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**CHILTERN**  
District Council



**TO: ALL MEMBERS OF COUNCIL**

**Dear Councillor**

You are hereby summoned to attend the Meeting of the **CHILTERN DISTRICT COUNCIL** to be held in the **Council Chamber, King George V House, King George V Road, Amersham** on **Tuesday, 17th October, 2017** at **6.30 pm** when the business below is proposed to be transacted.

**A G E N D A**

- 1 Evacuation Procedures
- 2 To receive a presentation from the Manager of Rahab  
Members will receive a presentation from Nicola Bell (Manager of Rahab) regarding exploitation and modern slavery.
- 3 Leofwine Shield  
To present the Leofwine Shield to Linda Smith, Chairman of Chalfont St Peter Parish Council on behalf of Chalfont St Peter village. The Shield is awarded annually to the Town or Parish Council in Chiltern District achieving the highest mark in the Best Kept Village Competition. Chalfont St Peter is the 2017 winner.
- 4 Apologies for Absence
- 5 Minutes (*Pages 5 - 18*)  
To approve as a correct record and to sign the Minutes of the meeting of Council held on 11 July 2017.
- 6 Declarations of Interest

7 Announcements

To receive any announcements from:

- a) Chairman
- b) Cabinet Leader
- c) Head of Paid Service

*Chairman and Vice Chairman's Diary (Pages 19 - 20)*

8 To receive and consider reports and recommendations of Committees of the Council, in date order of the meeting:

- 8.1 Hackney Carriage and Private Hire policy - Licensing Committee - 17 July 2017 *(Pages 21 - 24)*

*Appendix: Hackney Carriage & Private Hire Policy (Pages 25 - 122)*

- 8.2 Licensing Act 2003 Policy Review 2017 Consultation Outcome - Licensing Committee - 17 July 2017 *(Pages 123 - 124)*

*Appendix: Licensing Act 2003 Policy Statement (Pages 125 - 154)*

- 8.3 Planning Committee - 10 August 2017 - Local Authority Application CH/2017/1208/TP *(Pages 155 - 160)*

- 8.4 Appointment of Independent Persons - Appointment of External Members Panel - 6 September 2017 *(Pages 161 - 162)*

- 8.5 Pay Policy Statement 2017/18 - Joint Staffing Committee - 11 October 2017 *(Pages 163 - 164)*

*Appendix: Pay Policy (Pages 165 - 168)*

9 Cabinet Recommendations

To receive and consider the recommendations of the Cabinet for the meeting held on 19 September 2017 and to receive questions and answers on any of those recommendations in accordance with Rule 8 of the Procedural Rules.

- 9.1 Brownfield Land Register *(Pages 169 - 172)*

10 Verbal Reports from the Leader, Cabinet Members or Chairman of a Committee

To receive and consider verbal update reports (if any) from the Members listed above, and to answer questions on any of those reports from any Member of the Council in accordance with Rule 9.1 of the Procedural Rules.

11 Questions with Notice (if any)

The Chairman of the Council; Cabinet Leader or a Cabinet Member; or Chairman of any Committee to receive a question on any matter in relation to which the Council has powers or duties or which affects the District. Questions must be given in writing to the proper officer 3 clear days before the meeting, or if it relates to urgent business by 4pm on the day of the meeting, in accordance with Rule 9.2 of the Council Procedure Rules.

12 Petitions (if any)

To receive petitions and/or deputations (if any) from members of the public including provisions allowing members to ask questions of clarification at the discretion of the Chairman and restrictions on deputations covering the same subject or by the same speakers.

13 Joint Arrangements and Outside Organisations (if any)

To receive reports about and receive questions and answers relating to any joint arrangements or external organisations.

14 Motions (if any)

Written notice of every motion, signed by at least 2 Members, must be delivered to the proper officer at least 7 clear days before the meeting

15 Local Government Act 1972 - Section 85 Attendance Dispensation (*Pages 173 - 174*)

16 Changes to appointments to Committees and Outside Bodies

Council to agree the appointment of a Councillor to Chesham Community Interest Company. This is a new appointment arising from agreement at the 19 September 2017 Cabinet meeting that the Council be a Member of the Chesham Community Interest Company.

17 Local Land Charge Service - Shared Service Review (*Pages 175 - 176*)

18 Exclusion of the Public (if required)

To resolve that under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

*Private Appendix: Local Land Charge Service - Business Case (Pages 177 - 190)*

**Note:** All Reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

**Date of next meeting – Tuesday, 14 November 2017**

A handwritten signature in black ink, appearing to read 'Bob Smith', with a stylized, cursive script.

**Bob Smith**  
**Chief Executive**

**If you would like this document in large print or an alternative format please contact 01494 732145; email [democraticservices@chiltern.gov.uk](mailto:democraticservices@chiltern.gov.uk)**

**CHILTERN DISTRICT COUNCIL****MINUTES of the Meeting of the CHILTERN DISTRICT COUNCIL (CDC)**held on **11 JULY 2017**

**PRESENT:** Councillor P N Shepherd - Chairman of the Council  
 G K Harris - Vice-Chairman of the Council

Councillors: A K Bacon  
 D J Bray  
 J A Burton  
 J Cook  
 E A Culverhouse  
 I A Darby  
 A J Garth  
 J L Gladwin  
 M Harker  
 M J Harrold  
 P J Hudson  
 C M Jones  
 P M Jones

Councillors: R J Jones  
 P E C Martin  
 V Martin  
 S A Patel  
 N M Rose  
 J J Rush  
 L M Smith  
 M R Smith  
 M J Stannard  
 N I Varley  
 E A Walsh  
 F S Wilson

**APOLOGIES FOR ABSENCE** were received from Councillors M Flys, C J Ford, A S Hardie, C J Jackson, D J Lacey, J E MacBean, D W Phillips, C J Rouse, M W Shaw, M W Titterington, D M Varley, H M Wallace and C J Wertheim

**11 PRESENTATION FROM THE CHIEF CONSTABLE**

The Chairman welcomed Francis Habgood, Chief Constable of Thames Valley Police, and Superintendent Vince Grey Local Policing Area Commander to the meeting. Francis Habgood was appointed Chief Constable of Thames Valley Police in April 2015, and Vince Grey had recently been appointed the Policing Area Commander for Chiltern and South Buckinghamshire.

A video was shown highlighting the achievements of Thames Valley Police over the past year, and the Chief Constable gave a presentation to Members covering the following key themes:

- Thames Valley Police's commitment: working together to make communities safer
- Examples of what Thames Valley Police had done and would be doing to keep people safe and bring offenders to justice

- Examples of how the police were working with other partners to build strong and more resilient communities
- Examples of how technology was being used to provide a modern police force which meets the needs of communities

Following the presentation the Chief Constable responded to Members' questions that had been submitted in advance.

Question 1 from Councillor Peter Martin (Little Chalfont Ward): We are aware of the cost pressures you are under so can you update us on the approach you are taking to manage your resources and in particular the effect on local police stations and the opportunities for our residents to engage with their local police?

The Chief Constable advised that the focus was to invest in staff rather than buildings, and that technology was being utilised to enable officers to work more flexibly in the community, rather than operate from within a police station. This included attending community meetings and public events. The number of visits to police stations was also declining which reflected a growing preference for residents to communicate more electronically. There were however police stations in Amersham, Chesham and Great Missenden, and police contact would be made via the neighbourhood and problem solving teams.

Question 2 from Councillor Peter Jones (Ballinger, South Heath and Chartridge Ward): Are there any "Community Speed Watch" groups working in the Thames Valley Police area? In your view, are they successful?

Members noted that Community Speed Watch groups worked well in many areas and the police were able to support groups as required.

Question 3 from Councillor Liz Walsh (Amersham-on-the-Hill Ward): CDC has reviewed its fixed CCTV provision in readiness for the proposed project to merge the CCTV monitoring hubs in Buckinghamshire. As part of the Council's proposals we would seek to install mobile and flexible CCTV systems, linked to community safety and environmental issues. We are however awaiting a decision on the hub project and would ask if you could provide any update?

The Chief Constable welcomed the Council's approach to the provision of CCTV and advised that following the partnership work that had been carried out already there would be further testing which would then lead to the procurement of the new system.

Question 4 from Councillor Graham Harris (Chesham Bois & Weedon Hill Ward): Following the recent court cases which resulted in a perceived loss of trust in the police. Are you satisfied that community relations between the

police and Asian community in Chesham have improved in the last 6 months and what more could be done?

It was recognised that in the past community relations with some communities had been more challenging however a lot of work had been carried out and community relations had improved significantly. There were now regular meetings between the police and the mosque in Chesham and there also had been additional police patrols during religious events. Positive feedback had been received in relation to this however the police were always looking at other ways to improve communications and welcomed any suggestions regarding this.

Question 5 from Councillor Jonathan Rush ((Chalfont St Peter) Central Ward): How can we better use social media to enable the community to communicate its concerns with the police and other partners?

Social media was recognised as a powerful communications tool when used in conjunction with other communication methods. The police were using existing social media channels as well as using online events such as "cover it live" to enhance engagement.

Question 6 from Councillor Jules Cook (Amersham Town Ward): There had been several issues relating to anti social behaviour (ASB) in the King George V Playing Fields and Multi-storey car park and we are aware of the involvement of many youth and community organisations in trying to resolve the issues, however what more could be done to address these issues and is any enforcement action being taken against the perpetrators?

The police had used problem solving teams and increased patrols to respond to the ASB referred to. CCTV had been used to help identify individuals and the police had also been working with local schools. Enforcement was used if required, but this was only as a last resort and only once other methods had been used. ASB could also be reduced by making changes to the design of facilities such as public car parks. The police had also recommended to the Council that all public car parks be included in the Public Spaces Protection Order that placed restrictions on the misuse of vehicles and highways in certain areas. The Council had agreed this subject to consultation.

The Chairman then invited any further questions from Members. The Leader extended condolences to the family, friends and colleagues of Police Constable Simon Caddy who tragically died on Friday 26 May when the motorcycle he was riding whilst off-duty was involved in a collision with a car on the A413 in Amersham.

The Chief Constable responded to a question regarding thefts targeting Asian jewellery and gold. It was noted that this was a nationwide issue and that

locally incidents had reduced following the work done to encourage the secure storage of valuable jewellery. There had however been some more recent thefts that were being investigated.

Following a question regarding how the police could work together with other organisations to reduce crime it was highlighted that working with schools was really important in reducing the use of drugs. The police had found that simultaneously targeting the suppliers of drugs and supporting drug users was effective.

In response to a question regarding emergency calls it was noted that there had been a 16% increase in calls to 999 in the Thames Valley. Non-emergency calls to 101 had also increased. Lots of work was being done to increase digital communications such as webchat and exploit technology in other ways to facilitate communication.

Following a question regarding the removal of drug suppliers the Chief Constable advised that the Police aimed to support drug users and increase hostility towards drug suppliers. The Police also worked with other organisations to support drug users in particular during the arrest of drug suppliers.

Superintendent Vince Grey introduced himself and invited Members to come and speak with him regarding any ideas or issues they had.

The Chairman then thanked the Chief Constable and Police Area Commander for coming to the meeting and answering Members' questions.

*Note: Councillors A Garth and E Culverhouse entered the meeting at 6.34pm and 6.40pm respectively.*

## **12 MINUTES**

The Minutes of the meetings of Ordinary and Annual Council held on 16 May 2017 were agreed as a correct record.

*Note: Councillor A Garth left the meeting at 7.20pm.*

## **13 DECLARATIONS OF INTEREST**

Councillor I Darby declared a personal and prejudicial interest in item 8.3 (Revitalisation Group Update Report & Capital Grants - Minute 20 refers) due to her work involvement at Milton's Cottage and left the room for the discussion on that item.



**14 ANNOUNCEMENTS**

The Chairman reported that Councillor Derek Lacey was currently in hospital awaiting an operation and wished Councillor Lacey well and a speedy recovery behalf of all Members.

**(a) Chairman's Engagements**

A list of Engagements carried out by the Chairman and Vice-Chairman of the Council between 15 May to 2 July 2017 had been circulated.

**(b) Chairman's Announcements**

The Chairman advised that a refresher training session for Planning Committee Members would be held on 25 July at 6.30pm in the Council Chamber, King George V House. All Members were also welcome to attend.

The Chairman's quiz night would be held at 7pm on Friday 27 October at Little Missenden Village Hall in support of The Gateway Club charity.

**(c) Announcements from the Leader of the Cabinet**

The Leader of the Cabinet reminded Members that there would be a Joint Member Session at 6.30pm on 13 September at King George V House, Amersham.

**(d) Announcements from the Head of Paid Service**

The Chief Executive confirmed that Steve Bambrick would join the Councils as Joint Director of Services at the beginning of August. Steve was currently Director of Services and Deputy Chief Executive at North West Leicestershire District Council.

The Chief Executive expressed thanks to Anita Cacchioli, Interim Director of Services, whose role finished at the end of July. The Leader also expressed thanks on behalf of all Members for helping to take the Council forward and wished Anita well for the future.

**(e) Petitions**

No petitions were submitted.

**15 LOCAL AUTHORITY APPLICATION CH/2016/2081/RC - MULTI STOREY CAR PARK, KING GEORGE V ROAD, AMERSHAM - PLANNING COMMITTEE - 22 JUNE 2017**

The Council's Constitution required its own planning applications to be considered by the Planning Committee in public with the Committee submitting a recommendation to the Council with its view on how the application should be determined.

As such, Members were requested to agree the recommendation of the Planning Committee meeting held on 22 June 2017 that application CH/2016/2081/RC for a multi-storey car park on the Council's own land in King George V Road, Amersham be approved subject to conditions, including a revised condition dealing with the fascia panels and grid/lattice metal work and increased landscaping and tree planting.

Councillor P Jones emphasised that the Planning Committee had recommended that there be increased landscaping and tree planting between the multi-storey car park and neighbouring properties due to the importance of screening. It was also suggested that the Council liaises with residents in nearby properties.

It was moved by Councillor J Gladwin, seconded by Councillor P Jones and

**RESOLVED:**

**That application CH/2016/2081/RC for a Multi- Storey Car Park on the Council's own land in King George V Road, Amersham be approved subject to conditions set out in the report attached as an Appendix with an amendment to Condition 2 to omit the words "for the avoidance of doubt" and including the following revised Condition 13: 'Before any construction work commences, named types or samples of the facing materials, including fascia panels and grid/lattice metalwork, as well as roofing materials to be used for the external construction of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Reason: To ensure that the external appearance of the development is not detrimental to the character of the locality' and the provision of increased landscaping and tree planting.**

**16 LOCAL GOVERNMENT PENSION SCHEME DISCRETIONARY POLICY STATEMENT - JOINT STAFFING COMMITTEE - 3 JULY 2017**

Members considered a report seeking approval of the discretionary policies that can be exercised by the Councils, as Employers within the Local Government Pension Scheme (LGPS). The report was considered by the Joint

Staffing Committee (JSC) meeting held on 3 July and a supplementary appendix had been circulated containing the minor amendments that had been made by the Committee at that meeting.

It was proposed by Councillor I Darby, seconded by Councillor M Stannard, and

### **RESOLVED:**

**That the Local Government Pension Scheme Discretionary Policy Statement, set out below, be agreed.**

### **Local Government Pension Scheme Regulations 2013 and LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 - Required Policies**

#### **Additional Annual Pension – Regulation 31**

The ability, at full cost to the employer, to grant extra annual pension – currently up to £6,500 per annum – to an active Scheme member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency.

The Council does not adopt this discretion at this time.

#### **Shared Cost Additional Pension Contribution (SCAPC) – Regulation 16(2)(e) and 16(4)(d)**

Where an active Scheme member wishes to purchase extra annual pension – currently up to £6,500 per annum – by making Additional Pension Contributions (APCs), the Council may voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).

The Council does not adopt this discretion at this time.

#### **Flexible Retirement (aged 55 and over) – Regulation 30(6) etc**

Whether to permit flexible retirement for staff aged 55 or over who, with the agreement of their employer, reduce their working hours or grade.

The Council elects to adopt this discretion in accordance with the Council's Flexible Retirement Policy and permits the member to:  
draw all, part, or none of the benefits accrued after 31st March 2008 and before 1st April 2014, and / or  
draw all, part, or none of the pension benefits accrued after 31st March 2014.

The Council is unlikely to waive any actuarial reduction.

However the Council elects to review each application fairly based on its circumstances and merits having regard to the Service need, compassionate grounds (as applicable) and costs.

Any application to waive actuarial reduction to be subject to the consent of the Head of Paid Service, following consultation with the Joint Staffing Committee Co-Chairmen.

### **85 Year Rule Switch on – LGPS (Transitional Provisions, Savings & Amendment) Regulations 2014 Schedule 2**

Where the member voluntarily draws their pension early (other than flexible retirement) the rule of 85 does not automatically apply. The employer may choose to switch back on the rule of 85.

The Council does not adopt this discretion at this time.

### **Waiving Actuarial Reductions on Voluntary Retirement – Various Regulations**

To waive, in whole or part, actuarial reduction on benefits paid before normal retirement age.

The Council is unlikely to waive any actuarial reduction.

However the Council elects to review each application fairly based on its circumstances and merits having regard to the Service need, compassionate grounds (as applicable) and costs.

Any application to waive actuarial reduction to be subject to the consent of the Head of Paid Service, following consultation with the Joint Staffing Committee Co-Chairmen.

## **Local Government Pension Scheme Regulations 2013 - Recommended Policies**

### **Transfers in to Fund – Regulation 100(6)**

The Council will decline any request to transfer in pension rights after the 12 month limit has been exceeded, unless:  
there is evidence that the process has commenced prior to the 12 month limit, and  
the application is made within 3 months of the transfer value being provided by the relevant pension provider.

### **Aggregation of Deferred Benefits – Regulation 22(7) & (8)**

The Council will decline any request to extend the 12 month deadline for non-aggregation of deferred pensions into a concurrent or new LGPS employment unless:  
there is evidence that the process has commenced within the 12 month limit, and  
the application is made within 3 months of the employee being provided with the relevant pension information by the relevant pension provider.

## **Local Government Pension Scheme - Other Required Policies**

### **Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011**

The Council elects not to have an Injury Allowance scheme at this time.

### **The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006**

#### **Regulation 5 – Redundancy Payments to be based on Actual Pay**

The Council adopts this discretion in accordance with its current Redundancy Policy stating that the weekly pay limit shall not apply.

#### **Regulation 6 – Discretionary Termination Payments**

The Council will exercise this discretion in exceptional or extenuating circumstances only.

Each case will be considered fairly, on its merits and subject to the consent of the Joint Staffing Committee, ensuring no serious loss in confidence in the Public Service and that any payment is affordable.

**Deferred Benefits – Ceased active membership between 1st April 2008 and 31<sup>st</sup> March 2014 – Regulation 66 of the LGPS (Administration) Regulations 2008**

The Council adopts the discretion to grant early release of deferred pension.

The Council is unlikely to waive any actuarial reduction.

However the Council elects to review each application fairly based on its circumstances and merits having regard to compassionate grounds (as applicable) and costs.

Any application to waive actuarial reduction to be subject to the consent of the Head of Paid Service, following consultation with the Joint Staffing Committee Co-Chairmen.

**Local Government Pension Scheme - Other Recommended Policies**

**Deferred Benefits – Ceased active membership prior to 1st April 1998 – Regulation D11(2)c LGPS Regulations 1995**

The Council adopts the discretion to grant early release of deferred pension on compassionate grounds.

The Council is unlikely to waive any actuarial reduction.

However the Council elects to review each application fairly based on its circumstances and merits having regard to compassionate grounds (as applicable) and costs.

Any application to waive actuarial reduction to be subject to the consent of the Head of Paid Service, following consultation with the Joint Staffing Committee Co-Chairmen.

**17      LOCALLY DETERMINED PAY - JOINT STAFFING COMMITTEE - 3 JULY 2017**

Each year Councils needed to consider whether they wish to offer a pay increase to staff. Local Government has a collective bargaining system by which representatives of the employers meet with the trade union representatives regularly to discuss pay and conditions of service. This arrangement was called the National Joint Council (NJC) for Local Government Services. Under the terms of the Collective Agreement between Chiltern and South Bucks District Councils and UNISON of 1<sup>st</sup> July 2014 (which applied to all posts below Head of Service level) it was agreed in July 2017 that the Councils would review the Councils' pay arrangement with a view to moving to locally determined pay.

The Joint Staffing Committee meeting held on 3 July 2017 considered and recommended the proposed arrangements for a locally determined pay

mechanism, and subject to the Councils' agreement, the next step was to put the proposed locally determined pay mechanism to UNISON.

It was proposed by Councillor I Darby, seconded by Councillor M Stannard, and

**RESOLVED:**

**That the arrangements for a locally determined pay mechanism, as set out in the report, be agreed.**

### **18 AMERSHAM MULTI STOREY CAR PARK DEVELOPMENT PROJECT**

The Cabinet meeting on 11 July 2017 received a report providing an update on the current position regarding the development of the Amersham Multi Storey Car Park that would provide a total of 1,046 car park spaces, representing an increase of 366 on the current 680 spaces. The Cabinet approved the final business case and confirmed that contracts for construction under the SCAPE Framework agreement could be signed. The Cabinet also recommended to Council that £10,800,000 be added to the capital programme for the construction of Amersham Multi Storey Car Park Project.

At the Cabinet meeting it was also noted that the relaying of the surface on the top floor had been included in the project costs because it was more cost efficient to carry the work out at the same time. It was therefore suggested that this be included as part of contract but listed as a separate project cost for the purpose of the business case. As such, it was proposed that the recommendation to Council be amended to include the resurfacing of the car park roof as part of the project.

In response to a question regarding the consideration of new vehicle technology and how this could be incorporated into the design and construction of the new car park it was noted that that this had been considered and that potential funding sources that may be available were being explored.

It was proposed by Councillor M Smith, seconded by Councillor M Stannard, and

**RESOLVED:**

**That £10,800,000 be added to the capital programme for the construction of the Amersham Multi Storey Car Park Development Project and resurfacing of the roof of the Multi Storey Car Park.**

## 19 CORPORATE ENFORCEMENT POLICY

The Council was required to have an enforcement policy and have mechanisms in place to engage with those organisations that it regulated in the review of its policies and service standards. Following consultation with internal and external bodies the Cabinet considered the proposed policy at the meeting held on 27 June 2017 and recommended that the policy be agreed by the Council.

It was proposed by Councillor L Walsh, seconded by Councillor I Darby, and

### **RESOLVED:**

**That the draft Corporate Enforcement Policy for regulatory compliance and enforcement services, as detailed in Appendix 1, be approved.**

## 20 REVITALISATION GROUP UPDATE REPORT & CAPITAL GRANTS

The Cabinet at the meeting held on 27 June considered a proposal to support three Revitalisation Group projects that would help leverage additional partnership project funding into the district and support the delivery of the revitalisation groups' work. As such, the Council were asked to agree that £7,800 be transferred from the Capital Reserves into the approved Capital Programme list to support the Revitalisation Group projects.

It was proposed by Councillor L Walsh, seconded by Councillor M Stannard, and

### **RESOLVED:**

**That £7,800 from the Capital Reserves be transferred into the approved Capital Programme list and be used to support the following Chiltern District's Revitalisation Groups projects detailed in Appendix 1:**

- a) Little Chalfont – village centre notice boards project (£3,000)**
- b) Chalfont St Giles – contribution to Milton's Cottage secondary glazing (£2,800)**
- c) Great Missenden & Prestwood villages – community cycle parking project (£2000)**

**All awards are subject to planning consent, if required, and confirmation that on-going maintenance and insurance obligations will not be the responsibility of the Council.**



*Note: Councillor I Darby left the meeting during consideration of the above item.*

**21 VERBAL REPORTS FROM THE LEADER, CABINET MEMBERS OR CHAIRMAN OF A COMMITTEE**

**a) Councillor Isobel Darby**

**Modernising Local Government**

Members noted that a letter had been sent to the Secretary of State seeking an update on their decision following the submission of the districts' proposal for modernising local government in Buckinghamshire. The Leader provided reassurance that the Council would continue to build on the shared services work pending the Minister's decision.

**Grenfell Tower Fire**

The Leader, after reflecting on the tragic events at Grenfell Tower, confirmed that the Council did not own or manage any high rise accommodation. The Council was however working closely with its registered social landlords to ensure that robust fire prevention measures were in place. All landlords and tenants were being contacted to check that they knew what to do in an emergency and a press release to that effect would also be issued.

It was noted that the Council planned for emergencies and the need to be flexible, have up to date contact information and close links with other organisations was especially important in emergency situations. The Council would be in contact with partner organisations to check that the plans in place were effective.

**b) Councillor Liz Walsh – Community Cards Scheme 2017**

Amersham and Burnham schools were this year's winners of the Community Cards Scheme and their prize was a day trip to Legoland. Other class and individual prizes were also awarded. All participants were congratulated on taking part in the Scheme.

**c) Councillor Mike Smith – Aylesbury Crematorium**

The construction of a new Crematorium in Aylesbury was progressing well following a number of legal issues which had now been resolved. The tenders for the project were currently being analysed.

**d) Councillor Nick Rose – HS2 Funding and Information Events**

- 5 July 6.00 - 8.00pm, Council Chamber, Chiltern District Council
- 18 July 6.00-8.00pm, Room 6, South Bucks District Council

HS2 funding and information events were being held on the above dates for community groups and Town/Parish Councils in Chiltern and South Bucks. They would cover the funding available from HS2 through their Community and Business funds as well as covering general funding advice.

**22 QUESTIONS WITH NOTICE**

There were no questions.

**23 PETITIONS**

No petitions were received.

**24 JOINT ARRANGEMENTS AND OUTSIDE ORGANISATIONS**

There were no reports.

**25 MOTIONS**

No Motions had been received.

**The meeting ended at 7.50 pm**

## CHAIRMAN'S DIARY: 3 JULY 2017 - 6 OCTOBER 2017

- 4 July - Chiltern Child Contact Centre AGM, Amersham Free Church  
(Attended by Vice Chairman)
- 7 July - Bucks & Milton Keynes School Games Finals, Stoke Mandeville Stadium,  
(Attended (by Vice Chairman)
- 9 July - Awards Presentation & AGM of Bucks Scout Council, Aylesbury High School  
(Attended by Vice Chairman)
- 12 July - Anti-social Behaviour Walk, Amersham
- 13 July - Amersham & District Community Centre AGM, Large Barn Hall, Amersham  
(Attended by Vice Chairman)
- 14 July - Reimagining the Amersham Museum, Amersham
- 18 July - National Citizens Service, Council Chambers, CDC
- 18 July - BCC Chairman Reception, Chesham Opportunities Centre
- 20 July - Amersham in Bloom, Amersham
- 20 July - High Sheriff of Buckinghamshire Summer Reception, Aylesbury  
(Attended by Vice Chairman)
- 23 July - Mayor and ATC Councillors Memorial Service, Newport Pagnell Town Council  
(attended by Cllr M. Harker)
- 30 July - Chesham Remembers 1914-1918, Lowndes Park, Chesham
- 31 July - Memorial Service to commemorate the Battle of Passchendaele, Amersham
- 16 August - Presentation of Queen's Award for Enterprise, Symply Pet Foods, Chesham
- 12 September - Transport for Buckinghamshire Conference ,AVDC
- 12 September - Lottery Launch, Gerrards Cross Golf Club
- 16 September - Best Kept Village Presentation, Chalfont St Peter
- 17 September - Battle of Britain Sunday, All Saints Church, High Wycombe
- 18 September - Presentation of Queen's Award for Enterprise , Global Infusion, Chesham
- 26 September - Chilterns Conservation Board Annual Forum, Elgiva Theatre, Chesham
- 1 October - High Sheriff of Buckinghamshire Justice Service, Milton Keynes  
(attended by Vice Chairman)
- 3 October - Day's Almshouses re-opening, Old Amersham (attended by Vice Chairman)



<b>SUBJECT:</b>	<b>Hackney Carriage &amp; Private Hire Licensing Policy</b>
<b>REPORT OF:</b>	Director of Services – Steve Bambrick
<b>RESPONSIBLE OFFICER</b>	Head of Healthy Communities – Martin Holt
<b>REPORT AUTHOR</b>	Nathan March, 01494 732249, nmarch@chiltern.gov.uk
<b>WARD/S AFFECTED</b>	All

## 1. Purpose of Report

- 1.1 This report is to recommend to Council the adoption of the draft hackney carriage and private hire policy, which is attached at Appendix 1.

### RECOMMENDATION

That the Council adopts the draft policy attached as an Appendix to come into effect on 1<sup>st</sup> December 2017 .

## 2. Reasons for Recommendations

- 2.1 The draft policy was subject to a 12 week public consultation which has now concluded. Following the amendments being made and consideration by Licensing Committee on 14<sup>th</sup> December 2016, further consultation took place with the Trade before final amendments were made to the draft policy. Licensing Committee at its meeting on 17 July 2017 took into account all of the responses that were received as part of that consultation and recommended that the amended draft policy to be suitable for adoption by the Council.

## 3. Background

- 3.1 A review of the Council's adopted Hackney carriage and private hire policy was discussed previously by the Licensing Committee on 28<sup>th</sup> June 2016 and the draft policy approved for consultation by the Committee.
- 3.2 A 12 week consultation period for the draft policy concluded on the 21<sup>st</sup> September 2016.
- 3.3 Consultation with the trade included direct text messaging and a letter to all licensed drivers and operators. The wider consultation involved a dedicated web page on the Council's website, use of social media, and emails to the police, Highways Authority, neighbouring authorities and interested stakeholders e.g. residents groups.
- 3.4 Three meetings were held with Chiltern Taxi Drivers Association; one of which was chaired by the Licensing Committee Chairman and attended by 51 members of the trade. Additionally, an informal drop in session for members of the trade was held during the consultation to allow any clarifications or items to be considered. A full day was set aside for this so that members of the trade could attend as and when able to do so; members of the Licensing team were available to answer questions the trade had in relation to the draft policy and consultation process.

**4. Draft policy amendments following consultation**

- 4.1 Following consideration of the responses to the consultation, a number of changes (including typographical errors and words of clarification) to the draft policy were agreed by the Licensing Committee on 14<sup>th</sup> December 2016 and further changes were agreed by the Committee at its meeting on 17<sup>th</sup> July following additional consultation with the Trade as directed by the Licensing Committee.
- 4.2 Significant concerns were raised by the trade with regards to 3 issues which the Council has direct control over through its policy – vehicle age and window tints and door stickers. The Window tint policy had not been changed as part of the review, and after consideration the decision of the Licensing Committee was that this aspect of the policy remained fit for purpose. Change to the age policy for vehicles had been consulted on, but following consideration of the responses, the Licensing Committee decided that the existing vehicle age policy would remain without amendment.
- 4.3 The most significant concerns raised in the consultation were the use of door stickers to identify licensed vehicles. Door stickers are a requirement of Hackney Carriages and Private Hire Vehicles in the existing policy. The responses to the consultation expressed that they did not feel these were necessary on Hackney Carriages. After due consideration the Licensing Committee agreed that these were not necessary for hackney carriage vehicles, but would continue to be required on private hire vehicles.

**5. Corporate Implications**

## 5.1 Legal

The draft policy once adopted affects the approach that the Council will be taking for hackney carriage and private hire licensing. This will impact on the level of compliance and enforcement actions taken.

## 5.2 Equality Act 2010

The impact of the policy on equalities has been considered whilst conducting the review, and no adverse equality issues were identified at the time that the draft policy was revised and approved for consultation. However, during the earlier consultation a number of responses highlighted significant concerns that the draft policy was indirectly discriminatory, specifically in relation to ethnicity and religion, so the original Equalities Impact Assessment (EIA) carried out was reviewed in light of these concerns.

**6. Links to Council Policy Objectives**

- 6.1 The publication of an effective Hackney carriage and private hire policy links to all 3 of the Council's headline objectives:
1. Delivering cost- effective, customer- focused services
  2. Working towards safe and healthier local communities
  3. Striving to conserve the environment and promote sustainability.

**7. Next Steps**

- 7.1 If Council adopt the draft Policy the Licensing team will inform the trade that it is has now been adopted and will take the necessary steps required to adjust its procedures in connection with hackney carriage and private hire licensing.

<b>Background Papers:</b>	Draft Chiltern District Council Hackney Carriage and Private Hire Policy as recommended for adoption by the Licensing Committee on 17 <sup>th</sup> July 2017  Taxi and private hire vehicle licensing: best practice guidance 2 March 2010.
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# CHILTERN

## District Council

[www.chiltern.gov.uk/taxi](http://www.chiltern.gov.uk/taxi)

# Hackney Carriage and Private Hire Policy

**Adopted on \*\*\*\*\***

**Effective from \*\*\*\*\***

## Contents

<b>Section No.</b>	<b>Section</b>	<b>Page</b>
1.	Definitions	3
2.	Introduction	3
3.	Background	4
4.	Policy objections and aims	6
5.	Uniformity	7
6.	Administration of licences	8
7.	General fees	8
8.	Service standards	8
9.	Notification of decisions	9
10.	Monitoring	9
11.	Records	9
12.	Data protection	9
13.	Safeguarding	9
14.	Abuse of drivers by members of the public	10
15.	Use of mobile applications	10
16.	Hackney carriage and private hire driver licences	11
17.	Private hire operator licences	14
18.	Hackney carriage and private hire vehicle licences	15
19.	Policy on convictions and conduct - new applicants	18
20.	Policy on convictions and conduct - existing licensees	25
21.	Expedition policy for revoked licences, where reinstating a licensee is considered appropriate	32
22.	Guidelines for CCTV systems in hackney carriage & private hire vehicles	33

## Appendices

<b>Appendix No.</b>	<b>Title</b>	<b>Page</b>
1	Licence Requirements - Chiltern District Council licence requirements relating to hackney carriage and private hire drivers	45
2	Requirements relating to hackney carriage and private hire vehicles	53
3	Requirements relating only to hackney carriage vehicles	60
4	Licensing conditions relating to private hire drivers	63
5	Byelaws affecting hackney carriages	70
6	Conditions relating to hackney carriage vehicles	71
7	Conditions relating to private hire vehicles	79
8	Non-standard private hire vehicle conditions for stretched limousine, and novelty vehicles	86
9	Conditions relating to private hire operators	91

## 1. Definitions

For the purpose of this policy -

**The application** shall mean the application made by an individual (or individuals) for the grant or renewal of a licence

**Authorised officer** shall mean any officer within the Council authorised by the Council's scheme of delegations

**The Council** shall mean Chiltern District Council

**Hirer** shall mean any person or persons who from time-to-time hires or books the vehicle

**Licensee(s)** shall mean the person(s) named in the licence

**Operator** shall mean a person holding a licence to operate private hire vehicles issued pursuant to Section 55 of the Local Government (Miscellaneous Provisions) Act 1976. A private hire operator's licence is required to enable a person to accept or invite bookings for private hire vehicles

**Working day** any day other than a Saturday, a Sunday, Christmas day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom

## 2. Introduction

This policy has been produced pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847 which places the duty on Chiltern District Council to carry out licensing functions in respect of hackney carriage and private hire vehicles, drivers and operators.

In carrying out its said regulatory licensing functions, the Council will have regard to this policy document. Where it is necessary for the Council to depart from this policy, clear reasons will be given for doing so.

Following consultation and adoption by the Council, this policy shall be kept under review and revised as necessary. The Head of Healthy Communities is authorised to make minor amendments to the policy. In addition, amendments to this policy may be authorised without consultation by the Council.

The policy refers to guidance that is available to applicants, drivers and operators and proprietors to assist them with the application processes and the running of the service. This guidance, application forms and current fees are available on the Chiltern District Council Website.

## 3. Background

Hackney carriage and private hire vehicles have a distinct role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or on Sundays), and/or for those with mobility difficulties.

### 3.1 Chiltern Council Boundary

## Chiltern District Boundary



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### 3.2 Practice, guidance & legislation

The Department for Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales. As a result of the Office of Fair Trading producing a report on the UK hackney carriage and private hire trade, the DfT was asked to produce best practice guidance for local licensing authorities. The latest guidance was issued in March 2010<sup>1</sup> titled 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' and represents examples of good or best practice from within England and Wales. However, the document recognises that licensing authorities may reach their own decisions both on overall policies and on individual licensing matters, in the light of their own circumstances.

The Council has therefore taken account of the DfT guidance to develop this policy.

This policy also takes account of the legislative basis of the Council's taxi licensing powers, including those contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, the Immigration Act 2016 as amended.

### 3.3 Equality Act 2010<sup>2</sup>

In addition, the Equality Act 2010 has implications for both hackney carriage and private hire operators and drivers in respect of disabled access to vehicles.

### 3.4 Duties to assist passengers in wheelchairs

Section 165 places a duty on a driver of designated wheelchair accessible hackney carriages and private hire vehicles. The duties are:

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

If the passenger chooses to sit in a passenger seat;

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

Section 167 of the Equality Act allows licensing authorities to maintain a list of "designated vehicles", that is, a list of wheelchair accessible hackney carriages and private hire vehicles licensed in their area. The consequence of being on this list is that the driver must undertake the duties in section 165.

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<sup>1</sup> <http://www.dft.gov.uk/publications/taxi-private-hire-licensing/>

<sup>2</sup> [http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100015\\_en\\_1](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100015_en_1)

### **3.5 Guide dogs and assistance dogs (sections 168 to 171 of Equality Act 2010)**

Councils are able to issue certificates to drivers who are exempt by their doctors under strict medical grounds from the duty to carry guide and assistance dogs. Exemption certificates will only be issued when written requirement for this exemption is provided by the drivers registered GP practice.

There is comprehensive guidance issued by the DfT in 2010 about the duties to carry guide and assistance dogs and the procedure for granting medical exemptions etc.

### **3.6 The Immigration Act 2016**

The Immigration Act 2016 requires 'right to work' checks to be carried out on any applicant applying for a new or renewal of a hackney carriage driver's licence, private hire driver's licence or operator's licence. Where a right to work is indefinite, this check is only required once; where it is time limited, licences may only be granted for that period and a further check is required when the existing right to work expires.

## **4. Policy aims & objectives**

### **4.2 Objectives**

- the protection of the public
- the maintenance of a professional and respected hackney carriage and private hire trade
- access to an efficient and effective local transport service
- the protection of our local environment.
- To support small businesses by ensuring a consistent and fair approach

### **4.3 Aims**

The Council will aim to achieve these objectives in the following ways:

- by ensuring that licensed vehicles do not give rise to a risk to passenger safety
- by ensuring that licensed drivers are fit and proper persons and achieve as high a standard of good practice as is possible
- by ensuring that licensed vehicles meet emissions standards and encouraging the use of low polluting vehicles
- by encouraging the use of vehicles that are more accessible to persons who have disabilities
- by ensuring that licensed vehicles are comfortable and properly insured
- by liaising with the County Council highways department to encourage that taxis and private hire form part of the wider strategic transport and local transport plans
- by working in partnership with a variety of other agencies to support the Council's objective in relation to both the public and the trade
- by reducing the frequency with which licence holders are required to attend the council offices
- by ensuring online accessibility to allow remote application by new and existing licence holders
- by utilising electronic and mobile communication methods including the use of SMS messaging and extranet sites

#### 4.4 Methods

The methods to be employed will be

- work with the taxi and hackney carriage trade to deliver ongoing improvements innovate, and deal with emerging issues
- setting the standards for the licensing of vehicles, drivers and operators
- annual licensing and routine inspection of vehicles, with appropriate follow-up action
- routine inspection of documents, with appropriate follow-up action
- routine checks of driver's medical fitness and criminal record history during the time the licence is in force and knowledge of the district, highway code and licensing policy as well as driving ability (at the time of application)
- investigation of complaints with appropriate follow-up action
- liaison with Thames Valley Police, neighbouring local authorities and other agencies concerning issues of mutual concern
- prosecution, monitoring of contraventions, suspension or revocation of licences for breach of conditions or legislation
- proper training and development of council officers
- continue to meet ongoing performance and efficiency targets for the service
- provision of information to licensees about good practice and what to expect of any inspecting officer
- promote the use of training/courses for licensees,
- provide mandatory training when it is considered appropriate to do so
- promotional activities to inform and encourage and maintain high standards

In seeking to meet these aims the Council will actively cooperate, assist and seek advice from agencies including:

- Thames Valley Police
- Driver and Vehicle Standards Agency
- Bucks County Council
- Other local authorities
- Town and Parish Councils
- Chiltern Railways
- Disclosure and Barring Service
- Department for Transport
- Driving and Vehicle Licensing Agency
- Home Office
- Department for Work and Pensions
- Other relevant agencies and departments

## 5. Uniformity

The authority acknowledges the need to act in a consistent and uniform manner and advocates a common-sense approach to the selection of enforcement action and activities.

The following areas are all considered important in achieving uniformity:

- the awareness of and adherence to this policy
- training, qualifications and supervision of staff and training for Members. Regular practical training and update sessions will be essential to ensure uniformity. Use of joint training initiatives with other authorities will also be undertaken
- the ongoing monitoring and auditing of licence holders, testing stations, and activities
- liaising with other enforcement agencies, adjoining authorities and trade bodies.
- compliance with relevant codes of practice/circulars (where not inconsistent with this policy)

## 6. Administration of licences

Applications for licences will only be validated and then determined when all documents and fee (as applicable) are received, as stated within this policy.

The Council will always aim to produce licences as promptly as possible. Applications will normally be considered within 28 days of validation and, depending on circumstances, an application can then be granted, refused or deferred.

## 7. General fees guidance

In the event of an application not leading to the issue of a licence, a refund will be provided with the exception of an administration fee. Other costs incurred by an applicant such as the cost of any medical and DSA test (paid directly to the provider), knowledge test or criminal record check will not be reimbursed.

In the event of a licensed driver or operator surrendering their licence before its expiry, a refund will be provided for any remaining full years of the licence

Where the surrender is as a result of illness certified to the Council by a registered medical practitioner a pro rata refund shall be payable for the remaining full months of the licence.

All licence fees must be paid by credit/debit card or BACs. In exceptional cases payment by cash or cheque may be considered, but applicants and licensees wishing to pay with these methods should contact the Licensing section in writing with reasons for the request so that this can be considered on a case by case basis.



## 8. Service standards

Subject to amendment from time to time by the Head of Healthy Communities it is the intention of the Council to offer the following service levels:

You are able to contact the licensing team by email, through the website, by appointment in person, or by phone. However, the preferred method of contact is via email to reduce the need for licence holders to travel to the council offices and to allow the team to deal with enquiries as effectively as possible.

The Licensing section can be contacted by phone on 01494 732063 between the following times, 08:30 to 17:30 on Mondays to Thursdays and 08:30 to 17:00 on Fridays.

Although the Council has 28 days to issue a licence upon receipt of a valid application, **the Licensing section will strive to:-**

- Issue a private hire driver / hackney carriage driver licence as promptly as possible and usually within 7 working days of the application being validated
- Issue a private hire / hackney carriage vehicle licence as promptly as possible and usually within 7 working days of the date of receipt of a complete and valid application
- issue change of vehicle licences as promptly as possible and usually within 2 working days of the application being validated

## 9. Notification of decisions

Any notice required to be served by the Council under this licence or under any of the provisions of the Local Government (Miscellaneous Provisions) Act 1976 shall be deemed to have been properly served if sent by pre-paid post to, or left at the last known address of, the holder of the licence.

## 10. Monitoring

All documents will be checked for authenticity when submitted. Routine random checks will also occur throughout the year. In addition, visits will be made both to the ranks and to regular trade pick up points to check compliance. Checks of proprietor and operator documents and records will also be made and Taxi ranks/stands and other frequented locations will also be conducted.

The Council will also work in partnership with other agencies and neighbouring authorities to undertake compliance and enforcement activities.

All complaints against licence holders will be monitored and investigated and action taken in line with this policy as appropriate

## 11. Records

An up to date electronic record will be kept and maintained of all application details, fees paid, deposits and licences issued, together with the public registers as required by law.

## 12. Data protection

All information held on files and databases about an applicant is confidential, under the Data Protection Act 1998. However, the Council is under a duty to protect the public and to protect the public funds it administers, and to this end may use any information provided by an applicant within this authority. The Council is under a duty to maintain Public Registers in accordance with the legislative requirements and all registers will be maintained on line through the Council's Licensing Public Access system

For the purposes of crime prevention, and with the purpose of protecting the public and/or protecting public funds we may also share any information held with other bodies responsible for public functions, where there is a legal basis or a legal obligation to do so. For the most recent Council policy please visit [www.chiltern.gov.uk](http://www.chiltern.gov.uk)

## 13. Safeguarding

The Council is committed to ensuring the safety and welfare of all vulnerable persons including children and young people, to whom we provide services directly or indirectly and with whom we come into contact.

Drivers are on the frontline, often coming into contact with people who may be vulnerable, for example because they are young, have learning difficulties, be suffering ill health, or be elderly or who have drunk to excess on a night out, or who may have taken an illegal substance. Such persons may be travelling alone or accompanied by another person.

Sadly there are persons who prey on precisely these people and drivers are often best placed to raise concerns over what they hear or see occurring whilst in their vehicles.

Drivers may also have concerns over the vulnerability of passengers whom are being dropped off at locations in or out of the district. For example drivers in other authorities have reported concerns that young persons are being dropped off at a particular guest house, hotel or house and are either distressed before being dropped off or after they have been picked up as a fare paying passenger.

Information is provided on the Council's website in relation to safeguarding and applicants and licensees have a duty to report matters if they suspect harm.

### 13.1 When you have concerns regarding a child

If you are worried about a young person, you must do something.

There are specialists who can advise you on what to do next. They can also talk to any young person themselves.

If you are concerned about a young person you can contact the First Response Team on 0845 460 0001 or email: [secure-cypfirstresponse@buckscs.gov.uk](mailto:secure-cypfirstresponse@buckscs.gov.uk)

If you think a child or young person is in immediate danger call 999.

### 13.2 When you have concerns regarding an adult

If you need to speak to someone urgently about a vulnerable adult:

Report abuse: 0800 137915 or email: [safeguardingadults@buckscs.gov.uk](mailto:safeguardingadults@buckscs.gov.uk)

Speak to the adult social care team: 01296 383204

Outside office hours: 0800 999 7677

For up to date information you should visit the safeguarding section of the Bucks County Council website:

<http://www.buckscc.gov.uk/social-care/buckinghamshires-multi-agency-safeguarding-hub>

## **14. Abuse of Drivers by member of the public**

The Council strongly disapproves of any form of abuse, discriminatory or otherwise, directed at drivers by members of the public. However, the Council is not the appropriate authority to investigate such incidents, unless these form part of a counter allegation following a complaint about a driver, in which case information will be obtained from all parties prior to a decision being made on the appropriate action for the Council to take. Incidents of this nature should be reported to the Police via 101 so that they can be investigated. The Council will assist the police with regards to such investigations as far as possible.

## **15. Use of mobile applications**

The use of mobile applications (apps) is becoming increasingly common for a wide range of uses, including many taxi companies and private hire operators. The Council supports the use of such innovation, which has many potential public safety benefits.

Apps must be approved by the Council prior to their use, and must not have a negatively impact on public safety.

## **16. Hackney carriage and private hire driver licences**

Only applicants who comply with the requirements and conditions relating to the licensing of private hire drivers or hackney carriage drivers will be licensed.

Existing drivers must comply with the conditions of their licence, this policy and any relevant legislation during the period of their licence. Failure to do so will result in the consideration of the various sanctions outlined in this policy.

All new applicants are required to pass a specialist driving test as part of their application. Existing drivers who have not passed a driving test as prescribed by the Council will only be permitted to carry up to 4 passengers. This will be stipulated on their licence. Existing drivers are entitled to take the specialist driving test at any time and once passed will be issued a badge permitting 8 passengers, at no additional cost on production of their certificate.

Further, sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 require that "a district council shall not grant a drivers licence to drive a private hire vehicle or hackney carriage unless they are satisfied that an applicant is a fit and proper person".

### 16.1 Fit and proper person – information required for an assessment to be made

To prove that a person is fit and proper person to hold a hackney carriage or a private hire driver's licence or dual licence they must provide evidence of:

- Driving standard – through a specialised test driving test supplied by a Council approved provider (details available on request)
- Medical fitness – on the Council's prescribed form, signed by the applicants GP or medical practitioner
- Criminal history and behaviour – through an enhanced DBS check
- Knowledge of the local area, highway code, legislation and requirements relating to a hackney carriage and private hire and the Council's policy in the form of a 'knowledge test' designed by the Council
- Three references as to their character and reliability

Details of the above will be obtained and considered at the time of application, together with any other relevant information. A driver will be required to maintain their ability to be a fit and proper person whilst licensed and must report any driving offences, changes to medical conditions, civil or criminal offences for which they have been interviewed or charged.

If the Council suspects that a driver may have fallen short of the standards required. The Council may need to conduct further enquiries to verify any information provided or as to the fitness of a person to hold a licence. By submitting an application for a licence or holding a licence the applicant gives their consent to the release of data where necessary.

Any applicant subsequently found to have provided false information will be dealt with in accordance with the provisions of this policy.

### 16.3 Driving standard and knowledge

The following requirement must be demonstrated to establish a person's driving standards are acceptable:

- That a valid full EC driver's licence has been held for three years prior to application
- That a person passes a specialised driving test supplied by a Council approved provider (details available on request) prior to application to ensure they are aware of the hazards of driving. The requirement to take a driving course helps ensure a standard of driving. The applicant must provide a signed copy of the assessment pass certificate before their application can be validated which must be current at the time it is submitted.

Through the written knowledge test assessment drivers will be tested on their knowledge of the local area. In addition, drivers will be tested on policy, related law, customer awareness, and elements of the Highway Code. The test is computerised and is conducted in the Council offices. An application cannot be validated unless the applicant has passed the appropriate knowledge test. Applicants taking the test may not receive assistance from a third party.

Drivers must conduct themselves in a professional manner and collections should be punctual, drivers polite and knowledgeable of local routes, and vehicles should be kept clean and operate in accordance with conditions, byelaws and legislative requirements. Hackney drivers should only charge the meter rate or below.

Drivers must not initiate any dialogue of a "sexual" nature with a passenger including by telephone

contact, social media, email or any other form of communication. Licensed drivers are not permitted to become involved "sexually", or have sexual contact with a passenger, whether consent is given or not and whether or not the vehicle is carrying a fare paying passenger at the time.

Mobile devices can only be used if they have are held in a cradle and are used completely hands free.

#### **16.4 Medical fitness**

Drivers are not required to hold a group II, EC full driving licence, but they will have to demonstrate compliance with the medical standards for a group II licence and will have to provide a medical certificate, on the Council's prescribed form, to this effect. This should be no older than 3 months at the time of the application being completed.

All drivers are required to provide a certificate signed by their registered medical practitioner to declare whether or not they are physically fit to be the driver of a hackney carriage or private hire vehicle. A medical certificate must be submitted at first application, every 3 years up to 60 years of age, and annually thereafter.

Where an existing licensed hackney carriage driver applies to obtain a private hire licence, or vice versa, an additional medical will not be required.

The Council will have regard to the published Department of Transport "best practice" guidance (as updated from time to time) when considering the medical fitness of new applicants with insulin dependent diabetes or existing licence holders diagnosed with insulin dependent diabetes during the duration of their licence.

Where there is reasonable doubt over a driver's fitness, the Council will require the driver to undertake a medical examination by a registered medical practitioner at any time as specified by the Council.

The applicant is responsible for the payment of all fees required for any medical examination.

#### **16.5 Offender history and behaviour**

When submitting an application for a licence to drive a hackney carriage and/or private hire vehicle, applicants must declare any criminal or civil cautions or convictions they may have, whether they are foreign or domestic.

Even those regarded as 'spent' under the Rehabilitation of Offenders Act 1974, must be declared.

In addition to this applicants must notify us if they have been charged with an offence or have any pending prosecutions and if they have ever had a licence suspended, revoked or refused by another authority. Applicants must also advise the Council if they have withdrawn a hackney carriage or private hire application made to another authority, at any stage of the process.

Failure to declare convictions and/or cautions, or giving false information to obtain a licence is an offence and will be treated very seriously. Likewise, giving false information or withholding information to keep a licence will be treated very seriously.

If an applicant has not been a resident in the UK for a period of five years, they will need to obtain a "certificate of good conduct" or similar document from the relevant embassy.

Applicants will also need to register with the Disclosure and Barring Update Service and providing consent to the Council carrying out a check with the Disclosure and Barring Update Service, which will disclose any cautions or convictions that they may have. Information received from the DBS will be

treated in the strictest confidence, and will be retained on manual and computer records for no longer than is deemed necessary.

Proof of identity is required in order to obtain the Data Barring Service enhanced disclosure. Applicants will be required to provide, amongst other documents, a birth certificate or valid passport, a copy of their EC full driving licence and two utility bills identifying their address. The full requirements are based on the DBS requirements in operation at the time of application and may therefore be varied by the service from time to time.

Applicants must provide a valid DBS enhanced disclosure certificate (that was issued within the last 3 months) and provide details of all convictions/cautions as part of the application.

Section 111 of the Local Government Act 1972 allows district councils to send the drivers application form to the Police, (or other authorised body) and request the chief officer's observations as to the applicant.

Where an existing driver has been interviewed, charged or convicted of an offence, or other relevant information comes to the attention of the Council (such as a caution or fixed penalty notice being issued) which brings into question whether the driver is still a fit and proper person to hold a drivers licence, action may be taken, as outlined in this policy ([Section 20](#)).

The existence of a criminal record or disclosure of other information will not necessarily stop any person from gaining or keeping a licence. The decision will be based on the policy on criminal convictions and behaviour in [sections 19 and 20](#) of this policy.

## 16.6 Dual driver's licences

As some individuals may wish to be able to carry out a combination of hackney and private hire work, the Council will provide a dual drivers licence to reduce the burden on the applicant. Dual licence holders are required to comply with any conditions or byelaws that are relevant to the work they are carrying out at any time, which will be dependent on the licensed vehicle being used.

New applicants for dual licences will be required to obtain an additional qualification as part of the application process such as a relevant BTEC or NVQ.

## 17 Private hire operator licences

### 17.1 Fit and proper person

Applicants for private hire operator licences are required to pass the private hire knowledge test.

With regard to criminal convictions/cautions, an operator is not an exempted profession under the Rehabilitation of Offenders Act 1974; therefore only unspent convictions will be taken into consideration when determining whether an applicant is a fit and proper person. In assessing an application for an operator's licence, the policy on criminal convictions and behaviour in [sections 19 and 20](#) of this policy will be referred to.

The decision whether to grant or refuse a licence will be based on whether the convictions/cautions were declared, the type of offences and the total number of convictions/cautions recorded against each individual applicant.

The overriding consideration in reaching a decision will be based on whether the operator (the individuals listed as licensees on the application) can fulfil their roles and run the company without posing any likely threat to the general safety of the public.

If a situation arises where an operator licence application from a registered company is likely to be refused solely on the declared convictions of one individual within the organisation, the application may still proceed if the applicant decides to withdraw the name of that individual from the licence application.

Accordingly when submitting an application to be a registered private hire operator you must declare any unspent cautions or convictions you may have, whether they are foreign or domestic. Failure to declare convictions and/or cautions or giving false information to obtain a licence is an offence and will be treated very seriously. Likewise giving false information or withholding information to keep a licence will be treated very seriously. If you have not been a resident in the UK for a period of five years, you will need to obtain a dated 'certificate of good conduct' or similar document from your relevant embassy.

Applicants will need to obtain a basic disclosure certificate which will reveal any unspent convictions or cautions. The Disclosure certificate, issued within the last 3 months, must be submitted with the application in order to validate it.

Where an existing operator has been charged or convicted of an offence, or other relevant information comes to the attention of the Council which brings into question whether the driver is still a fit and proper person to hold an operator's licence, action may be taken, as outlined in this policy

The existence of a criminal record or disclosure of other information will not necessarily stop a person from gaining or keeping a licence. The decision will be based on the policy on criminal convictions and behaviour on pages 19 and 20 of this policy, and in accordance with this section.

## **17.2 Previous applications**

If anyone named on an application has previously been refused an operator's licence or held an operator's licence which was suspended or revoked elsewhere, they will be expected to provide details of the refusal, suspension or revocation in their application.

## **17.3 Planning permission**

All premises to be used as a private hire operator base or operations running from a residential address will require the appropriate planning consent or permitted development rights for that use class. All applicants must provide a certificate of lawfulness or planning consent in relation to the premises they intend to use.

## **17.4 Use of mobile applications**

The use of mobile applications (apps) is becoming increasingly common for a wide range of uses, including many taxi companies and private hire operators. The Council supports the use of such innovation, which has many potential public safety benefits. Apps must be approved by the Council prior to their use, and must not have a negative impact on public safety.

## **18. Hackney carriage and private hire vehicle licences**

### **18.1 Type of vehicle**

The Transport Act 1985 allows licensing authorities to regulate vehicle standards. Circular 8/86 accompanying the Transport Act, states that authorities will wish to ensure that vehicles are mechanically sound, roadworthy and safe. The following will be applied.

- Only vehicles holding or built to the standards required by the M1, M2 and M3 European whole vehicle type approval will be licensed.
- Any converted vehicles will be required to hold the appropriate low volume type approval certificate in the M classification or the enhanced single vehicle certificate together with the original M type approval.

### **18.2 Vehicle standards**

All vehicles must have full vehicle type approval. The authorised testing stations listed are all permitted to undertake vehicle checks on behalf of the Council. In addition, an officer of the Council may require an additional test to be undertaken or the applicant to be directed to a specific testing garage in all cases at the expense of the applicant/licence holder. The officer also retains the option to check any vehicle for standard of condition of appearance.

Only vehicles that comply with the requirements and conditions relating to private hire vehicles/hackney carriage vehicles or non-standard private hire vehicles will be licensed. The vehicle must remain in the condition as determined by those conditions throughout the licensed period. The Council shall refer to its enforcement policy when dealing with licensees who fail to comply with these conditions or relevant legislation.

### **18.3 Vehicle age policy**

At the time a vehicle is first licensed (including changes of vehicles if not to a currently licensed vehicle) the vehicle must normally be less than 7 years of age. The vehicle's age will be determined by the vehicle registration document. The age limit may be exceeded if the vehicle complies with all applicable standards. Once a vehicle reaches 12 years of age the licence will only be renewed if the vehicle has passed 3 compliance tests each year, at approximately 4 monthly intervals.

#### **Accessibility**

The Council recognises the need to promote the use of wheelchair accessible vehicles to ensure that all members of the community are able to benefit from the service that they provide. A 50% reduction in fee will therefore be provided to vehicles meeting the definition within the section of this policy - 'Requirements relating only to hackney carriage vehicles'. Whilst all newly issued hackney plates must be wheelchair accessible, private hire vehicle applications for these types of vehicle are also welcomed by the council.



## **18.4 Reducing air pollution**

The Council is committed to encouraging applications for more fuel efficient vehicles. Vehicle pollution has a significant impact to air quality in the district, and there is widespread agreement that more must be done to reduce the number of higher polluting vehicles. The Council will therefore offer a reduction of 50% on vehicle licence fees for any vehicle that falls within band A, B or C for road tax purposes as at the date of the application/renewal. The V5 document provided on application will be used in order to establish any discounted rates being given.

LPG vehicles also get a 50% reduction in fees for both private hire and hackney carriage vehicles. In cases of LPG converted vehicles, applicants are required to produce, at time of application, certification issued by a member of the LPG Association confirming satisfactory installation, examination and testing of the vehicle in accordance with LPG association code of practice. If an LPG conversion involves installation of a fuel tank in the boot space, adequate space must remain free for stowage of luggage and any spare wheel in a location that does not impinge on the passenger carrying area of the vehicle.

Drivers are also advised that vehicles should not be left to idle for sustained periods as this causes unnecessary pollution and increases their fuel costs.

## **18.5 Advertising**

Other than the Chiltern door stickers, no signs, notices, advertisements, marks, numbers, letters, figures, symbols, emblems or devices whatsoever shall be displayed on, in or from any licensed vehicle except as required by any statutory provision or with prior written approval of the Council. In relation to other advertising materials, any false, misleading or inaccurate material contrary to this policy and/or its conditions will result in the taking of enforcement action.

All advertising material must be approved in writing by the Council prior to use or display, an administration fee of £25 will be payable per batch of advertising.

With the exception of the Council's issued private hire stickers, any advertising material must not use the Council's logo.

## **18.6 Taximeter calibration**

The taximeter shall be calibrated, following a change to the table of fares or when requested by the Council. A certificate of calibration provided by the taximeter installer must be produced on first issue, transfer or when the seal is damaged or missing.

## 19. Policy on convictions and conduct - new applicants

### 19.1 Definitions

**“free of conviction”** shall mean from the date the applicant was convicted. If the incident did not amount to a criminal offence or is not to be prosecuted, then the relevant date will be the date of the incident.

**“offence”** shall mean any criminal offence and/or any other behaviour including a civil penalty which brings into question whether the applicant is a fit and proper person.

In this policy, conviction shall mean a criminal conviction or a civil penalty. However if the applicant is on trial, is not to be convicted or the incident did not amount to a criminal offence, the suggested periods free from convictions shall be considered by the Council when making their decision, taking all the evidence before them into account.

### 19.2 Each case is to be taken on its own merit.

Some discretion may be appropriate if the offence and/or behaviour is isolated and there are mitigating circumstances. Equally the history of offending (including multiple offences/combinations of offences /types of offences) and/or behaviour may warrant a longer period free from convictions.

Accordingly whilst it is possible that an applicant may have a number of convictions that, individually, meet the guidelines below, the overall offending history must be considered when assessing the applicant's suitability to be licensed.

A series of civil or criminal offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence is isolated and there are mitigating circumstances, but **the overriding consideration is the protection of the public.**

Simply remaining free of convictions will not necessarily be sufficient to show that a person is fit and proper where other circumstances/evidence bring this into question. Furthermore it should always be remembered that the periods free of conviction in this section are suggested minimums.

Whilst the time period detailed in this section provides guidance to potential applicants as to how long they should wait before applying for a licence following described offences/convictions, any application made following these guidelines is still subject to the same considerations as to whether the applicant is fit and proper, and therefore simply following the guided timescales in no way guarantees the granting of a licence.

Notwithstanding and without prejudice to any other provision within this document, ordinarily the Council would as a minimum expect the standard rehabilitation periods identified in the Rehabilitation of Offenders Act 1974 to have expired.

Criminal convictions or civil penalties will be considered by officers or, in cases of doubt, by the licensing sub-committee.

An application from any person awaiting trial for an offence which brings into question whether they are a fit and proper person (including but not limited to death by dangerous driving, drugs, violence, sexual offences, dishonesty, driving under the influence of alcohol or drugs, or offences of a habitual nature) will not normally be considered until the outcome of the trial.

In order for the Council to fully consider the case on its merits, the applicant should provide a written statement of the offences (including any that they are awaiting trial for), with evidence, covering the nine points in the paragraph below, which would be available for examination by the Council.

Where the Council becomes aware of issues including previous criminal history/convictions, any arrest, any charges, inappropriate behaviour for a hackney carriage/private hire driver and/or significant comments on any DBS check, consideration will be given to each applicant's suitability for licensing against the following criteria (in no particular order):

- nature of the offence/conduct/charge etc.
- circumstances in which the offence/conduct/charge etc. was committed
- circumstances of the individual concerned
- subsequent periods of good behaviour
- overall conviction/behaviour history
- sentence imposed by the court
- seriousness of the offence/conduct/charge etc
- any other character check considered reasonable (e.g. personal references)
- taking all the above issues into account, together with any other relevant issues, whether the protection of the public may be at risk.

These guidelines do not deal with every type of offence, and do not prevent the Council from taking into account offences not specifically addressed in the guidelines, or other conduct which may be relevant as to whether an individual is a fit and proper person to hold a hackney carriage or a private hire driver's licence.

### **19.3 Minor motoring offences**

Convictions for minor traffic offences such as speed limit offences, or non-endorsable traffic offences such as obstruction or waiting in a restricted street should not prevent a person from applying to be a hackney carriage or private hire driver. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or private hire licence may be granted 12 months after its restoration but a warning should be issued as to future conduct.

### **19.4 Traffic offences involving the loss of life**

A very serious view should be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life and applicants with the following offences will not normally be licensed.

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs

- Causing death by careless driving
- Causing death by driving for any other reason
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit)

### 19.5 Major traffic offences not involving the loss of life

A very serious view should also be taken of any applicant who has been convicted of a major traffic offence even if it has not involved the loss of life, as it raises questions as to the applicant's ability to protect the public.

Before an application is considered, an applicant should be free of conviction for 10 years and since the completion of the sentence, whichever is longer, for offences such as:

- Dangerous driving
- Reckless Driving
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit)

### 19.6 Other serious traffic offences

Other serious traffic offences include:

- Accident offences
- Driving without due care and attention
- Driving whilst using a mobile phone or mobile device
- Careless driving
- Construction and use offences
- Licence offences
- Traffic direction and sign offences
- Driving whilst disqualified
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit)

Insurance offences and alcohol/drug offences are dealt with under their own separate subsections below.

Theft/unauthorised taking of a vehicle are dealt with under the 'dishonesty' subsection below.

Any conviction for a serious traffic offence under 'other serious traffic offences' in this policy should normally merit refusal to issue a licence and no further application should be considered until a period of 7 years either free of conviction or since completion of the sentence, whichever is longer, has elapsed.

More than one conviction for a traffic offence within two years should merit refusal to issue a licence and no further application should be considered until a period of 5 years either free of convictions or since completion of the sentence, whichever is longer, has elapsed.

## **19.7 Drink driving/driving under the influence of drugs (including medication) or legal highs**

A serious view is taken of driving or being in charge of a vehicle whilst under the influence of drink or drugs or legal highs, as licensees are professional vocational drivers and drink/drug driving convictions raise serious concerns for the safety of the public. An isolated incident of drink driving or driving under the influence of legal drugs should not necessarily debar an application but strict warnings will be given as to future behaviour. However an exception to this is the use novel psychoactive substances (NPS – commonly referred to as legal highs) which will be treated in the same regards as illegal drugs below

At least 5 years should elapse, after the restoration of the EU full driving licence, before an applicant be considered for a private hire or hackney carriage drivers licence.

More than one conviction for these offences or any conviction for driving under the influence of illegal drugs should raise grave doubts as to the applicant's fitness to drive the public and therefore hold a licence.

If there is reason to suspect persistent alcohol and/or drugs use, misuse or dependency (e.g. two or more offences relating to alcohol or drugs, with or without a vehicle) a specialist medical examination and report should be required before an application is entertained to ensure that the applicant meets the DVLA Group 2 medical standards in relation to alcohol/drug misuse and dependency. If the applicant is found to be (or to previously have been) alcohol or drug dependent, a period of 5 years should elapse after treatment is complete before a further licence application is considered.

## **19.8 Drunkenness without a motor vehicle**

An isolated conviction for drunkenness need not debar a driver from obtaining a licence. However a number of convictions could indicate a medical problem necessitating a medical examination. In some cases a warning would be sufficient. If there is reason to suspect persistent alcohol use, misuse or dependency (e.g. two or more offences for drunkenness with or without a motor vehicle) a specialist medical examination and report may be required to ensure that the applicant meets the DVLA Group 2 medical standards in relation to alcohol misuse and dependency.

## **19.9 Illegal drugs without a motor vehicle**

A serious view is taken of any illegal drugs related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

An applicant would normally be expected to be free of convictions relating to the possession of illegal drugs for 5 years requiring at least 5 years to have passed since the completion of the sentence.

An application will normally be refused where the applicant has more than one conviction for offences related to the possession of illegal drugs and has not been free of conviction for 7 years with at least 7 years to have passed since the completion of the sentence.

An application will normally be refused where the applicant has a conviction for an offence related to the supply, importing or production of illegal drugs and has not been free of conviction for 10 years with at least 10 years to have passed since the completion of the sentence.

If there is reason to suspect persistent drugs use, misuse or dependency (e.g. two or more convictions relating to any drugs, with or without a vehicle) a specialist medical examination and report will normally be required before an application is entertained to ensure that the applicant meets the DVLA Group 2 medical standards in relation to drug misuse and dependency. If the applicant is found to be (or to previously have been) drug dependent, a period of 5 years should elapse after treatment is complete before a further licence application is considered.

### 19.10 Sex and indecency offences

As hackney carriage and private hire drivers often carry unaccompanied and vulnerable passengers. Applicants who have been convicted of sexual or indecency offences (or where there is other behaviour and/or evidence to suggest a disposition to commit such offences) must be closely scrutinised. Applicants with convictions for sexual offences will usually be refused.

In particular:

- (i) 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
- Sexual assault
- Indecent assault
- Possession of indecent photographs, child pornography etc.
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Indecent exposure
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit)
- Any sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Soliciting (e.g. kerb crawling)
- Importuning
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit)

If a licence is granted a strict warning as to future conduct should be issued.

A person on the sex offenders register would not be considered a fit and proper person to hold a licence.

### 19.11 Violence

As taxi and PHV drivers maintain close contact with the public, a firm line should be taken with drivers with offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved loss of life or serious injury.

At least 5 years free of conviction with at least 5 years to have passed since the completion of the sentence before an application is considered from anyone whose offending history and/or other behaviour/evidence suggests an aggressive or violent disposition, and even then a strict warning should be administered as to future conduct.

However given the range of offences that involve violence, consideration must be given to the nature

of the offences. In particular:

- (i) An application will normally be refused where the applicant has a conviction for an offence such as:
  - Murder
  - Manslaughter
  - Manslaughter or culpable homicide while driving
  - Terrorism offences
  - Kidnapping
  - Threats to kill
  - Wounding with intent to cause grievous bodily harm
  - Grievous bodily harm
  - Robbery
  - Burglary
  - Possession of a weapon
  - Any 'hate' crime or offence ordinarily falling within paragraph (iii) below aggravated by a 'hate' crime
  - Similar or replacement offences to those listed above (including attempted or conspiracy to commit)
- (ii) Before an application is granted, an applicant should be free of conviction for at least 7 years with at least 7 years to have passed since the completion of the sentence, whichever is longer, for offences including:
  - Assault occasioning Actual Bodily Harm
  - Assault with intent to resist arrest
  - Assault on Police
  - Domestic Violence related offences (unless these are covered by (i) above)
  - Harassment
  - Similar or replacement offences to those listed above (including attempted or conspiracy to commit)
- (iii) Before an application is granted, an applicant should be free of conviction for at least 5 years with at least 5 years to have passed since the completion of the sentence, for offences including:
  - Arson
  - Common assault
  - Public Order offences
  - Criminal Damage
  - Similar or replacement offences to those listed above (including attempted or conspiracy to commit)

An application will normally be refused if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

## 19.12 Dishonesty

Taxi and PHV drivers are expected to be persons of trust. They deal with cash transactions and valuable property may be left in their vehicle in error. Drivers are required to deposit such property with the police within 48 hours. The widespread practise of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is relatively easy for a dishonest driver to defraud the public by demanding more than their legal fare etc. This for example would include misuse of MPV additional occupancy rates. Licence holders also have access to the

names and addresses of their customers and their daily movements. Overseas visitors may not be familiar with the currency or costs of journeys and may be vulnerable to an unscrupulous driver. Accordingly a serious view should be taken of any conviction involving dishonesty. Nationally it has been known for drivers to pass information on vulnerable persons to others for later abuse or to abuse vulnerable persons, including taking money from such persons.

Offences involving dishonesty for the purposes of this policy include theft, fraud, benefit fraud, handling or receiving stolen goods, forgery, conspiracy to defraud, obtaining money or property by deception, other deception, taking a vehicle without consent, driving whilst disqualified and any similar offences (including attempted or conspiracy to commit).

An application will normally be refused if an applicant has been convicted of burglary or more than one conviction for other dishonesty offences in the last 10 years.

### **19.13 Insurance offences**

A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident would normally prevent a licence being granted until a period of three years from the date of the offence has expired. More than one conviction for these offences within the past ten years would normally prevent a licence from being granted.

### **19.14 Licensing offences**

This subsection applies to licensing offences not covered elsewhere within this convictions and behaviour section of the policy such as plying for hire, using an unlicensed vehicle/driver.

At least 12 months free of conviction should elapse before an application will be considered. Unless there is significant mitigation, an applicant will normally be refused until a period of at least three years free of conviction has expired where the applicant has committed more than one licensing offence within the last five years.

An applicant with an isolated conviction that is more than one year old, may be licensed subject to a written warning.

Individuals previously licensed by the Council and revoked for offences connected to their licence will not normally be granted a further licence in the future. Cases such as this will be considered by the Head of Service under their delegated authority, or may be referred to a sub-committee for determination.

### **19.15 Cautions**

An admission of guilt is required before a caution can be issued. Accordingly cautions will be assessed in the same way as a conviction by the court.

### **19.16 Non-conviction information**

If an applicant has, on more than one occasion, been arrested or charged, but not convicted for an offence or is subject to an antisocial behaviour injunction/order or similar order, which suggests he/she may not be a fit and proper person, or if there is other evidence to suggest the applicant may not be a fit and proper person, consideration should be given to refusing the application.



Failing to declare convictions on the application form should normally result in refusal and at least twelve months elapsing from the date of receipt of the application form before an application will be considered and a new application will be required.

As with the rest of this part of the policy, in assessing the action to take, the safety and security of the travelling public must be the paramount concern.

### 19.17 Suspension/refusal/revocation by another Council

An applicant who has been suspended/refused/revoked by another Council may not be considered "fit and proper" for a period of at least 3 years from the date of the suspension/refusal/revocation. This period may be extended depending on the circumstances of the revocation.

The Council shall also have a right to make enquiries of that other authority.

## 20. Policy on convictions and conduct for existing licensees

### 20.1 Definitions

**'Free of conviction'** shall mean from the date the applicant was convicted. If the incident did not amount to a criminal offence or is not to be prosecuted, then the relevant date will be the date of the incident.

**'Caution'** an admission of guilt is required before a caution can be issued. Accordingly cautions will be assessed in the same way as a conviction by the court.

**'Offence'** shall mean any criminal or civil offence and/or any other behaviour including a civil penalty which brings into question whether the applicant is a fit and proper person.

In this policy, conviction shall mean a criminal or civil penalty. However if the applicant is on trial, is not to be convicted or the incident did not amount to a criminal offence, the suggested periods free from convictions shall be considered by the Council when making their decision, taking all the evidence before them into account.

### 20.2 Time of action

Licence holders are required to advise the Council when they are notified that they are being investigated for **any offence** so that the Council can consider the appropriate action to take against the licensee as detailed below.

The actions described below will be taken when the Council becomes aware of offences.

However, where licensees do not inform the Council in a timely manner, this will be a further consideration with regards to the effect that those offences have on the licensee's status as a fit and proper person.

If offences come to light on the standard renewal of criminal record check, or through a third party this will have a significant impact on the consideration of whether the person remains fit and proper to hold a licence. Licence holders may be revoked or suspended from holding a licence.

### 20.3 Policy details

Each case is to be taken on its own merit.

Any person awaiting trial for or suspected of committing an offence which brings into question whether they are a fit and proper person (including but not limited to death by dangerous driving, drugs, violence, sexual offences, dishonesty, driving under the influence of alcohol or drugs, or offences of a habitual nature) will normally be revoked pending the outcome of an investigation or trial.

Although each case will be assessed on its own merits in line with this policy, licence holders should expect the revocation of their licence for these types of offences to be immediate in nature. The initial consideration regarding revocation will be undertaken by officers. However, in cases of doubt these will be referred to the licensing sub-committee.

When considering whether a licence should be suspended or revoked, some discretion may be appropriate if the offence and/or behaviour is isolated and there are mitigating circumstances. Equally the history of offending (including multiple offences/combinations of offences/types of offences) and/or behaviour may warrant a longer period free from convictions. Accordingly the overall offending history must be considered when assessing the applicant's suitability to be licensed.

Therefore any licence holder awaiting trial for or suspected of committing an offence or demonstrating behaviour which, taken together with the licence holder's history of offending (including multiple offences /combinations of offences /types of offences) and behaviour (including before the licence was granted and during the course of the licence), leads the Council to believe that the licence holder is not a fit and proper person to hold a licence, may have their licence suspended or revoked.

Whilst it is possible that a licence holder may have a number of previous convictions that, individually, meet the guidelines below, the overall offending history must be considered when assessing the licence holder's suitability to continue to be licensed. A series of offences/behaviour over a period of time is more likely to give cause for concern than an isolated minor conviction/demonstration of unacceptable behaviour. Obviously some discretion can be afforded if an offence is isolated and there are mitigating circumstances, but **the overriding consideration is the protection of the public.**

In order for the Council to fully consider a case on its merits, the licence holder should provide a written statement of the offences, with evidence, covering the nine points in the paragraph below, which would be available for examination by the Council.

Where the Council becomes aware of issues including previous criminal history/convictions, any arrest, any charges, inappropriate behaviour for a hackney carriage/PHV driver and/or significant comments on any DBS check, consideration will be given to each licence holder's suitability for licensing against the following criteria (in no particular order):

- nature of the offence/conduct/charge etc.
- circumstances in which the offence/conduct/charge etc. was committed
- timely notification to the Council of offence/conduct/charge
- circumstances of the individual concerned
- subsequent periods of good behaviour
- overall conviction/behaviour history
- sentence imposed by the court
- seriousness of the offence/conduct/charge etc.
- any other character check considered reasonable (e.g. personal references)
- taking all the above issues into account, together with any other relevant issues, whether the protection of the public may be at risk

These guidelines do not deal with every type of offence, and do not prevent the Council from taking into account offences not specifically addressed in the guidelines, or other conduct which may be relevant as to whether an individual is a fit and proper person to continue to hold a hackney carriage or a private hire driver's licence.

Any written warning as to future conduct could result in the licensed driver being required to pay an administration fee.

## **20.4 Minor motoring offences**

Convictions for minor traffic offences, such as speed limit offences, or non-endorsable traffic offences such as obstruction or waiting in a restricted street should not prevent a person from continuing with his/her licence. If sufficient points have been accrued to require a period of disqualification of the licence holder's EU full driving licence then a hackney carriage or private hire licence may be granted after its restoration but a warning should be issued as to future conduct.

Further disqualification from driving as a result of penalty points being accrued may result in refusal to issue a licence

## **20.5 Traffic offences involving the loss of life**

A very serious view should be taken of any licence holder who has been charged or convicted of a driving offence that resulted in the loss of life.

Accordingly the licence would ordinarily be revoked with immediate effect when suspected of offences such as:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by careless driving
- Causing death by driving for any other reason
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit)

## **20.6 Major traffic offences not involving the loss of life**

A very serious view should also be taken of any licensee who has been convicted of a major traffic offence even if it has not involved the loss of life, as it raises questions as to the licence holder's ability to protect the public.

Accordingly where a driver is charged/convicted with a major traffic offence not involving the loss of life such as:

- Dangerous driving
- Reckless Driving
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit)

The Council should consider the circumstances surrounding the incident and decide whether the licence should be suspended or revoked.

## **20.7 Other serious traffic offences**

Other serious traffic offences include:

- Accident offences
- Driving without due care and attention
- Driving whilst using a mobile phone or mobile device
- Careless driving
- Construction and use offences
- Licence offences
- Traffic direction and sign offences
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit)

Insurance offences and alcohol/drug offences are dealt with under their own separate subsections below.

Theft or unauthorised taking of a vehicle are dealt with under the 'dishonesty' subsection below.

A conviction for a serious traffic offence should normally merit revocation of the taxi or PHV drivers licence and no new application should be considered until a period of 3 years free of conviction or since completion of the sentence, whichever is longer, has elapsed.

A warning as to future driving and advice on the standard expected of hackney carriage and private hire drivers would also normally be given. The written warning as to future conduct could require the licensed driver to pay an administration fee and require that the driver attends a defensive driving course

More than one conviction for a serious traffic offence within two years should merit revocation of the hackney carriage or private hire drivers licence.

## **20.8 Drink driving/driving under the influence of drugs (including medication)**

A licensed driver awaiting trial for driving or being in charge of a vehicle whilst under the influence of drink or drugs should be revoked with immediate effect pending the outcome of the trial. If the licence holder is not convicted, a new licence application can be made and where the application is successful the licence will be issued in an expedited manner following the Council's expedition policy.

A serious view is taken of driving or being in charge of a vehicle whilst under the influence of drink or drugs, as licence holders are professional vocational drivers and drink/drug driving convictions raise serious concerns for the safety of the public.

Any conviction for these offences or any conviction for driving under the influence of illegal drugs (including convictions prior to the grant of the licence) should raise grave doubts as to the licence holder's fitness to drive the public and therefore hold a licence.

## **20.9 Drunkenness without a motor vehicle**

An isolated conviction for drunkenness need not debar a driver from retaining his/her licence. However a number of convictions could indicate a medical problem necessitating a medical examination. In some cases a warning would be sufficient. If there is reason to suspect persistent alcohol use, misuse or dependency (e.g. two or more offences for drunkenness with or without a motor vehicle) a specialist medical examination and report may be required to ensure that the licence holder meets the DVLA Group 2 medical standards in relation to alcohol misuse and dependency.

## **20.10 Illegal Drugs without a motor vehicle**

A licensed driver awaiting trial for an illegal drug related offence should be revoked pending the outcome of that trial. If the licence holder is not convicted, a new licence application can be made and where the application is successful the licence will be issued in an expedited manner following the Council's expedition policy.

A serious view is taken of any illegal drugs related offence. Licence holders are professional vocational drivers and any association with illegal drugs raises serious concerns as to whether they are a fit and proper person to be a licensed driver.

If there is reason to suspect persistent drugs use, misuse or dependency (e.g. two or more convictions relating to any drugs, with or without a vehicle) a specialist medical examination and report will normally be required before an application is entertained to ensure that the applicant meets the DVLA Group 2 medical standards in relation to drug misuse and dependency. If the applicant is found to be (or to previously have been) drug dependent, a period of 5 years should elapse after treatment is complete before a further licence application is considered.

## 20.11 Sex and indecency offences

Hackney carriage or private hire vehicle drivers often carry unaccompanied and vulnerable passengers; a licensed driver awaiting trial for a sexual or indecency offence (or where there is other behaviour and/or evidence to suggest a disposition to commit such offences) will be revoked with immediate effect pending the outcome of that trial. If the individual is not convicted, a new licence application can be made and where the applicant is considered to be fit and proper, the licence will be issued in an expedited manner following the Council's expedition policy.

A person entered onto the sex offenders register would not be considered a fit and proper person to continue to hold a licence.

Sex and Indecency Offences are detailed as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Possession of indecent photographs, child pornography etc.
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Indecent exposure
- Soliciting (e.g. kerb crawling)
- Importuning
  
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit)

## 20.12 Violence

Taxi and PHV drivers maintain close contact with the public, a firm line should be taken with drivers accused of offences involving violence. A licensed driver awaiting trial for an offence related to violence will be revoked with immediate effect pending the outcome of that trial. If the individual is not convicted, a new licence application can be made and where the applicant is considered to be fit and proper, the licence will be issued in an expedited manner following the Council's expedition policy.

A licence may also be suspended and/or revoked if the licensed driver has exhibited behaviour or evidence suggests that they are of an aggressive or violent disposition.

However given the range of offences that involve violence, consideration must be given to the nature of the offence. In particular:

- (i) A licence will normally be revoked with little chance of a future licence being granted where the licence holder is convicted for an offence such as:
  - Murder
  - Manslaughter
  - Manslaughter or culpable homicide while driving
  - Terrorism offences
  - Similar or replacement offences to those listed above (including attempted or conspiracy to commit)
- (ii) A licence will normally be revoked where the licence holder is convicted for an offence such as:
  - Arson
  - Kidnapping
  - Threats to kill
  - Wounding with intent to cause grievous bodily harm
  - Grievous bodily harm
  - Domestic Violence related offences (unless these are covered by (i) above)
  - Robbery
  - Burglary
  - Possession of a weapon
  - Any 'hate' crime or offence ordinarily falling within paragraph (iii) below aggravated by a 'hate' crime
  - Similar or replacement offences to those listed above (including attempted or conspiracy to commit)
- (iii) The relevant officer will consider whether revocation is appropriate for the following offences
  - Common assault
  - Assault occasioning Actual Bodily Harm
  - Assault with intent to resist arrest
  - Assault on Police
  - Public Order offences
  - Criminal Damage
  - Harassment
  - Similar or replacement offences to those listed above (including attempted or conspiracy to commit)

A licence will normally be revoked if a licence holder is convicted of more than one offence of this nature within 10 years.

### **20.13 Dishonesty**

Hackney carriage and private hire drivers are expected to be persons of trust. They deal with cash transactions and valuable property may be left in their vehicle in error. Drivers are required to deposit such property with the police within 48 hours. The widespread practise of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is relatively easy for a dishonest driver to defraud the public by demanding more than their legal fare etc. This for example would include misuse of MPV additional occupancy rates. Licence holders also have access to the names and addresses of their customers and their daily movements. Overseas visitors may not be familiar with the currency or costs of journeys and may be vulnerable to an unscrupulous driver.

Accordingly a licensed driver awaiting trial for a dishonesty offence will be revoked pending the outcome of that trial. If the individual is not convicted, a new licence application can be made and where the applicant is considered to be fit and proper, the licence will be issued in an expedited manner following the Council's expedition policy.

Offences involving dishonesty for the purposes of this policy include theft, burglary, fraud, benefit fraud, handling or receiving stolen goods, forgery, conspiracy to defraud, obtaining money or property by deception, other deception, taking a vehicle without consent, driving whilst disqualified and any similar offences (including attempted or conspiracy to commit).

A licence will normally be revoked if a licence holder is convicted more than once in the 10 years for an offence of dishonesty (including prior to obtaining their licence).

### **20.14 Insurance offences**

A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An incident would normally result in a licence being revoked with a further application not being considered until a period of three years from the date of the offence has expired. A further application will not normally be considered if a licence holder has more than one conviction in the last 10 years for an offence of dishonesty (including prior to obtaining their licence).

### **20.15 Licensing offences**

This subsection applies to licensing offences not covered elsewhere within this criminal convictions and behaviour section of the policy such as plying for hire, using an unlicensed vehicle/driver, refusing to carry disabled persons. It also applies to non-compliance with this Policy, including not complying with the conditions of the licence.

Consideration will be given as to whether the licensing offence/non-compliance should result in the suspension or revocation of the licence. Consideration will be given to the seriousness of the offences/non-compliance as well as to the previous history of compliance.

### **20.16 Non-conviction information**

If a licence holder has, on more than one occasion (including prior to the application being granted), been arrested or charged, but not convicted for an offence or is subject to a Criminal Behaviour

Injunction/Order or similar order which suggests he/she may not be a fit and proper person, or if there is other evidence to suggest the applicant may not be a fit and proper person, consideration will be given to revoking or suspending the licence or issuing a warning as to future conduct.

As with the rest of this part of the policy, in assessing the action to take, the safety and security of the travelling public must be the paramount concern.

## **20.17 Suspension, refusal, revocation by another Council**

If an existing driver is suspended, refused, revoked by another Council, enforcement action may be taken against them, depending on the reason for the action already taken.

The Council shall also have a right to make enquiries of that other authority.

## **21. Expedition policy for revoked licences where reinstating a licensee is considered appropriate**

### **21.1 General**

The Highcourt ruling of **R (application of Singh) v Cardiff City Council [2012] EWCH 1852 (Admin)** has established that it is unlawful to suspend and then revoke a driver for a single offence. Therefore it is necessary to revoke driver immediately if the Council becomes aware of information which gives serious concerns about a driver.

This policy is to assist in the timely replacement of a driver's licence, when it has been revoked but following investigation it has established that the Council does not have any remaining concerns with regards to the fit and proper nature of the person.

A relevant officer of the Council will decide if an applicant falls in to this part of the policy and the applicant will be advised if this is the case.

The investigation of the Council with regards to establishing whether an individual is fit and proper will take into account any available information, but is not reliant on other authorities' investigations into any connected allegations, although information will always be requested from other agencies when they are known to be involved.

As the Council is required to consider each case on balance of probability, a police investigation which results in an individual not being convicted may not in itself be considered to be sufficient for the Council to issue a new licence to the individual as Police investigations are determined at a higher level of proof i.e. beyond reasonable doubt. In addition to this, a police investigation may uncover breaches of this policy committed by a driver and the Council would need to take these into account.

### **21.2 Process**

If the Council makes a decision to issue a new licence to a driver whose licence was previously revoked, a new application will be required from the individual but some existing documents which are 'in date' in terms of the Hackney carriage and private hire policy will normally be transferred to the new application.



Depending on the circumstances surrounding the revocation, some updated documents may be required and these will be determined on a case by case basis. For example, if a driver's health leads to their licence being revoked and their health subsequently improves so that they may be considered fit to be a licensed driver, a new medical would be required. The same would be the case for an individual who is subject to a police investigation, where their criminal history would be checked using the DBS update service; if the applicant is no longer signed up to this service, a new DBS would be required as part of their application (and they would need to re-register for the update service).

When a decision is made to issue a new licence, this will usually be processed within 5 working days of all required documentation being received.

### **21.3 Fees**

The new licence will usually be issued for the period that the revoked licence had left to run and no further charge will be levied, with the exception of any connected costs such as for new documentation which will remain the applicant's responsibility.

## **22. Guidelines for CCTV systems in hackney carriage & private hire vehicles**

### **22.1 Introduction**

These guidelines set out to ensure that CCTV systems installed in hackney carriages and private hire vehicles licensed by the Council are properly managed whilst being used to prevent and detect crime; and enhance the health, safety and security of both drivers and passengers.

The decision whether to install CCTV in a licensed vehicle is at the discretion of the vehicle licence holder and vehicle owner (if these are different), all costs would need to be met by these individuals as the Council will not provide funding or assist in finding funding.

Vehicle owners, who may also be the driver and/or operator, installing CCTV systems must fully comply with the requirements set out in these guidelines.

For the purposes of these guidelines the term "CCTV system" will include any electronic recording device attached to the inside of vehicle having the technical capability of capturing and retaining visual images and audio recording from inside or external to the vehicle. In addition to the standard CCTV camera system these may include for example, such devices as events/incident/accident data recording devices.

### **22.2 The purpose of CCTV**

The purpose of the CCTV system shall be to provide a safer environment for the benefit of the driver and passengers by:

- Deterring and preventing the occurrence of crime
- Reducing the fear of crime
- Assisting the Police in investigating incidents of crime
- Assisting insurance companies in investigating motor vehicle accidents

### **22.3 General requirements**

Any CCTV system to be fitted must, as a minimum, meet the requirements set out in this document. Only CCTV systems meeting these requirements and approved by the Council can be installed into licensed vehicles.

CCTV systems installed will be inspected as part of the annual licensing inspection to ensure they do not pose a risk to the safety of the passengers or the driver and are fitted safely and securely.

The installation and operation of CCTV must comply with the requirements of the Information Commissioner's CCTV Code of Practice.

All equipment must comply with any legislative requirements in respect of Motor Vehicle Construction and Use Regulations 1986. CCTV installed must also meet any other relevant legislation, including any new legislation which may be introduced following the installation of such systems.

All equipment must meet all requirements as regards safety, technical acceptability and operational/data integrity.

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 a collision or danger from the electrical integrity being breached through vandalism, misuse, or wear and tear.

### **22.4 Automotive Electromagnetic Compatibility Requirements (EMC)**

CCTV equipment must not interfere with any other safety, control, electrical, computer, navigation, satellite, or radio system in the vehicle.

Any electrical equipment such as an in-vehicle CCTV system fitted after the vehicle has been manufactured and registered, is deemed to be an Electronic Sub Assembly (ESA) under the European Community Automotive Electromagnetic Compatibility Directive and therefore must meet with requirements specified in that Directive.

CCTV equipment should be e-marked or CE-marked. If CE marked confirmation by the equipment manufacturer as being non-immunity related and suitable for use in motor vehicles is required.

### **22.5 Camera design requirements**

The camera(s) must be fitted safely and securely, should not adversely encroach into the passenger area and must not impact on the safety of the driver, passenger or other road users.

### **22.6 Installation**

All equipment must be installed as prescribed by the equipment and/or vehicle manufacturer installation instructions.

The installed CCTV system must not weaken the structure or any component part of the vehicle or interfere with the integrity of the manufacturer's original equipment.

All equipment must be installed in such a manner so as not to increase the risk of injury and/or discomfort to the driver and/or passengers. For example, temporary fixing methods such as suction

cups will not be permitted, or lighting, such as infra-red, which emits at such a level that may cause distraction or nuisance to the driver and/or passengers.

All equipment must be protected from the elements, secure from tampering and located such as to have the minimum intrusion into any passenger or driver area or impact on the luggage carrying capacity of the vehicle.

It is contrary to the Motor Vehicle (Construction and Use) Regulations, 1986, for equipment to obscure the view of the road through the windscreen.

Equipment must not obscure or interfere with the operation of any of the vehicle's standard and/or mandatory equipment, i.e. not mounted on or adjacent to air bags/air curtains or within proximity of other supplementary safety systems which may cause degradation in performance or functionality of such safety systems.

Viewing screens within the vehicle for the purposes of viewing captured images are not permitted.

All wiring must be fused as set out in the manufacturer's technical specification and be appropriately routed.

If more than one camera is being installed their location within the vehicle must be specific for purpose i.e. to provide a safer environment for the benefit of the Taxi/ PHV driver and passengers.

All equipment must be checked regularly and maintained to operational standards, including any repairs after damage.

All system components requiring calibration in situ should be easily accessible.

## **22.7 Camera Activation Methods**

Activation of the equipment may be via a number and combination of options,

including:

- door switches
- time delay
- drivers' panic button
- or, in the case of an incident/event recorder, predetermined G-Force parameters set on one or more axis (i.e. braking, acceleration, lateral forces)

The CCTV system may be configured to record images for a short period of time before the trigger event, during the related incident and a short period following the related incident.

A direct wired link to the vehicle's taximeter, in the case of a Taxi, will not be acceptable.

## **22.8 Audio Recording**

CCTV systems must 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. You must choose a system without this facility wherever possible; however, if the system comes equipped with sound recording facility then this functionality should be disabled.

There are limited circumstances in which audio recording may be justified due to a specific threat to an individual's personal safety, e.g. when a 'panic button' is utilised in response to a threat of physical violence. Where this audio recording facility is utilised a reset function must be installed which automatically disables audio recording and returns the system to normal default operation after a specified time period has elapsed. The time period that audio recording may be active should be the minimum possible and should be declared at the time of submission for approval of the equipment.

In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out.

## **22.9 Image Security**

Images captured must remain secure at all times.

The captured images must be protected using approved encryption software which is designed to guard against the compromise of the stored data, for example, in the event of the vehicle or equipment being stolen. The Information Commissioner's Office has published guidance on how to keep personal data (including personal data contained in CCTV images) secure, on their website.

## **22.10 Retention of CCTV images**

The CCTV equipment selected for installation must have the capability of retaining images either:

- within its own secure, encrypted hard drive;
- using a fully secured and appropriately encrypted detachable mass storage device, for example, a compact flash solid state card;
- or where a service provider is providing storage facilities, transferred in real time using fully secured and appropriately encrypted GPRS (GSM telephone) signalling to a secure server within the service provider's monitoring centre.

Images must not be downloaded onto any kind of portable media device (e.g. CDs or memory sticks) for the purpose of general storage outside the vehicle.

CCTV equipment selected for installation must include an automatic overwriting function, so that images are only retained within the installed system storage device for a maximum period of 28 days from the date of capture. Where a service provider is used to store images on a secure server, the specified retention period must also only be for a maximum period of 28 days from the date of capture.

Where applicable, these provisions shall also apply to audio recordings.

## **22.11 Notification to the Information Commissioner's Office**

The Information Commissioner's Office (ICO) is the official regulatory body responsible for enforcing compliance with privacy and data protection legislation.

The law defines a "data controller" as the individual or organisation which has ultimate responsibility for how personal data is collected and processed. For the purpose of the installation and operation of

in-vehicle CCTV, the “data controller” is the company, organisation or individual which has decided to have a CCTV system installed and operating within the vehicle. The data controller is ultimately responsible for how the images are stored and used and determines in what circumstances the images should be disclosed.

‘Notification’ is the process by which a data controller informs the ICO of certain details about their processing of personal information. These details are used to make an entry in the public register of data controllers.

This means that any company, organisation or individual vehicle owner who has a CCTV system installed within a licensed vehicle must register with the ICO and obtain documented evidence of that registration. This documentary evidence may have to be presented to the Council at any time during the term of the vehicle licence.

The notification requires renewal on an annual basis, and payment of the appropriate fee specified on the ICO’s website.

## **22.12 Using a third party service provider (data processor)**

Where a service provider is used for the remote storage and/or management of CCTV data they will act as a ‘data processor’.

A data processor, in relation to personal data, means any person (other than an employee of the data controller) who processes data on behalf of the data controller, in response to specific instructions. The data controller retains full responsibility for the actions of the data processor.

There must be a formal written contract between the data controller and data processor (service provider). The contract must contain provisions covering security arrangements, retention/deletion instructions, access requests and termination arrangements.

Documentary evidence of the contractual arrangements may be required to be presented to a the Council official at any time during the term of the vehicle licence.

## **22.13 Using recorded CCTV images**

The data controller is responsible for complying with all relevant data protection legislation, as well as being legally responsible for the use of all images including any breaches of privacy and data protection legislation.

Any images and/or audio recordings should only be used for the purposes described earlier in these guidelines

Requests to view captured images may be submitted to the data controller by the Police or other statutory law enforcement agencies; the Council; insurance companies/brokers/loss adjusters; or in exceptional circumstances, other appropriate bodies. The data controller is responsible for responding to these requests in accordance with the law. Police or other law enforcement agencies should produce a standard template request form, setting out the reasons why the disclosure is required. Alternatively a signed statement may be accepted.

All requests should only be accepted where they are in writing, and specify the reasons why disclosure is required.

Under the DPA, members of the public may also make a request for the disclosure of images, but only where they have been the 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 proof of identity (which may include a photograph to confirm 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). More guidance on handling subject access requests can be found in the ICO's Subject Access Request Code of Practice, which is available on their website.

## 22.14 Signage

All vehicles fitted with a CCTV system must display the sign shown below in a prominent position. The driver may also verbally bring to the attention of the passengers that CCTV equipment is in operation within the vehicle, if it is felt necessary or appropriate.

The signage must be displayed in such positions so as to minimise obstruction of vision and to make it as visible as possible to passengers, before and after entering the vehicle.



The name and contact details of the Data Controller must be provided in the blank space included on the sign template. The contact details can be in the form of either a telephone number, email address or website URL.

## 22.15 Signage for external facing CCTV systems

Where a CCTV system is installed in order to record incidents outside the vehicle, it will not be practical to display a sign. Instead, when the CCTV is activated in response to an incident, the driver of the vehicle must inform the person(s) recorded that their personal data was captured - as soon as practicable after the incident. They should also be informed the purpose for which the device has been installed, for example to facilitate their insurance company's investigation of insurance claims.

## 22.16 Annual Certification from installer

Any CCTV system should be checked annually by the installer and evidence of this must be provided to the Council. Where an installation company ceases to exist a similar installation company should be used

## 22.17 CCTV Checklist

To assist individual drivers, owners, and operators who are considering the installation of a CCTV system, the Council has produced the summary checklist below to help ensure that all of the relevant approval requirements/standards are complied with.

Please tick

- ☐ Notification submitted to the Information Commissioner's Office (ICO). [www.ico.org.uk](http://www.ico.org.uk)
- ☐ Has the ICO provided you with documentation to evidence your notification as the "data controller" associated with your system?
- ☐ Do you have documentary evidence regarding contractual arrangements with any data processor or service provider associated with the operation or management of the CCTV system? (where applicable)
- ☐ Have you displayed the required signage, including the relevant contact details?
- ☐ Does the CCTV system meet the installation standards as set out in this policy?

## 23. Licensing enforcement

### 23.1 General

The Council issues hackney carriage and private hire driver and vehicle licences to ensure passenger safety.

The DfT guidance is clear on the necessity of enforcement to maintain high standards of public safety. All enforcement schemes need to be proportionate and transparent.

Any enforcement system needs to deal with persistent, low level breaches up to serious, possibly, criminal behaviour. There needs to be a grade of sanctions from informal warnings through to suspension and revocation of licence. It is clear that the majority of enforcement will be for relatively minor offences or breaches and will be undertaken by the licensing officer.

### 23.2 Enforcement options

There are a number of options that shall be considered following the identification of an activity for which the necessary licence, notice or registration has not been applied for or the Licensee

has not complied with the conditions of a licence, notice or consent issued by the Council or byelaw made by the Council, or this policy or other legislation has been contravened. One or more of the following may be deemed appropriate:

- Verbal advice
- Inspection
- Issue of points via monitoring of contraventions system
- Suspension
- Revocation
- Refusal of future licence application or restriction of such licence by imposition of conditions
- Formal Caution
- Prosecution

There is a long standing relationship between the licensing team and the trade. This is based on the application of consistent standards for all parties.

### **23.3 Enforcement Policy**

The authority will have regard to the Police and Criminal Evidence Act Codes of Practice

### **23.4 Verbal advice**

To be followed where the vehicle or driver standards are found to be reasonably satisfactory but wanting in some minor respect.

### **23.5 Inspection**

Inspections will normally be of vehicles or documents/records. In most cases appointments will be made with adequate notice and at reasonable hours unless this would defeat the object of the inspection. Licensees will comply with officer requests to view documents or records and must attend appointments for inspections.

### **23.6 Penalty points scheme**

Any licensed person who has in the opinion of the licensing officer committed an infringement of the law or licence conditions will be served with a notice as follows:-



<b>Contraventions</b>	<b>Points</b>	<b>x</b>	<b>Contraventions</b>	<b>Points</b>	<b>x</b>
No first aid kit	3		Driver / vehicle cleanliness	2	
No fire extinguisher	3		Private hire parked on taxi rank	4	
Failure to display badge	3		Unattended vehicle on taxi rank	4	
Failure to display door stickers when required/ plate/internal plate	3		Obstructing the Licensing Team/Enforcement officer.	6	
Failure to notify change of details /convictions/FPN/fines and fine alternatives such as driving courses undertaken as a licence requirement – vehicle/driver/operator	3		Failure to produce documents on demand to the licensing enforcement officer	3	
Failure to report an accident to the licensing team	3		Other licence requirements/breaches of legislation:-	Dependant on case	
Failure to report a complaint - Driver/operator	3		Carrying too many passengers	6	
Horn misuse	2		Refusal to carry guide dogs, hearing dogs, or service dogs (unless exempt)	6	
Private hire plying for hire	6		Smoking in vehicle	6	
Defective tyres (per tyre)	4		Overcharging	6	
Using unapproved advertising on/in vehicle	2		Use of handheld phone or radio whilst driving(unless exempt)	3	
No smoke free signage	2				

Plate No: ..... Drivers name: ..... Drivers badge No: .....

Vehicle registration: ..... has been inspected as indicated above. The contravention(s) above mean(s) that you have acquired ..... points.

The vehicle must not be used until the contravention(s) above have been rectified and the vehicle is presented to the Council Offices by ...../...../..... \*

Failure to comply with this notice could lead to the revocation or suspension of your licences and does not rule out further proceedings when this matter is considered along with driver/vehicle history.\*

**Date:** ..... **Signed:** .....

\*Delete where appropriate

**23.7** The Council operates a system whereby infringements of the law or licence conditions by a licence holder can be recorded and given a value dependent upon the nature of the infringement. This scheme reduces possible subjectivity from the enforcement process. Any

licensee who, in the opinion of an authorised officer, has committed an infringement will be issued with a contraventions notice form.

- 23.8** This is a points based monitoring system where-by licensees receive a certain number of points against their hackney carriage or private hire licence for specific offences, similar to the way in which points are issued against a DVLA licence for motoring offences. If a driver reaches 12 points within a 12 month period, the licence will be referred to Head of Healthy Communities or the Licensing Sub-Committee for consideration. The decision maker will receive a report from officers and invite written representations from the licence holder. This system allows the Licensing department to become aware of patterns or problems. The penalty point scheme enables Members to give weight to patterns or problems when issues come before a sub-committee.
- 23.9** The monitoring of contraventions system is only in place for breaches of conditions that the Council witnesses and/or investigates. If, for example, the Police deal with an issue by way of issuing a penalty notice or awarding penalty points/fine, the Council would not then issue points as well.
- 23.10** If the licence holder believes that points have been issued in error, or that there are mitigating circumstances not taken into account by the officer, there is a right of appeal to the Head of Healthy Communities, Chiltern District Council c/o King George V House, King George V Road, Amersham, HP6 5AW within 14 days of receiving the notice containing the points. The licence holder will receive notification of the decision of the appeal within 30 days of receipt of the notice of appeal.
- 23.11** The issue of points does not prevent the licensing section from taking any other or additional action, including prosecution where this is felt to be appropriate. For the avoidance of doubt, any breach of legislation, conditions, or offences not contained within the table will be dealt with in line with the hackney carriage and private hire policy.

### **23.12 Allocation of penalty points**

The penalty point scheme assists the trade in maintaining its high standards and will act as a first step in assuring compliance with the licence conditions.

### **23.13 Points for Unattended vehicles**

A vehicle will be considered to be unattended if it is considered that the driver would not be available to be hired when a customer approached. Therefore, points would not be issued simply because the driver was standing outside of the vehicle, but would be likely to be issued if the driver is not close enough to the vehicle to acknowledge the customer when they approach. Taxi ranks are provided for drivers to show that they are available for hire, and are not a parking provision for licensed vehicles.

### **23.14 Contraventions that will be dealt with outside of the penalty points scheme**

The following licence contraventions are considered to be very serious and therefore a single shall offence lead to consideration of whether a licence holder should be suspended or revoked:

- Unlicensed vehicle by a licensed driver
- Unlicensed driver using a licensed vehicle
- Failure to display hackney carriage or private hire plate on licensed vehicle
- Driving with no valid Insurance
- Driving with no valid compliance/MOT
- Contravention of suspension notice

Whilst a defective tyre will normally lead to 4 points being issued, the Council will consider the severity of the defect and this could lead to a higher number of points being issued and potentially suspension or revocation of the driver's licence.

### **23.15 Suspension of licences**

A suspension notice can be issued giving 21 days' notice before the suspension takes effect or can be with immediate effect in the interest of public safety.

Whilst each case will be taken on its own merit, generally; -

A suspension notice will normally be served in the following cases

- If there is a history of non-compliance with the licence conditions or legislation and/or where 12 points have been issued as detailed above in a twelve month period.
- If there is a significant contravention in terms of risk to members of the public due to non-compliance.
- If the person is not otherwise currently considered to be a fit and proper person to be a licensed driver.
- Any other serious matter

The policy on criminal records and behaviour will be used to assess whether a suspension should be given and if so whether it should be with immediate effect.

Also, the Crown Prosecution Service or police may be asked to apply for bail conditions, which require any/all licences affected by this policy to be revoked by the court.

Where a licence is refused, revoked, suspended or not renewed the licence holder must be provided within 14 days of the decision being made, notice of the grounds on which the action was taken.

### **23.16 Revocation of licences**

In the case of a driver or operator licence, the test will be whether the driver/operator is a fit and proper person (assessed in accordance with this policy, current legislation, case law and guidance). If they are not, on the balance of probabilities, then the licence will be revoked.

The decision to revoke a licence will not be taken lightly. The Head of Healthy Communities has delegated authority to revoke licences if appropriate or can refer the licence to a Licensing Sub Committee if appropriate.

Voluntary offers to surrender a licence will be accepted if made in writing and the licence plate/disc/badge returned.

### **23.17 Notification of decisions**

Any notice required to be served by the Council under this licence or under any of the provisions of the Local Government (Miscellaneous Provisions) Act 1976 shall be deemed to have been properly served if sent by pre-paid post to, or left at the last known address of, the holder of the licence.

### **23.18 Appeal against refusal, suspension or revocation of a licence**

The applicant or licence holder has the right of appeal to the Magistrates' Court (or Crown Court if relating to refusal to grant a hackney carriage vehicle licence) Appeal procedures to the Magistrates' Court will be detailed with notices sent out. On appeal to the Magistrates' Court a suspended or revoked licence can continue to be used until the appeal is heard with the exception of those licence holders suspended or revoked with immediate effect under section 61(2B)) of the Local Government (Miscellaneous Provisions) Act 1976

### **23.19 Formal caution**

This is an alternative to prosecution and requires that the offender must admit the offence.

In considering the issue of a formal caution the following will be taken into account: -

- The seriousness of the offence.
- The benefits of its use rather than prosecution, e.g. cost, speed, deterrent effect in respect of re-offending
- The intention to rectify the contravention
- The evidence regarding the contravention.
- Previous history of the offender
- Consideration of the public interest (application of public interest test)

Written information will be given or sent to the offender regarding the significance of the caution immediately prior to offer of the formal caution.

Formal cautions will always require first the signature of the offender and then the authorised local authority representative.

Copies of the caution will be sent to the offender and sent to the central registrar of convictions. The Legal department will hold the original caution.

### **23.20 Prosecution**

Prosecution will normally only be contemplated when the offences are serious, for example where there is a potential for risk to passenger safety, or as a result of refusal to accept other courses of action. Unlicensed persons or businesses will be considered for prosecution.

The following will be taken into account;

- the previous history
- the explanations or attitudes
- the probable public benefit
- would the use of a formal caution be more appropriate

Prosecution will be authorised by the Head of Healthy Communities after consultation with the Head of Legal and Democratic Services.

Should the Crown Prosecution Service be initiating action against a person or business for offences which also involve breaches of the; Police Town Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976 or byelaws made in respect of hackney carriages, they may be authorised to initiate proceedings under these acts.

## **Licence Requirements**

### **Chiltern District Council licence requirements relating to hackney carriage and private hire drivers**

#### **Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act")**

These requirements apply to hackney carriage and private hire drivers. In determining what matters should be considered for a person to be a fit and proper person to be a driver the following applies:

#### **Fit and proper person**

Applications for a private hire drivers licence can only be made by fit and proper persons. A fit and proper person must:

- be medically fit
- comply with the Council's guidelines for the issue of hackney carriage and private hire driver and operator licences policy and the Home Office circular with regard to cautions, convictions or pending court appearances as detailed in the Home Office circular
- not be entered on the sex offenders register
- be an experienced driver
- have the required knowledge of the district, highway code, policy and customer care

#### **New applications**

Applications will only be accepted if they are made on the form provided for the purpose by the Council. The form must be completed online and electronically signed by the applicant.

The first application for a drivers licence must be accompanied by two independent references as to the character of the applicant. The names, addresses, and phone number of the referees must be stated on the online form.

An application will also be only considered after it has proven that they have a right to work in the UK and the Council is in the receipt of three references, two passport-sized photographs, a full DVLA/ EU driving licence including photo card and DVLA code, a current medical certificate (not older than 3 months), proof of identity (Passport/ Birth Certificate), a relevant knowledge test pass certificate, an enhanced Disclosure and Barring Service criminal record check (not older than 3 months), a specialist driving standards test certificate and a Certificate of Good Conduct from the relevant embassy for all applicants who have lived in the UK for less than 5 years (new applicants only) or who have been absent for a period of 9 months or more within the last three years for current licensees. If the Certificate is not issued in English, the applicant will be required to pay for the relevant translation. All fees must be paid when submitting the application. The driver's badge deposit is payable prior to any badge being issued.

A medical certificate completed by the applicant's registered medical practitioner is required to prove the applicant is fit to drive a licensed vehicle.

Where an existing licensed hackney carriage driver applies to obtain a private hire licence, or vice versa, no additional medical will be required.

#### **Renewal**

Applications will only be acceptable if they are made on the form provided for the purpose by the Council.

An application will only be considered upon receipt of the correct fee, two passport-sized photographs and a full DVLA/EU driving licence including photo card and DVLA Code. Any additional documents that are due to expire within the renewal period **must also** be presented at renewal. In addition, the expired driver's badge must be returned to the Council in order to collect your replacement badge.

All fees must be paid at the time of renewal. **Only full applications will be accepted**, any missing documents or elements will mean your application will not be processed.

Licences will be issued following processing within 28 days of a full application.

All applications for the renewal of a licence must be made at least four weeks prior to the expiry of the existing current licence. Applications received less than 28 days prior to the expiry of the licence may not be issued prior to the expiry of the current licence, and in these cases the Licensee will not be able to work as a licensed driver or drive a licensed vehicle until the new licence is issued.

### **Fees**

The appropriate fee as prescribed from time to time by the Council must accompany all applications.

### **Photographs**

An application must be accompanied by two recent passport sized photographs of the applicant. It must be signed by the applicant. It must be taken against a light coloured background, and clearly show your full face. You must not wear sunglasses, or any head covering unless head covering is worn for religious or medical reasons. The photo will be used for the driver's badge that will be issued by the Council.

### **Proof of identity**

A birth certificate, national insurance number, passport or new style photographic driver's licence must be produced on first application.

### **Duration of driver's licence**

The standard period that a licence shall remain in force is three years, commencing from the date the licence is granted, not the date of the application itself.

No licence will be issued for a period longer than the standard three year period, however if an applicant wishes to be considered for a licence with a shorter duration, this request must be put in writing at time of application. These requests will be considered on a case by case basis.

A driver's licence on renewal may be issued for a probationary period of less than three years as determined by the Council, dependant on the applicant's ability to demonstrate being a fit and proper person. Items that could be considered would include driver's experience, criminal record, references, past allegations, record of compliance with the conditions, outstanding fees and any other reasonable cause.

### **Medical certificate**

The standard of medical examination as required by Chiltern District Council is that normally associated with a group II driver's licence. All drivers are required to provide a certificate signed by their registered medical practitioner to the effect that they are physically fit to be the driver of a taxi or private hire vehicle. A medical certificate is required at first application, every 3 years up to 60 years of age, and annually thereafter.

The applicant is responsible for the payment of all fees required for any medical examination.

The licensee shall notify the authorised officer in writing as soon as possible and in any event not later than fourteen days of any illness or injury affecting his or her fitness to drive in any way.

Where there is reasonable doubt over a driver's fitness, the Council may direct the driver for a medical examination by a specified registered medical practitioner at any time. The applicant is responsible for the payment of all fees required for any medical examination.

### **Driving experience**

A valid full DVLA/ EU drivers licence (Groups A and B) must have been held for a period of three years prior to application. Whilst each case will be taken on its merit, as a general principle a licence will not be granted where an applicant has been convicted of a serious driving offence in the past three years, or has more than six active points on their licence.

In addition to the above, all new applicants will have to demonstrate good driving ability and be aware of potential hazards. This will be assessed by the completion of a driving assessment by the DSA; a valid (within valid date as printed on certificate) pass certificate will be required before the licence can be issued. Alternatively a driver can demonstrate his/her ability by being a member (by examination) of the Institute of Advanced Motorists, or holding a HGV/ PCV (PSV) licence.

### **Disclosure and Barring Service criminal record check**

A DBS enhanced disclosure is required on receipt of new applications. Applicants and existing drivers must sign up to the update service provided by DBS, providing a mandate for this to the Council. An authorised officer can make random checks whilst the licence is effective. This will require a DBS enhanced disclosure application form to be completed by the applicant. All applicants should refer to the Council's guidelines for issue of private hire driver and operator and Home Office circular with regards to any criminal convictions or cautions. A fee is required for this check.

Existing drivers at the time this policy is adopted will be required to sign up to the Update service when their current criminal record check is due to be updated.

### **Convictions**

Convictions will be dealt with in accordance with the policy on criminal convictions and behaviour in section [ ] of the hackney carriage and private hire policy.

In order to ensure protection of the public a driver must ensure immediate disclosure (within 72 hours) to the licensing officer in writing if they are charged, arrested, cautioned, or convicted of any offence during the period of their licence. Should knowledge of any offences be withheld, this will reflect on a person fitness to be a licensed driver and may lead to a licence being suspended.

### **Drivers identity badge**



A deposit will be required prior to the issue of a drivers badge and will be returnable upon the surrender of the drivers licence and return of badge. The badge shall be worn at all times the vehicle is being used as a licensed vehicle and in such a position and manner as to be plainly and distinctly visible. On the expiry, revocation or suspension of the licence the driver shall return the badge to the Council on demand.

### **Compliance with legislation**

Drivers, where applicable, are expected to comply with the provisions of the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976, the byelaws made in respect of hackney carriages and conditions relating to the private hire drivers licence. They are also expected to comply with Section 37 of the Disability Discrimination Act 1995 and Equality Act (2010) in respect of assistance dogs.

It is prohibited for anyone (driver or passenger) to smoke within the vehicle at any time. Appropriate signage must be displayed inside the vehicle in accordance with the Health Act 2006.

The Council requires an international no-smoking symbol at least 70mm in diameter must be displayed in the front passenger window or on the dashboard, and in the rear passenger window. The signs must be clearly visible from inside and outside of the vehicle.

### **Insurance**

The driver of a licensed vehicle must ensure the vehicle is insured for use for that specific purpose. Such insurance must be continuous and include legal liability for passengers.

### **CCTV in vehicles**

The licensee shall ensure that they do not drive a licensed vehicle with unauthorised facilities for recording visual or audio sources. All vehicles with an authorised CCTV system shall contain a certificate of authorisation. Any proposed CCTV system must satisfy the requirements of the CCTV conditions within the hackney carriage and private hire licensing policy and must be authorised by a relevant officer.

### **Appeals procedure**

Any person aggrieved by refusal to grant a licence may appeal to the Magistrate's Court within 21 days of a decision being made.

### **Change of personal details**

The driver shall immediately (within 7 days) notify the authorised officer in writing of any change in his or her personal details. Changes shall include: changes of address, name, marital status, phone number and mobile number.

### **Suspension, revocation, and refusal to renew licence**

- Without prejudice to these conditions, the Council may suspend, revoke or refuse to renew the licence when considered necessary to do so.

The Council will have regard to this policy when making a decision to suspend, revoke or refuse to renew a licence.

### **Other offences**

The licensee shall be guilty of an offence if he or she:

- Wilfully obstructs an authorised officer acting in pursuance of Part II of the 1976 or the Town Police Clauses Act 1847;
- Fails to comply with any requirements made to him or her by the authorised officer;
- Without reasonable cause fails to give the authorised officer any other assistance or information which he may require for the performance of his or her functions.

### **Offence notification notice**

The Council has the power to charge fees not exceeding £25.00 for administration of and the control and supervision of hackney carriage and private hire drivers. These charges are detailed in the enforcement policy and will be issued in accordance with the Policy.

All fees and charges for the previous year shall have been paid before application for a renewal of a drivers licence can be accepted.

### **Conduct of driver**

The licensee shall:

- at all times be clean and respectable in his or her dress, behave in a civil and orderly manner, and not use foul and abusive language
- take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle
- assist any passenger in gaining access to or exiting from the vehicle
- assist any passenger with the loading and unloading of luggage into and out of the vehicle
- afford reasonable assistance in removing a passenger's luggage to or from the entrance of any house, station or place at which he or she may collect or set down a person
- unless otherwise directed by the hirer, shall proceed to the destination requested by the Hirer by the shortest possible route
- not drive the vehicle without the written consent of the proprietor of the vehicle
- not drink, eat, or play audio equipment in the vehicle without the express permission of the hirer
- shall ensure that no annoyance or disturbance is caused to residents or other road users whilst driving the vehicle
- not use the horn or lights of the vehicle or shout in order to signify to the Hirer or passengers that the Licensee is waiting for the Hirer or passengers
- not drive a licensed vehicle in a manner that may intimidate or have the potential to intimidate another road user
- take all reasonable steps to ensure the safety of luggage conveyed in, being loaded in or removed from the vehicle
- comply with all road traffic law
- Not use a mobile phone whilst driving
- ensure that he or she does not drive a vehicle with more passenger capacity than their badge authorises

- not smoke or permit a passenger to smoke in the vehicle
- ensure that regulation "No Smoking" signs are prominently displayed on the front passenger window or dashboard and on the rear passenger window of the vehicle you are assigned. The sign to be an international "No Smoking" signs 70mm in diameter
- not initiate any dialogue of a "sexual" nature with a passenger including by telephone contact, social media, email or any other form of communication.. Licensed drivers are not permitted to become involved "sexually", or have sexual contact, with a passenger whether consent is given or not and whether or not the vehicle is carrying fare paying passengers at the time.
- Conversations that are likely to offend or upset passengers should also be avoided, examples would be conversations of a personal nature, but whether a conversation would be considered 'likely' to offend or upset a passenger would be considered by the Council on an individual basis if a complaint is received.

## **Passengers**

The licensee shall not:-

- Convey or permit to be conveyed in the vehicle a greater number of persons than that prescribed in the licence for the vehicle
- Without the consent of the Hirer convey or permit to be conveyed any other person in the vehicle.
- Allow to be conveyed in the front of the vehicle:
  - Any child below the age of three years
  - More than one person above the age of three years
  - An infant in arms

The licensee shall ensure that all passengers between three and twelve years of age or 135cm in height wear an appropriate child restraint to travel in the front of a vehicle. If not available, these passengers must use an adult seat belt in the rear of the vehicle.

## **Lost property**

- The licensee shall ensure that, immediately after the termination of any hiring or as soon as practicable thereafter, the vehicle is searched thoroughly for any property which may have been accidentally left therein,
- The licensee shall ensure that any property accidentally left, or found or handed to him in the vehicle will be, taken to a police station within 48 hours of it being found.

## **Written receipts**

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

## **Animals/assistance/guide dogs**

The driver shall not convey in a licensed vehicle any animal belonging to or in the custody of himself or the proprietor or operator of the vehicle. The driver shall ensure that any animal belonging to or in the custody of any passenger is conveyed in the rear of the vehicle. The driver shall transport any person and his/her guide or assistance dog without additional charge. Holders of an exemption certificate from carrying animals (issued because of medical reasons) must display the certificate in a prominent position.

It is an offence to refuse to carry assistance/guide dogs.

### **Prompt attendance**

The driver of a licensed vehicle shall promptly attend at the appointed time and place unless delayed or prevented by sufficient cause.

### **Deposit of licence**

The driver shall deposit his or her paper licence with the vehicle Proprietor/ licensee before commencing to drive the vehicle. The licence shall be retained by the vehicle licensee until such time as the driver ceases to drive that vehicle.

The licensee/proprietor must also ensure the driver holds a current DVLA driving licence in respect of the number of passengers authorised on the vehicle licence/plate.

### **Taximeter**

A licensed driver shall not drive the vehicle unless the taximeter (where fitted) is in working condition and has been sealed by a meter company, who have issued the licensee with a calibration certificate. The licensed driver shall not cause the fare recorded to be cancelled or concealed until the hirer has had a reasonable opportunity of examining it and has paid the fare.

The Licensee shall not tamper with or permit any person to tamper with any taximeter with which the vehicle is fitted, with the fittings thereof, or with the seals affixed thereto. The Licensee shall ensure that when the vehicle is not in use the taximeter is switched off

### **Fare to be demanded**

- The driver shall not demand from any hirer of a licensed vehicle a fare in excess of any previously agreed. If the vehicle is fitted with a taximeter the fare shown on the face of the taximeter is the highest fare that can be charged. The driver shall not demand any fare higher than that shown on the face of the taximeter.
- The licensee shall cause any statement of fares provided by the operator to be exhibited inside the vehicle, in clearly distinguishable letters and figures.

### **Seatbelts**

It is recommended that when driving the vehicle the licensee should wear a seat belt at all times.

### **Insurance**

The driver of a licensed vehicle shall ensure that he or she is covered by a valid insurance policy for public hire (and private hire if private hire bookings are accepted from licensed operators) which includes legal liability for passengers before commencing to drive the vehicle, and shall ensure that they do not act in any way which might invalidate the insurance.

The licensee shall, on being requested to do so, produce the insurance certificate to a police officer or an authorised officer.

**Accidents and damage to the vehicle**

The licensee shall report to the authorised officer any accident (motoring or otherwise) involving the vehicle and/or any damage materially affecting the safety, performance or appearance of the vehicle within 72 hours of the accident using the form issued by the Council. In the interests of public safety the Licensee of any vehicle involved in an accident will be required to submit a compliance certificate to the Council. The licensee shall ensure that the vehicle is not used for hire until it has been inspected and approved by the authorised officer or a new compliance certificate has been obtained where appropriate as considered by the Council on receipt of the reported details of the incident.

**Inspections**

The licensee shall not obstruct the authorised officer or any police officer from carrying out any inspection or test of the vehicle.

**Copy of licence and requirements**

The licensee shall at all times when driving the vehicle carry with him or her a copy of their licence and these requirements, and shall make it available for inspection by the hirer, any other passenger, the authorised officer or a police officer upon request

**Variation of requirements**

The Council reserves the right to vary, delete or waive any of these requirements

**Delivery of notices**

Any notice required to be served by the Council under any licence granted or under any of the provisions of the Local Government (Miscellaneous Provisions) Act 1976 shall be deemed to have been properly served if sent by pre-paid post to, or left at the last known address of the holder of the licence.

**CCTV in vehicles**

The licensee shall ensure that they do not drive a licensed vehicle with unauthorised facilities for recording visual or audio sources. All vehicles with an authorised CCTV system shall contain a certificate of authorisation. Any proposed CCTV system must satisfy the requirements of the CCTV conditions contained within the hackney carriage and private hire licensing policy.

**Appeals procedure**

Any person aggrieved by refusal to grant a licence may appeal to the Magistrate's Court within 21 days of a decision being made.

## Requirements relating to hackney carriage and private hire vehicles

### Local Government (Miscellaneous Provisions) Act 1976 ("The 1976 Act")

#### Applications

All applications will only be acceptable if they are made on the form provided for the purpose by the Council, the form must be completed online and electronically signed by the applicant. An application will only be considered after production of the vehicle registration document, MOT (when required by law), Certificate of Compliance, (European whole vehicle type approved, if required), insurance certificate, and fee.

#### RENEWAL

Applications will only be acceptable if they are made on the online form provided for the purpose by the Council.

An application for renewal will only be considered upon receipt of the correct fee, the Vehicle Registration document, and any additional documents that are due to expire within the renewal period. This may include: Insurance, MOT, and compliance certificate. In addition, the expired vehicle plate must be returned to the Council in order to collect your replacement.

All fees must be paid at the time of renewal. **Only full applications will be accepted**, any missing documents or elements will mean your application will not be processed.

Licences will be issued following processing within 28 days of a full application.

All applications for the renewal of a licence must be made at least four weeks prior to the expiry of the existing current licence. Applications received less than 28 days prior to the expiry of the licence may not be issued prior to the expiry of the current licence, and in these cases the licensee will not be able to work as a licensed driver until the new licence is issued.

#### Fee

The appropriate fee, paid in full, as prescribed from time to time by the Council, must accompany all applications.

#### Duration of vehicle licence

All licences shall remain in force for a maximum of one year only, commencing from the date of the granting of the licence.

#### Dual plating

No licence shall be granted where the proposed vehicle is already licensed by another Council. Such vehicles may be licensed following the surrender of the existing licence. Providing they meet the criteria of this policy and a full application is made.

#### Change of vehicle or transfer of licence

An application by the licence holder for a change of vehicle or an application to transfer the licence will only be considered after production of the vehicle registration document, MOT, certificate of

compliance, (European whole vehicle type approved, if required), insurance certificate, valid taximeter calibration certificate and the relevant fee. In the case of a transfer application a dated letter stating that the vehicle and the plate are being transferred from the current holder to the new owner. This letter must include addresses, plate number, vehicle type and registration.

**Please note a change of vehicle application, and a transfer of a vehicle licence cannot take place at the same time.**

### **Type of vehicle**

The Transport Act 1985 allows licensing authorities to regulate vehicle standards. Circular 8/86 accompanying the Transport Act, states that authorities will wish to ensure that vehicles are mechanically sound, roadworthy and safe. The following will be applied.

- The vehicle must not be left hand drive
- Only vehicles holding or built to the standards required by the M1, M2 and M3 European whole vehicle type approval will be licensed.
- Any converted vehicles will be required to hold the appropriate low volume type approval certificate in the M classification or the enhanced single vehicle certificate together with the original M type approval.
- The vehicle must be maintained throughout the term of the vehicle licence, to a high standard of appearance to the complete satisfaction of the Council, and kept in the condition stated in the standards for conditions of appearance of a hackney carriage or private hire vehicle.
- The vehicle shall have at least four road wheels and a spare wheel or a canister of tyre inflator/repair kept in the vehicle
- No vehicle shall be licensed which would require any passenger to climb over any luggage in the vehicle or climb into any boot space
- All seats, front and rear must be fitted with seat belts
- The vehicle must be submitted for a mechanical test at a garage authorised by the Council and may be inspected for suitability by the Council's licensing officer. A certificate of compliance with the standards required under the Road Traffic Act 1972, Sections 43 and 44 must be provided by the garage. In addition to those standards required by the MOT the items detailed in the attached form are required
- The Council's licensing officer may direct the vehicle to be inspected in accordance with the certificate of compliance at a specific testing station
- A certificate of compliance will be valid for 1 year from date of issue.
- The vehicle should contain a portable dry powder 1kg capacity fire extinguisher. The extinguisher must conform to BS EN3 1996 Standard, and should be mounted in a convenient position in the vehicle. The extinguisher shall be marked with the hackney carriage/private hire vehicle licence number

- A first aid kit complying with the Health and Safety (First Aid) Regulations 1981 should be carried in the vehicle. The kit to be marked with the hackney carriage/ private hire licence number
- Vehicles that have been converted to use liquid petroleum gas and/or Compressed Natural Gas, require compliance with the Liquid Petroleum Gas Association's Code of Practice No.11
- That a valid certificate certifying compliance with the standards of the Code of Practice No. 11 be submitted with all new applications in respect of converted private hire and hackney carriage vehicles unless such vehicles were factory converted from new

### **Seating capacity**

The seating capacity of any hackney carriage/ private hire vehicle shall be calculated in accordance with the provisions of Regulation 44 of the Road Vehicles (Registration and Licensing) Regulations 2002, (SI 2002 No. 2742) and the Council's decision shall be binding.

### **Testing of vehicles**

A licence shall not be granted in respect of any vehicle unless such vehicle has a current certificate of compliance as detailed below, and a valid MOT certificate (where required).

### **Insurance and road fund licence**

All hackney carriage and private hire vehicles must be licensed and insured for hackney carriage or private hire use. Such insurance must be continuous and include legal liability for passengers and luggage. Proof of insurance must be submitted with each application for a licence and where it expires during the term of the licence a new certificate or cover note must be supplied to the Licensing team.

### **Certificate of compliance**

- A certificate of compliance will only be granted where a vehicle complies in all respects with the detailed standard set out in the main policy document.
- A certificate of compliance shall be valid for one year only from the date of issue.
- A certificate of compliance may only be issued by a vehicle testing station authorised and designated by the Council.
- A current list of designated vehicle testing stations is available from the Council.

### **Examination of vehicles**

The approved officer may request that the vehicle is presented at King George V House, King George V Road, Amersham HP6 5AW at a time and date agreed for the purpose of establishing that the vehicle complies with the Council's requirements.

### **Deposit on licence plate**

A deposit will be required prior to the issue of a vehicle licence plate and will be returnable upon the prompt return of the licence plate upon the expiry of the vehicle licence.



Where a change of ownership occurs, the deposit will be refundable to the person surrendering the licence plate, not to the person who originally paid the deposit

### **Smoking**

It is prohibited for anyone (driver or passenger) to smoke within the vehicle at any time. Appropriate signage must be displayed inside the vehicle in accordance with the Health Act 2006. An international no-smoking symbol at least 70mm in diameter must be displayed in the front passenger window or on the dashboard, and in the rear passenger window. The signs must be clearly visible from inside and outside of the vehicle.

### **CCTV in vehicles**

The licensee shall ensure that their licensed vehicle does not contain any facilities to record visual or audio sources without first obtaining authorisation from the Council. Any proposed CCTV system must satisfy the requirements of the CCTV conditions section.

### **Appeals procedure**

Any person aggrieved by refusal to grant a licence may appeal to the Magistrate's Court within 21 days of a decision being made.

### **Standards for conditions of appearance of vehicles**

The vehicle must comply with the following:-

**Rust** Any vehicle presented should be free from any significant areas of visible rusting. Although minor blemishes should not constitute a failure, the following general criteria should be followed; any vehicle with visible rust patches should be failed

**Dents** Any vehicle with minor dents on one or more panels where such dents are more than 5cms in diameter/length should be failed

**Scratches** Any vehicle with un-repaired scratches down to bare metal on three or more panels, of 5cms in length, or a single scratch of more than 20cms in length, should be failed

**Paintwork** All panels on all vehicles shall be painted in manufacturer's colour; panels with unmatched colours or in primer should be deemed as failures

**Seats** In conventional vehicles where it is intended that the licence be for four passengers, the rear seat must be at least 1220mm (48 inches) in width. All seats shall have a minimum of 410mm (16 inches) per person and in respect of seating comply with the Road Vehicle (Registration and Licensing) Regulations 2002. All seats, including the driver's must be free from repaired cuts, tears or cigarette burns, except of a very minor nature. Any repairs must have been carried out in a professional and neat manner. All seats must be kept clean and tidy and free from all extraneous matter

**Carpets/floor covering** All carpets and floor covering shall be complete and free from cuts, tears, staining and soiling

**Headlining and other trim** All interior trim, including headlining shall be clean, complete, properly fitted and free from cuts, tears or soiling

**Boot/luggage compartment** This should be empty, except for spare wheel, essential tools and first aid kit (to comply with Health and Safety and First Aid Regulations). The compartment should be clean and any covering free from major cuts, tears or other damage or staining

**Interior** The interior must be kept clean, tidy and free of any water penetration or litter or other rubbish

**Vehicle emissions** The vehicle must comply with the Motor Vehicle (Emission Test) Regulations

**Glazing** All vehicles will be tested with a light meter. Any vehicle with a reading lower than the following will not be licensed. Front Windscreen 75%, Front Side Windows 70%, All other Windows 30%. The lower the number the darker the tint

## Requirements relating only to private hire vehicles

- The vehicle shall have three or four doors (a rear-opening hatch back will not be considered or counted as a door for the means of entry or egress, except that a multi-purpose vehicle may have a single sliding door to the left hand side of the vehicle)
- An exception can be made in the case of a vehicle licensed to carry only 1 passenger where a 2 door vehicle would suffice

### Private hire occupancy plate

When licensed, the vehicle shall have an authorised occupancy plate fixed to the rear of the vehicle. The plate shall be securely and permanently fixed to the vehicle on or above the bumper and be clearly visible. The plate shall be secured to the vehicle by the use of a bracket. If a bracket is not suitable or practicable, then the plate shall be fixed with the aid of screws or bolts.

### Private hire licence disc

When licensed, the vehicle shall have an authorised occupancy disc. This is to be displayed in the front of the vehicle in such a way as to be clearly visible from the inside and the outside of the vehicle.

### Signs etc.

No sign, notice, advertisement, plate, mark, letters, figures, symbols, emblems or devices shall be used, if it contains anything of a religious or political nature or advertises Tobacco, Alcohol, any form of sex shop or a sex establishment, or contains any matter likely to cause offence. Approval on the type and extent of the advertising should be sought from the licensing officer, for which there is an administration fee per batch of advertising.

No signs or advertising containing the word "TAXI" will be permitted on any Private Hire vehicle.

### Private hire signs

A roof sign is not permitted.

As directed by the Council the operator shall cause to be fixed and maintained to the front driver and passenger doors a prescribed sign bearing the words "Private Hire Vehicle – Advance Bookings Only.

### Dispensation Certificates from displaying vehicle licence plate

The Licensing team have a duty of care to ensure that all residents, professional clients and general customers travelling in Private Hire vehicles are safe and secure at all times. Dispensations will only be considered for specialist private hire use. This does not include airport services, regular school contracts and normal daily/weekend private hire work.

Information listed below is required to be submitted prior to a formal decision being made. New documents with this information will be required by the Licensing team at the renewal stage of the vehicle licence to assess whether the exemptions should remain in force.

- Identification of vehicle/s involved. We will require full details of the vehicles being used under exemption certificates, including make and model of vehicle, vehicle registration, Licence details, Owners details and Full Name & Address of the driver using the vehicle.

- Nature of work carried out by each vehicle, which is alleged to justify an exemption (which must be work of a prestigious nature, as opposed to ordinary private hire work) detailing each of your contracts and information on trips carried out under the exemption certificate.
- Identities of all clients served by the vehicle/s identified. Full name, address and details of clients including contact name, telephone number and website address and companies house registration number.
- Proportion of each vehicle's work, which is derived from each, named client. I.e. on a weekly basis how often will you be working for each individual client?
- Written confirmation from the clients named. A letter will be required confirming use of your services and confirming reasons why plates are not to be displayed.

Should a dispensation be approved the licence plate will not be required to be fixed to the vehicle; however, the licence, dispensation certificate and plate must be carried at all times in the vehicle. No advertising is permitted on or in any vehicle with dispensation.

Any person aggrieved by the decision of refusal to grant a certificate can appeal to the Head of Healthy Communities in writing within 14 days.

Where the use of vehicles changes during the period that the vehicle is licensed, the Licensing team must be informed so dispensation can be removed. If dispensation is removed, the exceptions that this provides will no longer relate to that vehicle.

### **Residential qualification**

The operator of any private hire vehicle must maintain an office within the area of the Chiltern District Council for a period of the licence.

### **Private hire vehicles may not operate from taxi ranks and stands**

Private Hire Vehicles may not operate from Hackney Carriage ranks or stands or ply the carriageway for hire but must be pre-booked.

## Requirements relating only to hackney carriage vehicles

### Town Police Clauses Act 1847 ("the 1847 Act")

### Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act")

- All new hackney carriage vehicle licences issued shall be for a purpose built hackney carriage, capable of conveying a disabled person whilst seated in a wheelchair. The vehicle must be adapted or designed by the manufacturer or his agent, to carry at least one wheelchair bound passenger. Please check with the licensing office that the vehicle you intend to purchase meets the condition. Vehicles of a type currently licensed as a hackney carriage in London are acceptable.
- Other wheelchair accessible vehicles will be specifically approved by the Council for use as hackney carriages, subject to them meeting the following minimum requirements;
- The wheelchair access should be available from the kerbside with the wheelchair facing forward and being secured to a CE type approved, manufacturer installed anchorage system for the chair. The passenger secured to a CE approved, manufacturer installed seat belt anchorage system
- Passenger door dimensions to be not less than the minimum currently required of hackney carriages in London.
- To improve access to disabled persons all Hackney carriages licensed in compliance with the wheelchair accessibility requirements may only be changed to vehicles that similarly meet that standard
- The vehicle shall have three or four doors (a rear-opening hatch back will not be considered or counted as a door for the means of entry or egress, except that a multi-purpose vehicle may have a single sliding door to the left hand side of the vehicle)

### Hackney carriage occupancy plate

When licensed, the vehicle shall have an authorised occupancy plate fixed to the rear of the vehicle. The plate shall be securely and permanently fixed to the vehicle on or above the bumper and be clearly visible. The plate shall be secured to the vehicle by the use of a bracket. If a bracket is not suitable or practicable, then the plate shall be fixed with the aid of screws or bolts.

### Hackney carriage licence disc

When licensed, the vehicle shall have an authorised occupancy disc. This is to be displayed in the front of the vehicle in such a way as to be clearly visible from the inside and the outside of the vehicle.

### Taximeter

All hackney carriage vehicles shall be fitted with a taximeter installed by an authorised taximeter company and so constructed, attached, and maintained as to comply with the following requirement:

- All new hackney carriage vehicles shall require a calendar controlled tariff taximeter
- The taximeter shall be fitted with a key flag or other device the turning of which will bring the machinery of the taximeter into action and cause the word "hired" to appear on the face of the meter

- Such key, flag or other device shall be capable of being locked in such a position indicating that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter
- When the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the licensee or driver is entitled to demand and take for hire of the vehicle by distance in pursuance of the table of fares made by the Council in that behalf
- The word "fare" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon
- The taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the vehicle, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring
- The taximeter shall be kept properly illuminated throughout any part of a hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972, and also at the request of the hirer
- The taximeter shall have connected thereto a roof sign bearing the words "TAXI" in accordance with paragraph 8 below and such sign shall be plainly visible and legible to persons wishing to hire the vehicle and for that purpose it shall be capable of being suitably illuminated when the vehicle is plying or standing for hire
- The taximeter and all its fittings shall be so affixed to the vehicle with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances
- When the vehicle is standing or plying for hire or returning from another district the key flag or other device fitted with the taximeter shall be locked in the position in which no fare is recorded on the face of the taximeter
- Before beginning a journey for which a fare is to be charged for distance and time, the taximeter should be brought into action so that the word "hired" is legible on the face of the taximeter and the taximeter should be kept on until the hiring has terminated
- The taximeter and its fittings will be sealed by the installer
- The taximeter shall be calibrated and sealed by the taximeter company at first installation and then when a seal is broken or missing, following a change to the table of fares, or when requested by the Council. The certificate of calibration is to be provided by the taximeter installer. A valid certificate should be produced on transfer, change or renewal of a licence.

### Signs etc

No sign, notice, advertisement, plate, mark, letters, figures, symbols, emblems or devices shall be used, if it contains anything of a religious or political nature or advertises tobacco, alcohol, any sex related establishment (shop or venue), or contains any matter likely to cause offence. Approval on the type and extent of the advertising should be sought from the licensing officer. A charge will be payable as detailed in this policy

**Roof signs**

The minimum sign dimensions for roof signs are 10" wide 5" deep and 4" high, there are no maximum measurements. The word taxi only in black capital letters to be clearly legible on the front and rear side of the roof sign. The front of the sign must be white and the back red or white. Purpose built taxis are exempt from these requirements.

The sign must be illuminated when plying or available for hire during the hours of darkness and must be linked to the taximeter so that when a fare is being carried, the roof sign is not illuminated.

**Taxi ranks and stands**

Hackney Carriages can operate from authorised ranks or stands, including 'shared' stands or ply the carriageway for hire or can be pre-booked.

## Licensing conditions relating to private hire drivers

### Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act")

The following conditions are made by Chiltern District Council in pursuance of the powers conferred by Part II of the Local Government (Miscellaneous Provisions) Act 1976 (as amended) to ensure efficient and effective regulation of private hire vehicle use and to ensure that proper vehicular and driver standards are maintained in the interests of public safety.

These conditions should be read in conjunction with the Local Government (Miscellaneous Provisions) Act 1976 and other relevant legislation.

### Definitions

In these conditions:

'The application' shall mean the application made by the licensee for the grant of the licence

'Authorised officer' shall mean a licensing officer of the Council's Healthy Communities Division or any other officer authorised by the Head of Healthy Communities

'The Council' shall mean Chiltern District Council

'the hirer' shall mean any person or persons who from time-to-time hires or books the vehicle

'the licensee' shall mean the person(s) named in the licence

"the operator" shall mean any person, company or partnership licensed by the Council to operate private hire vehicles

"the vehicle" shall mean any private hire vehicle licensed by the Council

### General

The licensee shall ensure that he or she complies in all respects with the requirements of any Act and regulations affecting the operation of private hire vehicles and motor vehicles, these conditions and any code of practice implemented by the Council.

### Maintenance of the vehicle

The licensee shall:

- Ensure that the vehicle to be driven by him or her is in a roadworthy condition, thoroughly cleansed; all equipment fittings and fixtures are present and serviceable and comply with the conditions attached to the licence relating to the vehicle before commencement of any journey.
- Record details of checks and inspections in the record book provided by the proprietor of the vehicle.
- Report any defect discovered by the licensee to the proprietor of the vehicle.

### Conduct of the licensee



The licensee shall:

- at all times be clean and respectable in his or her dress, behave in a civil and orderly manner, and not use foul and abusive language
- shall confirm the name, destination, and method of payment with every passenger prior to commencing any journey
- take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle
- assist any passenger in gaining access to or from the vehicle
- assist any passenger with the loading and unloading of luggage into and out of the vehicle
- afford reasonable assistance in removing a passenger's luggage to or from the entrance of any house, station or place at which he or she may collect or set down a person
- unless otherwise directed by the hirer, shall proceed to the destination requested by the hirer by the shortest possible route
- not drive the vehicle without the written consent of the proprietor of the vehicle
- not drink, eat, or play audio equipment in the vehicle without the express permission of the hirer
- shall ensure that no annoyance or disturbance is caused to residents or other road users whilst driving the vehicle
- not use the horn or lights of the vehicle or shout in order to signify to the hirer or passengers that the Licensee is waiting for the Hirer or passengers
- not drive a licensed vehicle in a manner that may intimidate or have the potential to intimidate another road user
- take all reasonable steps to ensure the safety of luggage conveyed in, being loaded in or removed from the vehicle
- comply with all road traffic law
- not use a mobile phone whilst driving
- immediately notify the Council's licensing officer if he or she has knowingly conveyed a dead body in the vehicle, and not drive the vehicle again until he or she has obtained written permission for the continued use of the vehicle
- not cause or permit the vehicle to stand in such a manner as to suggest that it is standing or otherwise plying for hire or that it is a hackney carriage
- not tout or solicit any person to hire or be carried in any private hire vehicle; and
- not cause or procure any other person to tout or solicit any person to hire or be carried for hire in any private hire vehicle
- ensure that he or she does not drive a vehicle with more passenger capacity than their badge authorises

- not smoke or permit a passenger to smoke in the vehicle
- ensure that regulation "No Smoking" signs are prominently displayed on the front passenger window or dashboard and on the rear passenger window of the vehicle you are assigned. The sign to be an international "No Smoking" signs 70mm in diameter
- not initiate any dialogue of a "sexual" nature with a passenger including by telephone contact, social media, email or any other form of communication.. Licensed drivers are not permitted to become involved "sexually", or have sexual contact with a passenger, with or without consent
- Conversations that are likely to offend or upset passengers should also be avoided, examples would be conversations of a personal nature, but whether a conversation would be considered 'likely' to offend or upset a passenger would be considered by the Council on an individual basis if a complaint is received.

### **Taximeter**

If the vehicle to be driven by the licensee is fitted with a taximeter, he or she shall not drive the vehicle as a private hire vehicle unless the taximeter is in working condition and has been sealed by a company with a calibration certificate being held by the Council. If the vehicle being driven by the licensee is fitted with a taximeter, he or she shall not cause the fare recorded to be cancelled or concealed until the hirer has had a reasonable opportunity of examining it and has paid the fare.

The licensee shall not tamper with or permit any person to tamper with any taximeter with which the vehicle is fitted, with the fittings thereof, or with the seals affixed thereto. The licensee shall ensure that when the vehicle is not in use the taximeter is switched off

### **Written receipt**

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

### **Accidents and damage to the vehicle**

The licensee shall report to the authorised officer any accident (motoring or otherwise) involving the vehicle within 72 hours of the accident using the form issued by the Council. In the interests of public safety the licensee of any vehicle involved in an accident will be required to submit a compliance certificate to the Council.

In the interests of public safety the Licensee of any vehicle involved in an accident will be required to submit a compliance certificate to the Council. The licensee shall ensure that the vehicle is not used for hire until it has been inspected and approved by the authorised officer or a new compliance certificate has been obtained where appropriate as considered by the Council on receipt of the reported details of the incident.

### **Prompt attendance**

The licensee, when it is agreed that the vehicle has been hired, shall be in attendance with the vehicle at the appointed time and place and shall, unless delayed or prevented by some sufficient cause, punctually attend with the vehicle at such appointed time and place. Prior to collecting the hire the licensee shall ensure that he or she is aware of the destination and how to reach the destination.

### **Driver's identity badge**

The licensee shall wear or clearly display the driver's identity badge issued by the Council in a position where it may be seen at all times. The licensee shall return the identity badge forthwith upon termination of the licence, whether such termination is through suspension, surrender, revocation or normal expiry. A deposit shall be payable prior to the issue of the badge. This will be refunded only upon surrender of the licence.

### **Proximity to an authorised rank**

The licensee shall not be permitted to wait or park on the public highway within 75 metres of an authorised hackney carriage rank.

### **Fares and fare table**

- The driver shall not demand from any hirer a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a taximeter and there has been no previous agreement as to the fare, the fare shown on the face of the taximeter. The driver shall not demand any fare higher than that shown on the face of the taximeter.
- The licensee shall cause any statement of fares provided by the operator to be exhibited inside the vehicle, in clearly distinguishable letters and figures.

### **Seat belts**

When driving the vehicle it is recommended that the licensee shall wear a seat belt at all times.

### **Passengers**

The licensee shall not:-

- Convey or permit to be conveyed in the vehicle a greater number of persons than that prescribed in the licence for the vehicle
- Without the consent of the hirer convey or permit to be conveyed any other person in the vehicle.
- Allow to be conveyed in the front of the vehicle:
  - Any child below the age of three years
  - More than one person above the age of three years
  - An infant in arms

The licensee shall ensure that all passengers between three and twelve years of age or 135cm in height wear an appropriate child restraint to travel in the front of a vehicle. If not available, these passengers must use an adult seat belt in the rear of the vehicle.

### **Carriage of animals**

The licensee shall not permit any animal belonging to or under the care of the licensee or the driver to ride in the vehicle when using the vehicle for private hire. The licensee or driver shall not refuse any request to carry an assistance/guide dog, accompanying a person with a disability unless the licensee and/or driver has been exempted from this requirement by the Council. The licensee shall not refuse any reasonable request to carry an animal belonging to the hirer in the rear of the vehicle.

It is an offence to refuse to carry a guide or assistance dog (unless a medical exemption certificate is held)

**Private hire vehicle operator**

The Licensee shall not use the vehicle for private hire unless the bookings are invited and accepted by an operator within the district. The licensee shall ensure the operator has a current private hire vehicle operator's licence issued by the Council.

The licensee shall notify the authorised officer in writing of the name and address of the operator he or she is permitted or employed to drive for within seven days from the date he or she commenced driving for that operator. If the licensee ceases driving for the operator, he or she shall notify the authorised officer in writing that he or she has ceased driving for the operator within seven days. If a driver ceases to work for an operator, and does not immediately notify the Council of their new operator's details, they must return their drivers badge to the Council immediately. Any driver not employed or registered to an operator upon the renewal of their licence shall be permitted to renew their licence, but their badge and licence will be retained by the Council until they find gainful employment with an operator based within Chiltern district.

**Deposit of licence**

The driver shall deposit a copy of his or her paper licence with the vehicle licensee/proprietor and operator before commencing to drive the vehicle. The licence shall be retained by the vehicle licensee/proprietor and operator until such time as the driver ceases to drive that vehicle or cease to be registered/ employed by the Operator.

**Insurance**

The driver of a licensed vehicle shall ensure that he or she is covered by a valid fully comprehensive insurance policy for private hire purposes which includes legal liability for passengers before commencing to drive the vehicle and shall ensure that they do not act in any way which might invalidate the insurance. The Licensee shall on being requested to do so produce the insurance certificate to a Police Officer or the Authorised Officer.

**Lost property**

The licensee shall ensure that, immediately after the termination of any hiring or as soon as practicable thereafter, the vehicle is searched thoroughly for any property which may have been accidentally left therein. The licensee shall take any property accidentally left in the vehicle or handed to him or her to a Police Station within the Chiltern District boundary (see main policy) and leave it in the custody of the officer in charge and obtain a receipt. Such property if not sooner claimed by the owner must be taken to a police station within 48 hours of the property being found.

**Inspections**

The licensee shall not obstruct the authorised officer or any police officer from carrying out any inspection or test of the vehicle.

**Medical fitness**

The standard of medical examination as required by Chiltern District Council is that normally associated with a group II driver's licence.

All drivers are required to provide a certificate signed by their registered medical practitioner or practice to the effect that they are physically fit to be the driver of a taxi or private hire vehicle. A

medical certificate is required at first application, every 3 years up to 60 years of age, and annually thereafter.

The applicant is responsible for the payment of all fees required for any medical examination.

The Council will follow the published Department of Transport "best practice" guidance (as updated from time to time) when considering the medical fitness of existing licence holders diagnosed with insulin dependent diabetes during the currency of their licence.

Where there is reasonable doubt over a driver's fitness, the authority may direct the driver for a medical examination by a specified registered medical practitioner at any time. The applicant is responsible for the payment of all fees required for any medical examination.

The licensee shall notify the authorised officer in writing as soon as possible and in any event not later than fourteen days of any illness or injury affecting his or her fitness to drive in any way.

A driver may be subject to random drug and alcohol testing during the currency of their licence.

### **Convictions and DVLA driving licence**

The licensee shall immediately (within 72 hours) disclose to the authorised officer in writing if they are arrested, cautioned or convicted of any offence (including motoring offences) during the currency of the licence. The licensee's representative must fulfil this requirement if the driver is detained. Fixed penalty notices shall be reported to the authorised officer in writing upon acceptance from the police officer, as opposed to when the driving licence has been updated.

The licensee shall make his or her DVLA/EU driving licence and a DVLA code available for inspection by the operator, the authorised officer or a police officer upon request.

### **Change of personal details**

The licensee shall immediately notify the authorised officer in writing of any change in his or her personal details. Changes shall include, changes of address, name status, phone number, mobile number, and e-mail address.

### **Copy of the licence and conditions**

The licensee shall at times when driving the vehicle carry with him or her a copy of the licence including these conditions and shall make it available for inspection by the hirer, any other passenger, the authorised officer or a police officer upon request.

### **Other offences**

The licensee shall be guilty of an offence if he or she:

- wilfully obstructs an authorised officer acting in pursuance of Part II of the 1976 or the Town Police Clauses Act 1847;
- fails to comply with any requirements made to him or her by the authorised officer;
- without reasonable cause fails to give the authorised officer any other assistance or information which he may require for the performance of his or her functions.

### **Offence notification notice**

Any licensee subject to formal enforcement action due to non-compliance with any relevant legislation or the conditions contained within this policy or due to committing an offence under any relevant legislation will be charged an administration fee. The amount of which is not to exceed £25.00. All charges must be cleared before an application to renew the licence shall be accepted.

**Variation of conditions**

The Council reserves the right to vary, delete or waive any of these conditions.

**CCTV in vehicles**

The licensee shall ensure that they do not drive a licensed vehicle with unauthorised facilities for recording visual or audio sources. All vehicles with an authorised CCTV system shall contain a certificate of authorisation. Any proposed CCTV system must satisfy the requirements of the CCTV conditions contained in Hackney Carriage and Private Hire Licensing Policy (available upon request)

**Right of appeal**

If aggrieved by any of these conditions, the licensee may appeal to a Magistrates' Court within twenty-one days of the issue of the licence to the licensee.

**CHILTERN DISTRICT COUNCIL****BYELAWS**

made under:

Section 68 of the Town Police Clauses Act 1847, and  
Section 171 of the Public Health Act 1875

by the Chiltern District Council with respect to

Hackney Carriages in Chiltern District

**INTERPRETATION**

1. Throughout these byelaws "the Council" means the District Council of Chiltern and "the district" means the Chiltern District.

**PROVISIONS REGULATING THE MANNER IN WHICH THE NUMBER OF EACH HACKNEY CARRIAGE CORRESPONDING WITH THE NUMBER OF ITS LICENCE SHALL BE DISPLAYED**

2. a) The proprietor of a Hackney Carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto;
- b) A proprietor or driver of a Hackney Carriage shall:
- i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
  - ii) not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

**PROVISIONS REGULATING HOW HACKNEY CARRIAGES ARE TO BE FURNISHED OR PROVIDED**

3. The proprietor of a Hackney Carriage shall:
- a) provide sufficient means by which any person in the carriage may communicate with the driver;
  - b) cause the roof or covering to be kept water-tight;
  - c) provide any necessary windows and a means of opening and closing not less than one window on each side;
  - d) cause the seats to be properly cushioned or covered;

- e) cause the floor to be provided with a proper carpet, mat, or other suitable covering;
- f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public services;
- g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
- h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;
- j) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.

**THE PROPRIETOR OF A HACKNEY CARRIAGE SHALL CAUSE ANY TAXIMETER WITH WHICH THE CARRIAGE IS PROVIDED TO BE SO CONSTRUCTED, ATTACHED, AND MAINTAINED AS TO COMPLY WITH THE FOLLOWING REQUIREMENTS, THAT IS TO SAY:**

4.
  - a) the taximeter shall be fitted with a key, flag, or other device the operation of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
  - b) such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
  - c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance in pursuance of the tariff fixed by the Council;
  - d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon.
  - e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring;
  - f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

**PROVISIONS REGULATING THE CONDUCT OF THE PROPRIETORS AND DRIVERS OF HACKNEY CARRIAGES PLYING WITHIN THE DISTRICT IN THEIR SEVERAL EMPLOYMENTS, AND DETERMINING WHETHER SUCH DRIVERS SHALL WEAR ANY AND WHAT BADGES**

5. The driver of a Hackney Carriage provided with a taximeter shall:
  - a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;



- b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of that hiring;
  - c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring: which is during the hours of darkness, this being the time between half-an-hour after sunset to half-an-hour before sunrise, and also at any other time at the request of the hirer.
6. A proprietor or driver of a Hackney Carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
  7. A proprietor or driver of a Hackney Carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.
  8. The driver of a Hackney Carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
  9. The proprietor or driver of a Hackney Carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
  10. The driver of a Hackney Carriage when hired to drive to any particular destination shall, subject to any directions given him by the hirer, proceed to that destination by the shortest available route.
  11. A proprietor or driver of a Hackney Carriage shall not convey or permit to be conveyed in such carriage any greater number or persons than the number of persons specified on the plate affixed to the outside of the carriage.
  12. If a badge has been provided by the Council and delivered to the driver of a Hackney Carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
  13. The driver of a Hackney Carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:
    - a) convey a reasonable quantity of luggage;
    - b) afford reasonable assistance in loading and unloading;
    - c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.

**PROVISIONS FIXING THE RATES OR FARES TO BE PAID FOR HACKNEY CARRIAGES WITHIN THE DISTRICT, AND SECURING THE DUE PUBLICATION OF SUCH FARES**

14. The proprietor or driver of a Hackney Carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by distance unless the hirer express at the commencement of the hiring his desire to engage by time.

Provided always that where a Hackney Carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.

15. a) The proprietor of a Hackney Carriage shall cause a statement of the fares fixed by the Council in that behalf to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- b) The proprietor or driver of a Hackney Carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

**PROVISIONS SECURING THE SAFE CUSTODY AND RE-DELIVERY OF ANY PROPERTY ACCIDENTLY LET IN HACKNEY CARRIAGES, AND FIXING THE CHARGES TO BE MADE IN RESPECT THEREOF**

16. The proprietor or driver of a Hackney Carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
17. The proprietor or driver of a Hackney Carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:
  - a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to a police station in the district and leave it in the custody of the officer in charge of the station on his giving a receipt for it;
  - b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the police station, whichever be the greater) but not more than five pounds.

**PENALTIES**

18. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding one hundred pounds and in the case of a continuing offence to a further fine not exceeding five pounds for each day during which the offence continues after conviction therefore.

## Conditions relating to hackney carriage vehicles

### Town Police Clauses Act 1847 ("the 1847 Act")

### Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act")

Any requirement of legislation which affect the operations being carried out under the terms of this licence shall be regarded as if they are conditions of the Hackney Carriage Vehicle Licence.

- The vehicle shall have at least four road wheels and a spare wheel or a canister of tyre inflator/repair kept on the vehicle
- All seats, front and rear and disabled must be fitted with seat belts
- The vehicle should contain portable 1litre foam or dry powder 1Kg capacity fire extinguisher. The extinguisher must conform to BS EN3 1996 Standard and should be mounted in a convenient position in the vehicle. The extinguisher shall be marked with the licence number.
- A First Aid Kit complying with the Health and Safety (First Aid) Regulations 1981 should be carried in the vehicle. The kit shall be marked with the vehicle licence number
- The vehicle must be maintained to a high standard of appearance to the complete satisfaction of the Council, throughout the term of the vehicle license and be kept in the condition stated in the Standards for conditions of appearance of a Hackney Carriage vehicle.

### Hackney carriage occupancy plate

- The vehicle shall have a hackney carriage occupancy plate, (which is not the same as the hackney carriage vehicle licence disk), owned by the Council, but provided at the licensee's expense, which shall display the following:
  - the number of the licence granted in respect of the vehicle;
  - the maximum number of passengers that the vehicle can carry;
  - the expiry date of the licence granted in respect of the vehicle;
  - the words "Chiltern District Council Hackney Carriage";
  - the vehicle registration number of the Hackney Carriage it is assigned, and
  - any other information that the Council considers necessary
- The plate shall be securely fixed to the rear of the vehicle using a purposely made bracket at all times provided free of charge on issue and for a fee at any other time). If this is not suitable or practicable, the plate shall be securely and permanently fixed to the rear of the vehicle, on or above the bumper by the use of screws or bolts, and be clearly visible. A magnet will not be considered securely fixed for the purposes of this condition. the licensee shall ensure the plate is kept clean and is not wilfully or negligently concealed from public view whilst the vehicle is licensed.
- The licensee shall ensure that the vehicle at all times throughout the period of licence, has this plate exhibited in the manner described above
- In the event of revocation or suspension and on the service of a notice under section 58, of 'the 1976 Act' or upon expiry of the licence, the licensee shall return the said plate to the Council's licensing office within seven days

- The plate can be removed by the licensing officer or police officer for reasons of gathering evidence under the Police and Criminal Evidence Act 1984 and will be returned when a photocopy of the plate is made

### **Hackney carriage licence disc**

The vehicle shall for identification purposes be required to have a hackney carriage licence disc issued by the Council. The Hackney Carriage Licence Disc shall display:

- the number of the licence granted in respect of the vehicle;
- the maximum number of passengers that the vehicle can carry;
- the expiry date of the licence granted in respect of the vehicle;
- the words "Chiltern District Council Hackney Carriage";
- the vehicle registration number of the hackney carriage it is assigned to, and
- any other information that the Council considers necessary .
- The hackney carriage licence disc shall be displayed in the front of the vehicle in such a position that it shall be clearly visible from both the inside and the outside of the vehicle. The licensee shall ensure that it is not wilfully or negligently concealed from public view
- the licensee shall ensure that no person uses or permits the use of the vehicle unless the hackney carriage licence disc issued is exhibited in the manner described under these conditions
- In the event of revocation or suspension and on the service of a notice under sections 58, 60 or 68 of 'the 1976 Act' or upon expiry of the licence, the Licensee shall return the said disc to the Council's Licensing Officer within seven days

### **Taximeter**

- All hackney carriage vehicles shall be fitted with a taximeter installed by an authorised taximeter company and so constructed, attached, and maintained as to comply with the following requirement:
- All new hackney carriage vehicles shall require a calendar controlled tariff taximeter
- The taximeter shall be fitted with a key flag or other device, the turning of which will bring the machinery of the taximeter into action and cause the word "hired" to appear on the face of the meter
- Such key, flag or other device shall be capable of being locked in such a position indicating that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter
- When the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the licensee or driver is entitled to demand and take for hire of the vehicle by distance in pursuance of the table of fares made by the Council in that behalf
- The word "fare" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon
- The taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the vehicle, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring

- The taximeter shall be kept properly illuminated throughout any part of a hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972, and also at the request of the hirer
- The taximeter shall have connected thereto a roof sign bearing the words "TAXI" in accordance with paragraph 12 below and such sign shall be plainly visible and legible to persons wishing to hire the vehicle and for that purpose it shall be capable of being suitably illuminated when the vehicle is plying or standing for hire
- The taximeter and all its fittings shall be so affixed to the vehicle with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances
- When the vehicle is standing or plying for hire or returning from another district the key flag or other device fitted with the taximeter shall be locked in the position in which no fare is recorded on the face of the taximeter
- Before beginning a journey for which a fare is to be charged for distance and time, the taximeter should be brought into action so that the word "HIRED" is legible on the face of the taximeter and the taximeter should be kept on until the hiring has terminated
- The Licensee shall ensure that the taximeter and its fittings will be sealed by the installer, and are not tampered with
- The taximeter shall be calibrated and sealed by the taximeter company at first installation and then within 1 month of any change to the Table of Fares, or when directed by the Head of Healthy Communities, any authorised officer or police officer to submit to calibration and testing of the Taximeter by a Taximeter installer. A calibration certificate stating that the taximeter is calendar controlled and conforms to the Chiltern District Council Table of Fares would be required in each of the above cases

### **Signs etc**

No sign, notice, advertisement, plate, mark, letters, figures, symbols, emblems or devices shall be used, if it contains anything of a religious or political nature or advertises tobacco, alcohol, a sex shop or a sex establishment, or contains any matter likely to cause offence. Approval on the type and extent of the advertising should be sought from the relevant officer

### **Roof signs**

The minimum sign dimensions for roof signs are 10" wide 5" deep and 4" high, there are no maximum measurements. The word taxi only in black capital letters to be clearly legible on the front and rear side of the roof sign. The front of the sign must be white and the back red or white.

The sign must be illuminated when plying or available for hire during the hours of darkness and must be linked to the taximeter so that when a fare is being carried, the roof sign is not illuminated.

### **Passengers**

The licensee shall not:-

- Convey or permit to be conveyed in the vehicle a greater number of persons than that prescribed

in the licence for the vehicle

- Without the consent of the hirer convey or permit to be conveyed any other person in the vehicle
- Allow to be conveyed in the front of the vehicle:
  - Any child below the age of three years
  - More than one person above the age of three years
  - An infant in arms

The licensee shall ensure that all passengers between three and twelve years of age or 135cm in height wear an appropriate child restraint to travel in the front of a vehicle. If not available, these passengers must use an adult seat belt in the rear of the vehicle

### **Alteration of vehicle**

No alterations in the specification, design or appearance of the vehicle shall be made without the written approval of the licensing officer.

### **Records of vehicle use**

Where more than one licensed driver has use of the Hackney Carriage, the licensee shall ensure that a record of usage is kept for the vehicle. This record shall include the name of the driver, the date of usage, and the start and end times of the individual's usage. It shall be kept inside the vehicle at all times, and made available to an authorised officer upon request

### **Transfer of vehicle**

- If the licensee wishes to transfers his/her interest in the vehicle to a person they shall within 7 working days inform the Council, specifying the name and address of the person to whom the vehicle is being transferred
- The Council reserves the right to refuse to grant a licence to any person to whom a hackney carriage vehicle is transferred
- Under no circumstances may the new owner use the vehicle as a licensed vehicle until the licence has been transferred to that person and all documentation and any necessary fees paid.

### **Accidents and vehicle damage**

The licensee shall report to the authorised officer any accident (motoring or otherwise) involving the vehicle within 72 hours of the accident. This must be in writing. In the interests of public safety the licensee of any vehicle involved in an accident will be required to submit a compliance certificate to the Council.

The licensee shall report any damage materially affecting the safety, performance or appearance of the vehicle to the authorised officer within 72 hours of the vehicle being damaged. If the vehicle licence is suspended the licensee shall ensure that no further bookings hirings are undertaken until the vehicle has been inspected, a compliance test certificate issued.

### **Insurance and road fund licence**

All hackney carriage vehicles must be licensed and insured for public hire use. The insurance must be include legal liability for both passengers and luggage, and proof of insurance must be submitted with each application. If the insurance expires during the term of the licence, a new cover note or certificate of insurance must be produced to the licensing team

- A certificate of insurance must be provided to the authorised officer within 7 days of any such request.

### **Deposit on licence plate**

A deposit will be required prior to the issue of a hackney carriage vehicle licence plate and will be returnable upon the prompt return of the licence plate upon the expiry of the vehicle licence.

Where a change of ownership occurs, the deposit will be refundable to the person surrendering the licence plate, not to the person who originally paid the deposit.

### **Lost property**

- The Licensee shall ensure that, immediately after the termination of any hiring or as soon as practicable thereafter, the vehicle is searched thoroughly for any property which may have been accidentally left therein.
- The licensee shall ensure that any property accidentally left, or found or handed to him in the vehicle will be, taken to a police station within 48 hours of it being found.

### **Table of fares**

The licensee shall ensure a copy of the tables of fares as determined by the Council to be fixed inside the vehicle. The table of fares should be clearly readable by the passenger.

### **Change of address and personal details**

The licensee shall notify the Council in writing of any change of his address during the period of the licence within 7 days of such change-taking place. This shall include, name, address, telephone/mobile numbers and e-mail address.

### **Proprietor to hold drivers licence**

Before the licensee permits or employs another person to drive the vehicle as a hackney carriage, he shall, have retained a copy of the hackney carriage drivers licence. This shall be retained until such time as the driver ceases to be permitted or employed to drive the vehicle. On cessation of service or employment the licensee shall return the Hackney Carriage Driver's Licence to the driver.

The licensee/proprietor must also ensure the driver holds a current DVLA driving licence in respect of the number of passengers authorised on the vehicle licence/plate.

### **Copy of vehicle licence conditions**

The licensee shall ensure a copy of the vehicle licence conditions are maintained in the vehicle and makes them available for inspection by any authorised officer, the hirer or any passenger on request.

## Validity inspections

Any authorised officer of the council or a police constable shall have power at all reasonable times, to inspect and test for the purpose of ascertaining its fitness any hackney carriage or any taximeter fixed to such vehicle and to serve notice to require further inspection and testing if not so satisfied.

## Convictions and cautions

- The licensee shall, within 72 hours, disclose to the licensing officer in writing if they or any of their drivers are arrested, cautioned, or convicted of any offence (including motoring offences) during the period of this licence. A representative must fulfil this obligation if the licensee is detained by the police. Fixed penalty notices must be declared when received not when the DVLA driving licence is updated.
- The licensee shall ensure that any licensed driver employed by them in any capacity is made aware that they are required to disclose all the information contained in point (i) above to the vehicle licence holder during their period of employment.
- If the licensee is a company or partnership section (i) applies equally to all directors or partners
- The licensee shall make his or her DVLA driving licence available for inspection by an authorised officer of the Council or a police officer upon request.

## Taxi ranks and stands

Hackney carriages will operate from authorised ranks or stands, including “shared” stands or ply the carriageway for hire or can be pre-booked.

## Giving of information

Every proprietor shall within 7 days furnish on request the details, of any person who was authorised to drive the vehicle, to an authorised officer or to a police officer. The details would include the name and address of the person.

## Assistance dogs

All hackney carriage vehicle drivers are required to comply with Section 37 of the Disability Discrimination Act 1995 and Equality Act (2010) to carry assistance dogs assisting disabled persons and to do so without charge. Holders of exemption certificates must display the certificate in a prominent position.

It is an offence to refuse to carry a guide or assistance dog.

## Smoking

It is prohibited for anyone (driver or passenger) to smoke within the vehicle at any time. Appropriate signage must be displayed inside the vehicle in accordance with the Health Act 2006. An international no-smoking symbol at least 70mm in diameter must be displayed in the front passenger window or on the dashboard, and in the rear passenger window. The signs must be clearly visible from inside and outside of the vehicle.

## CCTV in vehicles



The licensee shall ensure that their licensed vehicle does not contain any facilities to record visual or audio sources without first obtaining authorisation from the Council. Any proposed CCTV system must satisfy the requirements of the CCTV conditions contained in the hackney carriage and private hire licensing policy.

### **Appeals procedure**

Any person aggrieved by any conditions specified in this licence may appeal to the Magistrate's Court within 21 days of the decision being made.

### **Standards for conditions of appearance of a hackney carriage vehicle**

The vehicle must comply with the following:-

**Rust** Any vehicle presented should be free from any significant areas of visible rusting. Although minor blemishes should not constitute a failure, the following general criteria should be followed; Any vehicle with visible rust patches should be failed.

**Dents** Any vehicle with dents on one or more panels where such dents are more than 5 cm in diameter/length should be failed.

**Scratches** Any vehicle with un-repaired scratches down to bare metal on three or more panels, of 5 cm in length, or a single scratch of more than 20cms in length, should be failed.

**Paintwork** All panels on all vehicles shall be painted in manufacturer's colour; panels with unmatched colours or in primer should be deemed as failures.

**Seats** In conventional vehicles where it is intended that the licence be for four passengers, the rear seat must be at least 1220mm (48 inches) in width. All seats shall have a minimum of 410mm (16 inches) per person and in respect of seating comply with the Road Vehicle (Registration and Licensing) Regulations 2002. All seats, including the driver's must be free from repaired cuts, tears or cigarette burns, except of a very minor nature. Any repairs must have been carried out in a professional and neat manner. All seats must be kept clean and tidy and free from all extraneous matter.

**Carpets/floor covering** All carpets and floor covering shall be complete and free from cuts, tears, staining and soiling.

**Headlining and other trim** All interior trim, including headlining shall be clean, complete, properly fitted and free from cuts, tears or soiling.

**Boot/luggage compartment** This should be empty, except for spare wheel, essential tools and first aid kit, (to comply with Health and Safety and First Aid Regulations. The compartment should be clean and any covering free from major cuts, tears or other damage or staining.

**Interior** The interior must be kept clean, tidy and free of any water penetration or litter or other rubbish.

**Vehicle emissions** The vehicle must comply with the Motor Vehicle (Emission Test) Regulations

**All glazing** All vehicles will be tested with a light meter. Any vehicle with a reading lower than the following will not be licensed. Front Windscreen 75%, Front Side Windows 70%, All other Windows 30%. The lower the number, the darker the tint.

## Conditions relating to private hire vehicles

### Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act")

Any requirement of legislation, which affect the operations being carried out under the terms of this licence, shall be regarded as if they are conditions of the Private Hire Vehicle Licence.

- The vehicle shall have at least four road wheels and a spare wheel or a canister of tyre inflator/repair kept on the vehicle
- The vehicle must be maintained throughout the term of the vehicle licence, to a high standard of appearance to the complete satisfaction of the Council, and kept in the condition stated in the Standards for conditions of appearance of a Private Hire vehicle.
- All seats, front and rear must be fitted with seat belts.
- The Council's Licensing Officer may direct the vehicle to be inspected in accordance with the Certificate of Compliance at a specific testing station
- The vehicle should contain a portable dry powder 1Kg capacity fire extinguisher. The extinguisher must conform to BS EN3 1996 Standard, and should be mounted in a convenient position in the vehicle. The extinguisher shall be marked with the Private Hire vehicle licence number
- A first aid kit complying with the Health and Safety (First Aid) Regulations 1981 should be carried in the vehicle. The kit to be marked with the private hire vehicle licence number

### Private hire occupancy plate

- The vehicle shall have an occupancy plate, (which is not the same as the Private Hire Vehicle Licence Disc), owned by the Council, but provided at the Licensee's expense, which shall display the following:
  - the number of the licence granted in respect of the vehicle;
  - the maximum number of passengers that the vehicle can carry;
  - the expiry date of the licence granted in respect of the vehicle;
  - the words "Chiltern District Council Private Hire";
  - the vehicle registration number of the Private Hire it is assigned, and
  - any other information that the Council considers necessary.
- The plate shall be securely fixed to the rear of the vehicle using a purposely made bracket at all times provided free of charge on issue and for a fee at any other time). If this is not suitable or practicable, the plate shall be securely and permanently fixed to the rear of the vehicle, on or above the bumper by the use of screws or bolts, and be clearly visible. A magnet will not be considered securely fixed for the purposes of this condition. The Licensee shall ensure the plate is kept clean and is not wilfully or negligently concealed from public view whilst the vehicle is licensed.
- The Licensee shall ensure that the vehicle at all times throughout the period of licence, has this plate exhibited in the manner described above.
- In the event of revocation and on the service of a notice under section 58 of the 1976 Act or upon expiry of the licence, the licensee shall return the said plate to the council's licensing officer within seven days.

- The plate can be removed by the licensing officer or police officer for reasons of gathering evidence under the Police and Criminal Evidence Act 1984 and will be returned when a photocopy of the plate is made.

### **Private hire licence disc**

- The vehicle shall for identification purposes be required to have a private hire licence disc issued by the Council. The private hire licence disc shall display:
  - the number of the licence granted in respect of the vehicle;
  - the maximum number of passengers that the vehicle can carry;
  - the expiry date of the licence granted in respect of the vehicle;
  - the words "Chiltern District Council Private Hire";
  - the vehicle registration number of the Private Hire it is assigned to, and
  - any other information that the Council considers necessary.
- The private hire licence disc shall be displayed in the front of the vehicle in such a position that it shall be clearly visible from both the inside and the outside of the vehicle. The licensee shall ensure that it is not wilfully or negligently concealed from public view.
- The licensee shall ensure that no person uses or permits the use of the vehicle unless the Private Hire Licence Disc issued is exhibited in the manner described under these conditions.
- In the event of revocation or suspension and on the service of a notice under sections 58, 60 or 68 of 'the 1976 Act' or upon expiry of the licence, the Licensee shall return the said disc to the Council's Licensing Officer within seven days.

### **Signs etc.**

No sign, notice, advertisement, plate, mark, letters, figures, symbols, emblems or devices shall be used, if it contains anything of a religious or political nature or advertises tobacco, alcohol, a sex or a sex establishment, or contains any matter likely to cause offence. Approval on the type and extent of the advertising should be sought from the licensing officer.

No signs or advertising containing the word "taxi" will be permitted on any Private Hire vehicle.

### **Private hire signs**

A roof sign is not permitted.

As directed by the Council the proprietor shall cause to be a fixed and maintained to the exterior of the vehicle a prescribed sign bearing the word "Private Hire – Advance Bookings Only" on the rear driver and passenger doors. The sign shall also include the vehicle plate number and Chiltern crest on a yellow background.

### **Dispensation**

Vehicles issued with a dispensation certificate in line with the Chiltern hackney carriage and private hire policy are exempt from displaying vehicle licence plate

Where the use of vehicles changes during the period that the vehicle is licensed, the Licensing team must be informed so dispensation can be removed. If dispensation is removed, the exemptions that this provides will no longer relate to that vehicle.

**Passengers**

The licensee shall not:-

- Convey or permit to be conveyed in the vehicle a greater number of persons than that prescribed in the licence for the vehicle
- Without the consent of the hirer convey or permit to be conveyed any other person in the vehicle
- Allow to be conveyed in the front of the vehicle:
- Any child below the age of three years
- More than one person above the age of three years
- An infant in arms

The licensee shall ensure that all passengers between three and twelve years of age or 135cm in height wear an appropriate child restraint to travel in the front of a vehicle. If not available, these passengers must use an adult seat belt in the rear of the vehicle.

**Alteration of vehicle**

No alterations in the specification, design or appearance of the vehicle shall be made without the written approval of the licensing officer.

**Transfer of the vehicle**

- If the licensee wishes to transfers his/her interest in the vehicle to a person they shall within 14 days inform the licensing officer, specifying the name and address of the person to whom the vehicle is being transferred.
- The Council reserves the right to refuse to grant a licence to any person to whom a private hire vehicle is transferred.
- Under no circumstances may the new owner use the vehicle as a licensed vehicle until the licence has been transferred to that person and all documentation and any necessary fees paid.

**Accidents and vehicle damage**

The Licensee shall report to the authorised officer any accident (motoring or otherwise) involving the vehicle within 72 hours of the accident. This must be in writing. In the interests of public safety the licensee of any vehicle involved in an accident will be required to submit a compliance certificate to the Council. The licensee shall ensure that the vehicle is not used for hire until it has been inspected and approved by the authorised officer.

The licensee shall report any damage materially affecting the safety, performance or appearance of the vehicle to the authorised officer within 72 hours of the vehicle being damaged. Should a Section 60 or 68 notice be issued the licensee shall ensure that no further bookings are undertaken until the vehicle has passed a compliance test and the certificate issued has been provided to the Council.

**Insurance**

All private hire vehicles must be licensed and insured for private hire use. Such insurance must be comprehensive and continuous and include legal liability for passengers and luggage. Proof of insurance must be submitted with each application for a licence and where it expires during the term of the licence a new certificate or cover note must be supplied to the Licensing team

- If a vehicle is temporarily removed from use as a Private Hire Vehicle, the licensee on notification and return of the disc and plate to the licensing Officer, the vehicle can be temporarily removed from the public highway and its use as a private hire vehicle thus removing the need to insure and document the vehicle for that period. The vehicle must not be used for private use during this time.
- A certificate of insurance must be provided to the relevant officer within 7 working days of any such request

**Lost property**

- The licensee shall ensure that, immediately after the termination of any hiring or as soon as practicable thereafter, the vehicle is searched thoroughly for any property which may have been accidentally left therein.
- The licensee shall ensure that any property accidentally left, or found or handed to him in the vehicle will be, taken to a police station within 48 hours of it being found.

**Change of address and personal details**

The licensee shall notify the Council in writing of any change of his address during the period of the licence within 7 days of such change-taking place. This shall include, name, address, telephone/mobile numbers and e-mail address.

**Proprietor to hold drivers licence**

Before the licensee permits or employs another person to drive the vehicle as a private hire, he shall, have retained a copy of the drivers licence. This shall be retained until such time as the driver ceases to be permitted or employed to drive the vehicle. On cessation of service or employment the licensee shall return the drivers licence to the driver.

The licensee/ proprietor must also ensure the driver holds a current driving licence in respect of the number of passengers authorised on the vehicle licence/plate.

**Copy of vehicle licence conditions**

The licensee shall ensure a copy of the vehicle licence conditions are maintained in the vehicle and makes them available for inspection by any authorised officer, the hirer or any passenger on request.

**Validity inspections**

Any authorised officer of the Council or a police constable shall have power at all reasonable times to inspect and test for the purpose of ascertaining its fitness any private hire and to serve notice to require further inspection and testing if not so satisfied.

**Convictions and cautions**

- The licensee shall immediately (within 72 hours) disclose to the licensing officer in writing if they or any of their drivers are arrested, cautioned, or convicted of any offence (including motoring offences) during the period of this licence. A representative must fulfil this obligation if the licensee is detained by the Police. Fixed penalty notices must be declared when received not when the DVLA driving licence is updated.
- The licensee shall ensure that any licensed driver employed by them in any capacity is made aware that they are required to disclose all the information contained in point (i) above to the vehicle licence holder during their period of employment.
- If the licensee is a company or partnership section (i) applies equally to all directors or partners
- The licensee shall make his or her DVLA driving licence available for inspection by the operator, the authorised officer or a police officer upon request.

**Residential qualification**

The operator of any Private Hire Vehicle must reside or maintain an office within the area of the Chiltern District Council for a period of the licence.

**Private hire vehicles must not operate from taxi ranks and stands**

- Private hire vehicles must not operate from hackney carriage ranks or stands or ply the carriageway for hire but must be pre-booked.
- Private hire vehicles must not wait or park on the public highway within 75 metres of an authorised rank.

**Giving of information**

Every proprietor shall within 7 days furnish on request the details, of any person who was authorised to drive the private hire vehicle, to an authorised officer or to a police officer. The details would include the name and address of the person.

**Assistance dogs**

All hackney and private hire vehicle drivers are required to comply with Section 37 of the Disability Discrimination Act 1995 and Equality Act (2010) requiring them to carry assistance dogs assisting disabled persons and to do so without charge. Holders of exemption certificates must display the certificate in a prominent position.

It is an offence to refuse to carry a guide or assistance dog.

**Smoking**

It is prohibited for anyone (driver or passenger) to smoke within the vehicle at any time. Appropriate signage must be displayed inside the vehicle in accordance with the Health Act 2006.

The Council requires that an international no-smoking symbol at least 70mm in diameter must be displayed in the front passenger window or on the dashboard, and in the rear passenger window. The signs must be clearly visible from inside and outside of the vehicle.

### **CCTV in vehicles**

The licensee shall ensure that their licensed vehicle does not contain any facilities to record visual or audio sources without first obtaining authorisation from the Council. Any proposed CCTV system must satisfy the requirements of the CCTV conditions contained in the Hackney Carriage and Private Hire Licensing Policy.

### **Standards for conditions of appearance of a hackney carriage or private hire vehicle**

The vehicle must comply with the following:-

- (a) **Rust:** Any vehicle presented should be free from any significant areas of visible rusting. Although minor blemishes should not constitute a failure, the following general criteria should be followed; Any vehicle with visible rust patches, should be failed.
- (b) **Dents:** Any vehicle with dents on one or more panels where such dents are more than 5 cm in diameter/length should be failed.
- (c) **Scratches:** Any vehicle with un-repaired scratches down to bare metal on three or more panels, of 5 cm in length, or a single scratch of more than 20cms in length, should be failed.
- (d) **Paintwork:** All panels on all vehicles shall be painted in manufacturer's colour; panels with unmatched colours or in primer should be deemed as failures.
- (e) **Seats:** In conventional vehicles where it is intended that the licence be for four passengers, the rear seat must be at least 1220mm (48 inches) in width. All seats shall have a minimum of 410mm (16 inches) per person and in respect of seating comply with the Road Vehicles (Registration and Licensing) Regulations 2002. All seats, including the driver's must be free from repaired cuts, tears or cigarette burns, except of a very minor nature. Any repairs must have been carried out in a professional and neat manner. All seats must be kept clean and tidy and free from all extraneous matter.
- (f) **Carpets/floor covering:** All carpets and floor covering shall be complete and free from cuts, tears, staining and soiling
- (g) **Headlining and other trim:** All interior trim, including headlining shall be clean, complete, properly fitted and free from cuts, tears or soiling.
- (h) **Boot/luggage compartment:** This should be empty, except for spare wheel, essential tools and first aid kit, (to comply with Health and Safety and First Aid Regulations). The compartment should be clean and any covering free from major cuts, tears or other damage or staining.
- (i) **Interior:** The interior must be kept clean, tidy and free of any water penetration or litter or other rubbish.
- (j) **Vehicle emissions:** The vehicle must comply with the Motor Vehicle (Emission Test) Regulations

- (k) **Glazing:** All vehicles will be tested with a light meter. Any vehicle with a reading lower than the following will not be licensed. Front windscreen 75, front side windows 70, all other windows 30. The lower the number the darker the tint. Exceptions may be made for limousines

### **Appeals procedure**

Any person aggrieved by any conditions specified in this licence may appeal to the Magistrates' Court within 21 days of the decision being made.



## **Non-standard private hire vehicle conditions for stretched limousine, and novelty vehicles**

### **Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act")**

A limousine, or other novelty vehicle capable of carrying no more than 8 passengers for hire or reward is a private hire vehicle, and all other interpretations, policies and conditions relevant to licensed private hire vehicles also apply, except where described below:-

- 1 For the purposes of this policy and licence conditions, a stretched limousine is defined as a luxurious vehicle that has been modified (stretched) to extend the length of the vehicle. The stretch shall not exceed 120 inches (measured between the rear edge of the front door and the front edge of the rear door). The vehicle shall be capable of carrying up to, but not exceeding eight seated passengers. Each passenger seating area will be at least 400mm wide.
- 2 For the purposes of this policy, a novelty vehicle shall be defined as follows:-
  - a) any vehicle that has been specially constructed, adapted or converted by a low volume specialist vehicle manufacturer or modifier;
  - b) any vehicle that has been specially modified from its original design specification;
  - c) that is capable of carrying up to but not exceeding 8 passengers;
  - d) vehicles intended for the carriage of fare paying passengers that, prior to the introduction of this policy/conditions, would not be licensed by the authority as a private hire vehicle because they did not comply with one or more of the standard conditions relating to private hire vehicles
  - e) any vehicle that, in the opinion of the Licensing Officer, because of its specialist design/styling or origin or age is required to be classed as a Novelty Vehicle.

### **3 Age of vehicle**

Stretch limousines and other novelty vehicles are not subject to an age limit and will be licensed provided the vehicle presented meets all of the Council's other criteria in terms of appearance and maintenance.

### **4 Licence plates**

The vehicle licence plate must be kept in the boot of the vehicle at all times whilst the vehicle is licensed as a private hire vehicle. The internal plate must be displayed in the front windscreen at all times so that the details are clearly visible.

### **5 Driver**

Only a licensed private hire driver is permitted to drive the vehicle whilst it is licensed. The driver must ensure that they wear or clearly display their Council-issued identity badge in a prominent position at all times whilst working or driving the vehicle.

The driver shall at all times be clean and respectable in their dress and behave in a civil and orderly manner.

## **6 Signs etc.**

No sign, notice, advertisement or emblems shall be used or displayed on, in or from the vehicle other than those legally required, those contained within these conditions, or any authorised company details.

Approval of the type of advertising should be sought from the Licensing team and written authorisation must be obtained prior to use. No signs or advertising containing the word "taxi" or "cab" will be permitted on any private hire vehicle.

## **7 Application Procedure**

In relation to stretch limousines and novelty vehicles the following must be provided on application (this is in addition to the requirements for a standard Private Hire vehicle);

- a) Single vehicle approval certificate
- b) Documentation to confirm the overall weight of the vehicle
- c) The vehicle identification number (VIN) plate must display '1L1' to confirm that the conversion has been completed by an authorised dealer. This will be confirmed by inspection prior to any licence being issued.
- d) Completed importation document (where applicable)
- e) V5 vehicle registration

The licence shall remain in force for one year

## **8 Passengers and passenger safety**

- a) The proprietor shall not permit the limousine/novelty vehicle to be used to carry a greater number of passengers than the number prescribed in the licence.
- b) Passengers will not be carried in the front of the vehicle.
- c) All passengers must remain seated at all times when the vehicle is in motion.
- d) The proprietor of the vehicle must:
  - i) Provide sufficient means by which any person in the vehicle may communicate with the driver.
  - ii) Ensure that the interior of the vehicle is kept wind and watertight.

- iii) Ensure that the seats in the passenger compartment are kept properly cushioned and covered.
- iv) Ensure that the floor in the passenger compartment is provided with a proper carpet, mat or other suitable covering.
- v) Provide at least two doors for use of persons conveyed in limousine/novelty vehicle and a separate means of ingress and egress for the driver.
- vi) Ensure that the interior and exterior of the limousine/novelty vehicle is kept in a clean condition.
- vii) Ensure that seatbelts are fitted to all forward and rear facing seats. In accordance with Construction and Use Regulations, where seat belts are fitted they must be worn by passengers at all times when the vehicle is in motion.
- viii) Ensure that no seat is required to be moved to allow any passenger to enter or exit the vehicle
- ix) Ensure that an approved first aid kit will be carried in the vehicle at all times
- x) Report to the Council any alteration in the design of the vehicle, whether to the machinery or to the body. The Council may require the proprietor to submit the vehicle for further examination.

## **9 Interior lighting**

There shall be maintained in the vehicle adequate internal lighting to enable passengers to enter and leave the vehicle with safety.

## **10 Maximum stretch**

The maximum length of a limousine "stretch" shall not exceed 120 inches [3048 millimetres].

## **11 Left and right hand drive vehicles**

Both left and right hand drive vehicles will be considered for licensing as private hire vehicles.

## **12 Tyres and road wheels**

The vehicle shall be equipped with a minimum of 4 road wheels and 1 full sized spare wheel. The tyres shall be of an approved rating as specified by the manufacturer.

## **13 Windows**

The front windscreen shall allow a minimum level of 75% light transmittance and the front driver and passenger windows shall allow a minimum level of 70% light transmittance.

## **14 Decommissioned vehicle markings**

Novelty Vehicles based on decommissioned Military or Emergency Response vehicles must have all official marking or lights removed. Any colour scheme must be of a contrast to the original colour scheme and to that of any previous or current military or emergency response vehicles.

## **15 Roof racks**

A roof rack or any other device for storing luggage shall not be installed or maintained on any part of the vehicle except with the approval of the Council.

## **16 Exemption notice for displaying a licence plate / door stickers**

A certificate exempting the vehicle from displaying a licence plate and Council issued door stickers will be issued by the Council. This certificate must be carried in the vehicle at all times and be available for inspection on request by an authorised officer of the Council or a police constable.

## **18 Insurance**

The Council will require proof that the vehicle is insured during the period of the licence and on request by an authorised officer the proprietor shall produce, within 5 working days, a current insurance certificate/cover note for private hire purposes. Failure to produce proof of insurance as detailed above may result in the suspension of the licence.

The proprietor is advised that they should, following the expiry of an insurance certificate/cover note, provide a current insurance policy to the Council

## **20 Alcohol**

Alcoholic drinks provided in the vehicle shall be available only under the terms of an appropriate licence relating to the sale and supply of alcohol.

Alcohol shall only be consumed while the vehicle is stationary and the bottle shall immediately afterwards be placed in a secure receptacle.

If all of the passengers are below the age of 18, there shall be no alcohol in the vehicle for consumption or otherwise.

Any glassware used in the vehicle must be made of shatterproof glass or plastic.

## **21 Licensing Act 2003**

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.

A Premises Licence will be required for the provision of any form of regulated entertainment within the scope of the Licensing Act 2003 when the vehicle is parked.

- 22** The vehicle shall be maintained in pristine condition with no visible defects, dents or blemishes to the external bodywork or internal trim or seating.

The Council reserves the right to vary, delete or waive any of the foregoing Conditions.

### **Driver and operator licensing requirements**

In addition to the limousine being licensed as a private hire vehicle with Chiltern District Council, the limousine operator is required to hold a private hire operators' licence with Chiltern District Council.

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 licensed private hire driver who is also licensed by Chiltern District Council.

Details in respect of applications for private hire drivers' licences and private hire operators' licences can be obtained from the Licensing team.

### **Rights of appeal**

The Local Government (Miscellaneous Provisions) Act 1976 sections 48 and 77 detail an applicant's right of appeal. In general terms where an applicant is aggrieved by the Council's decision to refuse to grant a private hire vehicle licence or by any conditions imposed on a private hire licence the applicant has a right of appeal to Magistrates' Court within 21 days of the applicant being notified of the Council's decision.

### **Vehicle testing stations**

Licensed stretch limousines must be submitted for testing at six monthly intervals, to the appropriate Class MOT standard from a testing station nominated by the Licensing team.

## **Conditions relating to private hire operators**

### **Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act")**

An operator makes provision for the invitation or acceptance of bookings for a private hire vehicle.

Any legislative requirement shall be regarded as if they are conditions of the Private Hire Operators Licence. In determining what matters should be considered for a person to be a Fit and Proper Person to be an operator the following applies

#### **Fit and proper person**

Private hire operators must be fit and proper persons. A fit and proper person is defined in the hackney carriage and private hire policy.

#### **Details of current drivers**

A list of all current drivers and vehicles representing your company must be submitted as part of the renewal.

#### **Duration of private hire operator's licence**

The standard period that a licence shall remain in force is for a period of five years from the date of issue.

No licence will be issued for a period longer than the standard five year period, however if an applicant wishes to be considered for a licence with a shorter duration, this request must be put in writing at time of application. These requests will be considered on a case by case basis.

An operator's licence on renewal may be issued for a probationary period determined by the Council less than the standard five years, dependant on the applicant's ability to demonstrate being a fit and proper person. Items that could be considered would include, criminal record, references, past allegations, record of compliance with the conditions, outstanding fees and any other reasonable cause.

#### **Basic disclosure check**

The authorised officer can make random checks. This will require a disclosure application form to have been completed and signed by the applicant

#### **Convictions and cautions**

Convictions and cautions will be considered in accordance with the Hackney Carriage and Private Hire Policy.

In order to ensure protection of the public an operator must ensure disclosure to a relevant officer within 72 hours in writing if they are arrested, cautioned or convicted of any offence during the period of their licence. Should knowledge of any offences be withheld, this could reflect on a person fitness to be a Private Hire Operator and may lead to a licence being suspended. If the operator licence is held by a company or partnership, the requirements of this section apply equally to all directors and partners.

## Record of bookings

The record required to be kept by the operator under Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 shall be kept on a prescribed booking pad, provided at nominal cost by the Council, or on a spreadsheet provided by the Council, or on a nationally recognised piece of computer software. This software must be capable of providing the information listed below. The entries must be numbered consecutively, and no pages should be removed. The operator shall enter the required information for each booking invited or accepted by him, before the commencement of each journey.

- The time and date of the booking
- The name and address of the hirer
- How the booking was made (i.e. by telephone, personal call etc.)
- The time of pick-up
- The point of pick-up
- The destination
- The time at which a driver was allocated to the booking
- The name of the driver and the registration number of the vehicle allocated for the booking.
- Remarks (including details of any sub-contract).

All records kept by the operator shall be preserved for a period of not less than 18 months following the date of the last entry. In the case of computer records the entries must be capable of being printed on demand at the request of a Police officer or the licensing officer. All records must be available for inspection and copying if required by licensing officer or Police officer.

## Standard of service

The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose shall in particular:-

- (a) Ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place.
- (b) Keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting.
- (c) Ensure that any waiting area provided by the operator has adequate seating facilities
- (d) Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.

**NB: Planning approval, where required, must be obtained for any premises used for operating a Private Hire business**

## Complaints

The operator shall notify the Council in writing within 72 hours of any complaints concerning a contract for hire or purported contract for hire relating to or arising from his business and of the action (if any) which the operator has taken or proposes to take in respect thereof.

**Address**

The operator must live or maintain an office within the Chiltern District Council area for the period of the licence. The operator shall within 7 days, notify the Council in writing of any change of address during the period of the licence. A further application will be required for the new premises. Any premises used solely for work purposes are required to be smoke free.

**Conduct**

The operator of a private hire vehicle shall not by calling out or otherwise importune any person to hire such vehicle and shall not make use of the services of any other person for that purpose.

**Record of vehicles etc.**

In accordance with the provisions of Section 56(3) of the 1976 Act the operator shall keep a record in a bound volume of all private hire vehicles operated by him and such record shall include the following particulars:

- The registration mark of each vehicle
- The make of the vehicle
- The name and address
- The names, addresses and drivers licence numbers of drivers driving the vehicles
- Details of any radio call sign used

Such records shall be retained for a period of 18 months, and shall not be destroyed or otherwise disposed of before the expiry of such period without the previous written consent of the Council.

**Fares and fare table**

The operator upon request shall agree the fare for a journey booked, or provide an estimate of the fare, or explain that the journey will be metered.

Should the operator dispatch a vehicle with a taximeter, they shall ensure that the meter is calibrated to the tariff of fares published by Chiltern District Council, and that the published table of fares is clearly displayed in the vehicle. The operator shall ensure that the fare for such bookings does not exceed the rate on the meter.

**CCTV in vehicles**

The operator shall ensure that they retain a copy of the CCTV authorisation certificate from Chiltern District Council for any vehicle containing a CCTV system. No vehicle is to contain facilities to record visual or audio sources without the vehicle licence holder holding a certificate of authorisation from the Council.

**Operator to hold drivers licences**

Before the operator permits or employs another person to drive a licensed private hire vehicle, he shall have retained a copy of the driver's private hire drivers licence. This shall be retained until such



time as the driver ceases to be permitted or employed to drive the vehicle. On cessation of service or employment the licensee shall return the private hire drivers licence to the driver.

The licensee/proprietor must also ensure the driver holds a current drivers licence in respect of the number of passengers authorised on the vehicle licence/plate.

The operator shall notify the Council within 7 days of the details of any driver no longer working for them.

### **Disposal and acquisition of vehicles**

When an operator ceases to operate a particular vehicle, or begins to operate a new vehicle they shall inform the Council in writing as soon as possible but not later than within 7 days of such fact.

### **Condition of vehicle**

The operator shall ensure that any private hire vehicle operated by him (regardless of who owns the vehicle or holds the vehicle licence) is maintained in the condition required by the private hire vehicle licensing conditions or hackney carriage vehicle licensing conditions. The operator will ensure the vehicle is maintained in a suitable mechanical condition, safe, comfortable, clean and presentable and that the external licence plate and internal licence disc provided by the Council is affixed to the vehicle in such a manner and position as shall be prescribed by the Council.

### **Compliance with legislation**

Operators, where applicable, must comply with the provisions of the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976, the byelaws made in respect of hackney carriages and conditions relating to the private hire drivers licence. They shall also ensure compliance with Section 37 of the Disability Discrimination Act 1995 and the Equality Act (2010) in respect of assistance dogs.

### **Smoking**

Operators must ensure that all vehicles dispatched by them display appropriate signage inside the vehicle in accordance with the Health Act 2006.

The Council requires that an international no-smoking symbol at least 70mm in diameter must be displayed in the front passenger window or on the dashboard, and in the rear passenger window. The signs must be clearly visible from inside and outside of the vehicle.

### **Insurance**

The licensee shall ensure that any vehicle they dispatch is covered by valid insurance for the purposes of private hire, and shall ensure that they do not act in any way which might invalidate the insurance.

The licensee shall where applicable maintain and provide evidence of employer's liability insurance upon request in accordance with the Employer's Liability Compulsory Insurance Act 1969.

In the case where members of the public have access to the operating centre, the licensee shall maintain and provide evidence of public liability insurance upon request.

### **Appeals procedure**

Any person aggrieved by any conditions specified in this licence may appeal to the Magistrates' Court within 21 days of a decision being made.

<b>SUBJECT:</b>	<b>Licensing Act 2003 Policy Review 2017</b>
<b>REPORT OF:</b>	Director of Services – Steve Bambrick
<b>RESPONSIBLE OFFICER</b>	Head of Healthy Communities – Martin Holt
<b>REPORT AUTHOR</b>	Nathan March, 01494 732249, nmarch@chiltern.gov.uk
<b>WARD/S AFFECTED</b>	All

### 1. Purpose of Report

- 1.1 This report is to recommend to Council the adoption of the revised draft Licensing Act 2003 Policy Statement ("the draft Policy") attached as Appendix 1.

#### RECOMMENDATION

That the Council adopts the draft Policy attached as an Appendix to come into effect on 13<sup>th</sup> November 2017.

### 2. Reasons for Recommendations

- 2.1 The Council has a statutory responsibility under the Licensing Act 2003, as amended ("the 2003 Act") to ensure that the Licensing Act Statement of Policy is reviewed at least every 5 years, the existing policy will have been in place for 5 years as of 12<sup>th</sup> November 2017.

### 3. Background

- 3.1 The draft Policy was reviewed by the Licensing Committee on 30<sup>th</sup> March 2017 and agreed for an eight week consultation.
- 3.2 The Guidance issued under section 182 of the Licensing Act 2003 ("the 2003 Act") states that before determining its policy for any five year period, the Licensing Authority must consult the persons listed in section 5(3) of the 2003 Act. These are:
- the Chief Officer of Police for the area;
  - the Fire and Rescue authority for the area;
  - each Primary Care Trust or Local Health Board for an area any part of which is in the licensing authority's area
  - persons/bodies representative of local holders of premises licences;
  - persons/bodies representative of local holders of club premises certificates;
  - persons/bodies representative of local holders of personal licences; and
  - persons/bodies representative of businesses and residents in its area.
- 3.3 The Council has consulted with all of the above named consultees and the Town and Parish Councils have also been consulted. The draft Policy was publicised on the Council's website, and via the Council's social media accounts.
- 3.4 There were 3 responses received to the consultation, with the only requested consideration relating to the notification of local residents when licensing applications are submitted to the Council regarding premises in their area. Some local authorities do this, and it is often referred to as 'Neighbour Notification'.

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#### 4. Draft policy amendments following consultation

- 4.1 Following consideration of the responses to the consultation at its meeting on 17 July 2017, the Licensing Committee decided to include Neighbour Notification within the draft Policy (Page 11). As there were no other considerations necessary as a result of the consultation responses, this was the only amendment and the Licensing Committee resolved to recommend the draft Policy to Council for adoption.

#### 5. Corporate Implications

##### 5.1 Legal

The 5 year review of the Statement of Licensing Policy is a statutory requirement under the 2003 Act.

Increasing the amount of consultation led by the Council, could lead to challenge by applicants via appeal or judicial review if it is considered that the Council has solicited representations. However, neighbour notification is common around the country, and so long as any information provided in the consultation is neutral it is considered that there is a low risk of a successful challenge.

##### 5.2 Financial

Increasing the level of consultation that takes place by the Council will increase the cost of determining an application made under the 2003 Act, and may lead to an increase in the need for licensing sub-committees if it is the case as reported by respondents that residents are not currently becoming aware of the applications and therefore do not submit representations objecting to an application. However, this may lead to reduced costs of monitoring the licence once granted as a result of improved conditions on licences, and potentially less likelihood of complaints from residents if their concerns are addressed during the application process.

##### 5.3 Equality Act 2010

An Equalities Impact Assessment (EIA), in accordance with the requirements of the Equality Act 2010, has been undertaken in connection with the review of the Licensing Policy Statement. The EIA undertaken, a copy of which can be viewed by contacting the Licensing Team, did not identify any adverse equality issues and as a result no further action or mitigation is considered appropriate.

#### 6. Links to Council Policy Objectives

- 6.1 The publication of an effective Statement of Licensing policy links to all 3 of the Council's headline objectives:

1. Delivering cost- effective, customer- focused services
2. Working towards safe and healthier local communities
3. Striving to conserve the environment and promote sustainability.

#### 7. Next Steps

If the draft Policy is adopted it will come into effect on 13<sup>th</sup> November 2017 and will be made available to the public via the Council's website.

<b>Background Papers:</b>	None other than those referred to in the report.
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# **CHILTERN**

## **District Council**



**CHILTERN**  
District Council

**Healthy Communities**

**LICENSING ACT 2003**

**STATEMENT OF  
LICENSING POLICY  
2017**

**(DRAFT)**

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Page 1 of 30  
Classification: OFFICIAL

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## CONTENTS

	Page
1. Introduction	3
2. Objectives and Principles	4
3. Strategic Links and other Regulatory Systems	7
4. Licensing Process	9
5. Special Policy Relating to Cumulative Impact	15
6. Licence Conditions	18
7. Complaints against licensed premises	25
8. Enforcement Policy	26
9. Delegation and Decision Making	27
10. Further Information	28

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Page 2 of 30  
Classification: OFFICIAL

Classification: OFFICIAL - SENSITIVE

## 1. Introduction

- 1.1 The Licensing Act 2003 as amended (“the Act”) requires the Council, in its role as the Licensing Authority, to prepare a Statement of Licensing Policy that states its position in relation to its duties under the Act.
- 1.2 This policy relates to the following activities that are required to be licensed under the Act:
- a) the sale of alcohol by retail;
  - b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
  - c) the provision of regulated entertainment in the presence of an audience. Regulated entertainment includes the performance of a play; film exhibitions, indoor sporting events, boxing or wrestling events, performing live music and playing recorded music (except incidental music), dance performances and entertainment of similar descriptions and some ‘relevant entertainment’ (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing)
  - d) the provision of late night refreshment.
- 1.3 This policy shall apply to Premises Licences, Club Premises Certificates, Personal Licences and Temporary Event Notices in respect of new consents, renewals, transfers and variations.
- 1.4 The Council recognises the powers granted to it by the Act, and intends to use them, in consultation with responsible authorities, licence holders and with the general public, in a socially responsible way.

This policy will be taken into account by the Council if its discretion is engaged (i.e. at a hearing following relevant representations).

- 1.5 The aim of the policy is to secure the safety and amenity of residential and working communities whilst facilitating a sustainable entertainment and cultural industry with effectively regulated local services where licensable activities take place. The Council in adopting this licensing policy recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of well-run entertainment premises to the local economy and vibrancy of the District. To achieve this aim The Council is committed to partnership working with the Police, fire service, local businesses, licensing trade, residents, Buckinghamshire Public Health and others towards the promotion of the objectives as set out in this policy.

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- 1.6 In accordance with the statutory procedures, a review of this policy will take place every 5 years, to take into account information collated over a period of time, coupled with the outcomes of initiatives relating to alcohol and entertainment at central and local government level. The Policy may also be subject to minor amendments from time to time, for example, when there are changes to relevant legislation; when this is necessary, changes will be authorised by the Head of Healthy Communities, in consultation with the Chairman of the Licensing and Regulation Committee.
- 1.7 In preparing this Policy The Council has consulted with and considered the views of a wide range of people and organisations including:
- a) Thames Valley Police;
  - b) Buckinghamshire Fire and Rescue;
  - c) Buckinghamshire Public Health
  - d) Buckinghamshire Safeguarding Child Board
  - e) Existing Premise Licence holders;
  - f) Existing Club Premise Certificate holders;
  - g) Existing Personal Licence holders;
  - h) Representatives of businesses and residents in the Chiltern DC area; and
  - i) Town and Parish Councils.
- 1.8 The consultation was also publicised on the website and via the Council's social media accounts.
- 1.9 In the preparation and publication of this policy Chiltern DC has had regard to national guidance issued under Section 182 of the Act.
- 1.10 Nothing in this policy document should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden. Any statement within the Policy will be relevant to all licensed premises (including Clubs) unless otherwise stated.

## 2. Objectives and Principles

- 2.1 The Act provides that Chiltern DC has a duty to carry out its functions with a view to promoting the prescribed licensing objectives:
- a) **The prevention of crime and disorder**
  - b) **Public safety**
  - c) **Prevention of public nuisance**
  - d) **Protection of children from harm**

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with effect xxxxxx 2017



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Each objective is of equal importance.

2.2 Recognition is given to the variety of activities for which licences may be sought and this document specifies licensing policies in respect of those regulated entertainments, premises from which alcohol may be served, late night hot food outlets and others with proper regard to the following:

- a) Location of and environmental impact of the proposed activity;
- b) Suitability of applicants (for appropriate licences);
- c) Suitability of premises subject to the application;
- d) Operation and management functions;
- e) Consultation processes;
- f) Monitoring, review and enforcement.

2.3 Whilst these factors will be under consideration it should be stressed that the following fundamental principles will also be observed: -

- a) the right of any individual or body to apply for a variety of permissions is not undermined and that each application will be determined on its merits;
- b) the statutory right of any person to make appropriate representations or to seek a review in respect of any application;
- c) that the statutory function of licensing is primarily concerned with the regulation of persons, premises and temporary events within the legislation and that any terms and conditions will focus on:
  - i) matters within the control of individual licence holders and others who are granted any relevant permissions;
  - ii) the premises and places being used for licensable activities;
  - iii) the direct impact of the activities taking place at the relevant premises on the public living, working or engaged in normal activity in the area concerned;

2.4 All residents have equal rights to make representations concerning applications for premises licences and to receive appropriate consideration to their representations. However, unreasonable, frivolous and vexatious representations will be disregarded. Each representation will be considered on its own merits. In determining such matters, the Council will have regard to Act, the statutory Government Guidance, this policy and the licensing objectives.

2.5 Government Guidance is that licensing policies are not used as a mechanism for the general control of anti-social behaviour by individuals once they are beyond the immediate vicinity of the individual club, business or licensed premises holding the relevant licence, certificate or permission.

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## **Commercial Demand**

- 2.7 The commercial demand for additional premises licences [as distinct from cumulative impact] will not be a matter for the Council.

## **Zoning and Licensing Hours**

- 2.8 Individual applications will be considered on their own merits and in general terms a flexible approach will be adopted and arbitrary restrictions will be avoided. Fixed predetermined closing times for particular areas will not form part of the policy and restriction on trading hours will be considered only where appropriate to meet the licensing objectives.
- 2.9 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual shops which are known to be a focus of disorder and disturbance then, subject to representations from the police, other responsible authorities and other persons, a limitation on licensing hours may be appropriate and imposed.
- 2.10 In general, the Council will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence, stricter conditions are likely to be imposed with regard to noise control in the case of premises which are situated in largely residential areas, including premises which are licensed for and the supply of Alcohol both on and off the premises, and/or regulated entertainment.

## **Children**

- 2.11 Nothing in this statement of policy shall limit or require access to premises by children unless there is an overriding requirement of necessity to prevent physical, moral or psychological harm to children. Areas that will give rise to particular concern are highlighted elsewhere in this policy.
- 2.12 The Council considers that the Buckinghamshire Children's Safeguarding Board is a competent body to advise on matters of child protection, and in urgent cases, the Service Director of Child & Family Service at Buckinghamshire County Council is competent to give advice.

## **Conditions**

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

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- 2.13 The policy does not provide for any 'standard conditions' to be imposed to avoid the imposition of disproportionate and burdensome requirements. Conditions attached to licences if required in particular circumstances will be tailored to reflect the individual style and characteristics of the activities concerned. It should be noted that 'pools of conditions' from which appropriate and proportionate conditions may be drawn in particular circumstances are provided for in this policy statement. This may include those contained within the National Guidance and the District Surveyors Association Model National Standard Conditions.
- 2.14 Where relevant representations have been made and it has been satisfied at a hearing of the necessity to impose conditions, such conditions will only be imposed such as are appropriate and proportionate to promote the licensing objectives. Conditions will not be imposed which are beyond the responsibility or control of the licence holder.
- 2.15 Where no representations have been made, the licence or certificate will be granted subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed in the Act.

## **Community Premises**

- 2.16 Recent changes in legislation now permit community premises to be able to sell alcohol without the need for a Designated Premises Supervisor holding a personal licence and can instead specify that the committee will be responsible for alcohol sales. In such circumstances the Authority would expect to be provided with a name or names and contact number(s) for those individuals who could be contacted in case of emergency or general queries relating to the licence.

## **3. Strategic Links and other Regulatory Systems**

### **Strategic influences**

- 3.1 There is a range of national and local strategic influences and statutory controls which affect the licensing system in terms of policy formulation, administration and enforcement activities. In this respect, the Council has and will continue to take account of its obligations and powers under other legislation, including in particular, the Immigration Act 2016 the Crime and Disorder Act 1998, the Human Rights Act 1998, the Disability Discrimination Act 1996, the Anti Social Behaviour Act 2003 and the Equality Act 2010.

- 3.2 It has also taken account of Government and national strategies including:

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

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The Modern Crime Prevention Strategy; Home Office 2016  
The Immigration Act 2016  
Alcohol Harm Reduction Strategy for England (Prime Minister's Strategy Unit;  
Safe. Sensible. Social. The Next Steps in the National Alcohol Strategy;  
Home Office Safer Clubbing Guide;  
Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance;  
Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.

- 3.3 The Council has also taken account of relevant local strategies relating to crime reduction, community development and tourism including:

Chiltern Community Plan;  
Chiltern Community Safety Strategy;  
Community Development Revitalisation Action Plan;  
Enforcement policies of Chiltern District Council and Thames Valley Police;  
'Calling Time on the Harms Caused by Alcohol in Buckinghamshire' (DAAT, 2007)

- 3.4 The Council recognises that licensed premises in the District are a major contributor to the District. They attract tourists and visitors, make for vibrant towns and communities and are major employers. Therefore, proper account will be taken of the need to encourage and promote a broad range of entertainment, particularly live music and entertainment, for the wider cultural benefit of communities within the context of residential amenity. To this end, the Council would encourage applications for premises licences from owners of public land in order to encourage circus and street arts into the area.

## Other Regulatory Systems

- 3.5 It is appreciated that there may be an overlap between the licensing regime and other statutory regulatory systems. To avoid such duplication, conditions will not be attached to licences if they are already adequately covered by other legislation. However, such regulations do not always cover the unique circumstances that arise in connection with licensable activities and so in these circumstances, tailored conditions may be appropriate.
- 3.6 The planning, building control and licensing regimes will be separated to avoid duplication and licence applications will not cut across decisions made under the other regimes. However, in circumstances where any

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

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restriction has been placed on the use of premises (through the imposition of planning conditions) prior to an application being made for a licence, certificate or provisional statement, consideration will be given to the extent to which the application meets the overall licensing objectives and the policies contained within this statement. The granting of a licence, certificate or provisional statement will not override any requirement of the planning system. The licensing system will provide the detailed control of operational matters, which are unlikely to be addressed through planning processes however there will be overlapping issues of interest i.e. disturbance, which will remain material considerations for planning purposes.

## **4. The Licensing Process**

### **General**

- 4.1 The powers of the Council under the Act may be carried out by the Licensing and Regulation Committee, by a Sub-Committee or, instead, by one or more officers acting under delegated authority. It is considered that many of the functions will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness these will, for the most part be carried out by officers.
- 4.2 Applications where there are relevant representations will be dealt with by the Licensing Sub-Committee of the Council, as will any application for review of a licence. Relevant representations will normally only be accepted when a name and address are provided as a minimum. A copy of the relevant representations will be passed to the Applicant as required by the Licensing Act 2003 (Hearings) Regulations 2005 as amended and in order for there to be an opportunity to resolve and/or address concerns without the need for a hearing if possible.
- 4.3 Persons wishing to submit relevant representations to the Council should notify the Council prior to submitting a relevant representation if they do not want their personal details to be passed to the applicant, so that the Council can consider whether there are circumstances to justify withholding some or all of the persons personal details from the Applicant giving only minimal details in line with the Statutory Guidance. Alternatively other approaches could be considered regarding submitting representations including contacting the relevant responsible authority or the Parish/Town Council who could then make representations if appropriate and justified.
- 4.4 The Council acknowledges the advice previously received from Department of Culture, Media and Sport (DCMS) that the views of vocal

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

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minorities should not be allowed to predominate over the general interests of the community. However, each case will be considered on its own merits.

## **Applications for Premises Licences and Club Premises Certificates**

- 4.5 Premises Licences and Club Premises Certificates will be determined in the same way. Club Premises operators may apply for a full Premises Licence, which (if granted) will allow them greater freedom in relation to the use of the premises.
- 4.6 The Immigration Act 2016 requires that Premises Licences may only be granted to individuals if they have provided evidence of their lawful immigration status and proven their eligibility to undertake work relating to the carrying on of a licensable activity in line with the requirements of the legislation and guidance. Existing licences automatically lapse if and when the licence holder's lawful leave or permission to work ends.
- 4.7 'Minor variation' applications can be used to make changes to licences which are unlikely to have any effect on the licensing objectives. Officers will consult with relevant responsible authorities where there is any doubt of possible impact on the licensing objectives. There is no right to a hearing with such applications although any comments made by other persons or responsible authorities must be taken into account before any decision is made.
- 4.8 The Council will expect individual applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, their operational procedures, the nature of the location and the needs of the local community.
- 4.9 Applicants should make themselves aware of and comply with the Council's Statement of Licensing Policy and the advice provided for applicants when preparing their operating schedules.
- 4.10 When attaching conditions the Council will also be aware of the financial implications and the need to avoid measures which might deter entertainment by imposing indirect costs of a substantial nature.
- 4.11 Prospective holders of new premises licences, and those seeking variations to existing premises licences, are advised to consult with the Council's licensing officers, the various responsible authorities and where appropriate local residents or their representatives at the earliest possible planning stage in order to reduce the risk of confusion and dispute arising. The Council will endeavour to work in full co-operation with licence holders

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

and applicants to minimise the number of disputes that may arise. The Council may consider charging for pre application advice, where this is the case this will be advised on the first occasion of contact.

## **Neighbour Notification Policy**

- 4.12 Neighbour notification seeks to ensure that those persons within the borough who live immediately next to, opposite or behind
- a licensed premises, or
  - the proposed site for a licensed premises are notified when there is
- 4.13 a licence application made relating to that premises or site. Neighbour notification will allow immediate neighbours an opportunity to consider the application and respond if appropriate.
- 4.14 This process applies to any of the following:
- Application for new premises licence
  - Application to full variation of a premises licence
  - Application for new club premises certificate
  - Application to full variation of a club premises certificate
  - Application for new gambling premises licence
  - Application to vary gambling premises licence
  - Application for a review of a licence
- 4.15 The use of notification letters is in addition to the statutory requirements that are already in place for applicants to advertise applications in a local newspaper and on a blue notice outside the premises. The letter will contain the name of the premises, brief details of the application and how to get further information or make representations, as detailed on the public notices posted at the premises.

## **Properties to be notified**

- 4.16 Properties to be notified are as follows:
- Properties sharing a common boundary with the premises, including outside areas
  - Properties immediately in front of premises (opposite side of road)
- 4.17 The Licensing Officer will use judgement in circumstances where:
- Other parties, not identified as above, may reasonably be considered to be affected.

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

- Distances between buildings, or other circumstances, are such that notification in precise accordance with the above guidance is considered unnecessary. The Council acknowledges the advice previously received from Department of Culture, Media and Sport (DCMS) that the views of vocal minorities should not be allowed to predominate over the general interests of the community. However, each case will be considered on its own merits.
- 4.18 In addition, the Licensing section will, in the case of new applications or full variation applications, write to District Councillors and Parish Councils advising them of the receipt of an application.

## Temporary Events

- 4.19 The Licensing Act 2003 provides for certain occasions when small scale events (for no more than 499 people at a time and lasting for no more than 168 hours) do not need a licence providing that advance notice is given to the police, and local authority exercising environmental health functions and the Council. The police or local authority exercising environmental health functions may intervene to prevent such an event taking place or agree a modification of the proposed arrangements, and their intervention may in some cases result in the Council imposing conditions on a temporary event notice. When giving a temporary event notice, consideration shall be given to the four licensing objectives. The Council only otherwise intervenes if the statutory permitted limits on temporary event notices would be exceeded.
- 4.20 The Council suggests, where possible and practical, that at least three calendar months' notice be given to hold these events, to allow it to help organisers plan their events safely. This is particularly important when considering more complex entertainment events. A longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and a lesser time means that planning may be rushed and haphazard. It is recognised however, that a high proportion of TENS will be less involved, in which case at least one calendar month notice is suggested. The statutory minimum notification period is ten working days for a 'standard' TEN, and no less than 5 working days for a 'late' TEN."
- 4.21 The Council has established a Safety Advisory Group, consisting of the emergency services and other statutory agencies such as the highways authority, to advise and co-ordinate planning for public events in the District, whether or not a premises licence or a temporary event notice is needed.

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017



Classification: OFFICIAL - SENSITIVE

- 4.22 Organisers of temporary events are strongly advised to contact the Council's Licensing Team for advice at the earliest opportunity when planning events. Where necessary, the advice of the Safety Advisory Group can be obtained, or discussions held with the police to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 4.23 Local publicity will also remind notice givers of relevant offences under licensing law including the laws governing sales of alcohol to minors or to any person who is drunk, and of the police powers to close down events with no notice on grounds of disorder, the likelihood of disorder or because of public nuisance, including noise emanating from the premises.
- 4.24 The Council licensing officers and Environmental Health officers may visit events held under the terms of a temporary event notice on the basis of potential risk or impact.

## **No Smoking Legislation**

- 4.25 In July 2007, the government introduced new legislation under the Health Act 2006 to prohibit smoking in virtually all enclosed public places and work places. This includes both permanent and temporary structures such as tents and marquees. Smoking rooms in public places and workplaces are no longer permitted.
- 4.26 For some venues this has resulted in people smoking in the streets. The Authority works closely with the licence holders of such premises in conjunction with Thames Valley Police to ensure that nuisance and/or disorder are not caused by customers congregating in outside areas.

## **Films**

- 4.27 No film shall be exhibited at licensed premises which is likely to lead to disorder and/or stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender.
- 4.28 If a licence holder is notified by the Authority that a particular film in the opinion of the Authority falls into that category and may not be shown, its decision shall be final in that respect.
- 4.29 The Council accepts that the British Board of Film Classification (BBFC) is best qualified to make age limitation decisions and will not seek to change or substitute its own age limitations in place of the Board's classification.

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

- 4.30 Where a request is made to screen a film which has not been classified by the BBFC, the Council will classify the film having followed the relevant guidelines provided by the BBFC and in accordance with its adopted Film Classification Policy.

## **Gambling in Licensed Premises**

- 4.31 The Gambling Act 2005 was implemented in 2007 and a separate policy has been created and approved by this Council which provides details on the Act and the manner in which the Authority will deal with applications made under the Act. The Authority will have due regard to this policy, where relevant, when considering applications under the Licensing Act 2003.

## **Sexual Entertainment Venues**

- 4.32 In November 2009, the Police and Crime Act 2009 was implemented, which amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to incorporate sexual entertainment venues. Under the amended Act, premises offering lap dancing or any live performance or display of nudity on more than eleven occasions within a twelve month period will be required to obtain a sex establishment licence.
- 4.33 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Police and Crime Act 2009 was adopted on 9th September 2010 requiring the licensing of Sexual Entertainment Venues.
- 4.34 Currently there are no such establishments within the Chiltern District area.

## **Applications for personal licences**

- 4.35 The Immigration Act 2016 requires that Personal Licences may only be granted to individuals if they have provided evidence of their lawful immigration status and proven their eligibility to undertake work relating to the carrying on of a licensable activity in line with the requirements of the legislation and guidance. Existing licences automatically lapse if and when the licence holder's lawful leave or permission to work ends.
- 4.36 All applicants for the grant of a personal licence are required to undertake a basic disclosure criminal record check. Where a criminal record check discloses an unspent relevant conviction (see schedule 4 of the Act) and the Police object to the application on crime prevention grounds, the Licensing Sub Committee will normally refuse such an application unless there are exceptional and compelling circumstances to justify the granting of a licence.

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

## 5. Special Policy Relating to Cumulative Impact

- 5.1 It is clear that the vicinity within which licensed premises are or may be located is a major consideration in determining whether a licence should be granted and what conditions should be attached to it. Primarily consideration will be given to the direct impact of the licensed activity on members of the public living, working or engaged in normal activity in the vicinity of the premises. Although this is not explicitly defined in the Act or Guidance, the 'vicinity' will be determined as a matter of fact in each circumstance. However, it will need to be demonstrated that there is a causal connection between any disorder and the licensed premises themselves.
- 5.2 Licensing law is not a mechanism for the general control of the anti-social behaviour of patrons once they have left licensed premises. Other mechanisms for dealing with such behaviour exist and are outlined in Section 8 of this policy. However in some areas concentrated "pockets" of licensed premises can exist which lead to serious problems of nuisance and disorder arising in the area itself and even some distance away from the premises. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises and it may not be possible to distinguish individual premises as being the sole cause, or even a major contributing factor, of a particular problem. It is the **cumulative impact** of all of the premises, which causes problems for a wider area. This should not be confused with the issue of "need" which relates to commercial demand for licensed premises. "Need" is not a matter to be taken into account when determining licensing applications.
- 5.3 In some circumstances the area concerned may become saturated with licensed premises making it a focal point for large groups of people to congregate and eventually leave. This might create exceptional problems of disorder, noise and other nuisance and in such circumstances the grant of further premises licences or club premises certificates may undermine the licensing objectives.
- 5.4 Notwithstanding these concerns each application has to be considered on its own individual merits. Where an objector is seeking to establish that the grant of a premises licence would result in a cumulative impact which undermines one or more of the licensing objectives the following shall apply:

### Representations on the Grounds of Cumulative Impact

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Page 15 of 30  
Classification: OFFICIAL

Classification: OFFICIAL - SENSITIVE

5.5 In cases where objectors seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact which would undermine one or more of the licensing objectives the objector shall:

- a) Identify the boundaries of the area from which it is alleged problems are arising;
- b) Provide full details and evidence as to the seriousness and frequency of the nuisance and disorder caused in the area;
- c) Identify the licensing objective(s) which it is alleged will be undermined with specific regard to:
  - i) The occupancy figure (maximum capacity) for the proposed premises;
  - ii) The nature of the licensed activity to be carried on at the premises and its patrons.

5.6 The Council is keen to stress however, that as well as the licensing function there are a number of other mechanisms for addressing issues of cumulative impact. These include:–

- a) planning controls;
- b) ongoing measures to provide a safer and cleaner environment in partnership with local businesses and others;
- c) powers to designate parts of the District as places where alcohol may not be consumed publicly;
- d) confiscation of alcohol from adults and others in designated areas (where adopted);
- e) police enforcement of the law with regard to disorder and anti-social behaviour;
- f) police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
- g) the power of police and other representative bodies, local businesses or residents to demand a review of the licence;
- h) enforcement action against those selling alcohol to people who are already drunk;
- i) Enforcement by Trading Standards Officers of underage sales.

The Council will address a number of these issues through the Council's Community Safety Partnership in line with the strategic objectives for crime and disorder reduction within the District.

## **Adoption of a Cumulative Impact Policy**

5.7 Where as a result of a representation under paragraph 5.5 above the Council is satisfied that there is clear evidence substantiating a serious or

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

chronic concern about nuisance and disorder in a particular area, the Council may consider the adoption of a Cumulative Impact Policy (CIP) detailing the approach to future applications from that area. In doing so the Council shall:

- Identify a concern about crime and disorder or public nuisance;
- Consider whether crime and disorder and nuisance are arising or likely to arise, caused by the customers of licensed premises and if so, identifying the area from which problems are arising and the boundaries of that area;
- Consult with those specified by section 5(3) of the Act.
- Subject to that consultation, include a CIP relating to the area defined in that policy about future premises licence or club premises certificate applications within the terms of this Policy;
- Publish the CIP as part of the Policy as required by the Act.
- Review the need for the CIP when this policy is reviewed, and also midway through its period of effect.

5.8 The effect of adopting a CIP of this kind is to create a rebuttable presumption if relevant representations to that effect are received, that applications for new premises licences or club premises certificates or material variations that are likely to add to the existing cumulative impact will normally be refused, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced.

5.9 Applicants would need to address the CIP issues in their Operating Schedules in order to rebut such a presumption. Any CIP will stress that the presumption does not relieve responsible authorities or other persons of the need to make a relevant representation before the local authority may lawfully consider giving effect to its special policy.

5.10 The absence of a CIP does not prevent any responsible authority or other persons making evidence based relevant representations on a new application for the grant, or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

## **Cumulative Impact Policy**

5.12 The effect of this CIP is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

- 5.13 However this policy does not relieve responsible authorities or other persons of the need to make a relevant representation relating to cumulative impact before the Council will consider giving effect to the policy. If there are no relevant representations, the Council will grant the application in terms that are consistent with the operating schedule submitted.
- 5.14 This policy does not impose quotas that restrict the consideration of any application on its own merits within the area. The exercise of the policy is not absolute. There may be applications for licences and certificates that, because of their nature, will not add to the cumulative impact on the licensing objectives. After receiving representations, the Council will consider whether it is justified in departing from the CIP in light of the individual circumstances of the application. If the application is refused, the Council will need to demonstrate that the grant of the licence would undermine the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.
- 5.15 It is recognised that there are other mechanisms available to address issues within a CIP.
- 5.16 This policy applies to all existing licensed premises and club premises and applications for such premises licences and club premises certificates whose curtilage falls within the delineated area and all areas within the control of the licence or certificate holder as set out in Appendix 1.
- 5.17 At the time that this policy was being reviewed, Cumulative Impact Policies ("CIPs") were not included within the Act, but were contained within the Section 182 Statutory Guidance. It is likely that these will become part of the primary legislation soon as this is proposed in the Policing and Crime Bill, which is currently passing through Parliament. The predicted implication for this is that CIPs will need to be reviewed at least every 3 years. Therefore, it is the intention of the Council to review any CIPs as part of the 5 year statutory review of this policy, and midway through that 5 year period, in order to meet the new legislative requirements if these are introduced. The policy will be updated at an appropriate time to reflect changes to the legislation,

## **6. Licence Conditions**

### **Prevention of crime and disorder**

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

- 6.1 The Council's starting point is in terms of seeking a reduction in crime and disorder throughout the District consistent with its statutory duty under Section 17 of the Crime and Disorder Act 1998.
- 6.2 The Council will continue to play an active part in the Pubwatch scheme.
- 6.3 When preparing their operating schedules, applicants may wish to consider the following examples as they relate to the licensing objectives having regard to their particular type of premises or activities:
- a) the ability of the person in charge of the premises at the time to monitor the premises at all times it is open;
  - b) the training given to staff in crime reduction measures appropriate to those premises;
  - c) physical security features installed in the premises such as CCTV; where a licensed premises is required to have CCTV as a condition of the licence then, unless there are good reasons provided otherwise, the premises must be equipped to a standard and in a manner in accordance with established Thames Valley Police guidance;
  - d) measures taken to prevent bottles and glasses being used as weapons;
  - e) any other such measures as may be appropriate, such as participation in a local Pubwatch or Shopwatch scheme, 'music wind—down policies';
  - f) adherence to the Portman Group code of Practice;
  - g) the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
  - h) where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
  - i) the likelihood of any violence, public order or policing problem if the licence is granted;
  - j) representations from authorised persons, other persons and responsible authorities.

Applicants only need to consider those measures they feel are appropriate to their premises and locality. Conditions will only be attached to a licence which are consistent with their operating schedule unless representations are received and additional conditions are considered appropriate.

#### Premises used for clubbing

- 6.4 The Council recognises that the issue of drug use is not something that is applicable to all licensed premises and each case will be considered on its own merits. However, in some situations it may be appropriate to attach

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

conditions to discourage the sale and consumption of drugs and to create a safer environment for those who may have taken them. If relevant representations are made in this respect and are upheld at a hearing, the conditions to be imposed will take into account the "Safer Clubbing" publication issued by the Home Office. In all cases where these conditions are to be imposed, advice will be taken from the local Public Health Authority and the Police.

## Door Supervisors

- 6.5 Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must be licensed with the Security Industry Authority. Where the Police make representations, the Council may consider that certain premises require particularly strict supervision for the purpose of promoting the reduction of crime and disorder. In such cases, the Council may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

## Public Space Protection Orders and Designated Public Places Orders

- 6.6 Prior to the introduction of Public Space Protection Orders, a number of Designated Public Places Orders ("DPPO") were introduced following requests from Thames Valley Police who expressed concern over alcohol induced disorder in certain areas. The DPPOs give power to police constables to request individuals to cease drinking or confiscate any alcohol where it is considered that the person is acting anti-socially as a result of alcohol consumption. All licensed premises are exempt and DPPOs do not affect people who are drinking socially and not causing any disturbance.
- 6.7 Public Space Protection Orders (PSPOs) were brought in under the Anti-social Behaviour, Crime and Policing Act 2014. Where a DPPO is currently in place, this will need to be replaced with a PSPO if appropriate and supported by evidence, following consultation with the public, local businesses and authorities.

## Public Safety

### Occupancy limits

- 6.8 With the introduction of the Fire Safety (Regulatory Reform) Order 2004, it is recognised that existing prescriptive controls such as Fire Certificates have been replaced with the duty to produce risk assessments. In

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017



Classification: OFFICIAL - SENSITIVE

accordance with the Secretary of State's guidance, the Council will avoid duplicating existing controls.

6.9 Where a relevant representation is received in respect of capacity, the Council may impose conditions in relation to the maximum number of persons to attend premises where:

- It considers it to be appropriate for the purpose of reducing crime and disorder;
- It considers it to be appropriate for the purpose of safety of occupants.

The issue of capacity will be decided on a case by case basis and will only be applied where there is a clear and justifiable need to do so based upon the nature and style of the premises and the licensing objectives.

6.10 The purpose of imposing a maximum number of persons to be in the premises at any one time is to ensure the safety of those persons at the premises. Where relevant representations have been made, the Council will set occupancy limits in consultation with the responsible authority.

## Health and Safety

6.11 Every applicant granted a licence, certificate or permission would also be under a duty to comply with the Health and Safety at Work etc. Act 1974 and regulations made under it. In many cases, the Council will also be the enforcing authority responsible for ensuring compliance with the Health and Safety at Work Act in licensed premises.

## The prevention of nuisance

6.10 The Council will protect the amenity of residents and businesses in the vicinity of licensed premises, and for these purposes 'vicinity' is taken to mean the immediate area around licensed premises.

6.11 The Council will interpret 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

6.12 At the same time the Council is aware of the importance of the licensed trade to the revitalisation of the local area. Accordingly, it will try and work together with other persons, statutory agencies and licensed businesses to ensure a mutual co-existence.

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

- 6.13 Where the considerations apply to late-night refreshment premises, they shall only be taken to apply to their operation between the hours of 11 p.m. and 5 am for which a premises licence would be required.
- 6.14 When preparing their operating schedules, applicants may wish to consider the following examples as they relate to the licensing objectives having regard to their particular type of premises or activities:
- a) the steps to prevent noise and vibration escaping from the premises, including music; noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices. Please note that where relevant representations have been made, a condition may be imposed requiring the assessment by the applicant, of potential noise sources which could cause disturbance to those in the vicinity and the identification and installation of appropriate control measures;
  - b) the steps to prevent disturbance by customers arriving at or leaving the premises. This will be of greater importance between 11 p.m. and 7 am than at other times of the day;
  - c) the steps to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues could be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;
  - d) the steps to ensure staff and patrons leave the premises quietly;
  - e) the arrangements for parking by patrons, and the effect of parking by patrons on local residents;
  - f) whether licensed taxis or private hire vehicles are likely to disturb local residents;
  - g) the installation of any special measures where licensed premises are or are proposed to be located near sensitive premises such as nursing homes, hospitals, hospices, places of worship, residential dwellings;
  - h) the use of gardens and other open-air areas;
  - i) delivery and collection areas and times at the premises;

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

- j) the siting of external lighting, including security lighting that is installed inappropriately;
- k) steps to minimise the impact of increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the vicinity of the premises;
- l) any previous nuisance complaints or representations against the premises;
- m) steps taken to reduce litter (e.g. bottles, cans) in the immediate vicinity of the premises.

6.15 Applicants only need to consider those measures they feel are appropriate to their premises and locality. Conditions will only be attached to a licence which are consistent with their operating schedule unless representations are received and additional conditions are considered appropriate.

## **Protection of children from harm**

6.16 The Council recognises that there are many activities for which licences may be sought. These will be located in a great variety of premises such as public houses, night-clubs, hotels, inns, theatres, cinemas, concert halls, restaurants, cafes, takeaways, fast-food outlets, community halls, schools and colleges.

6.17 The Act does not prevent children having free access to premises selling alcohol for consumption on those premises (including those listed above) although the Council will impose conditions restricting the access of children to premises where it is considered appropriate for the prevention of physical, moral or psychological harm to children and representations have been received to this effect. Where there are matters that give rise to serious concerns and restriction of access may not ensure adequate protection of children from harm, applications will be refused.

Examples which may give rise to concerns in respect of children include those:

- a) Where there have been convictions or other relevant actions taken against staff for serving alcohol to minors;
- b) Where there is an evidenced reputation for underage drinking;
- c) Where there is a known association for drug taking or dealing;
- d) Where there is a strong element of gambling on the premises but not the simple presence of a small number of AWP machines;
- e) Where entertainment or services of an adult or sexual nature are provided.

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

- 6.18 In exceptional circumstances, where appropriate, and only where the Council has received relevant representations, it may impose conditions restricting access or excluding children from premises or part of licensed premises. The options available would include:
- a) Limitations on the hours when children may be present;
  - b) Age limitations for persons under 18;
  - c) Limitations on the exclusion of children under certain ages when certain activities are taking place;
  - d) Full exclusion of persons under 18 when certain licensable activities are taking place;
  - e) Limitations of access to certain parts of the premises for to which children might be given access;
  - f) A requirement for an accompanying adult to be present.
- 6.19 The Council will not impose any conditions that specifically require the admission of children to premises.
- 6.20 Where no conditions or restrictions are imposed, the issue of access for children still remains a matter of discretion for individual holders of premises licences, club premises certificates or Temporary Event Notice.
- 6.21 The Council supports and encourage the adoption of the Proof of Age Standards Scheme (PASS), which aims to approve and accredit proof of age schemes to assist in preventing underage access to unsuitable premises, films and the purchasing of alcohol. This scheme identifies reliable and secure proof of age schemes with the same hologram mark in order that retailers can easily distinguish accredited cards.
- 6.22 The Council also supports and encourages the adoption of the Challenge 21 campaign which recommends that anyone who appears to be under 21 is challenged for appropriate identification. It also supports the No ID, No Sale campaign.

## Children and Public Entertainment

- 6.23 Where a large number of children are likely to be present on any licensed premises, for example a children's show or pantomime, the Council would expect an adequate ratio of adults to children in order to ensure the prevention of harm to the children and also to ensure public safety. If representations are received, the Council will impose such a ratio.

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

## **7. Complaints against Licensed Premises**

- 7.1 The Council will investigate relevant complaints against licensed premises. In the first instance, it is encouraged that complainants should raise the complaint directly with the licence holder or business concerned. All complaints will be investigated and enforcement action taken in accordance with the Council's Enforcement Policy and Complaints Procedure within this policy. It is recognised that another agency may be the more appropriate body to investigate the complaint and in such circumstances, the Council will maintain liaison with that agency in accordance with the Enforcement Protocol.

- 7.2 Where necessary, the Council will initially make contact with the licence holder to address, clarify and try to resolve the issues of concern.

This process will not override the right of any other person or responsible authority to request a review of a licence by the Licensing Sub-Committee at any stage following the grant of a premises licence or if the particular concerns are not addressed in a way that fulfils the licensing objectives.

### **Licence Reviews**

- 7.3 At any stage following the grant of a premises licence a responsible authority (including the Council in its role as Licensing Authority) or another person may ask the Council to review the licence because of a matter arising at the premises in connection with one of the four licensing objectives. In addition, a review of the licence will follow any action to close the premises (for up to 24 hours) on the grounds of disorder or noise nuisance or as a result of a magistrates' court determination.
- 7.4 Where the Council has applied to the Licensing Authority to review an authorisation, there will be a clear separation of responsibilities to ensure procedural fairness and eliminate conflicts of interest.
- 7.5 Under the Violent Crime Reduction Act 2006, following an application from the chief officer of police, the Authority can attach interim steps to licences pending a full review. The Act includes an offence in relation to persistent alcohol sales to minors.
- 7.6 Any application for review must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of one or more of the licensing objectives. Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Applications will not be accepted if they are considered to be frivolous, vexatious or repetitive. Government Guidance suggests that more than one request originating from an other person or responsible

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

authority for a particular premises within a reasonable interval may be considered as repetitious.

7.7 Prior to the hearing, the licence holder will be made fully aware of the representations, the evidence supporting the request and will be given the opportunity to prepare a response.

7.8 The Council views particularly seriously applications for the review of any premises licence where there has been evidence of the following:

- a) use of licensed premises for the sale and distribution of drugs and/or the laundering of the proceeds of drug crimes;
- b) use of licensed premises for the sale and/or distribution of firearms;
- c) evasion of copyright in respect of pirated films and music;
- d) underage purchase and consumption of alcohol;
- e) use of licensed premises for prostitution or the sale of unlawful pornography;
- f) use of licensed premises for unlawful gaming;
- g) use of licensed premises as a base for criminal activity;
- h) use of licensed premises for the organisation of for example, racist, homophobic or sexual abuse or attacks;
- i) use of licensed premises for the sale of smuggled tobacco or goods;
- j) the use of licensed premises for the sale of stolen goods;
- k) where the police are frequently called to attend to incidents of disorder;
- l) prolonged and/or repeated instances of public nuisance;
- m) where serious risks to public safety have been identified and the management is unable or unwilling to correct those;
- n) where serious risks to children have been identified.

## 8. Enforcement Policy

8.1 The Council has an established enforcement policy, based around the principles of consistency, targeting, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat. Due regard will also be given to the Regulator's Compliance Code issued by the Department for Business Enterprise and Regulatory Reform and the Attorney-General's Guidelines to Crown Prosecutors for bringing prosecutions.

8.2 The licensing policy proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been breached. An isolated administrative offence, such as failing to maintain certain records, may be dealt with purely by way of a written

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Classification: OFFICIAL - SENSITIVE

warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety, such as failing to maintain fire extinguishers properly, may result in a referral for prosecution.

- 8.3 The Council will seek to work actively with the police, and other statutory authorities in enforcing licensing legislation. It is a signatory to the Buckinghamshire Memorandum of Understanding and Joint Enforcement Protocol along with Thames Valley Police and other Buckinghamshire local authorities and enforcing agencies which seeks to ensure a consistent and appropriate approach to enforcement.

It expects the agencies to share information about licence holders and licensed premises under the Crime and Disorder Act 1998 and its common law powers, and to consult closely with the Council when any enforcement action may be required.

- 8.4 The Council will investigate allegations of unlicensed activities and to ensure that licence conditions are complied with.

- 8.5 The Council will continue to be a partner in the local partnership Licensing Liaison Group, and has established a local forum for liaison between the statutory agencies responsible for licensed premises.

## **Inspection of Premises**

- 8.6 Any inspection regime will be targeted at those premises that pose the greatest risk and are known to cause the greatest problems.

## **9. DELEGATION AND DECISION MAKING**

- 9.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 9.2 The Authority is committed to the principle of delegating its powers to ensure that these objectives are met and has arranged for its licensing functions to be discharged in accordance with the National Guidance, the Council's Constitution and procedures laid down for good governance.
- 9.3 In determining applications where the Council has acted as a responsible authority, there will be a clear separation of responsibilities to ensure

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with effect xxxxxx 2017

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procedural fairness and eliminate conflicts of interest. This will be achieved by allocating distinct functions to different Officers within the authority, so the Officer presenting the report to the Sub-Committee and advising the Members will be a different individual to the Officer who is acting as the responsible authority. The Officer acting as the responsible authority will not be involved in the decision making process.

## 10. FURTHER INFORMATION

Further information about the Licensing Act 2003 and the Council's licensing policy can be obtained from:

**Licensing  
Chiltern District Council  
King George V Road  
Amersham  
Bucks HP6 5AW**

**T: 01494 732068  
F: 01494 586504  
E: [licensing@chiltern.gov.uk](mailto:licensing@chiltern.gov.uk)  
Website: [www.chiltern.gov.uk](http://www.chiltern.gov.uk)**

Information is also available from

<p><b>(1) The Home Office,</b> Direct 2 London SW1P 4DFT: 020 7035 4848 E: <a href="mailto:public.enquiries@homeoffice.gsi.gov.uk">public.enquiries@homeoffice.gsi.gov.uk</a> W: <a href="https://www.gov.uk/government/collections/licensing-act-2003-supporting-guidance">https://www.gov.uk/government/collections/licensing-act-2003-supporting-guidance</a></p>	<p>Communications Marsham</p>	<p>Unit Street</p>
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(3) Copies of the Licensing Act 2003 and associated legislation is available from [www.legislation.hmso.gov.uk](http://www.legislation.hmso.gov.uk)

(4) Government's Licensing Act 2003, Section 182 Guidance is available from <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

(5) Copies of reports and minutes of the Licensing & Regulation Committee are available on the Council's website at [www.chiltern.gov.uk](http://www.chiltern.gov.uk), following the links

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017



Classification: OFFICIAL - SENSITIVE

to **Council and Democracy** or by contacting the Licensing Team (details as above)

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Page 29 of 30  
Classification: OFFICIAL

Classification: OFFICIAL - SENSITIVE

Adopted Full Council on xxxxx 2017  
with effect xxxxxx 2017

Page 30 of 30  
Classification: OFFICIAL

<b>SUBJECT:</b>	Tree Preservation Order Application CH/2017/1208/TP – Throshers Wood, off Seeleys Road, Knotty Green
<b>REPORT OF:</b>	Head of Sustainable Development – Peter Beckford
<b>RESPONSIBLE OFFICER</b>	Head of Sustainable Development – Peter Beckford
<b>REPORT AUTHOR</b>	Keith Musgrave, 01494 732142, <a href="mailto:kmusgrave@chiltern.gov.uk">kmusgrave@chiltern.gov.uk</a>
<b>WARD/S AFFECTED</b>	Penn and Coleshill

### 1. Purpose of Report

To report the recommendation of the Planning Committee on 10 August 2017 that application CH/2017/1208/TP for the Felling of two ash trees and crown reduction of a holly – all protected by a Tree Preservation Order be approved subject to conditions.

#### RECOMMENDATION

**That application CH/2017/1208/TP for the Felling of two ash trees and crown reduction of a holly – all protected by a Tree Preservation Order be approved subject to conditions set out in the report attached as an Appendix.**

### 2. Reasons for Recommendations

The Council's Constitution requires all planning applications relating to Council owned land to be considered by the Planning Committee for a recommendation to Council.

This application was considered by the Planning Committee on 10 August 2017 when the planning officer's report attached as an Appendix was presented. The officer's recommendation was for approval subject to the conditions set out on the report unless new points of objection were received during the advertisement period. No such objections were received.

### 3. Content of the Report

This application is for the felling of two ash trees and the crown reduction of a holly that overhang the rear garden of 63 Seeleys Road. The proposal is assessed in the planning officer's report attached as an Appendix .

The Committee recommended approval subject to the conditions set out on the report unless new points of objection were received during the advertisement period.

#### **4. Options**

The options in relation to the application are set out in the planning officer's report.

#### **5. Links to Council Policy Objectives**

Delivering cost-effective, customer-focused services, and working towards safe and healthier local communities.

<b>Background Papers:</b>	None other than those referred to in the report
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CHILTERN DISTRICT COUNCIL

PLANNING COMMITTEE - 10th August 2017

INDEX TO APPLICATIONS ON LOCAL AUTHORITY LIST OF REPORT

**Penn**

**CH/2017/1208/TP**

Ward: Penn And Coleshill

Page No: 2

Proposal: Felling of two ash trees and crown reduction of a holly - all protected by a Tree Preservation Order

Recommendation: Resolve to recommend Council to approve own development unless new points of objection received during advertisement period.

**Throshers Wood Off, Seeleys Road, Knotty Green, Buckinghamshire**

# REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

## Local Authority List of Applications 10th August 2017

### CH/2017/1208/TP

Case Officer:	Mr Keith Musgrave	Decide by Date:	18.08.2017
Date Received:	23.06.2017	Ward:	Penn And Coleshill
Parish:	Penn		
App Type:	Works to trees covered by TPO		
Proposal:	Felling of two ash trees and crown reduction of a holly - all protected by a Tree Preservation Order		
Location:	Throshers Wood Off Seeleys Road Knotty Green Buckinghamshire		
Applicant:	Chiltern District Council		

### SITE CONSTRAINTS

Article 4 Direction  
Adjacent to Unclassified Road  
Adjacent Public Footpaths and Public ROW  
Community Assets/ CDC Owned Land  
Mineral Consultation Area  
Within 500m of SINC NC1  
Tree Preservation Order  
Tree Preservation Order (A/G/W)  
Ancient Woodland  
Public Amenity Open Space

### CALL IN

This application has not been called in by a Member but is referred to Planning Committee as the District Council is the applicant and the proposal is on Council owned land.

### SITE LOCATION

Throshers Wood is a small wood about 1.4 hectares in extent that is owned by Chiltern District Council and situated within Knotty Green. There is a public footpath along the western side and it is adjacent to Seeleys Road on the eastern side. There are various permissive paths within the wood and it is well-used by the local residents.

The wood consists mainly of mature mixed broadleaved trees and it is surrounded by housing. Over the years there have been many concerns from various nearby residents about safety issues and a series of works has been carried out to various individual trees for safety reasons. However an area of about 0.2 hectares towards the south eastern end was felled and replanted nearly twenty-five years ago under a Felling Licence from the Forestry Commission. This was replanted with a mixture of mainly oak, field

maple, ash and cherry. In 2010 an additional group of three trees were felled and replanted and there was some thinning in the 1993 planting. There has been no major recent work to the trees at the northern end of the wood.

The three trees in the application are at the edge of the wood adjacent to 63 Seeleys Road. They can be seen in views from the road against a backdrop of other trees and also in limited views from within the woodland.

### **THE APPLICATION**

T1 and T2 - ash - fell due to low amenity values and overhanging of neighbouring property 63 Seeleys Road. Both trees are spindly and have all their growth over neighbouring property and, due to surrounding woodland trees, have very minimal growth on woodland side. The removal of the trees will make the tree line less oppressive without affecting the visual aspect of the woodland edge.

T3 - holly - prune back to boundary and reduce height by one third due to lean over the adjacent property's outbuildings.

### **RELEVANT PLANNING HISTORY**

The Bucks County Council (Amersham Rural District) Tree Preservation Order No 8 - 1961 covering a woodland at Throshers Wood, Knotty Green.

CH/2010/1568/TP Felling of three beech and some holly and formative pruning and removal of suppressed trees from an area of young trees. Conditional permission for woodland fell.

CH/2016/2237/TP Removal of a sycamore and three stems of a holly, pruning of branches overhanging 57 Seeleys Road from two field maples and a hornbeam. Conditional permission.

### **PARISH COUNCIL**

No comment.

### **REPRESENTATIONS**

None received at time of drafting report.

### **POLICIES**

Core Strategy for Chiltern District - Adopted November 2011: Policy CS24

The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policy TW2

### **EVALUATION**

1. The application has arisen from concerns from the owners of 63 Seeleys Road about the effects of these three trees on their property.

2. T1 and T2 are two ash trees about 15m in height growing at the edge of the wood at a distance of about 1.5 to 2m from the fence of the rear garden of 63 Seeleys Road. The trees have a one-sided growth pattern with most of the branching growing outwards from the woodland for light. These branches extend up to about 6m from the trunks of the trees and partially overhang the rear garden of the property. Although the trees do not appear to be causing significant problems, their removal would have very little effect on the amenity value of the woodland. There are various larger beech and oak trees set slightly further into the wood that would become the edge of the woodland and maintain the wooded character. It is considered that no replacement planting would be necessary.

3. T3 is a holly about 12m in height that is growing closer to the road and to both a carport and an outbuilding of the property. It is quite a tall thin tree and some height reduction and shaping as proposed is considered to be reasonable management.

#### HUMAN RIGHTS

4. The following recommendation is made having regard to the above and also to the content of the Human Rights Act 1998.

#### **RECOMMENDATION: Resolve to recommend Council to approve own development unless new points of objection received during advertisement period**

Subject to the following conditions:-

- 1 The work for which consent is hereby granted shall only take place within two years of the date of this decision and may only be carried out once.  
Reason: To prevent the accumulation of unimplemented and incomplete consents for works to preserved trees, to enable the Local Planning Authority to review the suitability of these works in the light of altered circumstances and to comply with the provisions of Section 17 of The Town and Country Planning (Tree Preservation)(England) Regulations 2012.
- 2 The tree surgery hereby approved shall not exceed the specification in the schedule of work that was submitted as part of the application.  
Reason: To maintain, as far as possible, the amenity value of the trees and the special character of the area which were the reasons for the making of the Tree Preservation Order, and in accordance with Policy TW2 of The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011.
- 3 The works hereby approved shall be carried out in accordance with the guidance and recommendations in British Standard BS 3998:2010 Tree Work - Recommendations. In particular all final pruning cuts should be made in accordance with the practice of natural target pruning just outside the branch collar and/or just outside the line of the branch bark ridge. However when shortening a branch or stem, the final cut should be just beyond and parallel to the distal end of the bark ridge (if apparent) of a suitable branch chosen for retention.  
Reason: To ensure good tree management, to minimise damage to the trees concerned and in accordance with Policy TW2 of The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011.

#### INFORMATIVES

- 1 INFORMATIVE - All wild birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. Consequently you should take adequate precautions to ensure that any tree work does not cause any disturbance to birds and their nests particularly during the normal nesting season of March to August. Similarly all bats and their roosting sites are protected by the same legislation so precautions should also be taken to avoid carrying out activities which might harm or disturb bats or their roosts.
- 2 INFORMATIVE - You are advised that any foliage and wood arising from tree work should be disposed of appropriately and should not normally be burnt on site. Further information can be obtained from the Council's Environmental Health team or online at [www.chiltern.gov.uk/bonfires](http://www.chiltern.gov.uk/bonfires).



<b>SUBJECT:</b>	Appointment of Independent Persons
<b>REPORT OF:</b>	Monitoring Officer
<b>RESPONSIBLE OFFICER</b>	Joanna Swift - Head of Legal and Democratic Services
<b>REPORT AUTHOR</b>	Joanna Swift: <a href="mailto:jswift@chiltern.gov.uk">jswift@chiltern.gov.uk</a> Tel: 01494 732761
<b>WARD/S AFFECTED</b>	None

### 1. Purpose of Report

This report asks Council to agree a recommendation from the Appointment of External Members Panel on 6 September to appoint 2 Independent Persons under section 28 of the Localism Act 2011. This must be approved by a majority of members of the Council.

### RECOMMENDATION

That Full Council agree to appoint Elizabeth Jones and to re-appoint Caroline Langley as Independent Persons for a term of 5 years

### 2. Reasons for Recommendations

The appointment of two Independent Persons is an agreed part of the Council's standards framework for dealing with complaints and provides resilience in case of illness or other absence. There is also a new mandatory requirement introduced by the Employment Procedure Amendment Regulations 2015 to invite at least two Independent Persons to join a panel set up to consider the dismissal of statutory officers.

### 3. Content of Report

- 3.1 Under the Localism Act 2011 an Independent Person must be appointed through a process of public advertisement, submission of an application and approval by a positive vote of a majority of all members of the Council – i.e. by full Council. To be considered 'independent' an applicant must not be, or have been within the previous 5 years, an elected or co-opted member or an officer of the District Council or any Parish or Town Council in the area, or of any committee or sub-committee of the District Council or any Parish/Town Council, or, be a relative or close friend of a current elected or co-opted member or an officer of the District Council or any Parish/town Council in the area
- 3.2 Following the completion of the 5 years terms of the Independent Persons appointed in 2012 the Audit and Standards Committee agreed that a recruitment process be undertaken at their meeting in June.
- 3.3 The government has introduced a new mandatory requirement for Independent Persons to be involved in the dismissal procedure for statutory officers. The Council's Employment Procedure Rules have been updated to reflect this requirement and Audit and Standards Committee agreed a revised role description which would apply to the new appointments.

- 3.4 The role was duly advertised in the local press and on the Council's website. Three applications were received and the External Appointments Panel interviewed the applicants on 6 September. The Panel was satisfied that Elizabeth Jones and Caroline Langley had the necessary skills and competencies required for the role.
- 3.5 It was agreed by Council in 2012 that Independent Person would be appointed for a term of 5 years and paid an allowance of £200, together with re-imbursement of any travelling expenses whilst exercising their role,

#### 4. Consultation

Not applicable.

#### 5. Options

Council is asked to approve the appointments as recommended by the Panel.

#### 6. Corporate Implications

Financial – As set out in the report

Legal – As set out in the report

Risks issues – The Council would be in breach of its statutory duty if it had no Independent Person available to advise on members complaints and having 2 Independent Persons provides resilience in case of absence or conflicts of interest. It is also now a requirement under the Employment Procedure Amendment Regulations 2015 for the Council to invite at least two Independent Persons to take part in the panel considering the dismissal of statutory officers.

Equalities - The Council's policies on equalities are followed in the recruitment process for new Independent Persons.

#### 7. Links to Council Policy Objectives

Whilst there are no direct links to the Council's main policy objectives, it has a duty under the Localism Act to have arrangements in place to deal with allegations that members may have breached the code of conduct. The effective use of Independent Persons as part of this process is a matter of good governance and is important in preserving the confidence of local communities.

<b>Background Papers:</b>	None except those referred to in the report.
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<b>SUBJECT:</b>	<i>Pay Policy Statement 2017/18</i>
<b>REPORT OF:</b>	<i>Bob Smith, Chief Executive</i>
<b>RESPONSIBLE OFFICER</b>	<i>Louise Cole, HR Manager</i>
<b>REPORT AUTHOR</b>	<i>Louise Cole HR Manager</i> <i>Contact : Chiltern: 01494 732015                      South Bucks: 01895 837288</i> <i>Email :lcole@chiltern.gov.uk                      louise.cole @southbucks.gov.uk</i>
<b>WARD/S AFFECTED</b>	<i>N/A this relates a pay statement</i>

## 1. Purpose of Report

To seek Council approval to the statutory Pay Policy Statement for 2017/18

## RECOMMENDATION

That the Pay Policy Statement 2017/18 attached to the report be adopted.

## 2. Reasons for Recommendations

The Localism Act 2011 requires each council to produce and publish annually a pay policy statement. The statement should be approved by 31 March each year, at a meeting of the full council, and then be published on their website. Due to changes in senior management within the HR team preparation of this statement was not progressed earlier and is now being presented for approval.

## 3. Content of Report

**3.1** Since 2015/16 Chiltern District Council and South Bucks District Council have had a joint pay policy. This policy statement is a technical document prescribed by the Localism Act and accompanying statutory guidance. The 2017/18 statement is in the same format as last year with minor amendments to reflect pay awards.

**3.2** The 2017/18 Pay Policy Statement, which is attached as appendix 1, sets out:

- an introduction by way of context
- information about the remuneration of chief officers which includes a comparison with other officers
- information on the lowest paid employees

## 4. Consultation

Not applicable

## 5. Corporate Implications

This is a statutory requirement under the Localism Act 2011.

**6. Links to Council Policy Objectives**

There is no direct link to the Council's objectives but openness and transparency on Council policies supports good governance.

**7. Next Steps**

Subject to its agreement and adoption by Council the Pay Policy statement will be published on the web site.

<b>Background Papers:</b>	None other than referred to in this report and Appendix.
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## Appendix 1

### Pay Policy Statement 2017/18

#### 1. INTRODUCTION

- 1.1 This is a joint statement of Chiltern and South Bucks District Councils.
- 1.2 The Localism Act 2011 requires each council to produce and publish annually a pay policy statement. The statement must be approved by a meeting of the full council, and must then be published on their websites. The pay policy statement may be amended during the year by further resolution of the council.
- 1.3 The pay policy statement must as a minimum include details of the council's policy on:
  - the remuneration of its chief officers
  - the remuneration of its lowest-paid employees
  - the relationship between the remuneration of its chief officers and other officers.
- 1.4 For the purposes of the Localism Act 2011 and this statement, the term "chief officers" is defined by Section 2 of the Local Government and Housing Act 1989. For these councils, the term "chief officers" refers to the chief executive, directors and heads of service. These officers make up the Joint Management Team for Chiltern and South Bucks District Councils.
- 1.5 Chief officers are expected to work across both District Councils on an equal basis and are employed under the same terms and conditions. Chief officers may be employed by either council, and are placed at the disposal of the other by means of an agreement made under Section 113 of the Local Government Act 1972.

#### 2. REMUNERATION OF CHIEF OFFICERS

- 2.1 Chief officers' pay was independently assessed in 2012 by the Local Government Association (LGA) which was commissioned to undertake an independent review of the job descriptions for the new Joint Management posts. When making a recommendation about remuneration, regard was had to the size of the new job role, the emphasis on the need to contribute corporately to meet the needs of the two Councils, the economic climate and the regional location of the two authorities.
- 2.2 Members of the Joint Appointments and Implementation Committee agreed the salary ranges recommended by the LGA and the proposal to assimilate the successful applicants onto a spot salary which accommodated the additional allowances previously paid. The salaries were set above the median to attract and retain suitably skilled chief officers as recommended by the LGA.

All chief officers (Heads of Service, Directors and Chief Executive) have benefitted from a 1% pay award in 2016/17 and a 1% in 2017/18 .

- 2.3 Following an independent review of the chief officers' pay structure in November 2015 the LGA confirmed that the pay structure remains competitive in its ability to recruit and retain staff with the necessary management and strategic skills and experience.

2017/18	Starting Salary	2	3	4
Joint Chief Executive	£127,513	£130,573	£133,633	£136,693
Joint Director	£89,483	£92,605	£94,686	£97,807
Joint Head of Service	£67,259	£71,464	£73,567	£78,818

- 2.4 The salaries remunerate officers for their full range of duties and hours of work. Chief Officers do not receive any performance-related pay or bonuses. Joint posts are shared equally between the two Councils and business mileage is reimbursed at HMRC rates, currently 45p per mile. Some chief officers have private medical insurance which is currently under review and paid membership of a relevant professional body.
- 2.5 Appointments to these posts are on a spot salary and progression up the salary scale is based on performance against agreed objectives. An annual appraisal takes place for the Joint Chief Executive with members which can be facilitated by an external independent advisor if required. The Directors are appraised by the Chief Executive and the Heads of Service by their corresponding Director.
- 2.6 The annual pay review for the Chief Executive and the two Directors is determined by the Joint Negotiation Committee for Chief Executives and Chief Officers, respectively. The annual pay review for Heads of Service is determined locally. The pay award for 2016/17 was 1% and the pay award for 2017/18 was 1%.
- 2.7 Appointments to the Joint Chief Executive and officers allocated statutory responsibilities require full Council approval within each of the Councils. Appointments to the Joint Directors require the approval of the Joint Staffing Committee.
- 2.8 The Chief Executive has been appointed as the councils' returning officer. In this role he receives additional remuneration, which varies from year to year. He employs the two directors as deputy returning officers and may employ other chief officers to support him in his work. Any fees for elections are paid separately. The amount of the fee is not fixed and is based on electorate/postal votes and the type of election. The Head of Paid Service has the authority to increase election fees in line with inflation and to keep them comparable with Parliamentary election fees.
- 2.9 All employees are automatically enrolled in the local government pension scheme when they join either Council, they may opt out if they wish. Chief officers'

contributions are determined by their salary and the rules of the scheme. More comprehensive details of the Bucks Pension Scheme are available on their website. It is not the usual policy of either Council to enhance retirement benefits.

- 2.10 The Councils have a joint approach to organisational change which it applies to all employees without differentiation. In cases of redundancy those employees with 2 or more years' continuous service are entitled to a redundancy payment which is calculated using the statutory redundancy calculator based on actual salary. The maximum number of years of service taken into account is 20 and the resulting maximum payment is 30 week's pay.
- 2.11 The Councils do not provide any additional payment to employees leaving the Councils' employment other than in respect of accrued leave which by agreement is untaken at the date of leaving.
- 2.12 In certain circumstances the Councils may agree for an employee's employment to come to end by way of a Settlement Agreement which may involve the payment of severance pay. In calculating any severance package the Councils will take into account any contractual and statutory entitlements, the employee's previous performance, and value for money and minimising any reputational damage to the Councils.
- 2.13 It is not normal practice for the Councils to re-employ or re-engage a chief officer following a severance or redundancy payment on either a new contract of employment or a contract of services.

### **3. LOWEST-PAID EMPLOYEES**

- 3.1 Following agreement with staff and UNISON the Councils have implemented, a collective agreement which harmonises terms and conditions of employment, including a new harmonised Pay Spine for both Councils. The minimum salary on this pay spine is set at £15,702, significantly above the Statutory Living Wage rate of £7.50 per hour effective from 1 April 2017. Employees from both Councils have progressively moved onto the new pay spine following a review and the joining up of services across Chiltern and South Bucks District Councils. All staff have moved to the new pay spine with the exception of a small group of staff at South Bucks District Council. The lowest paid employee at South Bucks District Council was paid at £15,702 (the full time equivalent).

The lowest paid employee at Chiltern District Council was paid at spinal point 1A at £15,702 (the full time equivalent).

- 3.2 The Chief Executive's salary is 8.12 times the salary of the lowest-paid employee.

### **4 REMUNERATION OF CHIEF OFFICERS COMPARED WITH OTHER OFFICERS**

- 4.1 Employees who are not chief officers have been moved on to the new harmonised pay spine. They will be paid in accordance with the collective agreement agreed with staff and UNISON in July 2014. In the interim we have a small number of employees at South Bucks District Council on the South Bucks District Council pay spine. All these pay scales increased in line with the National Joint Council Pay Award Agreement for Local Government Officers of May 2016 to cover the time period from April 2016 to March 2018.

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- 4.2 The median salary for all officers at Chiltern District Council is £30,073. The Chief Executive's salary 4.24 times the median salary at Chiltern District Council.
- 4.3 The median salary for all officers at South Bucks District Council is £34,149. The Chief Executive's salary is 3.73 times the median salary at South Bucks District Council.
- 4.4 Please note the Councils do not set the remuneration of any individual or group of posts by reference to multiple of another post or group of posts. Pay multiples do not capture the complexities of a dynamic and highly varied workforce in terms of job content and skills required. In terms of overall remuneration packages the Councils' have put in place harmonised terms and conditions across the two authorities to have a simple, flexible and equitable pay and reward structure where roles are evaluated using HAY job evaluation framework to ensure pay levels reflect differences in roles and responsibilities.



<b>SUBJECT:</b>	<i>Brownfield Land Register</i>
<b>REPORT OF:</b>	<i>Cllr Peter Martin – Sustainable Development</i>
<b>RESPONSIBLE OFFICER</b>	<i>Peter Beckford, Head of Sustainable Development</i>
<b>REPORT AUTHOR</b>	<i>Phillip Gill – 01494 732951 – <a href="mailto:phillip.gill@southbucks.gov.uk">phillip.gill@southbucks.gov.uk</a></i>
<b>WARD/S AFFECTED</b>	<i>All</i>

## 1. Purpose of Report

1.1. There is a new statutory requirement for the Council to prepare and publish a Brownfield Land Register for Chiltern District. The Cabinet at the meeting held on 19 September 2017 agreed the draft Register for consultation, subject to all Members receiving a copy of the draft Register. The Cabinet also recommended that Council agree that the decision to enter land in Part 2 of the Register be delegated to the Planning Committee, and be treated in the same way as other planning applications so that any Chiltern Councillor could refer a proposed entry into Part 2 of the Register to Planning Committee for consideration. The Council are therefore asked to agree the recommendations below.

### RECOMMENDATIONS

- 1 That the decision to enter land in Part 2 of the Brownfield Land Register is delegated to the Planning Committee; be dealt with under the Scheme of Officer Delegations in the same way as planning applications, including being subject to a Chiltern District Member referring a proposed entry in Part 2 of the Register to the Planning Committee for consideration where appropriate.
- 2 That the Head of Legal and Democratic Services be authorised to amend the Council's Constitution to reflect the new Brownfield Land Register functions and associated delegations

## 2. Reasons for Recommendations

2.1. The recommendations enable the Council to discharge its new statutory functions in respect of Brownfield Land Registers and ensure that a Register can be prepared and consulted on in a timescale that will allow the government's stipulated publication date of 31 December 2017 to be achieved.

## 3. Content of Report

3.1 New Regulations require each local authority to prepare and maintain a Register of brownfield land that is suitable for residential development. The register must be available for public inspection and published on the Council's website. The regulations set out the specific form that the Register should take and impose a deadline of 31 December 2017 for the Register to be published. Local authorities are expected to carry out consultation on a draft Register

before it is published in its final form and must carry out consultation where they propose to enter any brownfield land into Part 2 of the Register.

- 3.2 The Brownfield Land Register must be divided into 2 parts which have different functions. Part 1 of the Register lists all brownfield sites in a local authority area that are considered to be appropriate for residential development, based on whether residential development is suitable, available and achievable, and taking into account the development plan and national policy. Part 2 of the Register is a subset of Part 1 and contains a list of sites which, by being on the Register, are automatically granted planning permission in principle for housing development.
- 3.3 Brownfield Land Registers will sit alongside Local Plan site allocations and form an additional part of the Local Plan evidence base. They will share a lot of information with the Housing and Economic Land Availability Assessment (HELAA). This means that most of the sites and data to be included will already be in the public domain.
- 3.4 Planning permission in principle is a new planning designation. It settles the fundamental principles of development (use, location, amount of development) for a brownfield site giving developers and applicants more certainty. However, a developer cannot proceed with development until they have also obtained technical details consent. This will assess the detailed design, ensure appropriate mitigation of impacts and that any contributions to essential infrastructure are secured. Both the permission in principle (no fee payable) and the technical details consent (fee payable) stages must be determined in accordance with the local development plan, the National Planning Policy Framework and other material considerations.
- 3.5 Planning permission in principle will work alongside, not replace, existing routes for obtaining planning permission. It can only be granted for housing-led developments (i.e. the majority of the proposed floorspace must be housing). It is similar to, although not the same as, the existing outline planning permission route which will remain in place. Planning permission in principle is intended to be an easier and cheaper mechanism for providing early certainty on in-principle matters.
- 3.6 Entering a site onto Part 2 of the Register represents a grant of planning permission and this function is reserved to Full Council rather than Cabinet for approval. It is proposed that the decision to enter land into Part 2 of the Register is delegated to the Planning Committee and is subject to the same delegations to officers as apply to planning applications. The Cabinet, at the meeting held on 19 October, requested that for the avoidance of doubt that any proposed entry into Part 2 of the Register be subject to a Chiltern District Councillor 'calling in' a proposed entry to the Planning Committee for consideration.
- 3.7 The Cabinet meeting on 19 September approved the draft Register to public consultation, subject to all Members of the Council receiving a copy. This was a non-key decision. The Cabinet also agreed to delegate the publication of the final Register, together with any future

updates, to the Head of Sustainable Development in consultation with the Portfolio Holder. The form of the Register and the sites to be included are currently under development, but the criteria for inclusion of land are prescribed by the Regulations, as is the format of the Register itself.

#### **4. Consultation**

4.1. Details of consultation on the draft Brownfield Land Register are still under development but it is intended that the following will be included:

- contacting landowners of sites proposed for inclusion (sites of which the Council is already aware via the HELAA)
- consulting with people registered on the joint Local Plan database
- consulting with parish councils and neighbourhood plan groups
- publicising the draft Register on the Council's website

4.2. It is intended that consultation will commence in late September allowing a period of six weeks for parish councils and neighbourhood plan groups and three weeks for other stakeholders, as prescribed in the Regulations.

#### **5. Options**

5.1. Production of a Brownfield Land Register is a statutory requirement and the timetable for final publication of the document is similarly imposed on local authorities. Regulations and guidance relating to production of the Registers set out in some detail the process for including any individual site on the Register. Therefore there is no other option available.

#### **6. Corporate Implications**

##### **6.1 Financial**

The DCLG have advised by letter to the Chief Planning Officer dated 31 March 2017 that local planning authorities will receive new burdens grant payments to fulfil the new requirements. They advised that "Each local authority responsible for making planning decisions will receive a new burdens grant payment of £14,645 for 2016/17. Local planning authorities will receive further grant payments for 2017/18, 2018/19 and 2019/20; the amount of funding from 2016/17 onwards will be kept under review."

##### **6.2 Legal**

The Council has a duty to publish a Brownfield Land Register by 31 December 2017 under the provisions of the Town and Country Planning (Brownfield Land Register) Regulations 2017 which set out the criteria for inclusion of land and the format of the register itself. The decision to enter land into Part 2 of the Register which grants the new designation of "planning permission in principle" is reserved as a Council function alongside Council's other Town and Country Planning Act functions.

### 6.3 ICT

Details of sites on the Register will be held on corporate ICT systems and some minor changes to the Uniform database and to related Development Management procedures are likely to be required.

## 7. Links to Council Policy Objectives

7.1. Brownfield Land Registers support in particular Key Themes 1 and 2 of the Council. These are "Thriving Economy" – the Register will encourage and facilitate development which will have a positive effect on the local economy – and "Sustainable Environment" – by focussing on brownfield sites the Register will encourage the development of these which will in turn reduce development pressure in less sustainable, greenfield locations. By so doing the Register will assist compliance with the Council's headline objective of "Striving to conserve the environment and promote sustainability."

## 8. Next Steps

8.1. The full Register will be published in December 2017 subject to the recommendations in this report being approved.

<b>Background Papers:</b>	None other than referred to in this report
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<b>SUBJECT:</b>	<i>Local Government Act 1972 – Section 85 Attendance Dispensation</i>
<b>REPORT OF:</b>	<i>Bob Smith, Chief Executive</i>
<b>RESPONSIBLE OFFICER</b>	<i>Joanna Swift, Head of Legal and Democratic Services</i>
<b>REPORT AUTHOR</b>	<i>Mat Bloxham, Senior Democratic and Electoral Services Officer</i>
<b>WARD/S AFFECTED</b>	<i>Ridgeway</i>

### 1. Purpose of Report

To enable Council to consider granting a dispensation to Councillor Derek Lacey for attendance requirements on the grounds of ill-health.

#### RECOMMENDATION

- 1. That Council consider exercising its powers under Section 85(1) of the Local Government Act 1972, and grant a dispensation to the attendance requirements for elected members in recognition of Councillor Derek Lacey's ill- health.**
- 2. Council is asked to specify the duration of the dispensation**

### 2. Reasons for Recommendations

To enable Council to consider exercising their discretion to grant a dispensation in respect of statutory attendance requirements.

### 3. Content of Report

Due to ill-health, Councillor Derek Lacey has been unable to attend a meeting of the authority or of an outside body since 17 May 2017. Section 85 of the Local Government Act 1972 states that if a Councillor fails over a period of six consecutive months from the date of their last attendance to attend any meeting of the Authority they shall cease to be a Councillor, unless the failure was due to some reason approved by the authority before the expiry of that period.

Therefore, if Councillor Derek Lacey fails to attend a meeting of the authority due to take place before 17 November 2017, or any meeting of an outside body to which he has been appointed as the Council's representative, he will cease to be a Councillor unless the Council grants a dispensation.

The Council meeting on 17 October provides the only opportunity to grant a dispensation before the disqualification date. Councillor Lacey is currently recovering from an operation and Members are asked to consider granting a dispensation on the grounds of ill-health, as well as the length of any such dispensation. For example a dispensation for 3 Council cycles would mean that Councillor Lacey would have up to, and including, the Council meeting on 16 May 2018 to attend a meeting. This would enable the Council to review this matter again at the Council meeting on 16 May 2018, if required.

**4. Consultation**

Not Applicable.

**5. Corporate Implications**

None.

**5. Next Steps**

If the Council is minded to approve a dispensation, Councillor Lacey would be notified accordingly.

<b>Background Papers:</b>	Local Government Act 1972
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<b>SUBJECT:</b>	<b>LOCAL LAND CHARGE SERVICE SHARED SERVICE REVIEW</b>
<b>REPORT OF:</b>	<i>Portfolio Holder for Support Services – Councillor Mike Stannard</i>
<b>RESPONSIBLE OFFICER</b>	<i>Head of Legal &amp; Democratic Services</i>
<b>REPORT AUTHOR</b>	<i>Joanna Swift, jswift@chiltern.gov.uk</i>
<b>WARD/S AFFECTED</b>	<i>Not applicable</i>

## 1. Purpose of Report

To consider the recommendations arising from the Local Land Charge Service shared service review.

### RECOMMENDATIONS

- 1. That the case for a Local Land Charge Service is proven, and that both Councils should proceed to establish a Shared Local Land Charge Service.**
- 2. That subject to consultation with staff and a formal agreement between the Councils, the services of staff in Chiltern District Council's Local Land Charge Service be put at the disposal of South Bucks District Council under Section 113 of the Local Government Act 1972 so they can work across the two local authority areas.**
- 3. That the Chief Executive in consultation with the Cabinet Leader and the Head of Legal and Democratic Services be authorised to finalise the terms of any legal documentation required to give effect to recommendation 2 above.**

## 2. Content of Report

At a meeting on 24 July 2017, the Chiltern and South Bucks Joint Committee considered the Business Case for the Local Land Charge Service shared service. The Business Case is attached as a Private Appendix.

The Joint Committee endorsed all of the recommendations in the report.

Following legal advice and in order to be consistent with the previous approach used for shared service reviews, Full Council are asked to formally adopt the recommendations shown above.

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**3. Links to Council Policy Objectives**

The efficient implementation of joint services reviews is linked to the Council's Key Aims and Objectives.

<b>Background Papers:</b>	None, other than those referred to in this report.
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