

Area

Breckland Council (the Council) is situated in the County of Norfolk, which contains seven District Councils in total. The Breckland Council area has a population of 138,600. It covers an area of 1,305 sq kilometres and is one of the largest rural districts in England.

The Council area has five main market towns which are Attleborough, Dereham, Swaffham, Thetford and Watton. There are also 112 parishes in Breckland but the majority of the population is centred around these five market towns.

Introduction

Hackney carriages (more generally known as taxis) and Private Hire vehicles play an important part in public transport. They are used by all social groups.

The primary purpose of the Local Authority when licensing Hackney Carriage and Private Hire vehicles, Operators and Drivers is to protect the public. The Council is aware that the public should have reasonable access to safe and comfortable Hackney Carriage and Private Hire vehicles because of the role they play in public transport provision.

A Hackney Carriage is a public transport vehicle with no more than 8 passenger seats, which is licensed to 'ply for hire'. This means that it may stand at designated taxi ranks or be hailed in the street by members of the public. Private Hire vehicles must have no more than 8 passenger seats and must be booked in advance, through an operator, and may not ply for hire in the street.

Local authorities are responsible for the licensing, administration and enforcement of Hackney Carriage and Private Hire vehicles in their area.

Vehicles which accommodate more than eight passengers are classed as Public Service Vehicles (PSV) and are not covered by the legislation or this policy. The council has no involvement in the licensing of PSV's, they are the responsibility of The Traffic Commissioner.

Powers and Duties

The Council has adopted part 2 of The Local Government (Miscellaneous Provisions) Act 1976. This legislation, together with the provisions of The Town and Police Clauses Act 1847, gives the Council the powers and duties to carry out licensing functions in respect of Hackney Carriage and Private Hire matters. The Council is, therefore, responsible for the licensing of Hackney Carriages and their drivers together with Private Hire Operators, vehicles and their drivers. This document sets out the policy that the Council will apply when making decisions about Hackney Carriage and Private Hire matters. **It is expected that licence applicants will have read the conditions and policies prior to making an application for a licence. It is expected that licence holders will comply with the conditions and policies at all times.**

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 shall not apply and will be amended at the earliest opportunity.

The licensing authority understands the importance and responsibility it has in ensuring that licensed vehicles in the district are safe, comfortable, properly insured and available where and when required, and that drivers are fit and proper to undertake the role. This policy and the imposition of conditions found in the appendix documents are considered appropriate to address all these aspects.

In exercising its discretion in carrying out regulatory functions, the council will have regard to this policy and appendices.

In formulating this policy, consideration has been given to local circumstances and requirements and the DfT best practice guidance March 2010.

Every decision, application and enforcement action will be considered on its own merits.

The council may depart from this policy if merited, but will provide clear and compelling reasons for doing so.

This policy is not a comprehensive statement of the law, applicants should always obtain their own legal advice if they are unsure of the requirements of legislation.

It must be noted that vehicles and drivers licensed by different local authorities can be used for private hire purposes within this district. These vehicles and drivers are not subject to compliance with the conditions applied by this authority. But must still comply with their own local authority conditions and the general law.

Consultation and Revision

The council will consult with stakeholders and relevant agencies prior to the adoption of this policy, and will do so for the further continuation and development of the policy.

This policy and appendices will be kept under review and revised as appropriate and in any event, not less than every five years. The council expects licence holders to comply with its terms and conditions.

This being the first draft of the policy, will be consulted upon for 12 weeks from xxx to xxx.

The consultation draft policy will be made freely available on the council's website and main council buildings.

The Licensing Regime

Any person who carries out hire and reward work without the correct licences, would be breaking the law and therefore would not have valid insurance. This can have serious consequences for all parties involved, if an accident or incident occurs.

In order to be licensed correctly the licenses must 'match', i.e. issued by the same local authority. A hackney carriage vehicle and the driver must be licensed by the same local authority. For private hire, the operator, driver and vehicle must be licensed by the same authority. This does not prohibit the operator subcontracting a booking to another operator licensed by a different local authority.

The legislation places a duty on the local authority to only licence those who are considered to be 'fit and proper'. The term 'fit and proper' is not defined in legislation therefore the widest interpretation will apply.

The legislation allows local authorities to set their own conditions, requirements and application processes. Which means that each local authority's requirements and conditions are different.

Other general law is also applicable such as the Road Traffic Act, Health and Safety at Work Act, the Health Act, the Equality Act etc. This is not a definitive list and not all applicable legislation is enforced or regulated by the council. Breckland Council expects licence holders to ensure that they keep up to date and comply with all applicable legislation pertaining to their roles.

Role of Hackney Carriage and Private Hire Trade and the difference between them

The Council recognises the importance of hackney carriage and private hire vehicles, drivers, proprietors and operators. They play an essential role in the provision of local transport for those who have difficulty getting about on public transport, those enjoying the night time economy, taking children to school etc., and are vital in helping to maintain a healthy local economy. They can often be the first contact for a visitor to the local area.

Whilst the general public do not always know the difference between a hackney carriage and a private hire vehicle, and often refer to both as taxis, there are significant distinctions in law, on how they are allowed to operate. However, both have equal importance.

Within the district in which a hackney carriage vehicle (and driver) are licensed, they are available for immediate hiring, they can be hailed (or flagged) in the street, can wait on a rank and be approached directly by a member of the public i.e. 'ply for hire' in public places. They are not required to be booked via an operator. They must display a table of fares within the vehicle which shows the current maximum fares to be charged as set by the local authority. In law, these are allowed to be called 'taxis' or 'cabs'. Hackney carriages licensed by another local authority who operate within this district cannot ply for hire or wait on ranks. They may however be used for private hire purposes, i.e. carry out pre-booked journeys.

A private hire vehicle is not allowed to accept direct bookings from the public. They can only accept bookings from a licensed operator, they cannot operate independently, i.e. without a licensed operator. They cannot be hailed in the street or wait on ranks. If a private hire driver accepts a fare which has not been pre-booked through a licensed operator, they are committing an offence and potentially driving without valid insurance.

The fares charged are not regulated by the authority, but must be agreed with the operator at the time of booking. Although, within district, where a private hire vehicle has a taximeter fitted, the fare charged cannot be more than would be charged by the taximeter fare. They are not allowed to use the term 'taxi' or 'cab'.

In determining if a vehicle is being used for private hire purposes and needs to be licensed, the council will have regard to the guidance issued by DfT.

Information sharing

The council works in partnership with many other enforcement agencies such as the Police, HM Revenue and Customs, the Home Office, DVSA, Department of Work and Pensions, benefit fraud etc. The council will share information with other departments or regulatory bodies where appropriate. The council is legally required to provide information if requested, pursuant to a criminal offence, or to detect fraud, or immigration offences.

The legislation also requires local authorities to maintain a public register.

The council will work with neighbouring authorities and report to them any relevant matters that relate to their licence holders.

Decision making

Each application and enforcement action will be determined on its own merits. Determination of applications will be made in accordance with this policy and the council's constitution. Officers have delegated powers, but may also refer certain matters to the licensing committee if appropriate.

The Licensing Committee will appoint a Licensing Panel, which will consist of three members. The Licensing Panel will be advised by a legal representative.

Where an application is referred to the Licensing Panel for consideration, the applicant will be notified in writing of the reason and the date, time and venue of the Hearing.

The licensing hearings are conducted in a quasi-judicial manner. This means that the Licensing Panel has to act in a similar fashion to a Court or Tribunal. It is therefore important that persons appearing before the Panel should behave in an appropriate manner.

Enforcement actions will be in accordance with this policy, the council's enforcement policy and the Regulators' Code 2014.

Any person who has been refused a licence, or has had their licence revoked or suspended, or who believes that the imposition of a condition is unfair, may appeal to the magistrate's court within 21 days of being given the decision.

Immigration Act – all licences

The council has a statutory obligation to ensure that applicants have the legal right to work in the UK prior to issuing a licence. The issuing or refusing of licenses will be undertaken in accordance with the requirements of the Immigration Act 2016 with due regard to Home Office guidance.

The council takes this responsibility seriously and has checks in place to ensure compliance with the Act, and will liaise where required with relevant Home Office departments. If however, a licence has been issued incorrectly for whatever reason, the licence ceases to have effect if the person does not have the right to work in the UK. Any licence which has expired due to the person's immigration status must be returned to the council within 7 days.

A licence may be suspended or revoked or refused to be renewed if, since the grant of the licence, there has been a conviction of an immigration offence or a requirement to pay an immigration penalty.

Proprietors and operators also have an obligation to ensure that they only utilise persons who have the right to work in the UK. Failure to observe this obligation, or to provide due diligence checks, will be subject to enforcement action by the appropriate Home Office department, which may result in a civil penalty or imprisonment.

Passenger Transport

To become an approved operator for children's transport, please call the County Council's Passenger Transport Team.

Complaints

To make any complaint regarding any hackney carriage or private hire matter please make your complaint in writing to the councils Licensing department:

Licensing

Breckland Council
Elizabeth House
Walpole
Dereham
Norfolk
NR19 1EE

Email: licensing.team@breckland.gov.uk