



# Statement of Hackney Carriage and Private Hire (Taxi) Licensing Policy

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## Introduction to Hackney Carriage and Private Hire (Taxi) Licensing Policy



The Milton Keynes Council Taxi Licensing Policy was first adopted in 2014. It has been continuously reviewed as we have sought to achieve the right balance between public safety and the needs of the licensed trade.

The challenges that were present in 2014 have been resolved and replaced by new challenges such as changes in legislation, the development of new technology, safeguarding and variations in traditional methods of hiring vehicles. However, the intention of the legislation and this Policy remains the same – to protect the public.

Residents in Milton Keynes are able to travel safe in Milton Keynes Council (MKC) licensed vehicles due to the adoption of this Policy which follows the hard work of the Cabinet, the Regulatory Committee and Officers over the last 5 years.

The Regulatory Committee, which I am pleased to be a member of, has played an important role in the development of this Policy and will continue to play an essential role as it takes the broad aims and objectives of this Policy and develops them into appropriate procedures and licence conditions to give effect to the Council's collective aims.

A true partnership approach between MKC, neighbouring Councils and Thames Valley Police could not occur without the contributions from the Taxi and Private Hire trade who discuss issues positively with Council Officers and Members at Cabinet/Committee meetings and licensing panels.

The public of Milton Keynes should be assured that individuals licensed by MKC are required to reach a high standard befitting of any respectable profession. Those licensed drivers who comply with this Policy are an asset to Milton Keynes and the Council recognises this and the service they provide.

I am confident that drivers licensed by MKC put public safety first and support us with our robust enforcement programmes which takes action against anyone who drops below the high standards that MKC and the trade have set.

**Councillor Mick Legg, Cabinet Member for Taxi Licensing**

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# **1. Summary**

- 1.1. This document sets out the Council's Policy on the licensing of hackney carriage and private hire vehicles, drivers and private hire operators. This Policy is not a comprehensive statement of law and applicants should consider obtaining their own legal advice. This overarching Policy is set by the Council's Executive Cabinet.
- 1.2 Procedures, application pre-requisites, licence conditions, guidance and schemes falling within the requirements of this Policy are set by the Regulatory Committee in a document entitled Taxi Licensing Conditions and Procedures.

# **2. Definitions**

- 2.1 A list of the definitions used in this Policy and its associated procedures can be found at the end of this document.

# **3. Policy Objective**

## **3.1 Public Safety and Public Safeguarding**

- 3.2 The aim of the licensing regime is to protect the public. For this reason the aim and objective of this Policy is Public Safety and Safeguarding. This includes minimising crime and disorder and the fear of crime.
- 3.3 It is important that the Council's licensing responsibility is used to ensure that licensed vehicles in the district are safe, comfortable, properly insured and that drivers and operators are fit and proper to undertake the role. All policies adopted by the Council will be with the overarching objective of Public Safety and Safeguarding in mind.

# **4. Powers**

## **4.1 Power to grant licences**

- 4.1.1 The responsibility for granting licences falls to the Council pursuant to the powers conferred by The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 (as amended). This responsibility is delegated to the Regulatory Committee and Council Officers.
- 4.1.2 The setting and adoption of this Policy has been reserved by the Cabinet to set the overall framework to guide the Council in its decision making.
- 4.1.3 The Council expects that all applicants for a licence and those holding a licence have read and understood this Policy. Failure to take reasonable steps to read this document indicates that an individual may not be responsible and suited to holding a licence. The Council is not liable for any loss as a result of the failure by an individual to consult this Policy, its procedures or conditions or to have asked for advice in writing from a Council Officer.

## **4.2 Policy Status**

- 4.2.1 Notwithstanding the existence of this Policy, each application or enforcement measure will be considered on its own merits. Where it is appropriate for the Council to depart substantially from its Policy, clear reasons will be given for doing so. Nothing in this Policy will prevent an applicant or licence holder from requesting that the Council considers the individual merits of their case and give reasonable consideration to departing from its Policy. Such request may either be in writing to, or made orally before, the Regulatory Committee, a Regulatory Sub-Committee, or Officers as deemed appropriate in the circumstances of the case.
- 4.2.2 This Policy does not override the legal requirements embodied in any primary or secondary legislation in force at the time of adoption or as may be enacted after the adoption of this Policy. Where there are any subsequent changes made to the applicable legislation, or its interpretation by the Courts, that conflict with this Policy, the conflicting elements of this Policy shall not apply and will be amended at the earliest opportunity. This Policy shall be kept under review and revised as appropriate.

## **4.3 Suitability of Licensed Individuals**

- 4.3.1 Where a licence is granted to an individual the Council will apply its Policy in regard to the Suitability of Licensed Individuals. This will apply to Drivers, Operators and vehicle Proprietors to the extent permitted by legislation and relevant Council procedure. Where a licence has been applied for by a company, partnership or other organisation this policy will be applied to the individuals with control over that entity (i.e. Directors, Partners etc.)

## **4.4 The Licensing Regime**

- 4.4.1 The Legislation creates three types of licence:
1. Vehicles (Hackney Carriage and Private Hire)
  2. Drivers (Hackney Carriage and Private Hire)
  3. Operators (Private Hire only)
- 4.4.2 The overall aim in granting licences is to protect the public. In doing so separate legislative requirements, standards and conditions apply to each licence type to achieve that aim. A journey not carried out in accordance with the correct licences is not only illegal but likely to invalidate the insurance held by the driver, vehicle proprietor and operator. This can have serious consequences should an accident occur.

## **4.5 Distinction between Hackney Carriages and Private Hire Vehicles**

- 4.5.1 Hackney Carriage vehicles are available for immediate public hire from being hailed (“flagged down”) in a public street or hired from a taxi rank. Private hire vehicles must be pre-booked in advance with, and despatched by, a licensed private hire operator and are not permitted to wait on a rank or be booked directly with the driver.

- 4.5.2 The Council recognises this key difference between hackney carriages and private hire vehicles. Should the driver of a private hire vehicle accept a fare not pre-booked through an operator that driver commits a criminal offence and invalidates their insurance. This puts members of the public at risk. The Council expects that all drivers understand and take reasonable steps to ensure that they do not break this law. Failure to do so demonstrates that an applicant is not 'fit and proper'.

## **5. Delegations and Responsibilities**

### **5.1 Role of the Executive**

- 5.1.1 The adoption of this Policy has been reserved by the Executive Cabinet of MKC and may be revised from time to time either by the Cabinet or as a delegated decision by the relevant Cabinet Member.

### **5.2 The Role of the Regulatory Committee**

- 5.2.1 Standard Conditions, associated documents and application methods including any pre-requisites, application procedures, guidance and schemes falling within the authorisation of this Policy will be adopted by the Regulatory Committee via the Taxi Licensing Conditions and Procedures document.
- 5.2.2 The Regulatory Committee may specify or set a framework of guidelines for situations where it expects applications for, or reviews of, licences to be referred to a Regulatory Sub-Committee and any standard procedure to be followed by its Sub-Committee when determining individual cases.
- 5.2.3 The Regulatory Committee is responsible for the review and adoption of limits on the number of hackney carriage vehicles that will be licensed.
- 5.2.4 The Regulatory Committee is responsible for recommending to Council any proposed changes to the Hackney Carriage Bye-laws.

### **5.3 Determination of individual cases**

- 5.3.1 The determination of the grant, refusal, suspension or revocation of a licence will be made in the first instance by Officers in accordance with relevant legislation and by applying this Policy.
- 5.3.2 A Regulatory Sub-Committee may determine the grant, refusal, suspension or revocation of a licence following a referral by Officers.
- 5.3.3 The imposition of any condition, in addition to the standard conditions set by the Regulatory Committee, may be imposed by Officers or a Regulatory Sub Committee if considered reasonably necessary when applying the relevant legislative test.
- 5.3.4 Decisions on relevant enforcement action will be made by Officers. The relevant Head of Service will approve all prosecution files to proceed to legal services.

## **6. Fares and Fees**

### **6.1 Fares**

6.1.1 The tariff of fares for MKC licensed Hackney Carriages are set by the Council. Hackney Carriages licensed by the Council must display the table of fares.

6.1.2 The Council does not control the fares set by private hire operators.

### **6.2 Fees**

6.2.1 The Council is required to charge for the administration and enforcement of the licence regime and fees will be payable for the grant and renewal of licences and associated permissions. Fees will be set by the Regulatory Committee in accordance with its internal delegations and advertised as required by the 1976 Act.

6.2.2 At the direction of the Regulatory Committee the Taxi Licensing Service will publish each year a schedule of its income and costs to aid transparency and allow proper scrutiny of the fees charged by the Council.

6.2.3 Except where restricted by the applicable legislation, the Council will not refund application or licence fees where an individual has chosen not to continue with an application or to hold a licence.

## **7. Taxi Ranks**

### **7.1 Appointed Ranks**

7.1.1 A number of ranks for hackney carriages have been designated within the Milton Keynes area and these ranks should be clearly, properly and appropriately signed.

7.1.2 The Council will have an ongoing review of its Hackney Carriage ranks in line with its overall transport strategies.

## **8. Complaints**

8.1 The Taxi Licensing Service can only deal with breaches of legislation it is empowered to enforce; licence conditions; and the conduct of a driver that falls within the “fit and proper” test. Complaints about customer service should be made to the operator or in the case of a hackney carriage journey, the driver. If customers are still unhappy with service then taxi enforcement can investigate but with limited powers.

8.2 Members of the public who wish to make complaints or comments about a licensed driver, vehicle or operator should do so in writing to the Council’s Taxi Licensing Service - [taxienforcement@milton-keynes.gov.uk](mailto:taxienforcement@milton-keynes.gov.uk)

8.3 Licence holders, applicants or members of the public that wish to complain about the Council’s Taxi Service or the conduct of Officers must follow the

## **8.4 Appealing Council Decisions**

- 8.4.1 When a Council decision is made an applicant or licence holder will be given a written notice setting out any right of appeal that may exist.

## **9. Disciplinary, Compliance and Enforcement Measures**

### **9.1 Enforcement Policy (General)**

- 9.1.1 Council imposed conditions will not be effective unless they are correctly enforced. Therefore the Council will endeavour to investigate all complaints fairly and impartially and take the relevant and necessary action in accordance with fairness and the objectives of this Policy.
- 9.1.2 The Council will undertake enforcement operations for compliance purposes and based on intelligence received.
- 9.1.3 The Council will share information and enter into joint enforcement operations with other agencies and authorities. This may include taking enforcement action in respect of drivers and vehicles licensed by other authorities where agreements and the necessary delegations are in place.

### **9.2 Investigations**

- 9.2.1 The conduct of investigations falls outside this Policy. When conducting enforcement action Officers operate under separate applicable legislation, government guidance for regulators and the Council's enforcement policy.
- 9.2.2 Decisions on the appropriate action to be taken will not normally be made until the Council has (insofar as may be possible) completed a full investigation and collated all relevant evidence. In rare cases where serious allegations are made about the suitability of an individual, the Council may be required to take action without waiting for a full investigation because of the overriding objective of public safety.

### **9.3 Enforcement Actions**

- 9.3.1 It is not possible to have a fixed policy on what action the Council will take in any particular situation as each matter must be considered on its own merits. A licence holder who has committed a criminal offence will likely be prosecuted by the Council if it is in the public interest to do so. A licence holder who is convicted of an offence that has put public safety at risk should expect the Council to take action that will likely remove their licence (suspension, revocation or refusal to renew). The Council is not limited to taking only one action. For instance, an offender could be prosecuted and then have their licence suspended or revoked.
- 9.3.2 Minor offences which do not put the public at risk or do not call into question the fitness of a licence holder will be dealt with administratively via the Council's penalty point warning procedure and education schemes. The

frequency or nature of minor offences may be such that the penalty point warning procedure and education scheme is not considered appropriate and another sanction is necessary, such as the suspension or revocation of licence. This is further covered in the Suitability of Licensed Individuals section of this Policy.

#### **9.4 Licence Review**

- 9.4.1 Upon the conclusion of an investigation that substantiates a complaint, the Council will review the licence held to determine if any action should be taken in respect to that licence or individual.
- 9.4.2 The Council may issue a warning; impose penalty points; impose a licence condition; require remedial training; suspend; revoke or refuse to renew a licence.

#### **9.5 Penalty Point Warning and Education Scheme**

- 9.5.1 A penalty point warning and education scheme is designed to assist the trade in remaining compliant with regulatory requirements. These processes will be adopted and revised from time to time by the Regulatory Committee. These schemes will act as an “early warning” system to drivers, vehicle proprietors, and operators who fail to meet the requirements of their licence.

### **10. Equality and Safeguarding**

#### **10.1 Disabilities**

- 10.1.1 MKC’s transport objective is to have an accessible public transport system where people with disabilities have the same opportunities to travel as other members of society. Whilst the overriding objective of this Policy is public safety and safeguarding, the Council expects that drivers and operators of licensed vehicles ensure that they provide a service to all members of society without discrimination.
- 10.1.2 The Equality Act 2010 places duties on licensed drivers to provide assistance to people in wheelchairs and/or who have an Assistance/Service Dog. Drivers and operators of licensed vehicles should not make any extra charge or refuse to carry passengers in these circumstances. The Council expects that when a driver or operator is aware that a passenger has a disability that they take reasonable measures or make reasonable adjustments to accommodate that passenger.
- 10.1.3 Under the Equality Act 2010 the Council has the ability to adopt Policies that further the opportunities of people with disabilities to travel by imposing further standards on licence holders. Licensed drivers who are unable to carry out the duties imposed upon them under the Equality Act 2010 may apply to the Council for an exemption certificate from those duties. The Council must issue an exemption certificate if satisfied that it is appropriate to do so on statutory grounds. The Regulatory Committee may adopt or publish such criteria or procedure to ensure medical certificates are granted appropriately.

- 10.1.4 The Council encourages all private hire operators to include Wheelchair Accessible Vehicles (WAVs) amongst their fleet. Operators should advertise that these vehicles are available and make clear that there is no additional cost that can be levied by them or their driver for the conveying of a passenger in a wheelchair or any other disabled passenger.
- 10.1.5 The Council will monitor the provision of WAVs and other services provided to persons with a disability in Milton Keynes and shall, if deemed insufficient, consider imposing further requirements on operators, drivers and proprietors to ensure this.
- 10.1.6 Those who apply for a licence will not be refused or discriminated against by reason of a disability provided that the individual is fit and proper to carry out the expected duties of a licence holder.

## **10.2 Other Protected Characteristics**

- 10.2.1 The Council does not tolerate any discrimination either against a licence holder by a member of the public or Council representative; or by a licence holder against a member of the public or Council representative.
- 10.2.2 Where a complaint is made that a licence holder has discriminated against a person due to a protected characteristic under the Equality Act 2010, the Taxi Licensing Service will investigate. In regard to racial discrimination this should also be reported to the Police. A licence holder found to have discriminated against someone will have their licence reviewed.
- 10.2.3 The Council cannot take action against a member of the public who discriminates against a licence holder. Unless the discrimination is of a racial nature, which can be reported to the police, members of the public should seek independent legal advice before they consider civil action.

## **10.3 Child Sexual Exploitation (CSE) and Safeguarding**

- 10.3.1 Licensed vehicles and other forms of public transport are used by children and vulnerable people on a daily basis. Whilst licensed drivers, proprietors and Operators provide a service for financial gain, they do so on the basis that MKC has considered them to be suitable to provide these services. Licence holders have a duty of care to these passengers and the Council expects them to uphold that duty and sufficiently safeguard those in society who are vulnerable and at increased risk.
- 10.3.2 The Council has adopted Safeguarding Policies that apply to all employees. Whilst licensed drivers are not employees of the Council, they are granted a licence by the Council and therefore represent Milton Keynes. The Safeguarding policies adopted by the Council will apply to licensed drivers.
- 10.3.3 The Regulatory Committee may adopt a separate safeguarding Code of Conduct for drivers if it believes that this is necessary in order to achieve the overall aims of this Policy.
- 10.3.4 Should a licence holder fail to report a concern or be found negligent in their safeguarding duties they will have their licence reviewed.

## **11. Vehicles**

### **11.1 Limitation on Numbers**

- 11.1.1 Section 48 of the 1976 Act states that the Council cannot restrict the number of private hire vehicles licensed.
- 11.1.2 Section 37 of the 1847 Act, as amended by Section 16 of the Transport Act 1985, does permit the Council to refuse to licence a Hackney Carriage for the purpose of limiting numbers if the Council is satisfied that there is no significant unmet demand for the services of hackney carriages. Any limit on Hackney Carriage numbers will be set by the Regulatory Committee following an independent survey.
- 11.1.3 Where a limit on the number of Hackney Carriage vehicles is imposed, those licences will be granted on the provision that the vehicle will be used predominantly as a public hire vehicle within Milton Keynes. If Hackney Carriage vehicles licensed by MKC are found to be working predominately in other district areas then those licenses will be reviewed.

### **11.2 Vehicle Specifications and Conditions**

- 11.2.1 When licensing a hackney carriage or private hire vehicle the Council must consider first and foremost the need for public safety. Once a vehicle is licensed its proprietor or driver has the ability to operate that vehicle in rural, urban and motorway environments.
- 11.2.2 Licensed vehicles must be capable of performing in all such environments and provide convenience and comfort to all types of passengers when doing so. Relevant factors include type of vehicle, safety, size, suitability, engine size, capacity, appearance, condition, mechanical configuration, luggage space and seating.
- 11.2.3 Section 47 of the 1976 Act permits the Council to require a hackney carriage to be of such design and appearance as it wishes to specify and impose such conditions as it considers reasonably necessary. Section 48 of the 1976 Act requires the Council to be satisfied that a private hire vehicle is suitable in type, size and design and impose such conditions as it considers reasonably necessary.
- 11.2.4 To ensure that licensed vehicles are safe for the public to use and suitable for all types of journeys, the Council will adopt minimum vehicle specifications and conditions. These will be set by the Regulatory Committee who will also set the reasonable and necessary conditions that will be imposed on the proprietor of a licensed vehicle.

### **11.3 Vehicle Age**

- 11.3.1 Licensed vehicles undertake considerably more miles than an average domestic vehicle. This means that licensed vehicles will age and deteriorate more rapidly than domestic vehicles and will need replacing on a more regular

basis. Also older vehicles experience structural fatigue over time which impacts on vehicle safety.

11.3.2 The Council will have an age policy in respect to its licensed vehicles and these limits will be set by the Regulatory Committee.

11.3.3 The Council recognises that it may be required to consider requests to depart from its age policy. The Regulatory Committee may set such standards and requirements for officers to follow in these circumstances.

## **11.5 Vehicle Testing**

11.5.1 Before a licence is granted the Council must be satisfied with the mechanical and safety suitability of a vehicle. All vehicles must undergo at least 2 compliance tests per year conducted by the Council under Section 50 of the Act of 1976. These tests are in addition to the annual MOT required under the Road Traffic Act 1988.

## **11.6 Signage; Advertising and Livery**

11.6.1 Members of the public may confuse private hire vehicles with hackney carriages and it is important that the public are able to easily distinguish each type of vehicle in order to ensure that they are safe and insured when travelling. In order to assist with this Hackney Carriages use roof signs with the words 'Taxi' displayed.

11.6.2 Hackney carriages and private hire vehicles are required by law to display a licence plate (or an internal disc for certain private hire vehicles that are exempt) on the rear of a vehicle. It is also common for private hire vehicles to display door signs, however, in some instances Hackney Carriages may wish to display some form of door signage.

## **11.7 Plate Exemption**

11.7.1 The intention of the legislation is that a licensed plate must be displayed on a vehicle so that the public can identify it. There are occasions when the display of such identification may undermine customer safety or create commercial implications for the operating business.

11.7.2 The legislation allows the Council, upon application, to exempt a vehicle from displaying its licence plate and door signs. It is not intended that all private hire vehicles have access to this exemption but only those operating a service where the display of a licence plate either endangers public safety or restricts a legitimate business need.

11.7.3 An exemption will only be granted where the proprietor is able to satisfy the Council that:

- There is no public safety risk
- There is a legitimate business or service requirement
- The vehicle is suitable for the purposes outlined by the applicant

- 11.7.4 The primary consideration of the Council must be whether or not there is a public safety risk. An application procedure and the items required to satisfy the Council of the above will be set by the Regulatory Committee.
- 11.7.5 The Council may make arrangements with operators who specialise in despatching “plate exempt” vehicles to aid the regulation and efficient approval of exemptions.

## **11.8 Data Protection & Closed Circuit Television (CCTV)**

- 11.8.1 The Council encourage drivers, proprietors and operators to install legally compliant CCTV in their vehicles to ensure the safety of drivers and passengers.
- 11.8.2 Proprietors of licensed vehicles are responsible for ensuring that CCTV systems installed in their vehicles complies with all relevant applicable legislation. In respect to data protection, vehicle proprietors should contact the Information Commissioners’ Office for advice on how information should be managed and stored. Any Proprietor, Driver or Operator found to be in breach of CCTV or Data Protection legislation will have their licence reviewed.
- 11.8.3 To assist the trade and protect the public, the Regulatory Committee may condition vehicles licensed by MKC to have CCTV cameras installed.

## **11.9 Environmental Friendly Vehicles**

- 11.9.1 The Council will encourage proprietors, operators and drivers to use low emission vehicles and to take advantage of the unique infrastructure of Milton Keynes and its innovative approach to transport. Where there is no public safety risk, the Council shall give special consideration to an environmentally friendly vehicle if it does not meet the Council’s criteria set by the Regulatory Committee.
- 11.9.2 The Council aspires to have a full fleet of electric Private Hire and Hackney Carriage vehicles by 2030. The Council’s Executive will adopt a separate Electric Vehicle Strategy to achieve this and the Regulatory Committee will be responsible for amending vehicle specifications to permit this.

## **11.10 Speciality Vehicles**

- 11.10.1 Speciality vehicles such as stretched limousines, vintage or themed vehicles, may be licensed by the Council if the vehicle does not comply with the standard specifications and conditions. Each application will be considered on its individual merits with consideration given to the safety and suitability of the vehicle; the purpose of its use; and the frequency and duration of its use. However, the overriding objective of this Policy remains.

## **12. Private Hire Operators**

### **12.1 Requirements & Obligations**

- 12.1.1 Any person who, in the course of business makes provision for the invitation or acceptance of bookings for a private hire vehicle, must be licensed as a

private hire operator. A private hire vehicle can only be despatched to a customer by a licensed private hire operator.

- 12.1.2 Applications for operator licences can be made by an individual, partnership, company or other body in accordance with the application procedure adopted by the Regulatory Committee.

## **12.2 Fit and Proper**

- 12.2.1 The Council must be satisfied that an applicant or licence holder is “fit and proper.” Whilst the licensed operator is not the person driving the vehicle and therefore not an immediate physical risk to passengers, they are responsible for despatching the vehicle and its driver and have access to information or data that a customer expects to be used appropriately. For this reason it is imperative that those licensed as operators are fit and proper and meet the standards expressed in the Suitability of Licensed Individuals section of this policy.

- 12.2.3 The Council will not grant a private hire operator licence to an individual who is not fit and proper to be a licensed driver.

- 12.2.4 Operators are required to comply with a number of legislative requirements and conditions of licence regulating how they run their business. The Council needs to be satisfied that an applicant understands their duties and responsibilities.

- 12.2.5 An Operator licensed by MKC can only use drivers and vehicles that are licensed by MKC.

## **12.3 Insurance**

- 12.3.1 Operator premises that are open to the public (e.g. taxi waiting rooms) must be covered by appropriate public liability insurance.

## **12.4 Operator Address and Telephone Numbers**

- 12.4.1 An MKC operator should have a premises within the district and this address will be specified on the licence granted. Records required to be kept by the Operator will be expected to be retained at this address. Depending on the nature of the operation there can be occasions when an operator will require more than one operator licence for different locations within the Borough.

- 12.4.2 The Council will not normally grant a licence to an operator whose premises are located outside the district. This is to ensure that proper regulation and enforcement measures can be taken by the Council. The legislation does not restrict where an Operator is based and a licence may be granted to an operator whose premises are outside of the district (ie in neighbouring districts). In such instances that operator must satisfy the Council that they will be providing the facilities for individuals within Milton Keynes to book Milton Keynes licensed private hire vehicles. In addition, the operator’s base should be within a reasonable distance of Milton Keynes (i.e. neighbouring districts) or other reasonable measures are in place to permit adequate enforcement.

- 12.4.3 It is the responsibility of an operator to ensure that appropriate planning consent exists for the operational address to be used for their business purposes.

## **12.5 Sub-contracting**

- 12.5.1 Section 55A of the 1976 Act, inserted by the Deregulation Act 2015, permits Operators licensed by the Council to sub-contract a private hire bookings to another operator licensed by the Council or to a licensed private hire operator licensed by another local authority. Regardless of which operator fulfils a booking, the operator must despatch a vehicle licensed by, and driven by a driver licensed by, the same Council as licences that operator.
- 12.5.2 Operators that accept a booking remain legally responsible for that booking even if they sub-contract that booking to another Operator and should record the booking as being accepted and transferred to that other operator.

## **12.6 Cross Border Hiring**

- 12.6.1 In relation to private hire vehicles, the 1976 Act permits members of the public to book a private hire vehicle through any licensed private hire operator regardless of which district they are licensed. Private hire bookings are private contracts between the hirer and the operator and are not a matter for the Council to regulate. In this regard, the Act leaves the selection of an operator entirely to market forces and the freedom of choice to the customer.
- 12.6.2 The Council encourages its private hire operators and their vehicles to be of the highest standard and provide an exemplary service to the residents of Milton Keynes. Appropriate regulation of private hire vehicles benefits the public served by an Operator and this regulation is aided where Operators are fully committed to using Milton Keynes licensed vehicles. Operators should, when sub-contracting to an Operator licensed in another district, make this clear to the Customer.

## **13. Hackney Carriage and Private Hire Drivers**

### **13.1 General**

- 13.1.1 Licences to drive hackney carriage and private hire vehicles are granted under the 1847 & 1976 Acts. A licence can only be granted to someone who has been authorised to drive a motor vehicle for at least 12 months and is “fit and proper”.
- 13.1.2 When determining if someone should be granted a licence the Council will not take into account someone’s desire or need to work; their financial status; family commitments; or obligations. These are not matters that relate to whether an individual is fit and proper.

### **13.2 Fit and Proper**

- 13.2.1 There is no legal definition of “fit and proper” or a fixed legislative process. It is for the Council to determine how it wishes to be satisfied that a driver is fit

and proper. The Council will consider a range of documentary evidence, practical criteria and qualifications provided by an applicant in order to be satisfied that an individual is fit and proper. The following sections apply equally to private hire and hackney carriage drivers unless otherwise specified. Applications will be considered on their own individual merits.

### **13.3 Age, Experience and Qualifications**

13.3.1 Subject to an applicant having held a licence to drive a motor vehicle for at least 12 months, there is no minimum or maximum age limit for drivers. The Council's Policy and application procedure will require an applicant to evidence that they are physically fit enough and suitable in terms of knowledge, experience and skill to assume the role.

### **13.4 Application Procedure**

13.4.1 The application process will be set by the Regulatory Committee to provide an applicant with the opportunity to satisfy the Council that he or she is a fit and proper person.

### **13.5 Evidencing Criminal record - Disclosure and Barring Service (DBS)**

13.5.1 An applicant will be required to provide an enhanced DBS disclosure to enable consideration of their criminal record.

13.5.2 A licence holder's criminal record will be checked every 3 years upon renewal. The Council may, at its discretion, require an additional DBS disclosure to be supplied at any time where it has a reasonable belief that this is necessary in order to determine if a driver is fit and proper.

### **13.6 Evidencing Criminal Record – foreign offences**

13.6.1 Where an applicant has not lived in the UK continuously for 10 or more years or has spent more than 6 continuous months living outside of the UK in the preceding 10 years, they must satisfy the Council that they have not been convicted of any offences outside of the UK.

13.6.2 An applicant will be required to provide an equivalent to the DBS disclosure from their relevant Embassy, Consulate or Policing Authority for any and each country in which they have lived.

### **13.7 Convictions, Cautions, Allegations and Complaints**

13.7.1 The Rehabilitation of Offences Act 1976 does not apply to those applying to be licensed as a driver of a hackney carriage or private hire vehicle. Where an applicant (or licensed driver) has been convicted of an offence the Council must consider it and assess if an individual is fit and proper.

13.7.2 The Council is aware that a person convicted of an offence may evidence themselves as fit and proper to the Council's satisfaction after a number of years have elapsed since the commission of an offence. Conversely if an applicant has remained conviction free for a certain period of time this does not automatically qualify them as fit and proper.

## **13.8 Medical Fitness**

- 13.8.1 The Council must be satisfied at all times that a driver is physically and mentally able to carry out their duties. An applicant must undertake and provide evidence that he or she meets the DVLA Group 2 Medical standard. The applicant is responsible for arranging, paying and submitting to the Council the relevant evidence that the applicant meets the Group 2 standards. Any medical examination must be conducted by an appropriate, competent and qualified medical practitioner.
- 13.8.2 Licence holders must be re-examined to the Group 2 standards at the age of 45 and every 5 years thereafter until they reach the age of 65. After the age of 65 licence holders must submit evidence of having been assessed to meet the Group 2 medical requirements on an annual basis.
- 13.8.3 At all times the Council will reserve the right to request an individual to provide a further Group 2 medical or other medical information or undertake any medical test in order to be satisfied that a person is medically suitable to be licensed.
- 13.8.4 Notwithstanding that an individual may pass a Group 2 medical, further information may be present which prevents the Council from being satisfied that an individual is medically suitable. The Council may therefore still refuse an application or require an applicant or licence holder to undergo and pay for a further medical examination, at an appropriate medical facility, conducted by either the applicant's GP or other qualified medical practitioner with access to the applicant's full medical records. Any extra cost must be met by the applicant or driver.
- 13.8.5 The Council may grant a licence on the condition that a licence holder provides a more frequent Group 2 medical assessment and/or notes from his/her GP as to his/her suitability to be licensed.
- 13.8.6 Applicants and licence holders must notify the Council as soon as it is practicable of any deterioration in their health that may affect their ability to drive or their suitability to be a licensed driver. The Council expects licensed drivers not to put the safety of other people at risk and continue to drive following any deterioration in their health until approved by both a medical assessment and the Council. The Council would not consider any person to be fit and proper if they drive a licensed vehicle whilst aware of any health problem that could endanger the lives of their passengers.
- 13.8.7 Failure to provide a satisfactory medical certificate in the circumstances outlined in this Policy will lead to the refusal, suspension or revocation of a driver licence.

## **13.9 Driving standards and qualifications**

- 13.9.1 Licensed drivers will spend the majority of their working time in a licensed vehicle with passengers on a public road. An applicant's driving record, knowledge and driving ability is therefore relevant to the determination as to whether they are fit and proper. The Council must be satisfied that licensed

drivers have due regard and appreciation of the legislative provisions designed to protect all road users and pedestrians.

13.9.2. The Council will carry out a check of an individual's DVLA record when considering if a driver is fit and proper. This is to ensure that the information submitted by the applicant is in accordance with the information held by DVLA and so that the Council can consider any endorsements shown on the applicant's driver licence.

13.9.3 Licensed drivers will be required to provide a shared driving licence code during the course of a licence. This will be when the Council believes a licence holder has been convicted of an offence and not declared it; an offence has been declared and the Council need to confirm it; or as part of periodical compliance check of licensed drivers.

#### **13.9.4 Driving Endorsements**

13.9.5 The Council must be satisfied of a driver's ability to convey members of the public safely. As such the Council will consider any driving endorsements, driving related convictions or disqualifications revealed on either an applicant's DBS or driving licence.

#### **13.9.6 Relevant Taxi Driving Test**

13.9.7 All new applicants must pass an approved taxi driving course/test before a licence is granted in order to satisfy the Council that they are of a suitable driving standard.

13.9.8 If, upon the renewal of a licence, an existing licensed driver has or has had more than 3 DVLA penalty points in the last 6 years s/he will be required to pass an approved Taxi driving course/test within 6 months on his/her renewal.

13.9.9 Any driver that reaches 6 live DVLA points during the course of holding an MKC driver licence will be required to pass an approved driving test/course by a specified date and will be suspended if they do not do so.

#### **13.10 Driver Assessment Suitability (DAS)**

13.10.1 In order to satisfy the Council that they are fit and proper an applicant must demonstrate that they understand the basic requirements of hackney carriage and private hire licensing. The Council will therefore implement a relevant assessment of suitability to enable an applicant to confirm that they have the requisite knowledge to be licensed. This procedure will enable the Council to be satisfied that any person licensed understands the key legislation applicable to them; basic vehicle and driver safety requirements; an understanding of the local area; and relevant knowledge of Equality and Safeguarding.

#### **13.11 Training**

13.11.1 Given the changing nature of the role of taxi drivers and operators, an applicant or existing licence holder may be required to carry out such training as the Council thinks necessary to be satisfied that that individual is fit and

proper. Such training may be required of an individual in relation to specific circumstances, or be required of the Taxi trade as a whole. Officers will have the power to direct an individual to carry out relevant training in line with the guidelines set out in the Suitability of Licensed Individuals section of this policy. The Regulatory Committee may also adopt any training requirements applicable to licence holders in order to achieve the objectives of this Policy.

### **13.12 Short Term Licence (renewals)**

13.13.1 Where an applicant has applied to renew a licence the law provides that they can continue to work even if the Council has not determined their renewal application. The law however requires the driver to visibly display their badge and there is a risk to public safety if a driver is displaying a badge which has expired. The Council's Policy is that a driver must at all times display a correct badge/authorisation which has a valid date and reassures the public that the driver has been recently checked.

13.13.2 Where a licensed driver badge has expired the Council will normally issue the driver a short term badge/authorisation for him/her to display. Before doing this the Council will carry out an interim assessment to ensure that it remains satisfied that the individual is fit and proper based upon information known to the Council and any declaration that the driver may have stated on their application to renew.

13.13.3 The Council would normally expect to have determined an application to renew a licence 2 months before that licence expires. However, in some instances delays can occur. Where an applicant has applied 2 months prior to the expiry of the licence the Council will issue a short term licence following its interim assessment and make no charge to the applicant.

13.13.4 Where the applicant has left his/her application later than the 2 months prior to his/her licence expiring the applicant must pay for the interim assessment to be carried out and the cost of the provision of the materials (i.e. badge).

### **13.14 Conditions of Licence**

13.14.1 Licence holders will have conditions placed on their licence to require them to keep the Council updated with all the documents that are required to determine that they are fit and proper.

13.14.2 Should a licence holder fail to provide updated documents to the Council in accordance with their licensing conditions then their licence will be reviewed.

### **13.15 Code of Conduct**

13.15.1 In addition to licence conditions, the Council will also have a Code of Conduct to enhance the professional image of the hackney carriage and private hire trade and to promote the concept that drivers of licensed vehicles are vocational drivers carrying out a reputable profession.

13.15.2 The Code of Conduct for drivers and operators will be set by the Regulatory Committee and non-compliance with it will be addressed as part of enforcement action.

### **13.16 Review of driver Licence**

13.16.1 Once a licence has been granted a driver must remain fit and proper and his/her licence may be suspended or revoked at any time after the grant of a licence where the Council has reasonable cause.

13.16.2 Once licensed a driver may decide that they no longer wish to remain licensed and may surrender their licence to the Council. In these instances the Council shall suspend or revoke in order to exempt the driver from any continuing obligations and to protect members of the public.

### **14. Application Procedure**

14.1 Applications for all licences must be made in writing and follow the specified application procedure set by the Regulatory Committee and Council Officers. The applicant remains responsible for ensuring that their application is completed correctly and is carried out in accordance with relevant procedure.

14.2 Only when a completed application form and all correct supporting documents have been provided will the Council consider and determine an application. The Council has the power under Section 57 of the 1976 Act to request any information it deems necessary to determine an application.

### **14.3 Licence Duration**

14.4 The Council will grant licences for the maximum period specified by law except where appropriate to grant a licence for a lesser period.

14.5 Private hire operator licences will be granted for a maximum of five years or for a lesser period where appropriate or requested by the applicant.

14.6 Driver licences will be granted for the maximum legislative period of 3 years except where restricted by the Immigration Act 2016.

14.7 Vehicle licences will be granted for the maximum legislative period of 12 months.

### **14.8 Grant and Renewal of Licences**

14.9 It is the responsibility of a licence holder to ensure that they renew their licence. The Council is not obligated to remind licence holders that their licence is due to expire.

14.10 A licence holder who allows their licence to lapse and continues to work commits an offence. The Council is not obligated to notify an individual that their licence has expired or remind them not to work unlawfully without it.

14.11 Expiry dates will be clearly noted on licence documents and the procedure to renew will be clearly available to licence holders.

- 14.12 Applications to renew an operator licence should be received by the Council at least two months in advance of the licence expiry date to ensure that a renewal application can be processed and a licence issued in time.
- 14.13 Applications to renew a vehicle licence should be made one calendar month before the expiry of the licence.
- 14.14 Applications to renew a driver licence should be made two calendar months prior to expiry.
- 14.15 If an application is received too close to its expiry date, or is incomplete, there may be insufficient time to process the application before the existing licence expires and a new one is granted. The Council will not be liable for any loss that occurs due to an individual's failure to renew a licence in good time.
- 14.16 A renewal application made after the expiry of the licence will be treated as a new application and must comply with the requirements of the Council's policy for new applicants.
- 14.17 The considerations in this Policy for the determination of a new application apply equally to those of a renewal application except where the law, this Policy, or any procedure clearly distinguishes otherwise.

#### **14.18 Conditions**

- 14.19 Standard conditions adopted by the Regulatory Committee will be imposed on all licences granted and will be contained in the Taxi Licensing Conditions and Procedures document. A Regulatory Sub-Committee or Officers may impose further conditions if considered reasonably necessary on the individual merits of an application or review of a licence.

#### **15. Consideration of an application**

- 15.1 It is expected that applicants who intend to be considered fit and proper will ensure that the information given on their application form is correct and truthful. The application form should document all convictions, cautions, fixed penalty notices, police warnings and all other relevant information.
- 15.2 The Council will take a serious view of an applicant who seeks to conceal any conviction, caution, fixed penalty notice, police warning in order to obtain a licence. To knowingly conceal this information is a criminal offence and will lead to licence refusal and possible criminal proceedings. Any information relating to criminal background will be kept only for as long as is reasonable necessary.
- 15.3 Information disclosed will be kept in strict confidence and retained no longer than is reasonably necessary to determine an application. Where a licence is granted this information will be kept for no longer than is necessary after that licence has lapsed in accordance with data protection legislation and the Council's retention policy.
- 15.4 An applicant may be required to attend an interview with Council Officers before a licence is granted or to appear before a Regulatory Sub-Committee.

Any applicant who fails to attend a requested meeting of the Council (officer or committee) without reasonable excuse will have their application determined in their absence. This may result in the application being considered withdrawn or refused.

- 15.5 If an application for a driver or operator licence is refused the Council will not consider a further application until a reasonable time period has elapsed. This will ordinarily be at least 12 months.
- 15.6 The Council may publish the details of any individual granted a licence, refused a licence or who has a licence suspended or revoked on any national database in existence.

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## **16. Suitability of Licensed Individuals**

Guidelines relating to the relevance of criminal convictions, cautions, driving offences, regulatory breaches, allegations and anything similar are to be applied by Officers and Regulatory Sub-Committees when determining the grant, refusal, suspension or revocation of licences for hackney carriage and private hire drivers and proprietors and private hire operators.

### **1. General**

- 1.1 Each case will be decided on its individual merits.
- 1.2 The overriding consideration is public safety and safeguarding.
- 1.3 This Policy outlines how the Council will assess whether an applicant or a licence holder is fit and proper. In making this determination the convictions of the applicant or licence holder will be considered. The Policy applies the same to convictions received outside of the UK.
- 1.4 Previous convictions or those occurring during the term of a licence indicate that a person is not 'fit and proper'.
- 1.5 The Council recognises that there are differences between those individuals who act as drivers; those individuals or companies who operate private hire vehicles; and those individuals or companies who are vehicle proprietors.
- 1.6 A person who has been convicted of a criminal offence will not necessarily be prevented from ever obtaining a licence. However, they are expected to remain free of conviction for a duration commensurate with the seriousness of the offence(s) in order to evidence to the satisfaction of the Council that they are fit and proper and do not pose a danger to the public.
- 1.7 Simply remaining free from convictions will not generally be regarded as sufficient evidence that a person is 'fit and proper' to hold a licence. The overriding consideration is the protection of the public and for some offences the duration in which a person will be expected to be free from conviction is significant.
- 1.8 The Council will not grant a licence to someone who has been convicted of a serious violent or sexual offence. The Council will refuse any application where the individual is listed on a DBS barring list for working with children or adults or on the sex offenders' register.
- 1.9 The Council will also take into account the number of convictions irrespective of category; the number of counts on a conviction; the sentencing Court concerned; and the sentence imposed. Reference to Magistrates/Crown Court guidelines may also be considered.
- 1.10 The Council will investigate and review the licence of any person convicted of an offence and may suspend or revoke, or refuse to renew a licence, in such instances.

- 1.11 The Council will apply the same to any licence holder convicted of an offence whilst licenced or when applying to renew and should be construed accordingly. For example, if an offence stated will result in the refusal of a new application it should be read that it shall also result in the refusal of a renewal application or the revocation or suspension of a licence that has been granted.
- 1.12 The offences listed in this Policy are not exhaustive and any offence stated in this part should be read as including all offences similar to it, any offence that replaces it, the attempt or conspiracy to commit it, or the aiding, abetting and procuring of it.
- 1.13 The Council takes a serious view of all criminal offences. However, convictions for driving (major), dishonesty, violent or sexual offences will be considered extremely serious and likely to result in refusal or revocation of licence.
- 1.14 For the purpose of this Policy simple cautions, endorsements and fixed penalty notices will be treated as though they are convictions and the timescales in this Policy apply equally to each. The Council recognises that these measures are utilised for low level offences where it is not in the public interest to prosecute, however, a person must admit to an offence in order to be cautioned or to accept a fixed penalty notice.

## **2. Sexual and Indecency Offences**

- 2.1 Licensed drivers carry unaccompanied and/or vulnerable passengers and therefore the Council will not grant a licence where the applicant has been convicted of:
- Rape
  - Assault by penetration
  - Offences involving children or vulnerable adults
  - Sexual assault
  - Indecent assault
  - Possession of indecent photographs, child pornography etc.
  - Exploitation of prostitution
  - Trafficking for sexual exploitation
  - Indecent exposure
  - Soliciting or loitering for the purpose of prostitution
- 2.2 The Council will revoke the licence of any licence holder convicted of any of the above offences.

## **3. Violence**

- 3.1 The Council will not grant a licence where the applicant has a conviction for any of the following:
- Murder
  - Manslaughter
  - Manslaughter or culpable homicide while driving

- Arson with intent to endanger life
- Terrorism offences

3.2 The Council will not grant a licence to any person who has, in the 10 years prior to an application, been convicted of:

- Grievous bodily harm
- Malicious wounding
- Robbery
- Possession of firearm
- Riot
- Assault on Police
- Violent disorder
- Resisting arrest
- Or any of the offences in 3.3 or 3.4 below that are racially aggravated

3.3 The Council will not grant a licence to any person who has, in the 5 years prior to an application, been convicted of:

- Assault occasioning actual bodily harm
- Common assault
- Affray
- Criminal damage
- Harassment
- Battery

3.4 The Council will not grant a licence to any person who has, in the 3 years prior to an application, been convicted of:

- S.5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Possession of a weapon
- Obstruction
- Minor criminal damage

3.5 An applicant convicted of more than one violent offence will be expected to have undergone a much longer period of time without re-offending to evidence that they are fit and proper.

## **4. Dishonesty**

4.1 A licence will not be granted where the applicant has, in the 3 years prior to application, been convicted of:

- Theft
- Burglary
- Fraud including benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud

- Obtaining money or property by deception
- Other deception

4.2 The Council will not grant a licence where an applicant has been convicted of more than one offence of dishonesty within 5 years prior to application. The Council will expect an applicant to evidence a longer period of time clear of conviction where they have more than 3 convictions of dishonesty offences.

## **5. Driving related Convictions, Endorsements and Offences**

5.1 Given the nature of the work carried out by licensed drivers, MK residents and the Council expect that they have a suitably high level of driving standard.

5.2 The Council acknowledges that the DVLA distinguishes between minor and major traffic offences and this distinction should be considered when applying this Policy. The table at the end of this Policy lists all present DVLA driving offences, whether they are major or minor. When this table is updated by the DVLA Council officers will have delegated power to amend this part of the Policy in consultation with the relevant Cabinet member.

5.3 References to penalty points and endorsements in this section of the Policy mean those imposed by the DVLA on a driving licence issued by the DVLA.

### **5.4 Alcohol and drug related offences with a motor vehicle**

5.5 An applicant convicted of any offence of driving, attempting to drive, or being in charge of, a motor vehicle with alcohol levels in the blood, breath or urine above the legal limit or driving whilst under the influence of drugs will not be licensed until at least 5 years have elapsed following the restoration of their DVLA driving licence.

5.6 More than one conviction for an offence as described above is an unacceptable risk to the public and an application will be refused.

5.7 The Council will refuse to renew, or will suspend or revoke, the licence of any licensed driver convicted of an offence described above.

### **5.8 Major Traffic Offences**

5.9 A licence will not be granted to a person who has been disqualified from driving following a conviction for a major traffic offence until at least five years have elapsed after the reinstatement of the applicants' driving licence and without further offence.

5.10 An applicant with 6 penalty points or more will not be granted a licence if one of the current endorsements relates to a major traffic offence.

5.11 A licence holder will have their licence revoked if they have 7 or more DVLA points and one of those endorsements is a major traffic offence.

## **5.12 Minor Traffic Offences**

- 5.13 An applicant with six or fewer unspent penalty points on their driving licence for minor traffic offences is not precluded from being granted a licence.
- 5.14 An applicant with 6 penalty points or a history of driving endorsements will, if licensed, be given a clear warning about their duties.
- 5.15 An applicant with 7 or more points on their licence will not be granted a licence.
- 5.16 An applicant that has been disqualified from driving under the DVLA totting up procedure (having received 12 DVLA points within 3 years) will not be granted a licence unless:
- a. They have had have their DVLA driving licence reinstated for at least 12 months; and
  - b. Have received no further driving endorsements since their DVLA licence was reinstated;
  - c. Or, if that individual has received further driving endorsements since a DVLA licence has been reinstated, a further 12 months must elapse before a licence may be granted.
- 5.17 A licensed driver accumulating 6 DVLA penalty points may have a renewed licence granted with a warning provided that they have undertaken, or have been conditioned to undertake, a relevant taxi driving test/course.
- 5.18 A licensed driver accumulating 7 or more DVLA penalty points but fewer than 10 for minor traffic offences will have their licence reviewed as follows:
- a. A licensed driver with 7 or more DVLA penalty points who has taken a relevant taxi driving test/course, prior to the most recent endorsement and within the last 3 years, and completed the Council's Driver Assessment Suitability procedure (at their own cost) will have their licence revoked unless exceptional circumstances exist.
  - b. A licensed driver with 7 or more DVLA penalty points who has not taken a relevant driving test/course within the last 3 years will be required to pass a relevant driving test/course and the Council's Driver Assessment Suitability procedure (at their own cost). Should the licence holder fail to complete these tasks by a certain date they will be suspended until completed.
- 5.19 A licensed driver with 10 or more DVLA penalty points will have their licence revoked and no further application considered until 6 points or fewer remain.

## **5.20 History of offending**

- 5.21 Notwithstanding the above, a record of endorsements (spent or otherwise) will be a relevant consideration when determining applications or reviewing licences. The number, frequency and nature of such endorsements will be considered cumulatively and if indicative that a driver is either careless, irresponsible or does not respect the rules and regulations applicable to road

users, the Council will consider the applicant or licence holder to not be fit and proper to hold a licence.

## **6. Alcohol and Drug Related Offences not involving a motor vehicle**

### **6.1 General alcohol related offence**

6.2 The Council will not consider the influence of alcohol as a mitigating factor when applying the criteria of this policy.

6.3 An applicant convicted of an offence that is not considered elsewhere in this Policy and involves alcohol as a cause will not be considered fit and proper for a period of at least 12 months from the date of conviction.

### **6.4 Drugs**

6.5 The Council will not grant a licence unless:

- a. An applicant is 5 years clear of any conviction related to the supply of drugs.
- b. An applicant is 3 years clear of a conviction for the possession of drugs.

6.6 An applicant convicted of more than one offence for the supply of drugs will not be licensed.

6.7 An applicant who has served more than 3 years in custody will be expected to undergo a longer period of time than that indicated above.

6.8 When considering the number of years an applicant will be expected to be clear of a conviction, the Council may take into account the classification of the drug.

## **7. Licensing and Regulatory Offences**

- 7.1 The Council will not grant a licence to an applicant convicted of a Licensing Offence (i.e. an offence under the 1847 Act, the 1976 Act, bye-laws, or associated legislation) until the applicant is at least 1 year clear of the conviction.
- 7.2 The Council will not grant a licence to an applicant convicted of an offence under any regulatory regime (i.e. licensing, planning, food safety etc.) until the applicant is at least 1 year clear of the conviction.
- 7.3 The Council will review the licence of any licence holder convicted of a licensing offence.
- 7.4 A licence holder convicted of a licensing offence by the Council may have their licence revoked. The Council may choose not to revoke a licence if the licence holder:
- a) has not previously committed an offence;
  - b) has no other relevant convictions;
  - c) has no Council imposed penalty points for similar offences to that which s/he was convicted of;
  - d) admitted the offence and assisted officers with their investigation;
  - e) satisfactorily passed the Council's Driver Assessment Suitability procedure.
- 7.5 An applicant with more than one conviction for a licensing offence, within a 3 year period, will have their licence revoked. Licensing offences committed over a longer period will be reviewed.
- 7.6 Any person who has had their licence revoked will not be considered to hold a further licence until at least 12 months has elapsed since the date of revocation. This Policy will therefore apply to any subsequent application made after that time.
- 7.7 Where a licence has been revoked due to a conviction, the timescales as indicated in this Policy will apply.
- 7.8 Applicants who receive 12 penalty points under the Council's Penalty Points Warning Scheme will have their licence reviewed. If their licence is not revoked at that time it would be expected that any further breach resulting in penalty points, driving endorsement, conviction or caution would result in revocation. Those who do not reach the 12 point threshold to have their licence reviewed under that scheme but show evidence of regular offending may still have their licence reviewed and possibly suspended or revoked.
- 7.9 Conduct**
- 7.10 Some breaches of Policy or licence conditions may be committed by a licence holder which are not criminal in nature but are still relevant as to whether the Council is satisfied that an individual is fit and proper.

- 7.11 Examples of this may be inappropriate conversations with passengers; inconsiderate parking; discriminatory, aggressive, discourteous, offensive or unprofessional behaviour toward members of the public, Council officers or other members of the licensed trade.
- 7.12 Substantiated complaints of this nature or a pattern of complaints will indicate that a licence holder is either not fit and proper or in need of education and training. In these instances the Council will review a licence.

## **8. Court Injunctions**

- 8.1 An applicant subject to a current court order or injunction will not be granted a licence.
- 8.2 The Council will expect an applicant to be at least 1 year clear of a court order or injunction and at least 3 years for any court order or injunction related to anti-social behaviour, harassment, violence or dishonesty before a licence is granted.

## **9. Allegations**

- 9.1 The Council recognises that where criminal allegations (such as assault, plying for hire) are made a licence holder is legally innocent until the allegation is proven guilty beyond reasonable doubt. In regard to administrative allegations (such as conduct, condition breaches) a licence holder is also legally innocent until the allegation is substantiated on a balance of probabilities basis.
- 9.2 If an allegation is made about a licensed driver the Council will investigate and review that licence.
- 9.3 Where an allegation made about a licensed driver is being investigated by the Police or another agency and there is no immediate public safety risk, the Council will wait until the conclusion of that investigation.
- 9.4 Where an allegation made about a licensed driver is being investigated by the Police or another agency and the Council considers that, if true, the licensed driver would pose a danger to the public the Council will review the licence.
- 9.5 When making a decision based on an allegation the Council will consider the seriousness of the offence alleged, whether the licence holder has been charged, whether the licence holder notified the Council of the offence, and the licence holder's previous criminal history.
- 9.6 In determining whether a licence holder shall retain his/her licence after an allegation is substantiated, the Council shall base its decision on a balance of probabilities basis taking into account the nature of the offence and whether the driver's actions poses a danger to the public.

## **10. Immediate Public Safety Risk**

- 10.1 Where it is in the interest of public safety to do so, the Council may suspend or revoke a licence with immediate effect. Repeated licensing offences such as

plying for hire, overcharging, dangerous driving and gross misconduct would warrant revocation with immediate effect.

- 10.2 The Council considers any conviction for, or allegation of, a sexual or violent offence, as stipulated in this Policy, to be extremely serious and a danger to the public. These conviction(s) would warrant a revocation or suspension of a licence with immediate effect.

## 11. Review of Licences

- 11.1 The review of a licence will occur once the Council is aware of a conviction, allegation or complaint that has, where appropriate, been substantiated following an investigation.
- 11.2 In respect to criminal convictions, driving endorsements and allegations the Council will follow this Policy.
- 11.3 In all other instances, such as issues of conduct, the Council shall do one or more of the following:
- a. If satisfied that the individual remains fit and proper to be licensed provide either a warning or advice, or apply the Penalty Points Warning and Education Scheme;
  - b. If not satisfied that an individual is fit and proper due to lack of “knowledge” require him/her to complete the Driver Assessment Suitability (DAS) procedure at his/her own expense to evidence that s/he is fit and proper and either suspend the individual until s/he takes the DAS or if s/he fails to comply.

## 12. Table of Traffic Offences

Includes aiding, abetting, counselling or procuring, causing, permitting or inciting any of the offences as coded below. This table is correct at the time of the last adoption of this Policy but the DVLA may update, add or amend the codes, offences, points and duration points remain on a DVLA licence and applicants are advised to consult the DVLA website for up to date information.

CODE	OFFENCE	Penalty Points	Duration on DVLA Licence	Major or Minor Traffic offence
AC10	Failing to stop after an accident	5 to 10	4 years from date of offence.	Major
AC20	Failing to give particulars or report an accident within 24 hours	5 to 10	4 years from date of offence.	Major
AC30	Undefined accident offences	4 to 9	4 years from date of offence.	Major
BA10	Driving while disqualified by order of court	6	4 years from date of offence.	Major
BA30	Attempting to drive while disqualified by order of court.	6	4 years from date of offence.	Major
BA40	Causing death by driving while disqualified	3 to 11	4 years from date of the conviction.	Major
BA60	Causing serious injury by driving while disqualified	3 to 11	4 years from date of the conviction.	Major
CD10	Driving without due care and attention	3 to 9	4 years from date of offence.	Major

CD20	Driving without reasonable consideration for other road users	3 to 9	4 years from date of offence.	Major
CD30	Driving without due care and attention or without reasonable consideration for other road users	3 to 9	4 years from date of offence.	Major
CD40	Causing death through careless driving when unfit through drink	3 to 11	11 years from date of offence.	Major
CD50	Causing death by careless driving when unfit through drugs	3 to 11	11 years from date of offence.	Major
CD60	Causing death by careless driving with alcohol level above the limit	3 to 11	11 years from date of offence.	Major
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis	3 to 11	11 years from date of offence.	Major
CD80	Causing death by careless, or inconsiderate, driving.	3 to 11	4 years from date of offence.	Major
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	3 to 11	4 years from date of offence.	Major
CU10	Using a vehicle with defective brakes	3	4 years from date of offence.	Minor
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.	3	4 years from date of offence.	Minor
CU30	Using a vehicle with defective tyre(s)	3	4 years from date of offence.	Minor
CU40	Using a vehicle with defective steering	3	4 years from date of offence.	Minor
CU50	Causing or likely to cause danger by reason of load or passengers	3	4 years from date of offence.	Minor
CU80	Breach of requirements as to control of the vehicle, mobile telephone etc	3	4 years from date of offence.	Minor
DD10	Causing serious injury by dangerous driving	3 to 11	4 years from date of the conviction.	Major
DD40	Dangerous driving	3 to 11	4 years from date of the conviction.	Major
DD60	Manslaughter or culpable homicide while driving a vehicle	3 to 11	4 years from date of the conviction.	Major
DD80	Causing death by dangerous driving	3 to 11	4 years from date of the conviction.	Major
DD90	Furious driving	3 to 9	4 years from date of the conviction.	Major
DR10	Driving or attempting to drive with alcohol level above limit	3 to 11	11 years from date of Conviction.	Major
DR20	Driving or attempting to drive while unfit through drink	3 to 11	11 years from date of conviction.	Major
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3 to 11	11 years from date of conviction.	Major
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity	3 to 11	11 years from date of conviction.	Major
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive	10	11 years from date of conviction.	Major

DR40	In charge of a vehicle while alcohol level above limit	10	4 years from date of offence.	Major
DR50	In charge of a vehicle while unfit through drink	10	4 years from date of offence.	Major
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10	4 years from date of offence.	Major
DR70	Failing to provide specimen for breath test	4	4 years from date of offence.	Major
DG10	Driving or attempting to drive with drug level above the specified limit	3 to 11	11 years from date of conviction.	Major
DG60	Causing death by careless driving with drug level above the limit	3 to 11	11 years from date of conviction.	Major
DR80	Driving or attempting to drive when unfit through drugs	3 to 11	11 years from date of conviction.	Major
DG40	In charge of a vehicle while drug level above specified limit	10	4 years from date of offence or 4 years from the date of conviction where a disqualification is imposed.	Major
DR90	In charge of a vehicle when unfit through drugs	10	4 years from date of offence or 4 years from the date of conviction where a disqualification is imposed.	Major
IN10	Using a vehicle uninsured against third party risks	6 to 8	4 years from date of offence	Major
LC20	Driving otherwise than in accordance with a licence	3 to 6	4 years from date of offence	Major
LC30	Driving after making a false declaration about fitness when applying for a licence	3 to 6	4 years from date of offence	Major
LC40	Driving a vehicle having failed to notify a disability	3 to 6	4 years from date of offence	Major
LC50	Driving after a licence has been revoked or refused on medical grounds	3 to 6	4 years from date of offence	Major
MS10	Leaving a vehicle in a dangerous position	3	4 years from date of offence	Minor
MS20	Unlawful pillion riding	3	4 years from date of offence	Minor
MS30	Play street offences	2	4 years from date of offence	Minor
MS50	Motor racing on the highway	3 to 11	4 years from date of offence	Major
MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)	3	4 years from date of offence	Major
MS70	Driving with uncorrected defective eyesight	3	4 years from date of offence	Minor
MS80	Refusing to submit to an eyesight test	3	4 years from date of offence	Minor
MS90	Failure to give information as to identity of driver etc	6	4 years from date of offence	Minor
MW10	Contravention of special roads regulations (excluding speed limits)	3	4 years from date of offence	Minor
PC10	Undefined contravention of pedestrian crossing regulations	3	4 years from date of offence	Minor
PC20	Contravention of pedestrian crossing regulations with moving vehicle	3	4 years from date of offence	Minor
PC30	Contravention of pedestrian crossing	3	4 years from date of offence	Minor

	regulations with stationary vehicle			
SP10	Exceeding goods vehicle speed limits	3 to 6	4 years from date of offence	Minor
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3 to 6	4 years from date of offence	Minor
SP30	Exceeding statutory speed limit on a public road	3 to 6	4 years from date of offence	Minor
SP40	Exceeding passenger vehicle speed limit	3 to 6	4 years from date of offence	Minor
SP50	Exceeding speed limit on a motorway	3 to 6	4 years from date of offence	Minor
TS10	Failing to comply with traffic light signals	3	4 years from date of offence	Minor
TS20	Failing to comply with double white lines	3	4 years from date of offence	Minor
TS30	Failing to comply with 'stop' sign	3	4 years from date of offence	Minor
TS40	Failing to comply with direction of a constable/warden	3	4 years from date of offence	Minor
TS50	Failing to comply with traffic sign (excluding 'stop' signs, traffic lights or double white lines)	3	4 years from date of offence	Minor
TS60	Failing to comply with a school crossing patrol sign	3	4 years from date of offence	Minor
TS70	Undefined failure to comply with a traffic direction sign	3	4 years from date of offence	Minor
TT99	Disqualification under "totting up" – 12 points within 3 years.		4 years from date of conviction.	Major
UT50	Aggravated taking of a vehicle	3 to 11	4 years from date of offence	Major

## Definitions

Where used within this Policy or any associated procedures set by the Regulatory Committee the following words will have the meanings attributed to them in this part.

“The Council”	MKC.
“The Authority”	MKC.
“Licensed Vehicle”	A hackney carriage and/or a private hire vehicle.
“Vehicle”	Unless the context indicates otherwise means a “licensed vehicle”.
“Private hire vehicle”	A vehicle licensed under the 1976 Act to carry a passenger for hire or reward by prior booking through a private hire operator.
“Private hire operator”	Means a person licensed under Section 55 of the 1976 Act who makes provision for the acceptance of private hire bookings to undertake themselves or pass to others to undertake.
“Hackney Carriage”	A vehicle used to stand or ply for hire licensed by the Council.
“Operate”	To, in the course of business, make provision for the invitation or acceptance of bookings for a private hire vehicle.
“The DfT”	The Department for Transport, including previous names under which that Department has been known.
“The DfT Guidance”	The Department for Transport – Taxi and Private Hire Vehicle Licensing: Best Practice Guidance, published in March 2010.
“The Committee”.	The Regulatory Committee or Regulatory Sub-Committee of the Council.
“The Executive”	The Cabinet of MKC
“Driver”	An individual licensed by, or applying to be licensed by MKC to drive a Private Hire Vehicle or a Hackney Carriage
“Taxi”	Often used generically by members of the public and the trade to describe both hackney carriages and private hire vehicles. Legislation issued later than 1976 Act refers to Hackney Carriages as “Taxi’s”. For the avoidance of doubt the term is not used in this Policy other than to refer to both types of Licensed Vehicle.
“DVLA driving licence”	Means a full original UK driving licence issued by the DVLA.
“DVLA”	Driver and Vehicle Licensing Agency and any previous or subsequent names by which it may be known.
“Seatbelt”	A three point belt which restrains the upper and lower parts of the torso including lap belt. The belt is anchored at not less than three points, and is designed for use by an adult.
“Policy”	This Policy as adopted by the Cabinet.
“Procedures”	Processes set by the Regulatory Committee to be followed in obtaining a licence.
“Assistance Dog”	Means, (a)a dog which has been trained to guide a blind person; (b)a dog which has been trained to assist a deaf person; (c)a dog which has been trained by a prescribed charity to assist a disabled person who has a disability that consists of epilepsy or otherwise affects the person's mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects; (d)a dog of a prescribed category which has been trained to assist a disabled person who has a disability (other than one falling within paragraph (c)) of a prescribed kind;
“Conditions”	Conditions applied to a licence granted.
“WAV”	A wheelchair accessible vehicle.
“The primary licensing legislation”	Means the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976
“The 1976 Act”	Means the Local Government (Miscellaneous Provisions) Act 1976.
“The 1847 Act”	Means the Town and Police Clauses Act 1847.
“Controlled District”	Means an authority that has adopted the provisions of the 1976 Act.
“Date of first registration”	In respect of a vehicle means the date shown as the date of first registration on the vehicles log book issued by the DVLA.
“Relevant Taxi Driving Test”	A test of an individual’s ability to drive a taxi as conducted and assessed by a qualified driving instructor employed by the Council or such organisation as may be approved by the Council for that purpose

## **Taxi Licencing and Enforcement Service**

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