

DEPARTMENT OF ENVIRONMENT AND LEISURE**ORIGINATING SECTION: PUBLIC PROTECTION SERVICE****REPORT TO: LICENSING COMMITTEE 14th July 2015****TITLE : PROPOSED REVISION OF TERMS AND CONDITIONS ATTACHED HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES****1. PURPOSE**

To inform members of a proposal to review the terms and conditions attached to Hackney Carriage and Private Hire Licences..

2. RECOMMENDATIONS

That Members note the report and recommend a consultation to take place on the reviewed terms and conditions

3. KEY ISSUES

Members will be aware that with the implementation of the Deregulation Act 2015, from October this year the duration of Operator and driver licences will be extended, operators to five years and drivers to three years. Additionally operators will be able to sub contract work to drivers and vehicles licensed out of the area. Currently there are a number of Hackney Carriages licensed by other authorities carrying out private hire work in Blackburn and Darwen

The current private hire operator conditions only require them to keep detailed records of the drivers and vehicles that are licensed within this borough. The licensing authority needs to ensure that details of every driver vehicle and journey are traceable regardless of the authority where the vehicle or driver may be licensed.

Some drivers licensed in Blackburn with Darwen work in both hackney carriage vehicles and private hire vehicles. A number of authorities issue "dual" licences for drivers in this position.

Some of our current conditions are out of sync with legislation and so need updating to reflect the changes

Proposed reviewed conditions can be viewed at appendix A.

4. RATIONALE

The need for the revision of the conditions is in the interests of safeguarding members of the travelling public. The revised conditions will provide more clarity for drivers as they will reflect current law eg The Health Act 2006 makes provision for the prohibition of smoking in, or on any premises which are open to the public or used as a place of work. This provision relates hackney carriage and private hire vehicles and operator bases.

The introduction of a dual badge will benefit drivers by eliminating the need to purchase 2 licences. The proposed cost of a dual licence will be the same as a single licence, as the administrative process will be identical

5. POLICY IMPLICATIONS

Any revisions would be subject to approval by Executive Board.

6. FINANCIAL IMPLICATIONS

There are no financial implications associated with this report

7. LEGAL IMPLICATIONS

The Council has an ongoing duty to ensure its licensed drivers are “fit and proper persons” as required under the Local Government (Miscellaneous Provisions) Act 1976.

The revision of the terms and conditions will assist the Council to fulfil its duty promoting compliance and safeguarding.

8. RESOURCE IMPLICATIONS

There are no resource implications.

9. CONSULTATIONS

If the committee are minded to recommend the review, a 28 day consultation will commence with the trade. The results of the consultation will be brought before the next committee in September.

10 . CONTACT OFFICER

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**CONDITIONS ATTACHED TO A
PRIVATE HIRE VEHICLE OPERATOR'S LICENCE.**

You are the licence holder (licensee)

1. NOTICES

You must display these notices on your premises:

- a. a copy of your Operator's Licence (Personal address of licensee will not be shown)
- b. a chart showing fares and charges
- c. a customer information notice (The Council will give you one of these)
- d. a certificate of employer's liability insurance.

You must display all these notices in an area where the public will see them e.g. a waiting room.

2. NOTIFICATIONS

- a You must tell the Council **in writing within 7 days**
 - i if you are due to appear in court for a motoring offence or a criminal offence
 - ii if the Police have given you a caution
 - iii if you are convicted of a criminal offence or a motoring offence.
- b. Whenever a Private Hire **Vehicle** starts or finishes work with you, you must fill in an **Operator's Private Hire Vehicle notification form**. The Council will give you this form. You must return it to the Council.
- c. If any Private Hire Vehicle **Driver** starts or finishes work with you, you must fill in an **Operator's Private Hire Driver notification form**. The Council will give you this form. You must return it to the Council.
- d. You must write to the Council and give them an address and telephone number where they can contact you at all reasonable times. **If any of these details change you must tell the Council in writing within 7 days.**
- e. If you change your home address you must tell the Council in writing within 7 days.

NB These notifications can be emailed to the licensing service

- f. If someone makes a serious complaint about anyone who has a licence from the Council you must tell the licensing section immediately. You must give them the name of the person involved and tell them what the complaint is.
A serious complaint includes dishonesty, violence, indecency, racism or any complaint which involves drugs
- g. If any of the private hire vehicles working from your premises is damaged, you must tell the Council within 72 hours of that damage happening.
- h. No-one else is allowed to use your Private Hire Vehicle Operators Licence

If the owner of the business changes:

- you must tell the Council, in writing, within **7 days**. (You must include a letter from the previous owner or some other written proof that the owner of the business has changed.)
- the new owner must make a new application for a Private Hire Vehicle Operator's licence.

If the firm still has a licence, the Council will only give a new one if they are sure that the interests of the original licence holder have been respected. The Council will need to have written proof of this from the original licence holder or from someone else who can give them this proof.

- i. You must tell the Council, in writing, what fares your drivers will charge. If you are going to change your fares or the way you work them out; you must give the Council 7 working days' notice of this.

3. COMPLAINTS

- a. Your company must keep a complaints book that is available for authorised officers to view upon request. All your staff must be made aware of the existence of this book in particular desk operators. You must use this book to write down any complaints you receive. You must also write down what you are going to do about the complaint or what you have already done about it.
If anyone makes a complaint, you must give them the telephone number and address of the Council's Licensing Section.
- b. The Council will investigate all complaints immediately and tell the person who has complained what they have found out. The Council will do this within 14 days.
- c. When an authorised officer of the Council has investigated a complaint, he/she will tell you what you must do about it.
- d. You must keep this book of complaints for at least 12 months. You might have to keep it for longer if an authorised officer of the Council or a Police Officer tells you to.

4. ILLEGAL PLYING FOR HIRE

- a Any private hire vehicle owned by yourself or working from your premises, must not try to pick up or offer the vehicle as available for fare paying passengers to any person in a road or public place other than if that person has pre booked.
- b You must not ask anyone else to pick up passengers in a road or public place that has not pre booked a vehicle

NOTE

Section 167 of the Criminal Justice and Public Order Act 1994 makes touting a criminal offence. ('Touting' in this section means offering a vehicle as available to persons who have not pre booked a journey.)

'Public place' means any road or other property which at the time the touting occurs members of the public are allowed to be whether they have paid to be there or not.

IMPORTANT – DO NOT EMPLOY TOO MANY DRIVERS

If there is not enough work for all your drivers they might be tempted to break the rules and try to pick up customers illegally. If your drivers keep doing this you will have to explain why to the Council.

5. NAMES OF OPERATORS AND DOOR SIGNS

The Council issues many Private Hire Vehicle Operators' Licences the name on your licence must be different from the name on any other licence so that the businesses will not be mixed up.

If you have door signs, the Council will have to approve them before they will give you a licence.

6. INSPECTIONS

If an authorised officer of the Council or a Police Officer wants to enter your business premises at a reasonable time, you must let them in. 'A reasonable time' means when you are open for business.

If you have a licence you must keep certain records. These must be kept on your business premises. (See number 8).

7. PREMISES

Facilities for passengers

a. Waiting rooms

If you have a waiting room for passengers, try to keep it separate from the drivers' rest area and the operator's room.

A waiting room should have:

- enough seating for passengers
- It should be clean, tidy and well maintained
- It should be well lit.
- It should have enough heating and ventilation
- It should have clean toilets with washing facilities

NOTE

You must not have any gaming machines on your premises that need a permit under the Gaming Act 2005

b. Planning consent

You must have planning permission for your Private Hire business premises. If there are any conditions or restrictions with the planning permission, you must abide by them.

8. **RECORDS**

You must keep well organised and up to date records, especially of all your vehicles and drivers. You must be able to prove your record system is working if asked by a police officer or an authorised officer of the Council.

These records must be kept on your business premises:

9. VEHICLE RECORDS

You must keep a written record of all vehicles including Hackney Carriage Vehicles acting as private hire, and any private hire vehicles sub-contracted to undertake work on behalf of your company. These details must include the following:

- a. The name and address of the owner of the vehicle
- b. The make and model of the vehicle
- c. The registration number
- d. The plate number of the vehicle
- e. The expiry date of the licence
- f. The date the vehicle started working from your premises

- g. The date any vehicle finished working from your premises
- h. The insurance details of the vehicle
- i. Details of the private hire company you have sub contracted the vehicle from

You must show these records to an authorised officer of the Council or a Police Officer if they ask to see them.

Driver records

You must keep a written record of all drivers working from your firm on your business premises and these details have to include the following: You must keep a written record of all drivers including Hackney Carriage drivers acting as private hire, and any private hire drivers sub-contracted to undertake work on behalf of your company. These details must to include the following

- a. The name and address of every private hire vehicle driver
- b. A record of the date the Council issued the licence
- c. The expiry date of the licence
- d. The call sign or mark which you use on your booking records to show the journey that they were given to do.
- e. Details of the private hire company you have sub contracted the driver from

You must show these records to an authorised officer of the Council or a Police Officer if they ask to see them.

10. CONDITION OF PRIVATE HIRE VEHICLES

- a. You must make sure the vehicles are always kept clean, inside and outside
- b. All the vehicles must carry all the correct notices and identification, The private hire vehicle licence says what these are.
- c. All the vehicles must be well maintained, mechanically and structurally, so that they meet the standards of the Council's testing procedures.

11. CONDUCT

- a. You must make sure that all your drivers are fit to drive and that they are not too tired for any reason.
- b. You must make sure that all your drivers are polite towards customers, the general public and other road users.

12. HIRINGS

Standards of service

You must provide a prompt, efficient and reliable service for members of the public. You must provide the service you have advertised.

- a. When someone hires a vehicle, the driver must turn up at the correct time unless he/she has been delayed for a good reason.
- b. If you send out any vehicle to a hiring, it must be licensed for use as a private hire vehicle with Blackburn *with* Darwen Borough Council,
- c. The person who is driving the vehicle must hold a current Private Hire Vehicle Driver's Licence from Blackburn *with* Darwen Borough Council.

13. ACCEPTING HIRINGS

- a. When someone makes a booking, they may ask you to write down or tell them how you work out your charges. If they do, you must give them this information before you accept their booking or arrange a journey for them.
- b. Only people who are employed to take bookings at the premises are allowed to do this.

14. CHILD SAFETY SEATS

You must have a child safety seat available if a customer asks for one. The seat must be suitable for use in a private hire vehicle so that the child seat meets the **'Motor Vehicle (Wearing of Seatbelts) Regulations 1993.'**

15. RECORDS OF HIRINGS

Whenever someone makes a booking for a private hire vehicle, you must record the details either written or computerized. If recorded in a book -. The pages of this book must be numbered consecutively (i.e. 1, 2,3,4,5 etc.).

Do not use a loose-leaf book.

The details you write down must include:

- a. The date and time of the booking.
- b. How the booking was made (by telephone or in person).
- c. The time of the pick up.
- d. The place of the pick up.
- e. The destination.
- f. The name of the person making the booking.
- g. The name of the driver and the vehicle he was driving.
- h. The fare (if this has been agreed before the journey)
- i. Any other remarks -
(This should include information about any sub-contract.)

You must keep these records for at least 12 months. You must keep them longer if a Council Officer or a Police Officer asks you to.

16. APPEALS

If you are not happy with any of the terms and conditions of the Private Hire Vehicle Operator's Licence, you have the right to appeal to a Magistrates Court. You must do this no more than 21 days after the Council has issued the licence. If you want more information about this you will need to look at Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 and Section 300 of the Public Health Act 1938.

DEFINITIONS

"The Act of 1976" is the Local Government (Miscellaneous Provisions) Act 1976.

"Authorised Officer" means the same as in Section 80 of the Act of 1976 and Section 19 of the 'Health and Safety at work Act 1974.'

The Council means the Borough of Blackburn *with* Darwen.

"The Operator" means a person who holds a licence to operate private hire vehicles issued under Section 55 of the 'Local Government (Miscellaneous Provisions) Act 1976.'

"Private Hire Vehicle" means the same as it does in Section 80 of the Act of 1976.

"Employ" means to use the services of somebody, for any reason.

IMPORTANT

You must make sure:

- **All your vehicles are properly maintained**
- **All your vehicles are insured and licensed**
- **All your drivers follow the Council's rules**

FOR INFORMATION

Health Act 2006 prohibits smoking in or on any premises which are open to the public or used as a place of work this includes private hire bases and all the private hire and hackney carriage vehicles :-

- Premises are smoke free if they are used as a place of work by more than one person (even if the persons who work there do so at different times, or only intermittently)
- Or where members of the public might attend for the purposes of seeking or receiving goods or services from or persons working there, even if members of the public are not always present. They are to be smoke free at all times.

- **Also it is the duty of any person who controls or is concerned in the management of smoke free premises to cause a person there to stop smoking.**

The maximum penalty for this offence is **£2,500**

