

# Executive

Minutes of the meeting held on Thursday 2 June 2016 at the Town Hall, Royal Leamington Spa, at 6.00 pm.

**Present:** Councillor Mobbs (Chairman); Councillors Butler, Coker, Cross, Grainger, Phillips, Shilton and Whiting.

**Also present:** Councillor Barrott - Labour Group Observer, Councillor Mrs Falp - Whitnash Residents Association (Independent) Observer, Councillor Naimo - Acting Chair of Overview & Scrutiny Committee and Councillor Quinney - Chair of Finance & Audit Scrutiny Committee.

Before the start of the meeting Councillor Mobbs offered his thanks to Councillor Howe for his work as Executive Observer. He thanked Councillor Mrs Gallagher for her tremendous work in Culture and her replacement on the Executive was not a reflection on her abilities, but recognition of the changing nature of the Council. He concluded by thanking Councillor Barrott for his work as Chair of Finance & Audit Scrutiny Committee in ensuring that the Executive was challenged appropriately, and welcomed; Councillor Butler as Portfolio Holder for Business, to the Executive; Councillor Quinney, as the new Chair of Finance & Audit Scrutiny Committee; and Councillor Naimo as acting Chair of Overview & Scrutiny Committee.

## 1. **Declarations of Interest**

### Item 8 – Tourism Update

Councillor Naimo declared a personal interest because she had worked for Leamington BID during the time of the order.

Councillors Cross and Grainger declared a Personal and Pecuniary interest in this item because of the funding provision to Warwick Town Council. They left the room when the Executive considered the financing aspect for Warwick.

## 2. **Minutes**

The minutes of the 9 March and 6 April 2016, were taken as read and signed by the Chairman as a correct record.

### **Part 1**

(Items on which a decision by Council is required)

## 3. **Final Accounts 2015/16**

The Executive considered a report from Finance that provided the Council's final account position for the year ended 31 March 2016.

The recommendations allowed the accounts for the financial year 2015/16 to be closed on time and had been used as the basis for drafting the Statement of Accounts. The resultant decisions would be fed into the Financial Strategy. The Accounts and Audit Regulations 2015 required that the Head

of Finance, as the responsible financial officer must, no later than 30 June immediately following the end of a year, sign and date the Statement of Accounts.

Appendix 'C', to the report, identified £5,054,700 in respect of Housing Investment Programme schemes not completed in 2015/16 and £998,600 for Other Services Capital schemes. Approval for the slippage of these budgets to 2016/17 was requested together with the bringing forward of £309,600 from future years' Other Services Capital Programmes in respect of West Midlands Reserve and Cadet Force new building (£300,000) and Victoria Park Skate Park (£9,600). The relevant Capital Programmes needed to be varied accordingly to accommodate these changes together with the associated financing.

The report sought approval for slippage into the General Fund for 2016/17 totalling £322,600. These requests related to revenue expenditure that had been unavoidably delayed, and for which finance was still required. By adopting this approach of carrying forward slippage, the Council sought to avoid an end of year spending spree which normally did not result in good value for money. Furthermore, without the associated funding these projects would not be achieved in 2016/17. Appendix 'F', to the report, listed the items in more detail. Expenditure against these Reserves would be closely monitored during 2016/17 with progress being reported, monthly, to the Senior Management Team and quarterly Executive. In addition, there was £528,700 of Housing Revenue Account slippage requested as detailed in section 13 of the report.

The report was a statement of fact, however, how the outcomes were treated could be dealt with in a variety of ways, mainly the alternatives were not to allow any, or only some of the earmarked reserve requests and to allow the General Fund balance to vary from the £1.5m level, along with how the 2015/16 surplus was allocated.

The Finance & Audit Scrutiny Committee supported the recommendations and were pleased to see that £900k was being allocated to the Covent Garden Multi Storey Car Park reserve.

However, Members felt that the Executive needed to be mindful that the Housing Revenue Account was likely to come under pressure when the provisions within the Housing and Planning Act were fully known.

In addition, concerns were raised that some of the budget setting had been over prudent and officers needed to be careful when making judgements using historical data.

Councillor Barrott raised concern about the slippage in delivering the fire safety systems and fire prevention work.

Councillor Phillips agreed with the concerns raised about the implications of the Housing and Planning Act and he would be monitoring the progress of the guidance as it was brought forward. He also agreed with the slippage regarding the Housing Revenue Account and anticipated a report would be brought to the Executive at the end of June 2016.

Councillor Whiting thanked the Head of Finance and his team for their work in what they had achieved in delivering an underspend for the last 12 months. He emphasised the importance of not just having a balanced General Fund but also in making sufficient provision to fund capital expenditure as well. He recognised the need to improve on forecasting because while reviewing trends over time had a benefit, due regard had to be taken of specific events during the year. He specifically highlighted to the Executive that the budget out turn for this this year enabled £900,000 to be allocated to Covent Garden Car Park.

**Recommended** to Council that:

- (1) in respect of the Capital Programme that it:
  - notes the Capital Programme was underspent by £6.866m, of which £6.053m is due to slippage to 2016/17;
  - approves that future years Capital Programmes be amended by £5,743,600 comprising the following elements:
    - § +£5,054,600 for Housing Investment Programme slippage;
    - § +£998,600 for Other Services Capital Programme slippage;
    - § -£309,600 in respect of resources brought forward from the Other Services Capital Programme from future years to 2015/16 to cover expenditure on West Midlands Reserve and Cadet Force new building and Victoria Park Skate Park;
- (2) in respect of the General Fund that it:
  - notes the General Fund revenue account shows a surplus of £1,731,700 which is after allowing for a further £322,600 of planned expenditure to be carried forward to 2016/17;
  - approves the requests to carry £322,600 earmarked balances forward in respect of General Fund revenue slippage to 2016/17, set out at Appendix 1 to these minutes;
  - approves the establishment of a new Covent Garden Multi-Storey Car Park Reserve with authority to spend from this reserve delegated to the Head of Finance in line with the actual lost income and debt charges incurred;
  - approves that the resulting change of the above decisions, amounting to £1,731,700 be appropriated:
    - § £900,000 to new Covent Garden Multi-Storey Car Park Reserve;

- § £200,000 to the Capital Investment Reserve;
    - § £200,000 to Car Park Reserve;
    - § £200,000 to the Service Transformation Reserve; and.
    - § Balance of £231,700 to the 2016/17 Contingency Budget.
  - Note the unfunded liabilities and the uncertainty over local authorities' future funding, and how the 2015/16 outturn is strengthening the Council's financial position.
- (3) That in respect of the Housing Revenue Account it:
- notes the Housing Revenue Account balance is as budgeted; the HRA Capital Investment reserve available for major developments has increased to £20.725m, £5.48m more than projected;
  - approves the requests to increase 2016/17 HRA budgets by £258,700 in respect of planned HRA maintenance and stock condition survey not completed in 2015/16, as detailed at Appendix 1 to the minutes; and
- (4) in respect of the Collection Fund it notes that the Council Tax collection rate was 98.5% and 98.6% for Business Rates.

(The Portfolio Holder for this item was Councillor Whiting)  
Forward Plan reference number 762

#### 4. **Policies for Hackney Carriage / Private Hire Drivers & Operators**

The Executive considered a report from Health & Community Protection that presented the revised Policies for Drivers, Vehicle owners and operators of Hackney Carriages and Private Hire vehicles.

The policies and standards associated with the licensing of hackney carriages and private hire activities had been reviewed in line with the request made by the Executive in October 2014.

The draft policy had been consulted upon and the comments received reviewed against the proposed policy. The resulting policy was the attached appendix 1, for recommendation to Council.

The changes to the policy were wide ranging and were designed to ensure the safety of the general public by ensuring that the applicants and renewing drivers were fit and proper.

The proposed policy was a consolidation of all of the existing policies which had been amended, updated and reviewed. Many of the standards laid down in the revised policy were the same or similar to the current policy.

The proposed changes that had been made to specific policies and conditions applicable to licences with the intention to increase the standards to which licence holders were held and/or to align with neighbouring authorities standards.

Alternatively, the current policy could continue to be used. However, the Executive asked officers to review the policies to address the concerns that were being raised about standards by councillors, the general public and licence holders.

The comments received during the consultation period had been reviewed and each of the comments were given due consideration. Some of the comments had been incorporated into the policy. However, other suggestions had not been included because they were not considered suitable for the promotion of public safety, effective operation of the licensing regime, were contrary to legislation or for their inability to be enforced. Executive were entitled to consider the inclusion of these suggestions and these proposals were set out at Appendix 4, to the report.

The revised policy had been proposed to make the measures taken against inappropriate licence holder conduct transparent and consistent and provided a framework by which poor conduct could be measured.

The Licensing and Regulatory Committee had considered the proposed policy at their meeting on the 31 May 2016. Their comments were circulated in an addendum at the meeting for consideration by the Executive.

Councillor Grainger thanked her team for their work in revising the documents into a single robust policy. She emphasised the importance of getting this completed in good time to ensure that it was in force for the new licences due to commence in July 2016. In addition, confirmation was provided that a summary of all the comments made and responses to these would be made available to the Taxi Driver Forum.

Councillor Grainger proposed the policy as laid out subject to the inclusion of the proposed changes by the Licensing & Regulatory Committee and with the addition of another recommendation to provide delegated authority to the Head of Health & Community Protection to enable minor amendments to the Policy.

**Recommended** that Council

- (1) adopts the proposed policy, set out at Appendix 2 to these minutes, which will be used for the assessment of all new and renewing Hackney Carriage and Private Hire drivers, operators and vehicles; and

- (2) amends the scheme of delegation for officers to enable the Head of Service for Health & Community Protection be authorised, in consultation with the Portfolio Holder and Legal Advisor to the Council, to make any minor grammatical or minor wording amendments to the final policy, so long as it they do not alter the meaning/spirit of the policy.

(The Portfolio Holder for this item was Councillor Grainger)  
Forward Plan Reference Number 788

## 5. **Sex Establishment Policy**

The Executive considered a report, from Health & Community Protection, which sought recommendation of the Sexual Establishments Policy, which was applicable to all Sex Establishments within the Warwick District Boundary, to Council for approval.

The Sex Establishment Policy had been reviewed in accordance with the request of the Executive in March 2015. The policy had been subject to a public consultation and the revised policy was now brought to Executive for recommendation to Council.

The proposed policy included changes within both the policy document and the conditions which would be attached to any licence granted. The existing policy was set out at Appendix 1 to the report and the proposed policy was set out at Appendix 2 to the report. A summary of the main proposed alterations to the Policy were included in Appendix 3 to the report.

Before the proposed policy could be adopted, the responses from the public consultation must be considered and these were set out at Appendix 4 to the report.

The Licensing and Regulatory Committee had considered the proposed policy at their meeting on the 31 May 2016. Their comments were circulated in an addendum at the meeting for consideration by the Executive.

Councillor Grainger thanked her team for their work on this, proposed the policy as laid out subject to the inclusion of the proposed to changes by the Licensing & Regulatory Committee and with the addition of another recommendation to provide delegated authority to the Head of Health & Community Protection to enable minor amendments to the Policy.

### **Recommended** that Council

- (1) approves the proposed Licensing of Sex Establishments Statement of Licensing Policy to Council, as set out at Appendix 3 to the minutes; and
- (2) amends the scheme of delegation for officers to enable the Head of Service for Health &

Community Protection be authorised, in consultation with the Portfolio Holder and Legal Advisor to the Council, to make any minor grammatical or minor wording amendments to the final policy, so long as it they do not alter the meaning/spirit of the policy.

(The Portfolio Holder for this item was Councillor Grainger)  
Forward Plan reference number 787

## **Part 2**

(Items on which a decision by Council is not required)

### **6. Fit for the Future Change Programme**

The Executive considered a report from the Deputy Chief Executive & Monitoring Officer, which brought together a number of areas of work that linked the ambition to ensure that plans and finance were in place to contribute to the Council's vision of making Warwick District a great place to live, work and visit.

The report covered a number of areas; Approval of the Council's Service Area Plans for 2016/17; an update on the Council's Fit For the Future (FFF) Change Programme which had been developed to address the significant reduction in funding from central government; progress against the Sustainable Community Strategy's priorities; the opportunity provided by central government for more certainty around funding for the next three years; an invitation to the Local Government Association to oversee a Corporate Peer Challenge of the Council's performance and planning, thereby considering whether the Council was in a position to deliver its aspirations; and the reporting of performance against Service Area Plans for 2015/16.

Following the District and General Elections of 2015, the Council's Senior Management Team (SMT) worked with the Executive to determine the priorities for the new Council administration. The Executive was broadly happy with the strategic approach, as described in the extant Sustainable Community Strategy (SCS) and the FFF Change programme, but introduced some additions and changes to both the Strategy and the Programme at its meeting of 3 September 2015.

In local government nothing stands still, and following central government policy announcements post General Election 2015 and the Chancellor's Autumn Statement 2015, it became clear that the Council would need to go through a process of further change in terms of structure and service delivery. To help inform consideration of where that further change was needed, SMT undertook a PEST and SWOT analysis which led to a Corporate Action Plan. This was detailed in Appendix A to the report.

This work had been informally endorsed by the Executive who requested that these actions formed part of the Council's work programme over the next three years. Following their own deliberations, the Executive requested that officers ensured that the following themes underpinned the work of the Council:

- Ensuring Financial Security – revenue generation; HQ relocation and wider asset realisation; implementing the digital strategy; making existing services cost effective; exploring shared services and commercial options; and always ensuring best value;
- Reviewing Internal Structures – the right structure for the Council; recruitment and retention; succession planning; procurement and contract management;
- Delivering the Local Plan;
- Communicating with our residents and marketing our services; and
- Supporting and helping local communities.

The Service Area Plans (SAP) for 2016/2017 had been developed based on the Corporate Action Plan and the underpinning themes.

The Council had seven Service Areas: Chief Executive's Office; Cultural Services; Development Services; Finance; Health & Community Protection; Housing & Property Services; and Neighbourhood Services. Following consultation with the respective Portfolio Holders, each Service Area produced an annual SAP.

The individual SAPs sought to describe a Service Area's scope of services and projects, and how delivery would be managed through the respective Service Area's resources. In aggregate the SAP's were the programme of work for the Council for the financial year in question.

The Medium Term Financial Strategy's (MTFS) latest position was detailed within the report, but it was predicted that there would be a recurring deficit of £696,000k (subject to decisions around Council Tax levels and car parking charges) by the financial year 2020/21. In order to deal with the significant changes anticipated for local government, the Council agreed a FFF Change Programme in 2010 covering three interrelated strands of Service, People and Money.

The aim of the *Money* element of the programme was, and remains, to produce initiatives that would either save money or increase income without impacting upon the quality or breadth of services provided by the Council. This strand had delivered significant savings/ increased income since 2010, but as the amount of grant from central government continued to reduce there was an ongoing requirement to produce further initiatives. Following consultation with respective Portfolio Holders it was recommended that the initiatives included in Table 1 of the report were included in the FFF Change Programme. Where the level of savings/ increased income could not be determined, it was recommended that this information was provided in the future *Budget Review* report from the S151 Officer. However, where amounts of savings were included, these were early estimates where detailed reviews and/ or business cases would be required.

Should all of the initiatives in Table 1 deliver their anticipated savings/ increased income this would eliminate the forecast deficit. The savings from Table 1, as described at paragraph 5, did not allow for future funding of corporate assets, investment in Linen Street car park, replenishment of reserves or delivering services/ projects not yet devised. It was therefore imperative that the Council continued to find ways of making savings/



increasing income so it had the capacity to deal with currently unquantified liabilities and the unknown.

The latest change programme was agreed in the 3 September 2015 Executive report titled *Sustainable Community Strategy & Fit For the Future Updates and Service Area Plans 2015/16*. The programme had been progressing well and the latest position was shown at Table 2 of the report.

The 2016/17 figures within Table 2 were incorporated within the Budget agreed in February for that year. The other figures for the subsequent years had been included within the Council's Medium Term Financial Strategy (MTFS).

The Leisure Options and HQ Relocation initiatives contributed £885k to the change programme. Consequently, should either or both of these not be successful, there would be a significant impact on the MTFS. Both projects had very strong governance arrangements in place, and should major risks start to emerge these would be reported to Executive as soon as possible.

The Executive agreed additional SCS priorities in September 2015. These were included in Table 3 of the report, along with a progress update.

Following the announcement of the 2015 Autumn Statement, the Secretary of State for Communities and Local Government announced that Councils would be able to enter into a multi-year financial settlement with central government, enabling Councils to have certainty about their central government funding for the four years to 2019/20. On 10 March 2016, the Council received a letter from the Secretary of State providing further details about how the settlement would work.

To be eligible for the offer, the Council would need to produce an Efficiency Plan covering four years. Based on the limited guidance that has been provided, it would appear that a plan based on the Council's FFF change programme would suffice.

There were obvious advantages to accepting the offer in terms of certainty about funding, although should the Country's macro financial position improve significantly over the period, it was possible that the Council would not receive as much funding as it could have had it declined the offer. However, given the size of the national budget deficit, it was highly unlikely that the Country's finances would improve by such an extent in a relatively short period of time.

The Secretary of State had left the option open to revisit the settlement stating, "allocations could be subject to additional reductions dependant on the fiscal climate and the need to make further savings to reduce the deficit." However, on balance, it was officers' recommendation that the offer should be accepted; thereby providing a degree of certainty to the Council's financial planning.

In 2012, the Council invited a Corporate Peer Challenge with a follow-up visit in 2013. The Peer Challenge enabled experienced and knowledgeable Councillors and officers to visit other Local Authorities in order to review how

a Council was operating, what its plans were and whether or not they were reasonable. This Council found the previous reviews to be very beneficial in enabling sense-checking of the work that was being done and the plans that were in place, and therefore a further Peer Challenge had been arranged for mid July 2016.

The peer team would explore the core components (the underpinning features of good performance) that all corporate peer challenges covered. This would help to provide reassurance and an indication about the organisation's ability and capacity to deliver on its plans, proposals and ambitions, but would also allow the peer team to comment on track record and achievements which should demonstrate a journey of improvement.

The Peer Team had been specifically asked to consider how well the Council had delivered, with partners, against three themes in the SCS; Prosperity, Housing and Health and Wellbeing. It was considered that these themes had the greatest impact on the quality of life of the Council's residents.

Following Executive's approval of the Service Area Plans, each year, Service Heads used these as a tool to manage performance. They were employed as a catalyst for the discussion between individual Portfolio Holders and Service Heads. The SAP provided the Overview & Scrutiny Committee the opportunity to question the Portfolio Holders on how their performance against their respective Plans on a rolling basis. Half way through the financial year, an update on the performance of all Portfolios was provided to Overview & Scrutiny Committee. An annual performance report was appended to the report for each of the Service Areas.

No alternative options to the recommendations in this report had been considered, although it was a decision for the Executive as to whether they accepted the financial settlement on offer, or if a Corporate Peer Challenge should take place.

The Finance & Audit Scrutiny Committee supported the recommendations in the report.

The Overview & Scrutiny Committee noted the recommendations and wished to highlight to the Executive the need to monitor any recruitment and retention issues throughout the year, to ensure that the Service Areas Plans could be delivered effectively.

Councillor Mobbs thanked the Scrutiny Committees for their comments and agreed that recruitment and retention was an area which needed to be considered carefully, including any potential impact from the terms and conditions review, which was why he had asked the People Strategy Steering Group to look into this matter. He reminded Portfolio Holders that it was a matter they should be considering carefully as well.

**Resolved that**

- (1) the outcome of work undertaken by the Council's Senior Management Team, in consultation with the Executive, to review the Political, Economic,

Social and Technological (PEST) environment in which the Council operates, and the subsequent Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis, which led to a Corporate Action Plan to address the issues raised, be noted and the actions which form this part of the work will be delivered through the Service Area Plans;

- (2) the Service Area Plans, set out at appendices B-H of the report, be approved as the Council's programme of work for the financial year 2016/17;
- (3) the additions to the Fit For the Future (FFF) Change Programme as set out at Table 1 of the report and the position of, and variations to, the current Change Programme at Table 2 of the report, be approved, and noted that the Change Programme is a substantial contributor to the savings requirement of the Council as identified in Section 5 of this report;
- (4) the progress against the additional priorities for the Council's Sustainable Community Strategy (SCS) at Table 3 of the report as identified by the new administration and reported to Executive in September 2015, be noted;
- (5) the offer of a multi-year financial settlement, from the Secretary of State for Communities and Local Government, be accepted, and the risks inherent in accepting this offer, be noted;
- (6) in July 2016, a Corporate Peer Challenge will be undertaken to help provide a corporate overview and an external check and reassurance that what the Council is doing, and is planning to do looks relevant, realistic and robust; and
- (7) the respective Service Areas Annual Performance Reports at Appendices J to P of the report, be noted.

(The Portfolio Holders for this item were Councillors Coker and Mobbs)  
Forward Plan Reference Number 793

7. **Proposed Relocation of Kenilworth Wardens (Community Sports Club) to Castle Farm**

The Executive considered a report from the Deputy Chief Executive & Monitoring Officer that sought approval for the relocation of Kenilworth Wardens from its current base at Thickthorn to Castle Farm, subject to the

final legal documents between the parties being brought to the Executive for approval.

Following extensive consultation with Kenilworth Town Councillors, Kenilworth District Councillors and the general public, Warwick District Council agreed that the release of land from the Green Belt for housing to the East of Kenilworth, known as Thickthorn, should be included in the Warwick District Local Plan (Publication Draft).

Policy DS11 (Allocated Housing Sites) of the Draft Local Plan included Greenfield Site H06 (Thickthorn), part of which was the home of Kenilworth Wardens, a Community Sports Club that had been in operation for over 50 years. In recommending the allocation of this site, officers had been able to reassure Councillors that negotiation for the relocation of the club to Council owned land at Castle Farm was feasible and deliverable. This was an initiative which the Executive and Group Leaders had supported.

The Executive agreed the Local Plan in February 2016, including a Proposed Modifications report which included Policy DS NEW4. This stated: "Land at Castle Farm... [is] allocated for the provision of outdoor sport. Appropriate facilities associated with the provision of outdoor sport will be permitted provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land with it."

The consequence of the revised Local Plan provision was that, should the Local Plan be adopted by this Council, there was a clear policy position to support the Club's relocation. It was therefore recommended that as landowner, the Executive provided its formal endorsement to the relocation of the Club to the Council-owned land at Castle Farm, subject to necessary planning permissions and legal agreements being completed. The land shown as hatched on the attached plan was not under the ownership of this Council, but was required to enable the relocation to work and consequently the negotiation between the Club and the landowner.

In the knowledge that there was informal Executive support for the relocation of the Club to Castle Farm, officers had been discussing the terms of the relocation with a Club representative. The principles of an agreement set out at Appendix B to this report could be summarised as:

- the Club would relocate its community sports club operation from land at Thickthorn to Council-owned land at Castle Farm and adjoining land in third-party ownership;
- the Club would be entitled to exclusive use of Castle Farm Recreation Centre main hall for a mutually agreed number of hours of each week;
- the Club would take on the day-to-day management of the land shown as (field 1) at Appendix A to the report, for 2 x full size pitches; 2 x  $\frac{3}{4}$  pitches; 2 x 9x9 junior pitches; and three mini pitches, but it would be retained for public use as open space and sports playing fields;
- the Club would be granted a long lease of the land outlined in red at Appendix A to the report (field 2) for a period of 125 years, for a peppercorn rent upon payment by the Club of a premium to be agreed by the parties, the amount being informed by a professional valuation of the land;

- the Council would use the premium received for the improvement of sports facilities at Castle Farm Recreation Centre through Phase II of the Leisure Development Programme; and
- subject to planning approval, the Club would undertake various enhancements to the sports playing fields 1 & 2 using the capital receipt generated from the disposal of the land they currently hold on a long lease.

The outcome of the agreements would be that community access to Castle Farm facilities would by-and-large be as it was now, save for 10 to 15 hours per week when the Club would need exclusive use of the Hall for nets practice. However, given the times that the Club was likely to want to use the facilities, it was highly unlikely that there would be a material detriment to public access, although officers would ensure that the relevant Portfolio Holder was satisfied with the proposed arrangements before sign-off. It was therefore recommended that legal and lease agreements were drawn-up to reflect these principles for subsequent sign-off by Executive, with officers ensuring that the Council and residents' interests were protected should the Club experience any viability issues in the future.

As part of the Leisure Development Programme report considered by Executive in November 2015, they were advised at paragraph 3.1.7 that: "The conclusion of these discussions (*Kenilworth Councillors with officers*) is that it would be premature to recommend an investment programme for the Kenilworth facilities until the Local Plan has been adopted and the funding issues around the relevant site developments clarified and the potential impact of facility development in neighbouring areas is confirmed. Future plans for the Kenilworth facilities should, therefore, be viewed as a second phase to a programme of investment and development."

In relation to Kenilworth facilities, officers would be examining the feasibility of expanding the Castle Farm Recreation Centre gym and adding studio space by extending the footprint of the building, as well as constructing a projectile hall to include cricket nets. The building of a projectile hall would mean that the main hall would be unaffected by the Club's requirements.

Should the feasibility study, for the projectile hall, conclude that there was a business case for the idea then there could be an impact on the principles for use of the main hall would not be a Club requirement. To ensure this was considered in full, the feasibility work would be concluded before the Executive were asked to agree the legal agreements.

No alternative options were considered as it was officers' view that the proposal offered the best way of enabling land for housing development whilst protecting and enhancing sports facilities in the area.

#### **Resolved that**

- (1) the Deputy Chief Executive (AJ) and the Head of Cultural Services, in consultation with the Portfolio Holder for Culture, work with representatives of Kenilworth Wardens (Community Sports Club) to agree terms for the relocation of the Club from its

current site at Thickthorn to Council-owned land at Castle Farm, as set out at Appendix A to the report;

- (2) the terms of the relocation shall be broadly in accordance with the principles as detailed at Appendix B to this report, and that draft contract and lease agreements are prepared by the Council's legal advisors, Warwickshire County Council, for formal approval by the Executive in due course; and
- (3) the proposals for phase II of the Leisure Development Programme - Kenilworth, will be used to inform the arrangements to be agreed with Kenilworth Wardens.

(The Portfolio Holders for this item were Councillors Coker and Cross)  
Forward Plan reference Number 795

## 8. **Tourism Update**

The Executive considered a report from Development Services that updated them on the effectiveness of the Council's expenditure on tourism. The report provided specific proposals on how the current expenditure profile should be modified and the implications for existing grant agreements.

In April 2013, Executive approved the creation of a Destination Management Organisation (DMO) as the most effective vehicle of promotion of the tourist offer on regional, national and international stages.

A review of the progress of the DMO (Shakespeare's England), was set out in paragraph 8.2 of the report. In order to continue to shape and steer the organisation, and to maximise the benefits from it, funding of the organisation at the previous level should continue. However, accompanying this commitment should be clear delivery indicators that ensured this authority's contribution was leading to demonstrable value, and that these should be reported back to Overview & Scrutiny Committee every 6 months.

The Key Performance Indicators that the DMO performance would be assessed against were likely to include:

- Estimated Advertising Value (EAV) or press releases and promotions
- Number of familiarisation visits hosted within Warwick District
- Number of business members (as a percentage of the overall membership) from within Warwick District

Negotiation and agreement of these indicators was delegated to officers, in conjunction with Portfolio Holders, to ensure that they were measurable and deliverable.

A comprehensive review of the future options of Leamington Visitor Information Centre (VIC) needed to take place in order to ensure that the Council continued to provide a cost-effective solution to visitor needs. A brief

outline of the VIC provision was included at paragraph 8.4 of the report, but a more detailed review with future options would be presented to the Executive in due course, with a view to providing options for the shape of future provision of Visitor Information.

The review would explore the possibilities of sharing space and/or functions with other services currently provided by the authority, along with different staffing models, and working with other stakeholders and partners.

The Executive had agreed, in November 2012, to develop the “hub and spoke” model for service delivery of customer information in the District, which resulted in the granting of £40,000 per annum for the provision of the management of both Warwick and Leamington VICs. A review of the effectiveness of the grants was included in paragraph 8.3 of the report.

The provision of the VIC service continued, although the agreement had recently lapsed. Given that the service was being provided as specified, it was considered appropriate for the terms of the previous grant to be extended until such a time that a new agreement was reached, or until the end of the 2016/17 financial year, at which point the grant agreement would cease.

In March 2016, Leamington and Kenilworth underwent independent Visitor Audits commissioned by the Council, in conjunction with partners such as the County Council and BID Leamington. The Council was working with Warwickshire County Council to progress an Audit for Warwick, which would report in summer 2016. The outcomes of the reports received so far featured a number of deliverable actions to improve the visitor journey, from correct pedestrian signage to more intelligible mapping. The release of £12,000 from the Tourism reserve would allow this Council to contribute to the resolution of some of these actions. It should be noted that WCC had already contributed, as had Leamington BID and Leamington Town Council, whilst other stakeholders would also be approached.

An option available to the Council would be to discontinue all funding to tourism activities, thereby saving the Council £205,400 per year. This had been discounted because tourism was a key employment sector within the district, employing over 4,300 people, and withdrawal would have significant economic impacts. Furthermore, withdrawal would undermine the on-going work on the Economic Development Strategy, the Business Support provision and other areas of work.

Another option would be for the Council to continue to fund the DMO but at a lower level. This had the potential to save money for the Council to deploy into other areas of tourism. This option had been discounted as it would reduce the ability of the Council to shape and steer the performance of the DMO, thereby reducing the beneficial impact on related businesses. Furthermore, a sudden drop in funding from a major contributor could impede the continuation of the high level of delivery currently being produced by the DMO.

The Council could choose to cease all funding to the DMO, and invest the savings elsewhere in tourism. This would give the Council the opportunity to

buy into specific promotions and activities. However, this would be at a significantly lower value than working with the public and private partners that make up Shakespeare's England, and would significantly damage the authority's credibility within the industry.

Another option would be for the Council to continue funding the Visitor Information Centre in Leamington but at a lower level. This was discounted as it would impact on opening hours, which are already tightly restricted by available staffing.

The Council could choose to shut the Leamington VIC without exploring alternative delivery models. This would offer up savings to the Council, or money to be used elsewhere within Tourism. Closure would be detrimental to the visitor experience, and reputationally damaging both within the community and within the tourism industry. It would also prevent the exploration of the opportunity for sharing some of the service with partners, thereby reducing costs whilst improving the customer experience.

The Council could choose to cease the grant agreement with Warwick Town Council with immediate effect. This option was discounted as the service agreed through the "hub and spoke" model was currently being provided. To cease the agreement without exploring the opportunity for more effective or defined uses of the grant would not provide the Council with best value, as many of the operational tasks would need to be picked up elsewhere, and the Warwick Visitor Centre provided an excellent visitor experience.

The Council could choose to reduce the level of budget into a "publicity and promotions" code in order to deliver a saving. This option was discounted as it would result in less activity on a local level, such as the Events or Accommodation Guides, and also hamper the ability to support major events such as the Bowls National Championships.

The Council could choose not to release funding from the Tourism reserve. This option was discounted as the funding would be used, along with partners' funding, to deliver some key benefits to the visitor journey.

The Finance & Audit Scrutiny Committee supported the recommendations in the report. Members felt that it was imperative to encourage close working relationships between event organisers and Neighbourhood Services, to ensure that clean-up operations during and after events were carried out effectively.

The Overview & Scrutiny Committee supported the recommendations as they addressed the previous weakness of a lack of monitoring information and measurable objectives, and it particularly welcomed the six monthly reports to the Committee on the progress of the DMO's work.

Councillor Shilton agreed that there was a need for improved liaison between Neighbourhood Services and the events team to improve clear up operations following events, and this was a matter he was leading on.

Councillor Butler explained that discussions were ongoing about the opening hours of the VIC, and surrounding defining the Key Performance Indicators



to ensure they were robust and valuable, but that data collection did not have a significant impact on resources.

Councillor Butler proposed, and it was duly seconded that

**Resolved** that

- (1) the renewal of this Council's funding contribution to the Destination Management Organisation (DMO), Shakespeare's England, at the current level of £75k per annum from 1 September 2016 to 31 August 2019, be approved, subject to the following:
  - a break clause, exercisable after 12 months, that would reduce future funding to £65k for Sept 2017 to Aug 2018 and £50k for Sept 2018 to Aug 2019 if the DMO fails to deliver against the agreed performance indicators;
  - an annual review option, exercisable on the anniversary of the renewal, that allows the Council to vary its contribution if the total level of public sector funding the DMO receives has altered significantly, thereby reducing the relevance of this Authority's contribution;
  - the progress of the DMO against the agreed objectives is reported on a six-monthly basis to the Overview & Scrutiny Committee;
- (2) authority be delegated to the Head of Development Services, Head of Finance and Strategic Economic Development Officer, in consultation with the Portfolio Holders for Development, Business and Finance, to agree the KPIs for the DMO funding agreement and subsequently to determine whether the break clause or review clause should be activated;
- (3) a comprehensive review of the Visitor Information Centre (VIC) services across the district, including an examination of means of improving the visitor experience and future funding options, be approved, with the report to be brought to a future meeting on or before 2 November 2016; and
- (4) up to £12,000 be released from the Tourism Reserve to fund 'on the ground' activities in Warwick, Leamington and Kenilworth, based on

the results of recent (and impending) independent Visitor Audits of the tourism offer in those towns.

Councillors Cross and Grainger left the room while recommendation 2.4 of the report was considered. Councillor Butler explained that he was working on the introduction of a schedule across the Council that would detail when annual grants were due to be paid or renewed. It was therefore proposed, duly seconded and

**Resolved** that the extension of the previous funding arrangement with Warwick Town Council be approved until 31 March 2017, and authority delegated to the Strategic Economic Development Officer, in consultation with the Business Portfolio Holder, to negotiate the terms of the agreement for providing VIC services.

(The Portfolio Holders for this item were Councillors Butler and Cross)  
Forward Plan reference number 797

## 9. **HS2**

The Executive considered a report from Development Services that sought approval to sign the HS2 Planning Memorandum, which would mean that the Council became a Qualifying Authority for the purposes of the HS2 Hybrid Bill.

The HS2 Hybrid Bill would grant planning permission for the construction of a high speed railway between London and Birmingham. However, this permission would be subject to a number of conditions requiring the nominated undertaker (the party/parties who would construct the railway) to obtain the consent or approval of the Local Planning Authorities along the route regarding some matters of detail, including the detailed design and materials of buildings, and structures such as bridges and tunnel portals.

The Bill provided each Local Planning Authority with a choice between having a wide or narrow range of controls over the approval of such details. Local Planning Authorities opting for a wider range of controls were referred to as "Qualifying Authorities".

Qualifying Authorities would be responsible for issuing consents and approvals in relation to the detailed design and appearance of structures and other elements of the scheme, but that responsibility did not extend to the principle of their construction which was permitted by the Bill itself.

If the Council decided to become a Qualifying Authority, it would hold responsibility for the details of the majority of these Matters, with the exception of borrow pits and waste disposal sites which would be dealt with by the County Council.

If the Council decided to be a non-qualifying authority, it would effectively lose what little control it could have over the majority of features and structures within the District.

There were two main grounds on which the details of structures and features forming part of the railway could be refused or permitted, subject to conditions, which were set out in the report.

It should be noted that it would only be appropriate to raise an objection to the design or details of a particular structure or feature if the impact of that design would be very significant within the surrounding area, and beyond that which might reasonably be expected as part of the railway scheme.

Councils wishing to become Qualifying Authorities were required to sign the "Planning Memorandum". This was a document that set out the rules of conduct and administrative arrangements for both the Local Planning Authorities and the nominated undertaker, leading up to and during the construction of the railway.

It required the Council to commit to dealing with applications for consent in an expeditious manner, i.e. within eight weeks, and to being sufficiently resourced to be able to do so. The applications expected to be submitted were likely to be for relatively minor matters, but substantial in number.

In view of the level of interest that was likely to be generated by the proposals that came forward (and therefore the potential for the majority of them under current arrangements needing to be dealt with by Planning Committee), the possibility that numerous such applications would be submitted either at the same time or in short succession, and the need to ensure that they were dealt with particularly expeditiously, there was a significant risk that under current arrangements, the anticipated volume of work would have a significant impact upon the capacity of Planning Committee to consider these additional items within the required determination period.

In order to address this issue, it was anticipated that determination of the majority of these applications would need to be delegated to the Head of Development Services, who in conjunction with a small review group of Councillors, could identify those particular submissions which for exceptional reasons ought to be considered by Planning Committee.

Should this approach be agreed, it would require a change to the Constitution, and this particular issue would therefore be the subject of a report to Council.

The District Council, along with other Councils along the route, had been involved in negotiating the form and content of the Planning Memorandum with HS2, and a final version had now been produced.

It was proposed that the Council would be reimbursed for the cost of dealing with the additional workload resulting from these applications and approvals, either by way of the payment of application fees, or the funding of temporary posts within the Council. Discussions in relation to the drafting of an appropriate Service Level Agreement with regards to this were on-going.

In summary, becoming a Qualifying Authority involved a commitment by the Council to deal with applications appropriately and within specified timescales, in return for greater control over a wider range of matters than would otherwise be the case.

Prior to any submissions being made to the Council, the works to construct the railway should have the equivalent of outline planning permission, such that the Council would only be able to consider aspects of the reserved matters (i.e. the details of design and materials, etc.).

It should be noted that the extent of the Council's control would need to be clearly communicated in an appropriate way to the public, so that there was a clear understanding of the expectations in being a Qualifying Authority, and the level of influence that could be exercised over the matters identified in the report.

The risks associated with the Council deciding not to be a Qualifying Authority, and therefore not amending the Constitution to enable decisions to be undertaken expeditiously, were identified in section 6 of the report.

Alternative options had been considered in respect of the proposed revisions to the Constitution. However, the proposals as set out in this report were considered to be the most effective and appropriate.

The Executive expressed concern over the potential impact this could have on the Planning Committee, considering the restrictions and limited powers for determining and influencing applications. They therefore welcomed the further work officers were undertaking to mitigate this impact.

**Resolved** that the signing of the HS2 Planning Memorandum be authorised.

(The Portfolio Holders for this item were Councillors Butler and Cross)  
Forward Plan reference number 782

## 10. **Local Plan Budget**

The Executive considered a report from Development Services that sought approval to draw down additional money from the Planning Appeal's Reserve to support the Local Plan Examination.

On 28 January 2015, the Executive had approved a sum of £120,000 to cover the costs of the Local Plan and CIL Examination processes, including the costs of the Inspector and the Programme Officer. This sum was added to an existing balance of £30,000 to provide a total budget of £150,000.

To date, the Inspector's costs had amounted to £33,762 and the Programme Officer's costs had amounted to £5,250. This left just under £111,000 in the budget to cover the costs of the Local Plan and CIL Examinations.

The Council had received information from the Local Plan Inspector regarding the potential timings and timescales for the Local Plan Examination. Subject to them receiving the modifications and representations from the Council at

the end of May, it was anticipated that preparatory work and written statements could take place during June, July and August, with the Examination hearings commencing towards the end of September. It had been indicated that the hearings would potentially involve 9 weeks of sitting over a 12 week period. Whilst it was not possible to estimate with any accuracy what the final costs of the Inspector, the timescales indicated by the Inspector were longer than originally estimated when assessing potential costs. The complexity and comprehensive nature of the Local Plan meant that it was likely that the Inspector's preparatory work and the work in pulling together the recommendations and final report could take significantly longer than envisaged. Furthermore, the same was likely to apply in estimating the Programme Officer's time.

It was clear that it would be important to draw on the expertise of consultants who had prepared evidence to support the Local Plan. Examples of this could include:

- GL Hearn with regard to housing need;
- Enfusion with regard to the Sustainability Appraisal; and
- Warwickshire County Council with regard to Strategic Transport.

Taking all this in to account, it was now estimated that the Local Plan Examination costs could be: Inspector's costs: £150,000 (including the £33,762 already committed); Programme Officer costs: £35,000 (including the £5,250 already committed); Consultant costs: £30,000; which would total £215,000.

The costs of the CIL Examination were expected to remain in the region of £30,000. Therefore, the total cost of the CIL and Local Plan Examinations was expected to be £245,000. £150,000 had already been set aside towards the Examinations, and the report requested that a further £95,000 was set aside from the Planning Appeals Reserve to cover the anticipated additional costs.

The following neighbourhood plans were currently being progressed:

- Barford: examination complete. The next stage is the referendum.
- Bishops Tachbrook: currently being examined.
- Bubbenhall and Baginton: initial draft prepared.
- Budbrooke: consultation draft prepared. The next stage is formal consultation.
- Kenilworth: area designated. Work on initial proposals was now progressing.
- Leamington: have applied for designation.
- Leek Wootton: preparing consultation draft.
- Stoneleigh and Ashow: exploring the possibility of re-designation as a separate neighbourhood plan area.

The Local Plan Examination was likely to be time-consuming for the planning policy team until the end of the hearings, currently anticipated to be December 2016. It was important that the planning policy officers continued to make the Local Plan their main priority during the preparation for and participation in the Local Plan hearings. During this period of time it would not be possible for them to provide more than the statutory support for neighbourhood plans. This could impact on the preparation of

neighbourhood plans during this period; particularly on the non-statutory input planning policy officers had offered in relation to advising on conformity with the Local Plan and national policy, and with providing advice on the evidence base and the wording/justification for specific policies.

During this period, the Head of Development Services would explore other opportunities to support neighbourhood plans, particularly where doing so dovetailed with the Council's own priorities. It was proposed that the Head of Development Services should write to all parish and town councils in Warwick District to set out the extent of the support that would be available during this period.

To achieve adoption of the Local Plan, there were no alternatives to meeting the costs of the Inspector and the Programme Officer, as the Council was bound by a statutory process.

It would be possible to undertake the Examination process without input from experts. However, much of the work undertaken in preparing the evidence base was highly technical and required specific expertise to explain and justify the conclusions. Without the input of these experts, there was therefore a significant risk that the Plan (or parts of it) could be found to be unsound.

It would be possible to continue to provide support to neighbourhood plans in line with the service provided over the last 12 months. This option had been considered, but without additional resources, was likely to have an impact on the progress of the Local Plan.

A further option was to utilise the Neighbourhood Plan Funding Grants received from central government to support the Council's involvement in Neighbourhood Plans, and to increase the staff time available.. During 2015/16, this would be £65,000. However, there were two significant issues to consider in relation to these grants:

- a) the level of funding could not be predicted with any certainty as it was entirely dependent on the number of Neighbourhood Plan areas designated during the year and the number that progressed to referendum.
- b) the funding was provided to cover the costs of the statutory work the Council had to undertake in support of Neighbourhood Plans. Including, the management of referenda, work to designate neighbourhood plan areas or appointing examiners and checking compliance with the regulations (basic conditions).

Therefore, while this option could help to provide some additional support, it would require a commitment to provide funding without a guarantee that the commensurate level of funding would be available from the grants.

The Finance & Audit Scrutiny Committee supported the recommendations in the report.

**Resolved that**

- (1) an additional sum of £95,000 be set aside from the Planning Appeals Reserve to support the Local Plan Examination;
- (2) until such time that involvement of planning officers in the Local Plan examination reduces, the approach to supporting Neighbourhood Plans be amended to limit input from planning officers to meeting the legal requirements.

(The Portfolio Holder for this item was Councillor Cross)

#### **11. Repair of Listed Boundary Walls**

The Executive considered a report from Development Services that sought approval to fund repairs required by an urgent Section 54 Repair Notice, served under the Planning (Listed Building and Conservation Areas) Act 1990, on the owner of listed walls at Barford House, Wellesbourne Road, Barford.

Following a tender exercise the cost of repair work was known to be £133,675. Approximately £70,000 of this cost would be met from the entire budget allocated to the Historic Building Grant scheme in 2016/17 , plus underspend from the previous year.

This report sought agreement to fund the balance of costs from the Council's Capital Investment Reserve. A notice would be served on the property owner and subsequently a charge would be placed on his property to reimburse the Council its costs.

On 31 March 2015 Planning Committee authorised the Head of Development Services to serve a Section 54 Repair Notice on the owner of the land requiring the urgent repair of the listed boundary walls, within the curtilage of the Grade II\* listed Barford House. The repair works were urgently necessary for the proper preservation of this listed heritage asset.

The Section 54 Repair Notice required the owner to take action within seven days, after which the Council could undertake the work and serve notice on the owner to pay the Council's costs.

Due to the owner's inaction, the Section 54 Repair Notice was finally served on them on 16 February 2016, and the Council were now able to undertake the works itself.

The owner had not appointed contractors to undertake the work, but had now asked a contractor to provide a quote. If the landowner entered into a suitable contract for the works to be completed, and if works were seriously underway within the next month, then the Council would not need to undertake the works itself and the funds would not be required.

The repair of this wall was considered to be a high priority, not only because of its significance as a protected heritage asset but because of public safety;

it was a seriously dilapidated wall that members of the public had immediate access to, and where they frequently gathered beside a bus stop.

The process for recovery of the Council's costs incurred in carrying out the work would be as set out in Section 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This involved the Council serving a notice on the landowner that required them to reimburse the Council for the cost of the works. The owner could then appeal this notice to the Secretary of State on any of the following grounds;

- (a) that some or all of the works were unnecessary for the preservation of the building; or
- (b) in the case of works for affording temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time; or
- (c) that the amount specified in the notice is unreasonable; or
- (d) that the recovery of that amount would cause hardship.

Grounds (a), (c) and (d) were likely to present the most risk to the Council. The risk of a successful challenge on ground (a) was mitigated by the fact that the works specified in the repair schedule were the minimum necessary to safeguard the structure, in accordance with the professional views of the Council's Officers, and an expert consultant engineer. The risk of challenge on Ground (c) was mitigated by the fact that the Council followed due process and entered into a competitive tender exercise to ensure best value. Ground (d) was a risk that was beyond the control of the Council and could potentially result in it not recouping the expenditure, but this was unlikely given the fact that planning permission had been granted for eight dwellings on the owner's neighbouring land.

The Council would be able to apply for a charge to be placed on any property owned by the landowner if the debt remained unpaid; this would follow after the notice was served, and after any appeal was determined in the Council's favour.

The option of doing nothing was not considered to be appropriate as it would be contrary to the expressed wishes of the Planning Committee, and it would result in serious harm to heritage assets. It should, however, be noted that whilst the Planning Committee had exercised its discretion to serve the notice, this did not bind the Executive to incur expenditure to carry out the works.

The preferred option was for the landowner to undertake the works, but they had continued to procrastinate. One option would be to provide a time extension, but over one year had already passed since the Planning committee authorised the S54 Repair Notice and contractors were still not on site. The timescale for completing works this calendar year was closing.

The Finance & Audit Scrutiny Committee supported the recommendations in the report.

The Executive noted that the wall in question was in separate ownership to Barford House. They also considered that when these works were complete,



a further survey of the entire wall should be undertaken to ensure that all risks had been mitigated, on the grounds of health and safety.

**Resolved that**

- (1) if the landowner does not enter into a suitable contract to start repair works and begin work on site within one month, then an amount up to £64,000 (on top of the figure of £70,000 identified in paragraph 1.2) is drawn down from the Capital Investment Reserve to meet the cost of repairing the listed boundary wall at the park of Barford House, as identified Appendix 1 to the report;
- (2) the process outlined for ensuring the Council is reimbursed its costs, be noted;
- (3) the Head of Development Services be authorised to negotiate with contractors to reduce the price of the works by omitting the return section of wall, along Insons Yard, which serves private dwellings but which was not a public thoroughfare; and
- (4) when these works were complete a further survey of the entire wall is undertaken to ensure, on the grounds of health and safety, all risks had been mitigated.

(The Portfolio Holder for this item was Councillor Cross)

**12. Sale of Land at Sabin Drive**

The Executive considered a report from Development Services that proposed the disposal of land at Sabin Drive, Weston under Wetherley.

The Sabin Drive Residential Estate was granted Planning Consent, W/95/1361, in 1995 and was subject to a Section 106 Agreement of the 1990 Town & Country Planning Act that required designated areas to be open land and designated as 'Public Open Space'.

These areas of Public Open Space were shaded on Plan 1 as appended to the report.

In June 2013, the owners of 1 Sabin Drive approached this Council with a request to purchase the area of Public Open Space that adjoined their house, edged in thick black on Plan 1 as appended to the report, exclusively for private garden use.

The owners of 1 Sabin Drive wanted to include the land within their demise to provide privacy to their dwelling and resolve problems that had occurred on a number of occasions. These involved the private manhole covers which served 1 Sabin Drive, but were located in the Public Open Space, that had

been damaged by the Grounds Maintenance Vehicles that tended the Public Open Space.

The Council informed the owners of 1 Sabin Drive that this was something they would be prepared to consider, subject to Planning consent for change of use of the land from Public Open Space to Private Garden Land, and subject to approval from the local Parish Council, Weston under Wetherley.

Approval was granted by Weston under Wetherley Parish Council on 4 December 2013 and the owners sought Planning Consent for the change of use from the District Council, as the Local Planning Authority. The Planning Committee of April 2015 approved the change of use, under Planning Consent W/15/0161, which was subject to a number of Planning Conditions.

Following on from this, terms and conditions for the sale of the land in question were agreed between the Council and the owners of 1 Sabin Drive, following approval from the original developer of the estate, Bloor Homes Ltd, to the relinquishment of the restrictive covenant that permitted the site only to be used as Public Open Space.

The terms and conditions of the sale of the land in question, were Private & Confidential because they contained information relating to the financial or business affairs of any particular person (including the authority holding that information), but were listed in the Private & Confidential Appendix 2 of this Report.

These terms & conditions were approved by the relevant Head of Service, Local Councillors and Portfolio Holder, under Delegated Authority but, prior to the completion of the legal documents, it became apparent that the sale of such Public Open Spaces (that had come into the ownership of WDC under a Section 106 Agreement) required (pursuant to section 123 of the 1972 Local Government Act) Council Committee consent and a Local Councils Scheme of Delegation was not sufficient approval on such matters.

Subsection 2A of Section 123 of the 1972 Local Government Act stated that a Council must not dispose of land consisting of, or forming part of, an open space acquired by a Council under a Section 106 Agreement (or such other superseding Act of Parliament or Regulation) unless the Local Council had publicised notice of its intention to dispose of such land in the Local Press for two weeks running, and considered any objections to the disposal.

The proposed disposal in question was thereafter duly advertised in the local 'Courier' newspaper on Friday 18 March 2016 and Friday 25 March 2016, informing all who had an objection to the proposal to make their objection to the Council, in writing, by no later than 15 April 2016.

An objection was received, and was set out at Appendix 1 to the report. The items raised in this objection had been considered. The Council would not wish to lease the land to 1 Sabin Drive, as this would result in future periodical management & administrative fees and would not provide the Council with the sufficient consideration which it would need to provide Bloor Homes in order for them to remove the restrictive covenant.

Additionally, Planning Consent for the change of use confirmed that the Council, as a Local Planning Authority, did not believe that the loss of the small piece of Public Open Space would be detrimental to the area, or to the entrance into Sabin Drive, taking into account the large surrounding areas of Public Open Space that would be retained on both sides of the entrance into Sabin Drive & on the estate. Furthermore, disposal of the land in question would provide WDC with a Capital Receipt; would reduce WDC's future Grounds Maintenance costs; and would ensure no further damages to the private manhole covers for 1 Sabin Drive that were located within the Public Open Space that WDC propose to dispose of.

The Planning Consent that granted the change of use of the land in question from Public Open Space to private garden land & the erection of post and rail fence incidental to the enjoyment of 1 Sabin Drive, placed Planning Conditions on the proposal which would, amongst other things, ensure that the boundary fencing should be constructed exclusively of a 1m high post & rail paddock fencing, as shown on Plans 2 & 3 attached, with future intention to plant sympathetic shrubs and flowers along the fencing/close to the fencing on the owners side of the fence.

Alternatively the Council retained the land and continues to maintain it, at its expense, and refused all similar future requests hereafter.

At the discretion of the Leader, Ms B Roberts addressed the Executive to outline her reasons for applying to purchase the piece of the land from the Council.

**Resolved** that the disposal of land adjoining 1 Sabin Drive, Weston under Wetherley, edged in thick black as outlined on Plan 1 appended to the report, be approved subject to appropriate terms & conditions as considered at Minute 14.

(The Portfolio Holder for this item was Councillor Shilton)  
Forward Plan reference number 786

### 13. **Public and Press**

**Resolved** that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following three items by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below.

Minute No.	Para Nos.	Reason
14	1	Information relating to an Individual

14	2	Information which is likely to reveal the identity of an individual
13	3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)

14. **Sale of Land at Sabin Drive – Appendix 2**

The Executive considered the private and confidential proposed terms and conditions, Appendix 2, of the sale of the piece of public open space adjoining 1 Sabin Drive, as defined in Plan 1 appended to the public report on this matter.

**Resolved** that the terms and conditions listed in Appendix 2 be approved, for the disposal of land adjoining 1 Sabin Drive, Weston – under – Wetherley, edged in thick black as outlined on Plan 1 appended to the report associated with Minute 12.

(The Portfolio Holder for this item was Councillor Shilton)  
Forward Plan reference number 786

15. **Minutes**

The confidential minutes of the 9 March and 6 April 2016, were taken as read and signed by the Chairman as a correct record.

(The meeting ended at 7.05pm)

**EARMARKED RESERVE REQUESTS****£****GENERAL FUND****DEVELOPMENT SERVICES****Skills Initiative**

Unspent balance agreed by Executive to be carried forward for match funding of schemes over the next three years.

28,200

**TOTAL DEVELOPMENT SERVICES**28,200**FINANCE****Procurement Training**

Professional training of procurement staff delayed due to staff changes and subsequent selection of appropriate course.

6,200

**TOTAL FINANCE**6,200**HEALTH & COMMUNITY PROTECTION****Electric Pool Vehicles**

Procurement process delayed and lease costs will be paid on a quarterly basis. Vehicles now on order.

27,000

**Heat Distribution Network**

Part of the Climate Control Strategy / Sustainability Action Plan. Government funding notification not received until February hence delay in procurement of appropriate consultant.

21,200

**TOTAL HEALTH & COMMUNITY PROTECTION**48,200**HOUSING & PROPERTY SERVICES****Lillington Regeneration**

Most of the feasibility work has been completed. Work delayed whilst co-operation of third party landowner sought.

30,000

**Europa Way Strategic Opportunity Proposal**

Delays in information provision by external organisations and time required to assess the impact of new legislation.

85,600

**TOTAL HOUSING & PROPERTY SERVICES**115,600**NEIGHBOURHOOD SERVICES****St Mary's Lands**

Demolition of unsafe and derelict structures around site - delays due to changes in third party organisations that subsequently delayed their required approvals.

50,200

**Crematorium**

Rebranding of Crematorium, including new signage, etc. delayed due to delays in the capital works. Re-branding delayed as resources might be needed for additional drainage works.

24,000

Crematorium generator - installation delayed due to delays in capital works. Generator now on order.

11,000**TOTAL NEIGHBOURHOOD SERVICES**85,200

**EARMARKED RESERVE REQUESTS****£****STRATEGIC LEADERSHIP****Media Room**

New monitors required to replace old equipment. Delays due to staff changes and compatibility assessments.

2,500

**DMC Relocation**

Move delayed due to potential heating issues in proposed new location and subsequent restructuring of Democratic Services.

8,000

**Payroll Development**

Ongoing development of system has taken a phased approach with Coventry due to resource issues.

11,000

**Staff Engagement**

Other changes to staff engagement work, staffing and workloads has delayed implementation.

9,000

**Master's House Site Investigation and Feasibility Study**

Contractor delays

4,100

**Customer Segmentation in Culture**

Technical issues have caused delays. Work now progressing.

4,600

**TOTAL STRATEGIC LEADERSHIP**39,200**TOTAL GENERAL FUND SERVICES**322,600**HOUSING REVENUE ACCOUNT****New Carpeting for Sheltered Schemes**

Carpets need to be replaced on a regular basis. Procurement underway.

10,700

**Stock Condition Survey - HRA Stock**

Preparation of software to allow full compatibility of field-work survey findings with ActiveH (housing Repairs System) took longer than was originally anticipated.

84,000

**Chandos Court New Mobility Scooter Store**

Change in Contract and Contractor for provision of Disabled Adaptations Works.

33,000

**Fire Precaution Works Across HRA Blocks of Flats**

Awaiting completion of Fire Risk Assessments in order to programme works and issue to contractor.

60,000

**Sheltered Schemes Alarm Systems**

Upgrades required for all Schemes will provide better value for money by procuring a larger contract.

71,000

**TOTAL HOUSING REVENUE ACCOUNT**258,700



## **Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook: WDC approach, Policies and Procedures**

Draft

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## **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 Private Hire licensing. It does, however, set out Warwick District Council's approach and policies 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.

### **Contacting the Team**

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

Email: [Licensing@warwickdc.gov.uk](mailto:Licensing@warwickdc.gov.uk)

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

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 Private Hire vehicle or Hackney Carriage vehicle in the district (combined Hackney Carriage and Private Hire 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 Private Hire vehicle (Private Hire Private Hire vehicle licence).
4. Any person who makes provision for the invitation or acceptance of bookings for a Private Hire Private Hire vehicle or vehicles (Private Hire Private Hire operator's licence).

### How to apply

Application forms for all licences may be obtained by:

- Downloading from the Website link
- Visiting the reception at Riverside House
- Contacting the Regulatory (Licensing) Section.

Warwick District Council does not permit a person to apply for a Hackney Carriage or Private Hire 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.***

### Review of the Policies, Procedures and Guidance.

The policies, procedures and guidance contained within this document will be reviewed formally every three years. However, it will be the subject of continuous evaluation and if necessary, formally reviewed at any time.

When a policy is reviewed, stakeholders will be formally consulted. For other matters contained within the document, the consultation process will take place through the Drivers and Operators Forum, as appropriate.

### 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.

## **Section 1:**

### **HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE PRINCIPLES, PROCESSES AND POLICIES.**

All persons driving a licensed Private Hire or Hackney Carriage Vehicle must be in possession of a current Hackney Carriage Private Hire Drivers Licence, issued by Warwick District Council. The licence allows the holder to work in both capacities, as a Hackney Carriage or a Private Hire Driver.

Before a licence will be issued to an applicant, the following standards must be met and documentation provided with a completed application form:

- a) Have held a full DVLA driving licence for at least two years prior to application. DVLA licences must be produced in initial application and on renewal of the driver's licences.

Consideration will be given to the Driving Licences (Community Driving Licence) Regulations 1996 and current DVLA Guidance regarding equivalent driving licences. However, due to DVLA methodology of road traffic offence recording for non UK licences, all applicants will be required, at the point of licence grant, to have converted to a full UK driving licence.

Original documents must be presented in person. Photocopies will not be accepted.

- b) Have passed the Driving Standards Agency (DSA) driving test for Hackney Carriage/Private Hire Drivers (at initial application).

Applicants must make their own arrangements with the DSA to sit the test and pay the fee direct to them.

- c) Have completed the online Disclosure and Barring Service Full Disclosure Application Form to enable checks to be made for any criminal convictions recorded against them.

Existing drivers will be required to complete this every 3 years or as required by the Council.

In both cases, a licence will not be issued until the disclosure certificate has been provided to the authority, or notification has been received from the DBS umbrella service that the DBS is satisfactory.

Applicants will be required to attend the Licensing I.D. Checking Service in person, to provide their identification documents and evidence of receipt of payment.

- d) Have completed a DVLA Drivers Licence Mandate Form.

A licence will not be issued until the results of the mandate check have been returned to the team. The cost of the mandate check is included in the application fee.

- e) Have taken and passed a medical examination.

- f) Have passed a written Knowledge Test. The test includes an English and Numeracy test and questions on the geographical make up of the local area (at initial application).

If the applicant fails their first test it may only be taken twice more within the 6 month period. If three tests are failed, the application will be refused and the applicant will be unable to reapply for a licence, for 12 months from the date of refusal.

A fee is payable for the test and any subsequent retest. Cancelling the test at short notice (after close of office hours the day before) or upon two occasions, for any reason, will result in the loss of the fee.

- g) In addition to the above, if not resident in UK for the past 5 years, an officially translated DBS equivalent from each country of residence over the last five years and, if the country was not in the European Union, a document showing permission to work in the UK must be provided.
- h) All drivers must have taken a Disability Awareness Course, with the nominated Council Provider (paid for directly by the applicant to the provider) (at initial application).
- i) Have attended the Prevention of Child Sexual Exploitation Course with the nominated Council Provider (paid for directly by the applicant to the provider) (at initial application).

**Failure to provide all of the documents on application will result in a delay in processing and the possible failure of your application. Please see the section called 'All Licences: General Points' for further information.**

**If the relevant documents are not received within 8 weeks of the start of your application, your application will be considered to have failed. This includes the DBS online application but excludes your DBS certificate.**

**Your DBS certificate must be provided to the Regulatory (Licensing) Team within 14 days of receipt.**

#### Applicants from outside the UK

Drivers from the European Union, on making an application, must show their Passports or National Identity Cards, equivalent DBS from their home countries (with an appropriate translation), an EU Driving Licence and submit a recent medical conducted in the UK.

Applicants from outside the EU will be subject to an Immigration Status Check. The results of the check may take some time to be finalised and the applicant may not be permitted to work until it is concluded.

The Licensing Authority requires a five year background check for all applicants, if an applicant has lived abroad for any period in the last five years or is from an EU Member State or overseas then a Certificate of Good Conduct, authenticated and translated by the relevant embassy, is required.

The disclosure and barring service website [www.dbs.gov.uk](http://www.dbs.gov.uk) provides information on how to obtain Certificates of Good Conduct or similar documents from relevant countries.

### Medical Requirements

New and renewing drivers are required to undergo a medical and submit a report with their application. This must be undertaken once every three years, or when requested to do so by officers. The medical assessment must be carried out at one of the three nominated locations:

- Applicant's own doctor
- Croft Medical Centre, Sydenham, Leamington Spa (01926 310404)
- Driver Medicals, Coventry (0870 609 1540)

Once a licensee has reached 65, an Annual Medical is required in order for the licence to remain valid. There is a charge for the processing and assessment of the Annual Medical Forms by Licensing Officers.

If further medical test are required, for instance where in depth sight tests are required by the Medical Practitioners, then the applicant must meet the additional costs.

**If the medical condition changes at any time during the period of the licence, the Licensing Authority must be notified immediately, or as soon as reasonably practicable.**

All applicants are required to pass the group 2 medical standards as set by the DVLA. Further information can be found at [www.gov.uk/health-conditions-and-driving](http://www.gov.uk/health-conditions-and-driving)

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; 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 danger to the public.

### Diabetes

All drivers with insulin or tablet controlled diabetes will be subject to the councils policy on Diabetes. The policies can be found in Appendix A.

### Disclosure and Barring Service

Applicants should be aware the Regulatory (Licensing) Team are empowered by the law to check with the Police for the existence and contents of any criminal record held in the name of an applicant. Information received from the police will be kept in the strictest confidence, whilst the licensing process takes its course and will be retained for no longer than is necessary.

A certificate from the Disclosure and Barring Service will be required on a three year basis. The cost of the DBS is a separate fee payable through the Council to the

third party nominated Service Provider. The enhanced DBS check For applicants must be applied for through the nominated Council Provider.

The Council's Policy for the Disclosure and Barring Service Information can be found in Appendix B.

Once the online application is completed, applicants will be required to make an online payment through the council website. Applicants will also be required to attend the Licensing I.D. Checking Surgery, held in Riverside House, in person with their identification documents. Surgery times are detailed on the Council website.

Until officers have verified your identification your online DBS application will not be authorised for submission. Delay in attending and presenting your Identification Documents will delay your application.

#### Rehabilitation of Offenders

The Rehabilitation of Offenders Act 1974 provides that after a certain period of time, convictions for certain offences are regarded as 'spent'. However, the Act also specifies that there are certain occupations for which effectively some previous convictions are never spent. The occupation of Hackney Carriage and Private Hire Vehicle Drivers is one of these.

The disclosure of a criminal record or other information will not necessarily prevent an applicant from gaining a licence with Warwick District Council, unless the Council does not believe the applicant to be 'fit and proper'.

#### Non –Convictions (Warnings, Fixed Penalties, Arrests etc.)

In addition to a Conviction/Caution Information, applicants are expected to provide details, within 7 days of all Warnings, Driving Endorsements/Disqualification Periods relating to Traffic Offences, Fixed Penalties, Penalty Charge Notices and any other similar sanctions, together with any charges or arrests that they are the subject of, in connection with criminal offences, whether or not actually charged with the offence; and details of any allegations of involvement in criminal activity, or where they have been questioned in connection with any alleged criminal activity or inappropriate/unacceptable behaviour, or any other relevant pending matter.

Where an applicant is the subject of an outstanding charge or Summons, their application may continue to be processed; however, depending on the circumstances, it is unlikely that a decision on the application will be made until the conclusion of the criminal proceedings. Where the outstanding charge or Summons involves a serious offence and/or the individual's offending history and behaviour/conduct indicates a pattern of unlawful or unacceptable behaviour/character traits, then the application is likely to be refused.

Where there is evidence/information that an applicant has been arrested or charged but not convicted of offences but the nature of this evidence/information suggests the applicant may not be a fit and proper person, the Council will give serious consideration to refusing an application or revoking an existing licence.



### A Fit and Proper Person

#### **This section is also applicable to Private Hire Operators.**

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. 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.

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

- Convictions and cautions and related matters (see policy at Appendix B)
- 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 C before submitting their application.

### Application Processing 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 the application has been refused 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.

**Please be aware that you are unable to drive a Hackney Carriage or Private Hire vehicle for hire and reward, until you have completed all of the licensing procedures and been granted a driver's licence.**

### Conditions

Failure to comply with the conditions of the licence described in Appendix D may result in suspension, revocation or refusal to renew, a licence. In certain circumstances, formal action such as Prosecution may be the most appropriate course of action.

### Conduct of the Driver

The conditions of the driver's licence requires a driver to be clean and respectable in his dress. Warwick District Council in consultation with the Drivers and Operators Forum have agreed that this means:

- Professional looking, respectable in their dress and person.
- Clean in their dress and person, maintaining a high standard of personal hygiene.
- Religious or traditional dress is acceptable.

Drivers with dirty, scruffy and inappropriate clothing for driving, i.e. slippers, cut-off jeans, football shorts, hooded tops or headwear i.e. baseball caps which conceal the face, football/sports jerseys/tops that may offend other persons and vests, will not be considered to have met this requirement.

A driver is also required to behave in a civil and orderly manner at all times. Warwick District Council, in consultation with the Drivers and Operators Forum, have agreed that a driver will be considered to not be meeting this standard if they verbally abuse or behave aggressively with passengers, the general public or officers of the Council. This extends to all dealing with Council Reception Staff, Approved Garages, Police Officers and VOSA Inspectors. A driver must be polite at all times.

Warwick District Council expects drivers to be aware of and operate in accordance with, Appendix D and Appendix E.

Warwick District Council uses a Licence Holder Conduct Scheme. This scheme applies to all Hackney Carriage and Private Hire Licences issued. Further information on the scheme can be found in Appendix F.

### Use of Mobile Phones

It is contrary to Road Traffic Law to use a mobile telephone when the vehicle is in motion. When in motion, drivers should only use the telephone using a hands free kit attached to the car, or a voice activated hard-wired or Bluetooth connection. To maintain maximum concentration on the road, the Council advise drivers to offer to call the person back, when the vehicle is stationary.

### Disability Awareness

Since December 2014, as part of the application to become a Warwick District Council Hackney Carriage Private Hire Driver, you are required to undertake a Disability Awareness Course with the nominated Training Provider before your licence is granted.

Before this date, all drivers had 12 months from the date of first issue of their driver's licence to undertake the Disability Awareness Course. All drivers, who have failed to meet this requirement, can expect to be sent before the committee to explain their lack of attendance, or have their licence refused by the Regulatory Manager upon renewal.

The Disabilities Awareness Course Syllabus covers:

- Ambulant Disabled

- Non Ambulant Disabled
- Hearing Impairments
- Visual Impairments
- Autism
- Mental Health
- Dementia
- How to correctly secure a wheelchair
- The Law

By the end of the course, a driver will be MY Guide Level 1 qualified, Dementia Friendly and receive a Certificate in Disability Awareness.

Applications for the Disability Awareness Course can be downloaded from the council website. The cost of this course is not included in the application or licence fee and must be paid to the provider directly.

Guidance that we expect drivers to follow in order to provide a good customer experience for passengers with disabilities, can be found in Appendix G.

### Guide and Assistance Dogs

It is an offence for a Hackney Carriage or Private Hire driver to refuse to carry guide and assistance dogs, unless they have a medical exemption certificate. These certificates are issued by the Council and a fee is payable. Drivers making an application will need to provide medical evidence in support. This must be provided by a Medical Practitioner. If the exemption is being applied for on the grounds of a chronic phobia to dogs, the report must be provided by a Psychiatrist or Clinical Psychologist.

### Prevention of Child Sexual Exploitation

From 1<sup>st</sup> April 2015, all new applicants for a Hackney Carriage Private Hire Licence must attend a Prevention of Child Sexual Exploitation Course with the council's Nominated Provider before a licence will be granted.

Any current licence holders will be required to attend the same training event, by the date of 1<sup>st</sup> July 2016. All drivers, who have failed to meet this requirement, can expect to be sent before the committee to explain their lack of attendance, or have their licence refused by the Regulatory Manager upon renewal.

The Prevention of Child Sexual Exploitation syllabus covers:

- Identification & Signs of CSE
- Signs
- Legislating and Trafficking
- Who to report it to
- What happens when you do

Applications for the courses can be made by telephoning the licensing team.

This course is aimed at a different level to the course run by Warwickshire County Council for drivers employed in schools contracts. Upon the advice of Warwickshire County Council, their course will not be accepted as an alternative to attending with Warwick District's Nominated Provider.

### Driver's Identity Badges

When granted a licence, drivers are issued with a badge. The driver must wear the badge at all times when they are working. The driver's badge should be visible at all times to passengers.

The Hackney Carriage/Private Hire Driver's badge shall at all times remain the property of the Warwick District Council and upon the Council suspending, revoking or refusing to renew this licence, the licensee shall, on demand, return the badge to the Council.

A large format driver's Identification Card (which is a copy of the driver's badge) should be securely fixed and visible to passengers at all times, to inform the passenger who is the driver of the vehicle. The driver's Identification Card must correspond with the driver and be affixed in the manner outlined in Appendix L.

### Loss and Theft of Licence or Driver badge

This is a serious matter as this could allow a person who is not 'fit and proper' to operate in a manner that would mislead a member of the public and put their safety at risk.

Any loss should be reported to the licensing section immediately. A charge will be made for a replacement. Continuing to operate in the capacity as a Licensed Driver or in a Licensed Vehicle, without these items, will be viewed extremely seriously.

If you suspect a theft to have taken place you must also contact the Police.

### Licence Renewal Reminders

All Licence Holders will be sent a reminder and a link to the necessary renewal forms online, to the address that is held on file, well in advance of the expiry of the Licence. However, please note the **responsibility for renewal rests with the Licensee**. You can renew your licence immediately upon receipt of your reminder.

***If you allow your licence to expire, no matter what the reason it cannot be renewed. A licence that has expired does not exist and therefore cannot be renewed.***

Driver's Applications should be received by Warwick District Council at least six to eight weeks prior to the old Licence expiring, in order that the DBS checks can be made. Whilst every effort will be made to issue every Licence, within the time scales mentioned in the Timescales Guidance Document (available on the Council website) and those specifics mentioned above, the Authority cannot be held responsible for delays experienced, through failure by outside agencies to respond within the time frames.

Officers will take 10 days to process a valid application. The Authority will **not** issue Licences on demand, or without an up to date DBS certificate but will, in exceptional circumstances, make every effort to ensure the continuity of service.

***If a Warwick District Council Licence lapses for any reason, any subsequent application will be treated as a new application. Therefore, please note, a new licence will not be granted immediately and the full process may take several weeks.***

**You will no longer be a Licensed Driver and therefore will not be allowed to drive a Hackney Carriage or Private Hire Vehicle, until your application has been determined. Continuing to drive a Hackney Carriage or Private Hire Vehicle is a criminal offence, for which you may be prosecuted.**

If the lapse is less than six months, you will not be required to retake the DSA. However, you will be required to undertake the Disability Awareness Course, Knowledge Test and Prevention of Child Sexual Exploitation again, at your own expense.

## **Section 2:**

### **HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENCE PRINCIPLES, PROCESSES AND POLICES**

Councils are given the responsibility of licensing Hackney Carriages and Private Hire vehicles to ensure that the vehicles are safe and suitable for use as a Hackney Carriage or Private Hire vehicle.

All vehicles are to be used as a Hackney Carriage or Private Hire vehicle must be in possessions of a current Hackney Carriage or Private Hire Vehicle Licence as appropriate. The driver of the vehicle and Private Hire operator must also be licensed by the same Local Authority.

A Hackney Carriage Licence allows the vehicle to operate as a Hackney Carriage and the Private Hire Licence permits the vehicle to operate as a Private Hire Vehicle under the direction of a Licensed Private Hire Operator.

**Vehicles that do not comply with the Council's Policies are likely to be refused. Therefore, you are strongly advised to read all of the applicable guidance, procedures and policies prior to purchasing, leasing or renting a vehicle or applying for a licence.**

Before a licence will be issued, the applicant must demonstrate that the vehicle has met the required standard and that all documentation has been provided with a completed Application Form:

- a) Meet the age and vehicle specification requirement for the vehicle licence type that is being applied for
- b) Vehicle must pass an MOT within 4 weeks of the date of the renewal submission at one of the nominated garages.
- c) The vehicle must undertake a vehicle inspection at one of the nominated garages. Please note that the garages give an indication of pass or fail but the determination is made by the Licensing Officers, as to whether the condition of the vehicle is adequate.
- d) Demonstrate that the vehicle is correctly insured for the licence which is being applied for.
- e) Provide a copy of the Meter Test Certificate (New Hackney Carriages).

**Failure to provide all of the necessary documents, on application, will result in a delay in processing and the possible failure of your application.**

**If the relevant documents are not received within 8 weeks of the start of your application, your application will be considered to have failed. In addition, if during this period the vehicle exceeds the age limit requirement, then your application will be considered to have failed.**

#### Application Processing Procedure

1. The complete application and associated documents will be considered.
2. The Regulatory Manager will then grant the licence or renewal in accordance with the Council requirements.
3. Where the requirements indicate that an application should be refused, the Regulatory Manager will write to the Applicant (via email and post) and advise that a refusal is proposed and indicate the reason why.
4. The Applicant will then be given the chance to make representations to the Council's 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 the application has been refused 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 vehicle is appropriate. 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 given reasons in writing, along with the Right of Appeal.

**Please be aware that you are unable to use the vehicle as a Hackney Carriage or Private Hire vehicle for hire and reward, until you have completed all of the licensing procedures and been granted a licence as a Hackney Carriage or Private Hire Vehicle.**

**You also cannot drive a Warwick District Council Licensed Hackney Carriage for hire and reward or a Private Hire Vehicle for any reason including hire and reward until you have a Driver’s Licence and Identification Badge, issued by this authority.**

#### Conditions

Failure to comply with the conditions of the licence, described in Appendix I (Hackney Carriage) and Appendix J (Private Hire Vehicle) may result in suspension, revocation or refusal to renew a licence. In certain circumstances, formal action such as Prosecution may be the most appropriate course of action. Should the application be for a horse and carriage, the licence conditions outlined in Appendix K are applicable.

#### Licence Type Required.

The following table may assist you in determining which type of licence you require, as there are legal and policy differences between a Hackney Carriage and Private Hire Vehicle.



If you undertake any journey where you take persons by a prebooking directly or through a third party, then you should contact the licensing section to discuss whether a Licence is required. i.e. transport service for persons.

**Please note that it is your responsibility as the applicant and licence holder to ensure that they are aware of the differences.**

Table 1 outlines the differences between a Hackney Carriage and Private Hire Vehicle.

*Table 1.*

<b>Type of work/business/vehicle</b>	<b>Hackney Carriage</b>	<b>Private Hire Vehicle</b>
Picking up people from a rank		×
Picking up people who hail (flag down) on the street		×
Accept prebooked journeys from licensed Private Hire operator		
Accept pre booked journeys from an unlicensed business acting like a Private Hire operator (call centre)		×
Take bookings using a mobile phone directly from the public		×
Wedding or Funeral cars	×	×
Executive Hire/ Chauffeur Work		
Vehicle seating 8 or less passengers (a total of 9 including the driver) where vehicle and driver are hired for a single fare.		
Vehicle seating more than 9 passenger (10 including the driver)	× (May need a PSV/PCV* licence)	× (May need a PSV/PCV* licence)

\* PSV – Public Service Vehicle, PCV – Passenger Carrying vehicle.

### Age of Vehicles

Warwick District Council requires all Private Hire vehicles to be less than 5 years old from the date of first registration, when the vehicle is submitted for licensing. Once licensed, the vehicle can remain licensed subject to the vehicle continuing to meet the required standards and the licence not being allowed to expire.

The council requires that all new licence applications for Hackney Carriage vehicles must be for a brand new, side loading wheelchair accessible vehicle.

If a licensed vehicle is being replaced, the replacement vehicle must be newer than the vehicle that it replaces but no older than 5 years. If the vehicle is wheelchair accessible, then the replacement vehicle must also be wheelchair accessible.

The age of the vehicle will be calculated from the full date of first registration, not just the year.

### Type of vehicle

A Hackney Carriage must be:

- Right hand drive
- Four or five door vehicle
- Roof light stating 'Taxi'
- Same specification as manufacturers with no modifications or additions, unless express written approval has been granted by Licensing. An acceptance is made for vehicles that have been adapted to carry wheelchair passengers. These vehicles must carry a European Whole Vehicle Type Approval or a Vehicle and Operator Service Agency Individual Vehicle Approval
- Tinted windows must permit at least 75% light transmittance (for all new and vehicles to which a licence is transferred)
- Must be clearly identifiable as a Hackney Carriage
- Capable of carrying not less than four nor more than eight passengers and their luggage. (If they carry more than eight passengers, they will need to be licensed as a PCV)
- Capable of carrying a wheelchair using passenger safely. Rear loading wheelchair accessible vehicles will not be acceptable.
- Suitable type, size and design
- Suitable mechanical condition, safe, comfortable and in excellent condition
- No unauthorised signs or advertisements
- Have a taxi meter which has been fitted correctly, working and calibrated to the current fare structure
- A minimum of 4 road wheels
- May also be a horse and carriage (for applicable details, please speak with Licensing Officers)

Note: That a number of existing licensed saloon vehicles are exempt from the requirement of being wheelchair accessible.

There is currently no fleet colour requirement for Hackney Carriages licensed by Warwick District. However, this is under review. Prior to any implementation, there will be a public consultation.

A Private Hire Vehicle must be:

- Right hand drive
- Four-door saloon/ five door estate type/ mini people carrier (there must be a driver's door, a front passenger door and two other doors)
- Same specification as manufacturers, with no modifications or additions, unless express written approval granted by Licensing. An exception is made for vehicles that have been adapted to carry wheelchair passengers. These vehicles must carry a European Whole Vehicle Type Approval or a Vehicle and Operator Service Agency Individual Vehicle Approval
- The windscreen must permit 75% light transmittance, driver's and passenger windows must permit at least 70% light transmittance; the rear screen must permit 40% light transmittance (for all new and vehicles to which a licence is transferred)
- Capable of carrying not less than 4 nor more than 8 passengers and their luggage. (If they carry more than 8 passengers, they will need to be licensed as a PCV)
- Not of such design or appearance as to lead any person to believe it is a Hackney Carriage, such as having a roof sign, for example
- Suitable type, size and design including adequate leg room and luggage space

- Suitable mechanical condition, safe, comfortable and in excellent condition
- A minimum of 4 road wheels
- No equipment fitted which obstructs the driver's view of the road
- No unauthorised signs or advertisements

Where a vehicle is carrying luggage, the luggage must be stored in a manner that does not allow the luggage to enter the passenger compartment, in an emergency stop.

### Alternative Fuel Vehicles

If you wish to licence a vehicle which is not fuelled by petrol or diesel, please contact the Regulatory (Licensing) Team for more information.

If you wish to licence a vehicle, which has been produced by a manufacturer to run on an alternative fuel, you should be able to follow the normal licensing procedure for a vehicle. However, if your vehicle has been converted or you intend to convert it, you may be asked to supply additional documentation.

This may include:

- Certificate of Conversion from the company who converted the vehicle. This should include information which is specific to the vehicle, the parts and the company. There must also be a declaration that the vehicle has been converted to the current standards, specifications and or legislation required.
- Details of all of the alterations made to the vehicle. These must not impact on the passenger compartment, the ability to carry a wheelchair using passenger, the necessary ramps etc. to allow such a person to safely use the vehicle if applicable and the spare wheel.
- Additional inspection and examination at an approved garage nominated by the Council.

### Minibuses

The Council does not licence any vehicle where there is a capacity to carry **nine or more** passengers. Such vehicles are required to obtain a Public Service Vehicle Licence from the Regional Traffic Commissioners.

### Wedding and Funeral Cars

A licence is not required for a vehicle while it is being used in connection with a funeral or used wholly or mainly by a person carrying on the business of a Funeral Director, for the purpose of funerals.

A licence is not needed for a vehicle while it is being used in connection with a wedding.

### Horse Drawn Hackney Carriages

Both the horse and carriage will be subject to inspection to ensure their fitness to work as a Hackney Carriage. The horse(s) must be inspected by the Council's Nominated Veterinary Surgeon at the cost of the applicant.

The conditions associated with the operation of a horse drawn carriage are contained within Appendix K.

Should you require more information please contact the Regulatory (Licensing) Team.

#### Wheelchair Accessibility

The list of example acceptable vehicles which the Council considers wheelchair accessible is outlined in Appendix H. This list is not exhaustive and consideration will be given to any vehicle for which an M1 Certificate can be demonstrated.

**If seat(s) have to be removed to allow the wheelchair to be carried, the seat(s) must remain permanently removed from the vehicle.**

New or replacement vehicles that load wheelchairs from the rear are not permitted.

#### Hackney Carriage Number Limit

There is currently no limit on the number of vehicles that can be licensed as Hackney Carriages within the district. However, there is a Needs Assessment Survey being undertaken in accordance with the petition received from 75% of the Licensed Hackney Carriage Drivers.

Once the report is received from the assessment survey, consideration will be given to its findings and an assessment will be undertaken as to whether a limit of the number of licensed Hackney Carriages is required.

#### Frequency of MOT & Garage Vehicle Inspection

Once a vehicle is licensed it must receive at least one MOT and inspection per year, at one of the nominated garages. This must occur within 4 weeks of the date of signature on the renewal application. This requirement is also applicable to new vehicles.

Due to distances that licensed vehicles travel, any vehicle over 5 years old will require 6 monthly MOT and inspections.

Any vehicle with significant paintwork, bodywork, interior, structural, mechanical defects or faults will not be determined to have been maintained in a safe condition and therefore may not be suitable for licensing.

#### MOT & Garage Vehicle Inspection

Vehicles are subject to both an MOT and a nominated garage vehicle inspection. The MOT covers aspects of safety and road worthiness. The vehicle inspection covers additional areas, namely vehicle reliability, general condition equipment and

vehicle alterations. It is possible to pass the MOT but fail the inspection. See table 2.

**All vehicles must be prepared and in a condition to pass. The inspection is an inspection of the vehicle's suitability to be licensed and not a maintenance check to identify what is wrong. If no attempt has been made to prepare the vehicle, the inspection may be stopped and the vehicle licence suspended by Licensing Officers.**

For vehicles standards, requirements and conditions please refer to the Wear and Tear Guide which is available on the Council website.

Applicants must make their own arrangements with the nominated garages in order to have a MOT and vehicle inspection undertaken. There is a fee payable to the garage and is paid directly at the time of inspection.

Please note that an MOT is required for all licensed vehicles, or vehicles wishing to be licensed despite the age of the vehicle.

All vehicles must have a current MOT certificate, which must be produced to the Council's Officers when it is issued and upon the vehicle licence renewal. Failure to do so will result in suspension of the licence until such time as a current test certificate is produced

The chart below lists the different aspects of the inspection:

*Table 2:*

<b>Aspects of MOT and Garage Vehicle Inspection</b>	<b>Result if fault is found</b>	
	<b>MOT test</b>	<b>Vehicle Inspection</b>
MOT testable items to the standard set for the MOT test	Fail	Fail
MOT testable items likely to wear based upon the licensed vehicle being likely to travel more than 5 times the average distance of a domestic car, to a higher standard than that set for MOT *	N/A	Fail
Aspects of vehicle reliability i.e. fault that could affect the reliability of the vehicle e.g. oil /water leaks	N/A	Fail
General condition e.g. interior and exterior trim, body, paint, cleanliness	N/A	Fail
Equipment e.g. fire extinguishers, first aid kit, wheelchair equipment (if applicable)	N/A	Fail
Changes to the vehicle without written authorisation	N/A	Fail

\*Further information in the Wear and Tear Guide.

A vehicle, which is in the opinion of the inspecting officer, considered to be dangerous or a hazard to others, will be suspended until the vehicle is presented to officers, by appointment, with the hazards corrected.

If the MOT and/or garage vehicle inspection is failed by an applicant for a 'new', Transfer or Temporary Plated Hackney Carriage or Private Hire Vehicle, the application will be refused.

If the garage vehicle inspection is failed by an existing licence holder, within the date of the existing licence, the vehicle will be asked to attend for a second inspection by appointment with a Licensing Officer. The licence holder will be given a set time period in order to rectify the matters identified. Failure to do so within that time period, will result in the suspension of the vehicle licence. Consideration will be given to previous history to assess if other courses of action are also required.

If the MOT is failed by an existing licence holder within the date of the existing licence, the vehicle will be expected to pass an MOT before the existing licence expires. Failure to do so will result in the application for the licensing of the vehicle being refused.

If the MOT and/or garage vehicle inspection is failed by an existing licence holder after the expiry of the licence, the application for licensing the vehicle will be refused.

#### Compliance, Fleet, Enforcement and other Types of Inspection

A Compliance, Fleet or Enforcement Inspection can be given to any vehicle which is licensed. The inspection will be all or part of the normal inspection made by the garage vehicle inspection.

These inspections may be conducted by appointment or at the roadside. If an owner of a licensed vehicle is asked to attend by appointment at a set time and set date, it is expected that they bring that vehicle to that appointment. Alternative appointments will only be made in exceptional circumstances.

Failure to attend an appointment will not be looked upon favourably.

Failure to meet the requirements of the inspection will result in a set time period being given, in order to rectify the matters identified. Failure to do so, within that time period will result in the suspension of the vehicle licence.

Any vehicle, which is in the opinion of the inspecting officer, considered to be dangerous or a hazard to others, will have its licence suspended until the vehicle is presented to Officers, by appointment, with the hazards corrected or sent before committee to determine the suitability of the licence continuing

Several agencies may be present at these inspections. E.g. Licensing Enforcement Officers, Police, Vehicle and Operator Standards Agency, Inland Revenue, HM

Customs and Excise, Benefits Agency and other Council Departments such as Council Tax and Housing Benefits.

### Insurance

All vehicles must be fully insured to carry out the activity in which they are involved, including full passenger liability. Proof of adequate insurance must be provided with applications for new licences and for renewals. Failure to provide evidence of insurance will delay your application, or cause your application to fail.

A Hackney Carriage vehicle must provide proof of continuous insurance that only a person with a Hackney Carriage Private Hire Driver's Licence may drive the vehicle. The vehicle must be insured for hire and reward and for use of carriage of passengers for hire and reward. The insurance may also mention Private Hire or pre bookings or prior appointment as a Hackney Carriage can undertake these journeys.

A Private Hire vehicle must provide proof of continuous insurance that only a person with a Hackney Carriage Private Hire driver may drive the vehicle. There is no exception to this requirement. The insurance policy may also identify that the vehicle is insured for Private Hire, by prior appointment, from the policy holder's place of business or for pre booked journeys including the carriage of passengers; and good for hire and reward or for hire or reward by prior arrangement to the commencement of the period of hire.

If the insurance is covered under a fleet insurance, where both Private Hire and Hackney Carriages are licensed the Insurance Policy must not mention public hire and reward, unless it specifies the pre booking arrangements as above and/or for the use of the carriage for passengers for hire and reward.

### Private Hire Dispensation

The Council may grant dispensations to certain vehicles from displaying their rear Private Hire Vehicle Licence Plate. These dispensations will only be granted to vehicles meeting the following criteria.

- Private Hire Vehicle
- Engaged solely in chauffeur/corporate work
- Four doors
- Recognised Executive/prestige model or specification of model or recognised vintage or classical model (e.g. Rolls Royce, Bentley, Jaguar, Daimler, Cadillac and certain models of BMW/Mercedes. A standard model of vehicle would not normally be acceptable)
- Engine capacity of a minimum 1950cc
- Internal seat measurement of 52"/132cm across the narrowest part of the rear seat

Any vehicle wishing to be granted a dispensation must apply, pay the appropriate fee and supply evidence that the vehicle can be solely engaged in chauffeur activities. i.e. evidence of contracts with organisations and details of the number of miles or journeys undertaken on each contract.

Please note:

- A school's contract through the Warwickshire County Council will not be accepted.  
**Any vehicle undertaking school's contracts must display their plates.**
- Evidence must be submitted to demonstrate that the vehicle in question is engaged in chauffeur activities. Therefore, it is expected that different evidence will be provided for each vehicle.

Upon the receipt of an application, Officers will assess the information provided, in order to determine if the vehicle is eligible. A reassessment will occur at each renewal, to determine if the vehicle remains eligible.

If a dispensation is granted, the vehicle will not be required to affix the rear plate to the vehicle or display the passenger information stickers (with the exception of the 'non-smoking' sign as required by legislation). The letter of dispensation and rear plate must be carried in a suitable location within the vehicle at all times. i.e. glove box. The front plate must be displayed at all times.

Any failure to comply with these requirements will result in consideration being given to the continuation of the dispensation.

**If a dispensation is not granted by the Council, the licence plates must be affixed to the vehicle. Failure to do so is a criminal offence. In addition, consideration may need to be given to the suitability of the licence holder to hold a licence.**

#### Display of Licence Plates

There are two licence plates (front and rear plate) that are issued for each licensed vehicle. These must be displayed in accordance with Appendix L, at all times.

They must be affixed using the sticky rear surface of the plate to the vehicle directly. They must be maintained in clean, legible and good condition.

#### Display of passenger information (including fare guide and tariff guide)

There are a number of passenger information stickers issued for each licensed vehicle. These must be displayed in accordance with Appendix L.

**The table of fares and fare guide are to be displayed at all times in a location that is visible to the passengers (Hackney Carriages)**

They must be affixed using the sticky rear surface of the plate to the vehicle directly. They must be maintained in clean, legible and good condition.

**The large driver's identification card should be securely fixed and visible to passengers at all times, to inform the passenger who is the driver of the vehicle. The driver's identification card must correspond with the driver.**



### Prohibition of Smoking

In accordance with the Health Act 2006, no persons (including the driver) are permitted to smoke in a Licensed vehicle. This requirement is applicable throughout the duration of a licence and not just when there are passengers in the vehicle.

A 'No smoking sticker' must be displayed within the vehicle. The Regulatory (Licensing) Team have a limited number of stickers available, free of charge.

E Cigarettes should also not be smoked within the vehicle to prevent confusion and complaints of smoking, odour or unpleasant travelling environments.

### Hackney Carriage Ranks

Only Hackney Carriages may use the authorised ranks on which they can stand and wait for passengers. The rank is a temporary waiting point which is marked on the road and allows a Hackney Carriage to wait only temporarily.

It is not a parking space for domestic vehicles or Hackney Carriages that have been left unattended.

**If the rank is full, a vehicle must continue to the next rank with available space. All vehicles within the rank must face the direction of the traffic.**

Private Hire Vehicles cannot wait in ranks or park in locations which form an authorised rank, or are contrary to the Highway Code or traffic laws. A Private Hire vehicle may only wait for a passenger at a prearranged point of collection.

**A list of Hackney Carriage Ranks is available on the Council website.**

The location and size of the Hackney Carriage ranks are under review. The outcomes of the review and any suggestions for alteration, will be subject to consultation, prior to any changes.

### Authorised Fares and Taxi Meters

All Hackney Carriage Vehicles must be fitted with a calendar controlled taxi meter, which should be calibrated in accordance with the Council's approved scale of fares. A Hackney Carriage cannot operate without one.

A licence will not be issued to a Hackney Carriage unless a meter is fitted, programmed, calibrated, tested and found to be accurate and issued with a Meter Test Certificate. A Test and Calibration Certificate will be required upon application for a new Hackney Carriage or upon the change of tariff.

If a taxi meter is not working correctly, you should inform Licensing Officers and arrange for the meter to be repaired immediately.

Any vehicle with a meter that is incorrect or not working correctly can be suspended from use, until it is found to be accurate and issued with a new Certificate of Accuracy.

It is the responsibility of the vehicle licence holder to ensure that the meter is programmed correctly and calibrated. The Test and Calibration Certificate must be kept in the vehicle at all times.

A Private Hire vehicle must not be fitted with a taxi meter. The price of a journey should be agreed with a passenger prior to the journey commencing. This agreement can be with the driver or the operator.

The level of fares for Hackney Carriage Vehicles will be reviewed by the Council from time to time. It is the responsibility of the vehicle licence holder to have the meter reprogrammed and calibrated after the introduction of the updated fare structure.

Licensing Officers will inform Hackney Carriage licence holders in advance of the introduction of updated fares. All licence holders will be expected to have had their vehicles' meters recalibrated within 7 days of the updated fares introduction.

A licence holder may not charge updated fares if the meter has not been calibrated to reflect the change.

**The meter should be used at all times** subject to the cross border journeys information below.

**A Hackney Carriage Driver may offer an on the spot discount to a passenger but cannot charge more than fare shown on the taxi meter.**

#### Cross Border Journeys

In the case of Hackney Carriage Journeys ending outside the Council's area, a prior agreement must be reached with the passenger, to either use the meter or pay an agreed fare. This agreement must be made prior to the commencement of the journey.

**If there is no prior agreement made then the meter must be used and the amount shown charged.**

If a Hackney Carriage is being used under contract for a Private Hire, it must still use the meter and not charge more than the fixed rate in the authorised fare table.

The charge is to be calculated from the point within Warwick District where the **hirer commences** their journey. **No additional fees can be added.** i.e. attending, in order to collect the passenger from a specified location.

#### Warwick University

The boundary of the Council's District passes through Warwick University Campus (Gibbet Hill Road). If a fare is dropped on the Warwick District side of the boundary all journeys must be on the meter and are not subject to an agreed fare, as in the case of cross border journeys. I.e. Cryfield Village.

#### Plying for Hire

Plying for hire means standing at a duly authorised rank in a street, railway station or on a railway premises, on private property or driving within the areas exhibiting to the public that the vehicle is available to hire.

**Only Hackney Carriages may 'ply for hire'. It is an offence for which you may be prosecuted, for a Private Hire vehicle to ply for hire.**

**It is also a criminal offence to take Private Hire bookings from a vehicle.** All bookings must be made via a licensed operator.

### Wearing of Seatbelts

The information contained in this section does not present the full requirements of this complex legislation but attempts to focus on the elements relevant to the taxi and Private Hire trade.

When driving a licensed Hackney Carriage, the driver is required to wear a seatbelt when not plying for hire, answering a call for hire or carrying passengers.

When driving a Private Hire Vehicle, the driver is required to wear a seatbelt when not carrying passengers for hire.

Adult passengers must wear a seatbelt when seated in the front of the vehicle, or where available in the rear of the vehicle. It is the passenger's responsibility to comply with the legislation.

Taxis and Private Hire vehicles are not required to provide child restraints and there are qualified exemptions in the legislation to allow children to travel unrestrained in those vehicles. As outlined in Table 3.

A child restraint is considered appropriate when it is suitable for the weight and height of the child and that restraint marked as complying with the relevant British or European Standard.

It is the driver's responsibility to ensure that seatbelts are worn, in order to comply with the legislation, unless otherwise stated.

Table 3 outlines the requirements for the wearing of seatbelts and whose responsibility it is, to ensure that seatbelts are worn.

Table 3:

	<b>Front Seat</b>	<b>Rear Seat</b>	<b>Who is responsible?</b>
<b>Child up to 3 years</b>	Correct child restraints must be used	Correct child restraint must be used. If a restraint is not available in a licensed Hackney Carriage or Private Hire vehicle, the child may travel unrestrained.	Driver**
<b>Child from 3rd birthday up to 135 cm in height or 12th birthday, whichever they reach first</b>	Correct child restraints must be used	Where seatbelts are fitted, the correct child restraint must be used. The child must use adult belt if the correct child restraint is not available as follows: in a licensed Hackney Carriage or Private Hire vehicle; or for a short distance in an unexpected necessity; or Two occupied child restraints prevent fitting of a third. A child 3 years and over may travel unrestrained in the rear seat of a vehicle if seatbelts are not fitted in the rear.	Driver**
<b>Child over 135 cm in height or 12 or 13 years old</b>	Seatbelt must be worn if available*	Seatbelt must be worn if available.	Driver**
<b>Passengers aged 14 years and over</b>	Seatbelt must be worn if available*	Seatbelt must be worn if available.	Passenger

\*Vehicles built before 1965 are not required to have fitted seatbelts.

\*\*Drivers must inform parents/carers that the decision to permit children to travel in the vehicle, without the correctly sized seat restraints (as permitted by relevant legislation) and with the obvious risks associated with such an action, remains with the parent/carers responsible for the children and not with the driver of the vehicle.

### Carriage of Goods or Packages

The driver of a licensed vehicle is under a duty of care to the passengers to ensure that they travel safely. The carriage of goods or packages in the interior of the vehicle can put passengers at risk and, in some instances, drivers, if they are not properly secured.

Ideally, they should be located in an area outside the passenger compartment, i.e. the boot, or in a vehicle with a separate driver area, in the foot well adjacent to the driver.

Drivers are strongly advised to avoid carrying any loose goods in the passenger compartment and to clearly make known to passengers the risk they face, in having such goods in the compartment.

### Unauthorised/Non Licensed Drivers

It is an offence to allow an unlicensed driver to drive a Hackney Carriage or Private Hire Vehicle. A licensed vehicle is licensed for 365 days of the year and can only be driven by a licensed driver.

Therefore, if a driver allows their Hackney Carriage Private Hire Driver's Licence to expire, a criminal offence is committed if they use the vehicle for **any** purpose. In addition, a non-licensed driver, i.e. a licensed driver's partner, is unable to use the vehicle for **any** purpose.

Please be advised that insurance cover may allow the use of the vehicle for social, domestic and pleasure. However, if the vehicle is not being driven by a Hackney Carriage Private Hire Licensed Driver, a criminal offence is being committed.

The Council will give consideration to the appropriate course of action to each applicable licence in each circumstance.

### Advertisements

Warwick District Council's policy is that advertising is not permitted on the inside or outside of a licensed Hackney Carriage or Private Hire Vehicle other than those sticker or guides that the Council requires to be displayed. Should a proprietor request permission to display an advertisement then each proposal will be considered on its own merits but due regard will be had to this policy. Should the Council decide to depart from its policy and permit an advertisement then the following principles will be applied:

- Advertisements of a form and quality that cannot be easily soiled, defaced or detached
- Advertisements that affix directly to the bodywork or initially attach to an approved magnetic panel, which is then attached to the vehicle
- Where full livery advertising is proposed or where advertisement runs across more than one panel, provision must be made for the immediate replacement of any damaged panels. Hackney Carriages will not be permitted to work with damaged or mismatched panels, nor will they be accepted for relicensing in this condition
- Location of advertisements so as not to obscure or make a licence plate difficult to identify

- Advertisements containing name and telephone number of company for which the vehicle is working. i.e. A single side window advert, of suitable size, displaying the name of the company and telephone number for bookings. A single rear window advert of suitable size, which must be constructed of approved material (e.g. dot matrix style) visible only from the outside; and must not obstruct vision
- Any advertisement material must not allow for vision to be obscured or impede an inspection
- Advertisements only to be placed on the base of occasional (flip up) seats. (Occasional seat advertising must be encapsulated in clear non-flammable plastic and maintained in a condition that does not cause a risk of injury)
- Stickers advertising the use of CCTV in the vehicle
- Advertisements must comply with UK Advertising Standards Authority's Advertising Codes. It is the responsibility of the proprietor of the vehicle to ensure that it does
- Each proposal will be considered on its own merit

The following types of advertisements will not be approved:

- Those of political, racial, religious, sexist or controversial nature
- Those for adult sexual recreation, entertainment or gaming establishments
- Those displaying nude or semi-nude figures
- Those promoting drugs or the consumptions of alcoholic drinks
- Those promoting the use of tobacco or other smoking related products
- Those likely to offend public taste
- Those depicting men, women or children as sex objects
- Those depicting direct or immediate violence
- Those which may be considered as promoting any racist individual, group, organisation or any racist message or activity
- If the advertising alters the shape of the vehicle through the fixing of a structure or other means
- Advertisements or materials placed on the passenger/driver's partition, other than the approved notices issued by the licensing team

Should advertisements be applied to vehicles without the consent of the Regulatory Manager, the vehicle proprietor will be required to remove the advertisement and ensure that the vehicle continues to meet the conditions of its licence and the Wear and Tear Guide.

### Use of CCTV

CCTV prevents and detects crime, reduces the fear of crime, enhances the health and safety of drivers and passengers, assists enforcement agencies to investigate incidents of alleged crime and civil offences. Any images and audio recordings should only be used for these purposes.

If equipment is fitted, it must comply with the legislation including the Road Vehicles (Construction and Use) Regulations 1986. The equipment must be constructed and installed in such a way as to present no danger to passengers, or the driver, at any time. The CCTV equipment must not interfere with any other system in the vehicle. I.e. radio, safety controls, navigation etc.

The CCTV equipment must be CE marked and confirmed by the equipment manufacturer as being suitable for use in motor vehicles. The equipment shall be checked for compliance on a regular basis and maintained. These checks should include the quality of the image, time and date etc.

Viewing screens to see the captured images are not permitted within the vehicle and all wiring must be fitted in accordance with the manufacturer's specifications. Activation of the CCTV equipment can be made in a number of ways e.g. panic buttons, door switches etc. At no time should the information captured on CCTV be accessible other than by approved encryption software, which meets or is higher

than the current Information commissioners processing standard. In addition, the system should have access codes to enhance security.

CCTV images must be stored either within its own hard drive or where a service provider is providing facilities, transferring in real time and using fully secured and appropriately encrypted GPRS (GSM telephone) signalling, to a secure server within the service provider's own monitoring system.

Storing images and sounds outside the vehicle is not allowed via any type of portable media device (e.g. CDs or memory sticks etc.)

Regardless of which system is used to store the data and sound, it should be stored for a maximum of 31 days only. All systems must have an automatic override device, with a turnaround time of 31 days.

If data is to be removed from the CCTV system, it must be undertaken by the service provider, a contract must be in place to cover matters such as security arrangements, keeping deleting data, access requests and arrangements to end the contract. A copy of this contract may be requested by Licensing at any time.

The Information Commissioner's Office is responsible for regulating matters relating to CCTV. Responsibility for informing the ICO applies to a specified company, organisation, individual vehicle owner (data controller). The reason for this is that the information captured on CCTV is regarded as personal data.

The data controller is required to register and renew yearly with the ICO, if they have a CCTV system installed in a vehicle. Documentary proof is required showing that this has occurred and must be produced within 30 days of the initial written permission to install CCTV by Licensing and upon renewal.

**Regardless of who processes the CCTV footage the data controller remains responsible.**

Requests may be made by the Police or other enforcement agencies entitled to access the footage. These requests should be made in writing, stating the legislation that permits access and the reason why disclosure is required.

Requests may also be made by any people who have been subject to recording on CCTV.

Signage must be displayed that informs persons that there is CCTV recording in operation. These must be displayed on both the off and near side windows of the vehicle. The signage must include the name and address of the data controller.

### Dash Cameras

License holders are permitted to use dash cameras. These must not record the conversation or images inside the vehicle.

The Council must be notified in writing that there is a dash camera in operation within the vehicle.

### Accident Data Recording Devices (ADRA)

Licence holders are permitted to install Accident Data Recording Devices (ADRA) into their vehicles. An ADRA is a journey recorder which is concealed discretely in the front or rear of a vehicle. It records digitally onto a media card. The card will hold data which consists of speed, braking and collision G force.

No personal data, words or images are permitted to be recorded either inside or outside of the vehicle.

Such devices should be fitted and maintained in accordance with the guidelines provided by the ADRA supplier and those in this document. It should take account of:

- Any requirement in respect of the Motor Vehicle Construction and Use Regulations
- Safety requirements including the manufacturer's installation requirements
- Passenger and driver safety. The equipment must be designed and installed in such a way as to present no danger to the passenger or driver
- The risk of interference to any existing safety, electrical, computer, navigation, satellite or radio system in the vehicle

You must declare on the application form that an ADRA is fitted when renewing a licence or seek written authorisation for its installation, prior to installing the ADRA. In the event of a collision, you must report, as soon as practicable, the incident to the Insurance Company or appropriate person. In addition, as part of the licence conditions, you must inform the Regulatory (Licensing) Team in writing of the incident and the damage sustained, within 72 hours.

### Loss or Theft of Licence or Plate

This is a serious matter as it could allow another vehicle to operate in a manner that would mislead a member of the public and put their safety at risk.

Any loss should be reported to the Regulatory (Licensing) Team immediately. A charge will be made for a replacement. Continuing to operate in the capacity as a Licensed Vehicle without these items will be viewed extremely seriously.

If you suspect a theft to have taken place, you must also contact the Police.

### Intended Use of Vehicles

It is the Council's position that a suitable licence should be sought for the work that is intended to be undertaken. The Council also prefers to only licence vehicles which intend to primarily operate within the Warwick District Boundary.

### Changing Vehicle or Temporary Plate Transfers

**Possession of a licence document does not guarantee that the licence is in force, nor does it mean that the vehicle is roadworthy or fit for use as a Private Hire Vehicle or Hackney Carriage.**

**The licence is not transferable without the consent of the Council. If the person named on the licence wishes to no longer own the vehicle, the Council must be notified in writing within 14 days, otherwise an offence may be committed.**

If, following an accident you are provided with a vehicle by your insurance company, it must comply with the requirements of the Council's Policy and you must arrange for the licence to temporarily be transferred to the temporary vehicle. You will be required to pay a fee for the transfer of the licence to the temporary vehicle and to return the licence to the original vehicle.

The temporary vehicle or replacement vehicle will require an MOT and an Inspection Certificate, issued by one of the nominated garages. If the existing vehicle is wheelchair accessible it must be replaced with a wheelchair accessible vehicle.



If you have changed vehicle, registration number or ownership, complete the Transfer Vehicle Application Form and return to the office with the required fee.

If you are transferring to a different vehicle, copies of the following documents are required.

- MOT
- Vehicle Inspection
- Insurance
- V5
- The Hackney Carriage or Private Hire licence Plate issued to the vehicle being replaced

The Regulatory (Licensing) Team reserve the right to refuse the transfer of any vehicle, which does not meet the requirements of the Council Policy or the standards expected, as outlined in this document, or the Wear and Tear Guide, or where a licence plate has not been returned.

#### Licence Renewal Reminders

All Licence holders will be sent a reminder and a link to the necessary renewal forms online, to the address that is held on file, well in advance of the expiry of the Licence. However, please note the ***responsibility for renewal rests with the Licensee***. You can renew your licence immediately you receive your reminder.

***If you allow your licence to expire, no matter what the reason, it cannot be renewed. A licence that has expired does not exist and therefore cannot be renewed.***

A vehicle application should be received by Warwick District Council at least three to four weeks prior to the old Licence expiring. Whilst every effort will be made to issue every Licence, within the time scales mentioned in the Timescales Indications Document and those specifics mentioned above, the Authority cannot be held responsible for delays experienced through an applicant's failure to provide appropriate documentation.

It will take up to 10 days to process a valid application. The authority will **not** issue Licences on demand but will, in exceptional circumstances, make every effort to ensure the continuity of service.

***If a Warwick District Council Licence lapses for any reason, then any subsequent application will be treated as a new application. Therefore please note, a new licence will not be granted immediately and the full process may take several weeks.***

**The vehicle will no longer be a Licensed Vehicle and therefore will not be allowed to operate as a Hackney Carriage or Private Hire Vehicle until your application has been determined. Continuing to drive and operate as a Hackney Carriage or Private Hire Vehicle is a criminal offence, for which you may be prosecuted.**

If the lapse is less than two weeks, consideration will be given to your condition of the vehicle. If the condition of your vehicle is acceptable, yet the requirements of the vehicle are no longer met, consideration will be given to granting your licence.

However, if the vehicle is not being maintained in an appropriate condition and is outside of the requirements for your vehicle licence type, namely; major failures as determined by the vehicle inspection or MOT, your application will be refused.

If there is a history of allowing the licence to lapse before submitting renewal applications, this will be taken into account and will influence whether a licence will be issued in such a situation.

#### Surrendering a Plate and Licence.

A vehicle proprietor may surrender the Hackney Carriage or Private Hire Vehicle Licence.

In order to surrender your plate and licence, the Regulatory (Licensing) Team must receive in writing an expression of the wish to surrender the plate, by the proprietor. This must be accompanied by the licence documents and Warwick District Council's Licence Plates which have been affixed to the rear and front windows.

If you are unable to provide these documents, you will be required to provide a satisfactory explanation.

You will also be required to remove passenger information stickers, fare distance guides and tariff guides from the vehicle.

If the licence holder is unavailable (e.g. incapacitated, deceased etc.) the above procedure can be undertaken by a person authorised to act on their behalf. However, evidence must be provided to the Regulatory (Licensing) Team, that shows the authority of any person acting in this capacity.

#### Conduct of the Vehicle

Warwick District Council uses a Licence Holder Conduct Scheme. This scheme applies to all Hackney Carriage and Private Hire Licences issued. Further information on the scheme can be found in Appendix E.

### **Section 3:**

#### **PRIVATE HIRE OPERATOR'S LICENCE PRINCIPLES, PROCESSES AND POLICES**

This licence is required to run a Private Hire Business. This licence is for the operation of the business only. Separate licences for vehicles and drivers must also be obtained.

**The base should normally be located within the Warwick District Council. Persons who wish to operate a business from outside the District would ordinarily be expected to apply to the Licensing Authority in which their operating premises are based.**

This licence allows the direction, taking of bookings and dispatching of Private Hire vehicles to hirings, in advance. The vehicles dispatched and the licensed drivers of those vehicles must also be licensed, with Warwick District Council.

**Operators that do not comply with the Councils' Policies are likely to be refused. Therefore, you are strongly advised to read all of the applicable guidance, procedures and policies prior to commencing a Private Hire Operators Business or applying for a licence.**

Before a licence will be issued, the applicant must demonstrate that the business and named applicant (both individual and company if applicable) has met the required standards and that all documentation has been provided, with a completed application form:

- a) All applicants for Private Hire operator licences will be required to submit a Disclosure and Barring Service Check Basic Disclosure (unless they are a Licensed Hackney Carriage Private Hire Driver with Warwick District council)
- b) Evidence of Public Liability Insurance (if the public have access to the operating base)
- c) Completed application form and fee
- d) Submit 1 colour passport size photograph of yourself, to the same standards required for a passport
- e) Submit copies of your business stationery (if available)/business cards
- f) Submit proof of planning permission or proof of exemption from planning permission, for the proposed operating base
- g) Submit proof of your approved radio system/radio frequency, from the Radio Communications Agency (if applicable)
- h) Your business premises will need to be inspected
- i) Be interviewed regarding licensing conditions & requirements;
- j) They will also be required to state on the application form where their vehicles will normally be parked, when not in use.

**Failure to provide all of the necessary documents, on application, will result in a delay in processing and the possible failure of your application.**

**If the relevant documents are not received within 8 weeks of the start of your application, your application will be considered to have failed.**

#### **A Fit and Proper Person**

**This section is also applicable to Hackney Carriage Private Hire drivers.**

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 drivers, 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. 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.

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

- Convictions and cautions and related matters (see policy at Appendix C)
- 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 C before submitting their application.

#### Application Processing Procedure

1. The complete application and associated documents will be considered.

2. The Regulatory Manager will then grant the licence or renewal in accordance with the Council requirements.
3. Where the requirements indicate 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 reasons why.
4. The Applicant will then be given the chance to make representations to the Council's 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 the application has been refused 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 vehicle is appropriate. 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 given in writing, along with the Right of Appeal.

**Please be aware that you are unable to operate as a Private Hire Operator, taking bookings or dispatching Private Hire vehicles for hire, until you have completed all of the licensing procedures and been granted a licence as a Private Hire Operator.**

#### Conditions

Failure to comply with the conditions of the licence, described in Appendix M, may result in suspension, revocation or refusal to renew a licence. In certain circumstances formal action such as Prosecution may be the most appropriate course of action.

#### Guide and Assistance Dogs

An operator cannot refuse a booking made by, or on behalf of, a disabled person who is accompanied by a guide, hearing or other assistance dog. It is also unacceptable to make an additional charge for the carrying of the dog.

An operator may be prosecuted for these offences and if found guilty, face a fine of up to £1000.

### Sub Contracted Hirings

Warwick District Council's Licensed Operators can sub-contract pre booked work to another operator. It is the operator's responsibility to ensure that the pre booking is subcontracted to an appropriately licensed operator, vehicle and driver.

If an operator subcontracts a booking to an operator, driver or vehicle that is not appropriately licensed, an offence may be committed for which you can be prosecuted.

It is advisable to inform the client making the booking that there has been a subcontracting of the journey, to ensure that the client is aware. The client is not required to give permission for the sub-contracting.

It is also advisable to subcontract to another operator, who operates to the same licensing standards and has received the same level of assessment, in regard to vehicle and driver suitability.

### Compliance Inspection

An inspection will be conducted of the business premises named on your application form. This inspection will be carried out when you are a new applicant and at least once, in each licensing period.

Officers will expect the premises to be clean and in good order. If members of the public are to be allowed to wait on the premises, it must be in a satisfactory condition for their comfort and safety.

Public Liability Insurance is a core requirement for businesses. It protects you for your actions whilst at work. It covers any damages that a member of the public may be awarded, as a result of injury or damage to them or their property, caused by your business. It also covers legal fees and other expenses to do with defending any claim. It is the responsibility of the licence holder to take out insurance cover adequate for the size of the operating premises named on the Private Hire Operating Licence. It is advisable that a risk assessment is undertaken to establish what would constitute adequate cover.

### Licence Renewal Reminders

All Licence Holders will be sent a reminder and a link to the necessary renewal forms online, to the address that is held on file, well in advance of the expiry of the Licence. However, please note, the **responsibility for renewal rests with the Licensee**. You can renew your licence immediately you receive your reminder.

***If you allow your licence to expire, no matter what the reason, it cannot be renewed. A licence that has expired does not exist and therefore cannot be renewed.***

A Private Hire Operator's Licence Application should be received by Warwick District Council at least three to four weeks prior to the old Licence expiring. Whilst every effort will be made to issue every Licence within the time scales mentioned in the Timescales Indications Document, and those specifics mentioned above, the

Authority cannot be held responsible for delays experienced through an applicant's failure to provide appropriate documentation.

Officers will take 10 days to process a valid application. The authority will **not** issue Licences on demand but will, in exceptional circumstances, make every effort to ensure the continuity of service.

***If a Warwick District Council Licence lapses for any reason then any subsequent application will be treated as a new application. Therefore, please note, a new licence will not be granted immediately and the full process may take several weeks.***

**The business/proprietor will no longer be a Licensed Private Hire Operator and therefore, will not be allowed to operate until the application has been determined. Continuing to operate, take bookings or dispatch vehicles for hire is a criminal offence, for which you may be prosecuted.**

If the lapse is less than two weeks, consideration will be given to the history of the operator with the licensing authority. If there is a history of allowing the licence to lapse before submitting renewal applications, or failure to conduct the business in accordance with licence conditions, this will be taken into account and will influence whether a licence will be issued in such a situation.

#### Surrendering a Licence.

A operator may surrender the Private Hire Operator Licence. In order to surrender the licence, the licensing office must receive in writing an expression of the wish to surrender, by the licence holder. This must be accompanied by the licence documents.

If you are unable to provide these documents you will be required to provide a satisfactory explanation.

If the licence holder is unavailable (e.g. incapacitated, deceased etc.) the above procedure can be undertaken by a person authorised to act on their behalf. However, evidence must be provided to the Regulatory (Licensing) Team that shows the authority of any person acting in this capacity.

#### Conduct of a Private Hire Operator

Warwick District Council uses a Licence Holder Conduct Scheme. This scheme applies to all Hackney Carriage and Private Hire Licences issued. Further information on the scheme can be found in Appendix F.

#### Prevention of Child Sexual Exploitation

From 1<sup>st</sup> July 2015, all Private Hire Operator Licence holders must ensure that they and their call handling staff must be trained in the Prevention of Child Sexual Exploitation Course for a licence to be granted.

All operators, who fail to meet this requirement, can expect to be sent before the committee to explain their non-compliance with their licence conditions, or have their licence refused by the Regulatory Manager upon renewal.

The Prevention of Child Sexual Exploitation training must cover:

- Identification & Signs of CSE
- Signs
- Legislating and Trafficking
- Who to report it to
- What happens when you do

Applications for the courses with the nominated training provider can be made by telephoning the licensing team.



## **Section 4:**

### **INFORMATION APPLICABLE TO ALL LICENCES** **PRINCIPLES, PROCESSES AND POLICIES**

#### **Fees**

The fees are advertised and Licensing fees are detailed separately to this guidance.

#### **Multiple Application Submissions**

Warwick District Council reserves the right to process multiple applications which are submitted for a driver, vehicle and operator by the same applicant, in a specific order. This is to prevent applicants from incurring significant costs, if their application cannot be processed to conclusion or are refused.

The order of processing will be:

- Hackney Carriage Private Hire Driver
- Hackney Carriage or Private Hire Vehicle (as applicable)
- Private Hire Operator

Routinely a vehicle licence will not be granted until a named licensed driver can be identified and a Private Hire Operator's licence will not be granted until a licensed Private Hire Vehicle can be associated with the Private Hire Operator Application.

#### **Declarations**

All applicants will be asked to make a number of declarations upon the forms, that are provided for the administration of the Licensing Scheme. False declarations will not be looked upon favourably. They may be taken into account in future application assessments and may be forwarded to the Police or other agency for investigation in order to determine if a criminal offence has been committed.

#### **Compliments**

The Council expects all Licensees to display the utmost care in all their dealings with the public and therefore, are pleased to receive any complimentary reports of service provided by traders. These will always be passed onto the Licence holder and placed upon their record.

#### **Sharing of Information**

Information on applications may be shared with Department of Works and Pensions, Warwickshire Police or neighbouring Licensing Authorities upon request.

Any applications for new Hackney Carriage Private Hire Drivers, Hackney Carriages; Private Hire Vehicles and Private Hire Operators will be shared with neighbouring authorities. Any information received through this process will be used to assist in the determination of an application.

In addition, details of any licence holders or applicants who are suspended, revoked or refused will be shared with neighbouring Licensing Authorities.

Details of all applications for Private Hire Operator Licences will be supplied to the Council's Planning Department, to ensure that the relevant planning permission is in place for the premises.

## **Section 5:**

### **ENFORCEMENT AND COMPLIANCE PRINCIPLES, PROCESSES AND POLICES**

Enforcement of the Hackney Carriage and Private Hire 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](http://www.warwickdc.gov.uk)

#### **Complaints**

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.

Any written documentation issued or sent will:-

- Contain all the information necessary to understand the offence and what needs to be done to rectify it. Where works are required, the period allowed for them to be completed will be indicated;
- indicate the legislation or conditions contravened and measures which will enable compliance with the legal requirements and point out, where appropriate, that other means of achieving the same effect may be chosen; and
- Clearly indicate any recommendations of good practice under an appropriate heading, to show that they are not a legal requirement.

A clear distinction will be made between requirements and matters which are recommended as good practice.

#### **Appropriated course of action**

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, giving verbal and written warnings. Issuing points in accordance with the licence holder conduct scheme.

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. 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 taxi meter 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 taxi meter. An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he 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.

4. 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 but in this case the suspension or revocation will not be stayed pending appeal.

Appearances before the Licensing and Regulatory Committee

The Committee will consider suspension, revocation and refusal to renew licences and 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.

### Interventions

We will conduct enforcement and compliance interventions.

**Enforcement interventions will be focused and targeted on operators, drivers and vehicles that do not comply with the legislation and the conditions of their Licence.**

Interventions include but are not limited to:

- Spot checks/roadside checks
- Test purchasing activities. i.e. taking a journey, making a booking etc. Please note test purchasers may or may not make themselves known to licence holders at the time.
- Inspections.

**An authorised officer of the council has the power at all reasonable times to inspect and test for fitness any vehicle licensed by the council or any taxi meter affixed to the vehicle.**

### Obstruction of an Officer

A licensed vehicle hailed by a duly authorised officer shall stop to allow such examination to take place. Officers will have regard to any fare being carried at the time.

It is an offence to obstruct an authorised officer or fail to give such assistance or information as may be required, or to comply with any reasonable requirement. It is also an offence to provide false information.

## **Appendix A:**

### **APPLICANTS WITH DIABETES**

#### **Policy for Private Hire and Hackney Carriage Driver Applicants and Licence Holders with Diabetes treated with insulin or tablets**

Warwick District Council has determined that the following criteria will have to be met by all Hackney Carriage and Private Hire Driver current licence holders and all applicants with insulin or tablet treated diabetes.

Licence holders and applicants are reminded that the requirements of the declaration signed on the issue of licence remain an obligation. Medical declaration forms are available upon request for either insulin or tablet. These may be obtained by post to the offices of Warwick District Council, on the Council's website or by email from [licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk).

All current applications involving individuals with insulin/tablet treated diabetes will be dealt with under the following requirements.

#### **Applicant being treated with insulin**

##### **It is a requirement that the applicant:**

- Has undergone treatment with insulin for at least four weeks
- Has full awareness of hypoglycaemia
- Has not, during the immediately preceding year, had an episode of severe hypoglycaemia
- Regularly monitors his or her condition and, in particular, undertakes blood glucose monitoring at least twice daily and at times relevant to driving, using a device that incorporates an electronic memory function to measure and record blood glucose levels, and undertakes to continue so to monitor

##### **It is a requirement that the applicant has attended an examination by a hospital consultant specialising in the treatment of diabetes, who has provided a report confirming that:**

- The applicant has a history of responsible diabetic control
- Currently has a minimal risk of impairment due to hypoglycaemia
- Has undergone treatment with insulin for at least four weeks
- Has full awareness of hypoglycaemia
- Has not, during the immediately preceding year, had an episode of severe hypoglycaemia
- Regularly monitors his or her condition and, in particular, undertakes blood glucose monitoring at least twice daily and at times relevant to driving, using a device that incorporates an electronic memory function to measure and record blood glucose levels, and undertakes to continue so to monitor
- The applicant will continue to have annual reviews with a hospital specialist

**The applicant must provide a signed declaration that he or she:**

- Understands the risk of hypoglycaemia and will comply with such directions regarding treatment for diabetes as may from time to time be given by the registered medical practitioner overseeing that treatment, or one of the clinical team working under the supervision of that registered medical practitioner
- Regularly monitors his or her condition and, in particular, undertakes blood glucose monitoring at least twice daily and at times relevant to driving, using a device that incorporates an electronic memory function to measure and record blood glucose levels, and undertakes to continue so to monitor
- Will immediately report to [the Secretary of State] in writing any significant change in his or her condition and will follow the advice of his or her registered medical practitioner, or one of the clinical team working under the supervision of that registered medical practitioner, concerning fitness to drive.

**Applicants being treated with a medication which carries a risk of inducing hypoglycaemia, other than insulin**

**Sulphonylureas, including the following:**

Chlorpropamide, Glibenclamide,  
Gliclazide, Glimepiride  
Glipizide, Glibense, Tolbutamide

**Glinides, which include the following tablets**

Nateglinide also known as Starlix  
Repaglinide also known as Prandin

**It is a requirement that the applicant:**

- Has full awareness of hypoglycaemia
- Has not, during the period of one year immediately preceding the date when the licence is granted, had an episode of severe hypoglycaemia; and
- Regularly monitors his or her condition and, in particular, undertakes blood glucose monitoring at least twice daily and at times relevant to driving

**It is a requirement that the applicant has attended an examination by a registered medical practitioner, who has provided a report confirming that**

- The applicant has a history of responsible diabetic control and currently has a minimal risk of impairment due to hypoglycaemia
- Has full awareness of hypoglycaemia
- Has not, during the period of one year immediately preceding the date when the licence is granted, had an episode of severe hypoglycaemia; and regularly monitors his or her condition and, in particular, undertakes blood glucose monitoring at least twice daily and at times relevant to driving

**Provides a signed declaration that he or she:**

- Understands the risk of hypoglycaemia and will comply with such directions regarding treatment for diabetes as may from time to time be given by the registered medical practitioner overseeing that treatment, or one of the clinical team working under the supervision of that registered medical practitioner
- Will immediately report to [the Secretary of State] in writing any significant change in his or her condition and will follow the advice of his or her registered medical practitioner, or one of the clinical team working under the supervision of that registered Medical Practitioners, concerning fitness to drive

## **Appendix B:**

### **DBS POLICY STATEMENT**

#### **General principles**

As an organisation using the Disclosure and Barring Service to help assess the suitability of Hackney Carriage and Private Hire Drivers, WDC complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of disclosures and disclosure information. It also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information.

#### **Storage and Access**

Disclosure information is kept securely, in a lockable, non-portable, storage container with access strictly controlled and limited to those who are entitled to see it as part of their duties.

#### **Handling**

In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. When it is necessary to present the Disclosure to members of the Council's Regulatory Committee, 15 numbered copies will be distributed to members before being collected and shredded after the meeting.

#### **Usage**

Disclosure information is only used for the specific purpose for which it was requested.

#### **Retention**

Once a decision has been made on whether it is necessary to use the information on the Disclosure, it will not be kept for any longer than is necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any appeals or complaints. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than six months, the DBS will be consulted and full consideration will be given to the data protection and human rights of the individual before doing so. Throughout this time, the usual conditions regarding the safe storage and controlled access will prevail.

#### **Disposal**

Once the retention period has elapsed, WDC will ensure that any Disclosure information is immediately destroyed by shredding. No photocopy or other image of the Disclosure or any copy or representation of the contents of a Disclosure will be made, save for the requirements shown above regarding the Council's Regulatory Committee. However, notwithstanding the above, a record of the date of issue of a Disclosure, the name of the subject, the unique reference number of the Disclosure and the details of the Regulatory Committee decision taken will be kept.

#### **Acting as an Umbrella Body**

Before acting as an Umbrella Body (one which countersigns applications and receives Disclosure information on behalf of Hackney Carriage and Private Hire drivers), WDC has taken all reasonable steps to satisfy itself that it will handle, use, store, retain and dispose of Disclosure information in full compliance with the CRB Code and in full accordance with this policy.

## **Appendix C:**

### **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 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 new arrest or new convictions or cautions 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 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/revoke the licence pending the outcome of the appeal on the grounds that the individual is not fit and proper until the issue of whether or not the conviction will be upheld has been decided. A finding of not guilty may still result in the Council deciding that an individual is not a fit and proper person to hold a licence.

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. The Council considers that offences committed by licensees should be regarded more seriously than offences committed by unlicensed individuals. This is because a licensee has been judged to be fit and proper to hold a licence and should be aware of the standards required of them. Offences committed when a licensee is working as a taxi driver or operator or where a passenger is a victim will be viewed as particularly 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.

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**

<b>Offence</b>	<b>Minimum period free from conviction</b>
Burglary	Not suitable to be licensed
Fraud (sentence of imprisonment)	10 years
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
Offence	Minimum period free from conviction
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		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 Hires 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/failure 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, 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.

## **Appendix D:**

### **HACKNEY CARRIAGE PRIVATE HIRE DRIVERS LICENCE** **CONDITIONS OF LICENCE**

#### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976; and TOWN POLICE CLAUSES ACT 1847**

##### **1. General Conduct of Driver**

The driver must:

- (a) Convey a passenger's luggage and afford all reasonable assistance with such luggage;
- (b) At all times be clean and respectable in his dress and person and behave in a civil and orderly manner;
- (c) Take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle driven by him;
- (d) Not without the express consent of the hirer, drink or eat in the vehicle;
- (e) Not without the express consent of the hirer, play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages, in connection with the operation of the vehicle;
- (f) At no time, cause or permit the noise emitted by any radio or other previously mentioned equipment, on the vehicle which he is driving to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle;

##### **2. Condition of vehicle**

- (a) The driver must ensure that any licensed vehicle, to be driven by him is in a roadworthy condition, and thoroughly cleaned before the commencement of his journey;
- (b) The driver shall not drive any vehicle failing to display its front and rear plates.
- (c) The driver must ensure that for every journey there is appropriate insurance cover in the event of passenger injuries.

##### **3. Wearing of badges**

The driver must wear the identity badge supplied by the Council in a prominent position at all times and ensure that it is visible to customers.

##### **4. Safety Equipment**

- (a) The driver must ensure that every vehicle he drives is fitted with a 1kg BC Dry Powder Type Fire Extinguisher BSEN3 (European Standard), which must be kept full and pressurised.
- (b) The driver must ensure that every vehicle he drives carries a basic first aid kit with suitable contents, in order to treat themselves.

##### **5. Shortest Possible Route**

The driver must, when hired to drive to a destination, subject to any directions given by the hirer, proceed to that destination by the shortest available route.

## 6. Hackney Carriage Driver plying for Hire

- (a) The driver of a Hackney Carriage must, when plying for hire in any street and not actually hired:-
- Proceed with reasonable speed to one of the stands appointed by the Council
  - If a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand
  - On arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and
  - From time to time, when any other carriage immediately in front is driven off or moved forward, cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward
- (b) The driver of a Hackney Carriage, when standing or plying for hire, must not make use of the services of any other person for the purpose of importuning any person to hire such carriage.

## 7. When acting as a Private Hire Driver

A licence holder shall not, whilst driving and in charge of a Private Hire vehicle:

- Tout or solicit on the road or other public place any person to hire or be carried for hire, in any Private Hire vehicle.
- Cause or procure any other person to do the above.
- Accept an offer for the immediate hire of that vehicle whilst the driver of that vehicle is on the road or other public place, except where first communicated to the driver by a Private Hire operator.

## 8. Passengers

- (a) The driver must not convey or permit to be conveyed in a licensed vehicle, a greater number of persons than that prescribed in the licence for the vehicle.
- (b) The driver must not, without the consent of the hirer of a licensed vehicle convey or permit to be conveyed any other person in that vehicle.
- (c) Shall not allow there to be conveyed, in the front of the vehicle, any child under the age of 10 or more than 1 person.
- (d) At all times shall ensure compliance with any relevant regulations regarding seatbelts and restraints.

## 9. Lost Property

- (a) The driver must immediately, after the termination of any hiring of a licensed vehicle or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left there.
- (b) If any property accidentally left in the vehicle by any person who may have hired the vehicle is found by, or handed to the driver, the driver must hand the property into a police station and obtain a receipt for it.

## 10. Smoking

It is an offence for the driver of a licensed vehicle to smoke, or permit anyone else to smoke in the vehicle. This is at any time. Once licensed, the vehicle is always licensed. This included holidays, days off etc. In other words, from the moment the vehicle becomes licensed, no one, driver or passenger, **must ever smoke in the vehicle**. This includes the use of e-cigarettes.

## 11. Written Receipts

The driver must, if requested by the hirer of a licensed vehicle, provide him with a written receipt for the fare paid.

#### **12. Prompt Attendance**

The driver of a licensed vehicle must, if he is aware that the vehicle has been hired to be in attendance at an appointed time and place, or he has otherwise been instructed by the operator or proprietor of the vehicle to be in attendance at an appointed time and place, punctually attend at that appointed time and place, unless unavoidably delayed or prevented by sufficient cause.

#### **13. Use of meter**

The driver of a Hackney Carriage shall –

- (a) When standing or plying for hire, keep the key, flag or other device locked in the position in which no fare is recorded on the face of the taxi meter;
- (b) Before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taxi meter into action by moving the said key, flag or other device so that the word "HIRED" is legible on the face of the taxi meter and
- (c) Keep the machinery of the taxi meter in action until the termination of the hiring; and
- (d) Ensure that the dial of the taxi meter is kept properly illuminated throughout any part of a hiring which is between half-an-hour after sunset and half-an-hour before sunrise, and also at any other time at the request of the hirer. The driver must not tamper with or permit any person to tamper with any taxi meter fitted in the vehicle.

#### **14. Fare to be demanded**

- (a) The driver must not demand from any hirer of a Private Hire vehicle, 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 taxi meter and there has been no previous agreement as to the fare, the fare shown on the face of the taxi meter.
- (b) The driver must not demand from any hirer of a Hackney Carriage vehicle any fare in excess of that shown on the meter, plus any legitimate extra. (The meter must be set in accordance with the table of fares set by the Council.)
- (c) The driver must be able to demonstrate the legitimate charging of a soiling charge.

#### **15. Change of Address**

The driver must notify Regulatory (Licensing) Services at Riverside House, Milverton Hill, Leamington Spa, in writing, of any change of his address during the period of the licence, within seven days of such change taking place.

#### **16. Accidents and Convictions**

The proprietor shall, within seven days, disclose to the Council in writing details of any accidents, convictions, caution or restraining order imposed on him (or, if the proprietor is a company or partnership, on any of the directors or partners) during the period of the licence.



### **17. Plate Number and Details**

The driver of a licensed vehicle must ensure that the details on any plate provided by the Council is visible, legible from the outside of the vehicle to the general public and are displayed in accordance with the Vehicle Licence Conditions.

### **18. Passenger Information**

- (a) The driver of a Hackney Carriage must ensure that the fare card and fare guide is exhibited in the vehicle at all times
- (b) The driver must ensure that the passenger information stickers are displayed at all times.

### **19. Return of Badge**

The driver must upon the expiry (without immediate renewal), revocation or suspension of this licence, immediately return to the Council, the driver's badge issued to him by the Council when granting this licence.

### **20. Animals, Guide and Assistance Dogs**

- (a) The driver shall not convey, in any licensed vehicle, any animal belonging to or in the custody of himself or the proprietor or operator of that vehicle.
- (b) Ensure that any animal, belonging to or in custody of any passenger, is adequately restrained and kept in such position so as not to distract the driver, or otherwise be a cause of danger or nuisance.
- (c) Guide Dogs shall be carried free of charge and allowed to remain with the passenger.  
Note: Refusal to carry a guide, hearing or assistance dog is prohibited unless a valid medical exemption certificate has been provided for assessment by Regulatory (Licensing) Team.

### **21. Notifications, Licence Conditions & Renewals**

- (a) The driver shall at all times, when driving carry, with him a copy of these conditions and make them available for inspection by hirer, any other passenger, Police, Licensing Officer or other agent of the Council upon request.
- (b) The driver shall, prior to the date of licence expiry, make an application to the authority for renewal in good time. If any application is not received by the authority by the renewal date, then the licence will lapse.
- (c) The driver will disclose within 7 days, or as soon as practicable, in writing any medical condition which would adversely affect his/her ability to drive.

### **22. Mobile Phones, Radios, MP3/Ipods etc.**

- (a) Driver must not make use of a personal radio, MP3 player/ipod, DVD player etc. whilst carrying passengers without the permission of the hirer. The relay of video images is only permitted in the rear of the vehicle.
- (b) Drivers will not use mobile phones whilst driving. The use of a mobile phone is restricted to hands free with the permission of the passenger and for business purposes only. The use of radio equipment between vehicle and base is not permitted whilst passengers are on board without their permission, save for confirmation and in an emergency.

## **Appendix E:**

### **LAW AND GOOD PRACTICE GUIDE FOR DRIVERS**

#### **All drivers:**

- Read and be aware of the legislation which governs Hackney Carriage and Private Hire Licensing, Warwick District Council Policies, Approach and Procedures
- Wear and have your driver's identification badge in a position where it is plainly visible, at all times, when working as a Hackney Carriage Private Hire Driver
- Do not leave your driver's identification badge in a location where it could be used by other people. i.e. in the vehicle
- Be considerate to residents near where you are working, especially at night and keep noise levels down
- Behave politely and properly towards your passengers, the public and other road users
- Follow the rules of the road and adhere to the Highway Code
- You should not use your horn to let passenger know that you have arrived. Telephone the customer, knock on the door or ring the bell
- You should speak and understand English sufficiently to communicate with your passengers, the public and Licensing Officers
- You must not hold a passenger against their will. i.e. lock doors in order to obtain payment or to take them to a Police Station
- You should understand the law and conditions applicable to the licences that you hold
- You are responsible for the safety of the vehicle that you are driving; Including the tyres and lights
- You are responsible for ensuring that the vehicle you are driving is correctly taxed, insured and licensed by Warwick District Council
- You must not drive a Hackney Carriage or Private Hire Vehicle if you do not currently hold a Hackney Carriage Private Hire Drivers Licence with Warwick District Council, if your licence has expired or if it has not yet been granted
- Any babies or children count towards the total number of passengers that you can legally carry. The maximum number of passenger that you can legally carry is shown on the rear licence plate of the vehicle
- You must notify the licensing officers of your change of address within 7 days. Failure to notify us will result in reminders or letters being sent to the wrong address. This office takes no responsibility for information that you miss or consequences thereof as a result
- You must notify the licensing officers of a change of name or the order of use of names immediately
- It is a criminal offence to refuse to carry or charge extra for a guide/assistance dog unless you have a medical condition and you have applied for and been granted a Medical Exemption by Regulatory (Licensing) Team.
- You, or another occupant, of the vehicle must not smoke in a Hackney Carriage or Private Hire Vehicle at any time. This includes when you or the vehicle is not working in that capacity.
- It is an offence to use a hand held mobile phone or device whilst the vehicle is moving or stationary in traffic.
- It is not acceptable to use a mobile phone/ hands free mobile phone when you have a passenger on board except for emergency and business purposes with the permission of the passenger.
- You must not carry another person in the Hackney Carriage or Private Hire Vehicle without the passenger's permission
- You must tell the Regulatory (Licensing) Team of any convictions, cautions, restraining orders etc; including driving offences, as soon as possible after you have received it.
- Encourage lone passengers to sit in the rear seat of the vehicle.
- You should encourage passengers to their wear seatbelt and give the passengers time to fasten them before you drive off.
- You should report all unlicensed vehicles and drivers to Regulatory (Licensing) and provide a Voluntary Witness Statement to assist officers.

**When driving a Hackney Carriage:**

- You must not attempt to get on to the rank that is already occupied by the number of taxis shown on the rank sign.
- You can charge less than the fare chart shows
- You cannot charge more than is shown on the fare chart, even if agreed by the passenger, unless your journey ends outside the Warwick District Boundary. (Many Warwick University Halls of Residence are inside the Warwick Boundary)
- If a journey will end outside of the Warwick District Boundary you must agree a fare or method of calculating the fare (meter or meter + extra charge) with the passenger before the journey begins. To agree a fare a conversation must take place between you and the passenger. Displaying a notice in the vehicle is not an indication of agreement and therefore is not adequate.
- You cannot refuse a fare unless you have reasonable cause to do so. Refusing because the journey is short, long, inconvenient or the passenger has disabilities is not reasonable cause
- It may be considered acceptable to refuse a fare if the passenger is violent or excessively under the influence of drugs or alcohol
- Each time you pick up or drop off a wheelchair passenger, you must follow the correct procedure, always use the ramps, secure the chair and passenger using the correct equipment
- If there is a partition between the driver and the passenger you are not responsible for ensuring that passengers wear seatbelts

**When driving a Private Hire Vehicle:**

- If you take a fare that is not pre-booked by a customer with a Warwick District Licensed Private Hire Operator you will be committing a criminal offence (plying for hire) and may be prosecuted. You will also be breaking the terms of your vehicle insurance and your passengers, other road users, you or your vehicle may not be fully covered by insurance
- You may not take a booking yourself from a customer and then pass it onto an operator (by radio or telephone). If you do, then you may be acting as an unlicensed operator and illegally plying for hire, both of which are offences for which you can be prosecuted
- You must not stop on, or pickup from, a taxi rank
- You should supply to your operator, with the information that they require under the conditions of their licence, a copy of your Hackney Carriage Private Hire Drivers Licence and a copy of your identity badge
- You are responsible for ensuring that children under the age of 14 are wearing a seatbelt, unless an appropriate belt is not available

## **Appendix F:**

### **LICENCE HOLDERS CONDUCT SCHEME.**

This documents outlines the Council Policy for the issuing of points against a licence for the following licences.

- Hackney Carriage Private Hire Driver
- Hackney Carriage Vehicle
- Private Hire Vehicle
- Private Hire Operator

Hackney Carriage and Private Hire Operators, Drivers and Vehicles are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, Council's Byelaws and the Rules, Regulations and Conditions set by the Licensing and Regulatory Committee.

Should Operators, Drivers or Proprietors of Vehicles commit an offence or breach those rules, regulations or conditions of licence, persons involved are asked to attend the offices for an interview and then, once investigations are completed, letters are sent out detailing the outcome and a permanent record kept on the persons' file. The outcome of investigations may result in no further action being taken, points being awarded under the Licence Holders Conduct Scheme, a formal warning, referral to the Licensing and Regulatory Committee and/or Prosecution.

The aim of a Licence Holders Conduct Scheme is to work in conjunction with other enforcement options. It provides a formalised stepped enforcement plan which is transparent, fair and proportionate.

The purpose of the scheme is to record misdemeanours and to act as a record of driver's behaviour and conduct, so as to ascertain whether they are a fit and proper person. It does not prejudice the Council's ability to take other actions.

The primary objective of the scheme is to improve the levels of compliance and help improve the standards, safety and protection of the travelling public.

Any points awarded remain upon a licence for twelve months. The period is on a roll forward basis, so as to allow any older points to be considered as spent and therefore excluded from the running total recorded against any individual licensee and the trigger for referral to committee.

For the avoidance of doubt, the full conduct of a licence holder over the full duration of their licence holding history will be considered by committee in their determination of the appropriate course of action.

#### **Issuing of points under the Licence Holder Conduct Scheme.**

1. Complaints from the public concerning significant breaches of conduct will be subject to investigation by Officers and may be reported to the Licensing and Regulatory Committee, for the issue of discretionary points.
2. The number of points will be issued by the Licensing Officers and in agreement with the Regulatory Manager, in accordance with the table below. The licence holder will be informed in writing.
3. Where a licensee accumulates more than 12 points in any 12 month period, the matter will be referred to the Licensing and Regulatory Committee. It will be for the Committee to decide whether the driver is a fit and proper person. The Committee may then

suspend or revoke a licence, or issue a warning to the licensee or take no further action, depending upon the circumstances. Periods of suspension of a licence by a Committee will be dependent on the nature of the breaches of the legislation/conditions and the compliance history of the individual.

4. Points will remain current for 12 months from the date the points were issued. Points issued to either the proprietor of a vehicle or a driver will be confirmed in writing, normally within 10 working days from the discovery of the contravention.
5. The system will operate without prejudice to the Council's ability to take other action that it is entitled to take, under legislation, byelaws and regulations.
6. The imposition of points against a driver, who is working on behalf of a proprietor, will not necessarily result in the imposition of points against the employer or operator.
7. The imposition of points is at the discretion of Officers of the Council and are not negotiable. Any disputes regarding the issuing of penalty points will be referred to the Licensing and Regulatory Committee who will have the discretion to award a fewer or greater number of points than displayed on the tariff, if the complaint is upheld. Drivers must appeal any points issued by Officers within 21 days.
8. The list of offences/breaches of condition are shown below.

Please note that ` ` indicates potential recipients of points for infringements. Certain infringements may result in both drivers and vehicle proprietors or operators receiving points. Points may be awarded to one or several persons depending upon the nature of the infringement, however, each case must be determined on its own merits. Certain matters are specific to Hackney Carriages, Private Hire Drivers Or Private Hire Operators.

The Maximum points applicable refers to points issued by Officers. If the matter is referred to the Licensing Sub-Committee, the Sub-Committee may impose up to 12 points.

In appropriate cases, where a criminal offence has been committed, the Council may choose to prosecute instead of awarding appoints. In all such cases, licence holders will be brought before the committee who will determine what action to take, in according with the Councils Policy on relevant convictions and cautions (Appendix C)

Offence/Breach of Condition	Maximum Points applicable	Drivers	Vehicle Owner or Operator
<b>Notification Matters</b>			
<b>Failure to notify the council of change of address in writing within 7 calendar days</b>			
<b>1<sup>st</sup> occasion</b>	3*		
<b>2<sup>nd</sup> occasion</b>	9*		
Failure to return vehicle licence plate within 7 days after due notice following expiry, revocation or suspension of such licence	4*		
Failure to attend punctually at appointed time and place without sufficient cause	4		
Failure to produce relevant documents within timescale when requested by an Authorised Officer	4*		

Offence/Breach of Condition	Maximum	Drivers	Vehicle
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	<b>Points applicable</b>		<b>Owner or Operator</b>
Failure to maintain records in a suitable form of the commencement and cessation, of work of each driver, each day	5*		
Failure to produce on request records of drivers' work activity	5*		
Failure to notify, in writing, a change in medical circumstances	6		
Providing false or misleading information on licence application form / failing to provide relevant information or the relevant fee (including dishonoured cheques)	6		
Failure to provide proof of insurance cover when requested	6		
Failure to notify the Council, in writing, of any motoring or criminal convictions within 21 days of conviction or cautions during period of current licence	6		
Failure to report, in writing, within 7 days hours, accident or damage to licensed vehicle, which would cause the vehicle to breach licence condition	6*		
Failure to submit licence renewal application prior to expiry, including documents and attendance at a vehicle inspection	6		
Failure to notify transfer of Private Hire or Hackney Carriage Vehicle Licence	6		
Failure to maintain proper records of Private Hire Vehicle	6*		
Failure to keep or produce records of Private Hire Bookings, or other documents, required to be kept or produced	6*		
Driver not holding a current appropriate Licence	P*		

<b>Offence/Breach of Condition</b>	<b>Maximum Points applicable</b>	<b>Drivers</b>	<b>Vehicle Owner or Operator</b>
<b>Behaviour Matters</b>			
Drinking or eating without the express permission of the hirer	3		
Playing of music, radio or other sound producing equipment, without the express permission of the hirer	3		
Causing excessive noise from the playing of music, radio or other sound producing equipment, which annoys anyone inside or outside of the vehicle	3		
Unsatisfactory appearance of driver or not conforming to dress code	3		
Failure to give assistance with the reasonable loading/unloading luggage	3		
Evidence of smoking in the vehicle (includes electronic cigarettes) /operators premises or			

allowing smoking			
1 <sup>st</sup> occasion	3		
2 <sup>nd</sup> occasion	9		
3 <sup>rd</sup> occasion	12 P*		
Refusal to accept hiring without reasonable cause	4*		
Failure to issue receipt on request	4		
Failure to wear driver's badge	4*		
Failure to observe rank discipline	4*		
Failing to comply with statutory road signs, speeding or illegal parking	4		
Parking or stopping on a double yellow area, bus stop or private land (without the owner's permission) unless requested by a paying customer	4		
Illegal ranking	6		
Unreasonable prolongation of journeys, or any misconduct regarding the charging of fares	6*		

<b>Offence/Breach of Condition</b>	<b>Maximum Points applicable</b>	<b>Drivers</b>	<b>Vehicle Owner or Operator</b>
Failing to deal with lost property in the appropriate manner			
1 <sup>st</sup> occasion	6		
2 <sup>nd</sup> occasion	12		
Unsatisfactory behaviour or conduct of driver / failure to behave in a civil and orderly manner			
1 <sup>st</sup> Occasion	8*		
2 <sup>nd</sup> Occasion	12*		
Obstruction of an Authorised Officer or Police Officer wishing to examine a licensed vehicle.	9*		
Driving whilst using a mobile phone.	9		
Plying for hire by Private Hire Drivers (touting/specking)			
1st occasion	9*		
2nd occasion	P*		
Carrying an offensive weapon in the vehicle	12		
Failure to carry an Assistance Dog without requisite medical exemption certificate	12		
Driver not holding a current DVLA Licence	12 P*		
<b>Vehicle Matters</b>			
Failure to carry an appropriate first aid kit	3		
Failure to carry a fire extinguisher	3		
Displaying unsuitable or inappropriate sited signs or unauthorised advertisements in or on the vehicle	3		
Misleading use of the words 'Taxi' or 'Cab' on advertising materials	3		
Failure to display a correct fare card and tariff guide	3		
Failure to carry legal spare wheel and tools (where appropriate for vehicle)	4		
Unsatisfactory condition of vehicle, interior	4		

or exterior			
Failure to use authorised roof light	4		

<b>Offence/Breach of Condition</b>	<b>Maximum Points applicable</b>	<b>Drivers</b>	<b>Vehicle Owner or Operator</b>
Failure to produce Hackney Carriage or Private Hire Vehicle for testing when required	4*		
Failure to display passenger information signs as required	4		
A licensed vehicle with a bald tyre	4 (per tyre)		
Driving a licensed vehicle with missing/broken/out lights	4		
Overloading/Carrying more passengers than stated on the vehicle licence	6*		
Failing to correct secure a wheelchair using passenger	6		
Using a non-approved or non-calibrated taxi meter (HC)	6*		
Failure to display external/internal licence plate or signs as required	6*		
Displaying any feature on Private Hire Vehicle that may suggest that it is a Taxi (Private Hire)	6		
Using a vehicle, the appearance of which suggests that it is a Taxi	6		
Driving a vehicle which is not properly maintained. 1 <sup>st</sup> occasion 2 <sup>nd</sup> occasion	6 12		
Driving without insurance cover	12		
Using a vehicle subject to a suspension order issued by an Authorised Officer or a Police Officer	12		
Using unlicensed vehicle or vehicle without insurance	12 P*		
Using a vehicle for which the licence has been suspended or revoked	12 P*		
<b>Other Matters</b>			
Failure to comply with any other condition.	3		
Appeal of points by way of Licensing Sub-Committee	12		

'P' - Consideration given to formal action i.e. Prosecution.

'\*' - Direct contraventions of the Town Police Clauses Act 1847 or Local Government (Miscellaneous Provisions) Act 1976 or other statutory legislation and may result in formal action in addition to any points incurred



### **Action levels**

9. On the accumulation of 12 or more points in a 12 month rolling period a driver will be sent before the committee to answer questions regarding their licence holding conduct.
10. On the accumulation of 12 or more points in a 12 month rolling period a proprietor/owner will be sent before the committee to answer questions regarding their licence holding conduct. It will be recommended to the committee that the licence in question is suspended.
11. On the accumulation of 24 or more points in a 12 month rolling period a Private Hire operator will be sent before the committee to answer questions regarding their licence holding conduct. It will be recommended to the committee that the licence in question is suspended.
12. Officers will advise any licence holder to which this scheme is applicable in writing when they reach or exceed 50% of their action level points.

### **Committee Process**

13. All appropriate action against a licence will be determined by the Licensing and Regulatory Committee.
14. The licence holder will be informed of the accrued total of points and the specific infringements identified.
15. Should the committee determine that suspension is appropriate, six points will become spent at the conclusion of any period of suspension of a driver or proprietor for the purposes of automatic referral to committee. Twelve points at the conclusion of a suspension period of an operator.
16. Should a licence holder not be satisfied with the decision of the Licensing and Regulatory Committee they may appeal to the magistrates court against a suspension or revocation and must do so with 21 days of the date of notification of the suspension or revocation.
17. Where an appeal has been made, the implementation of any suspension or revocation will be held until its determination.

### **Record availability.**

18. A driver, proprietor or operator may see their Licence Holder Conduct Points Scheme Record at any time.
19. A proprietor or Private Hire operator may view their employed drivers record subject to a written request stating their reasons for doing so. Such request will only be granted subject to the agreement of the regulatory manager.

## **Appendix G:** **PROVIDING THE BEST CUSTOMER EXPERIENCE FOR ELDERLY PASSENGERS** **OR THOSE WITH DISABILITIES.**

Taxis are an important, and sometimes the only, means of transportation for many people with disabilities. It may be that you drive or operate a vehicle designed to make travelling easier for disabled people but an accessible vehicle is only part of the answer.

Your attitude and understanding of the problems that may be faced by people with disabilities, is very important.

Disability comes in many forms – not always visible. Never make assumptions, always ask what help, if any, a passenger may need from you.

### **Make sure that you are familiar with any access and safety equipment in your vehicle.**

The following is some basic advice to assist you in giving the best service to your passenger.

#### **General Advice:**

- Be ready to help but do not insist on helping. If you are asked to help, listen carefully to the information given, or ask what is the best way to assist. Listen to the passenger response and only act as advised
- Leave the passenger in a safe, convenient place which enables them to move away independently and in the direction they want to go
- Avoid sudden braking or acceleration

#### **Wheelchair Users**

If you drive a saloon car, you may still be able to take a wheelchair user provided that the passenger is able and willing to transfer to a seat.

Take care when loading the wheelchair into the boot. Wheelchairs can be expensive to repair or replace and without it the passenger may be totally immobile. Some wheelchairs are collapsible and some parts, such as handles and plates may come away easily, so care needs to be taken when folding or loading collapsible wheelchairs.

- Take advice on how to correctly collapse and reassemble the wheelchair from the passenger
- Always ask the customer to make sure that the brakes of the wheelchair are on
- Secure the wheelchair and suggest that the passenger use the seatbelt provided

#### **Ambulant Disabled People**

Whilst some ambulant disabled customers may use crutches or sticks, many people who have mobility difficulties will not. For example, people, with arthritis in particular, may be unable to walk using a stick or crutches due to painful upper limbs. If the passenger appears to have walking difficulties, or is frail or elderly, always: -

- Offer to fit the additional step, if there is one – this reduces the first step and makes it easier to get into vehicles. If in an MPV, ask whether pulling up as close as possible to the kerb would be helpful. For saloon cars, this may not be useful because it increases the height the passenger has to drop down to the seat and may make it more difficult for them to get out of the seat at the end of the journey.

## **Visually Impaired Passengers**

If a passenger is blind or partially sighted, ask what assistance they require and always: -

- Look out for the "TAXI" sign which may be held out by some visually impaired people in order to hail a cab
- If your customer would like to be accompanied to or from the entrance of a building, offer them your arm (gripping just above the elbow will enable them to be guided more easily)
- Tell your passenger whether they are entering a saloon car or purpose-built cab
- Demonstrate which way the doors open where appropriate
- If possible, place a visually impaired person's hand on the open door and indicate the position of the roof
- Make sure the passengers know which way the vehicle is facing
- Make sure the passengers are seated and have secured the seatbelt (where applicable) before you move off. They may require assistance with the belt
- Tell passenger(s) if you are taking a different route from that which they might expect, or if there is a hold-up or diversion
- Tell passenger(s) the fare and count out the change
- Remember guide dogs are trained to remain on the floor of a vehicle and will not abuse your vehicle. Refusal to carry a guide dog without a medical exemption is an offence under the Disability Discrimination Act and is in contravention of the conditions of your licence. In saloon cars, there is more room for the dog on the floor in the front of the vehicle

## **Hearing Impaired Passengers**

If a passenger's hearing is impaired, always: -

- Look at them when you are speaking. Speak clearly – but do not shout and do not use your hands to gesticulate in front of your face
- Have a pad of paper and pen handy, as it is sometimes easier to communicate in writing
- Make sure that they are aware that you have understood their instructions and that you know where you are going

## **Appendix H: Vehicles currently approved as wheelchair accessible**

This is not an exhaustive list.

London type cab  
Metro Cab  
Mercedes Vito  
Mercedes Eurocab  
Fiat Eurocab  
Peugeot Euro Taxi  
Peugeot E& Citroen Le Can Noir HDI - (Provided that the strapping system allows the wheelchair to face forward)  
Fiat Freedom  
Mercedes Unique Cab  
Peugeot Expert Eurobus  
Citroen Sentinel  
Nissan Voyager  
VW City 7 tdi  
Ford Torneo

## **Appendix I:**

### **HACKNEY CARRIAGE VEHICLE LICENCE** **CONDITIONS OF LICENCE**

#### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976; and TOWN POLICE CLAUSES ACT 1847 and 1899**

##### **1. Maintenance of Vehicle**

- a) The proprietor must keep the licensed Hackney Carriage in an efficient, safe, fit, roadworthy, tidy and clean condition at all times.
- b) A regular maintenance regime must be carried out at a reputable garage or at their own workshops provide it is suitable; and records and receipts kept for inspection by an authorised officer. In order to be suitable, the garage must have ability to inspect the car from below and necessary equipment for essential maintenance and repairs.

##### **2. Alteration of the Vehicle**

No material alteration or change in the specification, design, condition or appearance of the vehicle may be made, without the approval of the Council, at any time, while the vehicle is licensed.

##### **3. Signs and Notices**

The vehicle **must** display a **fixed** roof sign with the word **TAXI, which must be illuminated only when plying for hire.**

The roof sign may only be removed with the permission of the Council

##### **4. Meters**

- a. The proprietor of the vehicle must ensure that the vehicle is fitted with a taxi meter so constructed, attached and maintained as to comply with the following requirements:
  - i. The taxi meter must be fitted with a key, flag or other device, the operation of which brings the machinery into action and causes the word HIRED to appear on the face of the taxi meter.
  - ii. Such a key, flag or other device must be capable of being locked into position, so that when the taxi meter is not in action no fare is recorded on the face of the taxi meter.
  - iii. When the taxi meter is in operation, there must be recorded on the face of the taxi meter in clear 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 time as well as distance, in pursuance of the tariff fixed by the Council.
  - iv. The word 'fare' must be printed on the fare of the taxi meter in plain letters, so as to clearly apply to the fare recorded thereon.
  - v. The taxi meter must be placed so that all letters and figures on the face of 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.
  - vi. The taxi meter and all of the fittings thereof must be so affixed to the carriage, with seals or other appliances, that it must not be practical for any person to tamper with them, except by breaking, damaging or permanently displaying the seals or other appliances.
- b. The proprietor must not tamper with or permit any person to tamper with any taxi meter, with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
- c. All meters must be programmed where technologically possible to change tariff, by time and date and not be manual operation.

## **5. Fare Card and Fare Distance Guide**

The proprietor of the vehicle must exhibit inside the carriage at all times, a current statement of fares, in clearly distinguishable letters and figures, and the fare distance guide.

## **6. Accidents and Convictions**

The proprietor shall, within seven days, disclose to the council in writing, details of any accidents or convictions imposed on him (or, if the proprietor is a company or partnership, on any of the directors or partners) during the period of the licence.

## **7. Transfers**

In the event of an application for the transfer of this licence to another vehicle, a fee as may be from time to time be approved by the Council, will be payable.

The licence is not transferable to another vehicle without the permission of the Council.

## **8. Safety equipment**

Every licensed vehicle must be fitted with a BC Dry Powder type of fire extinguishers, which must be kept full and ready for immediate use and accessible to the driver. The extinguisher must comply with BSEN3 (European Standard). It must be serviced in accordance with BS5306 on an annual basis and a record kept for inspection.

Every licensed vehicle must carry a first aid kit, in a position which is available for immediate use in case of emergency. The first aid kit must contain sufficient contents in order to provide the driver with treatment as requires by the Health and Safety at Work Etc Act 1974.

## **9. Radios**

Only one two-way radio, with a single frequency may be operational at any one time and this shall be an approved radio used exclusively for the Hackney Carriage/Private Hire trade and properly licensed, with an effective radio power (ERP) NOT exceeding 25 watts.

The operator must not allow the use of citizen band radios in licensed Private Hire vehicle.

## **10. Business Names**

Any Hackney Carriage Proprietor who, together with other proprietors, sets up a named business, must inform the Council of the name of the business and list the names of the persons involved, together with their contact telephone numbers.

Any Hackney Carriage Proprietor, who names his business by any other name than his own, must notify the Council of his intention.

## **11. Change of Address**

The proprietor of the vehicle must notify the Regulatory (Licensing) Team of any change to his address during the period of the licence, within seven days of such change taking place.

## **12. Records**

A proprietor has to keep proper records of the drivers using the vehicle and conduct suitable checks, to ensure that they are appropriately licensed. The proprietor of the vehicle will ensure that a driver using the vehicle, or ceasing to use the vehicle, is informed to the Council within 7 days.

### **13. Advertisements**

Advertisements shall not be displayed on any Hackney Carriage internally or externally (including upon a window) without written approval of the Regulatory (Licensing) Team. This includes temporary replacement vehicles.

Where approval for advertisements is granted, they must be kept displayed in the manner prescribed and maintained in a clean and tidy condition.

### **14. Passenger Information**

Passenger information stickers must be affixed to the vehicle in accordance with the display instructions. No other stickers must be affixed to the vehicle, without prior written approval of the Regulatory (Licensing) Team.

### **15. Licence Plate**

The licence plate supplied by the Council must be securely fixed to the rear of the vehicle, as near as possible to vertical but not on any rear window and must remain legible at all times.

The front screen plate must be displayed in the windscreen

(It is an offence, under section 48(6) Of the Local Government Act 1976, not to exhibit the licence plate and screen sticker).

**Information to assist proprietors and drivers of a Hackney Carriage. This information does not form part of the licence conditions unless otherwise stated.**

- You must be aware of the legislation governing Hackneys Carriages and Private Hire Licensing
- You should be familiar with the contents of this handbook and other associated documents relevant to your licence
- You should understand the laws and conditions that are relevant to your licence
- When you are unavailable for a period of time, it is important that you nominate a person to look after your vehicle in your absence. The licensing office must be informed of your nominated person
- No modifications or additions are allowed until you have been given express permission by the licensing officers
- You are responsible for your vehicle condition and its safety
- You are responsible for ensuring that the vehicle is taxed and insured correctly
- You must not drive your Hackney Carriage or Private Hire Vehicle if you do not hold a current Hackney Carriage Private Hire Drivers Licence. (e.g. if your licence has not yet been granted or your licence has expired)
- You should always keep within the law
- You must report any accident that causes damage to your vehicle within 7 days to the Regulatory (Licensing) Team, in writing
- You must notify the Regulatory (Licensing) Team of a change of address within 7 days, in writing
- a meter must be of an approved type and be fitted correctly. It must be programmed to the correct fares
- Passenger information stickers, fare distance guide and tariff guide must be displayed at all times within the vehicle
- The plate must be affixed to the rear of the vehicle using the adhesive on the rear of the plate
- The plate must not be obscured and must be in a clean condition

## **Appendix J:**

### **PRIVATE HIRE VEHICLE LICENCE** **CONDITIONS OF LICENCE**

#### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

##### **1. Maintenance of vehicle**

- a) The proprietor shall keep the licensed Private Hire Vehicle in an efficient, safe, tidy and clean condition at all times.
- b) A regular maintenance regime MUST be carried out at a reputable garage, or at their own workshops, provided it is suitable; and records and receipts kept for inspection by an authorised officer.
- c) Suitability would include a ramp and other equipment necessary for essential maintenance and repairs. Maintenance may not be carried out at the operator's base, unless it is suitable as described above.

##### **2. Alteration of Vehicle**

No material alteration or change in the specification, design, condition or appearance of the vehicle may be made, without the approval of the Council, at any time, while the vehicle is licensed.

##### **3. Signs, Notices, etc**

Under no circumstances may the vehicle be fitted with a roof sign.

##### **4. Accidents and Convictions**

The proprietor shall within seven days disclose to the Council in writing details of any accidents, convictions or cautions imposed on him (or, if the proprietor is a company or partnership, on any of the directors or partners) during the period of the licence.

##### **5. Transfers**

- a) In the event of an application for the transfer of this licence to another vehicle, a fee as may from time to time be approved by the Council shall be payable.
- b) The licence is not transferable to another vehicle without the permission of the council.

##### **6. Safety Equipment**

Every licensed vehicle must be fitted with a BC Dry Powder type of fire extinguisher, which must be kept full and ready for immediate use accessible to the driver. The extinguisher must comply with BSEN3 (European Standard). It must be serviced in accordance with BS5306 on an annual basis and a record kept for inspection.

Every licensed vehicle must carry a first aid kit in a position which is available for immediate use in case of emergency. The first aid kit must contain sufficient contents, in order to provide the driver with treatment as requires by the Health and Safety at Work Etc Act 1974.

##### **7. Radios**

Only one two-way radio with a single frequency may be operational at any one time and this shall be an approved radio used exclusively for the Hackney Carriage/Private Hire Trade and properly licensed, with an effective radio power (ERP) NOT exceeding 25 watts. The operator shall not allow the use of citizen band radios in the licensed Private Hire Vehicle.

##### **8. Change of Address**

The proprietor of the vehicle shall notify the Council, in writing, of any change of his address, during the period of the licence, within seven days of such change taking place.



## **9. Identification Plates/Screen Stickers**

- a) The licence plate supplied by the Council must be securely fixed to the rear of the vehicle, as near as possible to vertical but not on any rear window and must remain legible at all times.
- b) The front screen plate must be displayed in the windscreen

(It is an offence, under section 48(6) of the Local Government Act 1976, not to exhibit the licence plate and screen sticker).

## **10. Records**

A proprietor has to keep proper records of the drivers using the vehicle and conduct suitable checks to ensure that they are appropriately licensed. The proprietor of the vehicle will ensure that an driver using the vehicle or ceasing to use the vehicle is informed to the council, within 7 days.

## **11. Advertisements**

- a) Advertisements shall not be displayed on any Private Hire Vehicle internally or externally (including upon a window) without written approval of the Regulatory (Licensing) Team. This includes temporary replacement vehicles.
- b) Where approval for advertisements is granted, they must be kept displayed in the manner prescribed and maintained in a clean and tidy condition.

## **12. Passenger information**

Passenger information stickers must be affixed to the vehicle in accordance with the display instructions. No other stickers must be affixed to the vehicle without prior written approval of the Regulatory (Licensing) Team.

## **Information to assist proprietors and drivers of a Private Hire Vehicle. This information does not form part of the licence conditions unless otherwise stated.**

- You must be aware of the legislation governing Hackney Carriages and Private Hire Licensing
- You should be familiar with the contents of this handbook and other associated documents relevant to your licence
- You should understand the laws and conditions that are relevant to your licence
- When you are unavailable for a period of time, it is important that you nominate a person to look after your vehicle in your absence. The Regulatory (Licensing) Team must be informed of your nominated person
- No modifications or additions are allowed unless you have been given express permission by the Licensing Officers
- You are responsible for your vehicle condition and its safety
- You are responsible for ensuring that the vehicle is taxed and insured correctly
- You must not drive your Hackney Carriage or Private Hire Vehicle if you do not hold a current Hackney Carriage Private Hire Drivers Licence. (e.g. if your licence has not yet been granted or your licence has expired)
- You should always keep within the law
- You must report any accident that causes damage to your vehicle, within 7 days, in writing to the Regulatory (Licensing) Team
- You must notify the Regulatory (Licensing) Team of a change of address within 7 days in writing
- Passenger information stickers, must be displayed at all times within the vehicle
- The plate must be affixed to the rear of the vehicle using the adhesive on the rear of the plate
- The plate must not be obscured and must be in a clean condition

## **Appendix K:**

### **HORSE DRAWN HACKNEY CARRIAGE VEHICLE LICENCE** **CONDITIONS OF LICENCE**

Only vehicles meeting the following specifications will be considered for licensing.

#### **Construction or type of carriage permitted.**

A landau of traditional construction and appearance having spoked wheels and solid rubber tyres, with at least one door on each side of the carriage. A drop down hood in two sections, which meets in the middle when closed.

1. The vehicle shall be produced for examination and inspection by an Authorised Officer of the Council at such times and at such places as may be required.
2. The Council shall be notified if any alteration is proposed to any part of the vehicle, **before** such alteration is carried out.
3. The vehicle shall be fitted with a sufficient braking system.
4. The vehicle shall be kept in good order, the inside and outside clean and braking machinery efficient.
5. The floor of the vehicle shall be covered with mats of a suitable material.
6. The vehicle shall have a watertight roof and if windows are fitted, there shall be a means of opening and closing the windows.
7. The seats of the vehicle shall be properly cushioned or covered; fittings and furniture shall be kept clean and adequate for the convenience of persons travelling in the vehicle.
8. The vehicle shall at all times display the plate showing the Hackney Carriage Licence Number.
9. The number of passengers carried in the vehicle shall not exceed the number on the Hackney Carriage Licence and no passenger under ten years of age, shall be allowed to travel at the front beside the driver.
10. The licensee is to indemnify the Council from and against all claims by third parties arising from or in connection with the exercise of these rights hereby granted.
11. The Council will require the licensee to obtain Road and Public Liability Insurance Policies. The Council shall inspect and approve the policies before the licence is granted.
12. The licensee shall observe and comply with such byelaws and safety regulations recommended or imposed by law, and the bylaws and conditions from time to time in force within the District, which relate to the operating of horse-drawn vehicles.
13. The licensee shall not permit any person to mount, ride, drive, otherwise use, or treat any horse or the animal in their charge, in such a manner as to cause suffering to the animal.
14. The licensee shall not cause or permit any horse or other animal in their charge to be ill-treated in any manner.

15. The maximum hours of working for any horse shall be six (6) hours per day. The horse shall be rested after three (3) hours for at least half an hour, during which time harnesses, shackles, bridles and other such items must be removed from the horse, except for a head collar. A sufficient quantity of palatable and fresh food and water shall always be available to all animals. Food and water being contained in a proper bag or receptacle.
16. Every part of the harness of animals drawing a Hackney Carriage shall be kept in order, so that the animal is properly and securely attached to the carriage and under due control.
17. In the event of an Authorised Officer of the Council having reason to suspect that an animal being used in the operation of a Hackney Carriage is unfit to fulfil its function, that animal shall be subjected to immediate inspection by a qualified veterinary surgeon.
18. All horses engaged in pulling second class Hackney Carriage must be at least fifteen (15) hands high.
19. The licensee shall ensure that any excreta from the horses, etc., is removed from the street immediately.
20. The current Council Table of Fares shall be exhibited on the exterior of both sides of the carriage so as to be in full view of the public at all times.
21. No person shall be charged more than the fares set out in the current Council Table of Fares.
22. The licence shall be revocable, in case of the Council being reasonably satisfied that a breach of the foregoing conditions, or any Act or Bylaw relating to Hackney Carriage, has occurred.
23. Excessive use of the whip is strictly prohibited and its use shall be restricted to controlling the horse.
24. No horse less than three years of age; mare in foal or within three months of foaling shall be used to pull a landau.
25. A veterinary certificate, on the Council's official form, indicating the suitability of any horse to be used to pull a landau, must be supplied prior to initial licensing and a new certificate will be required for each subsequent licence renewal.
26. A veterinary certificate relating to the horse in use shall be carried on the carriage at all times and shall be produced to a Police Officer or other Authorised Officer on demand.
27. All horses used to pull landaus must be ear tagged and have a horse passport.
28. A Hackney Carriage shall not be used unless a dung catcher is fitted, which has the effect of preventing at least 50% of the horse dung from being deposited on the highway.
29. The person in charge of a horse drawn Hackney Carriage shall be exempted from the conditions that relate to mechanically propelled vehicles.
30. The driver shall undertake a road driving assessment with the vehicle.

31. All legislation, codes and byelaws apply equally to horse drawn Hackney Carriage Drivers, as it does to drivers of mechanically propelled vehicles.
32. All other conditions relating to Hackney Carriage and Private Hire Drivers and Hackney Carriage Vehicles apply, except where they relate to mechanically propelled vehicles. In which case the spirit of the condition applies.

## **Appendix L:**

### **PLATES AND PASSENGER INFORMATION DISPLAY**

#### **Hackney Carriage**

Signage, identifying the vehicle as a licensed Hackney Carriage and issued by Warwick District Council, shall be adhered directly to the vehicle to which they relate, as follows:

- One licence plate affixed to the rear of the vehicle and in location approved by the manufacture, if applicable.
- A front plate located in the front bottom left corner of the windscreen.
- A tariff guide located in view of the passengers.
- A fare distance guide located in view of the passengers and near to the tariff guide.
- Two passenger information stickers located one on the windows either side of the vehicle, in the passenger area.
- If the information on the signage is inaccurate or not clearly readable the vehicle must not be used for hire until replacements have been issued by the Council and adhered to the vehicle.
- The signage must not be obscured, altered or obliterated other than by Officers of the Council.
- They must not be located in any other location without prior written approval from the Council.
- In order to meet the requirements of the Health Act 2006, 'no smoking signs' must be displayed within the vehicle. They must be visible to passengers and driver of the vehicle. Stickers are available upon request from The Regulatory (Licensing) Team.
- Large driver's licence visible to passengers all times. i.e. affixed to the dashboard of a saloon vehicle or to the portion between driver and passenger.

#### **Private Hire Vehicles**

Signage, identifying the vehicle as a licensed Private Hire Vehicle and issued by Warwick District Council, shall be adhered directly to the vehicle to which they relate, as follows:

- One licence plate affixed to the rear of the vehicle and in location approved by the manufacture if applicable.
- A front plate located in the front bottom left corner of the windscreen.
- Two passenger information stickers located one on the windows either side of the vehicle, in the passenger area.
- If the information on the signage is inaccurate or not clearly readable, the vehicle must not be used for hire until replacements have been issued by the Council and adhered to the vehicle.
- The signage must not be obscured, altered or obliterated other than by Officers of the Council.
- They must not be located in any other location without prior written approval from the Council.
- In order to meet the requirements of the Health Act 2006, 'no smoking signs' must be displayed within the vehicle. They must be visible to passengers and driver of the vehicle. Stickers are available upon request from The Regulatory (Licensing) Team.
- Large driver's licence visible to passengers all times. i.e. affixed to the dashboard of a saloon vehicle, or to the partition between driver and passenger.

## **Appendix M:**

### **PRIVATE HIRE OPERATOR LICENCE** **CONDITIONS OF LICENCE** **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

#### **1. Records**

- a) The records required to be kept by the operator under Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 must be in a manner, whether written **(bound book with consecutively numbered pages )** or on a computer, which enables them to be examined or audited.
- b) The operator must record, before the commencement of each journey, the following particulars of every booking of a Private Hire vehicle invited or accepted by him:
  - The time and date of booking
  - The time and date of pick up
  - The name and telephone number of the hirer
  - How the booking was made (i.e. telephone, personal call, etc).
  - Price quoted for booking
  - The point of pick-up
  - The destination
  - The registration and or plate number of the vehicle allocated for the booking
  - The driver's badge number of the driver allocated to the booking
  - Remarks (including full details of any sub-contract)
- c) All entries shall be made and maintained in a coherent and legible way using clear written English.
- d) Alterations to paper records shall be made with one line through the data to ensure legibility. All data shall be immediately accessible and be recorded in permanent ink.
- e) Data inputted into a computer record must not be altered in any way unless there is a clear indication of the original entry. Provisions should be in place, to immediately produce a clear paper print out of all bookings received, upon request.
- f) Journey bookings may only be accepted from the business address stipulated on the operator's licence.
- g) All types of journey records shall be held and secured at the operator's business address and shall be made immediately accessible at all reasonable times to an authorised Council Officer or Police Constable.
- h) All records kept by the operator must be preserved for a period of not less than 12 months, following the date of the last entry.

#### **2. Standards Of Service**

The operator must provide a prompt, efficient and reliable service to members of the public, at all reasonable times and for this purpose in particular:

- 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 arrive at that appointed time and place
- In the event of a delay, the hirer should be informed of the estimated impact upon the fulfilling the hiring

- Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly

### **3. Change of Address or other material change**

- a) The operator must notify the Council in writing, of any change of his address (including any address from which he operates or otherwise conducts his business as an operator) during the period of the licence, within seven days of such change taking place.
- b) Any material change to your business must be communicated to the Council in writing, prior to the change taking place. A material change may be defined as a change in any of the particulars disclosed on your current Operator's Licence Application Form.

### **4. Drivers and Vehicles Employed**

- a) The operator must also keep the following records of the particulars of all Private Hire Vehicles operated by him:
  - Owner and all drivers of vehicle
  - Name and address of driver
  - Driver's contact telephone number
  - Driver's unique call signs
  - Registration and plate number
  - Colour make and model of the vehicle
  - Name and address of proprietor
  - The date on which the vehicle became available to the operator
  - The date on which the vehicle ceased to be available
  - Licence expiry date
  - Current and continuous Certificate Of Insurance or cover note relating to vehicle (copy to be held at operating base)
  - MOT expiry date (copy to be held at operating base)
  - Road Fund expiry date
  - Inspection Date
- b) The operator must provide the Council with a list of drivers and vehicles employed or used by him. Any changes to the list must be notified to the Council immediately
- c) The operator must keep a copy of the driver's identification badge showing a true likeness, and paper part of the Hackney Carriage Private Hire Driver's Licence, in his possession, whilst employing a driver.
- d) All records kept by the operator must be preserved for a period of not less than 12 months, following the date of the last entry

### **5. Convictions**

The operator must within seven days disclose to the Council, in writing, details of any Convictions, Cautions or Restraining Orders etc imposed on him (or if the operator is a company or partnership, on any of the Directors or Partners) during the period of the licence.

### **6. Transfers**

- a) This licence may not be transferred to another named individual, partnership or company.
- b) In the event of the death or bankruptcy of a personal licence holder or the insolvency, winding up or dissolution of a company or partnership licence holder,

this licence shall immediately become null and void. Any change in a named operator may only be effected by an application for a fresh operator's licence.

**7. Call Signs**

The operator shall allocate one call sign only to each driver operated by him/her. The call sign shall be unique to the driver.

**8. Complaints Record**

- a) The operator, on receipt of a complaint, shall document in a suitably bound book or on any other approved system, the following information:
  - Name of driver(s) implicated in the complaint
  - Badge number of driver
  - Vehicle registration number
  - Facts of allegation including complaints of dissatisfaction with service delivery or any alleged breach of contract with the operator
  - Date complaint made
  - Date investigation was completed
  - Action taken
  - Contact details of complainant
- b) Prior to obtaining the above mentioned complaint details, the operator shall inform the complainant that, on the request of an authorised Council Officer, or Police Constable, all relevant information may be made available for inspection and may be used as evidence at a later date.
- c) The complaint records referred to above shall be held and secured at the operator's business address and shall be immediately available at the request of an authorised Council Officer or Police Constable, at all reasonable times.

**9. Managers**

- a) Operators shall be required to inform the Council, in writing, of the name, home address and contact telephone number of a manager prior to him or her commencing duties or as soon as is practicable thereafter. This person shall be available to be contacted at all reasonable times.
- b) A manager shall be over the age of 18 years and be fully conversant with the conditions attached to an Operator's Licence, Private Hire Vehicle and Hackney Carriage Private Hire Driver's Licence.

**10. Premises**

- a) Public waiting areas and booking rooms shall be clean, adequately heated, lit and ventilated during the hours of business and at all times shall comply with relevant health and safety requirements.
- b) The operator shall ensure, where a waiting area is provided for the use of prospective passengers, that adequate seating is available.
- c) The operator shall only operate from that business address disclosed on his or her current Operator's Licence Application Form.
- d) The operator shall act within the terms of any deemed or express planning permission relating to the address he or she operates from.
- e) Appropriate Public Liability Insurance is required for premises which are open to the public.



### 11. **Lost Property**

The operator shall make every effort to return lost property, which is found at either the operating premises or in any vehicle used to carry out a booking accepted by him/her; or hand lost property to the nearest Police Station as, soon as is practicable thereafter.

### 12. **Appropriate Training of Staff on their Duties & Responsibilities**

All staff working for operators taking Private Hire Bookings must undertake training in order to understand:

- Their duties and responsibilities
- The legislation relevant to both Private Hire Operators and Vehicles
- The legislation relevant to Hackney Carriage Private Hire Drivers
- The guidance, policies and procedures associated with holding licences associated with the trade in Warwick District.
- Have awareness of assisting passengers with disabilities

The Private Hire operator and call handling staff must be trained in the prevention of the prevention of child sexual exploitation.

### **Information to assist Private Hire operators. This information does not form part of the licence conditions, unless otherwise stated.**

- You must be aware of the legislation governing Hackney Carriages and Private Hire Licensing.
- You should be familiar with the contents of this handbook and other associated documents relevant to your licence.
- You should understand the laws and conditions that are relevant to your licence.
- When you are unavailable for a period of time it is important that you nominate a person to look after your business in your absence. The Regulatory (Licensing) Team must be informed of your nominated person.
- You are responsible for ensuring that you use licensed vehicles and drivers
- You should always keep within the law.
- You must notify the Regulatory (Licensing) Team of a change of address in writing within 7 days.
- A meter must be of an approved type and be fitted correctly. It must be calibrated and tested. A copy of the certificate must be kept in the vehicle at all times.

## **GLOSSARY**

Appeal	A means by which a Committee hearing decision can be reviewed by the Magistrates Court or the Crown Court. The decision of the Committee 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 park on a taxi rank to await the approach of passengers; a car available for public hire.
Private Hire Vehicles	A car 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 person in possession of a vehicle which is the subject of a hiring agreement or hire purchase agreement.
Revoke	To take back something.
Suspend	To hold something away from its owner for a period of time.



# **Sexual Entertainment Establishment Licensing Policy**

**2 June 2016**

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## 1. Background

Warwick District Council ("the Council") has an agreed vision for Warwick District. This is encapsulated by the following statement:

***Warwick District, a great place to live work and visit, where we aspire to build sustainable, safe, stronger and healthier communities".***

The Council believes that the control of sex establishments via licensing supports and contributes to this vision and helps to create and maintain safe strong and healthy communities for people to live and work in.

The Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the Act") in July 1982. This enabled the Council to regulate premises classed as sex shops and sex cinemas. In September 2010 the Council re-adopted Schedule 3 of the Act following amendments made by section 27 of the Policing and Crime Act 2009. This amendment to the Act made provision for the licensing of sexual entertainment venues (for example venues which provide pole dancing, lap dancing and strip clubs or similar). The Council can prescribe terms, conditions or restrictions on licences and to charge a fee for the licence application. Sex shops, sex cinemas and sexual entertainment venues are collectively known as sex establishments.

The Act also enables the Council to refuse a licence where it considers that the number of sex establishments or sex establishments of a particular kind is equal to or exceeds the number that the Council considers is appropriate for that locality. In March 2014 the Council carried out a public consultation in relation to the number of sexual entertainment venues that the public believed were appropriate in various localities within Warwick District. The consultation focused on the town centre areas of Royal Leamington Spa, Warwick, Kenilworth and Whitnash as these are areas most associated with the night time economy and believed most likely to attract applications for sexual entertainment venue licences. A majority of respondents stated that they believed that a nil limit would be appropriate for these areas of the District.

A public consultation has taken place prior to the adoption of this policy.

## **2. Statement of General Principles**

- 2.1 Any person who wishes to use any premises, vehicle, vessel or stall as a sex establishment within Warwick District must obtain a licence from the Council. In addition any person who wishes to renew, vary, or transfer an existing sex establishment licence must apply to the Council.
- 2.2 This Statement of Licensing Policy ("the Policy") aims to provide clear guidance for applicants, existing license holders, those who want to object to an application and Members of the Licensing and Regulatory Committee when making a determination. This Policy replaces all previous sex establishment policies issued by the Council and it is intended that it will apply to all applications for sex establishments received after the date on which it is approved by the Council. The Policy will be reviewed every three years.
- 2.3 The Council does not take a moral stance in adopting this policy and recognises that Parliament has made it lawful to operate sex establishments and that such businesses are a legitimate part of the retail and leisure industries. It is the Council's role as Licensing Authority to regulate such premises in accordance with the law.
- 2.4 In adopting this policy the Council has had regard to the Regulators Code. The Code stresses the need for regulation and its enforcement to be proportionate and flexible. The Policy aims to help and encourage regulated sex establishments to understand and meet the regulatory requirements.
- 2.5 Policy making and licensing decisions under the Act are made by the Council with regard to the relevant provisions of the following legislation:
- **The Crime and Disorder Act 1998:** The Council must use its powers as a licensing authority to do all that it can to reasonably prevent crime and disorder, anti-social behaviour and the misuse of drugs and other substances.
  - **Provision of Services Regulations 2009:** The refusal of a licence or the imposition of any condition on a licence must be non-discriminatory, necessary and proportionate. The Council will apply these three tests when refusing a licence or imposing conditions.
  - **Equality Act 2010:** This policy is underpinned by an Equality Impact Assessment. When making decisions the Council will consider and give due weight to the views and needs of protected groups with the aim of eliminating discrimination, harassment and victimisation and advancing equality of opportunity and fostering good relations between different people.
  - **Human Rights Act 1998:** The rights that are potentially engaged in sex establishment licensing are likely to include Article 10, the right to freedom of expression and Article 1, the protection of property. These rights, together with any other that may apply, will be considered by the decision maker.
  -
- 2.6 The Council will work in partnership with neighbouring authorities, the Police, South Warwickshire Community Safety Partnership (CWCS), Warwickshire Safeguarding Children Board (WSCB) and those involved with protecting adults from the risk of harm to promote the common objectives of safeguarding vulnerable people.

- 2.7 The Act permits the Council to set a reasonable fee for each application. Fees are reviewed annually and set at a level appropriate to recover the costs of carrying out the licensing functions under the Act. In setting fees the Council has regard to legislation, any relevant guidance and case law.
- 2.8 The grant of an application under the Act does not constitute approval under any other acts (for example Town and Country Planning Act 1990). The applicant must ensure that all the necessary consents and approvals are obtained prior to operation.
- 2.9 Each application will be dealt with on its own merits. The Council will not apply rigid rules to its decision making although regard will be had to this document together with Home Office guidance and to the relevant legislation and case law in reaching any decision.
- 2.10 The Council will give full and clear reasons for its decisions.

### **3. Types of Sex Establishments**

- 3.1 Sex Establishments can be a premises, vehicle, vessel or a stall. A private dwelling to which there is no public admission would not be classed as a Sex Establishment.
- 3.2 There are three types of Sex Establishment defined in the Act. These are a Sexual Entertainment Venue, a Sex Shop and a Sex Cinema.

#### **Sexual Entertainment Venues**

- 3.3 Sexual Entertainment Venues are defined as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”.
- 3.4 “Relevant entertainment” is defined as “any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)”. An audience can consist of just one person.
- 3.5 The Council considers that the following forms of entertainment will generally be deemed to fall within the definition of relevant entertainment:
- Lap dancing
  - Pole dancing
  - Table dancing
  - Strip Shows
  - Peep Shows
  - Live sex shows
  - Burlesque shows
  - Exhibition of sexual activity
  - Other types of sexual recreational venues or activities

The above list is not exhaustive and decisions as to whether entertainment or an activity would fall within the definition of relevant entertainment will be made by the Council on a case by case basis and shall depend upon the nature and content of the entertainment and not the name it is given.

- 3.6 Premises which provide relevant entertainment on no more than 11 occasions in any 12 month period, with each occasion lasting no more than 24 hours and separated from another occasion by at least a month are exempt from the need to be licensed as sex establishments.

### **Sex Shops**

- 3.7 Sex shop means any premises, vehicle, vessel, or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint associated therewith. Sex articles are defined at paragraph 4 Schedule 3 of the Act.
- 3.8 The term “significant degree” is not defined in legislation. When deciding whether a business is selling or otherwise dealing in a significant degree of sex articles and requires a licence the Council will consider:
- The ratio of sex articles and associated items to other aspects of the business.
  - The character of the remainder of the business
  - The nature of the displays in the business
  - Turnover generated by sales of sex articles and associated items
  - The nature of literature, publicity or advertising materials
  - Any other factor which appear to be materially relevant.
- 3.9 A licence is not required for the sale supply or demonstration of articles which are manufactured for use primarily for the purposes of birth control or primarily relate to birth control.

### **Sex Cinemas**

- 3.10 Sex cinema means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures by whatever means produced which are concerned with the portrayal of, primarily deal with or relate to or are intended to stimulate or encourage sexual activity, acts of force or restraint associated with sexual activity or relate to genital organs or urinary or excretory functions.

## **4. Applying for a Sex Establishment Licence**

### **Applications for grant, renewal or transfer**

- 4.1 Applications for the grant, renewal or transfer of a sex establishment licences must be made on the prescribed forms available on the Council’s website and submitted to the Council at [www.warwickdc.gov.uk/licensing](http://www.warwickdc.gov.uk/licensing).
- 4.2 A template notice for public advertisement is attached as **Appendix B** or can be obtained via the Council’s website.
- 4.3 Applications must be accompanied by the appropriate fee which can be found on the Council’s website. The fee must be paid in full at the time of the application and the application fee is non-refundable.
- 4.4 In accordance with the legislation, a licence can be granted for a maximum period of 1 year, although the Council may grant a licence for a shorter period where it thinks fit. It may, for example, be appropriate to grant a licence for a shorter period of time where the applicant requires a licence for



a specific purpose, for example an exhibition or a trade show. Applicants should note that the fee will remain the same even though the duration of the licence may be reduced.

- 4.5 Provided that an application for the renewal or transfer of a licence is made prior to the date of expiry, the licence is deemed to continue until the application is withdrawn by the applicant or determined by the Council.
- 4.6 Tacit authorisation, the process by which an application is deemed to be granted if an authority fails to determine it within certain time periods does not apply to sex establishment licences. This means that the licence will not be granted, renewed, transferred or varied until the Council makes a determination.

### **Variation**

- 4.7 Sex establishment licences can be varied on application. Applicants can apply to vary the terms, conditions or restrictions on, or subject to which the licence is held. Applicants must complete the prescribed form and follow the guidance notes available on the Council's website. The Council may make such variations as it considers fit. There is no requirement to advertise a variation application so applicants are advised to contact the Council's licensing team to discuss whether a variation is appropriate or whether a new application would be more suitable.

### **Waivers**

- 4.8 The Act contains provisions where a licensing authority can waive the requirement for a sex establishment licence in circumstances where a licence would be unreasonable or inappropriate.
- 4.9 A waiver can be for a specific period that the Council thinks fit or it can be open ended. An open ended waiver can be terminated by the Council with at least 28 days' notice.
- 4.10 Whilst the Council will consider any request for a licence waiver individually and on its own merits it considers that waivers are only likely to be appropriate in exceptional cases. Examples may include cases where the requirement for a licence under the Act is borderline or the activities are a minor or ancillary part of the business and are not carried out for profit.
- 4.11 To apply for a waiver applicants must contact the Council's licensing team who will advise as to the information that should be provided. The application will then be determined by the Licensing and Regulatory Committee. Where a waiver is granted the applicant will be given a waiver notice. Where a waiver is refused the applicant will be notified and invited to apply for a sex establishment licence.
- 4.12 In accordance with legislation the grant of a waiver does not need to be advertised or consulted upon.

### **Conditions**

- 4.13 The Council has prescribed standard conditions that will apply to every licence granted, varied, renewed or transferred unless they have been expressly excluded or amended. The conditions can be found at **Appendix D**.
- 4.14 Applicants who want to exclude or amend any of the standard conditions from a licence must include this request and the reasons for it within their

application. It may also be appropriate for the Council to add specific, non-standard conditions to individual licences in some circumstances.

## **5. Making Objections or Commenting on an Application**

- 5.1 The Act permits any person, to make an objection against an application for the grant, renewal, transfer or variation of a sex establishment licence. It is not necessary for the person to live or work in the vicinity of the premises. Objections can be made by a wide range of people or organisations which could include, but are not limited to, individuals, businesses, residents associations, trade associations, statutory authorities (Environmental Health or Planning) Councillors or MP's.
- 5.2 Objections must be made in writing, email or upon the template form which is available on the Council's website. Objections must be made no later than 28 days after the date of the application to the Council's Licensing Team and should include the following;
- The name and address of the person or organisation making the objection;
  - The premises to which the objection relates;
  - The grounds for making the objection.
- 5.3 The Council will notify the applicant in writing of the general terms of any objections that have been received within the 28 day period. The Council will not disclose the name and addresses to the applicant without the consent of the person(s) making the objection. Persons who are prepared to consent to the disclosure of their name and address to the applicant may wish to indicate this within their objection.
- 5.4 The Council must consider valid objections when determining an application. Objections which are judged to be frivolous or vexatious will be accorded little or no weight. Objections on purely moral grounds will also be accorded little or no weight as these fall outside of the scope of the Act.
- 5.5 The Council is entitled but not obliged to consider comments about an application that are positive or neutral in content. The Council will exercise its discretion in these circumstances but will usually take into account comments that are made in writing and received no later than 28 days after the date of the application. The weight that will be attached to a comment will depend upon the circumstances of each particular case.

## **6. Determining Applications**

- 6.1 In all cases, the Council will consider each application on its own merits for all types of applications
- 6.2 When determining applications, the Council will have regard to:
- a) the Local Government (Miscellaneous Provisions) Act 1982;
  - b) other relevant statutory considerations including those specified at paragraph 1.4 above;
  - c) this statement of Licensing Policy;
  - d) any relevant guidance or case law

- 6.3 Where the Council has received valid objections to the grant, renewal, transfer or variation of a licence the application will be determined by the Licensing and Regulatory Committee at a hearing. The hearing will be conducted in accordance with normal hearing procedures for the Committee.
- 6.4 If no valid objections are received then the application will be determined by an Officer of the Council in accordance with delegated powers.
- 6.5 In the case of an application for the renewal of a licence, the Council is not bound to make the same determination and will consider the matter afresh. The Council will, however, give due weight to the fact that a licence has previously been granted when making its decision.

## 7. Grounds of Refusal

### **Mandatory Grounds for Refusal of an Application to Grant, Renew or Transfer**

- 7.1 Applications for the grant, renewal or transfer of a sex establishment licence must not be granted where one or more of the following apply;
- a) the applicant is under the age of 18 at the date of determination;
  - b) the applicant is for the time being disqualified from holding a sex establishment licence;
  - c) the applicant is not a body corporate, and is not resident or has not been resident in an EEA state for 6 months immediately preceding the date of the application;
  - d) the applicant is a body corporate which is not incorporated in an EEA state;
  - e) the applicant has in the period of 12 months preceding the date of the application been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of the which the application is made, unless the refusal has been reversed on appeal.

### **Discretionary Grounds for Refusal of an Application to Grant Renew or Transfer**

- 7.2 Applications for the **grant or renewal** of a sex establishment licence may be refused on the following grounds:
- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reasons;
  - b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he/she made the application himself/herself;
  - c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for the locality;
  - d) the grant or renewal of the licence would be inappropriate, having regard:
    - (i) to the character of the relevant locality; or
    - (ii) to the use to which any premises in the vicinity are put; or
    - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- 7.3 The only discretionary grounds upon which the Council may refuse an application to **transfer** a sex establishment licence are those stated at 7.2 a) and b) above.

### **Suitability of an Applicant**

- 7.4 The following will be considered when determining the suitability of an applicant:
- a) When determining whether grounds of refusal at 7.2 a) apply the Council will consider such matters as it considers to be relevant including, but not limited to whether the applicant:
  - b) has no criminal conviction of a nature that deem him/her unsuitable
  - c) is honest.
  - d) is qualified by experience to run the type of sex establishment in question or will employ suitable individuals with the relevant experience.
  - e) clearly understands the conditions that may be attached to the license.
  - f) has a suitable management structure and business plan which delivers compliance with the conditions.
  - g) has demonstrated compliance with other regulatory and taxation schemes .
- 7.5 The Council will require an applicant to identify the proposed manager and beneficiary of the business in order to establish whether grounds of refusal at 7.2 b) apply. In considering the suitability of these persons the Council will apply the principles at paragraph 7.4

### **Appropriate number of Sex Establishments**

- 7.6 As set out in 7.2 c) above the Council may refuse an application if it is satisfied that the number of sex establishments or sex establishments of a particular kind in a relevant locality is equal to or exceeds the number which the authority considers is appropriate for that locality.
- 7.7 The term relevant locality is not defined in the Act. The Council will consider it to be the locality where the premises are located or the locality where a vehicle, vessel or stall is to be used as a sex establishment. The relevant locality will be decided by the Council on a case by case basis.
- 7.8 When determining applications for **sex shop** or **sex cinema** licences the Council will, once the relevant locality has been established, consider, in each case, what the appropriate number of sex establishments in that particular locality is. In determining this, the Council will have regard to the general character of that locality and any other considerations that are deemed relevant and appropriate. Where the Council decides that granting the application would result in the number of sex establishments equalling or exceeding the number that they deem to be appropriate in that particular locality they may refuse the application.
- 7.9 The Council has determined that a limit of nil is appropriate for the number of **sexual entertainment venues** within localities falling within the areas shown outlined on the maps at **Appendix C**. Both sides of any road which borders the outlined areas shown on the maps are deemed to be included within it. The Council has not set a limit in relation to sex shops and sex cinemas. This limit has been set following a consultation that focused on the town centre areas of Kenilworth, Leamington Spa, Warwick and Whitnash and in which the majority of respondents supported a nil limit. The Council does not believe that there are any localities within these areas in which it would be appropriate to licence a sexual entertainment venue.
- 7.10 The determination that a nil limit is appropriate within these areas does not prevent any person from applying for or renewing a sexual entertainment venue licence and each application will be considered on its merits.

- 7.11 There are areas of the District which are not subject to the nil limit. This does not mean that the Council considers that these areas are more suitable than the areas specified in Appendix C for the location of sexual entertainment venues. Applications for sexual entertainment venue licences in these areas will be decided on their individual merits.

### **Character of the Relevant Locality and Use of Premises in the Vicinity**

- 7.12 As set out in 7.2 d) above the Council may refuse an application if it is satisfied that granting or renewing a licence would be inappropriate having regard to the character of the relevant locality, or the use to which any other premises in the vicinity are put.
- 7.13 When considering whether an application should be refused on the grounds that it would be inappropriate having regard to the character of the relevant locality the Council will determine the relevant locality in each case and then have regard to the following together with any other factors deemed relevant in assessing the character of the locality;
- g) the number and type of residential premises, including any sheltered housing and accommodation for vulnerable people;
  - h) The number and type of educational establishments and their hours of operation;
  - i) The number and type of places of worship and hours of opening;
  - j) Access routes to and from schools, play areas, children's nurseries, children's centres or other premises catering for vulnerable people and hours of use
  - k) the presence of shopping centres and hours of use;
  - l) the presence of community facilities for example halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs relevant planning decisions and hours of use
  - m) On-going regeneration of the locality
  - n) the presence of other sex establishments
  - o) the views of residents, owners and occupiers of businesses and other organisations within the locality
  - p) The presence of licensed premises and their activities, uses and hours of operation.
- 7.14 When considering whether an application should be refused on the grounds that it would be inappropriate having regard to the use to which other premises in the vicinity are put the Council will have regard to the following factors together with any others deemed relevant;
- the proximity of premises used as educational establishments, leisure facilities, community centres, places of worship, youth clubs or women's refuges hours of use
  - the proximity of residential accommodation and other accommodation for vulnerable people
  - evidence of complaints of noise or disturbance from other premises in the vicinity that are either caused by the applicant premises or are likely to increase as a result of granting an application
  - the view of the occupiers or owners of premises in the vicinity
- 7.15 When considering the vicinity, the Council considers the vicinity to be the area immediately surrounding the premises.

## **8. Refusal of licences**

- 8.1 The Council will not refuse to grant, renew or transfer a licence without first giving the applicant the opportunity of appearing and making representations before the Council's Licensing & Regulatory Committee.
- 8.2 Where an application for grant renewal or transfer is refused the Council will give the applicant a statement in writing of the reasons for their decision.

## **9. Revocation of a licence**

- 9.1 The Council can revoke a sex establishment licence at any time on one of the mandatory refusal grounds set out at 7.1 above or on either of the discretionary refusal grounds set out at 7.2 a) and b).
- 9.2 The Council will not revoke a licence without first giving the licensee the opportunity of appearing before and being heard by the Council's Licensing and Regulatory Committee.
- 9.3 Where a licence is revoked, the Council shall give the licensee a statement in writing of the reasons for the decision within 7 days of the decision.
- 9.4 Where a licence is revoked, its holder will be disqualified from holding or obtaining a licence in the area of the Local Authority for a period of 12 months from the date of revocation.
- 9.5 When the authority revokes a licence, the decision does not take effect until the time for bringing an appeal has expired and if an appeal is brought until the determination or abandonment of that appeal.

## **10. Cancellation of a licence**

- 10.1 The Council may at the written request of the licence holder cancel the licence. No refund of the fee will be made in these circumstances.

## **11. Death of the License Holder**

- 11.1 If a licence holder dies, the licence will be deemed to have been granted to the licence holder's personal representatives and will remain in force for three months from the date of the licence holder's death, unless previously revoked, and will then expire.
- 11.2 The Council can, however, on the application of the licence holder's personal representatives, extend the three month period if the Council is satisfied that an extension is necessary for the purpose of winding up the late licence holder's estate. The Council will only do so where there are no circumstances that make such an extension undesirable.

## **12. Right of Appeal**

- 12.1 Only the applicant or licensee has the right to appeal the Council's decision to the Magistrates Court and only on limited grounds. There is no right of appeal for persons who have made representations or statutory authorities.
- 12.2 The decisions against which a right of appeal lies are refusals of grants, renewals, variations or transfers, the imposition of conditions and revocation.
- 12.3 Appeals can only be made against refusals or revocations made on the mandatory grounds on the basis that the mandatory ground does not apply to the Appellant. The only discretionary grounds of refusal that can be appealed are those set out at 7.2 a) and b) above which relate to the suitability of the applicant, the manager or the beneficiary of the operation. There is no right of appeal against refusals made on the grounds set out at 7.2 c) and d) above.

- 12.4 Appeals must be made to the Magistrates' Court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision.

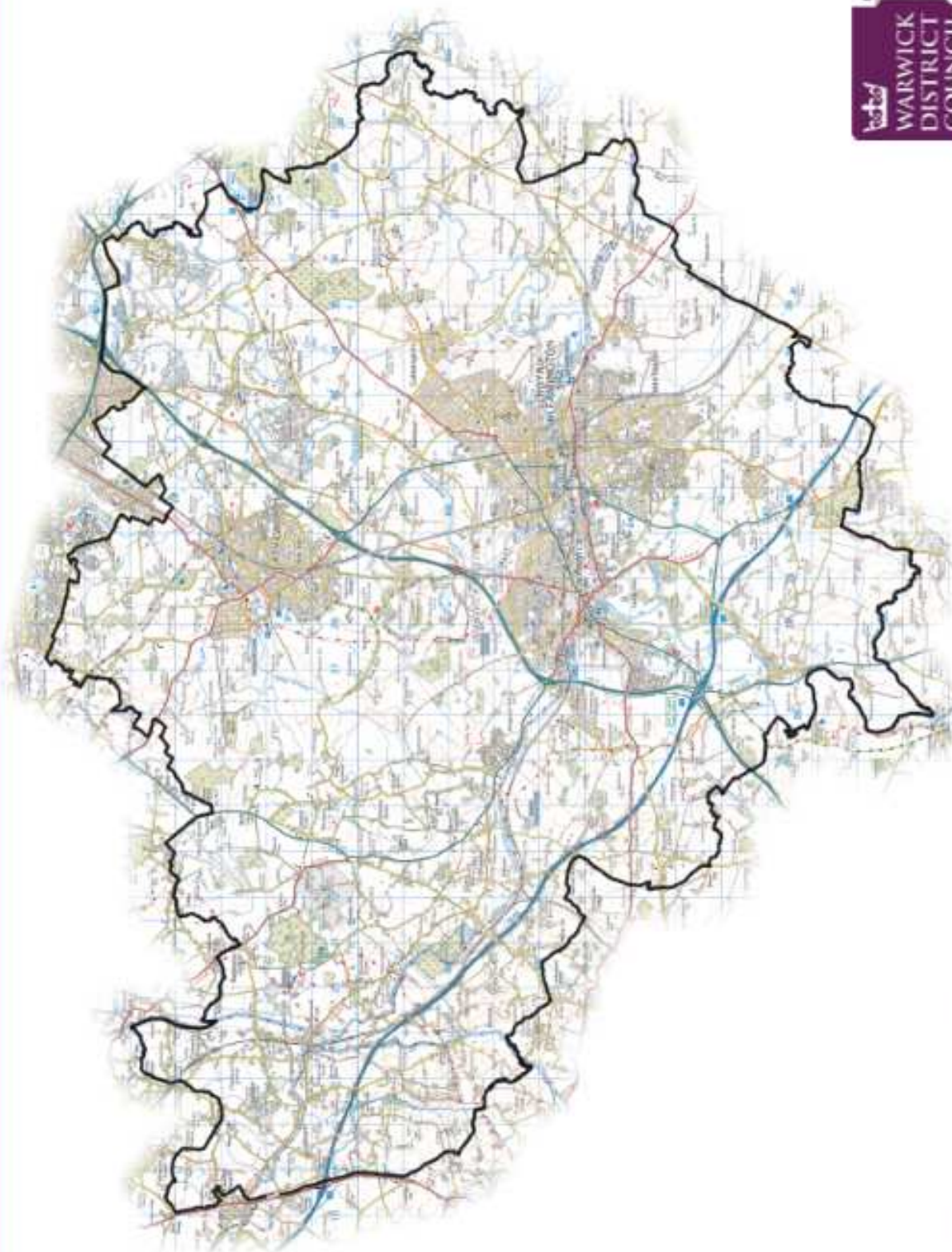
### **13. Enforcement and Compliance**

#### **13.1 Compliance inspections of a premises will be carried out on a risk assessed basis.**

- 13.2 There are a number of offences created by the Act in relation to sex establishment licensing. They can be found at paragraphs 20, 21, 22 and 23 of Schedule 3 of the Act.
- 13.3 Enforcement will be carried out in accordance with the Regulators Code and Council's Enforcement Policy.

**Appendix A: Map of Warwick District**





## Appendix B: Sample Advertisement

### **Local Government (Miscellaneous Provisions) Act 1982 Sex Establishment Licence**

#### **Public Notice**

*[Name of person applying for licence]* is applying to Warwick District Council for a *[sex cinema/sex shop/sexual entertainment venue]* licence at *[name and address of premises]*.

Any person wishing to make representations in relation to this application may do so by writing to:

Licensing Authority     **Warwick District Council**  
                                 **Riverside House**  
                                 **Milverton Hill**  
                                 **Royal Leamington Spa**  
                                 **Warwickshire CV32 5HZ**

Representations may be made for 28 consecutive days from the date of this Notice.

A copy of the application for the grant of the above licence is kept by the Licensing Authority at the above address. The application can be viewed Monday to Thursday 9.00am to 5pm, and 9.00am to 4.30pm on Fridays, except Bank Holidays.

*It is an offence knowingly or recklessly to make a false statement in connection with an application. The maximum fine for which a person is liable on summary conviction for making a false statement is a Level 5 fine on the Standard Scale.*

*[Date]* – This must show the day after the day that the application was received by the Licensing Authority.



**Appendix C: Area Locality Maps**  
**Kenilworth**





## Royal Leamington Spa

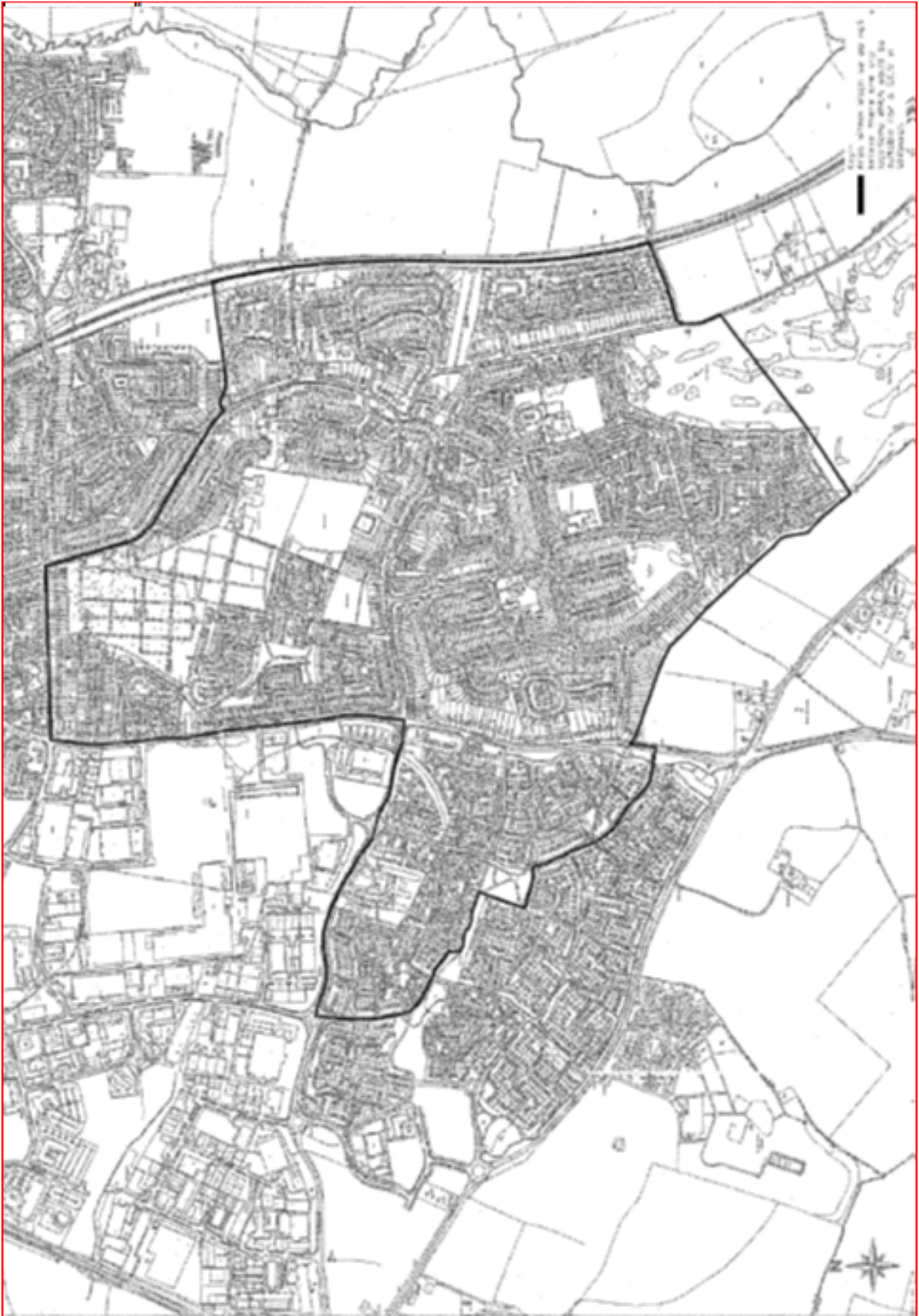


## Warwick





## Whitnash



## **Appendix D:**

### **Sex Establishment Licensing Standard Conditions**

#### **Explanatory Note**

There are three types of sex establishment that can be licensed by the Council under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. These are;

- Sexual Entertainment Venues
- Sex Cinemas
- Sex Shops

The following standard conditions shall apply to licences granted, renewed or transferred by the Council under the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

"Sex Establishments", "Sex Cinemas", "Sex Shop", "Sex Article", "Sexual Entertainment Venue", "relevant entertainment" shall have the meanings ascribed to them in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

#### **Part 1**

#### **Sex Establishment General Conditions.**

**The following Conditions apply to all Sex Establishments licensed by the Council.**

##### **1. General**

- 1.1 The Licence or a clear copy of it shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises. .
- 1.2 A copy of the conditions that apply to the Licence shall be retained at the premises in a clear and legible condition and provided to any person using the premises on request.
- 1.3 The premises shall not be open or used for the purposes for which the licence is granted except between the hours prescribed within the licence.
- 1.4 The Licence Holder shall retain control over all areas of the premises and shall not let, licence or surrender possession of any area. The Council must be immediately notified in the event that any area of the premises is affected by the termination of a lease or other event affecting the License Holder's control of the Premises.
- 1.5 The Licence Holder shall ensure that members of the public are not admitted to any part of the premises that has not been licensed, other than toilet facilities where provided for customers.
- 1.6 The premises shall be maintained in accordance with the lay out plan attached to the Licence. Amendments to the layout of the premises and/or any structural or physical alteration must be approved by the Council by way of an application for variation of this licence unless otherwise agreed in writing by the Council.

- 1.7 Where the Licence Holder is a corporate body or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within fourteen days of such change and such written details as the Council may require in respect of any new director secretary or manager are to be furnished within fourteen days of a request in writing from the council.
- 1.8 No person under the age of 18 shall be admitted to any part of the premises and the Licence Holder shall adopt the Challenge 25 policy on admissions. The only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport. There must be adequate, regular and documented training on admissions for staff and records of that training will be provided to Authorised Officers of the Council and police on request.
- 1.9 A warning notice of not less than 600 mm by 300 mm comprising white letters on a dark background, such letters to be at least 25 mm high, shall be exhibited in a prominent position on each entrance to the premises. The warning notice must contain the following words and no others:-

**WARNING**

**Persons passing beyond this notice may find material of a sexually explicit nature on display. No admittance to persons under 18 years of age.**

- (ii) The word **"WARNING"** must appear as a heading.
- (iii) No pictures or other matter shall appear on the notice.
- (iv) The notice must be situated so that no person could reasonably gain access to the premises without being aware of the notice and it must be easily legible by any person gaining such access.

- 2.1. A written record shall be kept of anyone refused admission to the premises or refused service. Details contained in this record shall show:
  - the basis for the refusal;
  - the person making the decision to refuse; and,
  - the date and time of the refusal
 This record shall be retained at the premises for at least one year from the date of refusal and shall be made available for inspection and copying by the Police and Authorised Officers of the Council immediately upon request.
- 2.2. The Licence Holder or some responsible person over 18 years of age nominated by him in writing for the purpose of managing the Sex Establishment in his absence shall be in charge of and present at the premises during the whole time they are open to the public. Such written nomination shall be continuously available for inspection by authorised officers of the Council. The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision he person in charge shall be conversant with these licence conditions.
- 2.3 The Licence Holder shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses



of those employed or self-employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.

- 2.4 Persons working at the premises must be aged over 18 and the Licence Holder must undertake adequate identity checks to ensure that they 18 years or over and have the right to work in the UK. Copies of all documents used to verify identities together with name address, photograph, National Insurance Number and date of birth must be securely retained for inspection by the Police or authorised officers of the Council on request.
- 2.5 A bound and sequentially paginated incident and accident book shall be kept to record all instances of crime, disorder, damage to property and personal injury at the premises. This book shall be made available for inspection and copying by the Police and authorised officers of the Council immediately upon request and all such books shall be retained at the premises for at least 1 year from the date of the last entry.
- 2.6 The Licence Holder shall as soon as reasonably practicable provide copies of any documents reasonably required by an authorised officer of the Council to prove compliance with this Licence.
- 2.7 The Licence Holder shall ensure that no part of the premises is used for the purposes of soliciting for prostitution.
- 2.8 The License Holder shall maintain good order on the premises and ensure that the Police are notified where criminal behaviour is suspected to have taken place. In particular the Licence Holder shall ensure that the Police are notified immediately of the unlawful possession or supply of illegal drugs or acts of violence taking place on the premises.
- 2.9 The Licence Holder shall inform the Council in writing within 14 days if he , a person responsible for managing the premises is arrested, convicted or cautioned for any offence.
- 2.10 The Licence Holder shall inform the Council in writing if a person working at the premises is arrested, convicted or cautioned for a criminal offence of a violent or sexual nature.
- 2.11 There must be no activities designed to obtain custom for the licensed premises by means of personal solicitation, touting, or distribution of flyers, handouts or any like thing.
- 2.12 The use of cruising cars by the premises to solicit for custom or to transport people to or from the premises is prohibited.
- 2.13 Where the Council has given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.

## **Part 2**

### **Sexual Entertainment Venue Standard Conditions**

The Sex Establishment Standard Conditions in Part 1 will apply to a Sexual Entertainment Venue licence in addition to the conditions set out below.

The following conditions are standard conditions that will apply specifically to the type of Sex Establishment known as a Sexual Entertainment Venue.

#### **1. Conduct and Management of Premises**

- 1.1 Notices will be displayed at the entrance to the premises advising customers that random searches will be carried out and admission will be refused to customers who do not give their consent to being searched.
- 1.2 The Licence Holder shall ensure that during the hours the Sexual Entertainment Venue is open for business every employee who is not a performer wears a badge of a type to be approved by the Council.
- 1.3 The premises shall subscribe to an approved radio system and radios shall be operational at all times the premises is open to the public.
- 1.4 The prices for entrance and any compulsory purchases within the venue shall be clearly displayed on the interior of the premises at the entrance of the premises.
- 1.5 All charges for products and services shall be clearly displayed in prominent areas within the premises, and at each customer table and in the bar area.

#### **2. Security**

- 2.1 SIA registered door staff shall be employed at the premises, both inside and outside, at all times that the premises are open to the public. The number of door staff required shall be agreed with the Police. Appropriately trained staff shall supervise the admissions desk and all dance and entertainment areas at all times.

#### **3. Premises**

- 3.1 Any person who appears to be drunk or intoxicated or under the influence of illegal drugs shall not be permitted entrance to the premises.
- 3.2 Any person found to be in possession of illegal drugs upon entry shall be denied entry and the Police shall be notified. Any persons found using illegal drugs on the premises shall be removed from the premises and the Police notified.
- 3.3 No films may be shown at the premises unless they have been passed by the British Board of Film Classification or the Licensing Authority. No films classified as R18 shall be shown on the premises.

- 3.4 No sex articles or other items intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be used, displayed, sold, hired, exchanged, loaned or demonstrated at the premises.

#### **4. CCTV**

- 4.1 Except in accordance with the requirements for CCTV , no photographs, films or video recordings shall be taken of the performances. Electronic transmissions of a performance shall not be shown outside of the premises except for the purpose of remote management of the premises and in those circumstances, the licensee shall ensure that only managers nominated in writing shall view any photograph, film or recording.

#### **5. Performers**

- 5.1 A designated dressing room area shall be provided for performers exclusive use. Such dressing room shall be secured so as not to be accessible to members of the public and shall be sufficient to enable performers to change privately. Only performers and staff authorised by the Licence Holder shall be permitted in to the changing rooms.
- 5.2 A member of staff will be available to escort performers from the premises to secure transport, or safe place at the end of their working day if requested to do so.
- 5.3 No performers shall be allowed to work at the premises if they are under the influence of intoxicating liquor or drugs.
- 5.4 Accurate payment and remuneration records shall be maintained and shall be made available upon request to the Police or an authorised officer of the Council. All fees and charges for performers shall be clearly stated in writing and prominently displayed within the changing area.
- 5.5 Performers who are not performing shall not be in any public area in a state of undress (which includes the displaying of naked female breasts).
- 5.6 There shall be no physical contact between performers and customers at any time, either before, during or after a performance except for the placing of money or tokens in an item of clothing worn by a performer or into the performer's hand before or at the end of the performance and a customary kiss on the cheek of the patron by the performer at the conclusion of the performance. Customers may be led by the hand and escorted to an appropriate area for the dance.
- 5.7 Performers must never intentionally touch the genitals, anus or breasts of another performer or to knowingly permit another performer to intentionally touch their genitals, anus or breasts.
- 5.8 Performers must not simulate any sexual act.
- 5.9 Performers must not use any sexually graphic language during a performance or in the public areas of the premises.

- 5.10 Performers must not sit on or straddle a customer or place their feet on seats.
- 5.11 The Licence Holder must adopt and implement a code of conduct for performers and a code of conduct for customers. The terms must be approved by the Council and any amendments must be approved by the Council.
- 5.12 The Code of Conduct for Customers shall be displayed in prominent positions throughout the licensed premises so that it is visible to all patrons.
- 5.13 All management and staff (including security staff) must be aware of and familiar with the content of the Code of Conduct for Customers and shall ensure it is complied with at all times.
- 5.14 On any occasion whereby a customer breaches the Code of Conduct, such details shall be recorded in the incident log.
- 5.15 Any customer who has previously been asked to leave the premises and again breaches the Code of Conduct shall be banned from the premises.
- 5.16 The Licence Holder shall ensure that all performers performing at the premises have signed a declaration to confirm that they are aware of, have understood and will abide by the code of conduct. The Licence Holder shall retain this declaration until such time as the performer ceases to perform at the premises.
- 5.17 Performances of sexual entertainment may only take place in designated areas of the premises as agreed in writing by the Council.
- 5.18 No performer will exchange personal information or contact details with a customer or arrange to meet any customer outside of the premises.
- 5.19 Performers must not perform unless in a supervised area and within sight of a member of staff or a member of security.
- 5.20 Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area.

## **6. Performances**

- 6.1 The Licence Holder must ensure that during a performance:
- (a) customers are seated in an upright position against the back of the booth or seat with their hands by their sides
  - (b) customers must remain seated during the entire performance
- 6.2 Performers will stop immediately and move away from any customer who is offensive or attempts to touch them during a performance and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management.
- 6.3 At the end of a performance the performer should be able to leave the stage area without the need to walk through the audience.

## **7. Customers**

7.1 Customers must remain fully clothed at all times.

### **Part 3**

#### **Sex Cinema Standard Conditions**

The Sex Establishment Conditions in Part 1 will apply a Sex Cinema licence in addition to the conditions set out below:

The following conditions are standard conditions that will apply specifically to the type of Sex Establishment known as a Sex Cinema.

The premises shall be conducted primarily for the purpose of the exhibition of moving picture.

1.1 No film shall be exhibited at the premises unless it has been passed by the British Board of Film Classification as a U, PG, 12A/12, 15, 18 or RESTRICTED (18) film and no notice of objection to its exhibition has been given by the Council; or

1.2 No film shall be exhibited at the premises:-

(1) which is likely:-

(a) to encourage or to incite to crime; or

(b) to lead to disorder; or

(c) to stir up hatred against any section of the public in Great Britain on grounds of colour, race or ethnic or national origins, sexual orientation or sex; or

(d) to promote sexual humiliation or degradation of or violence towards women.

(2) the effect of which is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely to see it; or

(3) which contains a grossly indecent performance thereby outraging the standards of public decency.

If the Licence Holder is notified by the Council in writing that it objects to the exhibition of a film on any ground, such film shall not be exhibited.

1.3. The Licence holder shall give at least 28 days' notice in writing to the council of any proposal to exhibit any film which has not been classified as specified above. Such a film shall only be exhibited if consent has been obtained from the council in writing and subject to any terms or restrictions contained within such written consent.

1.4 No other indication as to the nature of the business carried on at the licensed premises may be displayed on the external area of the premises other than the wording "ADULT CINEMA".

1.5 No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Cinema, nor shall more than one person (including any employee) be present in any such booth or cubicle at any time except for maintenance or security reasons.

1.6 Neither Sex Articles nor other things intended for use in connection with, or the purpose of stimulating or encouraging sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema.

## **Part 4**

### **Sex Shop Standard Conditions**

The Sex Establishment Conditions in Part 1 will apply a Sex Shop licence in addition to the conditions set out below:

The following conditions are standard conditions that will apply specifically to the type of Sex Establishment known as a Sex Shop.

- 1.1 The Licence Holder shall produce a list of all stock carried at the premise and shall make it available to a police officer or authorised officer of the Council or police on demand in respect of a sex shop.
- 1.2 All printed matter, DVD, video and other formats capable of storing readable/viewable material offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the Sex Shop. (This regulation does not require that films or video films be exhibited (played) to customers).
- 1.3 No film, DVD, or video recording (or computer game, or other formats capable of storing readable/viewable material) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.
- 1.4 The licensee shall retain control over all parts of the premises and shall operate the designated area of the premises exclusively as a sex shop as stated in the licence unless otherwise agreed in writing by the Council.
- 1.5 The licensed premises shall be used only for the purposes of a sex shop, as defined by Paragraph 4 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, and shall not be used either wholly or in part for any other purpose or purposes whatsoever during the period in respect of which this Licence is granted.
- 1.6 The licensed name of the premises may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
- 1.7 No other indication as to the nature of the business carried on at the licensed premises may be displayed on the external area of the premises other than the wording "PRIVATE SHOP" or "ADULT SHOP".
- 1.8 No external loudspeakers may be installed.
- 1.9 External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- 1.10 Lighting shall be in operation continuously during the whole of the time that the Sex Shop is open to the public.

- 1.11 No film, video film, record or tape shall be exhibited, sold or supplied in, at or from the licensed premises unless it is a reproduction authorised by the owner of the copyright of the film, video film, record or tape.
- 1.12 No charge shall be made to any member of the public or visitor for admission to the premises in respect of which a licence is granted, nor for admission to any part thereof.