

GENERAL PROVISIONS FOR HACKNEY CARRIAGE & PRIVATE HIRE DRIVERS

The Council will only issue a dual drivers licence, which entitles the qualified driver to drive either a Hackney Carriage or Private Hire Vehicle.

Drivers general

The council can only licence drivers that it considers are 'fit and proper' to hold a licence, and that the applicant is not disqualified by reason of their immigration status. There is no definition or general test that determines whether or not a driver is deemed 'fit and proper' to hold a licence. It is a matter of judgement for the licensing authority in order to assess any risks or concerns, taking into consideration such matters as the applicant's integrity, honesty and previous character. Previous convictions and cautions are taken into account as well as other information.

Therefore the council will require applicants and licence holders to undertake several checks and tests to establish their suitability to be considered 'fit and proper' to either be, or remain licensed.

Applicants and existing licence holders are required to share information held about them by various bodies, such as DVLA, the police, medical information, right to work, immigration status, etc. The council can request any information it deems may be relevant to determine their fit and proper status. This may include checking a driver's prior history with this or any other council, using intelligence from the police or any other regulatory authority as appears relevant.

In order to be eligible to apply to be a licensed driver, an applicant must have held a valid full GB driving licence (or equivalent as defined by DVLA) for a minimum of 12 months. Therefore the minimum age a person could be eligible to apply is 18 years old. There is no maximum age, so long as the applicant still meets the full criteria.

In order to be a licensed driver an applicant must submit a signed completed application form and fee, provide proof of right to work in the UK, complete an approved drivers course as stated by the council, provide a satisfactory DBS, DVLA and group 2 medical report, provide a recent passport type photo, and pass the wheelchair assessment test.

Driver's licenses are generally issued for a three year duration. They may be issued for a lesser period if appropriate, e.g. the applicant's right to work is of a shorter or limited duration. They may also be renewed, however, if a licensed driver fails to renew within a period of 28 days of the date of expiry of the licence, they will be required to apply as a new driver and meet all the requirements.

It is the responsibility of the driver to ensure they apply for their renewal with all relevant supporting original documentation in good time to avoid any unnecessary burden.

It is important that drivers notify the council of any significant changes which occur after their licence has been granted. Such as change of name or address, or email address or telephone number, change of immigration status, changes in their physical or mental health which may affect their driving ability, all convictions, cautions or arrests, DVLA penalty points etc. or any other matter which may question their fit and proper status.

All licensed drivers are required to wear their drivers badge whilst working as a licensed driver. Failure to comply is an offence under the 1976 Act and local byelaws. Drivers are reminded

that the driver's badge remains the property of the Council, all expired, surrendered or revoked badges must be returned to the council.

Suitability of driver

Licensed drivers will come into contact with vulnerable people, drivers are expected to assist passengers with luggage, shopping etc., they will be driving for prolonged periods of time, and will have access to sensitive information, therefore the council must fully assess an applicant's suitability prior to and after issuing a licence.

Consideration of suitability includes character and patterns of behaviour and are not limited to incidents which occur whilst the driver is 'on duty'. Conduct or behaviour which may indicate that the safety and welfare of the public may be at risk, will also be taken into account when assessing their fit and proper status. The onus is on the applicant or licensed driver to satisfy the council that they are and remain 'fit and proper'.

The council requires applicants to fulfil certain criteria to ensure that the public are protected and drivers are able to provide the service which is expected of them.

Applicants will be required to undertake and provide an Enhanced DBS (Disclosure and Barring Service) check and a medical health check to the DVLA group 2 standard, and share information held by DVLA, upon new and renewal applications.

Applicants for new and renewals, who fail to report or declare an offence, or other relevant matter, will be taken particularly seriously. As it deliberately prevents the authority from taking into account that information in protecting public safety. It also shows a blatant breach of conditions and will go toward consideration of suitability and their fit and proper status.

Where Licensing Officers have delegated powers to grant licences, they will utilise the guidelines when making a decision of whether or not to grant a licence. Should there be any doubt in the Officers opinion as to whether the applicant is a 'fit and proper person,' then the licence will be referred to the Licensing Panel.

English Language

It is essential for public safety that all licensed drivers are able to communicate in English at an appropriate level. Drivers need to be able to communicate with passengers to discuss a route or fare, as well as read, understand and respond to important regulatory, safety and travel information. There may also be occasions when a driver needs to communicate with passengers on a safety issue like the use of a seat belt or talk with them in an emergency situation. Drivers also need to understand the conditions of their licence or any notices given by an enforcement officer. Drivers may also need to write to the Council for example to let us know about changes in health or any criminal convictions or perhaps communicate in writing with a passenger who has a hearing impairment.

It is therefore a requirement for all drivers to ensure that they have adequate English language skills in reading, writing, speaking and listening as it is considered that of these skills are essential to carry out the role.

Anyone applying for a new licence, or seeking to renew their licence on or after 1st April 2020 will need to satisfy the English language requirement before a licence will be granted.

A driver will be required to attend an appointment to submit their application and must submit with their application an example of suitable evidence.

This is a list of examples of suitable evidence you can supply to prove you meet the requirement. The list is not exhaustive. The subject of the qualification does not matter as long as it was taught in English. The certificate must be the original and not a photocopy.

- UK GCSE/O level (or equivalent) certificate at grades A* to G
- UK AS-Level/A level certificate
- UK NVQ*/BTEC/City & Guilds qualification, along with confirmation from the awarding body that the qualification provided is equivalent to GCSE or above (for example, a Blue Badge Guide qualification)
- UK BA Hons, BSc Hons degree or higher i.e. master's, PhD
- UK HNC/HND qualification

A non-UK qualification will be regarded as suitable evidence if it was taught and examined in English. Drivers educated in English outside the UK to the equivalent of GCSE level or above would be sufficient to prove that a driver has the required level of English. A driver will providing this evidence will need to provide further information that the qualification was taught and examined in English. A letter from the teaching / examining institution is sufficient for these purposes but any information must be translated into English.

An applicant will be required to undertake an English language assessment if they cannot provide an example of evidence. A fee will be charged for this assessment. It is expected that an applicant should arrange and take an assessment prior to submission of an application.

Medical Requirements

It is essential that licensed drivers are in good health as they are expected to carry passengers' luggage, will drive on the road for longer periods than most car drivers, and may need to assist disabled passengers. The council must be satisfied that the drivers it licenses are sufficiently fit to undertake the tasks expected of them.

Being a licensed driver is a demanding role, safe driving requires the involvement of vision, hearing, attention, concentration, perception, good reaction time, judgement, coordination, muscle power and control etc.

Due to the length of time an occupational driver (hackney carriage and private hire) spends at the wheel, it is appropriate to have more stringent medical checks and standards than those applicable to normal car drivers.

The DVLA, The Royal Society of Medicine and the DfT recommend and consider it best practice for licensed drivers (hackney carriage and private hire) to be subject to the DVLA group 2 medical requirements. The DVLA group 2 medical is a recognised national standard developed by DVLA for bus and lorry drivers.

To ensure that public safety is protected, the council has chosen to adopt this best practice and require all applicants to obtain and submit a group 2 medical report with their application for new and renewals.

Therefore applicants are required to undergo a medical examination by a registered general practitioner and submit the doctor's group 2 medical report with their application, to enable the council to consider their fitness to hold a licence.

The group 2 medical assessment must be completed by a doctor registered and licensed to practice in the UK. If the applicant's own doctor completes the medical assessment it may speed up the application, as they already have full access to their medical records.

A group 2 medical report must be submitted with all new applications and every three years upon renewal and then annually thereafter when the applicant reaches 65 years old.

Applicants must pay any fees to the registered medical practitioner for completing the medical and report. The medical assessment must be no older than four months at the time of submission with the relevant application.

Applicants must arrange and book these appointments themselves and provide photographic proof of identity to the registered medical practitioner. If the registered practitioner is unable to complete the vision assessment section of the medical, the applicant must arrange for an optician or optometrist to complete this part.

Licensed drivers must notify the council and their medical practitioner of any deterioration in their physical or mental health which may affect their ability to drive or complete their tasks as a licensed driver. The council expects licensed drivers to be responsible and to not continue to drive following any deterioration in their health, or any health problems which could endanger the lives of the general public.

If a licensed driver is involved in an accident in which s/he is injured, they must ensure that they are fit prior to returning to hire and reward work, this is for the safety of the driver and the general public. Drivers who have suffered whiplash must ensure that they have sufficient movement in the neck area to enable them to observe any potential hazards.

Convictions, cautions and related matters

In considering fit and proper, the council will take into consideration any prior convictions and cautions. Therefore, all applicants for new and renewals are required to undertake and submit an Enhanced DBS check. This check will detail all criminal convictions and cautions including those that are spent, and other relevant matters which may be held by the police about them. It does not prove an applicant's right to work.

Due to the type of work performed by licensed drivers, they do not fall under the Rehabilitation of Offenders Act. This means that what would be considered as spent, under the Rehabilitation of Offenders Act, are still taken into consideration when determining applications for licensed drivers.

Where convictions or cautions appear on a DBS, it is not the place of the council to go behind the existence or reason of that conviction. Whilst mitigating circumstances may have applied at the time of the conviction, the council cannot re-try the conviction. Depending on the offence committed, applicants may be able to demonstrate that it was a 'one off', they acted out of character, so is unlikely to be repeated. Each application will be determined on its own merits.

Applicants who have not resided continuously in the UK for five years will be required to submit a Statement / Certificate of Good Conduct, authenticated by the relevant embassy of the country of residence, in addition to the Enhanced DBS certificate.

The existence of a criminal conviction or caution does not necessarily preclude an applicant from obtaining a driver's licence. Conversely, the absence of any convictions or cautions does not mean that an applicant will be licensed. Each application will be determined on its own merits.

Further information is contained in the Guidelines relating to the relevant of convictions / cautions in relation to taxi licensing attached at Appendix H.

Whilst each application is determined on its own merits, some offences are of such a serious nature that it is unlikely that a licence would be issued. Such as indecency offences relating to sexual assault or rape.

Under Common Law Police Disclosure (CLPD) the police can share information regarding a licensed driver even before conviction if there is a 'pressing social need'. This ensures that where there is a public protection risk, the police will pass information onto a regulator body to allow swift actions to mitigate any serious safeguarding risk. Please refer to Appendix M for further information on Safeguarding.

Licensed drivers are obligated to notify the licensing department **in writing within 7 days** of any cautions, convictions, arrests, immigration offences, road traffic offences such as speeding, or any other relevant matters which may question their fit and proper status, that occur during or after the licence has been issued.

If it comes to the attention of the council that a licensed driver has failed to notify the council of relevant matters which occur during or after the licence has been issued, it will be taken particularly seriously. It shows a propensity towards dishonesty and questions the fit and proper status of the licence holder.

Disclosure and Barring (DBS) Service

New applicants are required to apply for a Disclosure and Barring Service (DBS) Enhanced check.

A DBS Certificate should be applied for in the first instance to the council prior to an application made at the County Council (for a school contract badge). It is an enhanced DBS certificate and will be processed in relation to the child and adult workforce employment position including other workforce. Certificates issued by the County Council will not be permitted for a District Council badge.

The enhanced DBS certificate will be allowed has been printed and issued within 1 month. Certificates older than 1 month from the date of application will not be accepted.

The Council requires all drivers to have a DBS check annually (each year by the anniversary date of the licence). If the information is not provided to the Council by the anniversary date of the grant of the licence the licence may be suspended or revoked until the information is provided.

Drivers are required to subscribe to the DBS Online Update Service once they receive their DBS certificate.

DBS Update Service

You must register for the updating service within 19 days of your DBS certificate being issued. A subscription to the update service lasts for one year. You can renew your subscription through the update service, either:

- when you first register, by choosing automatic renewal
- up to 30 days before your current subscription ends - but you can't renew on the last day of your subscription

If you don't renew your subscription before it ends, you'll need to apply for a new DBS check and register for the update service again.

The Licensing Authority requires all licensed drivers to subscribe to the DBS Update Service and to maintain the annual subscription.

Licensed drivers will need to retain their DBS Certificate once they have subscribed as this will need to be provided to the officer undertaking the online check.

DVLA

As driving is the predominant aspect of a licensed driver, the council needs to consider if applicants hold a valid driving licence and if the licence holder has been issued any penalty points.

Applicants and licensed drivers will be required to share information held about them by DVLA via the online process.

Applicants and licensed drivers are required to register online with the DVLA share my licence portal, and provide the access code to the council with their application and upon request. The access code will provide the council with information regarding penalty points etc. As the access code is only valid for a limited duration, drivers may be contacted and requested to provide another code, to enable progression of their application.

A check will be required annually (each year by the anniversary date of the licence). Failure to provide the access information by the anniversary date of the grant of a licence may result in the suspension or revocation of the driver's licence and referral to the Licensing Panel.

Consideration of penalty points and driving offences will be made in accordance with the guidance relating to the relevance of convictions / cautions in relation to taxi licensing which can be found at Appendix H.

Wheelchair Assessment Training

Drivers driving a wheelchair accessible vehicle (WAV) (applicable to all drivers driving a Hackney carriage) are required to complete a wheelchair assessment. A fee is required for this assessment. All drivers who drive a WAV must be able to demonstrate a sufficient level of competence in the loading and unloading, security and safety of wheelchair users.

All new drivers and renewals are required to submit a certificate of completion with their application. Drivers renewing their licence are expected to book and complete the assessment prior to submitting a renewal application and before the expiry of their licence.

Application process

Applicants must fully complete an application and provide the relevant paperwork required and fee. Where supporting documentation is required to be submitted, only the original document will be accepted, not photocopies or photographs of the original. Applicants who deliberately fail to declare or who make false statements on the application form or during the application process, may be subject to legal action if it constitutes fraud.

Applicants must be able to prove their immigration status and that they have a right to work in the UK.

New applicants must complete and pass the drivers standards course.

Applicants who have criminal convictions, may submit an application with the enhanced DBS check for consideration, prior to completing the rest of the application process. The convictions and cautions will be assessed and the applicant will be provided with an indicative decision. This does not prohibit the applicant from submitting a full application for a formal determination.

When an applicant has fulfilled all the application criteria, they will be required to take a driving assessment test, to assess driving ability, safety, control of the vehicle, awareness of controls within the vehicle, without the use of satellite navigation equipment. This course must be booked and arranged by the applicant.

New Drivers Check list:

A new Hackney Carriage/Private Hire driver's licence application must be accompanied by evidence of the following:

- Completion of the drivers training course
- Application form declaring any convictions / endorsements and that the applicant has the right to work in the UK
- Enhanced DBS Disclosure
- An Immigration check
- The National Register for Revocations and Refusals will be checked (Please refer to Appendix N)
- Medical to Group 2 Standards
- Full Driving Licence held for at least 12 months
- Completion of Safeguarding assessment
- 1 Passport Photograph
- Wheelchair Assessment Certificate (Hackney Carriage Vehicle drivers)
- Certificate of Good Conduct may be required
- DVLA authorisation
- Code of Conduct Authorisation
- English language qualification

Renewal of Drivers Licences

Hackney Carriage and Private Hire Drivers licences are issued for three years. Each licensed drivers DVLA licence is checked at least once a year, to ensure drivers still have full entitlements to drive and also to check any endorsements.

It is a requirement that all licensed drivers are signed up to the DBS online checking service. A check of driver's disclosure will be made at least once a year.

Upon renewal all drivers must have renewed their safeguarding training certificate and provide evidence of this. Please refer to Appendix M.

A group two medical is also required every 3 years, if a medical is outstanding at the time of the drivers licence renewal, the licence will not be issued. The driver is required to submit their renewal before the expiry of their licence.

An immigration check is completed upon renewal.

If a driver does not fall within officer's delegated powers to grant the licence renewals, the driver will be invited to attend a Licensing Panel for a review of the renewal. It will be a decision of the Licensing Panel as to whether or not to grant the licence.

Drivers Expectations

The council and the travelling public expect licensed drivers to provide good customer service and behave in a civil and courteous manner. They are expected to be clean and smart in their appearance. The vehicle must also be clean, presentable and roadworthy. They are expected to provide reasonable assistance with luggage or shopping and provide a written receipt if requested with no extra charge. Arrive at the appointed time and not prolong any journey. As professional occupational drivers, they are expected to drive with consideration to other road users and weather conditions.

Drivers must be aware of and comply with the conditions applied by this council and other appropriate legislation. Drivers who fail to observe these requirements may be subject to enforcement action.

Hackney carriage drivers are conditioned by way of Byelaws. A copy of the Byelaws can be found at Appendix C.

Drivers must not operate any equipment which may distract them whilst driving. Drivers must not cause annoyance to passengers during the journey by playing music or constantly talking on a hands free mobile phone.

Drivers must be aware of their obligations under the Equality Act to provide a service and assistance to passengers with mobility problems, disabilities and to take assistance dogs, without extra charge.

Drivers who refuse or fail to take assistance dogs without an exemption certificate may be prosecuted by the passenger and may also be subject to enforcement action by the council.

The council condemns discriminatory behaviour which is harassing, racist, religiously motivated, homophobic, sexist, or in any way offensive to disability or gender. Complaints of this nature are taken particularly seriously. The council does not have any power over passengers who use licensed vehicles, but will give support to the trade where possible. Drivers who experience any of the above behaviour should report it to the police.

Licensed drivers must ensure that they fully consider the safety of the passenger, other road users, parking restrictions, street furniture and other hazards when stopping to allow a passenger to alight the vehicle.

Driving for long periods of time, when sleepy or fatigued impairs driving ability, reduces reaction time, vigilance, alertness, concentration, is dangerous and increases the risk of

accidents. Licensed drivers have a duty to make a conscious decision to take regular rest periods, to ensure their own safety and the safety of the travelling and general public.

Licensed drivers must not drive if they are taking medication which impairs their judgement or driving ability.

Exemption certificate

Drivers may apply for an exemption certificate if, for health reasons, they are unable to convey assistance dogs due to a medical condition which is for example aggravated by exposure to dogs, or they cannot provide physical assistance to passengers in wheelchairs. Drivers who have a medical condition, a disability or physical condition which makes it impossible or unreasonably difficult to provide the service, may apply for an exemption certificate.

The council will only consider exemption applications which are accompanied with a medical report signed by a registered medical practitioner. The period of the exemption certificate will be individually determined based on the medical practitioner's recommendation.

Where an exemption application has been considered and approved by the council, the driver will be issued with an exemption certificate and an exemption notice. The exemption notice must be displayed in the vehicle on the nearside of and immediately behind the windscreen of the vehicle, in a manner that readily permits its removal, so that its front is clearly visible from the outside of the vehicle and its back is clearly visible from the driver's seat of the vehicle, when they are driving. The exemption notice must be removed prior to another licensed driver driving the vehicle. Failure to display the notice could leave the driver open to prosecution, if they then do not comply with the requirements of the Equality Act.

Only one exemption notice should be displayed in a vehicle at any one time.

If an exemption application is refused, the applicant will be informed in writing providing reasons for the decision to refuse. Applicants who have been refused an exemption can appeal the refusal to the Magistrates Court.

Drivers who have been issued with an exemption certificate must inform proprietors or operators that they have the exemption, to avoid any unnecessary distress or delay to passengers.

Licensed drivers of designated WAV vehicles who fail to comply with the duties under section 165 of the Equality Act will be subject to enforcement action. Drivers convicted of failure to comply with this section are unlikely to be considered a 'fit and proper' person.

Assistance Dogs

Under the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to:

- a) Convey the disabled passenger's dog and allow it to remain under the physical control of the owner
- b) Not to make any additional charge for doing so.

It is best practice to ask the passenger where they want themselves and their dog to sit in the vehicle.

Under the Equality Act 2010, it is an offence for any operator or driver to refuse to carry assistance dogs or to charge more for the fare or booking. On conviction for such an offence, drivers can be fined up to £1,000 and have their licence revoked.

To ensure that the Equality Act 2010 is upheld, the Licensing Authority will have a zero tolerance policy to access refusals. The council will investigate all reported violations of the Act.

Obligations of a Taxi Driver to Carry Disabled Persons using Wheelchairs

The Council is committed to an accessible public transport system in which disabled people can enjoy the same opportunities to travel as other members of society. Taxis are a vital link in the accessible transport chain and it is important that disabled people who use wheelchairs can have confidence that the taxi they find on a rank, or hail on the street, will accept them and carry them in their wheelchair at no extra charge.

The Council has determined that it shall provide an exemption to these duties, to drivers who have medical conditions which are aggravated by assisting people in wheelchairs. The Council is responsible for issuing exemption certificates and needs to be satisfied that it is appropriate to do on medical grounds and whether to issue an exemption certificate.

Driver's duties are:

- (a) To carry the passenger while they remain in the wheelchair;
- (b) Not to make any additional charge for doing so;
- (c) If the passenger chooses to sit in a passenger seat, to carry the wheelchair;
- (d) To take such steps as are necessary to ensure the passenger is carried in safely and in reasonable comfort;
- (e) To give such assistance as may be reasonably required;
- (i) To enable the passenger to get into or out of the vehicle;
- (ii) If the passenger wishes to remain in their wheelchair, to enable them to be conveyed into and out of the vehicle while in their wheelchair;
- (iii) To load the passenger's luggage into or out of the vehicle;
- (iv) If the passenger does not wish to remain in their wheelchair, to load the wheelchair into or out of the vehicle.

Drivers acting as a delivery driver or collecting deliveries

Licensed Hackney Carriage and Private Hire Drivers are not expected to act as a delivery driver or collect deliveries on behalf of passengers. Where a passenger has requested a driver to obtain a package/delivery on their behalf due to a disability this may be considered as appropriate by the driver whilst the passenger is seated within the vehicle. A licensed driver must not purchase or obtain alcohol from a licensed premises on behalf of any occupant in the vehicle or act as a delivery driver to obtain alcohol on instruction of a customer who has made a telephone booking.

Complaints and investigations

In the interests of public safety, the council has a duty to ensure that licensed drivers remain fit and proper and will intervene where appropriate. Complaints made to the council are recorded and monitored.

Where serious complaints, which question a driver's fit and proper status are received, they are investigated and appropriate action is taken. Less serious complaints and minor infringements are not investigated to the same degree, but the accumulation of several complaints and infringements about the same driver could highlight that there is a cause for concern. It could highlight a training need, a lack of understanding of conditions or legislation, or a failure to provide good customer care.

Each case will be determined individually. When such circumstances occur the Driver may be referred to the Licensing Panel for their consideration.

Hackney carriage Drivers

Hackney carriage drivers waiting on taxi ranks, are required to operate a first in the queue system. So that when a customer approaches, the taxi at the front of the rank will expect to take that passenger. Whilst this system generally works without incident, drivers are advised that the customer may, for whatever reason, choose not to take the first taxi at the rank.

The customer has the choice in this situation, drivers who, whilst waiting on a rank, refuse or neglect to drive without reasonable cause are committing an offence.

Drivers are also advised that it is an offence to leave their vehicle unattended on a rank.

Right of Appeal

Under S 61 of the Local Government (Miscellaneous Provisions) Act 1976, the council can suspend, revoke or refuse to renew a hackney carriage/private hire driver's licence. The driver has the right of appeal to the Magistrates Court within 21 days.

Immediate suspension/ revocation

The council has the power under S 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976, to immediately suspend or revoke a hackney carriage/private hire drivers licence where it is in the interest of public safety. In this instance a driver must cease working immediately. A driver has the right of appeal as stated above.