



Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook

Draft November 2014

Contents

Introduction

Contacting the team

Licence Requirements

How to apply

Hackney Carriage and Private Hire Driver and Operator

Licensing

Requirements

Procedure

Enforcement

1. Informal action
2. Prosecution and Caution
3. Vehicle Suspension Notice
4. Immediate Suspension or Revocation of Driver Licence

Appearance before the Licensing and Regulatory Committee

Appeal to magistrates

Further Information

Appendix A – Relevant Convictions and Cautions Policy

Glossary

Introduction

Warwick District Council licences Hackney Carriage and Private Hire Drivers, Vehicles and Operators. The relevant legislation includes:

- Local Government (Miscellaneous Provisions) Act 1976
- Town Police Clauses Act 1847
- Transport Act 1985
- Road Traffic Act 1991
- Road Safety Act 2006

Warwick District Council will at all times take into account the rights of an individual under the European Convention on Human Rights and ensure that taxi licensing is carried out with transparency and consistency in accordance with the relevant Regulatory Compliance Codes.

This document is intended to assist and advise both new applicants and current licence holders

This guide is not a definitive statement of law relating to hackney carriage and private hire licensing. It does however set out Warwick District Councils approach to vehicle testing, renewal of licences and the issue of various types of licence. It also sets out the administrative procedures involved in applying for a licence.

If after reading this booklet you require further information you are welcome to seek the assistance of the Regulatory (Licensing) Team.

Contacting the team

Email: Licensing@warwickdc.gov.uk

Telephone: 01926 353363

Address: Regulatory (Licensing) Team, Health and Community Protection, Warwick District Council, Riverside House, Milverton Hill , Royal Leamington Spa, CV32 5HR.

Personal Visit: Reception is open Monday to Thursday 8:45 – 17:15, Friday 8:45 -16:45. Officers may not always be available to assist you. Therefore to enable you to have a discussion with an officer we would advise you to make an appointment.

Licence Requirements

A licence is required by:

1. Any person acting as a driver of a private hire vehicle or hackney carriage vehicle in the district (combined hackney carriage and private hire driver's licence)
2. Any vehicle which plies for hire in the district (hackney carriage/taxi vehicle licence)
3. Any vehicle used within the district as a private hire vehicle (private hire vehicle licence)
4. Any person who makes provision for the invitation or acceptance of bookings for a private hire vehicle or vehicles (private hire operator's licence)

How to apply

Application forms for all licences can be obtained from the reception at Riverside House or by contacting the Regulatory (Licensing) Section.

Warwick District Council does not permit a person to apply for a hackney carriage or private hire licence until they have held a DVLA or equivalent driving licence for a minimum of 2 years

Applicants are strongly advised to read this guidance thoroughly before starting the application procedure.

All licence holders are expected to read and follow this guidance.

Failure to comply with the requirements may result in a licence being refused, suspended or revoked and in certain circumstances may lead to prosecution.

Hackney Carriage and Private Hire Driver and Operator Licences

Requirements

Applicant must be a Fit and Proper Person

The Council will ONLY grant or renew a drivers or operator's licence where they are satisfied that the individual is a fit and proper person to hold such a licence. The onus is on the applicant to prove this, NOT the Council to demonstrate that they are not.

There is no absolute definition as to what constitutes a "fit and proper person". The Council's primary concern is the protection of the public and licensees have to be relied upon to provide safe and reliable transport. The Council also has to consider that passengers will include vulnerable people, for example; elderly people, unaccompanied children, people with disabilities, those who have had too much to drink, lone women and foreign visitors; the Council will need to have confidence that such people would be able to rely on the driver. In addition drivers and operators may have access to sensitive information, such as where an individual may live or work and whether their home is empty.

It is important that driver's, operators and proprietors licensed by the Council are honest and open in their dealings with the Council. The Council expects individuals to provide information that is accurate and complete and to notify the Council immediately when an issue arises that may affect a licence. Failure to notify the Council about convictions, cautions and related matters or relevant medical conditions will be viewed seriously and will be taken into account when judging the suitability of an individual to hold a licence.

In addition the Council expects licensed individuals to act with courtesy and conduct themselves in a professional and polite manner at all times. In particular aggressive, rude and insulting behaviour towards customers or council employees is not acceptable and will be taken into account when judging whether an individual is fit and proper to hold a licence. As will similar behaviours demonstrated before becoming a license holder or during 'off duty' hours.

Some important areas that will be considered by the Council are:

- Convictions and cautions and related matters (see policy at Appendix A)
- Length of driving record and evidence of consistently good and safe driving

- Complaints and/or compliments from customers. Record of co-operation with Licensing Authorities
- Honesty and trustworthiness
- Physical and mental health
- Knowledge of the area
- Ability to read, speak and understand English
- Working knowledge of arithmetic (ability to give correct change)
- Good knowledge and awareness of any special requirements that disabled passengers may have by attending the prescribed Disability Awareness Course

Where the Council does not judge that an individual is a fit and proper person to hold a licence then the application for a licence will be refused.

Where an existing licence holder is found not to be fit and proper then their licence will be revoked or suspended.

If an applicant has convictions, cautions or related matters, they may wish to provide further details of the circumstances and any mitigating factors with their application. All Applicants should read the Council's policy on convictions and cautions at Appendix A before submitting their application.

Medical Requirements

Any applicant for a new licence or renewal of a licence who has had their driving licence revoked or refused on medical grounds by the DVLA within the last 5 years; has surrendered their licence to the DVLA or has received a conviction for driving a vehicle after failing to notify a disability; or made a false declaration about fitness and medical health, should expect their application to be rejected by the Regulatory Manager, until medical proof of current fitness can be provided.

The onus is on the applicant to provide appropriate medical proof from their GP/consultant or nominated practitioner at their own expense. The Regulatory Manager/Committee may consider issuing a licence if they are satisfied that the report shows a clean bill of health, and that the applicant is a fit person to recommence driving and is deemed to be of no threat to the public.

Procedure

1. The complete application and associated documents will be considered.
2. The Regulatory Manager will then grant the licence or renewal where the Applicant is deemed to be fit and proper in accordance with the policy.

3. Where the policy indicates that an application should be refused the Regulatory Manager will write to the Applicant (via email and post) and advise that refusal is proposed and indicate the reason why.
4. The Applicant will then be given the chance to make representations to the Councils Licensing and Regulatory Committee or Sub Committee ("the Committee") before a decision is made. Representations can be made in person or in writing.
5. The Applicant will need to notify the Council within 21 days at the contact address shown above if they want their application to be considered by the Committee.
 - 5.1. When this notification is received a hearing before the Committee will be arranged and the Applicant notified of the date.
 - 5.2. A report will be prepared and submitted to the Committee which will contain details of why refusal of the application has been proposed and include any evidence that the Applicant has already submitted. The Applicant will be given a copy of the report and the opportunity to submit further evidence in advance of the hearing.
 - 5.3. The Applicant may attend the hearing and address the Members of the Committee. The Applicant may choose to attend with a legal representative or a friend who may speak on their behalf. The Applicant may choose not to attend but to send in written representations for the Committee to consider.
 - 5.4. The Committee will then decide whether to grant or refuse the application based on whether they believe that the applicant is fit and proper to hold a licence. The Applicant will be notified of the decision in writing. If the decision is to refuse the application then the written notification will include reasons for the refusal and details of how to appeal.
6. If an Applicant indicates that they do not want their application or renewal to be considered by the Committee or does not respond then the Regulatory Manager will review the application after 21 days and decide whether to grant or refuse the licence. The Applicant will then be informed of the decision and reasons in writing along with the right of appeal.

Enforcement

Introduction

Enforcement of the hackney carriage and licensing provisions is essential to ensure the protection of the travelling public. Enforcement action will be

undertaken in accordance with the Councils enforcement policy which can be found on the licensing pages at www.warwickdc.gov.uk

All complaints will be thoroughly investigated by the Regulatory (Licensing) Section. The licensee will be advised of the substance of the complaint and will be given the opportunity to respond. The licensee will also be informed in writing of the outcome of the investigation and any action that they are required to take together with any relevant timescales.

The Council will abide by the principles set out in the Enforcement Policy and ensure that any enforcement is proportionate, consistent, targeted, and transparent. In addition the Council will be accountable for its actions.

The Council may consider the following action:

1. Informal Action

Including offering advice and giving verbal and written warnings.

A record will be kept of the informal action taken and could be referred to in order to assist which course of action would be appropriate in the future or in order to assist in the determination of an application.

2. Prosecution and Simple Cautions

The decision to prosecute or administer a formal caution is a very significant one. This type of action will, in general, be restricted to those circumstances where the law is blatantly disregarded, legitimate instructions of the Council are not followed and / or the public is put at serious risk.

Where the offer of a Simple Caution is not accepted the licence holder will be prosecuted.

3. Immediate Action

a) Vehicle Suspension Notices under section 68 of the Local Government (Miscellaneous Provisions) Act 1976

An authorised officer may serve notice in writing for a hackney carriage or private hire vehicle or the taximeter affixed to such vehicle to be examined at the Council's appointed garage at a time specified in the notice.

This notice can only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter. An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he/she is satisfied with the

condition of the hackney carriage or private hire vehicle. Where the officer is not satisfied within a period of 2 months then the licence shall be deemed to be revoked. Written notice will then be given to the proprietor along with details of the right of appeal against the revocation to the magistrate's court.

This action will only be taken when the officer has reasonable grounds to suspect that the condition of the vehicle is an immediate danger to passengers and/or other road users.

b) Immediate Suspension or Revocation of a Driver Licence under section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976

In some cases where the Council considers that public safety is at risk it may decide to suspend or revoke a drivers licence with immediate effect. This decision will be made by the Head of Health and Community Protection in consultation with the Chair of the Licensing and Regulatory Committee and a legal representative.

Attempts will be made to contact the licensee to advise them of the situation and give them a chance to make representations prior to any decision being made. Licensees should be aware that the Council will not be able to delay taking action where there is a risk to public safety and it is possible that a decision will have to be made without a licensee having had the opportunity to make representations or attend a hearing.

The licensee has the right of appeal against the decision to the Magistrates Court within 21 days of notification but in this case the suspension or revocation will not be stayed pending appeal.

4. Suspension Revocation, Refusal to Grant or Renew Licences

Appearances before the Licensing and Regulatory Committee

The Licensing and Regulatory Committee will consider suspension, revocation and refusal to renew licences as well as licence applications where the applicant has indicated that they want to be heard by the Committee as outlined above.

Anyone appearing before the Committee will have the opportunity to submit documentary evidence in advance and has the right to address the committee or nominate someone else to do this on their behalf.

Before appearing before the Committee an individual will have a copy of a report prepared by the Licensing Officer outlining the issues and the Committees powers.

Appeal to the Magistrates' Court

If the applicant/licence holder is not satisfied with the decision of the Committee he/she may appeal to the Magistrates' Court. The appeal needs to be made within 21 days of notification of the Council's decision. The decision of the

Council will not usually come into effect until the appeal has been determined by the Court.

Further information

Please do not hesitate to contact Warwick District Council Regulatory (Licensing) Section should you require any further information on your licence or for clarification of any matter contained within this guidance.

DRAFT

Appendix A: Relevant Convictions and Cautions Policy

In order to hold a hackney carriage/private hire driver's licence or operator's licence. The Council must be satisfied that an individual is a fit and proper person to hold such a licence.

In addition the Council has the power to suspend, revoke or refuse to renew vehicle licences where the operator or driver has committed an offence under Part II of the Local Government (Miscellaneous Provisions) Act 1976 or the Town Police Clauses Act 1847 or for any other reasonable cause.

The purpose of this policy is to provide guidance on one aspect of whether a person is a fit and proper person; namely the relevance of convictions and cautions and related matters including where a person is or has been the subject of criminal investigation.

This guidance will be taken into account when dealing with new applications, renewal applications and where revocation of a licence is being considered.

It aims to assist all parties with an interest in hackney carriage and private hire licensing and to ensure transparency and consistency. The guidance will be of particular relevance to:

1. Applicants for drivers and operators licences
2. Existing licensed drivers and operators
3. Proprietors of vehicle licences
4. Members of the Licensing and Regulatory Committee/Sub-Committee (or any other relevant decision making body)
5. Magistrates hearing appeals against Warwick District Council decisions

Disclosure Requirements

The licence application form requires the applicant to disclose all convictions, cautions, injunctions including Anti-Social Behaviour Orders, Fixed Penalty Notices, Restraining Orders and details of any arrests. Convictions include any spent convictions under the Rehabilitation of Offenders Act 1974 and Rehabilitation of Offenders Act (Exceptions) Order 2003. It is an offence under section 57 of the Local Government (Miscellaneous Provisions) Act 1976 to knowingly or recklessly make a false statement on the licence application form.

An existing licence holder must report any arrest, convictions or cautions, injunctions, restraining orders or fixed penalty notices within seven days to the Council. Further information about the procedure can be found in the notification section of the Guidance notes and conditions documents available on the WDC webpages.

The applicant/licence holder must also comply with the Disclosure and Barring Service (Enhanced Disclosure) Requirements as detailed in the application section of the Guidance Notes.

General Principles

1. Each case will be judged individually on its own merits.

2. The overriding aim is to protect the public. Members of the public entrust themselves to the care of drivers and passengers may include especially vulnerable people. Drivers need to be persons of trust. The Council considers that as part of the decision making process the following question should be applied:

"Would I allow my daughter or son, granddaughter or grandson, spouse, mother or father, or any other person I care for or any vulnerable person I know, to get into a vehicle with this person alone?"

"Would I trust this person with sensitive information? i.e. that my house is empty, that I am on holiday for the next two weeks, that children are alone in the house?"

All other considerations, including the personal circumstances of the individual are secondary to public safety.

3. It is recognised that different considerations apply to operator and vehicle licensees to that of drivers.
 - 3.1 It is important that operators are fit and proper and they can be trusted to keep accurate records, maintain vehicles in a good condition, promote and enforce good standards of driving and co-operate at all times with the Council and other authorities. Previous convictions, cautions and other related matters will be taken into account when deciding whether an individual is fit and proper to hold an operator's licence.
 - 3.2 Holders of vehicle licences need to be trusted to maintain vehicles in a good and safe condition and keep accurate records. Previous convictions, cautions and related matters will therefore be taken into account when considering and application for, or revocation or suspension of a vehicle licence.
4. Previous convictions and cautions may indicate that a person is not fit and proper. In addition the Council recognises that where an applicant or licensee has been investigated for a serious criminal offence but not convicted this may also need to be taken into consideration when determining whether that person is fit and proper to hold a licence. In cases where a criminal prosecution does not proceed or there is a finding of not guilty the Council may still conclude that an individual is not fit and proper.
5. Whilst it is acknowledged that a caution is not a criminal conviction the acceptance of a caution does mean that the individual has admitted the offence. It is for this reason that cautions will be considered in a similar way to convictions.
6. The Council acknowledges that the police increasingly use methods such as restorative justice as alternatives to the criminal court system and it may be appropriate for the Council to take this type of action into consideration when deciding whether an individual is fit to hold a licence.

7. Where an individual has been convicted of an offence but the conviction is subject to appeal the Council may decide it is appropriate to suspend or revoke the licence.
8. There may be situations where it would be appropriate to depart from the guidelines. The Council will consider whether the offence is an isolated one and any mitigating circumstances surrounding the offence. Similarly, multiple offences or a pattern of offences over time may demonstrate that an individual is not a fit and proper person.
9. Convictions and cautions may not automatically prevent a person obtaining a licence or mean that a current licence is revoked, suspended or not renewed. However, certain offences are viewed particularly seriously and it may not be appropriate for an individual to ever be licensed.
10. Offences committed whilst passengers are present will be considered as an aggravating feature and will be viewed as being more serious.

Specific Guidelines relating to Drivers/Operators

The following specific guidelines provide an indication of how particular cases involving the consideration of cautions or convictions are likely to be dealt with. They do not attempt to include all possible offences but give an indication of how the most common offences will be dealt with. The fact that a particular offence is not included does not mean that it cannot be considered.

Where an individual has more than one conviction or caution recorded against them the authority may not regard the period of time that has elapsed since the last conviction as sufficient to demonstrate the individual's fitness to be licensed. These guidelines are not binding on the Council and it may depart from them where the particular circumstances of an individual case make it appropriate to do so.

The minimum period of time specified is guidance for a person with a single conviction only.

Offences of Dishonesty

Offence	Minimum period free from conviction
Burglary	Not suitable to be licensed
Fraud (sentence of imprisonment)	Not suitable to be licensed
Fraud (no sentence of imprisonment)	5 years
Theft (sentence of imprisonment)	Not suitable to be licensed
Theft (no sentence of imprisonment)	10 years
Vehicle Taking	5 years

Offences of Violence Public Order Offences and Offences against Property

Offence	Minimum period free from conviction
Murder	Not suitable to be licensed
Manslaughter	Not suitable to be licensed
Grievous Bodily Harm/ Unlawful Wounding	Not suitable to be licensed
Robbery	Not suitable to be licensed
Arson with intent to endanger life	Not suitable to be licensed
Arson	10 years
Riot or Violent Disorder	10 years
Possession of a Firearm	Not suitable to be licensed
Assault occasioning ABH	10 years
Assaulting a Police Officer	10 years
Threats to Kill	Not suitable to be licensed
Witness Intimidation	10 years
Affray	10 years
Possession of Offensive weapon or Bladed Article	Not suitable to be licensed
Harassment with fear of violence	Not suitable to be licensed
Harassment	10 years
Criminal Damage (value over £5000)	5 years
Threatening Behaviour Section 4 & 4A Public Order Act	7 years
Common Assault	7 years
Drunk and Disorderly in a Public Place	5 years
Disorderly Behaviour Section 5 Public Order Act	5 years
Criminal Damage (value under £5000)	3 years

If any of the above offences are racially or religiously aggravated they will be treated more seriously.

Sexual Offences

Offence	Minimum period free from conviction
Rape	Not suitable to be licensed
Assault by Penetration	Not suitable to be licensed
Sexual Assault	Not suitable to be licensed
Sexual offences involving a child or Young Person	Not suitable to be licensed
Indecent Exposure	Not suitable to be licensed
Prostitution - Soliciting	Not suitable to be licensed
Soliciting prostitutes from a motor vehicle or Kerb crawling	Not suitable to be licensed

Drugs Offences

Offence	Minimum period free from conviction
Supply controlled drugs/ Possession with intent to supply	Not suitable to be licensed
Possession of a controlled drug	5 years

Traffic Offences

Offence	Offence Code	Minimum period free from conviction
Death/serious injury by dangerous driving	DD10/DD80	Not suitable to be licensed
Manslaughter or Culpable Homicide whilst driving a vehicle	DD60	Not suitable to be licensed
Death by careless driving	CD40/CD50/CD60 CD70/CD80/CD90	Not suitable to be licensed
Dangerous/Furious Driving	DD40/DD90/MR09	Not suitable to be licensed
Careless Driving	CD10/CD20/CD30	10 years
Driving/Attempting to drive under the influence of alcohol or drugs	DR10/DR20/DR80 MR29	10 years
Failing to stop/report an accident/accident offences	AC10/AC20 AC30/MR19	10 years
In charge of vehicle under the influence of alcohol/drugs	DR40/DR50/DR90	7 years
Failing to provide a specimen for analysis/refusing to give permission for specimen analysis	DR30/DR31/DR61 DR60/DR70	10 years
Driving without insurance	IN10	5 years
Driving or attempting to drive whilst disqualified	BA10/BA30/MR49	10 years
Driving other than in accordance with a licence	LC20/LC50	5 years
Driving having failed to notify a disability/false declaration about fitness	LC30/LC40	10 years
Driving whilst using a mobile phone	CU80	5 years
Disqualification following totting up	TT99	4 years from end of disqualification period

Penalty Points on Driving Licence

Number of Points	
7 or more current penalty points on Licence	Not suitable to be licensed whilst the penalty points limit is exceeded.

Hackney Carriage/Private Hire Offences

Offence	Minimum period free from conviction
Providing false information on licence application	5 years
Using an unlicensed vehicle	5 years
Driving a licensed vehicle without a licence/Operating a vehicle without an operator's licence/Proprietor using an unlicensed driver	5 years
Not wearing identity badge	2 years
Obstruction of an authorised officer or constable/failing to comply with requirement of authorised officer or Constable.	2 years
Overcharging/Unnecessarily prolonging journey	5 years
Failing to produce records/documents on request	5 years
Failing to notify change of details including address, convictions, cautions, and accidents.	5 years

These minimum periods are following conviction by a court or where a driver has accepted a Simple Caution. Officers will prosecute for these offences in accordance with the Enforcement Policy which is available on the WDC Licensing Web pages.

Glossary

Appeal	A means by which a Council decision can be reviewed by the Magistrates Court or the Crown Court. The decision of the Council may be up held or overturned.
Caution	A signed admittance of guilt of committing an offence where no further action is taken at the time. It may be taken into account in the case of re-offending.
Committee	Local Councillors gathered together to consider the suitability of a person to hold a taxi related licence.
Conviction	Judicial determination that someone is guilty of a criminal offence.
Hackney Carriage	A vehicle that can carry passengers for hire or reward, can be hailed by a prospective passenger and can wait on a taxi rank to await the approach of passengers; they can also undertake pre-booked work by being hired in advance.
Private Hire Vehicles	A vehicle which must be pre booked with a private hire operator. This type of vehicle cannot stand in a taxi rank or ply for hire.
Proprietor	The owner or owners of a vehicle. When the vehicle which is the subject of a hiring agreement or hire purchase agreement the proprietor is the person with possession of it.
Revoke	To terminate the licence.
Suspend	To prevent the use of the licence for a period of time.