

In addition to the standard conditions and those applying to Hackney Carriage, and Private Hire vehicles, further conditions apply to WAV's as set out in this section. Where the conditions for WAV's conflict with the standard conditions, the WAV conditions will apply.

1. The vehicle must have a designated space to accommodate at least one wheelchair user to be carried in the wheelchair. This space shall be included in the total number of persons that are permitted to be carried, in total, in the vehicle.
2. Only the rear or the nearside door may be used for wheelchair access. The door and the doorway must be so constructed as to permit unrestricted opening across the doorway.
3. All wheelchairs must be carried facing forwards or rearwards. Where a wheelchair is carried facing the rear of the vehicle, the wheelchair, in addition to standard restraints must be positioned such that it is reversed against a bulkhead in order to provide additional stability.
4. Facilities for the loading of a wheelchair and occupant must be available, carried in the vehicle, at all times for use at the nearside or the rear passenger doors. The ramp must comply fully with all recommendations of the Equalities Act with regard to design and installation.
5. An adequate locating device must be fitted to ensure that the ramp does not slip or tilt when in use. Provision must be made for the ramp to be stowed and secured safely when not in use. The storage of the ramp when not in use must not impede access or egress of passengers.

6. Ramps must be rigid when in use and equipped with a slip resistant surface with the outer edges coloured.
7. Suitable anchorages must be provided for the wheelchair. Restraints for the wheelchair and occupant must be independent of each other. Belts attached to a wheelchair in order to assist a person to remain in it whilst travelling, will not be acceptable.
8. Vehicles must be capable of transporting a folded wheelchair as luggage. Anchorages must also be provided for the safe storage of a wheelchair when not in use, whether folded or otherwise, if it is being carried in the passenger compartment.
9. All anchorages and restraints must not be fitted or positioned in any way so as to cause danger to any passenger.
10. The provision of a step for assisted entry is required. The step must be covered with a slip resistant surface.

### Livery Policy

- All new or replacement vehicles presented for licensing as a Hackney Carriage vehicle on or from 1st June 2018 must be white in colour.
- Or
- All new or replacement vehicles presented for licensing as a Hackney Carriage vehicle on or from 1st June 2018 must be white in colour with the exterior bonnet and boot/tailgate wrapped in 3M Scotchcal vinyl to the colour specification of **(if this option is chosen, the colour is to be determined)**
  - No coloured identifying strips, stripes or other markings are permitted to be placed on the vehicle beyond those ~~within the maker's specifications or placed on the vehicle at the time of manufacture without the approval of the Licensing Authority~~ as stipulated by the Licensing Authority.
  - The paintwork must be professionally finished and displayed in accordance with the manufacturers' specifications. Bare metal, primer paint, visible rust and perforations will not be permitted.
  - The colour from panel to panel must be of a good match and the finish capable of giving a good sheen.
  - **If we go for white only Hackney's** ... Subject to the specifications as laid out in this Policy, a Private Hire vehicle may be of any design, type or colour, with the exception that no new or replacement Private Hire vehicle that is licensed on or after 1st June 2018 will be permitted to be white.

Where a temporary vehicle licence is issued, an officer of the Licensing Authority may grant a temporary exemption from the Livery Policy, in all cases, the exemption will apply for a maximum period of 28 days and will be permitted on no more than on one occasion in any 12 month period.

Exceptional circumstances will only be considered where the vehicle change is unplanned and could not reasonably have been foreseen by the applicant. Any fees relating to replacement plates, door signs etc will be payable by the applicant.

### Vehicle Body & Colour

- All bodywork to be free from dents and damage.
- Panels must be attached and aligned to the chassis/body shell correctly with all joints and welds as per the manufacturer's specifications. The panels must be free from distortion and dents.
- Doors, door locks, boot/tailgate and locks, bonnet, hinges and catches, windows, sun roof and hoods must be operating correctly.
- All trim, mirrors, aerials, bumpers and wheel trims to be complete, correctly aligned and undamaged.
- Windows must be kept free of dirt, grime and marks.
- No vehicles are permitted to be fitted with 'bull bars' or any similar factory fitted or after-market additions that may pose additional danger to pedestrians in the event of a collision.

### Interior Condition and Specifications

- The upholstery, carpets, seats, trims and other interior fitments should be free from damage (including stains and burns) and significant wear. Good quality seat covers and carpet mats may be used, providing that each is a matching set, of colour co-ordinating with the vehicle and kept in good condition.
- The floor of the vehicle must be covered with a suitable carpet, mat or other covering which can be readily cleaned.
- All plastic fascia, door linings, roof linings and trim to be kept free from marks, stains and damage.
- All interior lights and fascia illumination to be maintained in good condition.
- All windows to be kept free of dirt, grime and marks.
- All door locks, levers and window winders to be operating efficiently.

•

### Engine Size and Type

- ~~In respect of all solely petrol or diesel vehicles, there shall be a minimum engine capacity of 1400-1000cc, (to include vehicles badged by the manufacturers as 1.4 1.0 models), for vehicles designed to carry four or more persons provided that in all circumstances, the vehicle has a minimum of 102 BHP (Brake Horse Power).~~ As a minimum standard all vehicles presented for licensing shall possess a minimum of 102 BHP (Brake Horse Power).

- In the case of a hybrid or fully electric vehicle there shall be a minimum power output of at least 103 BHP (Brake Horse Power) or the electric equivalent of 77 Kilowatts (KW).
- The driver of a purely electric car will be expected to ensure that the vehicle is used and maintained in a manner that ensures that sufficient charge is available to complete each journey prior to commencement of that journey.
- ~~Whilst it is the Policy~~ It is an aspiration of the Licensing Authority to encourage the use of greener vehicles, including electric vehicles, where it is practical to do so. This must be balanced against the safety and comfort of passengers. In this regard, should the Licensing Authority receive repeated complaints that any vehicle has been unable to complete a journey due to lack of charge or fuel, this may result in a review of the licence issued in respect of that vehicle.
- The Licensing Authority supports measures to reduce the levels of carbon dioxide, nitrogen dioxide and particulate matter emitted. Liquid Petroleum Gas (LPG) conversions are therefore acceptable if carried out by an approved converter.
- ~~The Licensing Authority will consider applications for smaller engine sizes, but only for a reduced number of passengers and it will additionally take into account a proportionate reduction in luggage space, again based upon the number of passengers requested. (Private Hire vehicles only)~~
- ~~The minimum engine size in any circumstances will be 1000cc. (Private Hire vehicles only)~~

### **Communication between Driver and Passenger**

- Sufficient means must be provided by which any person in the vehicle may communicate with the driver.

### **Radio Equipment**

- Two-way radio equipment provided in the vehicle must be maintained in a sound condition and positioned so as not to obstruct the driver's ability to operate the vehicle's controls.
- Radio equipment must not be fitted in the boot compartment if LPG tanks or equipment is stored therein.

### **Mobile Telephones**

- Use of a mobile telephone must be by way of a hands-free kit or a Bluetooth headset.

### **Driver's Compartment**

- The driver's seat must be designed to accommodate the driver only and provide adequate room to enable easy reach of the operating controls and to enable hand signals to be made on the offside of the vehicle.

- The vehicle must be fitted with at least two mirrors fitted externally to the vehicle, one to the offside and one to the nearside, with another fitted internally. All mirrors are to be fitted and adjusted to afford the driver a clear view to the rear of the vehicle.
- Direction indicators of an approved type must be fitted.
- The vehicle must be fitted with adequate devices for demisting, defrosting and washing the windscreen and with a sun visor capable of being adjusted by the driver.

## Wheels and Steering

- ~~The steering wheel must be on the offside of the vehicle~~<sup>[OG5]</sup>.
- The vehicle must be right-hand drive.
- Wheels should be correctly aligned, joints and bearings free from abnormal wear. All mounting points should be in a sound condition with no undue wear in any associated bushes.
- The vehicle must have a minimum of four road wheels.
- Vehicles must either carry the manufactures system of tyre repairs or spare wheel as compliant with the Construction and use Regulations 1986 as amended.

## Doors

- Vehicles generally must have at least 4 doors, excluding any tailgate, ~~each allowing direct access to and from the seats. however consideration will be given to two door vehicles excluding tailgate for applications for vehicles for one or two passengers.~~
- Passengers' doors must be capable of being readily opened from inside and outside the vehicle by one operation of the latch mechanism, provided that this condition shall not prevent doors being fitted with a child safety lock.
- Windows must be provided at the sides and rear and passenger door windows must be capable of being easily opened and closed by passengers.
- A separate means of ingress and egress for the driver must be provided by means of a door on the offside of the vehicle.

## Seating

- Vehicles shall have seating capacities calculated on the basis of a passenger unit seat width of 16" (40.64cm) (measured laterally across any continuous seat.
- Vehicles having split rear seats shall be measured as a continuous seat provided they are as fitted by the manufacturer and have a gap of not more than 1<sup>3</sup>/<sub>4</sub>" maximum.

- All seats (including the driver seat) must be properly cushioned or covered.
- All seats must be fitted with appropriate seat belts to the front and rear seats of the vehicle. The number of seat belts fitted to the vehicle shall correspond with the number of passengers the vehicle is licensed to carry, plus a belt for the driver.
- Vehicles must not be fitted with 'occasional' seats to accommodate families and carriage of young children. Where a vehicle is presented for licensing that is fitted with 'occasional' seats the vehicle will not be considered suitable for licensing at their maximum manufacturer stated carrying capacity.

### General Guidance Notes for the Use of Seatbelts

- All licensed vehicles must be fitted with seat belts.
- Hackney Carriage drivers may claim exemption from wearing a seat belt when plying for hire or carrying passengers for hire.
- Private Hire drivers may only claim exemption from wearing a seat belt when a fare paying passenger is actually in the vehicle **and at no other time.**

A summary of the law on seat belts, at 18 September 2006 follows.

Drivers are reminded that it is their responsibility to ensure that they keep up to date with any changes to the legislation. Please refer to the conditions for useful reference points.

- **Driver:** Seat belt must be worn if fitted unless exemption applies.
- **Adult Passengers:** Seat belts must be worn whether travelling in the front or rear seat
- **Children:** If the driver doesn't provide the correct child car seat, children can travel without one - but only if they travel on a rear seat and:
  - wear an adult seat belt if they are 3 years of age or more; or
  - without a seat belt if they are under 3 years of age

A seat belt must NEVER be put around two people.

**IMPORTANT: DRIVERS MUST NOTE THAT THE LAW REGARDS THE DRIVER OF A VEHICLE AS BEING RESPONSIBLE FOR ENSURING THAT CHILDREN WEAR SEAT BELTS.**

### Carrying of Animals

- No animals, other than ~~assistance dogs those being carried under s37 of the Disability Discrimination Act 1995~~, or those owned by bona-fide fare-paying passengers with the agreement of the driver, shall be carried in or on the vehicle whilst the vehicle is so engaged under the terms of the licence.

### Heating



- ~~• An adequate heating system must be provided and maintained for the driver and passengers and, where the driver's compartment and passenger compartment is separate, provision must be made to enable independent control by driver and passengers. A fully operational ventilation and heating system must be fitted and maintained for the driver and passengers at all times.~~

## Luggage

- Luggage space must be a minimum of 0.43 cubic meters (430 litres) and able to carry a folded wheelchair without need for folding down any seat. The luggage compartment must be separated from the passenger compartment without obstructing any emergency exits.
- ~~• Applications for vehicles with a reduced number of passengers i.e. below 4, consideration will be given for a proportionate reduction in luggage space.~~
- Luggage carried must be suitably secured in place.
- Luggage carried in estate cars or multi-passenger vehicles must not be stacked above the height of the rear seats unless the vehicle is designed with, or fitted with suitable luggage restraints or covers to prevent luggage from entering the passenger compartment. Alternatively, a guard rail must be fitted.

## Tyres

- The depth of tyre tread must not be less than a minimum of 1.66mm.
- All tyres at normal pressure under load must have a suitable minimum circumference for correct operation of the taximeter.
- Tyre fitments should comply, in all respects, with the requirements of any Act or Regulation pertaining to Motor Vehicle Regulations on Tyre Safety in force at the time of licensing and during the currency of the licence.
- Road wheels should be free from any distortion and undue fatigue. All wheel nuts/studs must be of the correct type and correctly tightened.
- All wheel trims must be present and in good condition
- Any spare wheel fitted or otherwise in the vehicle is subject to the tyre specifications set out above.
- The use of a space-saver tyre, run flat tyres (when punctured) or puncture repair kit for all vehicles that are manufactured and delivered with such tyres or kits, shall only be permitted in the case of an emergency.
- In the event of a space-saver tyre, run flat tyres (when punctured) or puncture repair kit being used, it shall only be to complete a fare and must comply precisely with the manufacturers' recommendations. Any such tyre must be replaced in accordance with manufacture requirements before taking another fare, to ensure passenger safety.



- In cases where a wheelchair accessible vehicle conversion or a LPG conversion where the tank occupies the usual site of the spare wheel, the vehicle will be exempt from the requirement to carry a spare wheel matching those fitted to the vehicle. This would be subject to the vehicle meeting the luggage criteria and being approved by the specialist converters. In these instances an alternative space saver tyre or puncture repair kit must be carried on the vehicle for emergencies.
- All other licensed vehicles must carry a spare wheel matching those fitted to the vehicle and an appropriate means of changing the wheel.

## Vehicle Suspension

- Suspension components, including shock absorbers, springs and torsional bars and linkages, and their associated mounting points should be in sound condition and operating efficiently so as to ensure there is no excessive roll or pitch. There should be no signs of undue wear/fatigue and they should be reasonably free from rust/corrosion.

## Fuel Tank

- The filling point for the fuel tank ~~must be accessible only from the outside if the vehicle and filler caps must be so designed and constructed that they can not be dislodged by accidental operation~~ must be suitably secured so as to ensure that it cannot be tampered with in any way.

## Fittings

- No fittings other than those approved by the Licensing Authority shall be attached to or carried upon the inside or outside of the vehicle.

## Fire Extinguisher/First Aid kit/Drivers Handbook

A First Aid Kit and the Drivers Handbook must be carried within the licensed vehicle at all times.

- ~~The fire extinguisher appliance must be either:~~
  - ~~ABC General Purpose Powder~~
  - ~~AFFF Foam~~~~and conform to BSEN 3, showing the appropriate kite mark.~~
- ~~First aid kit must be comply with the British Standard for vehicle first aid kits BSI kits must be BS8599-1 standard~~

~~The vehicle must carry a suitable fire extinguisher sited in a readily accessible place known to the driver. The appliance shall have a minimum content of 1 kilogram, conform to BSEN3 1996 and be of the dry powder or foam type, be kept in good condition and be fitted with a gauge which indicates the condition of its contents. Every fire extinguisher to be permanently marked with the vehicle's Hackney Carriage or Private Hire vehicle licence number.~~

## Licence Plate

- The authorised licence plate issued by the Licensing Authority must be affixed to the **outside of the** vehicle as follows:
  - The licence plate must be permanently fixed to the rear of the vehicle in a conspicuous upright position.
  - The licence plate must not be fixed to/or displayed in the rear window.
  - The small identification card must be securely fixed to the inside of the vehicle in a conspicuous position.
- No vehicle may be used or permitted to be used with any such licence plate concealed from view or so defaced that any word, letter, figure or material particular is illegible or missing.
- The Licensing Authority must be informed immediately should the licence plate showing the number of the licensed vehicle be broken, lost or defaced. On no account must the licensed vehicle carry any passengers without this licence plate.

### **Dual Plating**

- No vehicle will be granted a licence if it is licensed in another district due to the problems of meeting the variance in conditions applied in different districts and the enforcement of those conditions in cases of non-compliance (i.e. signs, meters, suspensions or revocation).

### **Roof signs [applicable to Hackney Carriage Vehicles only]**

- The vehicle must be fitted with a roof sign of a type approved by the Licensing Authority, with the word "Taxi" predominant on the front of the sign and the word "Taxi" or the proprietors trading name, or telephone number, to the rear. The roof sign shall be properly manufactured and comply with relevant legislation.
- The taxi roof sign must be mounted above the vehicle roof and be adequately secured.
- The roof sign must be capable of being illuminated during the hours of darkness.
- The roof sign must at all times comply with any requirements of vehicle lighting regulations when illuminated.
- ~~Fx4 type vehicles are permitted built-in roof signs only.~~
- The roof sign may be removed while the vehicle is being used in connection with a funeral or a wedding.

### **Advertising (door signs etc)**

- Please see advertising standards (Appendix F)
- **All Hackney Carriage vehicles licensed by Torbay Council must display within the vehicle the current tariff and should not be concealed from passengers at any time.**

- Adhesive door stickers provided by Torbay Council shall be permanently displayed on each front door of the vehicle on the upper panel of the door. Magnetic door signs are not permitted. The door sign will contain the Torbay Council logo, the vehicle licence number and wording that identifies it as a Hackney Carriage vehicle.
- The door stickers shall not be concealed from public view or defaced or altered in any way.
- "No Smoking" signs shall be displayed on both rear passenger door windows.

### Alteration of Vehicle

- No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without the approval of the Licensing Authority at any time while the vehicle licence is in force.
- Equipment must not be removed from the vehicle which is wheelchair accessible which would render the vehicle incapable of carrying wheelchair-bound passengers.

### Towing of Trailers

- No licensed vehicle may tow any trailer whilst being used as a licensed vehicle.

### Maintenance of Vehicle

- The vehicle, including the engine area, and all fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition, and all relevant statutory requirements ~~(including, in particular, those contained in the Road Vehicles (Construction and Use) Regulations in force~~ will be complied with.

### Inspection

- The vehicle may be called in for inspection at any time by the Authorised Officer to ensure compliance, failure to attend and show any documentation as requested may lead to suspension or revocation of licence under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976.
- The applicant shall submit the vehicle for a compliance test and/or other inspection as the Licensing Authority may require from time to time. Paragraphs 14.24 to 14.29 of this Policy outlines when a compliance test will normally be expected.

### Vehicle Checks

- Any vehicle that is suspected of any infringement of legislation, byelaws or <sup>[6]</sup> conditions may be ~~stopped~~ examined by an Authorised Officer at any time to ensure its fitness to be used as a licensed vehicle. ~~If, upon examination, any vehicle, which for any reason, is deemed to be unsuitable to continue to use as a Hackney Carriage or Private Hire vehicle may have its licence suspended.~~

### Ranks [applicable to Hackney Carriage Vehicles only]

- The number of Hackney Carriage vehicles stationed at any rank must not exceed the number for which the rank is appointed at any time. If a rank is full at the time of the vehicles' arrival at a rank then the driver must proceed to the next available rank.
- Hackney Carriage drivers are reminded that it is an offence under the Town Police Clauses Act 1847, to leave a Hackney Carriage unattended in a public place. Any parking, outside of agreed parameters, may therefore be dealt with under the Licensing Authority's enforcement Policy, as appropriate and/or may result in being issued with a fixed penalty notice.
- In order to ensure public and road safety, all Hackney Carriage drivers are expected to move forward when the vehicle at the front of the rank moves.

### **Complaints**

- Any vehicle against which complaint is laid must be presented to the authorised officer within one working day of being so requested for inspection, testing and for the driver to answer such complaint.

### **Unlicensed Drivers**

- Your attention is drawn to section 46 of each of the 1847 and 1976 Acts which require ALL drivers of Hackney Carriage and Private Hire vehicles to hold the appropriate drivers licence as issued by the Licensing Authority and it is an offence which affects the insurance to allow any unlicensed person to drive any licensed vehicle.

## APPENDIX E

### Limousine Licensing Policy

The Licensing Authority accepts that vehicles of this type, where appropriate, have a legitimate role to play in the Private Hire trade, meeting a public demand.

Any application made will be judged on its own merits. However, stretched limousines which have more than 8 passenger seats will not be licensed as a Private Hire Vehicle as do not fall within the remit of the licensing regime.

Where a vehicle is licensed as a Private Hire Vehicle, the operator and any person who drives the vehicle for hire must also hold the appropriate licence issued by the Licensing Authority.

Vehicles constructed or adapted to seat fewer than nine passengers, including stretched limousines, are exempt from Private Hire Vehicle licensing requirements while being used in connection with a funeral or a wedding, or where used wholly or mainly for the purpose of funerals or weddings.

#### DEFINITION OF A LIMOUSINE

For the purposes of this Policy and licence conditions, a stretch limousine is defined as follows:

A stretch limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures

- that is capable of carrying up to but not exceeding 8 passengers;
- that prior to the introduction of this Policy could not currently be licensed by the Council as a Private Hire Vehicle;
- that is not a decommissioned military or emergency service vehicle

	<b>ISSUE</b>	<b>LICENCE CONDITION</b>
1	Left Hand Drive Vehicles	Permit Left Hand Drive limousines to be considered for PHV licensing.
2	Sideways Seating	Permit limousines with sideways facing seating to be considered for PHV licensing.
3	Signage	The signage on limousines will need to meet the Authority's main advertising requirements.
4	Tinted Glass	Permit limousines with heavily tinted glass in the rear offside/nearside windows to be considered for licensing. However, heavily tinted glass in the driver cockpit would remain prohibited in line with legal requirements.
5	Fare Table/ Taximeter	Limousines are not required to display a fare table or contain a taximeter.
6	Roadworthiness	The stretched limousine must hold a valid Single Vehicle Approval (SVA) Certificate.

	<b>ISSUE</b>	<b>LICENCE CONDITION</b>
7	Vehicle Age	Stretched limousines to be licensed in accordance with the Licensing Authority's current PHV standards Policy.
8	Insurance	An appropriate insurance Policy must be in place which covers use of the vehicle for hire and reward.
9	Tyres	The limousine must be fitted with tyres that meet both the size and weight specification.
10	Maximum Passengers	The limousine's seating capacity must be reduced where necessary to a maximum of 8 passengers.
		Any seats in the driver's compartment other than the driver's seat shall not be used to carry passengers
		The vehicle must not carry more than 8 passengers at any time. (A babe in arms is classed as a passenger no matter what their age).
		In any advertisement publicising their limousine service, the operator must state that the vehicle is only licensed to carry 8 passengers.
11	Seatbelts	Seatbelts must be fitted to all forward and rear facing seats and must be worn at all times by passengers whilst the vehicle is in motion. There is no legal requirement for seatbelts on sideways facing seats.
12	Fire Extinguisher	The vehicle must contain a fully functional portable multi-purpose powder type fire extinguisher which bears a kite mark and a last service sticker. The extinguisher must be securely fitted, accessible and ready for use at all times.
13	Alcohol	Alcoholic drinks provided in the vehicle shall be under the terms of an appropriate licence relating to the sale and supply of alcohol
		Alcohol shall only be served while the vehicle is stationary and afterwards, the bottle shall be placed in a secure receptacle.
		If the occupants are below the age of 18, there should be no alcohol in the vehicle for consumption or otherwise.
		Any glassware in the vehicle must be made of either shatterproof glass or plastic.
14	Entertainment	The driver shall not play or permit the performance of any media that, given its age classification or content, is unsuitable for the age of the passengers in the vehicle.
		The limousine operator shall ensure that a performing rights licence is held where appropriate.
		If the limousine parks to provide some form of entertainment to its passengers, an entertainment licence must be in place in accordance with the Licensing Act 2003.
15	Council Notices	The proprietor shall when directed by the Council, display and maintain any notices in a conspicuous position.
16	Advertisements	No other signs, notices or any other markings will be displayed on or in the vehicle without the written permission of the Council.

## **DRIVER AND OPERATOR LICENSING REQUIREMENTS**

- In addition to the limousine being licensed as a Private Hire vehicle, the limousine operator is required to hold a Private Hire operators' licence with the Licensing Authority.
- All bookings for a limousine licensed as a Private Hire vehicle must be booked through the licensed Private Hire operator.
- Once licensed as a Private Hire vehicle, the limousine can only be driven by a Torbay Council licensed driver.

## **VEHICLE TESTING STATIONS**

Stretch limousines will normally be required to provide 6 monthly (i.e. 2 per annum) MOT certificates from a VOSA goods vehicle testing station, or alternatively a local authority VOSA approved class 5 testing station, that has appropriate facilities.

If you propose to obtain an MOT from any other vehicle testing station other than those listed above you are advised to contact the licensing section before submitting the vehicle for an MOT, otherwise you may find that the certificate cannot be accepted.

## APPENDIX F

### Advertising Standards

#### Permitted Sites for Advertisements

##### Hackney Carriage Vehicles:

All Hackney Carriage vehicles licensed by Torbay Council must display within the vehicle the current tariff and should not be concealed from passengers at any time.

Advertisements may be permitted on the rear/offside doors of the vehicle so long as they do not have the potential under any circumstances to distract other road users. Advertising signs must be no larger than 24 inches (61cm) long and 12 inches (30.5cm) wide.

An advertisement of one subject matter from one advertiser per vehicle may be permitted on the rear doors.

**Alternatively**, vehicles may display the operator's company name, company logo, telephone number and/or web site address on the ~~front~~ rear doors by way of adhesive stickers or by magnetic signs. The size for these types of signs must be no larger than 24 inches (61cm) long and 12 inches (30.5cm) wide.

A company telephone number may also be advertised on the upper nearside of the front windscreen – the size and style to be agreed by the Licensing Authority.

**Proprietors are recommended not to order any signs until a formal application has been made to the Licensing Authority and permission in writing has been issued. Such permission will relate only to the vehicle applied for and not any subsequently licensed vehicle.**

##### Private Hire Vehicles:

Advertisements are not permitted on the exterior of the vehicle.

So as not to cause confusion with Hackney Carriages, such door signs shall be limited to the words: "Private Hire Vehicle", "Advanced Bookings Only" or "Pre Booked Fares Only".

**The proprietor or operator may affix additional company identification signs to each of the rear doors.** These signs can be either adhesive or magnetic signs. The size of these signs must be no larger than 22 inches (55.9cm) long and 9 inches (22.9cm) wide.



The sign ~~must~~ **may** carry the words “Private Hire Vehicle” and “Advanced Bookings Only”, **however, if so affixed** it must also carry a landline telephone number where a prospective passenger can make the journey booking.

A company telephone number may also be advertised on the upper nearside of the front windscreen – the size and style to be agreed by the Licensing Authority.

The words “Taxi” or “Cab” must not appear anywhere on the vehicle.

No other word e.g. “Kab” or a variation thereof is to be used to lead or cause the general public to reasonably believe the vehicle is a Hackney Carriage and would be available for hire.

### **Sites Where Advertisements are not Permitted**

#### **Both Hackney Carriage and Private Hire vehicles:**

No signage or advertising is permitted on any part of glazing on the vehicle, unless the sign is informing passengers not to smoke, eat or drink or to indicate that credit/debit card payments may be made at a size agreed by the Licensing Authority.

No signage permitted on the glazing must hinder, obscure or restrict the vision of the driver or passenger.

No signage or advertising is permitted internally within the vehicle.

No signage or advertising is permitted on any body part of the vehicle other than those specified above in permitted sites of advertising.

No signage must hinder or obscure or otherwise prevent the vehicle registration number, vehicle lights or Licensing Authority licence plate from being seen.

#### **Other signage:**

The Licensing Authority will allow the following types of other signage within the licensed vehicle

- Any sign indicating membership of a national motoring organisation or local taxi association.
- Any sign provided by Torbay Council or Devon County Council to show that the vehicle is used for school contracts shall be displayed in the front windscreen in such a manner so as to not obstruct the drivers vision, and may only be displayed when actually employed in the performance of such contract work with pupils being carried
- Signage to show that Card Payments are taken

#### **Roof Signs**

**Hackney Carriages** – all vehicles must be fitted with a roof sign of a type approved by the Licensing Authority with the word “Taxi” predominant on the front of the sign and the word “Taxi” or the proprietors trading name, or telephone number, to the rear. The roof sign shall be properly manufactured and comply with relevant legislation.

The taxi roof sign must be mounted above the vehicle roof and be adequately secured.

**Private Hires** – No vehicle is permitted to fit a roof sign

**All vehicles must display the universal no-smoking sign in each compartment of the interior. Fixed Penalty Notices may be issued for non-compliance under The Smoke-free (Signs) Regulations 2007.**

## APPENDIX G

### Schedule of Taxi Rank Provision

Taxi Ranks Located Within Torbay Council Area: allocated under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976.

LOCATION	VEHICLE ALLOCATION
<b>Torquay</b>	
Lymington Road (Town Hall Car Park)	Up to 3 vehicles
Lymington Road (Assembly Rooms)	Up to 1 vehicle
Lymington Road (Coach Station)	Up to 6 vehicles
Castle Circus	Up to 3 vehicles
Union Street	Up to 10 vehicles
GPO Roundabout	Up to 3 vehicles
Chestnut Avenue	Up to 3 vehicles
Victoria Parade	Up to 7 vehicles
Victoria Parade (18:00 – 06:00)	Up to 4 vehicles
The Strand	Up to 3 vehicles
The Strand Bus Bays – Seaward Side (00:00 to 06:00)	Up to 10 vehicles
Cary Parade	Up to 8 vehicles
Torbay Road - Princess Theatre (18:00 – 08:00)	Up to 3 vehicles
Torwood Street (18:00 – 08:00)	Up to 4 vehicles

<b>Paignton</b>	
Palace Avenue	Up to 2 vehicles
Torbay Road (18:00 – 08:00)	Up to 3 vehicles

<b>Brixham</b>	
Bank Lane	Up to 7 vehicles

For Horse-Drawn Hackney Carriages

LOCATION	VEHICLE ALLOCATION
<b>Torquay</b>	
Vicarage Hill, Cockington	Up to 2 carriages
Cockington Lane	Up to 4 carriages

## APPENDIX H

### Hackney Carriage Fares Increase Procedure

Any increase in the maximum tariff of fares should be requested by members of the trade. Such requests should be made in writing to the Licensing Authority and should stipulate the degree and nature of the increase that is being requested.

- 1.1 The application will be placed before the next available meeting of the Licensing Committee/~~Sub-Committee~~ of the Council for their consideration, and
- 1.2 The Committee will refuse, approve or amend any part of the application
- 1.3 No increase in fares can come into operation until the proposals have been advertised as required and objections have been considered
- 1.4 Any fare increase approved must be set into the taximeter within one week of the date on which such increase comes into force
- 1.5 No proprietor may charge any fare increase until the due date and the taximeter has been re-calibrated to the new fares
- ~~1.6~~ All taximeters must be checked and sealed by the installer, although an authorised officer of the Licensing Authority ~~authorised officer prior to being used for hire and reward in any vehicle may~~ make a random check of any meter at any reasonable time.

## APPENDIX I

### Dress code of Licensed Drivers

The Licensing Authority is committed to encouraging the professional image of the trade and it considers that drivers should conform to a minimum standard of dress, as set out below, in order to:

- Raise and maintain the profile of the licensed trade
- Promote confidence amongst members of public to ensure passengers feel comfortable when using licensed vehicles
- Promote public safety by ensuring the safe operation of licensed vehicles at all times and that licensing drivers are readily identifiable

#### **Acceptable Standards of Dress:**

- The driver shall be clean and tidy in appearance
- Shirts, blouses, T-shirts, or sweat tops should cover the shoulders and be of sufficient length to enable them to be tucked into trousers or shorts
- Shirts or blouses can be worn with a tie or open-necked
- Trousers may be either full length or shorts if tailored
- Smart jeans type trousers are permitted
- Footwear should fit around the heel of feet
- Tailored hats which are used as part of a chauffeur service

#### **Unacceptable standards of dress within this Code:**

- Bare chests
- Unsuitable/Unclean or damaged clothing or footwear
- Clothing with offensive words, logos or graphics
- Swimming costumes
- Sleeveless vests or singlets
- Clothing with studs or sharp edges

- Any footwear that may compromise control of a vehicle, e.g. Flip Flops or open toe sandals
- Headwear (e.g. hats, scarves, hoodies, baseball caps) whilst within the vehicle, unless worn as part of a religious belief.
- Hooded garments ('hoodies')

## APPENDIX J

### Horse Drawn Carriages

The Licensing Authority licences horse drawn Hackney Carriages and drivers, as in accordance with the Town Police Clauses act 1847 and Local Government (Miscellaneous Provisions) Act 1976.

The following shall apply to horse drawn Hackney Carriages licences issued by the Licensing Authority.

#### 1. Drivers

- 1.1 All drivers wishing to operate a horse drawn Hackney Carriage must obtain a licensed drivers badge from the Licensing Authority before commencing service.
- 1.2 The procedure for obtaining such a licence can be found on page 11 of this Policy. Sections 5 to 13 of the Policy apply to all licensed drivers.
- 1.3 As part of the application process, the applicant will need to obtain a valid certificate of driving competency issued by or on behalf of the British Driving Society.
- 1.4 Drivers wishing to operate a horse drawn Hackney Carriage only and NOT a motorised Hackney Carriage vehicle do not have to undertake a local knowledge test as part of the application process. Those drivers wishing to operate both horse drawn and motorised Hackney Carriage vehicles are required to undertake the local knowledge test as part of the application process. The local knowledge test is, as specified by the Local Authority

#### 2. Carriages

Requirements of carriages

- 2.1 The carriage must be drawn by only one horse
- 2.2 The carriage must have 4 wheels
- 2.3 The carriage must have a separate compartment for the passengers to be carried in
- 2.4 The carriage must be capable of carrying a minimum of 4 passengers and a maximum of 6 passengers
- 2.5 The carriage must have sufficient access steps, designed to ensure safe access of passengers into and from the carriage
- 2.6 The carriage must have an independent, efficient and effective braking system
- 2.7 Any horse which pulls a Hackney Carriage must be fitted with an effective harnesses and tack to ensure that the driver able to control the horse at all times and steer the carriage as required
- 2.8 The Hackney Carriage and all its fittings and equipment, will at all times while in use or available for hire, be kept in an efficient, safe, tidy and clean condition.

2.9 An Authorised Officer of the Licensing Authority or Police Officer shall, at all times when the Hackney Carriage is not hired, be permitted to inspect the carriage, harnesses and fittings so as to ascertain the fitness of the carriage for continued use for hire and reward.

### 3. **Insurance Requirements**

3.1 The Hackney Carriage must, at all times whilst licensed, have adequate Public Hire Insurance cover, appropriate to the use of the carriage on the public highway. A certificate and/or Policy covering "third party" risks must be produced to the Licensing Authority prior to a vehicle being licensed as a horse drawn Hackney Carriage.

### 4. **Grant and Renewal of Carriage Licenses**

4.1 The Licensing Authority will, providing that all the Licensing Authority's requirements are met; issue a 12-month licence which will run from 1<sup>st</sup> May to 30<sup>th</sup> April.

### 5. **Identification plates**

5.1 The Licensing Authority will provide a licence plate, identifying the carriage as a licensed horse drawn Hackney Carriage. Any such plate will have a licence number on it and must be displayed at the rear of the carriage and must be visible at all times.

### 6. **Signage & Advertising**

6.1 The Licensing Authority will permit, on the same terms as those currently in force for motorised Hackney Carriages, advertising on horse drawn Hackney Carriages. However any such advertisements must be approved by the Licensing Authority in advance of the carriage undergoing any such modification.

6.2 The conditions for advertising are set out in **Appendix F** of this Policy

### 7. **Welfare of Horses**

7.1 No horse shall be used in connection with a licensed horse drawn carriage, unless a veterinary surgeon has examined the horse within the preceding twelve months and issued a certificate of fitness in respect of that horse.

7.2 The horse must be sound and free from lameness, be at least six years of age and must not be used whilst under any veterinary treatment, unless written permission is expressly given by the surgeon. If any horse proposed for use is not six years of age, then a specific certification must be obtained at the applicants' expense, from the British Driving Society as to that horse's suitability for use.

7.3 The person responsible for providing the Hackney Carriage for hire shall examine the horse and carriage carefully at the start of each day, to ensure that the health of the animal and a good condition of the carriage and harness are maintained at all times.

7.4 The licensed driver must have due regard to extreme or adverse weather conditions, including hot sunshine, and must at all times consider the horse's welfare.

7.5 The horse must be regularly and competently shod.

7.6 If in the opinion of an Authorised Officer of the Licensing Authority or a Police Officer, the horse appears unfit for work, then the use of that horse shall cease immediately until such time as a veterinary surgeon specialising in large animal practice has certified that the horse is fit. The fees for such an examination are the responsibility of the carriage proprietor.



## 8. **Fares**

- 8.1 The current tariff in respect of horse drawn Hackney Carriages must be displayed in a prominent position so that a prospective passenger can see the tariff prior to boarding the carriage.
- 8.2 On receipt of a request for consideration of an increase in fares from a horse drawn carriage operator, the Licensing Authority will follow the procedure set out in **Appendix H** of this Policy.
- 8.3 The setting of horse drawn Hackney Carriage fares is the function of the Councils Licensing Committee.
- 8.4 A fares tariff is enforceable as a Byelaw and it is an offence for any person to charge more than the set fare.

## 9. **Change of carriage by an existing proprietor**

- 9.1 An existing proprietor must notify the Licensing Authority of any change of horse or carriage, from those registered with the Licensing Authority, before such change occurs.

## 10. **Removal of Faeces**

- 10.1 The proprietor shall ensure that the design of the carriage is such that, as far as is practicable, no faeces will be deposited on the highway/road. Any device used, must not cause distress or discomfort to the horse. Any faeces that are deposited on the highway/road are to be removed as soon as is practicable to do so.

## 11. **Change of Address**

- 11.1 The licensed driver or carriage proprietor shall immediately notify the Licensing Authority of any change of address during the period of licence prior to such change taking place, and in any case within 5 working days of such change.

## 12. **Convictions**

- 12.1 The proprietor must notify the Licensing Authority, in writing, immediately and within 7 days of receipt of any conviction.

## 13. **Permitted routes for use**

- 13.1 Torbay Council horse drawn Hackney Carriages are permitted to operate around Cockington Village, around the area of Cockington Court and to Torquay seafront (not entering the seafront) only. Permission to operate in the grounds of Cockington must be sought from the land owner.

**GUIDELINES FOR CCTV SYSTEMS IN TAXIS AND PRIVATE HIRE VEHICLES  
LICENSED BY TORBAY COUNCIL**

**1. Introduction**

- 1.1 These guidelines set out to ensure that CCTV systems in taxis (Hackney Carriages) and Private Hire vehicles within Torbay are used to prevent and detect crime, reduce the fear of crime and enhance the health and safety of taxi and Private Hire drivers and their passengers.
- 1.2 Proprietors and operators, installing CCTV systems must fully comply with the requirements set out in these guidelines as well as ensuring they comply with the Data Protection Act and forthcoming General Data Protection Regulation (GDPR)
- 1.3 Adherence to these guidelines will ensure that the civil liberties of all parties are upheld.

**2. The purpose of taxi CCTV systems**

- 2.1 The purpose of CCTV systems shall be to provide a safer environment for the benefit of vehicle drivers and passengers by:
  - Deterring and preventing the occurrence of crime
  - Reducing the fear of crime
  - Assisting the police in investigating incidents of crime, disorder, accident and complaint
  - Assisting the police in identifying missing persons
- 2.2 It is important that any person who suspects that a crime has been committed and that an in-car CCTV camera may contain relevant information to the crime, should report that suspected crime to the police as soon as possible. Any delay in reporting a suspected crime may result in evidence being lost.
- 2.3 An authorised officer of the Licensing Authority or the police may, at any reasonable time and upon production of identification, if requested, examine any in-car camera installation.

**3. Data Protection and the Information Commissioner's Office**

- 3.1 The installation and operation of the CCTV system shall comply with the requirements of the Information Commissioner's (ICO) Code of Practice which is available via:  
<https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>
- 3.2 The ICO defines a "Data Controller" as the body which has legal responsibility under the Data Protection Act (DPA) 1998 for all matters concerning the use of personal data. For the purpose of the installation and operation of in-vehicle

CCTV, the Data Controller is the specified company or individual that has CCTV installed.

- 3.3 Notification is the process by which a Data Controller informs the ICO of details about their CCTV system. These details are used to make an entry in the public register of Data Controllers. This means that any specified company or individual vehicle owner must register with the ICO. The notification requires renewal on an annual basis and payment of the appropriate fee which is currently £35.00. The fee will increase in May 2018, please see the ICO's website for further guidance.
- 3.4 You must ensure that you are able to comply with any subject access requests made to you for copies of the footage relating to the individual requesting it. You must have a policy in place for handling such requests in line with the Data Protection Act, forthcoming GDPR and ICO guidance.

#### **4. General Requirements**

- 4.1 The in-car CCTV system will at all times remain the property of the licensed proprietor of the vehicle or the licensed driver who uses the vehicle, who at all times will be liable for its use in his/her vehicle.
- 4.2 The CCTV system shall comply with any legislative requirements contained in the Road Vehicles Construction and Use Regulations 1986 (as amended).
- 4.3 The CCTV system must meet all applicable legal requirements as regards safety, technical acceptability and operational/data integrity, specially you must ensure you comply with principle 7 of the Data Protection Act regarding appropriate technical and organisational measures to protect personal data.
- 4.4 All equipment must be designed, constructed and installed in such a way and in such materials as to present no danger to passengers or driver, including impact with the equipment in the event of collisions or danger from the electrical integrity being breached through vandalism, misuse or wear and tear.
- 4.5 It is recommended that CCTV systems are capable of date, time and vehicle identification information.
- 4.6 It is recommended that CCTV systems are capable of capturing images during daytime and darkness of sufficient quality to enable the identification of any person travelling in the vehicle and be of such quality that it can be used for prosecution purposes where necessary.
- 4.7 It is recommended that the CCTV system should be capable of recording and storing images for a minimum of 28 days.
- 4.8 The positioning of the CCTV system should be such that the hard disc or data card is not accessible to any passenger travelling in the vehicle.
- 4.9 The equipment must be marked as complying with current European Industry Standards.
- 4.10 All images should be in a format that is easily useable by the Police and the Courts.

- 4.11 CCTV systems shall not be used to record conversations between members of the public as this is highly intrusive and unlikely to be justified except in very exceptional circumstances. If the system comes equipped with a sound recording facility then this functionality shall be disabled.
- 4.12 All licensed vehicles with in-car CCTV systems installed shall display prominent notices visible from outside the vehicle and also within the vehicle at a point readily visible to passengers to inform them that a CCTV system is in operation within the vehicle.

## 5. Use of information recorded using CCTV

- 5.1 The CCTV equipment installed must have the capability of retaining images either:
- Within its own hard drive
  - Using a fully secured and appropriately encrypted detachable mass storage device, for example a compact flash card
- 5.2 The police shall be permitted to access data under the following circumstances:
- Where a crime report has been logged involving a vehicle fitted with a CCTV system
  - Where the police or Licensing Authority have received a complaint involving the vehicle fitted with a CCTV system or its driver and the complaint cannot be fully investigated or resolved without access to the recordings
  - Where a subject access request has been made under the DPA

*Note: The Data Controller is responsible for complying with all relevant data protection legislation, Under the DPA and forthcoming GDPR, members of the public may make a request for the disclosure of images of themselves, but only where they have been subject of a recording. This is known as a "subject access request". Such requests must only be accepted where they are in writing and include sufficient proofs of identity (which may include a photograph to confirm that they are in fact the person in the recording) Data Controllers are also entitled to charge a fee for a subject access request (currently a maximum of £10) as published in the ICO CCTV Code of Practice. Please note that from 25 May 2018 Data Controllers, under the GDPR are not allowed to charge any fee for Subject Access Requests and must comply with the request within one month.*

- 5.3 The licence holder shall co-operate with any police investigation where access to the CCTV footage may assist in that investigation.
- 5.4 In the event of a serious crime investigation, where the equipment stores the image digitally and is therefore primary evidence, it may be necessary for the data storage unit to be removed from the vehicle. The decision will be made by the investigating police officer.
- 5.5 Only a police officer or a civilian working for the police or at the direction of the police may make copies of any image.

- 5.6 No other person will have direct access to the images stored in the in-car CCTV system. Any person who believes that the image of a person responsible for a criminal act may be held in an in-car CCTV system, must report the matter to the police.

### Taxi Policy Main Changes

Following a full review of the current Policy, a number of changes have been highlighted and are proposed to be included in a revised Policy to be published following a full consultation process and ratification by Licensing Committee.

All Policy changes have been highlighted additions in red text, and deletions in red text that has been crossed through (~~addition, deletion~~) for ease of identification.

The main alterations to the Policy are highlighted below, along with the reasoning behind the change and an assessment of any potential implications. It is important to note however, that these are not the only amendments and that this document should therefore, be read in context with the full amended Policy.

### Age and Experience (5.6 to 5.9)

**Action:** Delete requirement to obtain a counterpart of the DVLA driving licence with 12 months of grant of a Torbay dual drivers' licence for non UK licence holders. Replace with a requirement that the licence holder acquires a full UK DVLA licence with the same 12 month period.

**Reason:** It is essential that the driving record of a Torbay dual licence holder can be checked. This used to be done via the counterpart, however, the DVLA discontinued this about a year ago. There is now a data base that can be accessed in order to run a check but this is only accessible to UK DVLA licence holders.

Whilst a check can be made on new drivers through the agency situated in their own Country of origin or through the Embassy of their home Country, this is only suitable for an initial check of their record whilst they were driving in the relevant Country.

### Implications

**General:** The Licensing Authority is permitted to impose 'any reasonable condition' and is tasked with ensuring that drivers are 'fit and proper' persons to hold a licence. It is unlikely therefore that there is any implication to the Council in imposing this requirement. In fact it has always been an option that a driver can obtain a DVLA licence rather than the Counterpart. This change therefore, simply takes away the choice by virtue of an alteration in DVLA protocol.

A non UK driving licence holder may drive for up to 3 years in the UK on some foreign driving licences and currently indefinitely on an EU driving licence. The implication of not requiring that a driver obtains a UK licence from the DVLA is such that there is potential that there would be no means of checking their driving record and this could mean that dangerous or unsuitable drivers were putting the safety of passengers and the public in general at risk.

**Cost:** There is no cost associated with making this change to the Council.

There is a small cost to the driver, namely the requirement to pay for a DVLA licence.

Legal: There is always a possibility of judicial review against a policy or an unlawful or unjustified condition. However, full public consultation will give opportunity for all opinions to be considered and as such the risk is very minimal. In the event that there were a challenge the council would be in a strong position to defend given that due process had been followed and strong reasons exist for implementation.

### **Driver Knowledge and Proficiency** (5.10 to 5.20)

Action: Added a new paragraph at 5.14 to require a driver to appear before Licensing Committee should they receive more than 9 penalty points that are current at any one time.

Added a new paragraph at 5.15 to provide a power to report a driver to Licensing Committee should they fail to notify the Licensing Authority of any endorsement(s) received.

New paragraphs added at 5.17 to 5.19 requiring a driver to undertake CSE training. Existing drivers by May 2019 and new drivers within 6 months of the grant of a licence.

Reason: Drivers have a duty of care to the public and as such must be considered to be fit and proper persons to hold a licence. The accumulation of penalty points may be indicative of a question mark over a driver's ability to carry out the task of being a licensed driver. This clearly carries with it a number of public safety concerns.

With regard to CSE, this is an area where it is acknowledge there is a problem nationwide and there are a number of high profile cases that support this. Licensed drivers are amongst a number of professionals, where it is recognised they are on the front line when it comes to recognising and reporting concerns. It is therefore intended that Torbay licensed drivers should be trained in how they may play a role in safeguarding children within the Bay.

### **Implications**

General: There are no perceived implications in doing this. The Licensing Authority has a duty to safeguard the travelling public. It has been recognised that licensed drivers (amongst other professions) are on the front line in recognising when there may be an issue. The main implications therefore, lie in not doing anything as adequate and appropriate training could help to prevent another major case of CSE, such as has been seen nationally over recent years.

Cost: The Licensing Authority has been fortunate in securing fee training through Checkpoint (a local charity organisation that supports children and young people) and has already rolled this out to some 290 drivers. There are likely to be other sessions provided free in June/July this year. All drivers are being invited to participate.

Once the free training is exhausted, there will be a cost implication, although this will be paid direct by the driver and will therefore, be cost neutral for the Licensing Authority.

Legal: There is always a possibility of judicial review against a policy or an unlawful or unjustified condition. However, full public consultation will give opportunity for all opinions to be considered and as such the risk is very minimal. In the event that there were a challenge the council would be in a strong position to defend given that due process had been followed and strong reasons exist for implementation.

### **Medical Examination and Exemptions** (5.21 to 5.28)

This section is unchanged as regards to requirements but has been tightened to take account of recent changes in law and guidance with regard to exemption to carry an assistance dog. Whilst it is not a specific issue locally, there appears to be a national problem, where refusal is commonplace. The policy is therefore clarified with regard to requirements and penalties for refusal without appropriate authorisation.

There are no perceived implications in any respect relating to this change.

### **DVLA Driving Licence Checks** (12.1 and 12.2)

Action: A tightening up of the process of checking for traffic offences and licence endorsements from “where considered necessary” to ‘every 6 months’.

Reason: Since publication of the current policy, the DVLA discontinued the counterpart section of the UK driving licence. The counterpart was the element of the licence that contained details of any endorsements received by the holder of the licence. In place of this, the DVLA has established a database, where details of such endorsements are kept.

The only means of checking is by accessing the database for each driver. Whilst a driver has a duty to inform the licensing Authority of any traffic offences and endorsements received, it is not always the case that they do. There is a need therefore, in the interest of public safety to have a process whereby this can be monitored, as has recently been evidenced in a report to Sub Committee.

### **Implications**

General: The only perceived implication relates to a failure to make this change as there is no easily identifiable alternative means of checking the driving history of applicants and licence holders. This means that a failure to undertake periodic checks has potential to lead to a situation where an unsuitable driver continues to hold a Torbay dual licence and thus places the public at an increased risk of harm.

Cost: Currently, there is no charge for accessing this service. The only cost therefore is in officer time and this is covered under existing budgets. Should a future charge be made, this will then be passed on to licence holders thus making access to the database cost neutral for the Licensing Authority.

Legal: There is always a possibility of judicial review against a policy or an unlawful or unjustified condition. However, full public consultation will give opportunity for all opinions to be considered and as such the risk is very minimal. In the event that there were a challenge the council would be in a strong position to



defend given that due process had been followed and strong reasons exist for implementation.

### **Conduct of Drivers** (13.1 and Appendix B)

Action: The current policy at paragraph 13.1 refers to **Appendix B**, which lists a number of points of advice for drivers. This has been removed and replaced with a complete new code of conduct.

Reason: The Licensing Authority is required to safeguard the travelling public and public in general. Much of this responsibility is fulfilled under licence conditions and expectation as to how a driver will conduct themselves, whilst undertaking a profession of some considerable responsibility.

Advice, by its very nature implies that it is something to consider, albeit not essential. Some of the advice in this section was also quite basic in nature. By replacing 'advice' with a code of conduct, it not only strengthens the requirement but implies (as it should) that this is compulsory and therefore forms part of a condition of licence.

### **Implications**

General: None perceived

Cost: None

Legal: None perceived. As with above, full consultation will provide opportunity for any driver, vehicle owner or operator, or any member of the public to make comment and to have their views considered.

### **Specification and Conditions** (14.2 to 14.6)

Action: Paragraph 14.4 has been added as a new paragraph to ensure that drivers and applicants are aware that it is their responsibility to check that a vehicle complies with licensing requirements prior to purchase.

The maximum age of a licensed vehicle (once licensed) has been increased from 8 to 10 years subject to suitability, which will include vehicle compliance testing to ensure that the vehicle is both mechanically and aesthetically (body and interior condition) suitable in all respects.

The maximum age of a vehicle (when first presented for licensing) has been left at 4 years, however, the maximum mileage when first presented for licensing has been reduced from 60,000 to 50,000.

There is no maximum mileage stipulation once a vehicle is licensed subject to passing compliance checks and remaining suitable in all other respects.

The separate section on WAV's (Wheelchair Accessible Vehicles) has been removed as the above alterations to maximum age, unifies the age across all vehicle types.

Reason: Paragraph 14.4 ensures that the onus is firmly placed on an applicant to purchase a suitable vehicle. This is intended to reduce any areas where there

may be dispute and remove any likelihood of responsibility falling on the Licensing Authority in the event of any refusal to licence a vehicle.

With regard to the maximum age of a vehicle, it is recognised that standards are constantly improving and that even compared to 5 years ago (when the policy was last published), the general quality of vehicles is much higher from a design and durability perspective. Consideration has been given to ongoing suitability considering the above average mileage that a Hackney Carriage of private hire vehicle does and this is reflected in a requirement for two compliance tests a year (every 6 months) once the vehicle reaches 8 years old.

The age of a vehicle when first presented for licensing has been retained at 4 years, although the maximum mileage is decreased by 10,000 miles. This ensures that vehicles are of a specific minimum standard when first being presented, which generally would be expected to be carried through the licensed life of the vehicle. Again the compliance testing will assist in ensuring that this remains so.

### Implications

**General:** The addition of paragraph 14.4 simply re-emphasises a current requirement and ensures that applicants give serious consideration to the type of vehicle purchased. There are no implications therefore, in this regard.

The Licensing Authority will need to ensure that the licensed fleet of both Hackney Carriage and private hire vehicles remains, not only fit for purpose, but reflective of a professional trade i.e. clean and tidy and mechanically sound. This will however, be achieved by compliance testing and there are therefore, no perceived implications of introducing this change.

The change seems reasonable given increased general standards of vehicle production in the last 5 years or so and (whilst this is a matter for Torbay alone) it fits with a gradual program of change nationwide.

By not increasing the age therefore, it implies that vehicle owners will often be forced into a costly replacement, when in reality there is no mechanical, aesthetic or safety based reason for doing so. This will potentially lead to a substantial and unnecessary financial outlay for the vehicle owner and would likely result in an increase in matters being presented to Licensing Committee in order to consider an extension of life of a vehicle licence, as currently permitted under the policy.

**Cost:** There are no direct cost implications to the Licensing Authority either in retaining the limits as current or in changing them as recommended.

Whilst there is a cost implication with regard to undertaking a compliance test, this will be met directly by the vehicle owner or proprietor. There is no cost implication therefore, for the Licensing Authority. Any cost to the driver associated with additional compliance testing for vehicles over 8 years of age, are vastly insignificant when compared to the cost of replacing the vehicle entirely.

Legal: This is a change that is believed would be generally welcome to the trade and will again be subject of full public consultation. There are not therefore perceived to be any legal implications.

### **Vehicle Compliance Testing** (14.24 to 14.28)

Action: The section on compliance testing has been expanded and strengthened to ensure that all vehicles are compliance checked to include assessment of mechanical condition, compliance with licence conditions and suitability to be (or to continue to be) licensed when first presented for licensing and at each renewal of the vehicle licence.

In addition to the annual test at renewal, each and every vehicle that has reached 8 years of age or more, is required to undergo a second compliance test, approximately 6 months from the date of renewal.

It is clear that specifications for such tests will be set by the Licensing Authority. Paragraph 14.28 establishes a general criteria and defines the action to be taken in the event of a failure of the test.

A Tendering process will be conducted to establish a contractor(s) who may be able to deliver such tests on behalf of the Licensing Authority.

Reason: Torbay Council is in a vast minority of Councils in that currently there is no system for compliance testing. As an Authority charged with ensuring the safety of the travelling public, this is seen as an essential element of that duty.

Twice annual testing of vehicles over the age of 8 will ensure that these vehicles with potentially higher mileage than younger vehicles, remain fit for purpose and continue to display a positive and professional image with regard to the Torbay licensed fleet of both Hackney Carriage and private hire vehicles.

### **Implications**

General: There are no general implications in making this change.

As with some of the other changes, the implications relate more to a failure to make the change rather than in actually going ahead with it. Given that a licensed Hackney Carriage or private hire vehicle is generally used daily and often for long periods of time on each shift (sometimes on a 24 hour round the clock basis with 2 or more drivers assigned to each vehicle), there is a risk that safety faults may occur sooner than would be the case with a standard family vehicle. Such faults may go unnoticed and/or unrepaired unless there is a system in place to identify such faults at the earliest opportunity. Clearly this would present a danger to the driver and passengers of the vehicle as well as potentially to the public in general.

Cost: The cost of all compliance checks will be met by the proprietor/owner of the vehicle and is therefore cost neutral to the licensing authority.

There may be a small cost associated with administration of these tests e.g. reminders, processing of certificates and any associated enforcement,

however, in all cases this would be recovered through licence fees, which are calculated and set annually on a wholly cost recoverable basis.

Legal: There is always a possibility of judicial review against a policy or an unlawful or unjustified condition. However, full public consultation will give opportunity for all opinions to be considered and as such the risk is very minimal. In the event that there were a challenge the council would be in a strong position to defend given that due process had been followed and strong reasons exist for implementation.

### **Signage and Advertising**

The requirements of this section remain unaltered, however, two new paragraphs have been added at 14.35 and 14.36 to identify and clarify the position relating to advertising and any consequences that may stem from a failure to obtain permission prior to placing advertising on a licensed Hackney Carriage or private hire vehicle.

### **Door Signs** (14.39 to 14.42)

Action: A requirement is being recommended that licensed Hackney Carriage and private hire vehicles should be fitted with identifying door signs.

In the case of a private hire vehicle, the door signs will contain clear indication that it is a vehicle that is licensed by Torbay i.e. the Torbay logo, the unique licence number of the vehicle and a statement to the effect that the vehicle must be pre-booked.

In the case of a Hackney Carriage vehicle, the door signs will contain clear indication that it is a vehicle that is licensed by Torbay i.e. the Torbay logo, the unique licence number of that vehicle and wording to identify it as a Hackney Carriage e.g. 'licensed Hackney Carriage' or 'Taxi'.

In all cases, door signs will be required to be permanently affixed to the vehicle on a vinyl sticker and not on magnets.

Reason: Currently there is no such requirement. In all cases it is necessary, again for public safety reasons, however, also to present a degree of uniformity with the licensed fleet of vehicles to have a means of clear identification that the vehicle is licensed other than simply relying on a small plate at the rear of the vehicle.

It is also important to be able to distinguish clearly between vehicle types and to provide information (through the Council website and other media) to the public as to the difference and what these mean.

Whilst a Hackney Carriage has a roof light currently that assists in identification of the vehicle, a private hire vehicle has nothing (unless a sign is placed on the vehicle by the operator, however, these are not uniform in type, providing only operator details). There is an even more pressing need therefore to more clearly identify a private hire vehicle.

There have been a number of high profile cases in recent years of child sexual exploitation as well as on going safeguarding issues for passengers such as children, vulnerable adults, lone females etc. Clear identification of

licensed vehicles has therefore been highlighted over the last few years as being key to passenger peace of mind that the vehicle is legitimate. It is also a fact that in law, a vehicle once licensed is always licensed. This will apply whether it is being used for hire and reward or for personal use. As such only the holder of a Torbay dual drivers licence may drive the vehicle at any time. A clear door sign will therefore assist with clear identification and enforcement as to who the driver is at any given time.

### Implications

- General:** The Licensing Authority is empowered to set reasonable conditions. This change is deemed to be reasonable for public safety reasons and will undergo full consultation. There are no perceived implications to putting this additional requirement in place.
- There are no clear implications either in not putting this in place although best practice would suggest that it is an appropriate and reasonable requirement.
- Cost:** Any costs associated with door signs will be met by the licence holders (approximately £25 per pair) and as such this is cost neutral for the Licensing Authority.
- There is a possibility that the Licensing Authority will need to purchase an A3 printer for production of the door signs, although templates and software for this will be provided by the current supplier for vehicle licence plates and driver badges. The cost of the printer (circa £1000) will again be met by the trade on cost recovery basis and again cost neutral to the Licensing Authority.
- Legal:** There is always a possibility of judicial review against a policy or an unlawful or unjustified condition. However, full public consultation will give opportunity for all opinions to be considered and as such the risk is very minimal. In the event that there were a challenge the council would be in a strong position to defend given that due process had been followed and strong reasons exist for implementation.

### Closed Circuit Television CCTV (14.44 to 14.48 and Appendix J)

The stance under the current policy is that CCTV is permitted but not required by the Licensing Authority. The proposal is that there should be no change to that position. However, the section has been changed to clarify the position for any person who wishes to install a CCTV system in their vehicle. There is also a proposed new appendix (Appendix K) that highlights the Data Protection requirements in the event that a driver or vehicle proprietor wishes to install a CCTV system.

### Livery (14.49 and Appendix D)

- Action:** A recommended change in the policy to implement a livery policy. Currently there is no such policy.
- There are effectively two options relating to livery, which if in agreement is considered a matter for Members to decide upon the most appropriate option. In short this would be a decision between all Hackney Carriages (apart from

renewal of an existing vehicles) licensed after the implementation date of the policy being required to be either:

- a) White in colour; or
- b) White in colour with a vinyl wrapped boot and bonnet in a different colour

If the decision is to opt for option a) then there will also be a requirement that no private hire vehicle (from the same date) will be permitted to be white.

In all cases, existing licensed vehicles will be required to conform to the new policy when at any time the vehicle is replaced i.e. at the end of its 10 year life or sooner should the owner purchase a new vehicle.

**Reason:** There are two main reasons for this change; firstly, it creates (in time) a uniform Hackney Carriage fleet that is easily recognisable and portrays a professional image of Torbay. Secondly, It promotes customer confidence and safety, where in addition to door stickers (as above) the vehicle looks like a Hackney Carriage and reduces any risk of mistakes or 'imposter' vehicles (either unlicensed entirely or licensed by other authorities but plying unlawfully in the Torbay area). Therefore this is also a factor that improves matters around safeguarding.

#### Implications

**General:** There are no obvious implications to making either change. It is likely to improve the image of the Hackney Carriage fleet making them uniform in appearance rather than just a row of parked cars.

**Cost:** There are no cost implications with either option for the Licensing Authority.

With option a) there are also no cost implications for vehicle owners over and above the outlay of a new vehicle. However, this outlay will not be required until a vehicle is due to be replaced at the end of its licensed life (or sooner but only if the vehicle becomes not fit for purpose or the owner decides to change it).

With option b) there is an additional cost of vinyl wrapping. This cost would be met by the vehicle owner and at current prices this would be in the region of £300 per vehicle in total.

**Legal:** There is always a possibility of judicial review against a policy or an unlawful or unjustified condition. However, full public consultation will give opportunity for all opinions to be considered and as such the risk is very minimal. In the event that there were a challenge the council would be in a strong position to defend given that due process had been followed and strong reasons exist for implementation.

#### **Grant and renewal of Vehicle Licences** (paragraph 15)

This has been updated to include the requirements for vehicle compliance testing (as above) and to remove the paragraph relating to WAV's (again as above).

### **Private Hire Operators** (paragraphs 16 and 17)

This clarifies the position relating to operator licences and adds new paragraphs at 16.2 and 16.3 relating to the options for acceptance of bookings.

Paragraph 17.2 reflects the recent change in law that requires an operator licence to be issued for 5 years (rather than 1 year as at present).

### **Alcohol and Drug Related Offences** (Appendix A Paragraph 6)

No major change, however, with drug driving also becoming an issue in modern times, this has been updated to include drug and alcohol offences, rather than simply alcohol as at present.

### **Pending Investigation** (Appendix A Paragraph 10)

The existing paragraph has been enhanced with two more detailed paragraphs relating to police bail and police action. This clarifies expectations and potential action by the Licensing Authority, making it clearer for licence holders. There are no changes to substance of the policy in this regard.

### **Conduct of Drivers** (Appendix B)

New addition to the policy, please see above under the same heading 'conduct of drivers'.

### **Vehicle Specification, Standards and Schedule of Conditions** (Appendix D)

Action: Removed introductory paragraph relating to colour differential in view of the suggested livery policy.

**Conditions:** Added new conditions for both Hackney Carriage and private hire vehicles in order to clarify the distinction between the two types of licensed vehicle. This section also clarifies the fact that conditions pertaining to colour, type and design of vehicle will be staged with regard to existing licensed vehicles.

**Wheelchair Accessible Vehicles (WAV's):** Currently, there is no set specific criteria or conditions for these vehicles. This section has been added in order to clarify the requirements and conditions relating to WAV'S.

**Livery Policy:** Already highlighted above.

**Engine Size and Type:** Updated to take account of advances in engineering over recent years and to make allowance for greener and less polluting vehicles.

**Seating:** Updated with more current information regarding seat belts particularly with regard to children being carried in a licensed vehicle.

**Fire Extinguisher:** This has been update to make it more current.

**Inspection and vehicle Checks:** A duty for the vehicle licence holder to ensure that the vehicle is submitted for compliance testing has been added. The section on vehicle checks has also been expanded to identify how an unfit vehicle will be dealt with.

**Rank Discipline:** This section has been added to provide expectations relating to the use of ranks.

Reasons: Some of these changes are covered in the main policy as referred to above. However, in cases where no previous explanation has been given the reasoning is as follows:

**WAV's** – It is essential that the Licensing authority should give guidance over the type of WAV's and equipment within them and the corresponding use of WAV's. The safety and comfort of all passengers is paramount, however, there is an added responsibility, when carrying a disabled passenger. This added responsibility may relate to the type and quality of equipment, the access and egress to the vehicle, the safe carriage of a passenger and a raft of other factors. This can only be effectively controlled with a clear guide as to expectations and rules around the use of WAV's and associated equipment and by ensuring that the appropriate equipment is carried in the vehicle at all times.

**Engine size and type** – Vehicle engineering is evolving all the time. As a result of this, the current condition that states a minimum cubic capacity of 1400cc has become outdated. This is because there are now higher performing and more powerful engines of a lesser cubic capacity than most 1400cc engines that were in production five years ago. A reduction in the permitted cubic capacity alone however, is not sufficient as not all lesser capacity engines are of an appropriate standard, therefore, the condition now takes account of the break horse power (BHP) of the vehicle.

By taking account of BHP as well as cubic capacity, this also allows room for a calculation relating to hybrid and/or purely electric vehicles. Electric engines (and the electric element of a hybrid engine) are measured in Kilowatts (KW). Whilst there is no conversion from cubic capacity to KW, there is a conversion from KW to BHP and vice versa.

This therefore, allows for a standard measurement across the board for a similar power standard of vehicle to be submitted for licensing whether petrol, diesel, hybrid or electric.

The conversion factor between KW and BHP in the suggested conditions as been rounded and is therefore at the closest whole figure. The conversion factor is:

$$1 \text{ KW} = 1.34 \text{ BHP}$$

In making allowance for electric (or an electric element) vehicles, it is important to ensure for reason of comfort, convenience and personal safety, that a customer journey is uninterrupted. For this reason the condition has been added to require a driver to ensure that in the case of an electric



vehicle, the vehicle is only made available for hire if it has sufficient charge to complete the required journey.

**Rank Discipline** – There are occasions when the ranks become clogged and sometimes this is because vehicles are left unattended or simply because they do not move forward when there is space to do so.

This is added in the main for safety reasons in that it will limit any queuing on the highway and illegal parking. However, it is also to promote increased courtesy amongst all drivers. This clearly is not to suggest that courtesy does not currently exist, however, there are occasions where some driver may be less thoughtful than others.

### Implications

**General:** There are no perceived implications from any of these proposed changes.

The conditions relating to WAV's are mainly to ensure compliance with legislation and the rank discipline is a current requirement, however, it is now being formalised in policy.

With regard to the engine size and capacity changes, this is expected to be a positive change in all regards. It will almost certainly be welcomed by the trade as it increases their option of available vehicles, many of which will be cheaper to run. It should be welcome to most members of the public, as it promotes the use of greener and less polluting vehicles and it also fits in with the Council's wider greener and clean air agenda.

**Cost:** There are no cost implications either to the Licensing Authority or to the trade (save for one aspect of livery as already covered above).

Vehicle owners will only be subject to WAV conditions if they choose to purchase a WAV vehicle and in such cases they are required by law to have the specialist equipment available.

The change in engine capacity, may even open the door to the availability of lower priced vehicles.

**Legal:** There is always a possibility of judicial review against a policy or an unlawful or unjustified condition. However, full public consultation will give opportunity for all opinions to be considered and as such the risk is very minimal. In the event that there were a challenge the council would be in a strong position to defend given that due process had been followed and strong reasons exist for implementation.

### **Fares Increase Procedure** (Appendix H)

This section has not been altered per se, it is merely updated to clarify that it only applies to Hackney Carriage vehicles and to provide a little more information as to how the process should be instigated.

### **CCTV** (Appendix K)

CCTV has already been covered (above) in the section of this document that relates to the main policy. However, a new appendix has been added by way of guidance for any vehicle owner/operator that chooses to install a CCTV system in their vehicle.

There are no expected implications to this addition, whether general, cost or legal as this is not related to a requirement of the Licensing Authority and merely highlights the legal position and requirements of the Information commission with regard to operation and use of such systems.