

Cheshire East Borough Council

Hackney Carriage and Private Hire
Licensing Policy

2022 – 2027

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PART 1
ABOUT THIS POLICY

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1.1 Introduction

The Borough of Cheshire East (the 'Council') is the Licensing Authority for the hackney carriage and private hire regime in the Borough of Cheshire East.

In carrying out its licensing function, the Council seeks to promote the following objectives:

- Safety and Protection of the Public;
- High standards of vehicle safety, comfort and access;
- Prevention of crime and disorder and the protection of consumers;
- Ensure that the decision-making processes are transparent and result in decisions that are appropriate, proportionate and consistent;
- Equality and accessibility in service provision.

The Council expects all applicants, drivers, proprietors, and operators to demonstrate commitment to promoting these objectives.

In addition, this Policy attempts to encompass the Council's key corporate priorities of:

- An open and enabling organisation
- A council which empowers and cares about people
- A thriving and sustainable place

And our general vision for a more open, fairer, greener Cheshire East.

The policy seeks to ensure that transport for those with a disability will be provided.

The Policy adheres to statutory guidance issued in July 2020 by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 to protect children and vulnerable adults from harm when using hackney carriage and private hire services.

The main types of licences are:

1. **Joint Hackney Carriage and Private Hire Driver's Licence** – All drivers of Hackney Carriage and Private Hire Vehicles ("Drivers") must hold a Joint Hackney Carriage and Private Hire Drivers' Licence issued by the Borough of Cheshire East;
2. **Private Hire Vehicle Licence** – Private Hire Vehicles must be licensed by the Council, as must the Driver and the Private Hire Operator who is responsible for taking the bookings. All three licences must be issued by the same Council;

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3. **Private Hire Operator Licence** – Private Hire Operators must be licensed by the Council, as must the drivers and vehicles they operate;
4. **Hackney Carriage Vehicle Licence** – Hackney Carriages must be licensed with the Council as must the driver. Both licences must be with the same Council.

The rules on hackney carriage and private hire licensing are complex. This document intends to make it clear how the Council operates its licensing service.

Each time this policy is reviewed a new version will be produced. This edition was approved by the [insert Committee] on [insert date].

1.2 Mission Statement

Scope

1.2.1 The Taxi Licensing Policy ('the Policy') is applicable to the licensing of hackney carriage and private hire drivers and vehicles and to the licensing of private hire operators. This policy supersedes all previous Council policies relating to Hackney Carriage Vehicles, Private Hire Vehicles, Operators and Drivers.

Purpose

1.2.2 The fundamental purpose of the policy is to protect the safety and welfare of the public who live, work and visit the Borough of Cheshire East. The importance of a thriving hackney carriage and private hire trade to the growth and prosperity of the Borough's local economy is recognised; however the safety and welfare of the public is the over-riding principle that will be considered when matters are dealt with under the Policy.

1.2.3 Hackney Carriage and Private Hire vehicles have an important role to play in any integrated public transport system. They are able to provide services in situations where other forms of public transport are either restricted, not available or are outside normal hours of operation, and to assist those with mobility problems.

1.2.4 The main concerns for the Council are to ensure:

- The safeguarding of children, young persons and adults at risk of abuse and neglect;
- To promote the welfare of children and to protect them from harm, prospective and licensed drivers and operators who have dealings with children and families will have a duty to report matters of concern that could relate to the safety and/or welfare of children and vulnerable persons to the relevant authorities (refer to Cheshire East Council's Safeguarding Policy);

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- That any person who applies to be a licence holder, is a fit and proper person and does not pose a risk (in any form) to the public. The words 'safe and suitable' aid the interpretation of 'fit and proper' and what is meant by it. The test the Council will use to determine whether an individual is considered fit and proper to hold a licence are as follows:
 - For drivers: "Would you allow your child, spouse or partner, parent, grandchild or any other person for who you care, to get into a vehicle with this person alone at any time of the day or night?"
 - For private hire operators: "Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?"
 - For vehicle proprietors: "Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that they would not allow it to be used for criminal or other unacceptable purposes, and be confident that they would maintain it to an acceptable standard throughout the period of the licence?"
- That the public are safeguarded from dishonest persons;
- That vehicles used to convey passengers are safe and fit for the purpose for which they are licensed; and
- That the impact of licensed vehicles on the environment is reduced

1.2.5 The Policy provides guidance to any person with an interest in hackney carriage and private hire licensing; in particular, but not restricted to:

- Persons who wish to apply for new licences; persons who hold existing licences, including those that are the subject of review;
- The Council, in its capacity as the Licensing Authority, including licensing officers, members of the [Committee];
- Service users who have concerns relating to an operator, vehicle or driver;
- Licensing consultants, solicitors and barristers advising and/or representing applicants/licence holders; and
- Magistrates and Judges hearing appeals against the Council decisions.

1.2.6 The Policy is also designed to put the Council's licensing requirements into context.

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1.3 Consultation and Communication

- 1.3.1 In determining the Policy, the Council has consulted widely with various stake holders, including licence holders. The views of relevant stakeholders have been taken into consideration when compiling the policy.
- 1.3.2 In order to deliver a transparent, accountable and efficient licensing service the Council is committed to ongoing communication and consultation with all stakeholders. In particular, the Council welcomes the opportunity to communicate and consult with representatives of the hackney carriage and private hire trade to enable and encourage the exchange of views and information. The method of communication and consultation will be determined having regard to what is most appropriate in the circumstances.

1.4 Review of the Policy

- 1.4.1 The Policy will be formally reviewed after 5 years. However, it will be the subject of continuous evaluation and, if necessary, formally reviewed at any time. At the time of each review relevant stakeholders will be consulted.
- 1.4.2 Minor changes will be made without consultation where:
- They are to correct an administrative error
 - They are a change needed because something is no longer possible or lawful
 - There is no foreseeable detrimental effect to the interests of a licence holder
 - To reflect a change in legislation that is beyond the Council's control or outside our discretion

1.5 Legislative Framework

- 1.5.1 The operation of the Council's licensing service is undertaken in accordance with relevant legislation, applicable licence conditions and the Secretary of State for Transport's Statutory Taxi and Private Hire Vehicle Standards, and such other guidance that may be issued from time to time by the Department for Transport (DfT) and other Government departments, such as the DfT's Best Practice Guidance for Taxis and Private Hire Vehicle Licensing and the DfT's guidance note on "Private Hire Vehicle Licensing"
- 1.5.2 The primary legislation relating to hackney carriage and private hire licensing, at the time this policy comes into force, is contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and may be subject to change with any new and/or amended legislation. This policy reflects the changes to hackney carriage and private hire licensing introduced by the Deregulation Act 2015 and Immigration Act 2016, and the provisions contained within the Equality Act 2010. It also encompasses provisions from other pieces of legislation such as (but not exclusively) the:

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- Road Safety Act 2006;
- Road Traffic Acts (various);
- Criminal Justice & Public Order Act 1994;
- Transport Act 1985

1.5.3 In addition, the service is provided in accordance with all relevant Council policies, but in particular the following which mirror the framework of policies which under section 177(4) of the Policing and Crime Act 2017 the Council must have regard to when exercising its licensing functions:

- Safeguarding Policy
- Equality & Diversity Policy
- Data Protection Policy
- Enforcement Policy

1.5.4 The Data Protection Act 2018 (“DPA18”) and The General Data Protection Regulations (“GDPR”) control the collection, storage, processing and distribution of personal data. They also give certain rights to individuals about whom information is recorded. The Council aims to fulfil its obligation under the legislation by only processing personal data for the purposes of legitimate interests pursued by the Council or legal requirements imposed on the Council. The DPA18 requires local authorities to comply with data protection principles. The principles state that the information shall be:

- Used fairly, lawfully and transparently
- Used for specified, explicit purposes
- Used in a way that is adequate, relevant and limited to only what is necessary
- Accurate and, where necessary, kept up to date
- Kept for no longer than is necessary
- Handled in a way that ensures appropriate security, including protection against unlawful or unauthorised processing, access loss, destruction or damage

Further information about DPA18 and GDPR can be found on the Information Commissioner’s website (www.ico.gov.uk). Enquiries regarding the Council’s use of personal data should be addressed to the Council’s Data Protection Officer at dp@cheshireeast.gov.uk. The Licensing Authority has published a Privacy Notice explaining how data will be used.

1.5.5 The Policy and associated conditions do not address health and safety at work requirements. Drivers and operators are required to ensure compliance with all relevant health and safety at work provisions. This is likely to impact on the health and safety requirements associated with transporting passengers with

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disabilities e.g. those who need to carry oxygen for medical purposes or those with assistance dogs. This may have implications on the extent of the discretion that drivers may have to refuse to carry passengers with certain disabilities.

1.6 Conditions

1.6.1 The Council will adopt any reasonable conditions that are deemed necessary and appropriate to ensure that proprietors, operators, drivers and vehicles comply with relevant legislation and the fundamental purpose of this Policy i.e. to protect the safety and welfare of the public, and in particular children and vulnerable adults.

1.7 The Service provided by the Council

1.7.1 There are, at present, approximately 850 drivers, 120 Operators, 275 private hire vehicles and 430 hackney carriages. (NB. Numbers fluctuate as licences are granted, lapse or are surrendered based on market forces). The Council does not set a cap on the maximum number of licences it will issue.

What can I expect from the Licensing Service?

1.7.2 You can expect a professional and efficient service. The service aims to be focused on the public and the trade. If you have any concerns about the service you receive please contact a member of the licensing team in the first instance.

Ultimately, if you are unhappy with the service provide you can escalate this via the Council's complaints procedure which can be found at https://www.cheshireeast.gov.uk/council_and_democracy/customer-services/complaints_and_feedback/complaints_and_feedback.aspx

The Council's performance should be open to scrutiny and you should know when you can expect to receive an answer. We will therefore aim to respond to enquiries within 10 working days from the date the application is valid and supporting information verified.

Matters that need to be referred to a committee or a higher decision maker may take longer. If your application needs to be determined this way, you will be notified within 10 working days. This will fluctuate at times of high service demand and any extension of these timescales will be updated on our website and in automated responses to emails.

Our approach

1.7.3 The Council aims to balance protection of the public against requirements which are too onerous. Requirements which are too onerous may ultimately reduce the availability and increase the cost of licensed vehicles. We aim to be pragmatic and work with the trade to improve the service provided to the public and the quality of vehicles available.

The Council is committed to being as open as possible in our dealings with the public and the trade. We will seek to put as much information as possible on the website in an accessible and user-friendly format.

Public Register

1.7.4 The Council will hold and maintain a register of all the licences we issue. The information held on the register will be restricted to the name of the licence holder; a unique licence number, the start date and the date of the expiry of the licence. The register will be available for inspection by prior arrangement with the Council's Licensing Team and where possible will be published on the Council's website.

PART 2

**LICENSING PRINCIPLES,
DELEGATIONS & DECISIONS**

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2.1 Licensing Principles

- 2.1.1 The Council has adopted Part II of the Local Government (Miscellaneous Provisions) Act 1976 and, together with the provisions contained in the Town Police Clauses Act 1847, the Council carries out the licensing of hackney carriage drivers and vehicles and private hire drivers, vehicles and operators.
- 2.1.2 This part of the Policy focusses on the principles the Council will follow when administering licence applications, reviewing conditions, setting fees and setting the table of fares. It explains the roles and duties of the Licensing Committee, the Environment and Communities Committee, and Officers of the Council.
- 2.1.3 The Council aims to provide a clear, consistent and responsible service to prospective and current licence holders, members of the public and other stakeholders. This includes the provision of advice to prospective applicants, including advice on the effect that convictions, etc may have on any application, and to existing licence holders. The Council will be mindful of the needs of the applicant, but this will be balanced against the duty that the Council has to protect the safety and welfare of the public.
- 2.1.4 All licence applications will be considered and determined on their own merits but with regard to the statutory guidance regarding the protection of children and vulnerable adults who use taxi and private hire services. Any decisions taken will also be informed by this policy document.

2.2 Licensing Process and Delegation of Functions

- 2.2.1 The Council is the Licensing Authority. The Council's constitution delegates all functions relating to the licensing of vehicles, drivers, and operators to the Licensing Committee, Sub-Committees and authorised officers of the Council. However, the adoption of any policy is reserved to the Environment and Communities Committee, who will act on the recommendation(s) of the Licensing Committee.
- 2.2.2 Whilst officers and the relevant committees will, in the majority of cases, follow Policy and statutory guidance, there may be specific circumstances that require a departure from these. In such circumstances, the reasons for departing from Policy or Guidance will be made clear. The aim of this policy is not to bind the decision-making process but to inform to decision-making process and provide a general guidelines.

2.3 Committees

2.3.1 Licensing Committee

This Committee is currently made up of fifteen elected members of the Council. It deals with overarching matters such as fee setting, amendments to the tables of fares, and providing recommendations to other Committees on the adoption of policies. Further details can be found on the Council's website <https://www.cheshireeast.gov.uk>

2.3.2 General Licensing Sub-Committee

This Sub-committee is made up of five members from the Licensing Committee. The Sub-committee will deal with new applications, renewals and reviews of licences that are referred to it by officers. The quorum of the Sub-Committee is set at three members in accordance with the Council's Constitution. Unlike other committees of the Council, this Sub-committee's membership is not based on political proportionality. Members, when determining applications for a licence, renewals or reviews of a licence, will have regard to:

- Hackney carriage and private hire legislation
- The information contained within this policy
- The Council's Safeguarding Policy
- Department for Transport and any other Government Guidance as applicable
- Road Traffic Act 1988 and other relevant road traffic legislation including MOT provisions
- Human Rights Act 1998
- Equality Act 2010
- Deregulation Act 2015
- Immigration Act 2016
- Any other relevant legislation drawn to its attention
- Any relevant legal case law; and
- Any recommendations from officers

2.4 Decisions

2.4.1 The Licensing Authority has the power to refuse to grant or renew licences and also to suspend or revoke existing licences in accordance with relevant legislative provisions. In addition, the Council may choose to issue written warnings or issue cautions where applicable, or to prosecute those who have committee offences.

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2.4.2 Any decision to refuse to grant or renew a licence or to suspend or revoke an existing licence, including the decision to suspend or revoke with immediate effect or to issue a written warning, will be made in accordance with the Council's scheme of delegation and other relevant policies, statutory guidance and procedures.

2.4.3 Where applications are to be determined, the officer or General Licensing Sub-Committee, will take into consideration:

- The facts of the application;
- Any information and/or evidence provided by other interested parties. This may include; Officers from the Council with responsibility for safeguarding, those responsible for the testing of vehicles, Licensing Enforcement Officers and Officers from Cheshire Police; and
- In order to provide applicants with the opportunity to consider and respond by way of written and/or verbal representations, as appropriate, the Council will provide the relevant details which have given rise to the need for an officer decision and/or Sub-committee Hearing.

2.4.4 Following the determination of an application by the Council the applicant will receive a copy of the decision in writing. This written decision will be delivered as soon as is practicable after the decision has been made. This will include information on any right of appeal.

2.4.5 Licensing decisions are made in accordance with the powers and responsibilities delegated by the Council's constitution:

- Decisions on driver applications are taken by an authorised officer or the General Licensing Sub-Committee.
- Decisions on vehicles are taken by an authorised officer or the General Licensing Sub-Committee.
- Decisions on existing and prospective private hire operators are taken by an authorised officer or the General Licensing Sub-Committee.

2.5 Application/Renewal Decisions

2.5.1 Where the Council is minded to not approve the licence/renewal in the form applied for, it will give the applicant/licence holder a chance to make oral representations or representations in writing (by letter or email) before a decision is taken.

2.5.2 Where an application is incomplete or does not meet the application criteria, the Council will reject the application. This will be confirmed in writing.

Decision to suspend/revoke a licence

- 2.5.3 Suspension, Immediate Suspension, Revocation and Immediate Revocation of a driver licence can be carried out by the Licensing Committee, Sub-Committee, or an authorised Officer of the Council.

Where the Licensing Authority is minded to suspend or revoke a licence it will give the applicant/licence holder a chance to make representations in person, face to face, or in writing by letter or email before the decision is taken.

- 2.5.4 Suspension or revocation of a vehicle licence can be carried out by an authorised officer, Licensing Committee or the Sub-Committee.

2.6 Appeals

- 2.6.1 If the applicant/licence holder is aggrieved by the decision of the Council they may appeal to the relevant Court (in most cases the Magistrates' Court). The appeal must be made within 21 days of being notified in writing of the Council's decision and must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to seek appropriate independent legal advice without delay if they are considering appealing a decision.

2.7 Working in Partnership

- 2.7.1 The Council aims to work in partnership with other relevant agencies/bodies when dealing with hackney carriage and private hire licensing issues. Such partnerships will include, but are not restricted to, relevant hackney carriage and private hire trade associations, neighbouring local authorities, Cheshire Police, Driver and Vehicle Standards Agency (DVSA), Revenues and Benefits Teams, Safeguarding Partnerships and consumer groups.
- 2.7.2 Cheshire East Borough Council regularly meets and shares information with other enforcement agencies including Cheshire Police, Cheshire East Trading Standards Team and Multi-agency Child Sexual Exploitation Operational Groups and Children's Safeguarding Groups.
- 2.7.3 The Council, as primary regulator, will ensure that all relevant provisions relating to the effective administration of licensing functions are robustly enforced in order to ensure the protection of the public.
- 2.7.4 Where licensing staff do not consider that this policy is being correctly applied they are able to raise this for investigation, and remedial action if required, through the Council's internal whistleblowing procedure.

PART 3

TYPES OF LICENCE & APPLICATIONS

3.1 General Information

This part of the Policy concerns the types of licence and the necessary steps required to obtain and hold such a licence. These steps include the standards that applicants must attain and maintain and the conditions that will apply to any licences granted. Where appropriate, any reference to 'applicant' is deemed to include existing licence holders.

3.1.1 The following are applicable to all licence types:

- a) Where an applicant has failed to declare relevant information or provided false information, the application is likely to be refused since these acts are seen as behaviour that brings into question the applicants honesty and suitability to hold a licence; where this relates to an existing licence, the licence is likely to be considered for revocation on the same grounds. Applicants are reminded that it is an offence to knowingly or recklessly make a false declaration or omit any material particularly when giving information required for the application for a licence;
- b) All licence fees are payable at the time of application. Fees are staggered to reflect the processing of the application. Where a licence is refused the applicant is not entitled to a refund of the fee paid. Because the fees are staggered, any outstanding fees will need to be paid after all checks are completed and before a licence is issued. Where an applicant decides to withdraw their application a portion of the fees **may** be returned to the applicant, but this will be based on what administrative functions have been carried out.
- c) In the event that an application for a licence is paid by cheque, the application will not be valid until such time as the cheque has been cleared. In the event that the cheque does not clear and the licence has been issued, the Council will suspend the licence until such time as full payment has been received.
- d) The application process must be completed within 6 months, unless prevented from doing so by matters that are outside the applicant's control e.g. external delays in the DBS process, otherwise the application process will cease to progress further until such time as the applicant provides all the required information. Applications not completed within 6 months without a justified reason for the delay will be considered abandoned and will be returned to the applicant. A new application and payment of fees will be required if the applicant wished to continue with the process.
- e) Where a licence has lapsed, been surrendered or revoked, a new application may be submitted in accordance with the relevant new licence procedures before the Council will consider the application.

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- f) When a licence expires, the Council will not permit any 'periods of grace' for the submission of a renewal application unless there is satisfactory evidence of exceptional circumstances that are accepted by the Council.

Appointments

The Council operates an appointment system through Cheshire East Council's Customer Contact Centres for the undertaking of **Disclosure and Barring Service (DBS) checks and Right to Work (RTW) Checks only.**

The submission of new and renewal applications for Drivers, Vehicles and Operators Licences can be made by post.

Postal Applications:

Completed applications should be submitted together with all of the relevant supporting documents (as set out in the application form) and the application fee to:

The Licensing Team, Cheshire East Council, Municipal Buildings, Crewe, CW1 2BJ.

Payment by Cheque - the cheque must be made payable to Cheshire East Council.

Payment by Card - If you wish to make payment by card, you will need to submit the application either by way of post or email. Once the application form has been received and checked by the Licensing Team, you will be asked to contact the Customer Contact Centre to make payment by card over the phone. You will need to provide a valid email address/telephone number so that instructions can be communicated to you.

Email Applications

Completed applications and supporting documents can be sent to: The Licensing Service – licensing_CE@cheshireeast.gov.uk

Once the application has been received by the Licensing Team and checked, the team will send an email providing further instructions in relation to making payment of the application fee. The application will only be considered a valid application once the fee has been paid. Failure to make payment of the fee will result in the application being delayed.

Important

It is the licence holder's responsibility, and the onus is on them to ensure that a renewal application is made in good time. Under no circumstances will a licence be issued without satisfactory completion of all required checks.

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Disclosure & Barring Service (DBS) data and other relevant information

3.1.3 The Council follows the Disclosure and Barring Service (DBS) Code of Practice for Registered Persons and Other Recipients of Disclosure Information (November 2015) and **will not retain a copy of the certificate**, in line with the Council's data retention policy and data protection legislation. Applicants will need to retain a copy of the original DBS Certificate for future licensing applications. DBS certificates must be in the correct workforce (i.e. 'Other Workforce') and for the correct job role (i.e. Taxi Driver or Taxi Licensing). Further information about the DBS can be found at <https://www.gov.uk/government/organisations/disclosure-and-barring-service>

The Council will accept an Enhanced DBS disclosure report issued as part of an application made through a separate organisation provided:-

- It is for 'other workforce'
- It includes both of the Barring checks
- It is for the same job role (taxi driver or taxi licensing)
- It is presented to the Council for verification within 28 days of issued date of the certificate
- The applicant has subscribed to the DBS Update Service; and
- The applicant has authorised the Council to access the relevant online record.

Further information can be found at <https://www.gov.uk/dbs-update-service>

The Council will make regular use of the Multiple Status Check Facility provided by the DBS Service and where this shows changes to a licence holder's record, a new DBS disclosure will be required. The licence holder is required to pay the appropriate fee before the new DBS disclosure application is submitted.

3.1.4 Where an applicant has spent an extended period of time overseas and hence their DBS record is incomplete the Licensing Authority will require an applicant for a licence to provide data on their criminal record or a Certificate of Good Character issued by the relevant Embassy or High Commission. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. Further information on this can be found at <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

3.1.5 Drivers who undertake work for Transport Service Solutions (TSS) e.g. school contracts, are advised to contact TSS in order to ascertain the level of criminal record disclosure required and any other requirements in this respect. Information will be shared between TSS and the Licensing Team about individuals and businesses that apply and/or tender to deliver passenger

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transport contracts. Further information about TSS can be found at <http://www.transportservicesolutions.co.uk/home.aspx>

- 3.1.6 In addition to the information via the DBS service the Council maintains close links with the local police ensuring that information held by either party, relevant to hackney carriage and private hire licensing, is efficiently and effectively shared under existing protocols.
- 3.1.7 Where the Council obtains or holds relevant information not known to the DBS service or the local police they will refer this to either or both organisations in order that the information they hold is up to date and complete. This will include information regarding licences which the authority has refused, revoked or suspended them, on the basis that they believe the individual presents a risk of harm to a child or vulnerable adult.
- 3.1.8 The Council will also share information with other local licensing authorities regarding licences they refuse, suspend or revoke and with the National Register maintained by the National Anti-Fraud Network (NAFN) known as the 'NR3' register.

Counter-Terrorism and Security Act 2015

- 3.1.9 The Council has a duty under the Counter Terrorism and Security Act 2015 ("CTSA") to have due regard to the requirement to prevent people from being drawn into terrorism.

The applicant/licence holder shall facilitate the Council's compliance with its duty pursuant to the CTSA and the applicant/licence holder shall have regard to the statutory guidance issued under Section 29 of the CTSA and in particular to ensure that they:

- Understand what radicalisation means and why people may be vulnerable to being drawn into terrorism;
- Are aware of extremism and the relationship between extremism and terrorism;
- Know what measures are available to prevent people from becoming drawn into terrorism and how to challenge the extreme ideology that can be associated with it; and
- Obtain support for people who obtain support for people who may be exploited by radicalising influences.

Where the applicant/licence holder identifies or suspects that someone may be engaged in illegal terrorist related activity, the applicant/licence holder must refer such person or activity to the police. For more information please see <https://www.gov.uk/government/publications/counter-terrorism-support-for-businesses-and-communities>

Immigration Act 2016

3.1.10 From the 1st December 2016 the Council is required to ensure that all drivers and operators have the right to work within the UK prior to issuing them a licence. All applicants will be treated in line with the government guidance that can be found at:

<https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

As part of the new/renewal application process the individual will have to provide the Council with one of the documents listed in Annex A of the Government Guidance. Where an applicant cannot provide a current proof of their right to work in the UK then a licence will not be issued to them. Where an applicant has a time limited right to work in the UK, then the Council will only issue a licence up until the expiry date of that document.

3.2 Joint Hackney Carriage and Private Hire Drivers Licences

3.2.1 It is the responsibility of the Council to protect the public and to ensure that before anyone is granted a licence the Council is satisfied that they are a 'fit and proper' person to hold such a licence.

There is no agreed definition for 'fit and proper' – in the absence of such a definition, the council will use the widely accepted interpretation of:

“Would you allow your child, spouse or partner, parent, grandchild or any other person for whom you care to get into a vehicle with this person alone at any time of the day or night?”

If on the balance of probabilities, the answer to the question is 'no', the individual will not be granted a licence.

3.2.2 Cheshire East Council issues joint driver's licences. This means that once you hold a driver licence, you can drive any Cheshire East licensed Hackney Carriage or Private Hire Vehicle. A joint drivers' licence is referred to as a "taxi driver's licence" and drivers are referred to as "taxi drivers" within the Council and for the remainder of this document.

3.2.3 An application for a taxi driver's licence must be made on the approved form and submitted at the Licensing Team. If any information given by you on the application form is false, or relevant information is not revealed as required, the licence can be revoked or a renewal refused and you could be prosecuted under Section 57(3) of the Local Government (Miscellaneous Provisions) Act 1976.

3.2.4 As it issues joint driver licences, the Council has a Code of Conduct for taxi drivers which applied to both hackney carriage and private hire activity. This Code is not a condition: it is a standard of behaviour which it expects drivers to maintain. Any failure to comply with the Code will lead to the Council questioning whether you remain a fit and proper person to drive a hackney carriage or private hire vehicle. The Code of Conduct can be seen at Appendix B.

3.2.5 The Council's byelaws only apply when you are using your licence to drive a Hackney Carriage.

Period of Licence

3.2.6 New and renewal driver licences will be valid for three years (36 months) from the date of issue and will then last for that period unless action is taken against it before its expiry or a medical practitioner, as part of the medical examination, has indicated that a shorter period licence is appropriate. Additionally, a

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licence with a shorter period will be granted where there is a time limited right to work in the UK. In these circumstances, the licence will be valid for the right to work period.

Pre- Application Requirements

- 3.2.7 The application form(s) must be fully completed and include all relevant information, supporting documentation and payment of the appropriate fee. If any part of the application form is incomplete or relevant information or supporting documentation is not provided, the applicant will be requested to provide the missing information/documentation and will be informed that the application will not be accepted/valid until such time as all required information/documentation is submitted.
- 3.2.8 Before the licence expires, an application for renewal must be made if the driver wishes to continue working. Any application for renewal must be made at least six weeks before the licence expires. If applicants do not apply to renew the licence in time there may be a period when they will be unable to drive a hackney carriage or private hire vehicle. If a situation arises where the application was made at least six weeks before expiry, but for reasons beyond the applicant's control (e.g. delay in the processing of, but not the application for, a DBS check), the licence application cannot be processed before the current licence expires, the Council will consider issuing a short term licence. This will be specifically without prejudice to any decision on the renewal application the Council may make. Any such decision will be wholly at the Council's discretion.
- 3.2.9 If a renewal application is not received before the expiry of the current licence, it will be treated as a new application, rather than a renewal, and there will be a requirement to provide all the information that is required for a new application (e.g. a new DBS check, up-to-date medical, passing a local knowledge test, relevant qualification etc.)
- 3.2.10 Once a licence is issued it cannot be transferred. The renewal of the licence will be at the Council's discretion.
- 3.2.11 In addition to submitting the application form and fee an applicant must:
- Be over 21 years of age;
 - Provide a full UK driving licence (or European equivalent) that has been held for at least 12 months. If the driving licence was not issued in the UK or EU then the applicant must comply with the requirements set out by the government for exchanging/applying for a DVLA licence;
 - Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 28 days or be Registered with the DBS update service with a relevant up to date certificate (See paragraph 3.2.13);

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- Authorise the Council to access the relevant online record via the DBS Update Service;
- Provide one (1) passport sized recent photograph;
- Provide evidence of their right to work in the UK, in accordance with Home Office requirements (See paragraph 3.1.10);
- Complete a Statutory Declaration confirming they have read and understood the HMRC guidance on tax requirements (New applicants)*
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions reprimands, speed awareness courses and fixed penalty notices;
- Provide the BTEC Level 2 certificate in the 'Introduction to the Role of the Professional Taxi and Private Hire Driver' qualification, or equivalent as determined by the Council;
- Pass the Council's local knowledge test;
- Pass Disability Equality Training approved by the Council **(the licensing service are liaising with other local authorities to establish what is currently being done elsewhere)**;
- Provide a Safeguarding and Child Sexual Exploitation Awareness Training Certificate issued by the Council within the previous 3 months;
- Undergo a Group 2 medical examination and provide the medical certificate issued by their registered General Practitioner or a Medical Provider approved by Cheshire East Council who confirms they are medically fit to the DVLA Group 2 Medical Standards, within the previous 3 months. Medical examinations are required at the initial application and thereafter every other application (alternate) until the age of 60. All applicants aged 60 years and over must undertake a Group 2 medical examination on initial application and at every application thereafter. Applicants must produce the medical report to the Council at their earliest convenience;
- Provide a DVLA online check code;
- Satisfy the Council that they have a satisfactory level of conversational and written English in order to carry out the role of a hackney carriage/private hire driver;

*See paragraph 3.2.14 for further details on the new tax requirements

3.2.12 On renewal of an existing licence, applicants must:

- Submit a completed application form;
- Pay the appropriate licence fee;
- Provide a full UK driving licence (or the European equivalent) that has been held for at least 12 months;
- Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 3 months or be Registered with the DBS Update Service with a relevant up to date certificate*;

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- Authorise the Council to access the relevant online record via the DBS Update Service;
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions, reprimands, speed awareness courses and fixed penalty notices;
- Provide a tax check code to the Licensing Team (from 4th April 2022)*;
- Provide one (1) passport sized recent photograph;
- Provide evidence of their right to work in the UK in accordance with the Home Office requirements (See paragraph 3.1.10);
- Provide a Safeguarding and Child Exploitation Awareness Training certificate issued by the Council within the previous 3 months;
- Pass Disability Equality training approved by the Council (first renewal after policy implementation only);
- Undergo a Group 2 medical examination and provide the medical certificate issued by their registered GP or a Medical Provider approved by Cheshire East Council who confirms are medically fit to the DVLA Group 2 Medical Standards, within the previous 3 months. Medical certificates are required on initial application and thereafter every other application (alternate) until the age of 60. All licensed drivers aged 60 years and over must undertake a Group 2 medical examination at every application and produce the report to the Council;
- Provide a DVLA online check code;

*See paragraph 3.2.14 for further details on the new tax requirements

DBS Process

3.2.13 With effect from [DATE TO BE DECIDED] Cheshire East Council requires all new applicants and existing drivers licence holders to subscribe to the DBS Update Service. An additional fee payable to the DBS will be required in relation to this service. Applicants must apply to the update service within the specified DBS time frame. The Update Service will allow criminal record certificates to be kept up to date so that they can be taken from role to role.

Licence holders will need to provide Cheshire East Council's Licensing Team with their Disclosure Certificate when applying for a licence or renewal of a licence and complete and sign a mandate confirming that they consent to the Authority carrying out the online check. A new application may be deemed incomplete if the DBS certificate is not produced to the Licensing Team within 4 weeks of receipt. Where an existing driver receives a request to produce their DBS and fails to do so, the licence of that driver may be suspended or revoked.

The Update Service will then allow Cheshire East Council's Licensing Team to carry out free, instant online checks of an individual's certificate to check it is up to date. Cheshire East Council's Licensing Team will only have to seek a new criminal record

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check if the DBS advises that something has changed. Further information is available on the Disclosure and Barring Service website at www.gov.uk/dbs

3.2.14 Tax Conditionality requirements for new applicants and renewals (Hackney Carriage/Private Hire Drivers/Private Hire Operators)

From 4th April 2022 all holders of a Joint Hackney Carriage/Private Hire Drivers Licence/Private Hire Operators must meet the Tax Conditionality requirement, before a licence may be granted. The requirement for new applicants and renewal applicants are slightly different and explained as follows:

New applicants

If you are applying for a licence for the first time (Joint Hackney Carriage/Private Hire Drivers Licence or Private Hire Operators Licence) you will **not** be required to complete a tax check. However, you will be required to read the HMRC guidance on what you need to do to be properly registered for tax in the future. You will be required to sign a declaration, on the application form, to confirm that you have done this.

Renewal applicants

If you are renewing or applying for a subsequent licence under a different licensing body, you will have to do a tax check. You will be able to do this online through a digital service provided through the GOV.UK website.

You will be required to have a Government Gateway Account in order to do this and you can sign up on the GOV.UK website. There will be guidance provided and extra support will be available to complete the tax check by phone through the HMRC customer helpline.

When a tax check has been completed, you will get a code, and this must be provided to Cheshire East Council's Licensing Team. The Licensing Team will not progress the licence application until a tax check code has been received.

Cheshire East Council's Licensing Team will only receive confirmation from the HMRC that you have completed the tax check, they will not have access to information about your tax affairs.

Qualifications

3.2.15 Applicants will need to hold either the BTEC Level 2 Certificate in the introduction of the role of the Professional Taxi and Private Hire Driver or the NVQ Level 2 Certificate in Road Passenger Vehicle driving (Taxi and Private Hire Driver) or an equivalent qualification or be enrolled on such a course before they make an application.

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- 3.2.16 The determination as to whether another qualification is equivalent will lie with the Council. No licence will be issued until the Qualification has been passed and the Certificate has been verified. Obtaining such a qualification is not a guarantee that a licence will be granted.
- 3.2.17 Applicants will be required to pass a theory test that consists of a knowledge test of the Cheshire East area, questions in relation to the Taxi Legislation and the Highway Code. Applicants will be expected to show a suitable knowledge of the Borough before a licence will be issued.
- 3.2.18 The Council reserves the right to require any applicant or existing driver to take and pass an additional driving test at the applicant or licence holder's expense. In the case of a new application this would be before application for a driver licence can be made, and in the case of an existing driver, at any time during the duration of the licence. In both cases it will be at the discretion of the Council but will usually (but not exclusively) be based on concerns or complaints in relation to the standard of driving. The cost of undertaking such a test or assessment will be the responsibility of the applicant or licensed driver.
- 3.2.19 Applicants that have not held a driver licence issued by Cheshire East Council within a year of the date of application will be required to repeat all the above (the qualification (BTEC or NVQ), the theory test and the driving test) before they can be considered for a new driver's licence.

Safeguarding Training

- 3.2.20 All applicants must have attended and completed a Council approved course relating to Child and Adult Sexual Exploitation prior to being licensed. Any existing licence holder must complete this course within the currency of their existing licence in order to have it renewed. Failure to do so will lead to delay in renewal of the licence until such time as the course has been satisfactorily completed.

Previous Convictions

- 3.2.21 Most applicants will not have any criminal convictions, however it is acknowledged that some applicants will have made mistakes in the past which will have led to them being convicted of crimes. The Council's approach to previous convictions is detailed in the Previous Convictions Policy. This lays down the minimum acceptable standard for those with criminal convictions to be granted a taxi drivers licence. Failure to meet these standards means that the licence cannot be granted by officers under delegated powers, and the matter will be referred to the Licensing Committee/General Licensing Sub-Committee for determination. It must be emphasised that the grant of a licence in these circumstances will be unusual.

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3.2.22 Any existing driver who falls below these standards will also be in serious danger of having their licence revoked or suspended

Sanctions against breaches of the Code of Conduct and for Acquiring Driving Licence Points

3.2.23 Where a driver acquires 6 or more penalty points on their DVLA licence, or who breaches any legislation, byelaws or requirements of the code of conduct may be referred to the General Licensing Sub-Committee or the Licensing Committee.

3.2.24 The Council also has its own Penalty Point Scheme as a method of enforcing the requirements for taxi drivers (See appendix R).

3.2.25 The Licensing Committee or Sub-Committee has the discretion, where appropriate, to order a driver to attend a Driver Correction Course (at the drivers own expense) before they may resume duties as a taxi driver.

3.2.26 The Licensing Committee or Sub-Committee may also suspend or revoke the driver's licence or impose penalty points. Suspension or revocation of your licence can be with immediate effect where the Council is of the opinion that in the interest of public safety such action is required. Section 61(2A) of the Local Government (Miscellaneous Provisions) Act 1976 provides a local authority with such powers.

3.2.27 It must be understood that a decision to grant a licence would have been made on the basis that an applicant was a fit and proper person to drive a hackney carriage and private hire vehicle at the time the application was determined. That decision would have been made on the particular facts of the case on the day of the decision. That status can be lost at any time in the future and the licence holder must ensure that their behaviour remains of the highest standard to protect their licence and therefore their livelihood.

3.2.28 Providing the above are satisfied, the Council will renew the licence. It is the responsibility of the applicant to provide the Council with the DBS certificate once received. A licence will not be issued without a current DBS certificate, or any of the other specified documents that make up a complete application.

3.2.29 To allow continuous driving, applicants for licence renewals should allow at least eight weeks for the DBS check. Valid renewal applications (including a current DBS certificate) must be received by the Council at least 10 working days prior to the expiry date of the original licence to allow the Council sufficient time to process the renewal application.

Where applicants fail to submit a valid renewal application within this timescale, their licence may expire before the renewal is issued. Once a licence expires,

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is revoked (subject to statutory appeal process) or is surrendered, it ceases to exist and applicants will not be permitted to drive a Hackney Carriage or Private Hire Vehicle in these circumstances.

It is the driver's responsibility to notify the Council of any cautions, convictions, pending court cases and current or pending endorsements to their DVLA Driving licence received during the course of a licence period, in line with the driver conditions. Failure to notify the Council at the time of any caution, conviction, pending court case or current/pending endorsement to a DVLA driving licence may lead to a licence being referred to the General Licensing Sub-Committee to be determined. In these types of situation, the Council will not issue a licence for any interim period between the expiry of the current licence and the next available General Licensing Sub-Committee hearing.

3.2.30 Once a licence ceases to exist, a renewal application will not be accepted by the Council and the applicant must submit a new driver licence application which will be processed in accordance with the Council's new application procedures.

Production of documents

3.2.31 The driver must, on request, produce for inspection their hackney carriage/private hire driver's licence immediately or within 7 days to either the Council office or a police station.

Driver badges and licences

3.2.32 The badge must be worn by the driver at all times when driving the licensed vehicle and the badge must be plainly and distinctly visible.

3.2.33 All drivers of vehicles licensed for hackney carriage purposes of which they are not the proprietor, must deposit their driver's licence (paper counterpart) with the proprietor **before** commencing driving the vehicle. The vehicle proprietor must retain the licence until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his.

3.2.34 On ceasing to be a licensed driver through suspension, revocation, refusal to renew or expiry of the licence, the licence holder must return the badges and licence to the Council within 7 days (or earlier if the Council so demands) of the suspension, revocation, refusal to renew or expiry becoming effective.

Journeys

3.2.35 Drivers must not unnecessarily prolong a journey, in distance or in time.

Vehicles

3.2.36 Only vehicles licensed by the Council are permitted to be used for hackney carriage and private hire purposes.

Driving Licensed Vehicles

3.2.37 Only drivers who are licensed by the Council that licensed the vehicle are permitted to drive a licensed vehicle. The only exceptions to this are when the vehicle is undergoing an MOT test and needs to be driven by the MOT examiner or it is being driven by a qualified mechanic for the purposes of a vehicle service, recovery or maintenance or otherwise permitted by legislation.

Smoking in vehicles

3.2.38 Drivers must not, at any time, smoke or permit passengers to smoke in their vehicle as required by the Health Act 2006 and the Smoke-Free (Exemptions and Vehicles) Regulations 2007. This includes the use of electronic cigarette and/or vapourisers etc. If drivers are witnessed smoking/vaping, or allow a passenger to smoke/vape, in a licensed vehicle, then they may be served with a fixed penalty notice, issued with a warning and/or referred to the General Licensing Sub-Committee. Drivers smoking/vaping when their vehicle is parked/not hired must get out and step away from their vehicle.

Transporting children

3.2.39 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/carer responsible for the children. Failure to use a child car seat or similar designed apparatus where available, will enable the driver to refuse the carriage of that child/young person. However once in the vehicle it is the driver's responsibility to ensure that passengers under 14 years old are correctly restrained.

Legal Requirements

Touting

3.2.40 A proprietor or driver of a hackney carriage, when standing or plying for hire, must not call out or otherwise importune any person to hire such vehicle and must not make use of the services of any other person for this purpose. This is an offence under the Criminal Justice and Public Order Act 1994, section 167.

Plying for Hire

3.2.41 Drivers of private hire vehicles must NOT 'ply for hire'. The Council's interpretation of 'plying for hire' is set out at appendix H and is based on relevant legislation and case law.

Refusing to convey passengers

3.2.42 A driver of a hackney carriage who is waiting at a rank/stand must not refuse to carry a passenger without a reasonable excuse. E.g. if the person/s are severely intoxicated or being abusive to the driver.

Overcharging

3.2.43 Drivers of hackney carriages must not charge more than is permitted under the current table of fares. Drivers undertaking journeys ending outside the Council's area and in respect of which no fare and no rate of fare was agreed before the journey commences must not charge more than that indicated on the taximeter or more than the current table of fares allows.

Persons riding without consent

3.2.44 Drivers of hackney carriages must not permit persons to be carried in the vehicle unless they have the consent of the person who is actually hiring the vehicle.

Unlicensed drivers

3.2.45 Licensed drivers of hackney carriages must not allow persons to drive a hackney carriage unless they are authorised to do so by the proprietor and hold an appropriate licence to do so.

Obstruction

3.2.46 Hackney carriage drivers must not obstruct other hackney carriage drivers/vehicles from undertaking their normal hiring and driving activities, on a rank or other designated collection point.

National Register of Taxi and Private Hire Driver Licence Refusals and Revocations (NR3) Database

3.2.47 Cheshire East Council has signed up the National Register of Taxi and Private Hire Drivers Licence Revocations and Refusals (NR3). This means that when an application for a drivers licence is refused, or when an existing driver's licence is revoked, that information will be placed upon the register.

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3.2.48 When an application for a new driver's licence, or renewal of an existing driver's licence is received, Cheshire East Council's Licensing Team will make a search of the NR3. This search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with these criteria. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.

3.2.49 Cheshire East Council will make and retain a clear written record of every search that is made of the register.

This will details:

- The date of the search;
- The name or names searched;
- The reason for the search (new application or renewal);
- The results of the search; and
- The use made of the results of the search (this information will be entered to the register at a later date).

3.2.50 This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

3.2.51 Any information that is received for any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of the processing that application, making a decision, notifying the applicant of the outcome of that decision, the appeal process.

3.2.52 For avoidance of doubt any such data will be kept for a period of not more than 35 days from the date of the service of the written notification of the determination of the application.

3.2.53 Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned.

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- 3.2.54 Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.
- 3.2.55 The data will be held securely in accordance with Cheshire East Council's policy on the secure retention of personal data. At the end of the retention period the data will be erased and/or destroyed in accordance with Cheshire East Council's policy on the erasure and destruction of personal data.

3.3 Hackney Carriage Vehicle Licences

Summary

- 3.3.1 Hackney carriages are licensed in accordance with the provisions contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 3.3.2 Hackney carriages are licensed to stand for hire at a taxi rank or can be hailed in the street when within the administrative area of the Council with which it is licensed. Hackney carriages may also undertake pre-booked journeys anywhere in the country.
- 3.3.3 All hackney carriages, whilst plying for hire, shall be immediately capable of providing for at least one wheelchair, if designated as a Wheelchair Accessible Vehicle by the Council. Under section 167 of the Equality Act 2010 the Council may create a list of all licensed wheelchair accessible vehicles, placing the below duties on the driver:
- (a) To carry the passenger while in the wheelchair;
 - (b) Not to make any additional charge for doing so;
 - (c) If the passenger chooses to sit in a passenger seat, to carry the wheelchair;
 - (d) To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
 - (e) To give the passenger such mobility assistance as is reasonably required.
- 3.3.4 The Council will not licence a vehicle which is licensed by another local authority or allow or permit a hackney carriage identification plate issued by another authority to be displayed on the vehicle.
- 3.3.5 The Council does not limit the number of hackney carriage vehicle licences that it will issue.
- 3.3.6 The Council has absolute discretion over granting a hackney carriage vehicle licence. That means that it can refuse to grant a licence unless the vehicle meets or exceeds its requirements. It also means that the character of the vehicle owner can be taken into consideration, and again, the licence can be refused unless the vehicle owner also meets or exceeds the Council's requirements.

Insurance 'Write Off' Vehicles

- 3.3.7 Car insurance assessors use various categories of car insurance write off to rank the seriousness of accident damage. Two categories (A&B) represent very serious damage, but the remaining two categories (S&N) are for

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'economic write offs', where damage is expensive to fix but not necessarily dangerous. Vehicles that have been declared to be an insurance write off in category A & B will not be licensed. Vehicles that have been declared either a category S or N write off may be licensed providing the applicant provides an appropriate engineer's report verifying the standard of repairs.

Period of Licence

3.3.8 Vehicle licences will be issued for a maximum of 12 months.

3.3.9 The applicant for a vehicle licence must be the legal keeper of the vehicle concerned and entitled to be registered as the keeper of the vehicle under the provisions of Regulation 10 of the Road Vehicles (Registration and Licensing) Regulations 2002 in their own name. Prior to licensing and thereafter, as required, satisfactory evidence must be produced to demonstrate compliance with this requirement, for example the V5C/logbook.

Vehicles

3.3.10 The Council requires all hackney carriage vehicles to comply with specifications and requirements set out in Appendix G and advises all applicants and current licence holders to familiarise themselves with this section.

3.3.11 Proprietors are encouraged to have provision for the legal transportation of a minimum of one wheelchair at all times. (When a vehicle licence is granted and the plates are issued, the maximum number of passenger seats that can be used at any one time e.g. if the vehicle has X number of fixed seats and the fixings to carry 1 customer in a wheelchair then the licence will be to carry X + 1 passenger. If any of the fixed passenger seats become obstructed when a wheelchair is fitted then the driver must not permit that seat/those seats to be used during that journey.

Vehicle Type and Age

3.3.12 In order that a reliable hackney carriage service of an acceptable standard is provided within the Borough a person to be considered for a hackney carriage vehicle licence on first or subsequent occasions shall comply with the following suitability criteria:

Wheelchair Accessible Vehicle

3.3.13 From [DATE] any vehicle presented for initial licensing as a hackney carriage must be a purpose built vehicle capable of carrying a wheelchair bound passenger (a 'wheelchair accessible vehicle') which complies with the current Greater London Authority Transport for London

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Conditions of Fitness' or it is an E7 2007 Model year only (currently such vehicles are FX4, TX1, TX2 or TX4, Metrocab, Mercedes Vito Taxi or E7 from 2007 model year only, but other vehicles that meet or exceed these specifications will be considered on a case by case basis). Such vehicles are referred to as WAV's ('wheelchair accessible vehicles').

3.3.14 If the vehicle does not comply with the London 'Conditions of Fitness' or is any other type of vehicle, the following additional specifications will apply:

- i. Any vehicle, before it can be considered to be licensed as a Wheelchair Accessible Vehicle must have European Whole Vehicle Approval (M1) or Low Volume Type Approval Standards or Single Vehicle Type Approval, including an inspection certificate issued by D.V.S.A as a minimum standard. In all such cases, it will be at the discretion of the Council to grant or refuse the grant of a hackney carriage vehicle licence.
- ii. The interior of the vehicle must be able to accommodate a wheelchair and its user riding seated within the wheelchair.
- iii. Have a minimum unobstructed available width of 0.74 metres (including at the point of entry).
- iv. Have a minimum unobstructed available length of 1.2 metres for a wheelchair user.
- v. Have a minimum unobstructed height for a wheelchair and user of 1.3 metres at the point of entry and 1.4 metres when in the travelling position.
- vi. The vehicle must be fitted with suitable wheelchair anchorages, either chassis or floor linked.
- vii. The vehicle must be fitted with a suitable 3 point belt or harness, either chassis or floor linked, for a wheelchair and its user. The belt/harness must be independent of the wheelchair anchorages.
- viii. The vehicle must have a suitable ramp(s) for a wheelchair user. The vehicle must have a secure and safe place for the ramps to be stored when they are not being used. Alternatively, the vehicle may be fitted with a tail lift or some other mechanical means of access, approved by the Council.
- ix. Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the

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commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement.

- x. At least one door entrance must be designed and constructed to help elderly and disabled passengers enter and egress the vehicle. The door entrance and any steps must be conspicuously marked to help visually impaired passengers.
- xi. All passenger door entrances must have grab handles or rails suitable located to help elderly and disabled passengers. All handles/rails must be conspicuously marked to help visually impaired passengers.
- xii. To assist elderly and disabled passengers, at least one passenger seat must be of a 'swivel' or other design and construction, approved by the Council.
- xiii. In addition, the vehicle must meet the general requirements details below (paragraph 6) so far as they are not incompatible with the above.

Non Wheelchair Accessible Vehicles ('Saloon vehicles')

3.3.15 A 'saloon vehicle' refers to any vehicle which is not wheelchair accessible. Any saloon vehicle that is currently licensed as a hackney carriage can remain as a saloon vehicle for the duration of the licence up to the maximum age of the vehicle which is 12 years, provided that the vehicle is continuously renewed. If the vehicle is transferred, the licence will not be renewed for a saloon vehicle, and on renewal a wheelchair accessible vehicle must be provided. If at any time an application for renewal of the licence (complete in every way) is not received before the expiry of the current vehicle licence, the vehicle licence will lapse and the right to use a saloon vehicle will end. A new licence application would then be required for a wheelchair accessible vehicle in accordance with the above paragraphs.

3.3.16 If the vehicle is to be licensed as a saloon (licensed pre-operative date) and is not a purpose built vehicle, it must be approved by the Council and comply with the following specification:

- i. Have a minimum of four doors that can be opened from both inside and outside the vehicle. Each door must be capable of being opened by passengers from both inside and outside the vehicle. Each door must be adjacent to and allow direct access to and from the seats.
- ii. Have a minimum seating capacity for at least four adult passengers based on a seat width of not less than 400mm per person across the rear seat.

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- iii. Must be so constructed as to provide adequate space within its structure for the safe carriage of each passenger's luggage or any equipment. If that is not possible or practical then d, e and f (as applicable) below will apply.
- iv. The minimum wheelbase of the vehicle must be 2.44 metres.
- v. The minimum unobstructed distance between the uncompressed seat cushion and the roof must be 0.9 metres (measured 0.25 metres from and parallel with the seat back) in relation to the front passenger and drivers seats, and 0.84 metres in relation to any other passenger seats.
- vi. The minimum unobstructed distance between the seat back and the footwell bulkhead/facing seat back must be 0.95 metres in relation to the front passenger and driver seats, and 0.6 metres in relation to any other passenger seats.
- vii. The minimum unobstructed interior width of the vehicle must be 1.3 metres (excluding armrest).

Additional requirements for minibus and MPV type vehicles

3.3.17 In order to be licensed, minibus and MPV type vehicles must be fitted, in addition to the front driver and passenger doors, with at least:

- One other side loading door plus a rear door/doors or tailgate that can be opened from inside the vehicle; or
- Two side loading doors that can be opened from the inside.

Hackney Carriage Licences issued prior to [date of policy] – Grandfather Rights

3.3.18 Vehicles which are licensed at the time this policy is implemented may continue to be licensed until they fail the Council's mechanical vehicle test. These vehicles will be subject to a mechanical vehicle test every 6 months (from the age of 7) The cost of the test will be met by the vehicle owner. At each renewal test, and subsequent 6 month test the vehicle will be permitted one retest only. Once a vehicle fails a retest it will cease to be suitable for licensing.

3.3.19 Current holders of hackney carriage licences for non-wheelchair accessible vehicles i.e. saloons, hatchbacks and estates, will continue to benefit from existing grandfather rights allowing them to replace their current vehicle with, another non-wheelchair accessible vehicle either during the licence period or

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at the expiry of the licence. However, those rights will cease if the vehicle is transferred to another proprietor.

Electric and Zero Emission capable Vehicles

3.3.20 The Council encourages and promotes the purchase of zero emission capable or hybrid vehicles to be licensed as hackney carriages. Where possible the Council will seek to implement a number of 'charge points' around the Borough which will be available for vehicle proprietors to use, and also to actively target funding opportunities for such charge points. Hybrid vehicles will not be permitted as hackney carriages unless they also fulfil the wheelchair accessible vehicle requirements or are vehicles operating under Grandfather Rights.

Application and Supporting Documentation

The application process to licence a hackney carriage vehicle is the same for a new or renewal application.

3.3.21 The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information, documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation/fee and informed that the application will not be accepted/valid until such time as all the information/documentation/fee is provided. The full fee for the licence is payable at the time application is submitted.

3.3.22 Any person wishing to licence a hackney carriage vehicle must submit:

- a) A completed application form;
- b) A Basic, Standard or Enhanced Disclosure Certificate issued within the last 12 months or a DBS certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process);
- c) A statutory declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent convictions';
- d) The appropriate licence fee (in full at the time of the application);
- e) A valid Certificate of Compliance (in accordance with the requirements set out at paragraph 3.3.27 below);
- f) A current vehicle fitness/garage test pass certificate (from the Council's Garage);
- g) A valid certificate of insurance for public hire. **This must remain valid for the period of the licence and must be produced on demand to an authorised officer of Cheshire East Council or police and in any case within 24 hours;**

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- h) The V5C registration certificate (or alternative interim measure outlined in paragraph 3.3.23 below);
- i) A valid certificate/report to confirm the vehicle is fitted with a taximeter in accordance with the requirements set out in Appendix G.

3.3.23 Where a vehicle has been modified, you will be required to submit a Voluntary IVA Certificate before you submit the application to licence the vehicle. It is the responsibility of the applicant to ensure they are providing the council with the correct information. To obtain the certificate, applicants will need to contact the DVSA or visit the www.gov.uk website. The council requires that the normal level of check is undertaken.

3.3.24 Where the vehicle is fitted with a mechanically operated ramp/lift, a valid certificate/report confirming the ramp/lift complies with the requirements of the Lifting Operations and Lifting Regulations 1998 shall be provided. (NB the vehicle proprietor is responsible for ensuring that a competent person carries out the necessary checks every 6 months in accordance with these Regulations).

3.3.25 Where non-mechanical ramps are used, confirmation is required from the proprietor of the vehicle that the ramps comply with the relevant provisions of the Provision and Use of Work Equipment Regulations 1998. (NB The Council's Approved Testing Station garage will check that the provision of non-mechanical ramps is being maintained by the vehicle proprietor).

3.3.26 Where fittings are used to secure wheelchairs to the floor of the vehicle, a valid certificate/report confirming that all the fittings meet the required specifications should be provided.

Vehicle Testing Requirements

Certificate of Compliance

3.3.27 Vehicles must be tested at a relevant test centre which will be either:

- Environmental Hub (ANSA), Cledford Lane, Middlewich CW10 0JR; or
- Macclesfield MOT Testing Station, Unit 6 Pool Street, Macclesfield SK11 7NX.

3.3.27 Rules are in operation at the testing stations for the safety of applicants and the safety of the testers. Licence holders are expected to comply with the rules at all times

The vehicle test will be tested against a set of Hackney Carriage Vehicle Test Guidelines set down by the Licensing Team. See Cheshire East Council's website.

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- 3.3.28 Vehicles licensed by Cheshire East Council fall under the MoT exemption requirement, therefore applicants will need to be aware that when their vehicle is no longer licensed, it will need to be presented for an MoT.
- 3.3.29 When the vehicle has met the test criteria, the licence will be granted which will exempt the vehicle from requiring a standard MoT.
- 3.3.30 Applicants will be able to tax the vehicle at the Post Office by completing a V112 Declaration of Exemption Form, this must be done in person.
- 3.3.31 Licence holders are required to carry the vehicle licence in the vehicle that it relates to as proof of MoT.

Vehicle Fitness/Inspection

- 3.3.32 The Council requires all vehicles to be tested at least once a year, to ensure that they are suitable and 'fit' to be licensed. Vehicles can be tested prior to an application for an initial Hackney Carriage vehicle licence being submitted. Similar tests will be required following an application for renewal of a vehicle licence. In both cases, the vehicle must pass the test before the licence will be granted.
- 3.3.33 The frequency of testing is once per year until the vehicle reaches its 5th anniversary when the vehicle will be required to be tested 6 months after the licence has been granted. If the vehicle fails that test the licence will be suspended using the powers contained in section 68 of the Local Government (Miscellaneous Provisions) Act 1976 until such time as the faults are rectified.
- 3.3.34 Where a vehicle licence is suspended, under section 68 of the Local Government (Miscellaneous Provisions) Act 1976, as a result of an accident, a garage test will be required to confirm that its roadworthy, once any repairs have been completed. The driver is responsible for the cost of any additional garage tests. A vehicle fitness certificate will be required before the suspension can be lifted.
- 3.3.35 Where a vehicle fails the garage test the proprietor will be given 28 days to rectify the failure items and submit the vehicle for re-inspection. If the garage deems the vehicle to be non-repairable, it fails the re-inspection or it not resubmitted within 28 days then the vehicle will not be eligible for a retests and any licence in place will be suspended or will not be granted.
- 3.3.36 It is the responsibility of the applicant/licence holder to ensure that the vehicle is presented for test at the time indicated. Any vehicle that is presented after this time will not be inspected. In this situation the applicant/licence holder will need to re-book a test and pay an additional test fee.

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- 3.3.37 The licence holder/applicant may cancel a test appointment only if they provide at least two working days notice (excluding Saturday, Sunday and Bank Holidays) to the Council's Contact Centre.
- 3.3.38 If you fail to present a vehicle for a scheduled test, you will have to pay a test fee before a further test appointment will be allocated.
- 3.3.39 On an inspection for renewal of a vehicle licence, if an authorised officer is not satisfied that a vehicle is fit for use as a Hackney Carriage, the officer may immediately suspend the vehicle licence under section 68 of the Local Government (Miscellaneous Provisions) Act 1976, which means the vehicle cannot be used as a hackney carriage. The proprietor will be asked to surrender the licence plate and additional signage. The return of the plate and additional signage, and issue of a licence, will be conditional on the vehicle passing a further full test (which will be at the expense of the licence holder) in accordance with instructions from the vehicle examiner. When the vehicle passes the further test, the suspension will be lifted. If the licence plate and additional signage are not surrendered voluntarily, the plate will be removed after 7 days, by an authorised officer. If the proprietor refuses to surrender the vehicle plate, a tamperproof 'Vehicle Licence Suspended' stickers will be affixed to the vehicle plate. In this instance, a replacement vehicle plate will be available for purchase from the Council if and when the suspension is lifted.

Vehicles not fit for the conveyance of passengers

- 3.3.40 Where a proprietor has notified the Council that damage has occurred to a vehicle, or an inspection of the vehicle by an officer of the Council has determined that a vehicle is not fit for the purpose of conveying passengers, an authorised officer of the Council will decide if the condition is such that the vehicle may continue in service or not, using the DVSA's "Categorisation of Vehicle Defects" document as a guide on how to deal proportionately with defects*. If not, an authorised officer of the Council may, at the time, suspend the vehicle and require the proprietor of the vehicle to return the vehicle's plate to them within 7 days. The suspension will be lifted and the plate returned at such time when the condition of the vehicle is demonstrated, to the satisfaction of the Council to be fit for conveying passengers. A vehicle fitness/garage test certificate will be required to determine whether the suspension can be lifted.
- *How vehicle defects are categorised in roadside checks and vehicle tests can be found on the Gov.uk website.

Plates and Identification of vehicle

- 3.3.41 All hackney carriage vehicles must display the licence plates and additional signage provided by the Council, on the vehicle at all times in the positions specified in the vehicle conditions (see appendix L). As the vehicle is a licensed hackney carriage, the plate and any identification signage must be

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displayed at all times and must never be removed or covered during the term of the licence.

3.3.42 In addition to the above, wheelchair accessible hackney carriages will be required to display wheelchair stickers at all times. Non-Wheelchair accessible hackney carriages will be required to display “No wheelchair” stickers at all times.

3.3.43 The identification stickers shall be displayed on:

- a) The inside of the lower near-side of the windscreen, so that the sticker is visible to passengers within the vehicle;
- ii) The top near-side rear window, facing outwards; and
- iii) The top off-side rear window, facing outwards.

3.3.44 One licence plate shall be securely affixed to the front of the vehicle and one licence plate shall be securely affixed to the rear of the vehicle. The plates should, at all times, be fitted to the vehicle using the fastenings and fittings issued by the Council. The fastening of plates with temporary removable or magnetic fixings will not be acceptable.

3.3.45 The plates (and any backing brackets) and stiller shall at all times remain the property of the Council and the vehicle proprietor shall not cause or permit the information displayed upon the plates to be altered, removed or obscured in any way.

3.3.46 If the vehicle plates or additional signage are lost or damaged, duplicates must be purchased from the Council within 7 days.

Advertising

3.3.47 Advertisements may be displaying in or from the vehicle provided any advertising complies with legislation, the British Code of Advertising Practice and the approval of the Council has been obtained. All requests for permission to advertise on a vehicle must be made to the Licensing Team Leader **before** the advert is put on the vehicle.

3.3.48 Generally only **one** advert will be allowed to be applied to any vehicle. Any requests for further adverts must be made in writing and will be at the discretion of the Licensing Team Leader.

Ranks

3.3.49 The Highways section of Cheshire East Council is primarily responsible for the creation of ranks and will work with the hackney carriage trade, Council and Cheshire Police to determine where ranks/stands ought to be situated.

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3.3.50 Where a driver is plying for hire and is illegally parked or creating an obstruction or if, in the opinion of an officer of the Council or police officer, the driver is plying for hire in a dangerous location (this does not include a legitimate period of time where a hackney carriage has stopped to drop off or pick up a fare), the drivers licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action.

Hackney Carriage Fares/Taximeters

3.3.50 All hackney carriage vehicles must be fitted with a calendar controlled and sealed meter that is approved by the Council, constructed, attached and maintained in compliance with the byelaws and must have been satisfactorily tested by an Authorised Officer of the Council or at any approved testing station before it is used.

3.3.51 The meter must be calibrated to the Council's current Hackney Carriage Table of Fares.

3.3.52 The meter must be accurate, be capable of showing that the vehicle is or is not hired, it must be fitted with a key or other device that, when turned, will operate the meter and display the word 'HIRED'. This key or device must be capable of locking the meter so it does not work and no fare is recorded on it.

3.3.53 When the meter is working, the fare must be clearly legible.

3.3.54 The word 'FARE' must be clearly printed on the meter so it clearly indicates the fare displayed.

3.3.55 The meter must be placed in a safe and practical position in the vehicle where all letters and figures displayed on the meter are clearly visible to any passenger. The letters and figures must therefore be illuminated when in use.

3.3.56 Alternatives to conventional meter displays (e.g. rear view mirror displays) separate displays etc must be approved by the Council and placed where they can be seen clearly by all passengers.

3.3.57 A notice showing the current Table of Fares must be displayed inside the vehicle in a position where any passenger can easily read it.

Signage

3.3.58 The vehicle must be fitted with a sign with the word '**TAXI**' (minimum size 35cm wide and 10cm high) on its roof. The sign must be capable of being illuminated.

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3.3.59 The vehicle must be fitted with a '**FOR HIRE**' sign in a conspicuous position on the vehicle. This sign must be illuminated when it is dark when the vehicle is available for hire.

3.3.60 The proprietor must ensure that the '**TAXI**' and '**FOR HIRE**' signs switch off automatically when the meter is operating.

Changes/Transfers etc

Vehicle substitution

3.3.61 If the proprietor wishes to change the vehicle that is licensed the following procedures must be followed:

- The proprietor must complete an application form for the 'new' vehicle;
- The proprietor must pay the stated fee for a 12 month period;
- The proprietor must surrender the original licence. No refund for the remaining term of the licence will be given;
- The new vehicle must be presented for test and subsequently pass;
- Written proof of consent to the change of vehicle must be provided from all interested parties;
- The proprietor must maintain and produce evidence of a continuous policy or insurance, which clearly states that the vehicle is to be used for hire or reward.

Change of proprietor and/or driver

3.3.62 The proprietor must give notice to the Council of any transfer in their interest in the hackney carriage vehicle to a person other than the proprietor whose name is specified in the licence. Such notice must be given in writing, within 14 days specifying the name and address of the person to whom the vehicle has been transferred and accompanied by the relevant documentation for the proprietor.

3.3.63 The proprietor must give notice to the Council when any changes are made as to the driver of the vehicle.

Change of address

3.3.64 The proprietor of a hackney carriage must notify the Council in writing, within 7 days, of any change of their address.

Letting/Leasing of vehicle

3.3.65 If the proprietor enters into a leasing arrangement, the proprietor will remain on the vehicle licence as a person with a beneficial interest in the vehicle and will still be jointly responsible for the vehicle.

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General requirements for all vehicles being presented for licensing as a Hackney Carriage

- 3.3.66 Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any fitted division between the drivers and passenger compartments.
- 3.3.67 The vehicle must be wind and water-tight.
- 3.3.68 The vehicle must have a floor properly covered with fitted carpet, rubber type floor covering or other suitable non-slip covering.
- 3.3.69 The vehicle must have an adequate fully functioning internal light to facilitate the safety of a passengers entry/egress of the vehicle.
- 3.3.70 The vehicle's bodywork and paintwork must be in good condition and free from dents or other damage and rust (refer to test guidelines for more information).
- 3.3.71 The vehicle must be provided with a spare wheel and tyre of the correct size to fit the vehicle, and the wheel must be securely stored. The tyre of the spare wheel must be inflated to the same pressure as the highest specified pressure on any of the road-wheels. There must also be provided, equipment to change the wheel including a spare wheel and tyre, jack and wheel brace, unless the manufacturers specification when new did not include a spare wheel, in which case the manufacturers alternative (e.g. spray can) will be acceptable.
- 3.3.72 The vehicle must be fitted with nearside and offside exterior rear view mirrors which must be maintained in a serviceable condition.
- 3.3.73 The vehicle must have at least one window on each side of the passenger compartment which is capable of being opened and closed.
- 3.3.74 All seats must be permanently fixed to the vehicle and must be factory fitted with a 3-point seat belt. All retrospectively fitted seat belts must be approved by the Council. The use of folding seats in non-purpose built hackney carriages is not permitted.
- 3.3.75 The vehicle must be fitted with glass which is in accordance with current Vehicle Construction and Use Regulations prescribed in respect of the normal zone of vision, as follows:

Front windows (windscreen and front side windows)

- To transmit 75% light through the front windscreen,
- To transmit 70% light through the front driver/passenger side windows.
- Any subsequent replacement windows shall conform to the above requirements.

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- No tinted films or other adhesive material will be acceptable on any part of the windows of the vehicle.

Other windows (rear passenger windows/quarter light windows/rear windscreen)

- To transmit 70% light through.
- Any subsequent replacement windows shall conform to the above requirements.
- No tinted film or other adhesive materials will be acceptable on any part of the windows of the vehicle.

3.3.76 Any vehicle which is a convertible must meet all other requirements and have a waterproof roof and side windows which must be raised at the request of any passenger.

3.3.77 The vehicle must be equipped with a 1kg dry powder extinguisher or a 2 litre AFFF extinguisher approved to BS EN3: 1996, with the hackney carriage licence number painted on it. The fire extinguisher must have been properly maintained in accordance with BS 5306; Part 3 and be secured in such a position in the vehicle as to be fit for immediate use in an emergency

3.3.78 The vehicle must be equipped with a first aid kit in a suitable container, with the licence number painted on it.

3.3.79 The vehicle must not be fitted with any additional lights other than those originally fitted by the manufacturer unless they have been approved by the Council

3.3.80 Roof racks will be permitted. Any vehicle using a roof rack must be fitted with a second roof sign, with one sign in front of the roof rack, and one behind, allowing the signs to be seen in the same way as a vehicle without a roof rack. Any luggage carried on the roof rack must be protected from the elements by a waterproof cover and properly secured. A properly fitted roof box is an acceptable alternative.

Hackney Carriage Vehicle Emissions Policy

3.3.81 With effect from [INSERT OPERATIVE DATE] no hackney carriage vehicle licence will be issued or renewed unless the vehicle has been manufactured to Euro 5 or a higher specification. The use of Bio-diesel, bio-fuel or LPG conversions will not be accepted after this date.

3.3.82 By [+ 24 months from operative date] no hackney carriage vehicle licence will be issued or renewed unless the vehicle has been manufactured to Euro 6 or a higher specification or UK equivalent.

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- 3.3.83 The Council may approve conversions or adaptation systems for vehicles to comply with the requirements of the Council emissions standards. The Council must be provided with satisfactory evidence that the conversion or adaptation system achieves the required emission standard and that test data complies with the European test standards for vehicle emissions. Such approval may be engine/vehicle specific. The cost of obtaining approval of new conversion of adaptation systems will not be met by the Council.
- 3.3.84 It is for the vehicle proprietor to provide satisfactory evidence to the Council or the approved testing station that any vehicle presented for licence or inspection complies with the requirements of this policy.
- 3.3.85 Any vehicle that has previously be 'written off' as a Category C or D may be licensed provided that the vehicle meets all other requirements policy requirements and passes the Council's vehicle test. The application must also be accompanied by a DVSA voluntary individual vehicle assessment. (See para 3.3.7).

Engine/Chassis Numbers

- 3.3.86 The chassis/vehicle identification number plate and engine numbers must match the numbers recorded with the DVLA. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the Council will inform the Police who may undertake checks.

Seating Arrangements

- 3.3.87 Any alteration to the seating arrangement during the term of the licence (other than the manufacturers original specification or as approved by the Council) shall be a cause for the suspension of the licence.

Timescale for issuing a licence

- 3.3.88 Once a fully completed application has been made the application will be processed and all information provided will be verified and the vehicle tested. The vehicle licence and plates will then be available within 10 working days of the Council determining that a licence can be granted.

Licence Conditions

- 3.3.89 The applicable conditions relevant to a hackney carriage vehicle licence are set out at Appendix G; these conditions must be complied with. These conditions are in addition to any matters set out within the main body of this policy. The Licensing Committee or its Sub-committee can attach any conditions to individual licences as they see fit.

3.4 Private Hire Vehicle Licence

Summary

- 3.4.1 Private hire vehicles are licensed in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976. Private hire vehicles must not have the appearance of a hackney carriage vehicle.
- 3.4.2 When considering whether a vehicle is a private hire vehicle by the nature of the work it does, the Council will have regard to the document – Private Hire Vehicle Licensing – A note for guidance from the Department for Transport (August 2011) and any other subsequent Government issued guidance.
- 3.4.3 The Council cannot limit the number of private hire vehicle licences it will issue.
- 3.4.4 The Council will not licence a vehicle for private hire which is licensed by another local authority or allow or permit a private hire vehicle identification plate issued by another authority to be displayed on the vehicle.

Period of Licence

- 3.4.6 Vehicle licences will be issued for a maximum of 12 months.
- 3.4.7 The applicant for a vehicle licence must be the legal keeper of the vehicle concerned and entitled to be registered as the keeper of the vehicle under the provisions of regulation 10 of the Road Vehicles (Registration and Licensing) Regulations 2002 in their own name. Prior to licensing and thereafter, as required, satisfactory evidence must be produced to demonstrate compliance with this requirement, for example the V5C/Logbook.

Vehicles

- 3.4.8 The Local Government (Miscellaneous Provisions) Act 1976 section 48(1)(a)(ii) prevents a vehicle that resembles a hackney carriage from being licensed as a private hire vehicle. Accordingly, any vehicles that would meet Transport for London's Taxi & Private Hire Conditions of Fitness for Hackney Carriage Vehicles will not be licensed as a private hire vehicle in Cheshire East.
- 3.4.9 The Council requires all private hire vehicles to comply with specifications and requirements set out in Appendix J and advises all applicants and current licence holders to familiarise themselves with this section.

Proprietors are encouraged to have provisions for the legal transportation of a minimum of one wheelchair at all times (when a vehicle licence is granted and the plates are issued, the maximum number of passenger seats that can be

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used at any one time e.g. if the vehicle has x number of fixed seats and the fixings to carry 1 customer in a wheelchair then the licence will be to carry x + 1 passengers. If any of the fixed passenger seats become obstructed when a wheelchair is fitted then the driver must not permit that seat/those seats to be used during that journey.

Vehicle Type and Age

3.4.10 Wheelchair Accessible Vehicles – if the vehicle is constructed or adapted to carry passenger(s) seated in wheelchair, the following specifications apply:

- i. Any vehicle, before it can be considered to be licensed as a Wheelchair Accessible Vehicle must have, European Whole Body Type (M1) Approval, Low Volume Vehicle Producers Type Approval or Single Vehicle Type Approval including an inspection certificate by DVSA as a minimum standard.
- ii. The interior of the vehicle must be able to accommodate a wheelchair and its user riding seated within the wheelchair itself.
- iii. Have a minimum unobstructed available width of 0.74 metres (including at the point of entry)
- iv. Have a minimum unobstructed available length of 1.2 metres for a wheelchair and user
- v. Have a minimum unobstructed available height for a wheelchair and user of 1.3 metres at the point of entry and 1.4 metres when in the travelling position.
- vi. The vehicle must be fitted with suitable wheelchair anchorages, either chassis or floor linked.
- vii. The vehicle must be fitted with a suitable 3-point belt or harness, either chassis or floor linked, for a wheelchair and its user. The belt/harness must be independent of the wheelchair anchorages.
- viii. The vehicle must have suitable ramps for a wheelchair user. The vehicle must have a secure and safe place for the ramps to be stored when they are not being used. Alternatively, the vehicle may be fitted with a tail lift or some other mechanical means of access, approved by the Council.
- ix. Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement
- x. At least one door entrance must be designed and constructed to help elderly and disabled passengers get in and out of the vehicle. The door entrance and

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any steps must be conspicuously marked where appropriate, to help visually impaired passengers.

- xi. All passenger door entrances must have grab handles or rails suitably located to help elderly and disabled passengers. All handles/rails must be conspicuously marked to help visually impaired passengers.
- xii. To assist elderly and disabled passengers, one passenger seat may be of a “swivel” or other design and construction, approved by the Council.
- xiii. In addition, the vehicle must meet the general requirements detailed above (so far as they are not incompatible with the above).

3.4.11 Non Wheelchair Accessible Vehicles (Saloon Vehicles) – A saloon vehicle refers to any vehicle which is not wheelchair accessible. If the vehicle is a saloon vehicle it must be approved by the Council and comply with the following specification:

- i. Have at least four doors that can be opened from both inside and outside the vehicle. Each door must be capable of being opened by passengers from both inside and outside the vehicle.
- ii. have a minimum seating capacity for at least four adult passengers based on a width of not less than 400mm per person across the rear seat.
- iii. must be so constructed as to provide adequate space within its structure for the safe carriage of each passenger’s luggage or any equipment. If that is not possible or practical then d, e and f (as applicable) below will apply
- iv. The minimum wheelbase of the vehicle must be 2.44 metres.
- v. The minimum unobstructed distance between the uncompressed seat cushion and the roof must be 0.9 metres (measured 0.25 metres from and parallel with the seat back) in relation to the front passenger and driver seats, and 0.84 metres in relation to any other passenger seats.
- vi. The minimum unobstructed distance between the seat back and the footwell bulkhead/facing seat back must be 0.95 metres in relation to the front passenger and driver seats, and 0.6 metres in relation to any other passenger seats.
- vii. The minimum unobstructed interior width of the vehicle must be 1.3 metres (excluding any armrests).

3.4.12 Additional requirements for minibus and MPV type vehicles – in order to be licensed, an minibus/MPV type vehicle must be fitted, in addition to the front driver and passenger doors, with at least:

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- One other side loading door plus a rear door/doors or tailgate that can be opened from inside the vehicle; or
- Two side loading doors that can be opened from the inside.

3.4.13 No vehicle shall be more than four years old when granted an initial licence as a private hire vehicle.

3.4.14 No vehicle more than eight years old will be relicensed as a private hire vehicle.

3.4.15 The age of the vehicle will be determined as follows:

- If not previously used on a road anywhere in the world: date of first registration with DVLA
- If previously used on a road anywhere in the world (e.g. an imported vehicle): the date of manufacture.

3.4.16 Applications for renewals must be made at least six weeks before the licence expires. If no application is made to renew the vehicle licence in time there may be a period when the vehicle cannot be used as a private hire vehicle. If the renewal application is not received before the expiry of the current licence, it will be treated as a new application rather than a renewal and the applicant will have to provide all the information that is required for a new application.

3.4.17 Renewals are generally dealt with by officers under delegated powers and can be processed reasonably quickly. However, if there have been any changes since the last grant of the licence (e.g. if the vehicle's age exceeds the policy or there have been complaints or concerns about the proprietors behaviour or the proprietor has been convicted of any crime) the renewal application may need to be considered by the General Licensing Sub-Committee or Licensing Committee. If the decision is not made before the expiry of the vehicle licence, the vehicle cannot be used until the new licence is granted.

3.4.18 The licence is issued to the proprietor and it can be transferred to another proprietor. If that occurs, the Council must be notified immediately on the transfer form available from the Council's website or the Customer Contact Centre and the fee must be paid.

3.4.19 Following any transfer of licence to another person, on expiry of that licence, renewal will be at the Council's discretion e.g. if the new proprietor does not satisfy the Council's requirements, the licence may not be renewed.

Grandfather Rights

3.4.20 Vehicles that are wheelchair accessible or previously categorised as 'minibuses' which are licensed at the time this policy is implemented, may continue to be licensed until they fail the Council's mechanical vehicle test. These vehicles will

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be subject to a mechanical vehicle test every 12 months or 6 months depending on the age at first registration. The cost of the test will be met by the vehicle owner. At each renewal test, and subsequent test will be permitted one retest only. Once a vehicle fails a test and retest it will cease to be suitable for licensing.

Electric and Zero Emission capable vehicles

3.4.21 The Council encourages and promotes the purchase of zero emission or hybrid vehicles to be licensed as Private Hire Vehicles. Where possible the Council will seek to implement a number of 'charge-points around the Borough which will be available for vehicle proprietors to use, and also to actively target funding opportunities for charge-points within the Borough of Cheshire East.

Vehicle Emissions Policy

3.4.22 With effect from [DATE] no private hire vehicle licence will be issued or renewed unless the vehicle has been manufactured to Euro 5 or a higher specification. The use of Bio-diesel, bio fuel or LPG conversions will not be accepted after this date.

3.4.23 By [+24 months] no private hire vehicle licence will be issued or renewed unless the vehicle has been manufactured to Euro 6 or a higher specification or UK equivalent.

3.4.24 The Council may approve conversions or adaption systems for vehicles to comply with the requirements of the Council's emission standards. The Council must be provided with satisfactory evidence that the conversion or adaptation system achieves the required emission standard and that test data complies with the European test standards for vehicle emissions. Such approval may be engine/vehicle specific. The cost of obtaining approval of new conversion of adaptation systems will not be bet by the Council.

3.4.25 It is for the vehicle proprietor to provide satisfactory evidence to the Council or the approved testing station that any vehicle presented for licence or inspection complies with the requirements of this policy.

3.4.26 Any vehicle that has previously be 'written off' as a Category C or D may be licensed provided that the vehicle meets all other requirements and passes the Council's vehicle test. The application must also be accompanied by a DVSA voluntary individual vehicle assessment.

Application and Supporting Documentation

3.4.27 The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information, supporting

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documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation/fee and informed that the application will not be processed until such time as all the information/documentation is provided. The full fee for the licence is payable at the time the application is submitted.

3.4.28 Any person wishing to licence a private hire vehicle must submit:

- a) A completed application form;
- b) A Basic Standard, or Enhanced Disclosure Certificate issued within the last 12 months or a DBS Certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process);
- c) Complete a Statutory Declaration detailing the complete history of any criminal or motoring convictions, cautions, reprimands, speed awareness courses and fixed penalty notices;
- d) The appropriate licence fee (in full at the time of application);
- e) A valid MOT (in accordance with the requirements set out at paragraph 3.4.34 below);
- f) A current vehicle fitness/garage test pass certificate (from the Council approved garage);
- g) A valid certificate of insurance for public hire. This must remain valid for the period of the licence and must be produced on demand to an authorised officer or police, and in any case within 24 hours;
- h) The V5 registration certificate (or alternative interim measure outlined in paragraph below);
- i) Where a taximeter is fitted – a valid certificate/report to confirm the vehicle taximeter is fitted in accordance with the requirements set out at Appendix J;
- j) Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval or equivalent).

3.4.29 Where the vehicle is fitted with a mechanically operated ramp/lift; a valid certificate/report confirming the ramp/lift complies with the requirements of the Lifting Operations and Lifting Regulation 1998 (N.B. The vehicle proprietor is responsible for ensuring that a competent person carries out the necessary checks, which should be undertaken every 6 months, in accordance with the Regulations);

3.4.30 Where non-mechanical ramps are used; confirmation is required from the proprietor of the vehicle that the ramps comply with the relevant provisions of the Use of Work Equipment Regulations 1998. (N.B. Council officers will check that the provisions of non-mechanical ramps is being maintained by the vehicle proprietor); and

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3.4.31 where fittings are used to secure wheelchairs to the floor of a vehicle, a valid certificate/report confirming that all the fittings meet the required specifications should be provided that has been issued by an approved installer.

Vehicle Testing Requirements

3.4.32 Vehicles must be tested at a relevant test centre which will be either:

- Environmental Hub (ANSA), Cledford Lane, Middlewich, CW10 0JR; or
- Macclesfield MOT Testing Station, Unit 6 Pool street, Macclesfield, SK11 7NX

3.4.33 Rules are in place at the testing stations for the safety of applicants and the safety of the testers and all licence holders should comply with the rules at all times.

The vehicle test will be tested against a set of Private Hire Vehicle Test Guidelines. Refer to Appendix ?

3.4.34 Vehicles licensed by Cheshire East Council fall under the MoT exemption requirements, therefore applicants will need to be aware that when their vehicle is no longer licensed, it will need to be presented for an MoT.

3.4.35 When the vehicle has met the test criteria, the licence will be granted which will exempt the vehicle from requiring a standard MoT.

3.4.36 Applicants will be able to tax the vehicle at the Post Office by completing a V112 Declaration of Exemption Form, this must be done in person.

3.4.37 Licence holders are required to carry the vehicle licence in the vehicle that it relates to as proof of MoT.

Vehicle Fitness/Inspection

3.4.38 The Council requires all vehicles to be tested at least once a year, to ensure that they are suitable and 'fit' to be licensed. Vehicles can be tested prior to an application for an initial Private Hire Vehicle Licence being submitted. Similar tests will be required following an application for renewal of a vehicle licence. In both cases, the vehicle must pass the test before the licence will be granted.

3.4.39 The frequency of testing is once per year until the vehicle reaches its 5th anniversary when the vehicle will be required to be tested every 6 months after the licence has been granted. If the vehicle fails the test the licence will be suspended using the powers contained in Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 until such time as the faults are rectified.

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- 3.4.40 Where a vehicle fails the garage test the proprietor will be given 28 days to rectify the failure items and submit the vehicle for re-inspection. If the garage deems the vehicle to be non-repairable, it fails the inspection or is not resubmitted within 28 days then the vehicle will not be eligible for a retest and any licence in place will lapse or will not be granted.
- 3.4.41 It is the responsibility of the applicant/licence holder to ensure that the vehicle is presented for test at the time indicated. Any vehicle that is presented after this time will not be inspected.
- 3.4.42 The licence holder/applicant may cancel a test appointment only if the provide at least two working days notice (excluding Saturday, Sunday and Bank Holidays) to the Council Contact Centre.
- 3.4.43 If you fail to present the vehicle for a scheduled test, you may have to pay a test fee before a further test appointment will be allocated.
- 3.4.44 On an inspection for renewal of a vehicle licence, if an authorised officer is not satisfied that a vehicle is fit for use as a Private Hire, the officer may immediately suspend the vehicle licence under section 68 of the Local Government (Miscellaneous Provision) Act 1976 which means the vehicle cannot be used as a private hire. The proprietor will be asked to surrender the licence plate and additional signage. The return of the plate and additional signage, and issue of a licence will be conditional on the vehicle passing a further test (which will be at the expense of the licence holder) in accordance with instructions from the vehicle examiner. When the vehicle passes the further test, the suspension will be lifted. If the licence plate and additional signage are not surrendered voluntarily, the plate will be removed after 7 days, by an authorised officer. If the proprietor refuses to surrender the vehicle plate, a tamperproof 'Vehicle Licence Suspended' stickers will be affixed to the vehicle plate. In this instance a replacement vehicle plate will be available for purchase from the Council if and when the suspension is lifted.

Vehicles not fit for the conveyance of passengers

- 3.4.45 Where a proprietor has notified the council that damage has occurred to a vehicle, or an inspection of the vehicle by an officer of the council has determined that a vehicle is not fit for the purpose of conveying passengers, an authorised officer of the council will decide if the condition is such that the vehicle may continue in service or not. If not, an authorised officer of the Council may, at the time, suspend the vehicle and require the proprietor of the vehicle to return the vehicle's plate to the within 7 days. The suspension will be lifted and the plate returned at such time when the condition of the vehicle is demonstrated, to the satisfaction of the Council to be fit for conveying passengers. A vehicle fitness/garage test certificate will be required to determine whether the suspension can be lifted.

Requirements for all vehicles

Plates and Identification of vehicle

3.4.46 All private hire vehicles must display the licence plates and additional signage provided by the Council, on the vehicle at all times in the positions specified in the vehicle conditions (See appendix M). As the vehicle is a licensed private hire vehicle, the plate and any identification signage must be displayed at all times during the currency of the licence.

3.4.47 If the licence plates or additional signage are lost or become damaged, the proprietor must report it to the Council and request duplicates within 7 days. The cost of duplicate plates/signage will be met by the proprietor.

3.4.48 In addition to the plates and signage provided by the Council, the following signage must be displayed, at the proprietor's own expense, on each side of a private hire vehicle (on the body panel and not on a window):

- I. The words "PRIVATE HIRE"
- II. The words "ADVANCED BOOKINGS ONLY"
- III. The telephone number or name of the vehicle operator

3.4.49 The wording "PRIVATE HIRE", "ADVANCED BOOKINGS ONLY" and the telephone number of the vehicle operator shall:

- i. Be clearly and permanently affixed and displayed in a clearly contrasting colour in letters and numbers not less than 65mm in height and not less than 8mm thickness; and
- ii. Be positioned together in a manner previously approved in writing by the Council.

For the avoidance of doubt the above wording shall not be deemed to be "permanently affixed and displayed" if they are so affixed and displayed by means of a demountable magnetic sign or by any other type of sign which is able to be removed and re-affixed to the vehicle.

3.4.50 The vehicle shall not display a roof sign whether illuminated or not.

3.4.51 The vehicle shall not display any illuminated signs on or from within the vehicle.

3.4.52 The vehicle shall, at all times, display identification stickers supplied by the Council. The stickers shall be displayed on:

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- i. The inside of the lower near-side windscreen, so that the sticker is visible to passengers within the vehicle;
- ii. The top near-side rear window, facing outwards; and
- iii. The top off-side window, facing outwards.

3.4.53 One licence plate shall be affixed the front of the vehicle and one licence plate shall be affixed to the rear of the vehicle. Both licence plates shall be displayed in a vertical position and firmly fixed to the outside of the vehicle using the fixing bracket provided for the purpose. Velcro or cable ties are not permitted to be used.

3.4.54 The plates and stickers, and any fixing brackets supplied by the Council shall, at all times, remain the property of the Council and the vehicle proprietor shall not cause or permit the information displayed upon the licence plates to be altered, removed or obscured in any way.

Exemptions

3.4.55 The Local Government (Miscellaneous Provisions) Act 1976 gives a Council the discretion to grant a proprietor of a private hire vehicle licence a dispensation from displaying the licence plate on their licensed private hire vehicle. Each application for a dispensation will be considered on its own merit and in line with the 'Executive Plating' requirements set out at Appendix K.

Advertising

3.4.56 Advertisements may be displayed in or from the vehicle provided any advertising complies with legislation, the British Code of Advertising Practice and the approval of the council has been obtained. All requests for permission to advertised on a vehicle must be made to the Licensing Team Leader, before the advert is put on the vehicle.

3.4.57 Generally only one advert will be allowed to be applied to any vehicle. Any request for further adverts must be made in writing, and will be at the discretion of the Licensing Team Leader.

Taximeters

3.4.58 Private hire vehicles are not required to be fitted with a taximeter but if they do then they must comply with the specifications and requirements set out in Appendix J and the Council advises all applicants and current licence holders to familiarise themselves with this section.

Seating

3.4.59 In any vehicle all exits must be easily accessible and not obstructed by another seat. Access to all doors must be free from obstruction. **Any seats that require passengers to move any part of another seat to gain access or egress will not be licensed for carrying passengers.** The seating configuration and number of passengers that can be carried is subject to the approval by the Council.

3.4.60 All seats must be permanently fixed to the vehicle and must be factory fitted with a 3-point seat belt. All retrospectively fitted seat belts must be approved by the Council. The use of folding seats is not permitted.

General requirements

3.4.61 Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any fitted division between the drivers and passenger compartments.

3.4.62 The vehicle must be wind and water-tight.

3.4.63 The vehicle must have a floor properly covered with fitted carpet, rubber type floor covering or other suitable non-slip covering.

3.4.64 The vehicle must have an adequate, fully functioning internal light to enable passengers to enter and exit the vehicle safely.

3.4.65 The vehicle's bodywork and paintwork must be in good condition and free from dents or other damage or rust (see the testing guidelines for further information).

3.4.66 The vehicle must be provided with a spare wheel and tyre of the correct size to fit the vehicle, and the wheel must be securely stored. The tyre of the spare wheel must be inflated to the same pressure as the highest specified pressure on any of the road-wheels. There must also be provided, equipment to change the wheel including a spare wheel and tyre, jack and wheel brace, unless the manufacturers specification when new did not include a spare wheel, in which case the manufacturers alternative (e.g. temporary sealant repair kit) will be acceptable.

3.4.67 The vehicle must be fitted with a nearside and offside exterior rear view mirror which must be maintained in a serviceable condition.

3.4.68 The vehicle must have at least one window on each side of the passenger compartment which is capable of being opened and closed.

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3.4.69 The vehicle must be fitted with glass which is in accordance with current Vehicle Construction and Use Regulations prescribed in respect of the normal zone of vision as follows:

Front windows (windscreen and front side windows)

- To transmit 75% through the front windscreen.
- To transmit 70% light through the front driver/passenger side windows.
- Any subsequent replacement windows shall confirm to the above requirements.
- No tinted films or other adhesive material will be acceptable on any part of the windows of the vehicle.

Other windows (rear passenger windows/quarter light windows/rear windscreen)

- To transmit 70% light through.
- Any subsequent replacement windows shall confirm to the above requirements.
- No tinted film or other adhesive materials will be acceptable on any part of the windows of the vehicle.

3.4.70 Any vehicle which is a convertible must meet all other requirements and have a waterproof roof and side windows which must be raised at the request of any passenger.

3.4.71 The vehicle must be equipped with a 1kg dry powder extinguisher or a 2 litre AFFF extinguisher provided to BS EN3: 1996, with the private hire licence number painted on it. The fire extinguisher must have been properly maintained in accordance with BS 5306; Part 3 and be secured in such a position in the vehicle as to be fit for immediate use in an emergency.

3.4.72 The vehicle must be equipped with a first aid kit in a suitable container, which the licence number painted on it.

3.4.73 The vehicle must not be fitted with any additional lights other than those originally fitted by the manufacturer unless they are approved by the Council.

3.4.74 Roof racks will be permitted. Any luggage carried on the roof rack must be protected from the elements by a waterproof cover and properly secured. A properly fitted roof box in an acceptable alternative.

Changes/Transfers etc.

Vehicle substitution

3.4.75 If the proprietor wishes to change the vehicle that is licensed the following procedures must be followed:

- The proprietor must complete an application form for the 'new' vehicle.
- The proprietor must pay the stated fee for a 12 month period.
- The proprietor must surrender the original licence. Any refund against a licence will be calculated by the Council, taking into consideration the period of time for which the licence has already been held and the administrative cost incurred, and shall be subject to a minimum level of £50, below which no refund will be made.
- The new vehicle must be presented for test and subsequently pass.
- Written proof of consent to the change of vehicle must be provided from all interested parties.
- The proprietor must maintain and produce evidence of a continuous policy of insurance, which clearly states that the vehicle is to be used for hire or reward.

Change of proprietor and/or driver

3.4.76 The proprietor must give notice to the Council of any transfer in their interest in the private hire vehicle to a person other than the proprietor whose name is specified in the licence. Such notice must be given in writing, within 14 days specifying the name and address of the person to whom the vehicle has been transferred and accompanied by the relevant documentation for the proprietor. Please refer to Appendix N for application process.

3.4.77 The proprietor must give notice to the Council when any changes are made as to the driver of the vehicle.

Change of address

3.4.78 The proprietor of a private hire vehicle must notify the Council in writing within 7 days of any change of their address.

Letting/Leasing of vehicle

4.3.79 If the proprietor enters into a leasing arrangement, the proprietor will remain on the vehicle licence as a person with a beneficial interest in the vehicle and will still be jointly responsible for the vehicle.

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Temporary Replacement Vehicles in the event of an accident (Hackney Carriage and Private Hire)

- 4.3.80 The proprietor of an existing licensed private hire vehicle must report, to the Licensing Team, within 72 hours, that the vehicle has been involved in an accident and their possible intention to licence a temporary replacement vehicle.
- 4.3.81 The temporary replacement vehicle must satisfy the standards for private hire vehicles adopted by Cheshire East Council before it is considered for licensing.
- 3.4.82 An application for a temporary replacement vehicle must be submitted to the Licensing Team together with the appropriate fee, the insurance document for the vehicle being presented for licensing, vehicle registration document for the vehicle being presented for licensing and a lease agreement/contract from the Insurance Company/Vehicle Supplier for the vehicle being presented for licensing. The existing vehicle licence plate will then be transferred to the replacement vehicle. Refer to Appendix P for the application process.
- 3.4.83 The temporary replacement vehicle must be mechanically tested, at the Council approved testing station prior to it becoming licensed.
- 3.4.84 Where a taximeter is fitted, this must be tested and sealed, by the Licensing Team, prior to it becoming licensed.
- 3.4.85 The temporary replacement vehicle will only be permitted for use for a period not exceeding 30 days. In exceptional circumstances, this period may be extended by a further 14 days, at the discretion of a Licensing Team Leader.
- 3.4.86 As soon as the proprietors' vehicle is repaired, an application to return the licence back to the original vehicle will be required.
- 3.4.87 If requested, the proprietor shall present the original vehicle for a further vehicle examination, at the Council approved testing station, before it becomes relicensed. This will be dependent on the damage sustained.

Closed Circuit Television (CCTV)

- 3.4.88 Proprietors of private hire vehicles are permitted to install closed circuit television (CCTV) systems providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. If CCTV is fitted then the proprietor must prominently display signs indicating that CCTV is in use in the vehicle. In addition to fitting CCTV signage to the vehicle the proprietor is required to be registered as a 'Data Controller' with the Information Commissioners Office (ICO). Further information can be found at <https://ico.org.uk>.

Engine/Chassis Numbers

3.4.89 The chassis/vehicle identification number plate and engine numbers must match the numbers recorded with the DVLA. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the council will inform the police who may undertake checks.

Timescale for issuing a licence

3.4.90 Once a fully completed application has been made the application will be processed and all information provided will be verified and the vehicle tested. The vehicle licence and plates will then be available within 10 working days of the decision that a licence can be granted being taken.

Licence Conditions

3.4.91 The applicable conditions relevant to a private hire vehicle licence are set out at Appendix J; these conditions must be complied with. These conditions are in addition to any matters set out within the main body of this policy.

3.5 Private Hire Operators Licence

Summary

- 3.5.1 Operators licences are licensed in accordance with the Local Government (Miscellaneous Provisions) Act 1976. Any person who wishes to take bookings, in the course of a business, for a private hire vehicle, must hold a private hire operator's licence.
- 3.5.2 Applications for Private Hire Operator Licences can be made by post or by email. Please see Appendix P for the application process.

Pre- Application Requirements

- 3.5.3 The application form(s) must be fully completed and include all relevant information, supporting documentation and payment of the appropriate fee. If any part of the application form is incomplete or relevant information or supporting documentation is not provided, the applicant will be requested to provide the missing information/documentation and will be informed that the application will not be accepted/valid until such time as all required information/documentation is submitted.
- 3.5.4 Before the licence expires, an application for renewal must be made if the operator wishes to continue operating. Any application for renewal must be made at least six weeks before the licence expires. If applicants do not apply to renew the licence in time there may be a period when you will be unable to operate as a private hire vehicle operator. If a situation arises where the application was made at least six weeks before expiry, but for reasons beyond the applicant's control (e.g. delay in the processing of, but not the application for, a DBS check), the licence application cannot be processed before the current licence expires, the Council will consider issuing a short term licence. This will be specifically without prejudice to any decision on the renewal application the Council may make. Any such decision will be wholly at the Council's discretion.
- 3.5.5 If a renewal application is not received before the expiry of the current licence, it will be treated as a new application, rather than a renewal, and there will be a requirement to provide all the information that is required for a new application (e.g. a new DBS etc.)
- 3.5.6 Once a licence is issued it cannot be transferred. The renewal of the licence will be at the Council's discretion.
- 3.5.7 In addition to submitting the application form and fee an applicant must:

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- Be over 21 years of age;
- Provide a full UK driving licence (or European equivalent) that has been held for at least 12 months. If the driving licence was not issued in the UK or EU then the applicant must comply with the requirements set out by the government for exchanging/applying for a DVLA licence;
- Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 28 days or be Registered with the DBS update service with a relevant up to date certificate;
- Authorise the Council to access the relevant online record via the DBS Update Service;
- Provide one (1) passport sized photograph;
- Provide evidence of their right to work in the UK, in accordance with Home Office requirements;
- Confirm that you have read the HMRC guidance on tax requirements (New applicants)*
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions reprimands, speed awareness courses and fixed penalty notices;
- Provide the BTEC Level 2 certificate in the 'Introduction to the Role of the Professional Taxi and Private Hire Driver' qualification, or equivalent as determined by the Council;
- Pass the Council's local knowledge test;
- Pass Disability Equality Training approved by the Council (**the licensing team are liaising with other local authorities to establish what is currently being done elsewhere**);
- Provide a Safeguarding and Child Sexual Exploitation Awareness Training Certificate issued by the Council within the previous 3 months;
- Undergo a Group 2 medical examination and provide the medical certificate issued by their registered General Practitioner or a Medical Provider authorised by Cheshire East Council who confirms that they are medically fit to the DVLA Group 2 Standard within the previous 3 months. Medical examinations are required at the initial application and thereafter every other application (alternate) until the age of 60. All applicants aged 60 years and over must undertake a Group 2 medical examination on initial application and at every application thereafter. Applicants must produce the medical report to the Council at their earliest convenience;
- Provide a DVLA online check code;
- Satisfy the Council that they have a satisfactory level of conversational and written English in order to carry out the role of a hackney carriage/private hire driver;

*See paragraph 3.2.14 for further details on the new tax requirements

3.5.8 On renewal of an existing licence, applicants must:

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- Submit a completed application form;
- Pay the appropriate licence fee;
- Provide a full UK driving licence (or the European equivalent) that has been held for at least 12 months;
- Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 3 months or be Registered with the DBS Update Service with a relevant up to date certificate;
- Authorise the Council to access the relevant online record via the DBS Update Service;
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions, reprimands, speed awareness courses and fixed penalty notices;
- Provide a tax check code to the Licensing Team (from 4th April 2022)*
- Provide one (1) passport sized photograph;
- Provide evidence of their right to work in the UK in accordance with the Home Office requirements;
- Provide a Safeguarding and Child Exploitation Awareness Training certificate issued by the Council within the previous 3 months;
- Pass Disability Equality training approved by the Council (first renewal after policy implementation only);
- Undergo a Group 2 medical examination and provide the medical certificate issued by their registered GP or a Medical Provider authorised by Cheshire East Council who confirms that they are medically fit to the Group 2 Standards within the previous 3 months. Medical certificates are required on initial application and thereafter every other application (alternate) until the age of 60. All licensed drivers aged 60 years and over must undertake a Group 2 medical examination at every application and produce the report to the Council;
- Provide a DVLA online check code;

* See paragraph 3.2.14

Period of Licence

3.5.9 Operators licence will be issued for a maximum period of 5 years unless the Council has reasonable cause to issue for a shorter time period.

Operators Premises

3.5.10 All applicants must have a base within the administrative area of Cheshire East in order to ensure that the Council can inspect the base and associated operator records to check compliance with licence conditions.

3.5.11 The Council will only grant operator licences applicable to the physical premises from which the operator's business will be run.

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3.5.12 The Council advises operators to have all necessary planning permissions for the operator base before a licence is granted. Proof of which may be requested as part of the application procedure.

3.5.13 Where the base is accessible to the public, either for booking or waiting, the Council will expect the premises to be clean, adequately ventilated and heated and that all relevant legislation has been complied with, including the Equality Act 2010.

3.5.14 There are a number of specific conditions set out in the operator licence conditions that apply to premises. Operators must be particularly mindful of complying with these and should they fail to do so the Council will consider revoking the operator's licence.

Record Keeping

3.5.15 Operators must keep records in accordance with the conditions attached to their licence. Such records must be available upon request from an authorised officer of the Council or a Police Officer.

3.5.16 Under the conditions, the operator is required to keep a number of different forms of records namely:

- Booking records (to include which member of staff took the booking when the booking was taken by a person and not a computerised method);
- Operator vehicle schedule;
- Operator driver schedule.

Each of these records must be kept up to date and retained by the operator for a period of at least 2 years (as per conditions of licence).

3.5.17 The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information or supporting documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation and informed that the application will not be processed until such time as all the information/documentation is provided. The full fee for the licence (including the cost of a DBS check and Safeguarding Training, where appropriate is payable at the time the application is submitted.

3.5.18 Any person (including a sole trader, partnership or company) wishing to become a licensed private hire operator must submit:

- i. A completed application form (where the application relates to a partnership or a company, the application form must provide the name, address and date of

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- birth of all partners, directors/company secretaries, as appropriate). A check of the Companies House register may be undertaken to confirm these details;
- ii. A basic standard or enhanced DBS certificate issued within the last 12 months or a DBS certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process); for each director, partner and company secretary;
 - iii. A Tax Check Code (see paragraph 3.2.14)
 - iv. A schedule of employees that are not CEC licensed drivers indicating those staff who take bookings and dispatch vehicles;
 - v. A Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent' convictions;
 - vi. A Safeguarding Training Certificate for each director, company secretary and employees that are not CEC licensed drivers;
 - vii. Details of the policy regarding the employment of ex-offenders;
 - viii. The appropriate licence fee
 - ix. A list of the vehicles and drivers which are/are to be operated under the operators licence; and
 - x. Any fleet insurance held with an accompanying schedule of vehicles and named drivers disclosed to the insurance company.

Criminal Records Disclosure

3.5.19 All applicants (including sole traders, partnerships and companies) for a private hire operator licence must prove that they are 'fit and proper' to hold an operator licence.

The applicant must also prove that all employees that work for them and who take bookings, dispatch vehicles, or have access to booking records are 'fit and proper' to be employed in such positions. They must provide evidence that they have seen a basic DBS for each employee who are not CEC licensed driver and also evidence that it is a condition of their employment that they will inform the employer of any criminal convictions they receive during their employment.

3.5.20 Where the applicant or employee already holds a valid dual driver licence issued by CEC (this will only apply to sole traders as individuals) a check will be made on the DBS update service. If the driver is not registered on the DBS update service then they will be required to submit a Basic DBS certificate. If the applicant is not a licensed driver then they will be required to submit a Basic DBS certificate.

3.5.21 For partnerships or companies, the above requirements will apply to all partners and directors/company secretaries.

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3.5.22 The Council adopts the same principles when determining whether an applicant is a 'fit and proper person' to hold a private hire operator licence as it does to persons applying for a drivers licence. In this respect, applicants are required to have due regard, as appropriate, to the requirements and information set out at paragraph 3 of this policy.

3.5.23 Persons who have not been resident within the United Kingdom for the five years prior to submitting an application will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High commission. The certificate must be authenticated, translated and sealed by the embassy or High Commission.

Insurance

3.5.24 Any premises that provide access to members of the public must be covered by Public Liability insurance for a minimum of £5,000,000.

3.5.25 If there is a requirement for the operator to have Employers Liability Indemnity then it must be for a minimum of £10,000,000.

3.5.26 For vehicle insurance, the Council will only generally accept original insurance documentation. The exception to that policy is that the Council will accept copy documentation where the Council itself receives an email confirmation of cover direct from the Insurance Company itself and the Council is entirely satisfied as to its validity.

3.5.27 Where the policy is a vehicle fleet policy, confirmation that the vehicle is included on the schedule of vehicles will also be required in addition to the insurance certificate.

Closed Circuit Television (CCTV)

3.5.28 Operators are permitted to install closed circuit television (CCTV) systems in premises to which the public have access to make bookings or to wait providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. If CCTV is fitted then the operator must prominently display signs indicating that CCTV is in use in the premises. In addition to fitting CCTV signage to the premises the operator is required to be registered as a 'Data Controller' with the Information Commissioners Office (ICO). Further information can be found at <https://ico.org.uk>.

Complaints Procedure

3.5.29 Operators are required to have in place a complaints procedure and must maintain a record of all complaints received, including details of any

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investigation and/or actions taken as a result of a complaint. This information should be kept for a minimum of two years.

3.5.30 The complaints procedure and complaint records must be made available to an authorised officer of the Council or a Police Officer.

Licence Conditions

3.5.31 Applicable conditions relevant to a private hire operator licence are set out at Appendix S. These conditions must be complied with at all times.

Contract

3.5.32 Every contract for the hire of a private hire vehicle is deemed to be made with the operator who accepted the booking for that vehicle, not the operator who provided the vehicle.

Sub-Contracting

3.5.33 Where a licensed operator accepts a booking and then is subsequently unable to honour that booking, or should the operator not have a vehicle immediately available, the booking may be sub-contracted to another operator, including an operator licensed by another local authority.

3.5.34 Where this is the case, the original operator must:

- a) keep a record of the initial booking details for audit purposes.
- b) contact the hirer and advise that the booking can no longer be honoured and seek guidance from the hirer as to whether or not they wish the booking to be sub-contracted to an alternative private hire operator.
- c) identify an alternative private hire operator and advise the original hirer of the details of that alternative operator details.
- d) provide full details of the booking to the alternative private hire operator and keep a record of the private hire operator to whom the booking was sub-contracted.
- e) keep a record of the alternative private hire operator's licence details as follows:
 - i) the name of the issuing authority for the private hire vehicle operator's licence.
 - ii) the licence number of the private hire vehicle operator's licence.
 - iii) the date the private hire vehicle operator's licence was granted by the issuing authority.
 - iv) the date the private hire vehicle operator's licence issued by the issuing authority is due to expire.

Production of records/documents

3.5.35 Any records required to be retained in accordance with the licence must be produced, on request, to any authorised officer of the council or to any police officer. The operator licence must also be produced if requested.

Safeguarding Training

3.5.36 Where the applicant or employee already holds a valid taxi driver licence (this will only apply to sole traders as individuals), no further checks will be undertaken by the Council and the current Safeguarding Training Certificate will be considered sufficient. However, if a valid taxi driver licence is not held, the applicant/employee must attend a Safeguarding Awareness Training prior to an operator licence being granted, including being renewed and employees being permitted to take bookings.

4. Compliance, Enforcement and Complaints

4.1 Summary

- 4.1.1 This part of the policy sets out the manner in which the Council approaches compliance and enforcement, including the way in which complaints will be dealt with, as it relates to hackney carriage and private hire licensing.

Compliance and Enforcement

- 4.1.2 The Council's licensing officers will work closely with the hackney carriage and private hire trades to achieve compliance with the relevant legislation and the Council's conditions of licence. The Council will do so in accordance with the Council's Enforcement Policy and Regulatory Services and Health Enforcement Policy, which are available on the Council's website.

In addition, hackney carriage and private hire vehicle drivers and operators must comply with all reasonable requests made by officers of the Council, other local authorities and the police. Obstructing Officers is an offence and the Council will consider enforcement action for such offences.

- 4.1.3 The Council will work closely with other enforcement authorities when dealing with licensed and unlicensed vehicles and drivers, especially concerning cross border related issues.
- 4.1.4 Licence holders are strongly encouraged to cooperate with officers of all other local authorities. Failure to cooperate may lead to the suspension or revocation of their driver's licence.
- 4.1.5 Breaches of the driver code of conduct and/or vehicle and operator licence conditions will be dealt with in accordance with the Council's enforcement policy and will be referred to the duly authorised officer. Serious or repeated breaches of licence conditions will result in the matter being referred to the General Licensing Sub-Committee.

Complaints

- 4.1.6 Where appropriate, complainants will be encouraged to raise complaints directly with the relevant licence holder or business concerned in the first instance. However, the Council will also respond to complaints in line with its Enforcement Policies and will use complaint information to assist in the determination of licensing decisions.
- 4.1.7 The Council will maintain a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual

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licence holders. Data held within the system will be used to target compliance and enforcement activity as well as to provide a picture of the potential risks a licence holder may pose. It will also be used as part of the 'balance of probabilities' assessment required in any licence review undertaken as a result of multiple or serious complaints.

4.2 Enforcement - Policy Statement

- 4.2.1 The Council has an Enforcement Policy which it will taken into account before taking any enforcement action.
- 4.2.2 The Licensing Team must be familiar with the requirements of the policy and appropriate training will be provided, where required.
- 4.2.3 Enforcement Officers will be authorised by the Council to take enforcement action relevant and appropriate to their level of competence. Competency will be assessed individually by reference to qualifications and experience.
- 4.2.4 Where there is a shared enforcement role with other agencies, e.g. the police, we will liaise with and co-operate with them to ensure there is no conflict of interest or unnecessary duplication of enforcement.
- 4.2.5 The Council will investigate all valid complaints with regards to drivers, vehicles and operators/proprietors. It will also do spot checks and undercover checks. Investigations will be focused and targeted on businesses that do not comply and/or in those areas of the Borough where complaints have identified potential problems. Those individuals or businesses will face proportionate and meaningful sanctions. Complaints are frequently made against hackney carriage and private hire drivers. Such complaints will be considered first by a licensing officer as to the nature of the complaint being serious enough to be forwarded to an authorised Officer or the General Licensing Sub-Committee.
- 4.2.6 The authorised officer of the Council/General Licensing Sub-Committee will consider the history of all complaints made against the licence holder to assess any patterns. If a problem is inherent, then the Council will consider whether the licence holder is a 'fit and proper person' to continue to hold such a licence.
- 4.2.7 Complaints may be investigated by way of an interview under caution in compliance with the Police and Criminal Evidence Act 1984.
- 4.2.8 Hackney carriage and private hire and drivers are professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at all times. Any traffic offences show a lack of responsibility whilst driving. The Council expects all licence holders to adhere to the specifications set out in this policy and in any relevant legislation. Any complaints that relate to

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misconduct will be fully investigated and appropriate action will be taken where deemed necessary.

4.2.9 Licence holders are expected to co-operate fully with all requests made of them by an authorised officer of the Council. Failure to do so and/or obstruct an officer in their duty will lead to appropriate action being taken where deemed necessary. This includes, but is not limited to, attending interview and vehicle inspections, and producing documentation upon request.

4.3 Enforcement Options

4.3.1 Licence applications and enforcement decisions will always be consistent, balanced, fair and relate to common standards which ensure that the public is adequately protected. In reaching any decision many criteria will be considered including the:

- Seriousness of any offences;
- Driver or operator's past history;
- Consequence of non-compliance;
- Likely effectiveness of the various enforcement options;
- Danger to the public.

Having considered all relevant information and evidence, the choices for action are:

Licensing Applications

- Grant licence subject to the Council's Standard Conditions;
- Grant licence subject to the Council's Standard Conditions and any other reasonable conditions specific to the case;
- Refuse to grant a licence;
- Grant for a limited time period.

Enforcement Action

- Take no action
- Take informal action
- Suspend a licence
- Revoke a licence
- Use simple cautions
- Prosecution

Where an officer is unable to determine an application/licence, where an applicant has declared convictions, or when the Council have become aware of convictions the application/licence may be referred to the General Licensing Sub-Committee. The Council will have regard to the Convictions Guidelines at Appendix C

Information Action

4.3.2 Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and written requests for action. Verbal warnings will be confirmed in writing.

4.3.3 Such information actions may be appropriate in any of the following circumstances:

- The act or omission is not serious enough to warrant more formal action;
- From the individual driver or operator's past history it can be reasonably expected that information action will achieve compliance;
- Confidence in the operator's management is generally high;
- The consequences of non-compliance will not pose a significant risk to the safety of the public;
- Failure to notify of a conviction that would not in itself breach the guidance on determining the suitability outlined in the policy.

Details of any information action will be recorded on the Council's records. This will form part of the history which will be reviewed when considering the appropriate action to take if further enforcement action is prompted. When a licence holder has received three warnings in a 36-month rolling period, their licence will be referred to the General Licensing Sub-Committee to determine whether any further action is required.

Appearance before the General Licensing Sub-Committee

4.3.4 An offending individual or company may be summoned before the General Licensing Sub-Committee to answer allegations of breaches of relevant legislation, or Conditions attached to licences.

The Licensing Sub-Committee have the option of deciding the application on its merits and may:

- Take no action
- Give a formal written warning
- Require the production of driving licences or other specified documentation at the Council's office
- Suspend the licence for a period of time
- Revoke the licence
- Recommend prosecution action

Details of the appeals procedure will be sent out in the written notification of action sent by the Council.

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The General Licensing Sub-Committee will have regard to the guidance on convictions shown at Appendix C of this policy.

Suspension Notices under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976

- 4.3.5 An authorised officer may serve notice, in writing, for a hackney carriage, private hire vehicle or taximeter attached to a licensed vehicle, requiring the vehicle or taximeter to be examined at the Council's garage at a time specified in the notice.
- 4.3.6 This notice will only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter. An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as the Officer is satisfied with the condition of the vehicle.
- 4.3.7 This action will only be taken when the Officer has reasonable grounds to suspect that the condition of the vehicle is not fit for use as a licensed vehicle.

Prosecutions

- 4.3.8 The decision to prosecute is a significant one. Prosecutions 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. Such circumstances are, however, in a minority. Decisions to prosecute will be made in a consistent manner and be proportionate to the circumstances.

The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:

- Where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it;
- When there appears to have been reckless disregard for the safety of passengers or other road users;
- Where there have been repeated breaches of legal requirements;
- Where a particular type of offence is prevalent;
- Where a particular contravention has caused serious public alarm.

Officers will take account of the Council's Enforcement Policy when circumstances have been identified which may warrant a prosecution.

Simple Cautions

4.3.9 A simple caution may be used as an alternative to a prosecution in certain circumstances.

5. Table of Fares

5.1 Cheshire East Council will keep the Table of Fares under review. The Council will respond to reasonable requests to change the table of fares from the hackney carriage trade.

6. Policy Consultation

6.1 Members of the public were invited to put forward their comments to the proposed policy document during a series of consultation periods. In addition consultation was undertaken with the following stakeholders and partners:

- Hackney carriage and private hire operators, drivers and proprietors
- Members of Cheshire East Council's Licensing Committee
- Officers of Cheshire East Council's Legal Services
- Officers of Cheshire East Council's Licensing and Environmental Services
- Cheshire East Council's Garage Vehicle Inspectors
- Cheshire East Council's Partnership team
- Cheshire East Council's Transport Services Team (TSS)
- Cheshire East Council's Safeguarding Children and Adult Safeguarding Services
- Cheshire Police
- Cheshire Fire & Rescue Services
- Guide dogs for the blind

APPENDICES

SAFEGUARDING

CHILD SEXUAL EXPLOITATION AND TRAFFICKING OF CHILDREN AND YOUNG PEOPLE

Introduction

Set out below is information for hackney carriage and private hire vehicle drivers and operators to help them report, to the relevant authorities, matters of concern that could relate to the safety of children and vulnerable persons, particularly as it relates to child sexual exploitation, county lines and trafficking.

General Information

The Borough of Cheshire East's Licensing Service is helping to tackle child exploitation and trafficking by working together with key partners particularly Cheshire Police, Children and Adult Services within the Council, the Cheshire East Safeguarding Children Board, and the Cheshire East Safeguarding Adults Board.

Through partnership working and sharing information, we aim to identify and prevent sexual exploitation, disrupt the activities of perpetrators, protect children and young people and prosecute perpetrators of sexual exploitation. Sharing information with Cheshire Police and the Safeguarding Boards helps to protect young people and vulnerable adults from harm. Safeguarding people is everyone's business and everyone's responsibility.

Sexual exploitation of children and young people involves exploitative situations, context and relationships where young people (or a third person or persons) receive something e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money etc as a result of them performing, and/or another or others performing on them, sexual activities. Violence, coercion and intimidation are commonly involved in such exploitative relationships.

The grooming process

Child sexual exploitation involves perpetrators gaining control and using their powers to sexually abuse, this can be in person, via mobile or online. At first this control may take the guise of 'romance' or 'friendship' but once a child does something small – that they know might get them 'into trouble' for, they become vulnerable to blackmail. As the exploitation gets worse, terrifying threats and violence may be used to keep children compliant and they may be sexually exploited not just by the original perpetrator but often many other abusers.

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How hackney carriage and private hire vehicle drivers and private hire operators can help tackle child sexual exploitation.

Drivers of hackney carriage and private hire vehicles as well as private hire operators are in a good position to help identify victims of sexual exploitation because, through the transport services they provide, drivers and operator regularly come into contact with children and young people. This means that licensed drivers and private hire operators are in an ideal position to help protect young people.

In particular, drivers should ask themselves the following questions when picking up a fare:

- Does your customer appear to be under 18 years old?
- Are they with a much older person and appear to be in a relationship?
- Do you think they are under the influence of alcohol or drugs?
- Are you taking them to a hotel, party or secluded location? If so, ask yourself why?
- Are children/young people being taken regularly to the same localities? If so, ask yourself why?

If the answers to any of the questions above gives you even the slightest cause for concern, these concerns should be reported.

If you have reason to suspect that a child is being abused or at risk of abuse, it is your responsibility to report your concerns to and share information with Cheshire Police (Tel: 101) and Cheshire East Consultation Service at Cheshire East Borough Council on 0300 123 5012 (8.30am till 5.00pm) out of office and in an emergency on 0300 123 5022.

Further information about Cheshire Easts Safeguarding Children Board can be found at:

<https://www.cescp.org.uk/homepage.aspx>

Further information about Cheshire's Safeguarding Adults Board can be found at:

<http://www.stopadultabuse.org.uk/home.aspx>

Driver code of conduct relating to individuals issued a joint hackney carriage and private hire driver licence

Drivers issued a joint driver licence by Cheshire East Council under section 51 of the Local Government (Miscellaneous Provisions) Act 1976 must abide by this Code of Conduct.

It sets out the way in which the licence holder must act whilst acting as a licensed driver in addition to the existing legal requirements. They do not set out the existing legal requirements such as prohibition of illegal plying for hire.

It does not set out the detail as to what steps are required to become a licensed driver and it does not set out what factors are taken into account in deciding whether a person is a 'fit and proper person' to be a driver. This is set out in the specifications elsewhere in the policy.

Breach of the code of conduct may lead to the suspension or revocation of a licence or other enforcement action including prosecution.

The code of conduct requires drivers to:

Notification requirements

1. **Change of Name and/or Address** – The licence holder (driver) must notify the Licensing Service, in writing, within 7 days of changing name and/or address.
2. **Medical circumstances** – The driver must notify the Council, immediately in writing (if possible), or as soon as practicable of any serious illness, injury, medication or severe physical deterioration which could affect their ability to meet the DVLA's Group II medical standards and therefore drive a licensed vehicle.
3. **Damage to vehicle** – The driver must inform the operator of any licensed vehicle in his custody of any damage occurring to that vehicle within 24 hours of the damage occurring. The driver must also notify the Council in writing within 72 hours of the damage occurring.
4. **Cautions, warnings, motoring convictions and fixed penalties** – The driver must notify the Council in writing within 7 days of any issue of a formal caution, warning, motoring convictions, or issue of a fixed penalty notice by the police or a local authority. **The 7 day period begins on the day of the caution or conviction, or the warning being received. For a Fixed Penalty Notice it begins on the day that the driver accepts liability for the offence.**

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5. **Charges, Questioning, Interview under caution, Arrests and Convictions** – The driver must inform the Council in writing, within 48 hours, if they are questioned, arrested and released, interviewed voluntarily under caution, charged by the Police or convicted of a criminal offence regarding harassment, sexual offences, violent offences, dishonesty or fraud.
6. When questioned by the police or appearance in Court, the driver must inform the police/court that they are a licensed driver.
7. The driver must also notify the Council, in writing within 72 hours, of any other enforcement action taken by any other local authority under the 1976 Act or the Town Police Clauses Act 1847.
8. Where the driver is required to notify the Council, in writing, under sections 4, 5, 6 or 7, they shall provide the Council with details of:
 - The offence/behaviour complained of
 - Whether the offence occurred in a licensed vehicle and/or if they were working
 - The date of conviction/enforcement action
 - The sanction imposed
9. Where the licence holder identified or suspect that someone may be engaged in illegal terrorist related activity, the licence holder must refer such person or activity to the police.
10. Where the licence holder amends or changes their insurance policy for the vehicle they are driving then they must produce their amended/new insurance certificate to the Licensing Service within 7 days.
11. Where the licence holder changes the operator they work for they must notify the Council in writing within 7 days of that change with details of which operator they work for.

Child Sexual Exploitation & Safeguarding Training

12. Licence holders must report any concerns they have to the relevant bodies as outlined in Appendix A.

Drivers' Badge/Licence

13. **Wearing/displaying of badges** – The driver must wear the badge issued by the Council to them so that it is clearly and distinctly visible whenever he/she is acting as a hackney carriage or private hire driver.

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14. **Licences given to Operator** – The driver must provide a copy of the driver licence issued to them by the Council to their operator when they have made themselves available for private hire work for that operator. They must also give them a copy of their DVLA driver's licence.
15. **Return of badge/licence** – In the event of expiry of the licence or where the driver ceases to operate as a licensed private hire driver he/she must immediately return his/her badge and licence plates to the Council and otherwise upon any request by an Authorised Officer of the Council.

Conduct

16. **Punctuality** – The driver shall attend punctually when hired and shall provide reasonable assistance with the loading and unloading of luggage.
17. **Appearance** – The driver shall wear respectable and appropriate clothing at all times and appropriate footwear for driving.
18. **Language** – The driver must be capable of understanding instructions in the English language from customers and being understood in the English language by anyone hiring the vehicle.
19. **Route** – The driver must, unless otherwise requested by the hirer proceed to the destination by the shortest route in time or distance.
20. **Receipts** – The driver must, if requested, provide the hirer with a full written receipt for the fare paid.
21. **Number of passengers** – The driver must not allow the vehicle to be used for more than the number of passengers the vehicle is licensed to carry.
22. **Other passengers** – The driver must not, without the express consent of the hirer, allow another person to be carried in the vehicle.
23. **Front seat** – The Driver must not convey more persons in the front of the vehicle than the vehicle is designed to carry and must not convey any child below the age of fourteen years in a front seat. All lone passengers should be encouraged to sit in the rear to the vehicle.
24. **Music/Radio** – The driver must comply with any request by the hirer to turn down or turn off any radio, music or other sounds in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle. The driver must obtain the relevant licence to play music in their vehicle when passengers are present (e.g. PRS licence).

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25. **Behaviour** – The driver must behave in a civil and orderly manner. The driver must not use any offensive, abusive, profane or insulting language or behaviour. At all times the behaviour of the driver should be professional. The driver must take all reasonable precautions to ensure the health and safety of persons conveyed in or entering or alighting from the vehicle they are in charge of driving.
26. **Assistance** – The driver must offer reasonable assistance to customers with belongings upon request. This includes assistance with carrying shopping and luggage and lifting it into and out of the vehicle.
27. **Check for lost property** – The driver must at the end of each hiring search the vehicle for any lost property, which may have been left. Any property found must be handed to the owner, the nearest police station or the base operator.
28. **Offer to hire vehicle** – The driver must not, whilst driving or in charge of a private hire vehicle, accept an offer for the hire of any private hire vehicle whilst the holder of that vehicle is on the road or other public place except where such an offer is first communicated to the driver by telephone, radio or other communication method by a licensed operator or their booking office staff.
29. **Agreed fare** – Where the fee is agreed in advance, the driver shall ensure that no more than the agreed fare is paid.
30. **Smoking/Vaping** – The driver must not smoke in any form, including using e-cigarettes and vaping, at any time they are in a licensed vehicle. This includes when driving the vehicle for private use and when working but not carrying passengers.
31. **Data Protection** – The driver must not use any personal data received during the course of their duty for any other purpose than that it was originally intended.
32. **Rest periods** – The driver must ensure that they are properly rested between shifts, and do not work excessive number of hours in accordance with the existing GB Domestic Drivers Hours Rules for Passenger-carrying Vehicles. www.gov.uk/drivers-hours/gb-domestic-rules

Medicals

33. **Medical report** – Group II shows that the applicant meets the required medical standard. The intervals for medical assessments are set out within the driver conditions.
34. **Medical reports where required by the Council** – Any driver must at their own cost, where required to by the Council, undergo a medical assessment with their own General Practitioner or other medical provider authorised by Cheshire East Council. Such medical assessment must be completed using the standard form

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supplied by the Council. The Council will only exercise this power where such a medical is required to assist in the determination of whether a driver is fit and proper, for example where the driver has been seriously ill or an assessment has been recommended by a medical practitioner.

Maintenance check

35. The driver must, before the start of any shift, carry out a basis safety check to make sure that the vehicle is in a roadworthy condition e.g. checking lights, oil and water levels, condition of tyres, looking for obvious defects on the vehicles. Details of the checks must be recorded in writing, retained for at least 12 months and available for authorised officers of the Council and Police Constables within 72 hours of any request. Any issues with the vehicle must be reported immediately to the operator/proprietor as relevant.

Animals

36. The driver must not convey in the vehicle any animal except one belonging to a passenger.
37. The driver may carry any animal belonging to a passenger at his/her own discretion and it is the responsibility of the driver to ensure that the animal is suitably restrained in order it will not cause a distraction, or cause injury to the passenger or themselves if there is a need to stop quickly. N.B. if the animal is being carried in the front of the vehicle, it must be carried in the footwell as the vehicle has an airbag fitted.
38. Paragraph 37 does not in any way remove or reduce the duty placed on the driver of the vehicle to carry assistance dogs in the passenger compartment with the dogs' owner under the Equality Act 2010 without charge unless the driver has a valid exempt certificate issued by this authority under that Act (section 168 and 169 apply to hackney carriage drivers; section 170 and 171 apply to private hire drivers). When plying for hire or attending a booked fare and the passenger has an assistance dog with them, the driver must stop to carry them. Failure to do so will be treated as an illegal refusal.

Other requirements

39. Licence holders must comply with all other relevant statutory requirement. The most common statutory requirements are sent out in the Councils guidance and policy statement (including conditions attached to licences) accompanying this Code.
40. Licence holders must comply with any reasonable request from an authorised officer of another local authority.

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The licence holder must comply with this code of conduct at all times. Failure to comply may lead to enforcement action being taken against your licence.

I acknowledge receipt of this code of conduct.

Signature: _____

Date: _____

Printed: _____

CRIMINAL CONVICTIONS POLICY

1. Introduction

- 1.1 The principal legislation covering hackney carriage and private hire licensing is the Town Police Clauses Act 1847 ('the 1847 Act') and the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act'). In addition to the legislation, the Council is entitled to create a policy.
- 1.2 This policy provides an overview of the criteria which the Council (acting through the licensing committee, sub committees and officers) will take into account when determining whether or not an applicant or an existing licence holder is a fit and proper person to be granted, have renewed or continue to hold a joint Hackney Carriage and Private Hire Driver's Licence, a Private Hire Operators Licence or a Hackney Carriage or Private Hire Vehicle (Proprietors) Licence.
- 1.3 In determining any matter, the overriding consideration that the Council will take into account is the safety of the public. The circumstances and situation of the applicant/licensee, and any financial hardship that may result as a consequence of an application being refused or a licence being suspended or revoked is not a matter that can or will be taken into consideration¹. Public protection is paramount.
- 1.4 The criteria for each licence is different: a driver or an operator must be a fit and proper person²; in relation to a proprietor the council has an absolute discretion as to whether or not to grant a licence and can therefore consider the suitability of the applicant.
- 1.5 The term 'fit and proper' means 'safe and suitable'. The driver or operator must be a person who is safe and suitable to be placed in the position of trust that either role encompasses.
- 1.6 Hackney carriage and private hire drivers should be people with good driving skills and high standards of personal integrity. They are completely responsible for their passengers when they are driving the vehicle, and must maintain a professional, competent and honest approach in every aspect of their lives (whether driving a licensed vehicle or not). In relation to a driver, the High Court has stated³ that the purpose of the legislation (and therefore the test of fitness and propriety) is:

¹ See *Leeds City Council v Hussain* [2003] R.T.R. 13 and *Cherwell DC v Anwar* [2012] R.T.R. 15

² See the 1976 Act s51 in relation to private hire drivers, s59 in relation to hackney carriage drivers; s55 in relation to private hire operators; s48 in relation to private hire vehicles and the 1847 Act s37 in relation to hackney carriage vehicles

³ Lord Chief Justice Bingham in *McCool v Rushcliffe Borough Council* [1998] 3 All ER 889

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“to ensure so far as possible that those licensed to drive private hire vehicles [or hackney carriages] are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest, and not persons who would take advantage of their employment to abuse or assault passengers.”

- 1.7 The test that this Council uses is based on that but is expressed in slightly simpler terms:

“Would you (as a member of the licensing committee or other person charged with the ability to grant a joint hackney carriage and private hire driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’

- 1.8 Private hire operators do not have the same degree of direct responsibility for passengers as a driver does, but they are in possession of significant amounts of information relating to the whereabouts and movement of people. They must also be people with high standards of personal integrity and the test of safety and suitability for an operator used by this council is as follows:

‘Would you (as a member of the licensing committee or other person charged with the ability to grant a private hire operators licence) be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?’

- 1.9 As stated above, there is no specific test for vehicle proprietors, but as hackney carriages and private hire vehicles travel throughout the country at all times of the day night, and are ideal vehicles for moving any form of contraband without attracting suspicion, it is important that proprietors are also persons with high standards of integrity. The test this council applies in relation to proprietors is as follows:

‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage or private hire proprietors licence) be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes?’

- 1.10 Whilst criminal convictions will play a significant part in the Council’s determination on whether an individual is fit and proper or not, the Council will

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also take into account other factors such as demeanour, general character, non-criminal behaviour, driving abilities, and other police information etc.

- 1.11 If the answer to the question relating to the particular licence is an unqualified 'yes', then the person can be considered to be fit and proper. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether a licence should be granted to that person.
- 1.12 This policy will be immediately applied to all current licences, in addition to being considered at the time of renewal and grant of a licence.
- 1.13 It is the responsibility of Cheshire East Council (referred to as the Council) to issue Hackney Carriage and Private Hire licences under the 1847 Act and the 1976 Act. In exercising this duty the Council will consider the need to ensure the safety of the public as its primary consideration. Licences will not be issued unless the person is considered to be fit and proper.
- 1.14 In seeking to safeguard the safety of the public. The council will be concerned to ensure:
 - That a person is a safe and suitable person
 - That the person does not pose any threat to the public
 - That the public are safeguarded from dishonest, violent, abusive persons, and from persons who abuse alcohol and drugs
 - The safety of children, young persons, vulnerable adults and society generally
- 1.15 In order to assess the suitability of an applicant (and to inform decision makers when answering the questions above), the Council will undertake whatever checks and apply whatever processes it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. In assessing the suitability of an applicant or licence holder, the council will consider all relevant factors including, but not limited to:
 - Criminality
 - Period of holding a licence (if an existing or previous licensee)
 - Number of endorsed driving licence penalty points
 - Right to work
 - Medical fitness
 - Standard of driving/driving ability
 - The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process)
 - The previous licensing history of existing/former licence holders
- 1.16 In addition the Council will also consider further information sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards, other licensing authorities and statutory agencies.

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- 1.17 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
- Applicants for a driver's licence, an operator licence or a vehicle licence
 - Existing licensees whose licences are being reviewed
 - Licensing officers
 - Members of the licensing committee/sub-committee
 - Magistrates and Judges hearing appeals against local authority decisions
- 1.18 In considering this guidance the Council will be mindful that each case must be considered on its individual merits and, where the circumstances demand, the committee may depart from the guidelines. Where the committee do depart from policy, the reasons for doing so must be clearly explained in their decision notice.
- 1.19 In this policy the words 'conviction' and 'offence' are to be defined as including convictions, cautions, warnings, reprimands, fixed penalty notices (whether for criminal or civil matters) and other relevant information. As a caution or fixed penalty can only be imposed if the person admits their guilt (or accepts their guilt in the case of a fixed penalty), these will be regarded as convictions for that particular offence.
- 1.20 In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the Court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years' imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a Court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.
- 1.21 In this policy the word applicant refers to either new applicants, existing licence holder who are seeking renewal and existing licensees that are the subject of periodic auditing or having their licence reviewed by the Council as part of the policy implementation process. It also includes existing licence holders whose licences are being considered by the Council by virtue of criminal or other unacceptable activity having recently come to light.
- 1.22 The Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

2. General Policy

- 2.1 Whilst the Council may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:
- i. Remain free of conviction for an appropriate period as detailed below; and

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- ii. Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

2.2 The standards and criteria set out below are those that would normally be applied to applications and licences. The Council may depart from this criteria, however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

3. Appeals

3.1 Any applicant refused a licence, or who has their licence suspended or revoked has a right to appeal to the Magistrate's Court within 21 days of the notice of refusal⁴. Details of the appeal mechanism will always be provided with the decision notice.

4. Powers

4.1 Section 61 of the 1976 Act allows the Council to suspend, revoke or refuse to renew a driver licence if the applicant/licensee has, since the grant of the licence, been convicted of an offence involving dishonesty, indecency, violence; been convicted of an offence under or has failed to comply with the provisions of the 1847 Act or 1976 Act; or for any other reasonable cause.

4.2 A suspension or revocation of a driver licence takes effect at the end of a period of 21 days beginning with the day on which the notice is given. If it appears that the interest of public safety requires the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement to this effect and an explanation why, the suspension or revocation takes effect when the notice is given to the driver (S61(2B)) of the 1976 Act.

4.2 Section 62 of the 1976 Act allows the Council to suspend, revoke or refuse to renew a private hire operator licence if the applicant/licensee: has been convicted of an offence or other non-compliance with the 1976 Act; conducted themselves as an operator in a way which makes him unfit to hold an operator's licence; any material change in the circumstances of the operator; or any other reasonable cause.

4.3 Section 60 of the 1976 Act allows the council to suspend, revoke or refuse to renew a hackney carriage or private hire vehicle (proprietors) licence if: the vehicle is unfit for use as a hackney carriage or private hire vehicle; if the driver or operator of the vehicle has committed any offence or non-compliance with the provisions of the 1847 Act or 1976 Act or any other reasonable cause.

⁴ The Local Government (Miscellaneous Provisions) Act 1976 covers all appeals except for a refusal to grant a hackney carriage proprietors licence where the appeal lies directly to the Crown Court, again within 21 days.

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- 4.4 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (in respect of hackney carriage and private hire drivers) and the ruling in *Adamson v Waveney District Council*⁵, (in respect of private hire operators and hackney carriage and private hire vehicle licence holders (proprietors)) allow the Council to take into account all convictions recorded against an applicant or a licence holder, whether spent or not. Therefore, the Council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.
- 4.5 Under the provisions of the 1976 Act, the Council is required to ensure that an applicant for the grant or renewal of a combined Hackney Carriage and Private Hire Vehicle driver's licence, or a private hire operator licence is a 'fit and proper' person to hold such a licence. The Council will also consider the suitability of any applicant for the grant or renewal of a hackney carriage or private hire vehicle licence. If an applicant has any convictions, warnings, cautions or charges awaiting trial, the Council will look into:
- How relevant the offence(s) are to the licence being applied for
 - The seriousness of the offence(s)
 - When the offence(s) were committed
 - The date of the conviction, warning, caution etc.
 - Circumstances of the individual concerned
 - Any sentence imposed by the court
 - The applicant's age at the time of offence/incident leading to the conviction, warning, caution etc.
 - Whether they form part of a pattern of offending
 - Any other character check considered reasonable (e.g. personal references)
 - Any other factors that might be relevant, for example:
 - The previous conduct of an existing or former licence holder,
 - Whether the applicant has intentionally misled the council or lied as part of the application process,
 - Information provided by other agencies/council departments.
- 4.6 Any orders or other matters (e.g. Binding over Order, Anti-Social Behaviour Order, Banning Order, Restraining Order, Civil Injunction, Community Protection Notices or anything similar) will also be taken into account and must be declared by an applicant. A licence will not be granted whilst such a matter remains in force and within 1 year of the order or notice ending.
- 4.7 Existing licence holders are required to notify the Council in writing **within seven days** of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the Council **within three working days** of their

⁵ [1997] 2 All ER 898

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arrest for any matter (whether subsequently charged or not) and any driving offences where it takes the DVLA licence holder to more than 9 points on their licence. To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent application or any decision about the person's licence.

- 4.8 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the Licensing Team for advice.
- 4.9 The Council conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any applicant for a driver's licence. Applicants applying for the grant or a renewal of a driver's licence will be required to supply an enhanced/barred list disclosure from the Disclosure and Barring Service (DBS) obtained at their expense, this includes any fees payable to the DBS. Applicants must maintain subscription to the DBS Update Service and the Authority is to have access to it for the duration of the licence.
- 4.10 Applicants for private hire operators licences are required to obtain a Basic DBS Disclosure at their own expense.
- 4.11 The Council is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other Licensing Authorities, and information disclosed by the Police under the Common Law Police Disclosure Scheme or other similar arrangements (including specific data sharing agreements). Examples of such information sources that may be used include social care information, benefits payments etc.
- 4.12 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence⁶. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 4.13 Any offences or behaviour not covered by this Policy will not prevent the Council from taking into account those offences or behaviours.
- 4.14 In the interest of public safety, the Licensing Authority will not issue a licence to any individual that appears on either the Children or Adult Barred Lists. Should the Licensing Authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.

⁶ See s57 of the 1976 Act.

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5 Applicants with periods of residency outside the UK

- 5.1 If an applicant has spent six continuous months or more overseas (since the age of 16) the Council will expect to see evidence of a criminal record check from the country/countries visited covering the period.
- 5.2 Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU nationals a disclosure that is similar to the UK DBS will be required, for those countries for which checks are not available, the Council will require a certificate of good conduct authenticated by the relevant embassy.
- 5.3 There are a number of countries that cannot provide this type of information. Where this is the case the Council will need to consider whether or not the absence of information confirming an applicant has not committed any offences gives them cause to doubt if the applicant is a fit and proper person. This will depend on the specific circumstances of the applicant, how old they were during this period, and how long ago this period outside of the UK was.

6 Outstanding Charges or Summonses

- 6.1 If the individual is the subject of an outstanding charge or summons their application may be suspended until the matter is resolved, this decision will be made on a case by case basis.

7 Non-conviction information

- 7.1 The Council will also take into account situations and circumstances that have not led to a conviction. This will include acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take in relation to non-conviction information (or a complaint), the credibility of the information, including where applicable both the witness/complainant and the licence holder will be taken into account.
- 7.2 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration will be given to refusing the application. Such offences would include violent and/or sexual offences.
- 7.3 In assessing the action to take, the safety of the travelling public will be the paramount concern.

8 Options when determining an application/licence

8.1 When determining an application or reviewing an existing licence the Council have the following options:

- approve the application or take no further action
- refuse the application, revoke the licence or suspend the licence
- issue a warning which may include the use of enforcement penalty points (where such a system is used)

9.1 The following guidelines generally relate to single offences. Wherever there are convictions from more than one offence (whether the offence is the same as previous offences or different) the Council will look at the applicant/licence holder's entire history. The Council is particularly concerned about repeat offending and patterns of offending and in those circumstances the timescales containing these guidelines will be modified accordingly, and in many cases the application will be refused/ or have their licence revoked.

9.2 **Considerations to be taken into account when considering an application for or action against a joint hackney carriage and private hire driver licence.**

9.3 **Licensed drivers are in positions of trust and are responsible for the safety of their passengers and other road users. They will often encounter vulnerable people, and people in various states of inebriation, distress, confusion and other emotional states. The public must have confidence in the persons that hold joint hackney carriage and private hire driver licences.**

10 Serious offences involving violence

10.1 Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence. An application will be refused if the applicant has a conviction for a violent offence that involved the loss of life.

10.2 An application will be refused where the applicant has a conviction for an offence such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

10.3 Consideration may only be given to the granting/issuing of a licence if at least 10 years have passed since the completion of any sentence and/or licence period following conviction for an offence shown below:

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- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm
- Grievous bodily harm
- Robbery
- Possession of firearm
- Riot
- Assault on a Police Officer, prison officer, doctor, nurse or any other public official
- Violent disorder
- Resisting arrest
- Any racially aggravated offence against a person or property
- Common assault
- Affray
- Any offence that may be categorised as domestic violence
- Any Public Order Act offence (harassment, alarm or distress, intentional harassment or fear of provocation of violence)
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

10.4 Consideration will only be given to the granting/issuing of a licence if at least 5 years have passed since the completion of any sentence and/or licence period following conviction for an offence shown below:

- Obstruction
- Criminal damage
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

10.5 A licence will not be granted if an applicant has more than one conviction for an offence of a violent nature.

11 Possession of a weapon

11.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

11.2 Depending on the circumstances of the offence, at least 5 years must have passed since the completion of the sentence, before a licence will be granted.

11.3 A licence will not be granted if an applicant has more than one conviction for an offence of possession of a weapon

12 Sexual and indecency offences

12.1 As licensed drivers often carry unaccompanied and vulnerable passengers, the Council will take a strong line in relation to applicants or existing licence holders

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with convictions for sexual offences. All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will be refused a licence. Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Trafficking, sexual abuse against children and/or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
- Making or distributing obscene material
- Possession of indecent photographs depicting child pornography.
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Soliciting (kerb crawling)
- Making obscene/indecent telephone calls
- Indecent exposure
- Any similar offences (including attempted or conspiracy to commit) offences which replace the above

12.2 In addition to the above the Council will not grant a licence to any applicant who is currently on the Sex Offenders Register or any other similar register. A period of 10 years must have elapsed since they person's name was removed from the Sex Offenders Register before licence will be granted.

12.3 A licence will not be granted if an applicant has more than one conviction for an offence of a sexual or indecent nature.

13 Dishonesty

13.1 A licensed driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. For these reasons, a serious view is taken of any conviction involving dishonesty.

13.2 In general, a minimum period of 5 years free of conviction or at least 5 years have passed since the completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception

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- other deception
- taking a vehicle without consent
- fare overcharging
- or any similar offences (including attempted or conspiracy to commit) offences which replace the above

The above list is not exhaustive.

- 13.3 Applicants or existing licence holders that are found to have intentionally misled the Council, or lied as part of the application process, will not be issued with a licence.
- 13.4 A licence will not be granted if an applicant has more than one conviction for an offence of a dishonest nature.
- 13.5 Failure to declare/omit or misrepresent any of the facts or details requested by the Council, will cause the Council to question if the application can be regarded as fit and proper. An applicant's failure to read and/or understand any questions or requests will not be accepted as mitigation.
- 13.6 Applicants who do provide false information or omit information are liable to prosecuted.

14 Alcohol and Drugs

- 14.1 A serious view is taken of any drug related offence. Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern. The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered carefully.
- 14.2 As licence holders are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 5 years, after the restoration of the driving licence following a drink drive conviction should elapse before an application will be granted. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be granted.
- 14.3 Because of the nature of a driver's involvement with the public, a licence will not be granted where the applicant has a conviction for an offence related to the supply/cultivation/manufacture of illegal or controlled drugs.
- 14.4 A licence will not be granted where the applicant has a conviction for offences related to the possession of illegal/controlled drugs until at least 10 years have passed since the completion of any sentence and/or licence period, and only

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then after full consideration of the nature of the offence and the quantity/type of drugs involved.

- 14.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) and a satisfactory medical report may be required before the licence is granted. If the applicant was an addict then they would be required to show evidence of 5 years free from drug taking after detoxification treatment.

15 Driving offences involving the loss of life or life changing injuries

- 15.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life or life changing injuries. A licence will not be granted if an applicant has a conviction for:

- dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above or result in the victim receiving life changing injuries.

16 Other traffic offences

- 16.1 Traffic offences such as obstruction, some speeding offences (usually dealt with by means of a fixed penalty), pedestrian crossing offences, traffic light offences waiting in a restricted area, or offences of a similar nature may not ordinarily merit refusal. However, they will be subject to consideration as part of the Points Enforcement Policy. For existing drivers who have accumulated 9 or more points on their DVLA driving licence, their driver's licence will normally be subject to review by the Council's Licensing Committee or General Licensing Sub Committee.
- 16.2 Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a Court rather than a fixed penalty), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least 3 years free of such convictions. For applicants with more than one offence this should normally be increased to five years.
- 16.3 In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above will commence from the date of the restoration of the licence.
- 16.4 Licences will not be granted or will be revoked where an applicant/licence holder has 12 or more on their DVLA licence, because this clearly

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demonstrates a disregard for motoring law and the safety of other road users. The fact that the Magistrates allowed the person to retain a licence because of hardship is not a relevant factor for hackney carriage and private hire licensing⁷.

- 16.5 At least three years free of further conviction should elapse (after the restoration of the DVLA driving licence), before a licence would be granted for a Hackney Carriage or Private Hire driver licence.

17 Rude or aggressive Behaviour

- 17.1 In less serious cases a written warning in relation to future conduct may be given and/or penalty points awarded. However, if the nature or level of aggression leads the Licensing Authority to be concerned about public safety, this may result in the refusal to renew, suspension, or revocation of a licence.
- 17.2 Where action is taken against a licence in such circumstances, a period of at least one year must have elapsed from the date of the action being taken before a licence will be granted.

18 Smoking in Vehicle

- 18.1 A serious view will be taken where an applicant/licence holder is convicted of, or received a fixed penalty for, smoking in a vehicle or permitting smoking in a vehicle as this demonstrates a clear disregard for the law and public safety. In any such case a driver's licence will be suspended for at least three months and in the case of repeated offences the licence will be revoked.
- 18.2 Where action is taken against a licence in such circumstances, a period of at least one year must have elapsed from the date of the action being taken before a licence will be granted.

19 Licensing Offences

- 19.1 Offences under taxi legislation such as (but not limited to) plying for hire, overcharging and refusing to carry disabled persons or assistance dogs will prevent a licence being granted or renewed until a period of 3 years has passed since conviction.
- 19.2 Offences relating to other licensing contraventions (not taxi or private hire but including for example licensing act, street trading, PSV in heavy goods licensing etc) will be considered as part of the overall determination of the suitability of the applicant/licence holder.

⁷ See *Leeds City Council v Hussain* [2003] R.T.R. 13 and *Cherwell DC v Anwar* [2012] R.T.R. 15

20 Insurance Offences

- 20.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided s/he has been free of conviction for 3 years. However, strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.
- 20.2 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will have his Operator's Licence revoked and will not be permitted to hold a licence for a period of at least three years.

21.1 Considerations to be taken into account when considering an application for, or action against a private hire operator licence. Licensed operators hold sensitive and confidential information about their clients and have to manage their staff. They are in a position of trust and have control over the drivers working for them. The public must have confidence in the persons (and partnerships and limited companies) that hold private hire operator licences. In relation to operators, these criteria apply to all partners in a partnership and to all directors and company secretaries in a limited company.

22 Summary – All licences

- 22.1 Whilst a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed, in most cases, an applicant would be expected to have remained free from conviction for 3 to 10 years (the period of time depending on the crime committed, as detailed above), before an application is likely to be successful. If there is any doubt about the suitability of an individual to be licensed, the Committee needs to be mindful of the need to protect the public and caution should be exercised. In such cases applicants should expect their application to be refused.
- 22.2 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously, some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.
- 22.3 A suspension or revocation of a drivers, operator or proprietor licence takes effect at the end of the period of 21 days beginning with the day on which notice is given to the licence holder.

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- 22.4 In relation to drivers, if it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.
- 22.5 In both cases, an appeal can be lodged at the Magistrates' Court and details of the appeal process will be contained in the decision the notice

CRITERIA TO BECOME A DRIVER

1. Any person who drives a hackney carriage must hold the appropriate vehicle driver licence. Hackney Carriage driver licences are issued in accordance with Section 46 of the Town Police Clauses Act 1847.
2. Any person who drives a private hire vehicle must hold the appropriate vehicle driver licence. Private Hire driver licences are issued in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976.
3. The Council will issue a joint driver licence, this will permit the licence holder to drive both hackney carriage and private hire vehicles.

Fit and proper person

4. The Council will not licence anyone to drive a hackney carriage or private hire vehicle unless it is satisfied that they meet all criteria to be deemed a fit and proper person.
5. In considering the fit and proper person test all applicants on initial application and renewal must:
 - Provide a current and satisfactory enhanced Disclosure and Barring Service (DBS) check which will include a check against the Adult and Child Barring Lists;
 - Undergo a medical examination to the DVLA Group 2 standard completed by your own GP or other medical provider authorised by Cheshire East Council that can confirm that you are medically fit to the DVLA Group 2 Medical Standards. All licensed drivers must undertake a medical examination every 6 years at the time of renewal and produce the report to the Council;
 - Produce a document providing their right to work in the UK in line with the Home Office requirements for taxi drivers;
 - Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent' convictions;
 - Complete a Statutory Declaration confirming they have read and understood the HMRC guidance on tax requirements (New applicants from 4th April 2022)
 - Provide a tax check code to the Licensing Team (Renewals from 4th April 2022)The Council may also make additional enquiries through Cheshire Police (and other relevant police forces, where appropriate), other relevant local authorities (particularly if a driver has been previously licensed by another authority) and any other appropriate organisation, agency or person

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in order to ensure the Council is in a position to make as accurate an assessment of the applicant's fitness to hold a licence as is reasonably practicable. The Council will consult the NR3 database which records details of existing drivers who have been suspended or revoked by a different Council.

6. New applicants for driver licences will need to provide:
 - The certificate proving that they have successfully completed the Level 2 BTEC/NVQ (or equivalent) in the professional role of a Taxi/Private Hire Driver;
 - The certificate proving that they have attended a satisfactory Safeguarding Training course within the last 3 months;
 - The certificate proving that they have successfully completed the Council's in-house knowledge test.
7. With specific reference to existing licence holders, where there is any cause for a licence to be reviewed, the Council may require the licence holder to complete a further enhanced DBS check, the cost of which would lie with the licence holder. Where a licence holder refuses, this will be taken into consideration in determining their continuing fitness to hold a licence. Drivers with convictions may have their licences reviewed in line with the Convictions Guidelines at Appendix B, and where they have fallen within the previous policy it may result in them being referred to an authorised officer or the General Licensing Sub-Committee to determine if they will be considered fit and proper. Their licence may be suspended or revoked.
8. When assessing the fitness of an applicant to hold a driver licence, the Council will consider the applicant's criminal history as a whole, together with all other relevant evidence, information and intelligence including their history (e.g. complaints and positive comments from the public, compliance with licence conditions and willingness to co-operate with licensing officers) whilst holding a licence from the Council or any other authority. Particular attention will be given to patterns of behaviour, irrespective of the timescale over which they have occurred, both in terms of proven criminal offences and other behaviour or conduct that may indicate that the applicant could put the safety and welfare of the public at risk.
9. It must also be recognised that the Council will consider all criminal history, behaviour and conduct irrespective of whether the specific history, behaviour or conduct occurred whilst drivers were directly engaged in hackney carriage or private hire work at the time or whether they occurred during the driver's own personal time.
10. In addition, an important element associated with the fitness to hold a licence is the appearance and behaviour of a licensed driver. Consequently, the Council requires all licensed drivers to maintain a reasonable standards of appearance and behaviour when in contact and dealing with other road users, pedestrians, customers, the general public, other licensed operator and drivers of hackney

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carriage and private hire vehicles, Council officers and elected members at all times. Applicants and licensed drivers must also co-operate with any reasonable requests made by an authorised officer of the Council or any police officer.

Criminal Record Disclosure

11. Hackney carriage and private hire drivers are required to undertake an enhanced Disclosure and Barring Service (DBS) Check and due to the nature of the occupation such drivers are deemed to be an exempt occupation under the provisions of the Rehabilitation of Offenders Act 1974 (by virtue of the amended Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975).
12. The effect of this, in relation to hackney carriage and private hire drivers, is to render the Rehabilitation of Offenders Act 1974 not applicable and therefore convictions are never regarded as 'spent'. As a result, all convictions (including cautions), will be taken into account when considering a person's suitability to hold a driver licence.

Applicants are required to provide details of ALL convictions and cautions, including driving endorsements and disqualification periods relating to traffic offences.

13. Although cautions are generally considered not as serious as convictions, they require an admission of guilt before they can be issued and therefore will be treated in the same way. They are a useful indication of an applicant's character and whether they are a fit and proper person to hold or be granted a licence.
14. A criminal record does not automatically prevent or bar an applicant from holding a driver licence. However, it will be a significant factor when determining whether a licence should be granted or not. Where an applicant has previous criminal convictions, these will be considered in line with the guidance set out in Appendix C. However, the principal consideration will be to ensure the safety and welfare of the public.
15. Applicants who have not been resident within the United Kingdom for the five years prior to submitting an application, will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High Commission. Guidance can be found at – <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Such a certificate must be authenticated, translated and sealed by the Embassy or High Commission. The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided.

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Proof of a right to work in the United Kingdom will also be required. For further details please see the Home Office Guidance issued to Local Authorities – <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Officer (FCO) on the Gov.UK website at <https://gov.uk/government/world>

The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at fcocorrespondence@fco.gov.uk or by post at the FCO, King Charles Street, London SW1A 2AH.

Non-Conviction Information

16. In addition to the information regarding convictions/cautions applicants are expected to provide details of:
- All warnings, driving endorsements/disqualification periods relating to traffic offences, fixed penalties, penalty charge notices and any other similar sanctions;
 - Any charges or arrests that they were or 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 other relevant pending matter.

For existing licence holders, this information must be notified to the Council within 72 hours, in writing.

17. 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, then the application is likely to be refused.
18. Where there is evidence and/or 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.

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DVLA and other relevant driving licence

19. A person applying for a drivers licence must be a minimum of 21 years old and have held a full DVLA/EC/EEA category B driving licence for at least 12 months at the time of application. This includes European Union (EU), European Economic Area (EEA) and Northern Irish licences. These requirements apply only to applications received on or after the date of this Policy comes into force.
20. Throughout the currency of the driver licence, the driver must possess a full driving licence in accordance with the above requirements. Where a driver has received a ban from driving under their DVLA licence they must return their joint driver licence to the Council within 7 days.
21. Applicants are required to produce their original driving licence, whether it is a photocard or old style paper licence. Copies will not be accepted. A holder of a DVLA driver licence must also provide a valid code to enable the Council to carry out an online check of their driving history.
22. All applicants holding driving licences issued by countries other than the UK or those within the EU/EEA must produce a certificate to show a driving record from the country of issue. If the driving licence was not issued in the UK or EU/EEA then they must comply with the Government requirements on exchanging/applying for a DVLA licence.

Knowledge test

23. All new applicants are required to pass the Council's written test before the Council will grant them a driver's licence. The test must be passed before an application can be made. The test will be carried out in English.

The test comprises an exam covering the following areas:

- The highway code
- Taxi legislation
- The Council's vehicle conditions and driver Code of Conduct
- Local area knowledge
- Working out fares and giving change
- The understanding of and testing of written English

All sections must be passed at the same time and failure to answer certain questions correctly will result in automatic failure. The Council's guidance for knowledge tests is a separate document setting out the conduct of the test and the mark marks required in each section. This document should be read and understood prior to an applicant booking onto a test session. The test guidelines and pass marks can be varied at any time by an authorised officer.

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Applicants can book a test by using the online booking facility on the Council's website. Test sessions are not transferable and not refundable. The fee for the test will be set by the Licensing Committee.

If an applicant passes the test, this result will be valid for a period 12 months from the date of the pass notification email or letter. If an applicant has not made their application within 12 months of this date, they will need to resit and pass the test at their own expense.

There is no limit on the number of attempts that can be made at the test.

If any applicant has any particular needs as a result of a disability or otherwise he/she should let the Licensing Team know and suitable arrangements can be made to facilitate the test. An authorised officer can agree reasonable adjustments to the test to allow for such needs.

24. Normal examination conditions will apply during the knowledge test. Any person found to be using unfair means during the test will be excluded from the test and will be required to take a fresh test and pay the appropriate fee. This behaviour will be considered as cheating and therefore dishonest. It may also affect their fitness and propriety to be granted a licence.
25. The holder of a driver's licence may be required to satisfactorily undertake a further knowledge test or resits at the discretion/request of an authorised officer of the Council or the General Licensing Sub-Committee. This may be used where there is a concern that the driver's knowledge has fallen below the standard expected. This may be identified as a result of complaints or officer concerns.
26. Failure to submit to or pass any knowledge test will permit the Council to refuse to grant or renew a driver's licence or to revoke or suspend the licence as required. This decision can be taken by authorised officers or the Licensing Committee and its sub-committee.

Safeguarding and Child Sexual Exploitation Awareness

27. The Council requires all licensed drivers to attend Safeguarding and Child Sexual Exploitation Awareness training. For new driver applications, this must be completed before a licence is issued for the first time.

Applicants for renewal of an existing driver licence must have completed the awareness training before their first licence renewal after this policy comes into force. All drivers will be expected to renew/refresh this training at intervals decided by the Council.

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The Council requires all licensed drivers to abide by the Council's Code of Conduct, a copy of which can be found at Appendix B and will be available on the Council's website.

Medical requirements

28. The Council is permitted to satisfy itself that an applicant for a licence is mentally and physically fit and remains so during the currency of any licence. Consequently, all applicants for a joint hackney carriage and private hire driver licence are required to undertake a medical examination on initial application, at defined intervals thereafter and at any other such time as the Council require to ensure their fitness to drive.

The standards required are set out in the DVLA publication 'At a Glance Guide to the Current Medical Standards of Fitness to Drive'. The standards are amended from time to time and can be found online at: <https://www.gov.uk/government/publications/at-a-glance>

The standard required is the Group 2 Entitlement

29. All new applicants must undertake the medical examination and provide a satisfactory medical certificate before a licence is issued for the first time and then every other application (alternate) until the age of 60 years. All applicants aged 60 and over must undertake a medical examination annually and produce the report to the Council. Failure to do so may result in the licence being suspended or revoked.
30. The Council may also require drivers to undertake more regular medicals if their medical condition warrants it. The medical cannot be more than 3 months old at the time the application is made. It is therefore advisable to wait until the rest of the application process is complete before making arrangements for your medical.
31. The Council will not grant or renew, any driver's licence unless the medical examination requirements are complied with and the driver can demonstrate that they are medically fit to hold a driver licence.
32. In particular, applicants must consider the medical conditions listed in the current DVLA publication 'At a Glance Guide to the Current Medical Standards of Fitness to drive', as the Council may refuse to grant an application or revoke an existing licence where an applicant is unable to meet the nationally recommended guidelines in respect of the listed medical conditions.
33. If, once licensed, the driver's medical circumstances change during the licence period, the driver must inform the Council within 7 days. The Council may require the driver to immediately undertake a further medical examination and provide an

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approved medical certificate confirming the outcome of this examination and the driver's fitness (or otherwise) to continue as a licensed driver.

34. Should an authorised officer of the Council have reason to believe that a licensed hackney carriage or private hire driver has a medical condition that renders them unfit to drive, a further medical examination will be requested. The cost of the further medical examination will be met by the licensed driver.
35. The medical must be filled out on the Council's medical application form. The medical must be carried out either by the applicant's/driver's own GP or by a medical practitioner that can gain access to that individual's full medical history. Any other medical will not be accepted.
36. With respect to current licence holders, if it is deemed necessary to do so, a licence may be revoked or suspended in the interest of protecting the public until a further medical examination(s) has/have been carried out or if the licence holder is unable to demonstrate that they are medically fit to hold a driver's licence. This decision can be taken by an authorised officer or by the Licensing Committee or its sub-committee.

Medical Exemptions

37. Medical exemptions involving the carriage of disabled persons (including wheelchair users) and assistance dogs may apply to new applicants or licensed drivers who suffer from certain medical conditions. Where this is the case, the applicant/licensed driver must provide sufficient proof from their GP, or independent medical specialist, confirming that the exemption is required in order for the driver to carry out their duties. The Council reserves the right to refuse to grant a licence if sufficient medical proof is not provided and it is deemed appropriate to do so. Examples of sufficient proof include results of blood tests, skin tests and evidence of the individual's clinical history. Drivers issued with medical exemption certificates will also receive a tactile exemption card in order that visually impaired customers can confirm the validity of the exemption.

English speaking

38. Applicants must be able to converse orally and in writing in English to a standard that would be reasonably expected of a person undertaking a role as a hackney carriage or private hire driver. This will be tested as part of the knowledge test and the BTEC/NVQ qualification. If an applicant cannot satisfy the authorised officers of the Council that their standard of English is suitable then the application may be referred to the General Licensing Sub-Committee or authorised officer for consideration.

Code of Conduct

39. All joint drivers licence holders must comply with the Code of Conduct set out at Appendix B. The Code of Conduct is in addition to any matters set out within the main body of the policy.

Joint Hackney Carriage and Private Hire Drivers Licence Conditions

1. You have been issued with 2 copies of your drivers badge [and a coloured armband]. You must wear one drivers badge in the card holder provided at all times when you are driving or working with a hackney carriage or private hire vehicle and failure to do so is a criminal offence [byelaw No 13 when using a hackney carriage and s54 of the 1976 Act when using a private hire vehicle]. You must display the second copy of your badge in a position, which is plainly and clearly visible to your passengers at all times whilst you are working as a taxi driver.
2. You must return your licence and badge to the Licensing Team of the Council immediately if:
 - (a) The licence expires, is suspended or revoked
 - (b) You wish to surrender your Taxi Driver Licence
 - (c) When you are required to do so by an 'Authorised Officer of the Council'.
3. You must inform the Licensing Team of the Council in writing, within **seven days** if you change your address, and return your driving licence to the Council at the same time for alteration and re-issue.
4. In the event of the loss of your licence or badge you must report the loss to the Licensing Team of the Council immediately.

Deposit of Drivers' Licence

5. You must give your taxi Driver's Licence to the operator of the Private Hire Vehicle, or proprietor of the Hackney carriage which you will be using. They will keep your licence while you are driving for them.

Production of Documents

6. If an Authorised Officer of the Council asks you, you must produce:
 - (a) Your driving licence and an access code for DVLA to enable the Council to check your licence
 - (b) Your taxi Driver Licence (you must ask the operator/proprietor to return it to you for this purpose, and you must return it to them immediately afterwards – see para 5 above)
 - (c) The vehicle registration document
 - (d) The valid certificate of insurance

Within **five days** of the request being made.

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Medical Condition

7. You must notify the Council, in writing within 7 days of any change in your medical condition that may adversely affect your ability to drive private hire or hackney carriage vehicles. This includes temporary medical conditions as well as long term or permanent medical conditions.

Declaration of conviction/caution/penalty

8. You must declare all convictions, cautions, fixed penalty notices, ASBOs (Anti-Social Behaviour Orders), DBOs (Drinking Banning Orders), civil injunctions, CPNs (Community Protection Notices), restraining orders or injunctions to Cheshire East Council on your initial application form.
9. If you are convicted of any offence, or accept a formal caution for an offence, or receive a fixed penalty notice for any offence or receive and accept an endorsable fixed penalty notice, or are made the subject of an ASBO or DBO, you receive a CPN, are made the subject of any form of injunction or restraining order or you are arrested for any matter, you must give the Council details, in writing and within **seven days** of the event.

Conduct

10. If the hirer requests, you must provide a written receipt for the fare paid for the hiring, including the amount of VAT (if applicable) shown separately if so requested. You must also provide details of the journey including the date, fare, vehicle, operator and driver. You must then sign the receipt.
11. You must not cause or allow noise emitted by any radio or sound equipment in the vehicle which you are driving to be a source of nuisance or annoyance to any person or persons, whether inside or outside the vehicle.
12. If a passenger objects, you must not play any radio or sound reproducing instrument or equipment in the vehicle.
13. You must not sound your vehicle horn –
 - Unnecessarily i.e. unless in an emergency or to let other road users or pedestrians know you are there
 - When your vehicle is stationary on a road, at any time, other than at times of danger due to another moving vehicle on or near the road
 - On any road in a built up area between 11.30pm and 7.00am.

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14. You must at all times treat passengers or any potential passenger with courtesy and respect. You must not discriminate against any person because of their race, colour, creed, age, gender or disability.
15. You must always be clean and respectable in your dress (as a **minimum standard** long legged trousers, or knee length style shorts, skirt or dress and tee shirts which have a full body and short sleeves).
16. You must behave in a civil and reasonable manner at all times and must comply with any reasonable request made by the hirer.
17. You must always assist your passengers with their luggage. This includes picking it up from the point of booking, removing it from your vehicle at the end of the journey and, if requested, setting it down at the passenger's request.
18. You must always pick up your passengers on time unless unavoidably delayed.
19. You must not demand a fare greater than previously agreed with your passenger and operator, or shown on the meter for a hackney carriage journey within the Borough.
20. Private hire vehicles and hackney carriages are smoke free vehicles at all times under sections 6, 7 and 8 of the Health Act 2006 and The Smoke-free (Exemptions and Vehicles) Regulations 2007 SI 2007/765. It is a criminal offence to smoke in a licensed vehicle at any time or to allow a person to smoke in a licensed vehicle and you can be prosecuted for either or both offences. In addition, the use of any electronic cigarette, cigar or pipe is prohibited. In any case where smoking or the use of electronic cigarette, cigar or pipe is observed being used in a hackney carriage or private hire vehicle, the Council may require the vehicle to be valeted to remove any residual smell at the expense of the driver or proprietor (as agreed between the driver and proprietor). The vehicle licence may be suspended until that valet has been completed to the satisfaction of the Council.
21. You must not eat in the vehicle at any time, or allow passengers to eat in the vehicle at any time.
22. Animals must not be carried in private hire vehicles or hackney carriages other than those belonging to or in the care of passengers. You may refuse to carry a hirer's animal at your discretion. However you must not refuse to carry an assistance dog, unless you have a valid Exemption Certificate issued by the Council. Any animal must be kept under the hirer's control, and must be carried in the rear of the vehicle. No animals can be carried in the luggage compartment of an vehicle unless the vehicle is an estate car or hatchback, the animal can be seen from outside the vehicle through a window, and the owner or carer agrees

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to such carriage. This does not apply to assistance dogs which must always be carried within the passenger compartment.

23. You must not carry any additional passengers not already accompanying the hirer in the vehicle without the hirer's permission.
24. You must not carry any child below the age of ten years in the front of the vehicle.
25. You must not carry more than one person in the front seat unless the vehicle is furnished with manufacturer fitted seats or more than one passenger in the front of the vehicle and provided with seat belts for all front seat passengers. In this case no more than 2 passengers may be carried.
26. When carrying any child passenger who is over 135 cm in height (approximately 4ft 5 inches or 12 years old) you must inform them that they must wear a seat belt.
27. For children under 135 cm in height (approximately 4 ft 5 inches or 12 years old), if the correct child restraints (i.e. child seats or harnesses) are not available you must inform their parent or guardian or some other adult responsible for their care and welfare that they can travel without wearing an adult seatbelt but this will be at the discretion of the adult mentioned.
28. You must stop the engine of the vehicle at all times when the vehicle is stationary otherwise than through the necessities of traffic.
29. It is a criminal offence to hold a use a mobile phone whilst driving. (Road Vehicles (Construction & Use) Amendment (no4) Regulations 2003, Statutory Instrument 2695)

Licence Plate

30. Every time you commence driving the vehicle you must ensure that the rear identification plate, supplied by the Council, is securely fixed to the outermost rear of the vehicle, so that it can be clearly read by pedestrians and other road users. You must also ensure that all other identifying information supplied by the council is correctly and securely attached to the vehicle.
31. You must not offer or accept any hire of the vehicle except where the hiring is pre-booked with the Private Hire Operator [does not apply to Hackney carriages].

Lost Property

32. After a hiring, you must ensure the vehicle is checked for any misplaced or lost property.

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33. If any property is found or handed to you, you must, unless it is claimed, take it to a Police Station within 48 hours. Following agreement with the owner of any lost property (and you must take reasonable steps to ensure the person concerned is the rightful owner) you may agree to return the property personally to the owner, and charge the metered fare to an agreed meeting point, or £10.00, whichever shall be greater.

Taximeters in Private Hire Vehicles [taximeter use in hackney carriages is governed by the byelaws]

34. You may use a meter in the private hire vehicle only if it is constructed, attached and maintained in compliance with the Private Hire Vehicle Conditions.
35. Unless the fare is agreed in advance, you must switch the meter on at the point the hirer's journey commences and keep the meter working until the termination of the hiring.
36. You must not cancel or conceal the fare recorded until the hirer has had a reasonable opportunity of examining it and has paid the fare (unless a lesser fare has been agreed).
37. You must ensure that the fare charged does not exceed the fare displayed on the meter at the end of the journey.
38. You must ensure that when the vehicle is not hired the key is to be locked and the machinery kept inactive and the meter shown show no fare at any time.
39. You must ensure that the meter is sufficiently illuminated when in use and is visible to passengers.
40. You must not (nor may you allow anyone else) to tamper with the meter or any seal on the meter without lawful excuse, or alter any meter with the intent to mislead.

Plying for hire [does not apply to hackney carriages]

41. You must not pick up any passenger who has not pre-booked with your operator.
42. You must not offer or accept any offer for the immediate hire of a vehicle while it is being used in a public place.
43. You must not park or wait on or near any Hackney Carriage Rank, or drop passengers off on a hackney carriage rank.

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LEGAL REQUIREMENTS (contained in national legislation) when driving a Hackney carriage

Your Driver Licence and Badge

See Paragraph 1 above

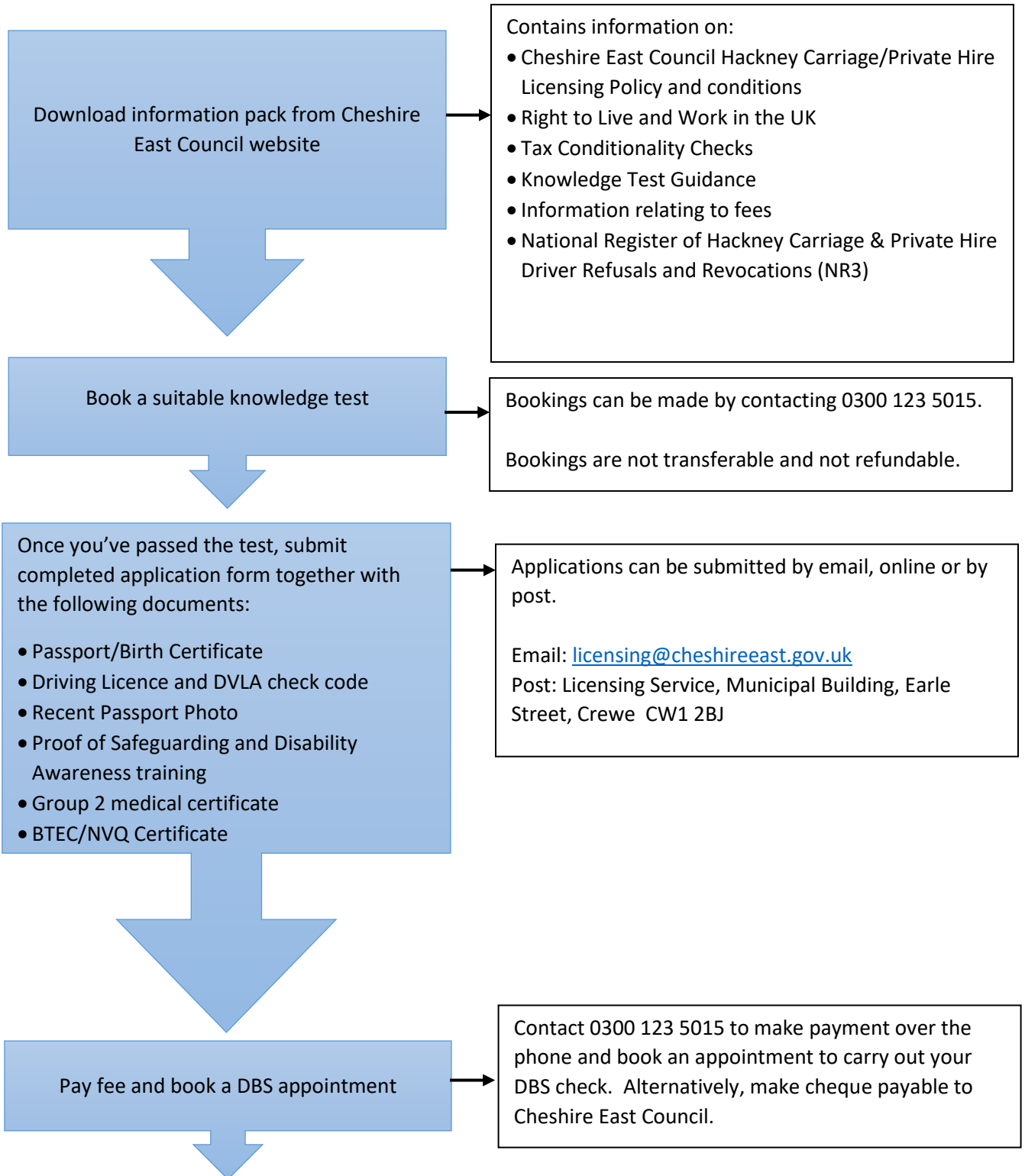
Conduct

2. You must take a hiring from a hackney carriage stand (taxi rank) for a journey within the hackney carriage zone i.e. the former district of Macclesfield, Congleton or Crewe & Nantwich unless you have a 'reasonable excuse' to refuse (s53 1847 Act)
3. You must not charge more than the fare shown on the meter of a Hackney carriage for a journey wholly within the zone, irrespective of how the journey was arranged (s55 1847 Act)
4. You must not charge more than the fare shown on the meter of a hackney carriage for a journey that ends outside the zone, unless a different fare was agreed in advance (s66 1976 Act)
5. You must not carry any additional passengers in a hackney carriage not already accompanying the hirer in the vehicle without the hirer's permission (s59 1847 Act).
6. You must use the shortest and/or quickest available reasonable route for all journeys by Hackney carriage i.e. route that will lead to the cheapest fare for the passenger subject to any directions given by the hirer. (Section 69 1976 Act)
7. You must produce your taxi drivers licence if requested to do so by an authorised officer of the Council or a police constable (s53(3) 1976 Act)

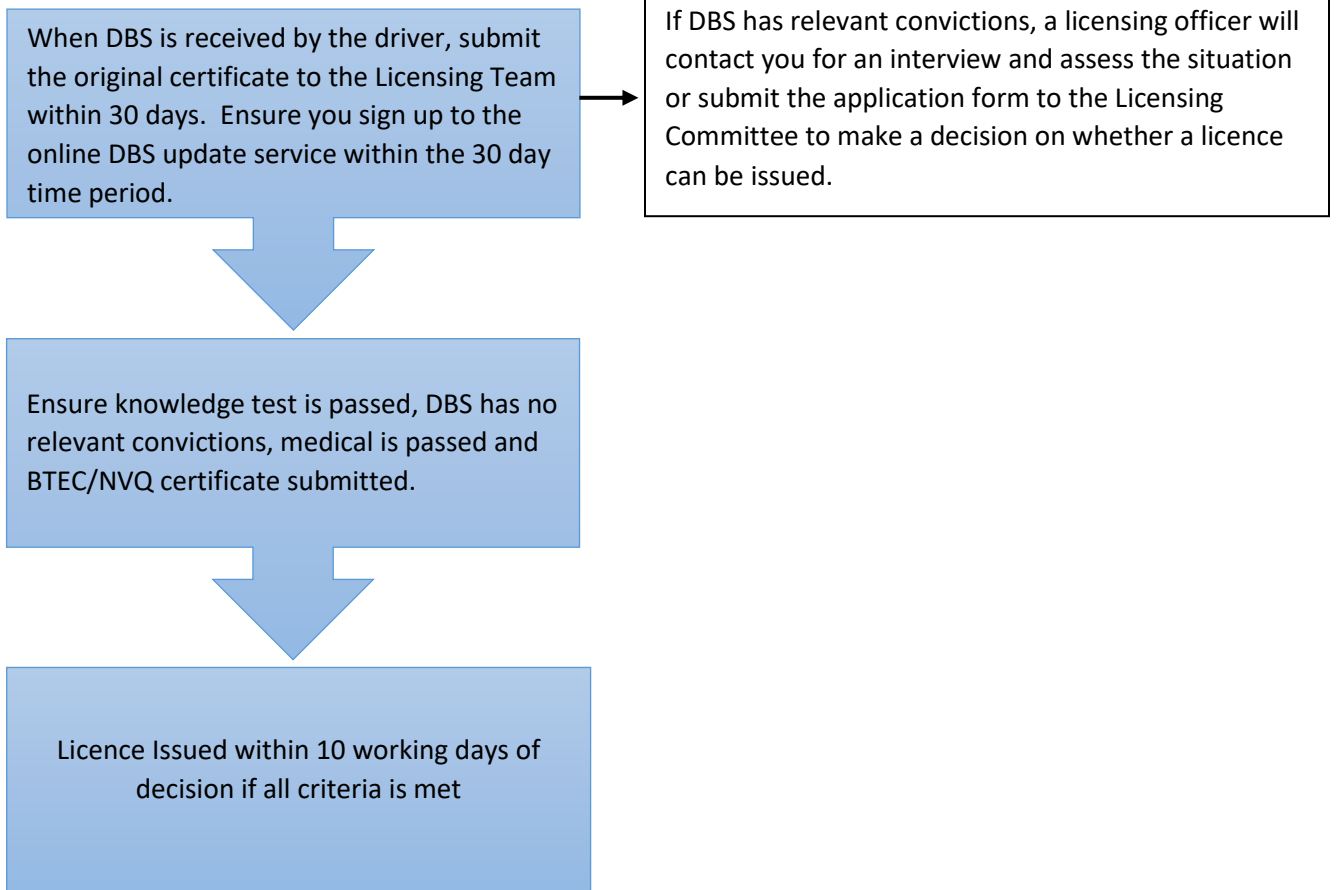
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Appendix F

JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS NEW DRIVER APPLICATION PROCESS

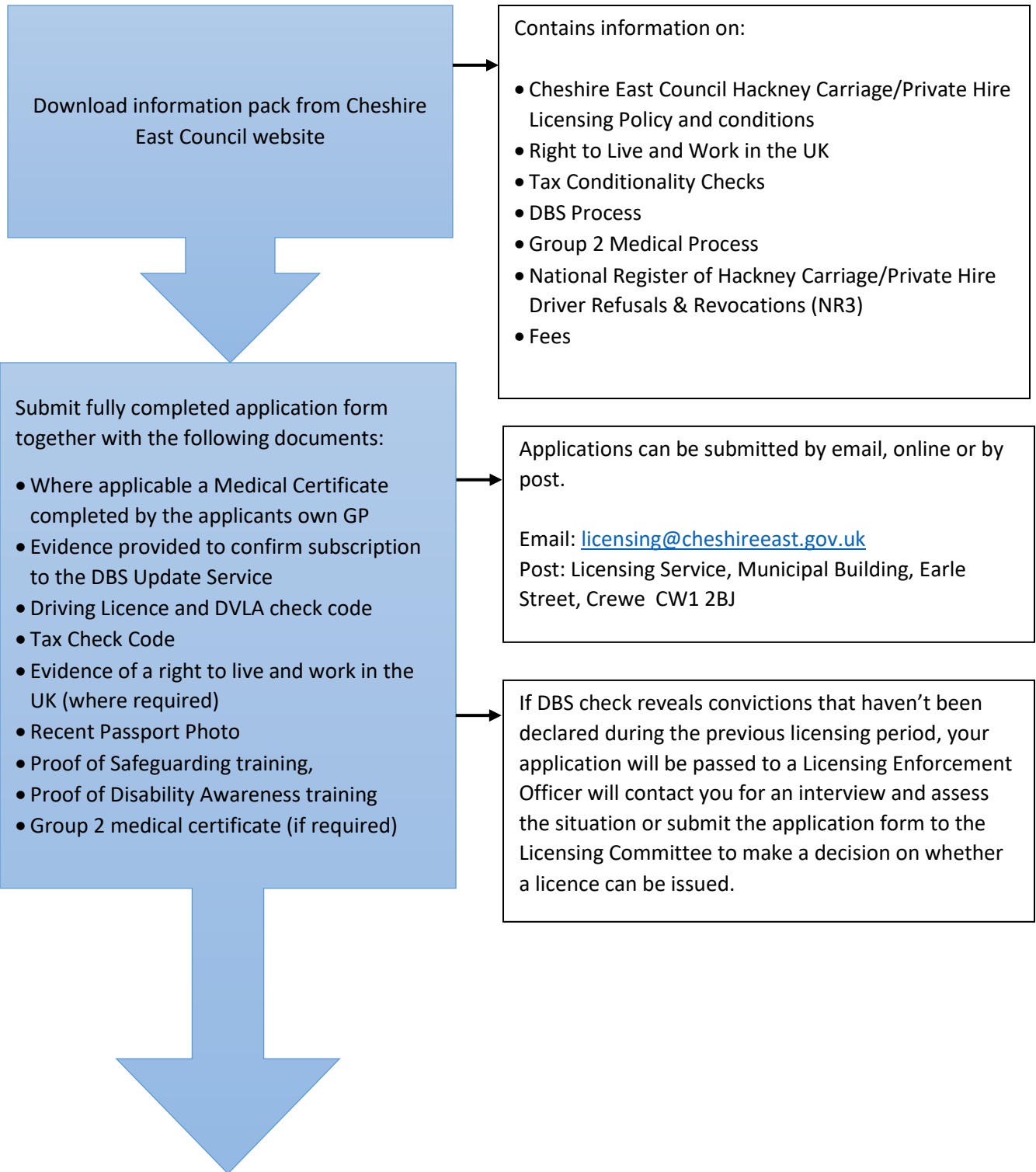


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JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS RENEWAL DRIVER APPLICATION PROCESS



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Licence Issued within 10 working days of decision if all criteria is met

You will not be able to continue to drive licensed vehicles if your Joint Hackney Carriage/Private Hire Drivers Licence hasn't been issued.

HACKNEY CARRIAGE VEHICLE CONDITIONS

These conditions are attached to the licences issued by Cheshire East Borough Council under sections 47 of the Local Government (Miscellaneous Provisions) Act 1976.

Cheshire East Council has carefully considered the following conditions and has decided that they are reasonably necessary.

The licence holder (the owner of the vehicle) must meet all the conditions of this licence. Breach of these conditions may lead to the immediate suspension of the vehicle and consideration of revocation of the licence or prosecution.

The conditions attached to the licence are as follows:

1 Licence and Plate

- 1.1 The Proprietor must return his/her licence (and the Plate and additional signage if requested by the Council) to the Council immediately if:
 - i. The Proprietor changes home or business address
 - ii. If the licence expires, or is suspended or revoked
 - iii. If the Proprietor wishes to surrender his/her Hackney Carriage Licence
 - iv. When required to do so by an Authorised Officer of the Council.
- 1.2 The licence plates and any additional signage remain the property of the Council at all times and must be returned to the Council whenever the vehicle is not licensed as a Hackney Carriage.
- 1.3 The Proprietor must secure and display the exterior licence plates permanently to the outmost front and rear part of the vehicle using the fittings issued by the Council. The method of fixing must prevent the plate being removed without the need for tools. The plate(s) must at all times must be displayed so that it/they can be clearly and fully read by pedestrians and road users. The licence plates must not be displayed in any window of the vehicle. The use of temporary, removable or magnetic fittings is not permitted.
- 1.4 The Proprietor must display the three internal licence numbers issued by the Council inside the vehicle so that they are visible to front and rear passengers at all times. One must be affixed to the inside of each rear passenger door and one affixed to the front windscreen so it is visible to passengers in the front and rear seats
- 1.5 The Proprietor must report the theft or loss of the licence plate, internal licence numbers or Wheelchair or non-wheelchair stickers to the Police immediately and as soon as possible, and in any event within 24 hours of becoming aware

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of the theft or loss, to the Council in writing. The Proprietor must obtain a duplicate licence plate, internal licence numbers or Wheelchair or non-wheelchair stickers (as required) for which a charge will be made.

- 1.6 The Proprietor shall not wilfully or negligently cause or suffer any plate or Hackney Carriage door crests on the vehicle to be concealed from public view at any time.

2 Retention of Driver Licence

- 2.1 Before the Proprietor allows anyone to drive a Hackney Carriage they must ask that person for their hackney carriage and private hire joint driver licence and keep it in their possession while that person drives the vehicle.

Note - No person may drive a Hackney Carriage, unless they hold a hackney carriage and private hire joint Driver Licence issued by Cheshire East Council. Anyone found driving a Hackney Carriage without a hackney carriage and private hire combined Driver Licence commits an offence and may be prosecuted.

3 Insurance

- 3.1 The Proprietor must ensure that any persons who drive the Hackney Carriage are covered by a valid policy of insurance to drive that vehicle.
- 3.2 When licensing or re-licensing a vehicle, the insurance cover produced must cover the vehicle for public hire (i.e. hackney carriage use) which will include pre-booked work, and must include the names of the persons who will be driving for Public hire/hackney carriage purposes.

4 Production of Documents

- 4.1 Before or on the date of expiry of any certificate the proprietor is required to have in relation to the hackney carriage vehicle licence, each existing certificate shall be produced together with the relevant renewal certificate to a specified Officer of the Council.
- 4.2 If an Authorised Officer of the Council or a police constable asks, the proprietor must produce:
 - The hackney carriage vehicle licence
 - The hackney carriage and private hire combined Driver Licence of any person authorised to drive the Hackney Carriage
 - The vehicle registration document for the hackney carriage
 - A valid certificate of insurance for the hackney carriage

within **five days** of the request being made.

5 Employment and Use of Drivers

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- 5.1 Before the Proprietor allows any licensed person to drive the Hackney Carriage s/he must ensure that the person who drives the licensed vehicle understands and observes the law, byelaws and Code of Conduct that regulate their conduct and the conditions attached to the vehicle licence.
- 5.2 If a driver leaves the Proprietor's employment (in the case of an employed driver) or the Proprietor no longer permits them to drive the hackney carriage under any lawful arrangement (in the case of any self-employed driver) the Proprietor must notify the Licensing Section in writing, within 48 hours.

6 Vehicle inspection

- 6.1 The Proprietor must allow an Authorised Officer of the Council, or Police Officer, to inspect the vehicle at any reasonable time.
- 6.2 The Proprietor must ensure the vehicle is presented for test in accordance with instructions from the Council

7 Specification for a Hackney Carriage

- 7.1 No change in the specification, design, condition or appearance, or modification, conversion or alteration of the vehicle may be made at any time unless prior written approval has been given by the Council.
- 7.2 If the vehicle is involved in an accident or its safety or appearance is affected or may be considered to be affected for any reason, the Proprietor must inform the Council immediately and then provide written details within three days. If the Proprietor is in any doubt as to whether the vehicle is affected he/she must advise the Council.

8 Use of the vehicle

- 8.1 The vehicle must fully comply with all relevant Road Traffic legislation and in addition must comply with all the requirements of the Councils policy as detailed in section 3.3above, together with the following requirements:
 - i. Luggage must be properly secured inside a vehicle that does not have a separate and self-contained boot
 - ii. The vehicle and all fixtures and fittings must be maintained in a clean, comfortable, safe, and mechanically sound condition internally and externally and be in every way suitable for public service
 - iii. Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any fitted division between the drivers and passenger compartments

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- iv. The floor covering must be in good repair with no holes or tears.
- v. The internal light (to enable passengers to enter and leave the vehicle safely) must be functioning correctly at all times.
- vi. The vehicle's bodywork and paintwork must be maintained to an acceptable standard free of dents or rust.
- vii. The vehicle must carry a spare wheel to fit the vehicle, and the wheel must be securely stored. There must also be carried equipment to change the wheel including a spare wheel and tyre, jack and wheel brace unless the manufacturers specification when new did not include a spare wheel, in which case the manufacturers alternative (e.g. repair kit) will be acceptable.
- viii. The nearside and offside exterior rear view mirrors must be in a serviceable condition
- ix. All seats belts must be working correctly. The use of folding seats in non-purpose built hackney carriages is not permitted.
- x. The side windows must be able to be opened and closed
- xi. In any convertible vehicle the driver must raise roof and side windows at the request of any passenger.
- xii. The glass in the vehicle must not be replaced with glass that is different from the glass fitted when the vehicle passed the Councils vehicle test. No unapproved self-adhesive material (tinted or clear) shall be affixed to any part of the glass
- xiii. The vehicle's power output must not be less than the power output when the vehicle passed the Councils vehicle test
- xiv. At all times the vehicle must carry a 1kg dry powder extinguisher or a 2 litre AFFF extinguisher approved to BS EN3: 1996, with the licence number painted on it. The fire extinguisher must be properly maintained in accordance with BS 5306; Part 3 and be secured in such a position in the vehicle as to be fit for immediate use in an emergency
- xv. At all times the vehicle must carry a first aid kit in a suitable container, with the licence number painted on it
- xvi. The vehicle must not be fitted with any additional lights other than those originally fitted by the manufacturer unless they have been approved by the Council

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- xvii. The use of roof racks, will be permitted. Any vehicle using a roof rack must be fitted with and display a second roof sign, with one sign in front of the roof rack, and one behind, allowing the signs to be seen in the same way as a vehicle without a roof rack. Any luggage carried on the roof rack must be protected from the elements by a waterproof cover and properly secured. A properly fitted roof box is an acceptable alternative, subject to the signage requirements above.

9 Additional Conditions for wheelchair accessible Hackney Carriages

- 9.1 The vehicle must carry in a safe, usable condition suitable ramps for a wheelchair user. If the alternative tail lift or some other mechanical means of access is fitted it must be maintained in a safe, functioning condition.
- 9.2 The driver must ensure before the commencement of the journey that the passenger is correctly seated and the wheelchair is correctly secured and the passenger is correctly restrained, and at the end of the journey must ensure that the passenger is delivered safely onto the pavement
- 9.3 The door entrance and any steps must always be conspicuously marked where appropriate, to help visually impaired passengers.
- 9.4 All grab handles or rails must always be conspicuously marked to help visually impaired passengers.

10 Sliding doors

- 10.1 Where sliding doors are an integral part of a vehicle and a locking device has not been fitted, the child locking systems must be engaged by the driver at all times when the vehicle is in motion and carrying passengers.

11 Lost property

- 11.1 Any lost property found in the vehicle must be safely stored by the vehicle licensee for 3 months, and reasonable steps must be taken to identify and contact the owner where there is some form of identification on the property. After that time the vehicle licensee may take whatever action he/she feels appropriate in relation to the property.

12 The meter / table of fares

- 12.1 The vehicle must, at all times, be fitted the meter which was fitted when the vehicle was tested by the Council.
- 12.2 The meter must only be brought into action and the fare or charge must only commence from the point at which the hirer starts his/her journey. In a wheelchair accessible vehicle, the meter must not be started until any wheelchair seated passenger has been securely seated and restrained within

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the vehicle, the ramps or lift have been properly stowed and secured, and the driver is in a position to start moving the vehicle. At the end of the journey, the meter must be stopped when the vehicle stops moving, and before the passenger is unloaded.

- 12.3 If the meter fails or does not comply with the conditions, the vehicle cannot be used as a hackney carriage.

13 Change of engine

- 13.1 In addition to informing the DVLA of the change of engine, the Proprietor must inform the Council, in writing, within 48 hours of the change including full details of the replacement engine including the chassis number and the source of the replacement unit. Any replacement engine must be of the emission standard as the engine it is replacing.

14 Signage and Advertisements

- 14.1 No signs apart from the vehicle plate and permissible signs allowed under the hackney carriage vehicle policy can be displayed on or from the vehicle unless it is required by law, or has been agreed by the Council in writing.

15 Cleanliness

- 15.1 The proprietor must ensure that the Hackney Carriage is in a safe, clean and tidy condition both inside and out to ensure the safety and comfort of passengers.

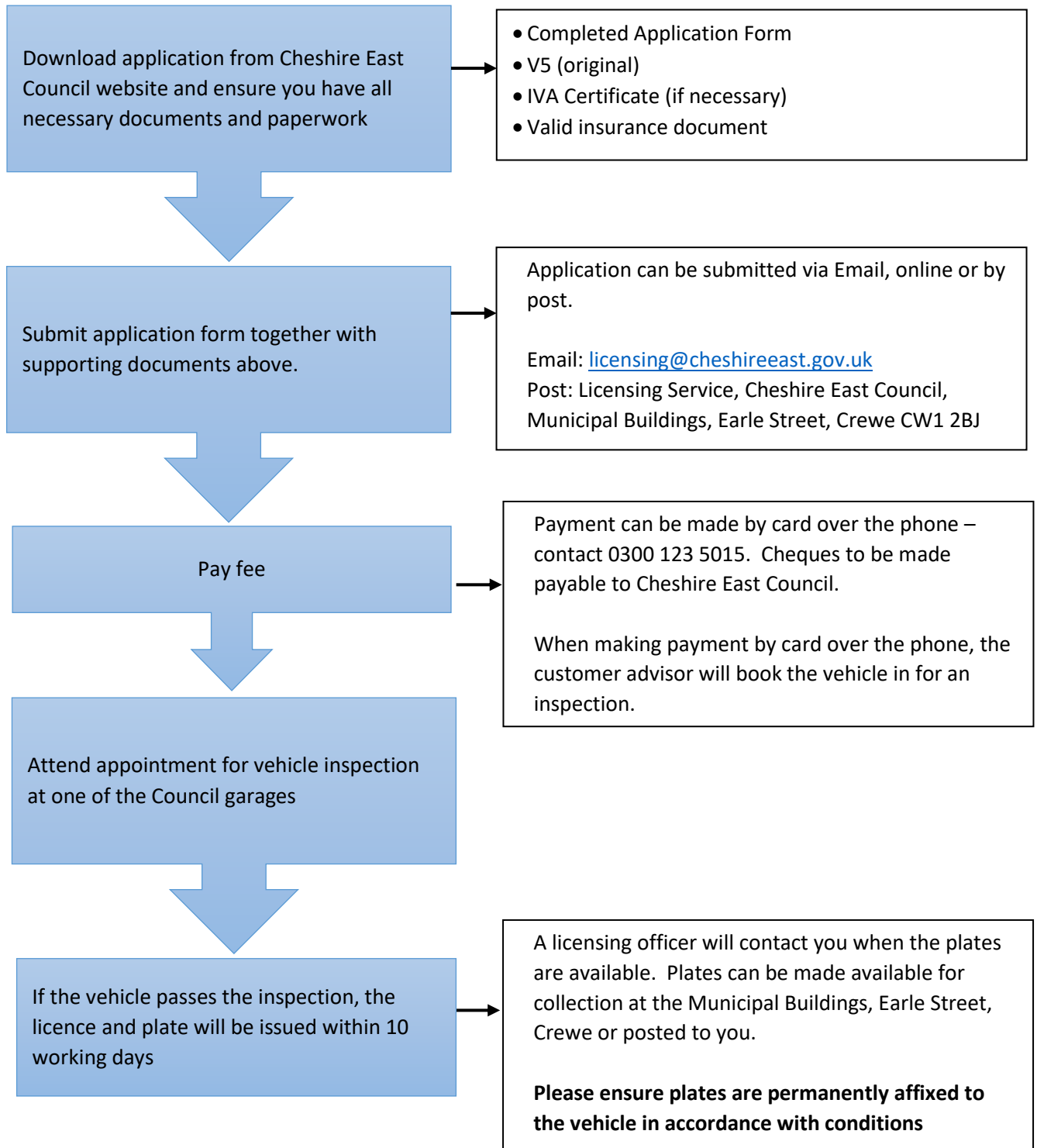
PLYING FOR HIRE

1. Only licensed hackney carriages are permitted to ply for hire and only in the administrative area of the Borough Council with which they are licensed. It is illegal for a private hire vehicle to ply for hire. This means:
 - a) Private hire vehicles **MUST NOT** carry passengers if the journey has not been pre-booked with a private hire operator by the passenger.
 - b) All private hire vehicle journeys **MUST** be pre-booked through a licensed private hire operator.
 - c) All bookings **MUST** be made by prospective passengers with a private hire operator who will despatch the vehicle. Prospective passengers may instruct a third party, e.g. a restaurant manager or bus station marshal, to make a booking on their behalf but this third party **MUST NOT** be the private hire vehicle driver.
 - d) A driver of a private hire vehicle is **NOT** permitted to make the booking on behalf of a prospective passenger, e.g. via their radio or mobile telephone or other device.
 - e) Private hire operators **MUST NOT** accept any booking made by a driver on behalf of a passenger.
 - f) Private hire vehicle drivers are **NOT** permitted to make their vehicles available for immediate hire. This means that private hire vehicles **MUST NOT** physically position their vehicles in such a way as to be waiting in any area that is on view to the public to invite custom e.g. allowing prospective customers to approach the vehicle and ask 'Are you free?'
 - g) In most cases, the vehicle will not be insured during a journey that has not been correctly pre-booked.
 - h) Private hire vehicles **MUST NOT** wait at any taxi rank/stand.
 - i) Private hire vehicles **MUST NOT** be hailed in the street.
2. Other circumstances may constitute unlawful 'plying for hire' accordingly each case of allegedly unlawful 'plying for hire' will be judged on its own facts. Nevertheless, attention is drawn to the council's position as set out above.

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3. Further information about the relevant legislation is available in the Town Police Clauses Act 1847, in particular Section 45, and in Part II of the Local Government (Miscellaneous Provisions) Act 1976, in particular Section 64.

**HACKNEY CARRIAGE VEHICLE LICENCE
NEW/RENEWAL VEHICLE APPLICATION PROCESS**



PRIVATE HIRE VEHICLE CONDITIONS

These conditions are attached to the licences issued by Cheshire East Borough Council under sections 48 of the Local Government (Miscellaneous Provisions) Act 1976.

Cheshire East Council has carefully considered the following conditions and has decided that they are reasonably necessary.

The licence holder (the owner of the vehicle) must meet all the conditions of this licence. Breach of these conditions may lead to the immediate suspension of the vehicle and consideration of revocation of the licence or prosecution.

The conditions attached to the licence are as follows:

1. Licence and Plate

- 1.1 The Proprietor must return his/her licence (and the Plates if requested by the Council) to the Council immediately if:
 - i. The Proprietor changes home or business address
 - ii. If the licence expires, or is suspended or revoked
 - iii. If the Proprietor wishes to surrender his/her private hire vehicle Licence
 - iv. When required to do so by an Authorised Officer of the Council.
- 1.2 The licence plates and any additional signage remain the property of the Council at all times and must be returned to the Council whenever the vehicle is not licensed as a private hire vehicle.
- 1.3 The Proprietor must secure and display the exterior licence plate(s) permanently to the outmost rear part of the vehicle. The method of fixing must prevent the plate being removed without the need for tools. The plate must at all times must be displayed so that it can be clearly read by pedestrians and road users. The licence plate must not be displayed in any window of the vehicle. The use of temporary, removable or magnetic fittings is not permitted.
- 1.4 The Proprietor must display the three internal licence numbers issued by the Council inside the vehicle so that they are visible to passengers at all times. These plates should be displayed in the front of the vehicle and on each side of the vehicle.
- 1.5 The proprietor must permanently affix the additional signage to the sides of the vehicle and ensure that it remains in place and unobstructed at all times.
- 1.6 The Proprietor must report the theft or loss of the licence plate or internal licence numbers to the Police immediately and as soon as possible, and in any

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event within 24 hours of becoming aware of the theft or loss, to the Council in writing. The Proprietor must obtain a duplicate licence plate and/or internal licence numbers (as required) for which a charge will be made.

- 1.7 The Proprietor shall not wilfully or negligently cause or suffer any plate on the vehicle to be concealed from public view at any time.

2 Retention of Driver Licence

- 2.1 Before the Proprietor allows anyone to drive a private hire vehicle they must ask that person for his/her hackney carriage and private hire combined Driver Licence and keep it in their possession while that person drives your vehicle.

- 2.2 **Note - No person may drive a private hire vehicle, unless they hold a hackney carriage and private hire combined Driver Licence issued by Cheshire East Council. Anyone found driving a Hackney Carriage without a hackney carriage and private hire combined Driver Licence commits an offence and may be prosecuted.**

2.3 Insurance

- 2.3.1 The Proprietor must ensure that any persons who drive the private hire vehicle are covered by a valid policy of insurance to drive that vehicle.
- 2.3.2 When licensing or re-licensing a vehicle, the insurance cover produced must cover the vehicle for private hire use and must include the names of the persons who will be driving for private hire purposes.

2.4 Production of Documents

- 2.4.1 Before or on the date of expiry of any certificate the Proprietor is required to have in relation to the private hire vehicle licence, each existing certificate shall be produced together with the relevant renewal certificate to a specified Officer of the Council.
- 2.4.2 If an Authorised Officer of the Council or a police constable asks, The Proprietor must produce:
 - i. The private hire vehicle licence
 - ii. The hackney carriage and private hire combined Driver Licence of any person authorised to drive the Hackney Carriage
 - iii. The vehicle registration document for the private hire vehicle
 - iv. A valid certificate of insurance for the private hire vehicle

within **five days** of the request being made.

2.5 Employment and Use of Drivers

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- 2.5.1 Before the Proprietor allows any licensed person to drive the private hire vehicle he/she must ensure that the person who drives the licensed vehicle understands and observes the law, conditions and Code of Conduct that regulate their conduct and the conditions attached to the vehicle licence.
- 2.5.2 If a driver leaves the Proprietor's employment (in the case of an employed driver) or the Proprietor no longer permits them to drive the private hire vehicle under any lawful arrangement (in the case of any self-employed driver) the Proprietor must notify the Licensing Section in writing, using the Council's approved forms, within 48 hours.

2.6 Vehicle inspection

- 2.6.1 The Proprietor must allow an Authorised Officer of the Council, or Police Officer, to inspect the vehicle at any reasonable time.
- 2.6.2 The Proprietor must ensure the vehicle is presented for test in accordance with instructions from the Council
- 2.6.3 The Proprietor must produce the vehicle registration document (or the last certificate of compliance if the vehicle has been previously tested) to the Council Officer at the test.

2.7 Specification for a private hire vehicle

- 2.7.1 No change in the specification, design, condition or appearance, or modification, conversion or alteration of the vehicle may be made at any time unless prior written approval has been given by the Council.
- 2.7.2 If the vehicle is involved in an accident or its safety or appearance is affected or may be considered to be affected for any reason, the Proprietor must inform the Council immediately and then provide written details within three days. If the Proprietor is in any doubt as to whether the vehicle is affected he/she must advise the Council.

2.8 Use of the vehicle

- 2.8.1 The vehicle must fully comply with all relevant Road Traffic legislation and in addition must comply with the requirements of the Council's policy as detailed in section 3.4 above, together with the following requirements:
- i. Luggage must be properly secured inside a vehicle that does not have a separate and self-contained boot
 - ii. The vehicle and all fixtures and fittings must be maintained in a clean, comfortable, safe, and mechanically sound condition internally and externally and be in every way suitable for public service

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- iii. Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any fitted division between the drivers and passenger compartments
- iv. The floor covering must be in good repair with no holes or tears.
- v. The internal light (to enable passengers to enter and leave the vehicle safely) must be functioning correctly at all times.
- vi. The vehicle's bodywork and paintwork must be maintained to an acceptable standard free of dents or rust.
- vii. The vehicle must carry a spare wheel to fit the vehicle, and the wheel must be securely stored. There must also be carried equipment to change the wheel including a spare wheel and tyre, jack and wheel brace unless the manufacturers specification when new did not include a spare wheel, in which case the manufacturers alternative (e.g. spray can) will be acceptable.
- viii. The nearside and offside exterior rear view mirrors must be in a serviceable condition
- ix. All seats belts must be working correctly. The use of folding seats is not permitted.
- x. The side windows must be able to be opened and closed
- xi. In any convertible vehicle the driver must raise roof and side windows at the request of any passenger.
- xii. The glass in the vehicle must not be replaced with glass that is different from the glass fitted when the vehicle passed the Councils vehicle test. No unapproved self-adhesive material (tinted or clear) shall be affixed to any part of the glass
- xiii. The vehicle's power output must not be less than the power output when the vehicle passed the Councils vehicle test
- xiv. At all times the vehicle must carry a 1kg dry powder extinguisher or a 2 litre AFFF extinguisher approved to BS EN3: 1996, with the licence number painted on it. The fire extinguisher must be properly maintained in accordance with BS 5306; Part 3 and be secured in such a position in the vehicle as to be fit for immediate use in an emergency
- xv. At all times the vehicle must carry a first aid kit in a suitable container, with the licence number painted on it

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- xvi. The vehicle must not be fitted with any additional lights other than those originally fitted by the manufacturer unless they have been approved by the Council
- xvii. The use of roof racks, will be permitted. Any vehicle using a roof rack must be fitted with and display a second roof sign, with one sign in front of the roof rack, and one behind, allowing the signs to be seen in the same way as a vehicle without a roof rack. Any luggage carried on the roof-rack must be protected from the elements by a waterproof cover and properly secured. A properly fitted roof box is an acceptable alternative, subject to the signage requirements above..

2.9 Additional Conditions for wheelchair accessible private hire vehicles

- 2.9.1 The vehicle must carry in a safe, usable condition suitable ramps for a wheelchair user. If the alternative tail lift or some other mechanical means of access is fitted it must be maintained in a safe, functioning condition.
- 2.9.2 The driver must ensure before the commencement of the journey that the passenger is correctly seated and the wheelchair is correctly secured and the passenger is correctly restrained, and at the end of the journey must ensure that the passenger is delivered safely onto the pavement.
- 2.9.3 The door entrance and any steps must always be conspicuously marked where appropriate, to help visually impaired passengers.
- 2.9.4 All grab handles or rails must always be conspicuously marked to help visually impaired passengers.

2.10 Sliding doors

- 2.10.1 Where sliding doors are an integral part of a vehicle and a locking device has not been fitted, the child locking systems must be engaged by the driver at all times when the vehicle is in motion and carrying passengers.

2.11 Lost property

- 2.11.1 Any lost property found in the vehicle must be safely stored by the vehicle licensee for 3 months, and reasonable steps must be taken to identify and contact the owner where there is some form of identification on the property. After that time the vehicle licensee may take whatever action he/she feels appropriate in relation to the property.

2.12 Any meter

- 2.12.1 If the vehicle is fitted with a meter that meter must have been fitted when the vehicle was tested by the Council.

2.13 Change of engine

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2.13.1 In addition to informing the DVLA of the change of engine, the Proprietor must inform the Council, in writing, within 48 hours of the change including full details of the replacement engine including the chassis number and the source of the replacement unit. Any replacement engine must be of the same or greater power output as the engine it is replacing.

2.14 Signage and Advertisements

2.14.1 No signs apart from the vehicle plate and mandatory signs required under the private hire vehicle policy can be displayed on or from the vehicle unless it is required by law, or has been agreed by the Council in writing.

2.15 Cleanliness

2.15.1 The proprietor must ensure that the private hire vehicle is in a safe, clean and tidy condition both inside and out to ensure the safety and comfort of passengers.

2.16 Letting/leasing of vehicles

2.16.1 The proprietor must not lease or let or hire a licensed private hire vehicle to any other person, other than a fare paying passenger, without first notifying the Council in writing.

2.16.2 The proprietor must notify the Council in writing of anyone no longer having an interest in the vehicle.

EXECUTIVE PLATING

1. Introduction

- 1.1 It is clear that all 'private hire vehicles' within the meaning of section 80 of the Local Government (Miscellaneous Provisions) Act 1976 must be licensed with the relevant Licensing Authority.
- 1.2 The display of identification plates and badges is important in terms of protecting the public and the taxi trade. However, it is recognised that there are limited occasions, such as the operation of chauffeured, executive and limousine vehicles, where identification of the vehicle may have a negative effect both in terms of customer safety and commercial considerations.
- 1.3 This guidance is issued to set out the Council's position in relation to executive plating and to assist operators of 'executive' type vehicles who wish to make application for 'executive plates.'

2. Legal background

- 2.1 Section 48(6)(a) of the Local Government (Miscellaneous Provisions) Act 1976 (the Act) requires the proprietor of a private hire vehicle to display the licence identification plate issued by the Council upon the vehicle at all times that the vehicle is being used for the purposes of the licence.
- 2.2 Section 54(2)(a) of the Act requires the driver of a private hire vehicle to wear (display) the licence identification badge issued by the Council when acting in accordance with the requirements of the licence.
- 2.3 However, section 75(3) Local Government (Miscellaneous Provisions) Act 1976 allows local authorities to grant to a licensed private hire proprietor an exemption from the requirement to display upon the licensed vehicle the private hire vehicle licence identification plate issued by the Council.
- 2.4 Section 75(3) also provides that the Licensing Authority may grant to a licensed private hire driver an exemption from the requirement to wear/display the private hire driver's identification badge issued by the Council.

3.1 Procedure

- 3.1.1 The Council considers that this exemption will not be applicable to all private hire vehicles, but rather to a minority of high marquee vehicles operated as chauffeured, executive and limousine vehicles. Each application will be judged on its own merits. However, it is considered that this system is appropriate for those vehicles fulfilling the requirements set out below:

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3.1.2 Exempt Vehicles are subject to the same criteria as with all licensed private hire vehicles which can only be driven by a Private Hire Driver who is licensed by the same authority from which the Exempt Vehicle Licence and Private Hire Operators Licence were issued.

3.2 Requirements

3.2.1 To be considered appropriate for executive plating, it is considered that the following criteria should be met:

- All drivers of the vehicle must hold a private hire drivers licence granted by Cheshire East Borough Council
- The vehicle is of a high quality both in terms of brand and condition
- The vehicle will meet the Council's age requirements in relation to vehicle set out within the private hire vehicle policy and conditions
- The vehicle will be in immaculate condition with no visible defects, dents or blemishes to the external bodywork or internal trim
- All internal fabrics will be in excellent condition
- Any operators providing a mixed use with the vehicle, ie a mixture of normal private hire work and executive work, will not be granted the exemption
- Evidence of the service being provided must be supplied to justify the exemption

3.3 Application

3.3.1 Applicants must submit a business plan for the use of the vehicle to satisfy the Council that the exemption is appropriate.

A business plan may include, for example, the following factors:

- Target groups/clients
- Types of journey to be undertaken
- Method of advertising
- Method of payment
- The type of vehicle itself
- Whether the type of vehicle itself is the reason for hiring it (eg, stretched limousine)
- Vehicle modifications
- Additional facilities provided
- Special driver qualifications or requirements (eg Chauffeur's uniform)

3.3.2 The vehicle must be operated **exclusively** as set out in the business plan. If a vehicle is found to be operated in breach of the approved business plan will lose their exemption until such time as the operation of the vehicle reverts to the business plan.

3.3.3 Applications must be accompanied by the prescribed fee (which will be the same as that currently levied by the Council for private hire and hackney carriage vehicles) together with the business plan.

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3.3.4 If all the requirements are met and the vehicle passes the Council's inspection then an Exemption Notice will be issued. If the requirements are not met then the application will be refused. In the event of a refusal, applicants will have the choice to convert their application to a standard application for a private hire vehicle licence. The vehicle will need to be represented for a test (at an additional cost) with such signage as to comply with the Council's private hire vehicle policy and conditions. No further fees will be payable and the application fee will also be transferred.

3.4 Notice

3.4.1 If the application is granted, the Licensing Authority will issue a formal notification of exemption (the Exemption Notice) to the applicant.

3.4.2 The Exemption Notice will not be granted for a period of more than one year and shall expire upon the expiry of the private hire vehicle licence.

3.5 Identification Badge

3.5.1 The Council will issue the proprietor with an identification badge to include the following information:

- The private hire vehicle licence number
- The registration number of the vehicle
- The number of persons the vehicle is licensed to carry
- The expiry date of the licence

3.5.2 The identification badge must be displayed within the vehicle in line with the standard Cheshire East Borough Council private hire vehicle conditions.

3.6 Conditions

3.6.1 The Exemption Notice is granted subject to the licensed private hire vehicle being operated in accordance with standard Cheshire East Borough Council private hire vehicle conditions and the approved business plan. Failure to comply with these conditions may result in the withdrawal of the Exemption Notice referred to as special licence condition number 10 see paragraph 3.8 below.

3.6.2 The conditions for executive plated vehicles will include condition 10 of the Cheshire East private hire vehicle conditions (as set out in italics below).

10. ***SPECIAL CONDITION for EXECUTIVE LIMOUSINES***

10.1 *When Condition number 10 is attached to the licence Conditions numbers 1.3 and 1.5 shall not apply. [Condition 1.3 relates to Licence Plates. Condition 1.5 relates to signs and notices.] Condition number 10 will only be applied to a licence at the discretion of the Council and may be withdrawn at any time if*

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the Council is not satisfied that the vehicle is being used or operated in accordance with the plan submitted to the Council in support of an application made for it to be subject to Special Condition number 10.

10.2 *The notice of the grant of special licence condition number 10 shall be carried in the vehicle at all times.*

10.3 *Windscreen Sign*

The vehicle shall display at all times in the lower near side of the windscreen and visible from the outside of the vehicle a private hire vehicle identification badge supplied by the Council. The form and content of the badge shall be prescribed by the Council.

10.4 *The identification badge shall at all times remain the property of the Council and the licensee shall not cause or permit the information displayed upon the badge to be altered, removed or obscured in any way.*

10.5 *Interior Sign*

The vehicle shall display at all times a private hire vehicle identification sign supplied by the Council and be visible to passengers from within the vehicle. The form and content of the sign shall be visible shall be prescribed by the Council.

10.6 *No other advertisements, signs, notices, numbers, marks, etc shall be displayed on, in or from the vehicle without the prior written approval of the Council.*

10.7 *Any advertisements, signs, notices, numbers, marks, etc borne on the vehicle shall not consist of or include the word "taxi" or "cab" whether in the singular or plural or any word of similar meaning or appearance, whether alone or as part of another word and shall not suggest that the vehicle is a Hackney Carriage.*

10.8 *The types and makes of vehicle manufactured by London Taxis International and Metrocab now or from time to time operating as a taxi within the Metropolitan Police District and the City of London and licensed as such by the Public Carriage Office of Transport for London, Panton Street, London shall not be used as a private hire vehicle.*

3.7 The conditions for executive plated vehicles will include the following:

- The Exemption Notice issued by the Licensing Authority in respect of the licensed private hire vehicle must be carried with the vehicle at all times and must be presented for inspection at the request of an Authorised Officer of the Council, a Police Constable or the hirer.
- The Proprietor shall ensure that the private hire identification badge issued by the Council shall be carried with the vehicle at all times and must be presented for inspection at the request of an Authorised Officer of the Council, a Police Constable or the hirer.

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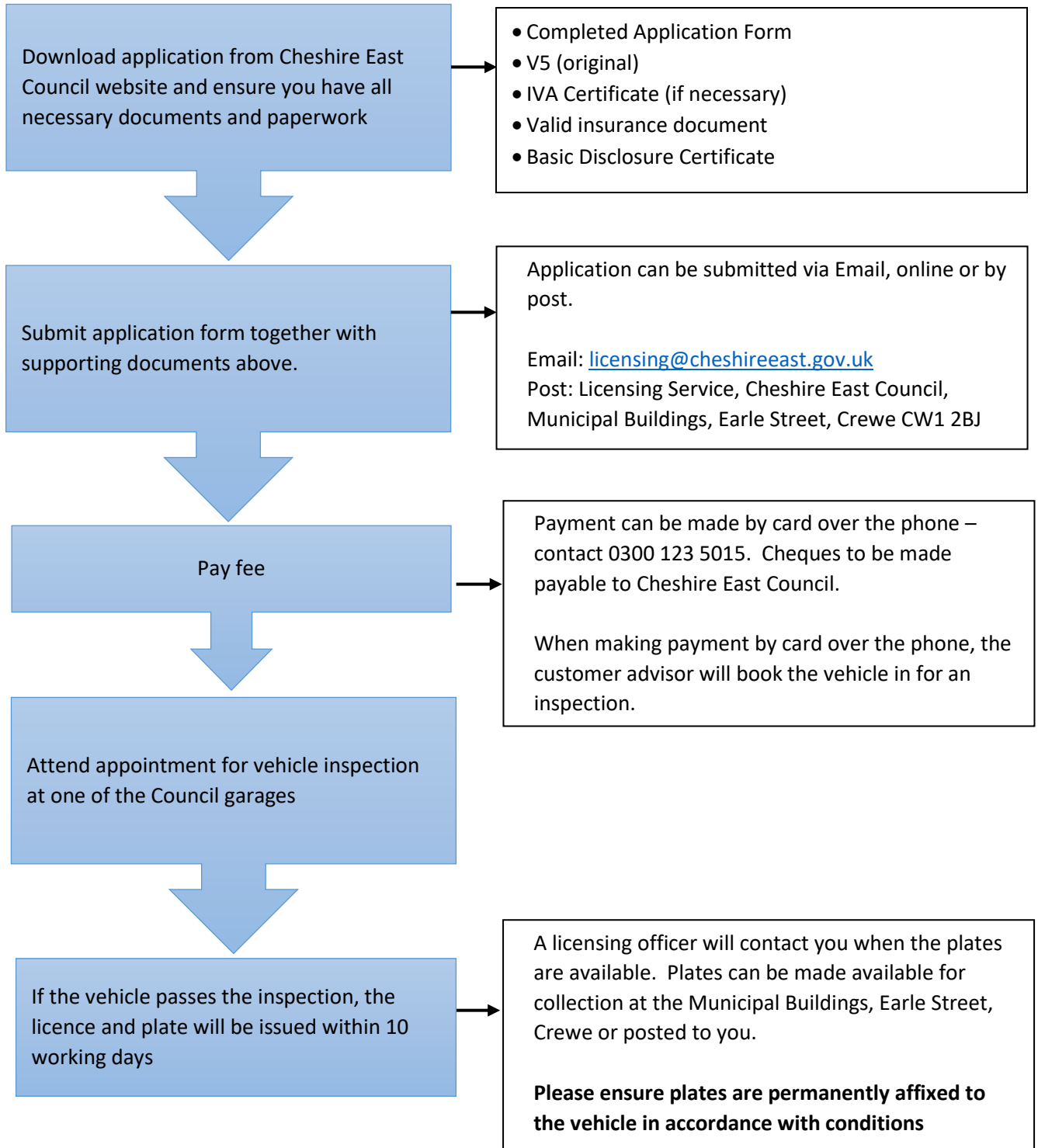
- The Proprietor shall ensure that the private hire vehicle licence identification disc issued by the Council is displayed at the nearside of the front windscreen at all times.

3.8 Withdrawal of Exemption Notice

3.8.1 The exemption notice will be withdrawn from the licence if the Council is not satisfied that the vehicle is being or has been operated exclusively in accordance with the business plan, then the vehicle will become fully subject to the Cheshire East Borough Council private hire vehicle licence conditions requiring the display of licence plates and private hire signs.

3.8.2 If the exemption notice is withdrawn, the costs in relation to the production of the licence plates and a vehicle test to ensure compliance will be borne by the operator concerned.

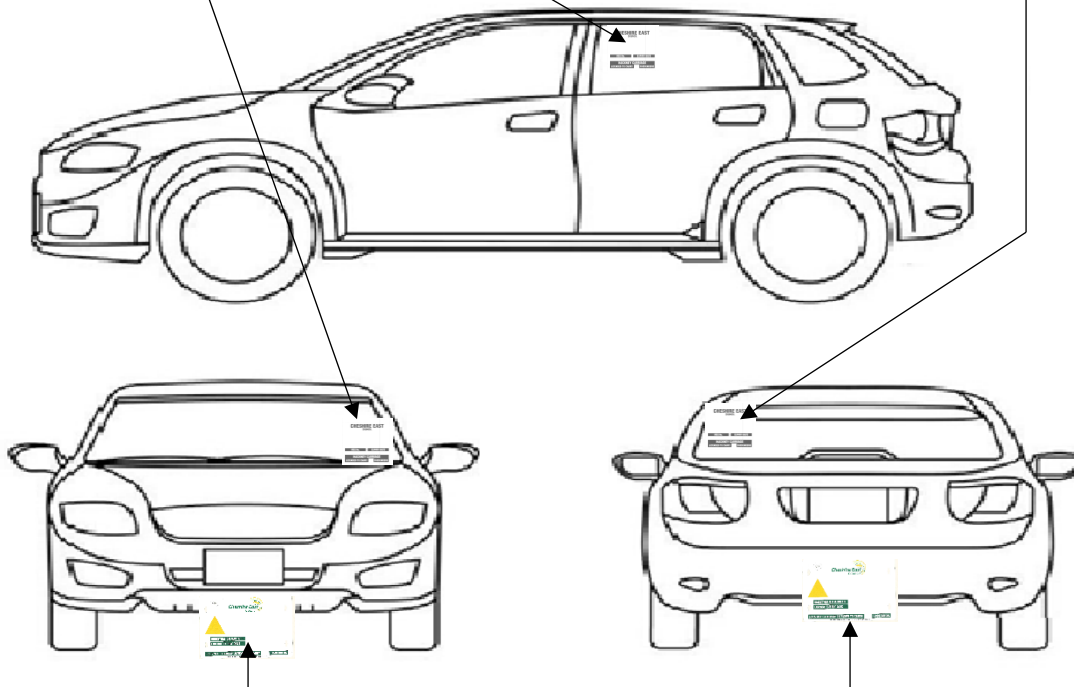
**PRIVATE HIRE VEHICLE LICENCE
NEW/RENEWAL VEHICLE APPLICATION PROCESS**



GUIDANCE ON POSITIONING OF LICENCE PLATE AND LICENCE NUMBER IDENTIFICATION CARD FOR BOTH HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

Licence number identity cards to be displayed:

- a) in the vehicle on the lower nearside of the windscreen so that the sticker is visible to passengers within the vehicle
- b) in the top near-side of the rear window facing outwards; and
- c) in the top off-side rear window, facing outwards

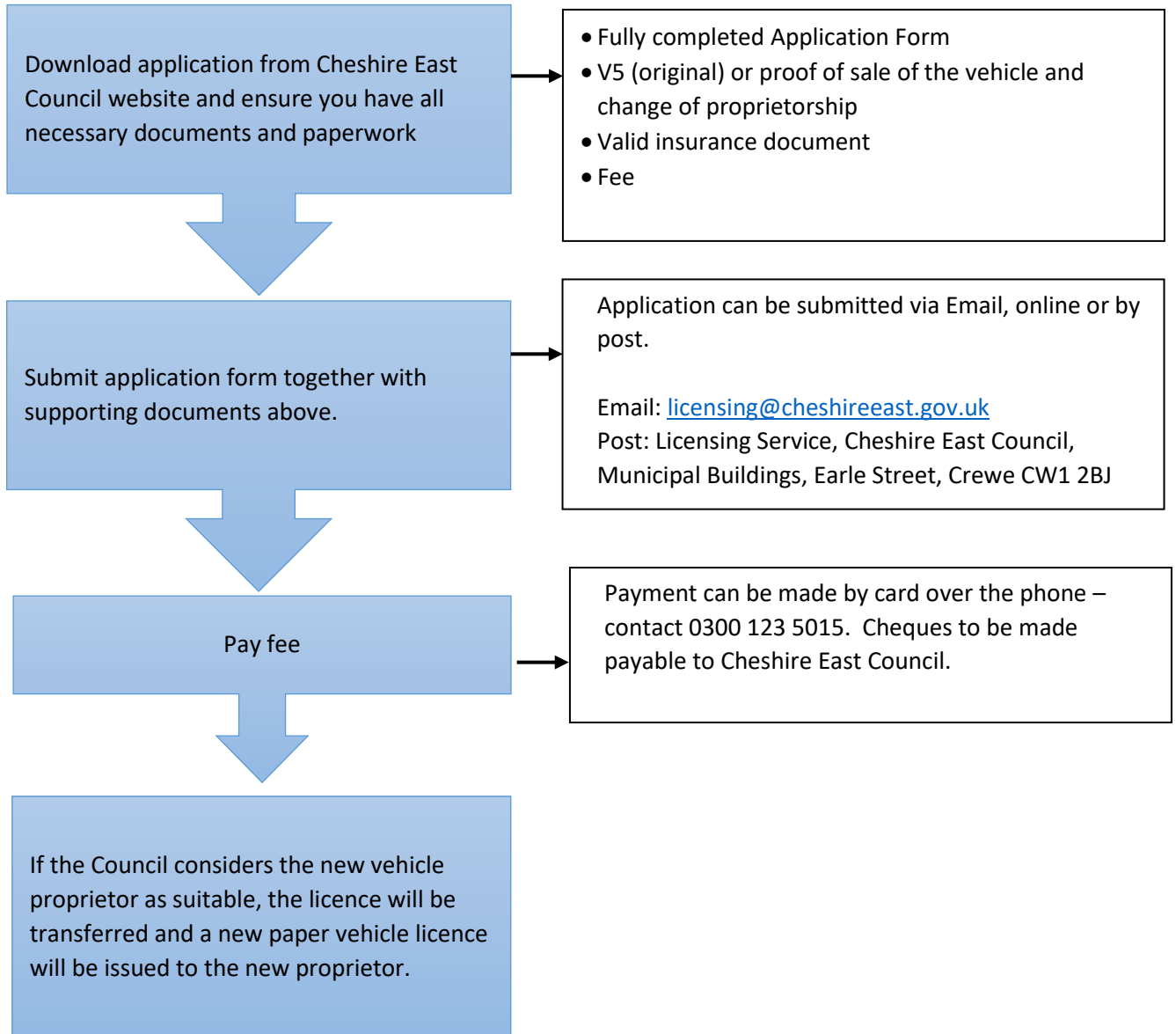


Licence plates to be displayed in a vertical position and firmly fixed to the outside of the vehicle at the front and rear, using the fixing bracket provided for the purpose. Velcro or cable ties are not permitted to be used

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Appendix N

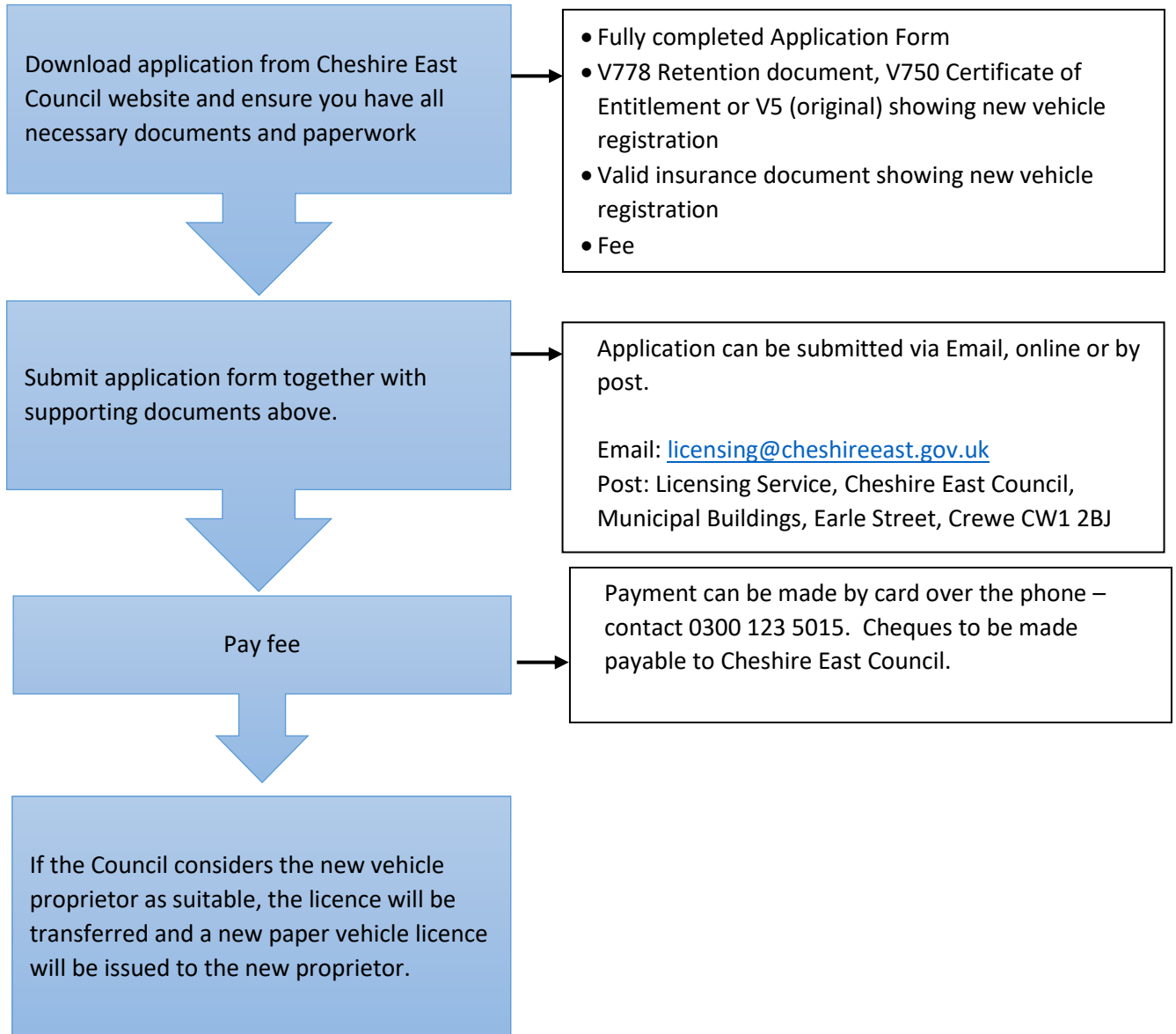
APPLICATION PROCESS TO TRANSFER A HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLE LICENCE



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Appendix O

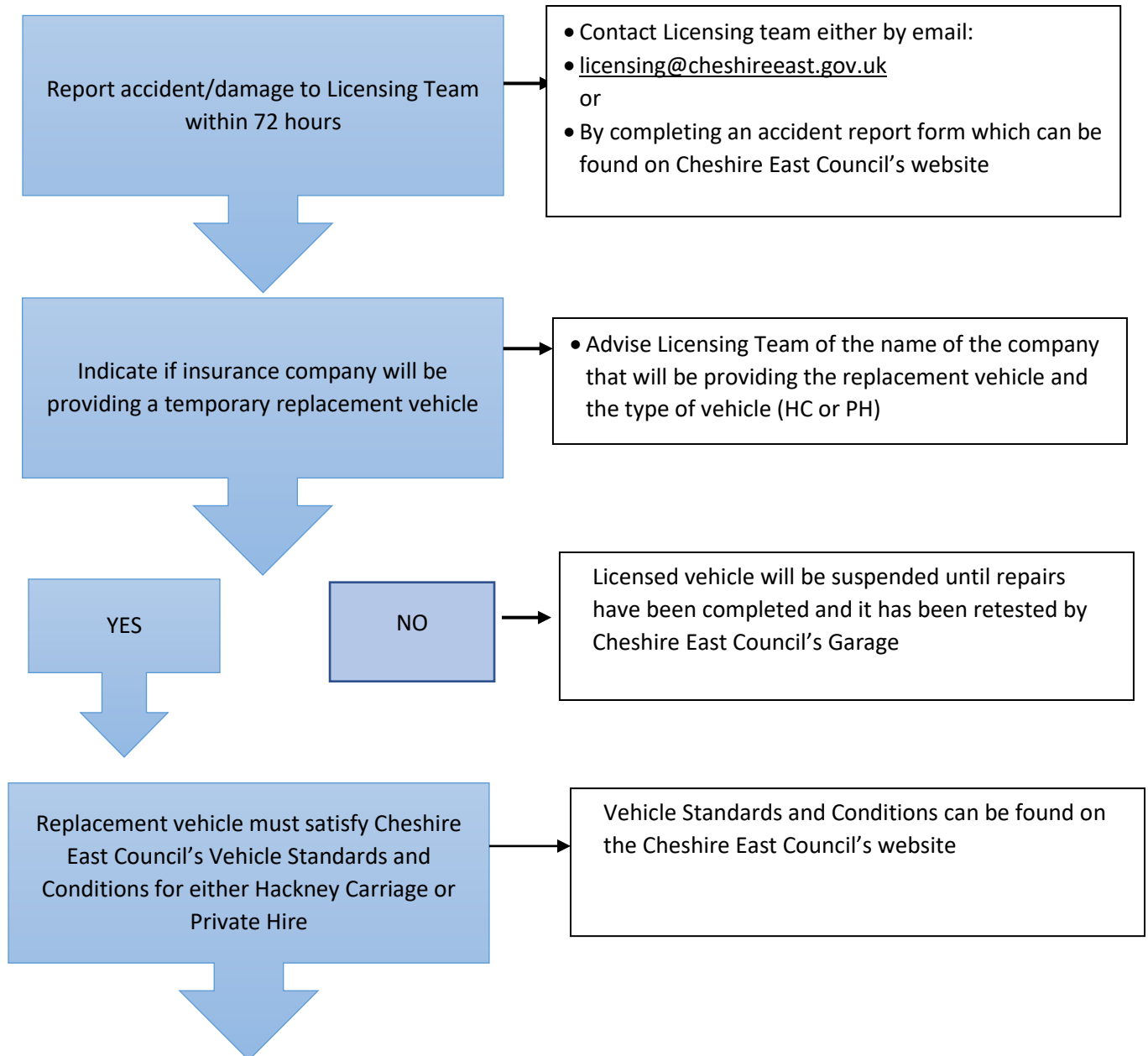
APPLICATION PROCESS TO CHANGE A VEHICLE REGISTRATION NUMBER ON A HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLE LICENCE



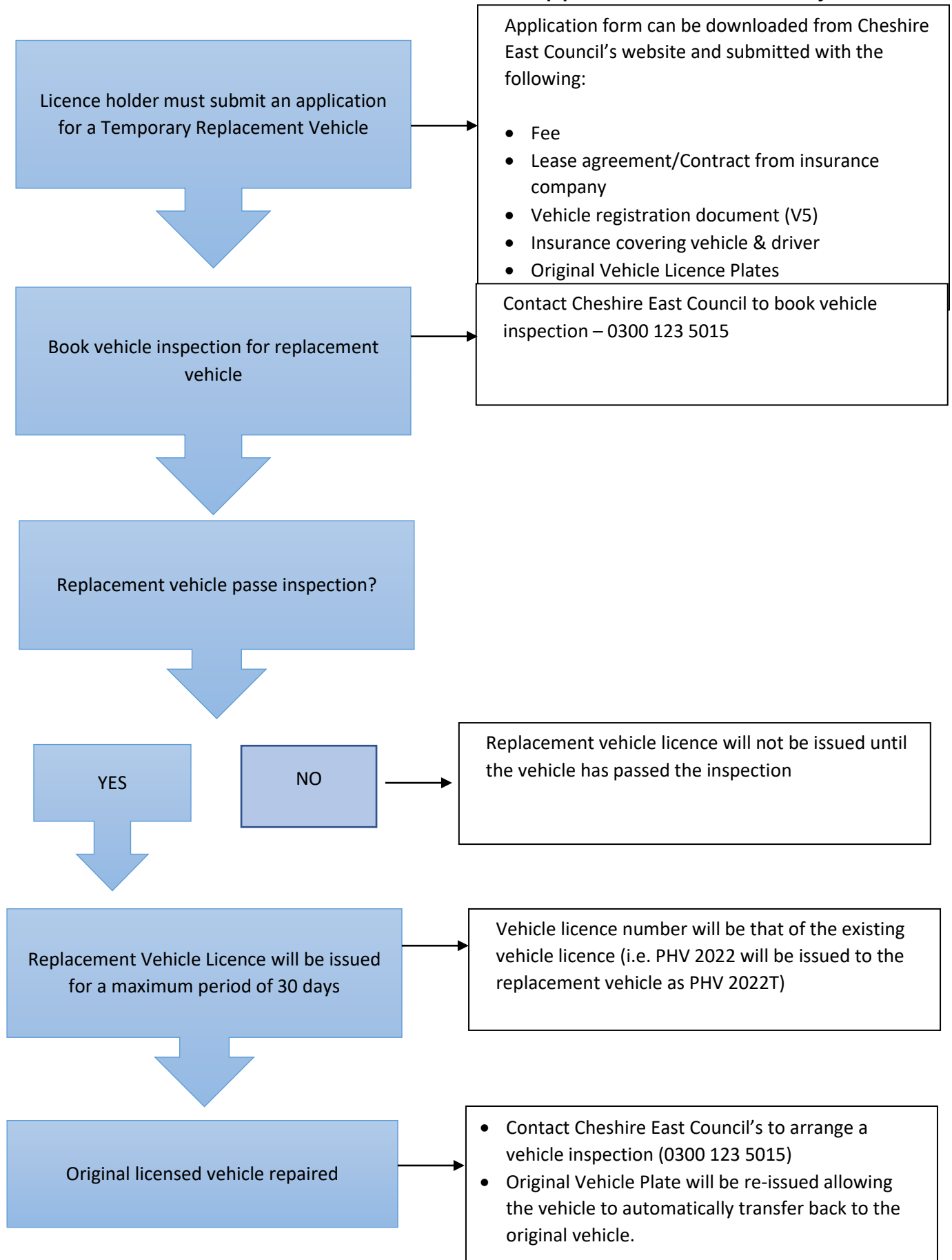
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Appendix P

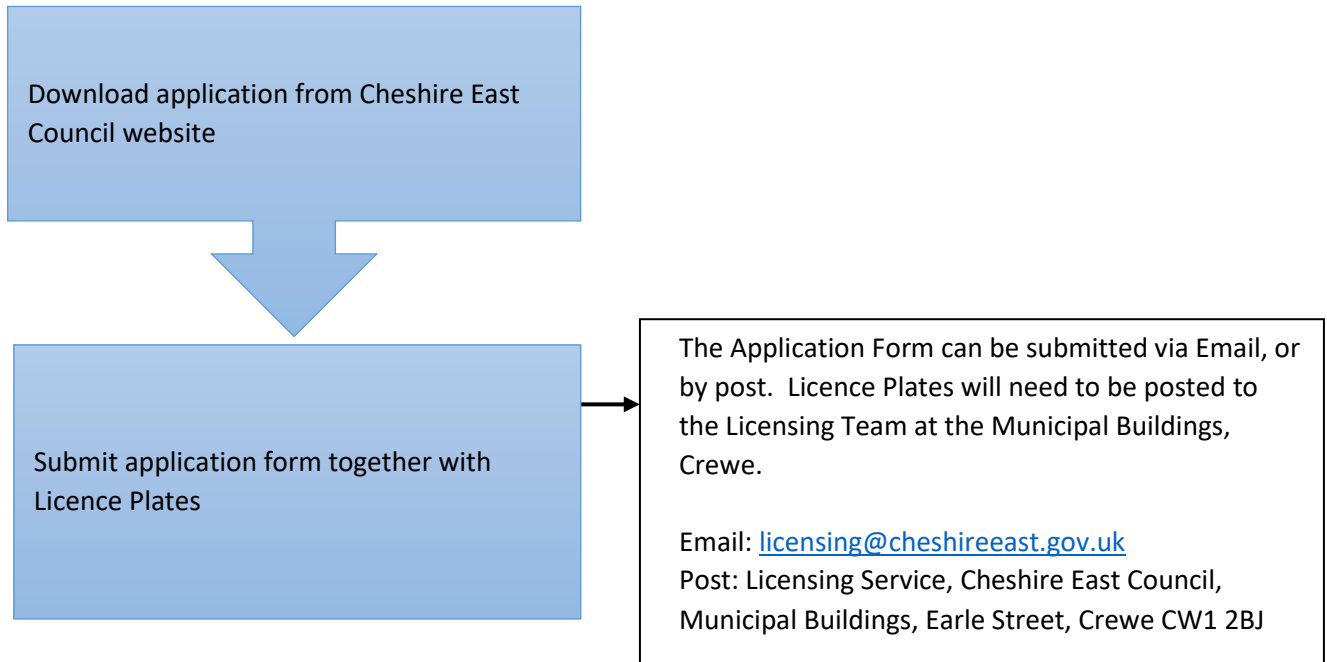
APPLICATION PROCESS FOR DEALING WITH TEMPORARY REPLACEMENT VEHICLES IN THE EVENT OF AN ACCIDENT



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**APPLICATION PROCESS TO SURRENDER A HACKNEY CARRIAGE OR
PRIVATE HIRE VEHICLE LICENCE**



Hackney Carriage and Private Hire Licensing Penalty Point Policy

Contents

- 1 Introduction
- 2 Issuing of Penalty Points
- 3 Penalty Points Tariff
- 4 Appeals
- 5 Delegation of Function
- 6 General
- 7 Consultation
- 8 Review
- 9 Contacts

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1 Introduction

- 1.1 Those licensed as Hackney Carriage drivers and proprietors and Private Hire drivers, operators, and vehicle owners are principally governed by the Town and Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976, the and the Council's own byelaws conditions, and policies set by the Licensing Committee.
- 1.2 Should operators, drivers or vehicle proprietors commit an offence or breach those rules, regulations, or conditions the Council's Licensing Team will conduct an investigation. This may include a taped interview and compilation of witness statements.
- 1.3 There are a number of options available following an investigation, including:
 - No further action
 - Formal warning
 - Issuing penalty points in accordance with this policy
 - Referral to the General Licensing Sub-Committee
 - Prosecution (or the offering of a Caution)
- 1.4 The outcome of an investigation will depend on the facts of the case and the severity of any breach. In all instances a record of the matter will be kept on the driver's file. This would include cases where no further action was taken.
- 1.5 The penalty points scheme is designed to work in conjunction with other enforcement options. Its purpose is to record misdemeanours and to act as a record of a driver's behaviour and conduct.
- 1.6 The primary objective of this scheme is to raise standards and improve compliance with licensing regulations and requirements. The ultimate aim of the Licensing regime is to protect the public and the Council is committed to ensuring that those licensed are fit and proper persons.

2 Issuing of Penalty Points

- 2.1 Complaints from the public concerning any breaches of conduct will be subject to investigation by Officers. These investigations may be dealt with by way of issuing penalty points under this scheme or in serious cases automatic referral to the General Licensing Sub-Committee.
- 2.2 Where a licence holder accumulates 12 or more penalty points in a 12 month rolling period (a period of 12 consecutive months determined on a rolling basis with a new 12 month period beginning each day) or in respect of drivers 18 during the course of a licence the matter will be referred to the Council's General Licensing Sub-Committee. The Committee will be required to determine whether the driver or operator is a fit and proper person. The following action can be taken by the Committee:
 - i. Take no action
 - ii. Issue a warning
 - iii. Issue additional penalty points
 - iv. Suspend a licence as a punitive sanction
 - v. Suspend a licence to correct a fault, defect, or breach
 - vi. Revoke or refuse to renew a licence
- 2.3 Periods of suspension will be determined by the Sub-Committee and will depend on the nature of the offence, breach, or misdemeanour and the individual's compliance history. A determination will

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also be made as to whether the suspension or revocation is on the grounds of public safety, thereby having immediate effect.

- 2.4 Where a driver, proprietor or operator reaches the tariff of 12/18 points and is referred to the Sub-Committee it will not preclude all relevant information being disclosed. This will include any other penalty points, complaints, warnings, and suspensions etc. The 12/18 point tariff will be a referral trigger.
- 2.5 Any points issued by an Officer or the Committee will be confirmed in writing within 14 days of their issue. Acceptance of the points issued should be completed within 21 days of notification.
- 2.6 As the scheme is designed to raise standards through compliance the licence holder will be offered penalty points as an alternative to other enforcement action. The licence holder will be given the option of accepting the penalty points offered. The acceptance of points will be considered as having been sufficient to deal with the matter and no further action will be taken nor will the licence holder be able to ask for the matter to be re-examined at any later stage e.g. if referred to the Licensing Sub-Committee on accumulation of 12 or more points
- 2.7 If penalty points are offered and refused the Council will consider taking alternative action. This may include the instigation of prosecution proceedings or referral to the Council's General Licensing Sub-Committee depending on the circumstances. A record of the refusal will kept on the relevant file.

3 Penalty Points Tariff

- 3.1 The penalty points scheme will cover a range of offences, breaches, and misdemeanours.
- 3.2 The full list together with the number of points to be applied is set out at Appendix A. Where a range of points are available (ie 3-6), the number of points given will depend on the individual circumstances.
- 3.3 Where there is a range of points available and a subsequent offence of the same nature is committed, the maximum number of points will automatically be applied.
- 3.4 The form used to apply points is set out at Appendix B.

4 Appeals

- 4.1 In respect of suspension, revocations, and refusals to renew licences the aggrieved person has a right of appeal within 21 days by way of complaint to the Magistrates' Court.
- 4.2 When a decision has been taken against a driver's licence on the grounds of safety the decision will have immediate effect. There will be no right to continue driving during any appeal period.
- 4.3 Where a decision against a driver's licence has not been taken on the grounds of public safety, the driver will preserve the right to drive a licensed vehicle until the end of the 21 day appeal period.

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Where an appeal has been made the driver will preserve the right to drive until disposal of the appeal.

- 4.4 There is no right of appeal against the acceptance of penalty points issued in accordance with this policy.

5 Delegation of Functions

- 5.1 The Licensing Team Leader is given delegated authority to issue penalty points in accordance with this policy.
- 5.2 The Licensing Team Leader is authorised to delegate this authority to any other officer.

6 General

- 6.1 At all times, each investigation will be determined on its own merit. As a result, any case may be referred directly to the General Licensing Sub-Committee without the imposition of penalty points.

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Appendix A


	Offence/Breach/Misdemeanour	Points	Driver	Op/ Prop
1	Unsatisfactory condition of a vehicle (interior or exterior)	1 - 6	✓	✓
2	Refusal to accept hiring without reasonable cause	1 - 6	✓	
3	Unsatisfactory behaviour or conduct of a driver	1 – 9	✓	
4	Use/Cause/Permit a vehicle to be driven with a defect contrary to Road Vehicle (Construction & Use) Regs 1986 (as amended) (per defect)	1 - 9	✓	✓
5	Failure to wear driver's badge	3	✓	
6	Failure to notify the Council, in writing, of a change of address within 7 working days	3	✓	✓
7	Displaying unsuitable, inappropriate or unauthorised signs or advertisements in or on a vehicle	3	✓	✓
8	Using a private hire vehicle with an appearance that might suggest it is a hackney carriage	3	✓	✓
9	Failure to give assistance with loading/unloading luggage	3	✓	
10	Failure observe rank discipline or etiquette	3	✓	
11	Failure to maintain proper records of private vehicle(s)	3		✓
12	Failure to carry a fire extinguisher, first aid kit, warning triangle, or fluorescent jacket (per item)	3 - 6	✓	✓
13	Unsatisfactory appearance of a driver	3 - 6	✓	
14	Failing to ensure the safety of a passenger entering, alighting or conveyed in a vehicle	3 - 6	✓	
15	Failure to produce relevant documents when requested by an Authorised Officer	4	✓	✓
16	Failure to display current vehicle excise licence	4	✓	✓
17	Failure to report an accident or damage to a licensed vehicle (in writing and within 72 hours)	4	✓	✓
18	Failure to display external/internal licence plate or signs as required	4	✓	✓
19	Failure to notify transfer of a Private Hire or Hackney Carriage vehicle licence	4		✓
20	Failure to maintain records in a suitable form	4		✓

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21	Failure to produce records of drivers work activity when requested	4		✓
22	Failure to attend punctually at appointed time and place without reasonable cause	4	✓	✓
23	Failure to carry Driver/Vehicle Conditions in vehicle	6	✓	✓
24	Failure to display fare card	6	✓	✓
25	Failure to notify the Council, in writing, of any conviction, caution, fixed penalty or similar within 7 working days	6	✓	✓
26	Unreasonably prolonging a journey or any misconduct regarding the charging of fares	6	✓	
27	Failure to provide proof of insurance when requested	6	✓	✓
28	Failure to produce a DVLA Licence when requested	6	✓	
29	Smoking or evidence of smoking in a vehicle	6	✓	✓
30	Failure to return a vehicle licence plate within 7 days after request	6		✓
31	Providing false or misleading information on a an application form / failing to provide relevant information or the relevant fee (including dishonoured cheques)	6 - 9	✓	✓
32	Charging hackney carriage passenger more than the metered or agreed fare	6 - 9	✓	
33	Failure to behave in a civil and orderly manner (including rude or aggressive behaviour)	6 - 12	✓	✓
34	Using insulting or threatening words or behaviour towards any Officer of the Council	6 - 12	✓	✓
35	Plying for hire by Private Hire Drivers	9	✓	
36	Driving while using a mobile phone or any other driving offence (whether convicted or received FPN or penalty points or not)	9	✓	
37	Failure to undergo the 6 monthly vehicle test	9		✓
38	Failure to produce a Hackney Carriage or Private Hire vehicle for testing	9		✓
39	Failure to return any licence on suspension or revocation	9	✓	✓
40	Presenting a vehicle for testing in an unsafe or dangerous condition	9		✓
41	Collusion or interfering with evidence, victims or witnesses, when Officers of the Council are carrying out an investigation	9	✓	✓
42	Physical abuse towards any person	9 - 12	✓	✓

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43	Carrying an offensive weapon in the vehicle	9 - 12	✓	
44	Carrying more passengers than stated on the vehicle licence	12	✓	
45	Using or allowing a vehicle to be used subject to a suspension issued by an Authorised Officer or Police Officer	12	✓	✓
46	Using a vehicle for which the licence has been suspended or revoked	12	✓	✓
47	Using an unlicensed vehicle or licensed vehicle without insurance	12	✓	✓
48	Driver not holding a current or valid DVLA licence	12	✓	
49	Failure to carry an assistance dog without an exemption notice	12	✓	
50	Using a non-approved or non-calibrated taximeter	12	✓	✓
51	Any other offence/breach/misdemeanour not specifically covered in this scheme	1 - 12	✓	✓
52	Failure to comply with any other condition or by-law	3 - 6	✓	✓
53	Failure to comply with any other legislation	6 - 12	✓	✓
54	Obstructing an authorised officer or police officer	12	✓	✓

Penalty Points Form Hackney Carriage and Private Hire Licensing	Append 
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Name	
-------------	--

Licence Number (s)	
---------------------------	--

Offence/breach/misdemeanour (including date):
--

Number of points issued	
--------------------------------	--

Declaration	
<p>I _____ hereby accept the above penalty points in accordance with Cheshire East Council's Hackney Carriage and Private Hire Licensing Penalty Points Policy for the the offence/breach/misdemeanour set out above. I understand that by signing this form the Council undertakes not to commence any enforcement action against me in respect of this offence/breach/misdemeanour. I also understand that if I reach the tariff of 12 penalty points in a 12 month rolling period (or in respect of drivers 18 during the course of the licence) my licence(s) will be referred to the Council's General Licensing Sub-Committee for it to determine whether I remain a fit and proper person.</p>	

Signed		Date	
---------------	--	-------------	--

Issuing officer		Designation	
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Signed		Date	
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General

Where there is a range in points available the Licensing Officer has the discretion to award the number of points according to the severity of the breach. Unless a subsequent offence of the same nature is committed when the maximum number of points will automatically be applied.

Drivers/Operators/Proprietors

On accumulation of 12 or more points in a rolling 12 month period or 18 points during the course of the licence, the subject will be referred to the General Licensing Sub-Committee

Suspension/Revocation

All suspensions and revocations will be determined by the General Licensing Sub-Committee

Any driver or operator subject to suspension or revocation has a right to appeal to the Magistrates Court within 21 days of the decision

Suspensions and revocations will not be implemented until the 21 day appeals period has elapsed. However, driver suspensions on public safety grounds will take immediate effect

PRIVATE HIRE OPERATOR CONDITIONS

These conditions are attached to the licence issued by Cheshire East Borough Council under section 55 of the Local Government (Miscellaneous Provisions) Act 1976.

Cheshire East Council has carefully considered the following conditions and has decided that they are reasonably necessary.

These conditions set out the way in which the licence holder must act whilst acting as a private hire operator, in addition to the existing legal requirements. They do not set out the existing legal requirements such as prohibition of illegal plying for hire.

These conditions do not set out the detail as to what steps are required to become and remain an operator and they do not set out what factors are taken into account in deciding whether a person is a fit and proper person to be a driver. Information on these issues is set out in the policy document.

Breach of these conditions may lead to the suspension of the licence and consideration of revocation of the licence or prosecution.

The conditions attached to the licence are as follows:

- 1 All vehicles operated by you must use the same rate of fares, detailed in a table. A copy of that table must be deposited with the Council before your licence is issued. Any changes to that table must be notified to, and a copy deposited with, the licensing office a minimum of 7 days before the changes come into effect.
- 2 You must return your licence to the Licensing Team of the Council immediately if:
 - i. You change your home or business address
 - ii. If the licence expires, is suspended, revoked
 - iii. You wish to surrender your Private Hire Operator Licence
 - iv. When required to do so by an 'Authorised Officer of the Council'
- 3 You must inform the Licensing Section of the Council in writing, at least **seven days** before you change your address. If you do not, and a new licence showing the new address has not been issue before your move, you **WILL NOT BE LICENSED** at the new address, and continued operation as a private hire operator will be a criminal offence.

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4. At all times you must maintain your operating base (the address of your business, or main address if you have more than one operating base identified in your licence) as a functioning, occupied location where your records are either stored (if physical documents or computer storage e.g. cd's, memory sticks, memory drives etc) or where the records can be accessed (if stored on a computer, or a cloud based system. If the office is not permanently staffed (and it is recognised that small operators may not have the resources to staff an office continuously) you must meet authorised officers or police officers when appointments are made.

Equipment

5. You must maintain all telephones, radios or computer equipment in full working condition and have any defects repaired as soon as possible. Any failure in any equipment used to record booking details that cannot be rectified within 24 hours must be reported to the Council within 24 hours of the failure occurring by email to licensing@cheshireeast.gov.uk. During any such failure suitable alternative methods of recording all bookings must be used and those records retained.

Booking

6. When you accept a booking for attendance at an appointment time and place, you must allow sufficient time for the vehicle to attend punctually unless there is an unavoidable reason.
7. If you are unable to provide a vehicle to meet the passenger's requirements you can accept the booking if you are certain that the booking can be sub-contracted to another licensed private hire operator - preferably licensed by Cheshire East, but any other licensed private hire operator in England, Wales or Scotland is acceptable (excluding those licensed by Plymouth City Council). You must also inform the passenger of the situation. If the passenger does not agree then you must not accept the booking.
8. In the case of any booking that is the consequence of a referral made by a private hire operator licensed by a Council other than Cheshire East, it must only be accepted if:
 - the potential customer has been notified (either verbally or by automated message) of:
 - the operator's intention to refer their enquiry to an operator licensed in a different district;
 - that the proposed operator is based in Cheshire East; and
 - that if they proceed with their booking, a vehicle and driver licensed by Cheshire East will be dispatched; and
 - the customer has agreed to the said referral (such acceptance may be verbal, by means of a keystroke where the notification is by automated message, or any other means of indicating and recording positive assent).

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9. Bookings as a result of any such referral can only be accepted if you ensure that all incoming booking requests are audio recorded by digital means and those recordings are retained for not less than 2 years and are available to a authorised officer of the Council on request.
10. You must not accept any booking for a vehicle to carry more passengers than the number of passengers the vehicle is licensed to carry.
11. As part of the booking process you must establish:
 - how many passengers there will be
 - how many will be children
 - that the parents/guardians/other adult responsible for their care accept that the correct child seats may/will not be available and that they accept the risks associated with such a lack of correct restraints
 - how much luggage is to be carried
 - whether any specific route is to be taken
 - any other needs of customers e.g. disabled, elderly, infirm, very old, unaccompanied children, assistance dogs etc
 - Whether any pick up charge will be levied
 - Whether any additional charges over and above the deposited table of fares will be levied
 - Inform the customer if the vehicle to be utilised is something other than a private hire vehicle e.g. a hackney carriage or public service vehicle (PSV)
12. If a fare is pre-agreed (or a fixed fare is agreed) then that must be the maximum fare that the passenger is charged. If there is any departure from this (e.g. additional charges for congestion or waiting) that must be expressly agreed at the time of booking and confirmed in writing (email or text is acceptable).
13. In light of the information received under 8 or 9 above, you must ensure that a suitable vehicle is dispatched and the driver is informed of the relevant matters.

Booking records

14. You must keep booking records for at least two year and produce them for examination at the request of an Authorised Officer of the Council or Police Officer.
15. When a booking is made you must ensure the following information is recorded:
 - The time and date of each booking
 - Where the journey is from and where the journey is to
 - The name of the hirer
 - The agreed pick-up time
 - The plate number of the vehicle given the booking

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- The driver's badge number
16. Manual booking record pages must be numbered consecutively and you must ensure entries are made as soon as possible. Computer records (including remote server and cloud based systems) must be capable of displaying records and printing the records out in a form which is similar to a manual written record.

Vehicles and drivers

17. At your premises, you must maintain a record of all vehicles operated by you, and include the following information:
- The licence plate number
 - The registration number
 - The make of the vehicle
 - The name and address of the proprietor
 - The names, and addresses of the drivers of the vehicles and the numbers on their badges
 - The date you first operated each vehicle
 - A record of any driver's or vehicle call sign.
18. These records must be available for any Authorised Officer of the Council, or Police Officer, who requests to see them.
19. You must request and then hold the licences of all private hire vehicles and drivers operated by you. You must not use a vehicle or driver who cannot or has not deposited the licence with you.
20. You must only operate private hire vehicles licensed by Cheshire East Council.
21. You must not allow a Hackney Carriage to be used in the Borough of Cheshire East under a pre booked contract except at a rate no higher than the current Hackney Carriage Fares Scale fixed by Cheshire East Council from time to time. When a hackney carriage is used, the fare must be calculated from the point in the district at which the hirer's journey commences.
22. If meters are used in any Private Hire Vehicle you operate, you must ensure a copy of the table of maximum fares is deposited with the Council before the vehicle is operated by you, and that all such meters are set to that table of fares. You should also ensure that these meters are sealed.
23. You must ensure that any person employed, contracted or used by you in any capacity to drive Private Hire Vehicles holds a valid Private Hire Vehicle Driver Licence issued by Cheshire East Council.

Conduct

24. You must ensure that you, and anyone else concerned in carrying out your business, behaves in a civil manner at all times and does not discriminate

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against any person because of their race, colour, creed, age, gender or disability.

Complaints

25. You must keep a record of any complaints relating to any contract or alleged contract for private hire vehicle services (including any hackney carriages you may operate for pre-booked work) relating to your business, and any action you have taken or propose to take. This record must be maintained for at least 12 months from the date of the complaint and must be made available to a police constable or authorised officer on request.

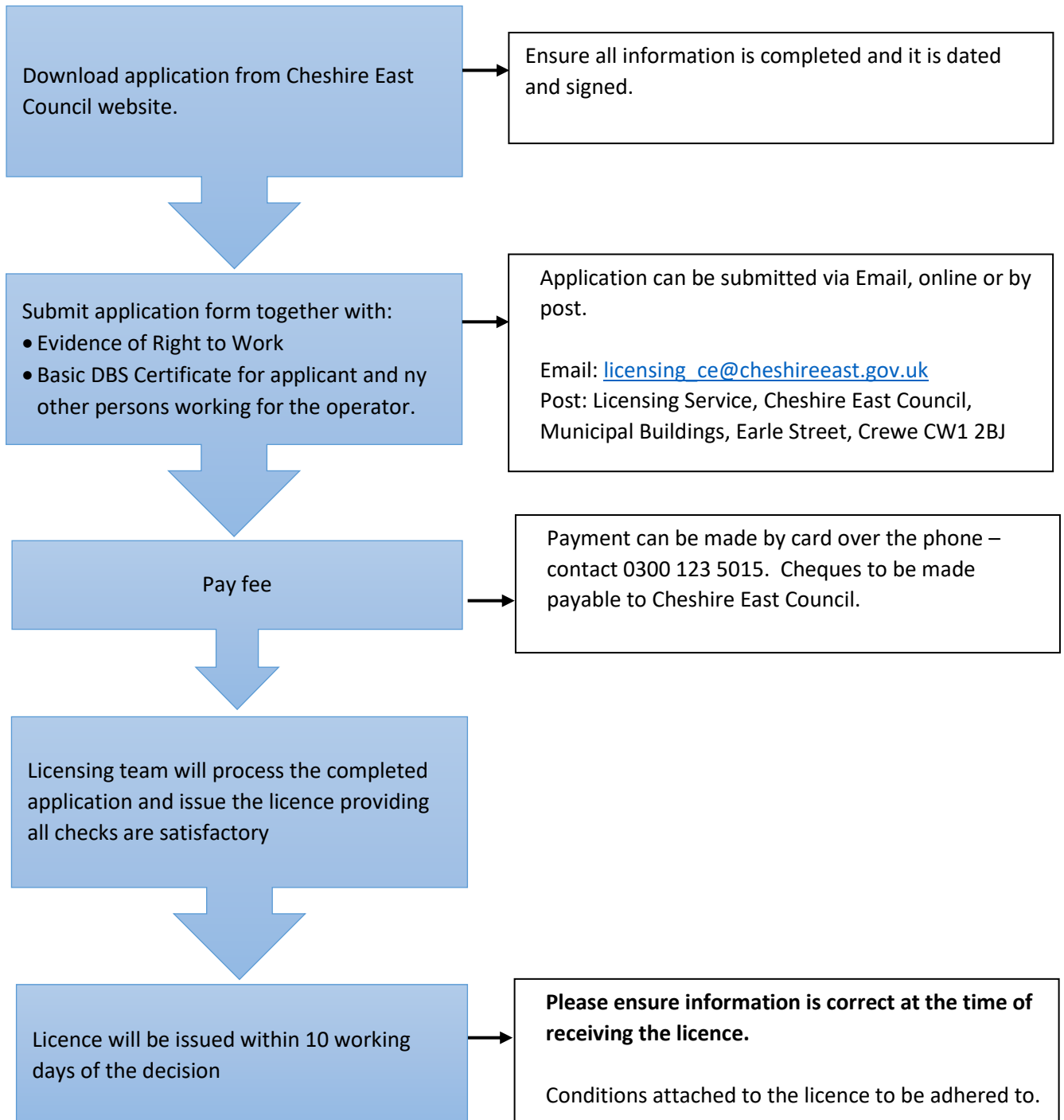
Public Areas

26. You must keep any public area clean, tidy, adequately heated, ventilated and lit. Any waiting area must have adequate seating.
27. Work places including both private and public areas of private hire operators premises are smoke free premises at all times under sections 6, 7 and 8 of the Health Act 2006 and The Smoke-free (Premises and Enforcement) Regulations 2006 SI 2006/3368. It is a criminal offence to smoke in a private hire operators premises at any time (section 7) or to allow a person to smoke in a private hire operators premises (section 8) and you can be prosecuted for either or both offences.

Declaration of conviction/caution/penalty

28. If you are convicted of any offence, or accept a formal caution for an offence, or receive and accept an fixed penalty notice or are made the subject of an ASBO or DBO, or you are arrested for any matter, you must give the Council details, in writing and within **seven days** of the arrest, conviction, acceptance of the fixed penalty or imposition of the order. (If the operator is a company or partnership, this condition applies to all of the directors or partners.)

**PRIVATE HIRE OPERATORS LICENCE
NEW/RENEWAL OPERATORS APPLICATION PROCESS**



**SUGGESTED QUESTIONS FOR PRIVATE HIRE OPERATOR CONTROLLERS
AND LICENSED DRIVERS TO ASK WHEN RECEIVING A BOOKING OR
REQUEST FOR HIRE**

Question	Notes of explanation
1. How many people are intending to travel, and are you all from the same household?	This is so that you can establish whether the vehicle being used to carry out the journey is suitable for the number of people in the group.
2. What is the purpose of your journey?	This is so that you can establish whether the vehicle needs additional luggage space.
3. How many of the travelling group are under the age of 18 years?	This is so you can establish an appropriate adult when dropping off.
4. Do you, or any people in your travelling party, have any access or assistance requirements (such as needing a WAV or needing support to enter or exit the vehicle)?	The wording of this question asks for 'access or assistance requirements'. These are very broad words and this means that customers will be able to think broadly about their requirements which could include anything from needing a WAV to a customer with a visual impairment needing assistance putting their seatbelt on. Knowing this information will allow you to prepare properly.
5. Will you have any luggage and if so, are you able to lift any luggage into the vehicle boot area yourself without assistance?	If customers are unable to assist themselves you should ensure you are able to assist them.

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Appendix V

TABLE OF GRANDFATHER RIGHTS FOR EXISTING LICENCE HOLDERS

Policy / Condition	Summary of changes	Grandfather Rights
Paragraph 3.4.10	Age Limits	Existing licence holders can continue to benefit from renewals during the course of that vehicle's life with no upper age limit. The vehicle must continue to pass the Council's mechanical test and inspections and must remain in exceptional condition both interior and exterior (to be determined by Licensing Officers). The grandfather rights will apply to any existing holder of a vehicle licence and will expire if the vehicle is transferred to another proprietor. In respect of these licences any changes of vehicle on existing licence must comply with the new policy and will not benefit from grandfather rights.
Paragraphs 3.3.13 & 3.3.18	Wheelchair Accessible Vehicles (Macclesfield Zone)	Existing licence holders can continue to benefit from renewals during the course of that vehicles life. The grandfather rights will apply to any existing holder of a vehicle licence and will expire if the vehicle is transferred to another proprietor. Changes of vehicle on existing plate will benefit from grandfather rights and the licence can continue to relate to non wheelchair accessible vehicles.

CODE OF CONDUCT WHEN WORKING WITH VULNERABLE PERSONS

A vulnerable passenger is a passenger whose age or disability means that they are more susceptible to harm than a typical passenger. This may be, for example, a child or elderly person or somebody with learning difficulties. In addition, an individual should be considered vulnerable if they do not fall within the description above, but their condition is such as to render them more susceptible to harm than may otherwise be the case (for example as a result of being under the influence of alcohol or drugs).

This code of conduct aims to promote good safeguarding practices for drivers and staff working with vulnerable passengers in the hackney carriage and private hire trade. The following safeguarding principles should be embedded into driver working practices.

- Drivers must carry photo ID at all times and wear it in accordance with the conditions of licence.
- A vulnerable passenger must not be transported in the front passenger seat of the vehicle unless the booking being carried out is under a Cheshire East Council, or other relevant body, contract for carrying vulnerable persons, in which case the vulnerable passenger may be carried in the front passenger compartment of the vehicle.
- The driver/operator must confirm that appropriate provision has been made for the vulnerable person prior to accepting the booking or commencing the journey. This does not necessarily mean that the driver/operator is responsible for the provision of appropriate measures. However, if appropriate measures are not in place then the driver/operator must not undertake the journey.
- When making a journey with vulnerable passengers and there is a carer/responsible person present, then photo-identification should be produced to the driver by the carer responsible for the vulnerable person. If necessary, the driver should obtain a record of the carer's contact details if there is not chaperone.
- If a vulnerable passenger is refused service a responsible person, such as their carer, family member, parent or guardian should be informed so that alternative arrangements can be made. For example, this situation may arise if the customer has an assistance dog and the driver has a medical exemption granted by the council.

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- Drivers should always ask if a vulnerable passenger needs assistance and should not make assumptions.
- Drivers must remain professional at all times and should not:
 - Touch a person inappropriately
 - Make offensive or inappropriate comments (such as the use of swearing or sexualised or discriminatory language)
 - Behave in a way that may make a passenger feel intimidated or threatened
 - Attempt to misuse personal details obtained via the business about a person

These standards are equally applicable when working with vulnerable and non-vulnerable passengers.

- A log should be maintained by drivers when a service has been provided to a vulnerable passenger including the details of any incidents/actions taken or refusals of service.
- Drivers and operators must remain alert to issues around the safeguarding of children and adults at risk. If a driver/operator is concerned about the safety, welfare or behaviour of a vulnerable person, they should report this to the police.
- If a driver or operator is concerned about someone else's conduct, they should report such concerns to the police using the 101 number (if it is not an emergency) or to the relevant safeguarding board at the Council.