

GENERAL PROVISIONS FOR PRIVATE HIRE OPERATORS

The legislation requires 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.

Any individual, partnership, company or other body that advertises the services of a private hire vehicle, provided with a driver, for hire and reward, is required to be licensed as an operator.

The acceptance of bookings may be provided for by a variety of methods, such as, in person, by telephone, text, email, internet, smart phone app, in writing, or by any other communication means.

The legislation requires the authority to only licence operators who are considered to be fit and proper to hold an operator's licence and who are not disqualified by reason of their immigration status.

All work undertaken by private hire vehicles (and drivers), must be pre-booked via a licensed operator. All three licences (private hire vehicle, private hire driver and operator) must be issued by the same local authority.

Operators can only utilise drivers and vehicles that are correctly licensed. Operators who fail to ensure that the drivers and vehicles they utilise have valid licenses, are guilty of an offence and will be subject to enforcement action.

An operator's licence is usually granted for a five year duration, but may be granted for a lesser duration if requested to do so in writing or if the applicant's immigration status limits it to a shorter duration.

There is no provision within the legislation to transfer an operator's licence. New applicants must be subject to the fit and proper test and new premises must also be assessed for suitability.

An operator's licence cannot be issued to persons who do not have the right to work in the UK. A licence ceases to be in force if the person to whom it was granted becomes disqualified by reason of their immigration status. Where this applies, the person must immediately cease to operate and return their operator's licence to the council within 7 days.

Licensed operators may accept bookings and may subcontract these bookings, but only to another licensed operator. However, the operator who accepted the initial booking remains responsible for that booking.

Operators are required by law to keep a record of bookings and records relating to each and every vehicle operated by the operator. Records of bookings must be made before the commencement of the journey. All such records must be made available to an authorised officer for inspection. Further information can be found in the Operator's conditions at Appendix F.

Application – suitability of applicant

Operators are generally the owners of the private hire business. They have access to private information, are responsible for ensuring they only utilise properly licensed, insured and safe

vehicles and drivers, therefore the council is required to ensure that they are also fit and proper.

The council requires applicants to complete the application and submit it with the appropriate fee, with supporting documentation, which will be used to establish that they are fit and proper to hold an operator's licence. The supporting documents must be the originals, not photocopies or photographs.

Operators (who are not also licensed drivers), are required to submit a basic DBS disclosure. The basic disclosure will list any current convictions and cautions, but nothing which is considered spent under the Rehabilitation of Offenders Act. As operators do not necessarily have close contact with vulnerable persons, but do have access to personal information.

Applicants for operator's licences are required to provide details of their name and address. The address where they intend to operate the business, any trade or business activities s/he has carried on before making the application, any prior applications made for an operator's licence, if any prior operator's licence has been suspended or revoked, details of any convictions. This includes any convictions where applicants or those associated in running the business have been convicted of any offences. This is to ensure that those involved in the operation of the business are fit and proper to operate a business.

Applicants who intend to operate a radio system will be required to provide proof of their licence from Ofcom.

The council will not grant a licence to an operator whose premises are located outside our area. This is to ensure that proper regulation and enforcement measures may be taken by the council and is in no way intended to be a restraint of trade.

Suitability of premises

When considering an application for an operator's licence at a new premises, consideration will be given to the location, the vicinity, facilities, parking arrangements, planning permission etc. to ensure that the grant of a licence will not negatively impact on the surrounding area, including businesses, residents and the general public.

Operators intending to operate from new premises will be required to submit with their application proof of planning permission, or proof that planning permission is not required. Where planning permission is required, operators must comply with any condition attached to such permission. Whilst any breach of planning legislation will be enforced by the planning department, it may also be used in consideration of an operator's fit and proper status.

Operators responsibilities and obligations

Operators are responsible for keeping accurate records of bookings and retaining them for a period of not less than six months. These records must detail required information about each booking taken and fulfilled by the operator. Further information is contained within the operator's conditions attached at Appendix F.

If an operator subcontracts a booking to another licensed operator, both operators must keep a record of the booking. The operator who accepted the initial booking remains fully responsible for that journey even though it has been subcontracted to another licensed operator. The initial operator must record what checks they made to ensure that the operator they passed the booking onto is correctly licensed.

Regardless of which operator fulfils the booking, the operator can only dispatch a vehicle licensed by the same authority that licenses the operator and driven by a driver also licensed by that same authority.

It is not expected that subcontracting of bookings would be commonplace. Customers who book through an operator licensed in the district would expect a vehicle and driver also licensed by this authority. The conditions and standards applied by other licensing authorities are different to those applied by this authority, therefore, may not meet the licensing requirements of this authority.

The customer has the choice of which operator they book through. This means that the customer may choose an operator licensed by a neighbouring authority, known as cross border hiring. The legislation permits these bookings and the council cannot get involved in these private hire contracts. Operators should aspire to ensure that their drivers and vehicles provide the highest standard of service, so that they are the operator of choice.

Operators need to be aware of their obligations when it comes to data protection. Where databases containing personal information, such as records of bookings are maintained electronically or if they have CCTV, they are required to be registered with the Information Commissioner's Office (ICO). Further information including a self-assessment, can be found on the following links;

<https://ico.org.uk/for-organisations/register/>

<https://ico.org.uk/for-organisations/register/self-assessment/>

<https://ico.org.uk/for-organisations/guide-to-data-protection/cctv/>

Operators must ensure they have all the correct insurances in place for the vehicles and drivers they utilise. Those who provide a waiting area for customers must ensure that they have valid public liability insurance.

Operators must make customers fully aware of any additional charges which may be applied, e.g. for waiting time and for cleaning a soiled vehicle. These additional charges must be clearly displayed in the operator's office and website where available.

Operators are responsible for ensuring that the vehicles utilised are clean, fit for the purpose of the booking and comply with the conditions applied by this council. It is expected that operators have a planned maintenance programme in place for all vehicles it utilises. The testing requirements applied by this council are to confirm a level of safety and quality, rather than to highlight what maintenance needs to be carried out.

The council encourages all private hire operators to include wheelchair accessible vehicles amongst their fleet. They must ensure that no additional costs or charges are levied by them or their drivers for conveying disabled passengers or assistance dogs.

Operators who provide wheelchair accessible vehicles must ensure that the driver is appropriately trained to safely load, unload and convey passengers in a safe and secure manner. This training must be documented and refreshed at suitable intervals. These training records must be available for inspection by an authorised officer.

Operators must ensure that the drivers they utilise are fit and proper to carry out the bookings and are appropriately trained for their role. Operators should be able to demonstrate how they will achieve this by way of a policy to include any training (or checks) provided by the operator, customer service company policies and practices, including disability awareness.

Operators must be aware of their obligations under the Immigration Act and only utilise persons who have the right to work in the UK. Failure to observe this requirement or to provide

due diligence checks may be subject to enforcement action by the relevant Home Office department.