

Annex 4 - Operator Licensing Standards and Conditions

The key consideration of the Council in licensing private hire operators is the safety of the travelling public. This encompasses those using an operator's premises and the vehicles and drivers arranged through them.

Whilst hackney carriage vehicles are allowed to ply and rank for hire, a private hire vehicle must be pre-booked.

If you are taking a booking, through a booking office, telephone booking line, website or App, you must have an operator's licence issued by the Council

Applications for the grant or renewal ~~or transfer~~ of a licence must be made, and will be determined, in accordance with the Council's Hackney Carriage and Private Hire Licensing Policy, its annexes and appendices.

Pre-Licensing Standards

In order to be licensed as a private hire operator you must –

- Complete the application form and supply the required fee and documentation to support your application including evidence that you may legally work in the UK.
- **Have a basic DBS less than three months old when the application is made.** This must be accompanied by **a statutory declaration** listing all previous convictions, whether or not they are spent, and any other relevant material information. **If you have spent six or more continuous months outside the UK, you must provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.**
- **Have completed the Council's safeguarding training and provide evidence of having done so to the Council.**

Please note - Where the application is made by a company or partnership, the Council will apply the 'fit and proper' test to each of the directors or partners in that company or partnership and the provisions in relation to the DBS, as outlined above, apply for each party.

- **Provide a copy of your policy on employing ex-offenders in roles that relate to the booking and dispatch of vehicles.**
- **Be found to be a fit and proper person to hold a private hire operator's licence by the Council having regard to its Hackney Carriage/Private Hire Licensing Policy.**

Planning Consent - To operate a private hire business from a residential dwelling, planning permission for such business use may be required. All applications for an operator's licence are forwarded to the Planning Department. It is your responsibility to

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ensure that any necessary planning permissions are in place.

CONDITIONS OF LICENCE

As the holder of an operator's licence you must comply with the following conditions at all times:

1. Records

1.1 You must keep a rolling record of bookings data for a minimum of 12 months, in a suitable form that does not permit backdating, and in a format that can be easily inspected and/or downloaded at the request of a licensing officer/police officer.

Bookings

1.2 In respect of every booking for hire, howsoever booked, you must record and keep the following details -

- date and time of the booking
- name of the hirer
- time and date of the pick-up
- address of the point of pick-up
- destination
- whether the hirer has any special requirements
- any fare quoted at the time of booking including a breakdown of any additional charges to be levied for additional drop offs/ baggage etc.
- the final fee charged where this is different from the original fare quoted
- the licence number of the vehicle assigned to the booking
- the licence number of the driver assigned to the booking
- the details of the hiring operator (if the booking was made as a result of it being sub-contracted to you)
- the name of any individual who responds to the booking request
- the name of any individual who dispatches the vehicle

You have a duty under data protection legislation to protect the information you record. Please ensure you are familiar with the guidance issued by the Information Commissioner's Office on registering as a data controller and how to meet your obligations.

Drivers

1.3 In respect of drivers working for you, you must record and keep the following details –

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- proof of the name and address of the driver, their right to work documentation, their licence number and its expiry date, and a copy of the licence issued to them by the Council. **Please note** - you must keep records of the checks completed in relation to the verification of the above matters
- the call sign allocated to the driver
- copies of relevant insurance documentation
- the date of when a new driver begins service
- the date of when a driver ceases service

Vehicles

1.4 In respect of all vehicles operated under your licence you must record and keep the following details –

- name and address of the licensed proprietor of the vehicle
- make and registration number of the vehicle
- date the vehicle commenced operating under your operator's licence
- the vehicle plate number and its expiry date
- make and colour
- the year of manufacture
- name and address of licensed driver(s) of the vehicle and the badge number(s)
- a copy of licenses issued by the Council, for the private hire vehicles you operate.
- copies of the current licences of drivers and vehicles must be retained by you whenever they are working for you
- the date the vehicle ceased to accept work under your operator's licence

2. Duties as a licence holder

2.1 As the holder of an operator's licence you must maintain a current, consecutively dated, legible manual or computerised record of –

- the DVLA drivers' licence held by every driver accepting work and ensure that, at all times, the licence is valid.
- all alterations made to that driver's licence (i.e. endorsements, disqualification and medical conditions) and inform the Council immediately or in any case within seven days of any alterations.
- documents that provide you with proof of the driver's immigration status and their right to work in the UK.
- the current insurance certificate/cover note of all vehicles accepting work under your operator's licence and ensure that, at all times, they are consecutive and comply with the statutory requirements and licensing conditions.
- the continuous test certificates of all vehicles accepting work under your operator's licence and the action taken where a vehicle has failed its MOT or is not considered roadworthy.
- **all staff that take bookings or dispatch vehicles.**
- **the register of checks carried out in relation to the DBS requirement for other**

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staff.

2.2 You must take all reasonable steps to ensure that, at all times, vehicles operating under your operator's licence comply with the statutory requirements and licensing conditions appertaining to the mechanical and body condition of the vehicle including cleanliness. You must ensure that the vehicle complies with all the licensing conditions in relation to the door stickers, vehicle licence plate, livery and advertising.

2.3 You must not cause or permit the words 'taxi' or 'cab' on any private hire vehicle operated by or operating under your operator's licence.

2.4 You must not purchase a black vehicle to be used as a private hire vehicle with effect from 1 January 2019.

2.5 Ensure that all proprietors and drivers operating under the operator's licence, when carrying passengers for hire or reward, are dressed in accordance with the conditions attached to the drivers' licence issued by the Council to drive hackney carriage and private hire vehicles. (These are set out in the Council's Policy).

2.6 On the request of an authorised officer of the Council or any police constable produce your operator's licence for inspection.

2.7 Be responsible for the conduct, appearance and actions of controllers and other staff employed by you in respect of the licensable activities.

2.8 Ensure that details of all bookings accepted are recorded in such a way that the contract between the operator and the hirer can be honoured either by you or by the operator to whom the booking has been subcontracted.

2.9 You are responsible for reimbursement to the hirer in the event of a contract not being satisfactorily honoured where the Council finds in favour of the complainant after a full investigation.

2.10 Notify the Council of all cars and drivers operating under your licence and provide an updated list every six months.

2.11 Produce evidence that you have in force a current public and employers' liability insurance policy.

2.12 Ensure that those drivers using fully wheelchair adapted vehicles have undertaken a Passenger Assisted Transport training course.

2.13 Ensure that your drivers and other staff are aware of and adhere to the Code of Conduct for Working with Vulnerable Persons. In the case of App based operators it is expected that the business will be able to demonstrate that the appropriate area managers have completed the necessary safeguarding training and ensure that their drivers and other staff are aware of and adhere to the Code of Conduct for Working with Vulnerable Persons.

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2.14 Prior to employment of staff, you must carry out sufficient checks on the background of your control room staff, responsible for bookings and the dispatch of vehicles, to ensure they are a fit and proper person to carry out their tasks and duties in a professional and confident manner. These checks must include the following –

- A basic Disclosure and Barring Service report issued within the previous 3 months
- Proof of Right to work documentation

And may include the following –

- A Certificate of Good Conduct for the relevant foreign nationals
- Character references from previous employer(s)

You are permitted to use a responsible organisation to request the check on your behalf.

2.15 Provide appropriate training, including safeguarding training, customer service and data protection and maintain training records for all staff.

2.16 Have an appropriate policy in place in respect of alcohol, illegal substances or the abuse of prescription drugs in respect of control room and office staff and drivers whilst at work.

2.17 If it comes to your notice, that a driver of one of your vehicles may be under the influence of alcohol, illegal substances or abusing prescription drugs, you must not allow the driver to continue on duty and must inform the driver accordingly. You must then inform the Council within 72 hours of the incident.

2.18 Ensure that you comply with all legislation regarding the employment of staff, health & safety etc., and provide adequate staff facilities.

2.19 You must notify the Council of any change in directors or partners and ensure that where changes are made the requirements in relation to the provision of the DBS and accompanying information are fulfilled.

3. Standards of Service

3.1 You must at all reasonable times provide a prompt, efficient and reliable service to members of the public. In particular you should ensure that -

- when a vehicle has been hired, it arrives punctually at the appointed place and time unless unexpectedly delayed or prevented from satisfying the booking by sufficient cause.
- telephone facilities, app programmes and radio equipment are maintained in good working order.

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- all vehicles operated by you are maintained in a satisfactory and road worth condition.
- without prejudice to any other liabilities imposed under the act, that all drivers of vehicles owned, controlled or operated in association with you observe and perform to the conditions of their licence.
- the premises provided for the purpose of hiring or waiting are kept clean, adequately lit, heated and ventilated and that any waiting area provided has adequate seating facilities.

4. Notifications to the Council

4.1 If you become aware that any driver is suffering from any illness, disability or a condition which may affect their ability to drive you must inform the Council immediately.

4.2 You must notify the Council in writing of any change affecting your licence, including a change of address (including any address from which you operate or otherwise conduct your business). This notice must be given, within 7 days of the change.

4.3 You must report to the Council, in writing within **48 hours**, any convictions, cautions, arrests or fixed penalty notices you have received since the completion of the application form for your licence. If you operate as a company or partnership, this requirement applies if any of the directors or partners receives a conviction or fixed penalty notice.

4.4 Report to the Council immediately or in any case within 72 hours, details of ANY accident or other damage sustained by a vehicle operating under your operator's licence.

4.5 You must notify the Council of any complaints received.

5. Sub-Contracting and Cross Border Working

5.1 Where you accept a booking and then are subsequently unable to honour it, or if you do not have a vehicle immediately available, the booking may be sub-contracted to another operator either in Colchester or elsewhere. It is against the law for you to pass bookings directly to a private hire vehicle or driver who is not licensed by the same Council as you.

5.2 If you have offices or bases in multiple council areas (for which you will need licences from each Council concerned) you can pass bookings between your offices/bases, but cannot give jobs directly to drivers licensed by the other council(s). You will also need to maintain separate records for each council area, which also show every job that has been contracted to or from another office. In these circumstances you must –

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- a) charge the fare agreed at the time of booking.
- b) keep a record of the initial booking details for audit purposes.
- c) contact the hirer to advise that the booking can no longer be honoured and to ask whether or not they wish the booking to be sub-contracted to an alternative private hire operator.
- d) identify an alternative private hire operator and advise the original hirer of that operator's details.
- e) 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.
- f) keep a record of the alternative private hire operator's licence details as follows-
 - i) name of the issuing authority
 - ii) licence number
 - iii) grant date of the licence
 - iv) expiry date of the licence.
- g) make all records available for inspection on request of an authorized officer of the Council or Police officer.

5.3 You may sub-contract jobs to hackney carriage proprietor, although this must remain a minority part of the overall work undertaken by the hackney carriage vehicle.

5.4 Where you outsource booking and dispatch functions you must keep evidence that comparable protections in relation to children and vulnerable adults are in place and are applied by the company to whom you outsource these functions.

6. Carrying Vehicles (PSV) Licensed Drivers

6.1 Members of the public are entitled to expect when making a booking with you that they will receive a private hire licensed vehicle and driver. Therefore, the use of a driver who holds a PSV licence and the use of a PSV vehicle such as a minibus to undertake a private hire vehicle booking is not permitted without the informed consent of the booker. Where a private hire vehicle is unsuitable because a larger vehicle is needed to fulfil the booking, the booker should be informed that a PSV is necessary, and that a PSV licensed driver will be used who is subject to different checks and not required to have an enhanced DBS check.

7. Complaints

7.1 You must/are advised to have a published complaints procedure that deals with Customer and Employee complaints. Copies of this document must be provided to the Council and available at the operator's office for reference by customers and staff. The complaints procedure must be used when dealing with any complaint and a member of staff must be named as the complaints officer responsible for ensuring the procedure is satisfied.

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8. Display of Terms and Conditions

8.1 You must keep a copy of these conditions at all premises used for your business and make them available for inspection by customers and on request by Authorised Officers of the Council and Police officers.

9. Licence Duration

9.1 Your operator's licence will last for 5 years from the date of its grant. In certain circumstances, **where it is appropriate to do so**, a licence may be granted for a shorter period of time.

10. Operator Category

10.1 If, during the lifetime of your licence, you wish to change your operator category you must pay the relevant fee to effect the change plus the new category fee calculated on a pro-rata basis.

Category A	1 vehicle
Category B	2-5 vehicles
Category C	6 + vehicles

11. Use of Website and Booking Apps

11.1 Any Website or Booking Apps used in the operation of the business must be capable of recording all the information required under these conditions (specified in Condition 1).

12. Convictions and Penalty Points

12.1 The Convictions Policy and Penalty Point Scheme will be applied as appropriate.

14. Disclosure and Barring Requirements

14.1 You must submit a basic disclosure and barring certificate to the Council. This disclosure must have been issued within the previous three months. The DBS must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. The DBS is required every year on the anniversary of the date of the grant of the operator licence.

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14.2 If you have spent six or more continuous months outside the UK, you must provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.

Please note - Where the licence is held by a company or partnership, the provisions in relation to the DBS apply to each of the directors or partners in that company or partnership. If you are already a licensed driver with the authority, this requirement will not apply.

Appeals

If you are aggrieved by any of the conditions attached to the licence you may appeal to the Magistrates Court within 21 days of the service of the licence and the attached conditions on you. Any appeal must be made in writing to the Magistrates Court, Essex Magistrates Court, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, CM2 5PF.

New and Renewal Application Process

1. Access the Council's web page for information on how to apply for or renew an operator licence and read the Hackney Carriage & Private Hire Licensing Policy and Conditions.

2. You must pay the required fee and complete the relevant application form supplying the following documentation –

- A current Passport or Birth Certificate
- Evidence that you may legally work in the UK
Please note - If circumstances come to light during the lifetime of the licence that you no longer have a right to work in the UK, the licence will be revoked.
- Insurance certificate showing public liability of £2 million or more
- **A basic disclosure and barring Check. This disclosure must have been issued within the previous three months. The DBS must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. The DBS is required on application and then every year on the anniversary of the date of the grant of the operator licence. If you have spent six or more continuous months outside the UK, you must provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.**

Please note - Where the licence is held by a company or partnership, the provisions in relation to the DBS apply to each of the directors or partners in that company or

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partnership. If you are already a licensed driver with the authority, this requirement will not apply.

In the case of a new application you will also need to provide -

- Insurance certificates for any vehicle already owned

In the case of the renewal of an application you will also need to provide -

- List of the drivers working for you.
- List of cars operating under your licence.

~~In the case of the transfer of a licence you will also need to provide -~~

- ~~• Insurance certificate for each vehicle to operate under your licence~~

3. Your operator's licence will be granted if the paperwork has been completed to the satisfaction of the Council and no matters of concern have been identified.

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Determination of Application for the Grant or Renewal of a Licence and the Right of Appeal

The Council will deal with applications as follows –

1. The application will be reviewed by a member of the Licensing Team and if any issues are identified the applicant/licence holder will be contacted and may be interviewed by a member of the team.
2. If no issues are identified or those that are identified are resolved, the application will be granted. In all other cases a report will be prepared for the Licensing Manager setting out the facts of the matter to be considered.
3. The Manager will review the case file and, where appropriate, will interview the applicant/licence holder and make his determination. The outcome will be conveyed to the applicant/licence holder in writing.
4. There is a right of appeal to the Magistrates Court. Any such appeal must be made in writing, within 21 days from the date of the decision to the Clerk of the Court, Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 5PF.

Implementation of the Policy - The Policy will be monitored and reviewed on a regular basis. Any proposed significant changes will be subject to full consultation; minor amendments which do not affect the substance of the Policy may be made without consultation.