Page(s)	Item	Comment
1	Adoption statement at bottom of the page	Ignoring the fact that whichever council adopts the policy last might be accused of fettering its discretion by simply adopting the same policy as the other council, the wording of the statement means that the policy has a fixed life of three years and would cease to continue to apply after that date, unless expressly renewed or extended by each of the two councils. If, as suspected, the intention was to declare an intention to review the policy every three years, the wording needs to be changed to accurately reflect that intention.
4	Glossary of Terms	As the terms “Planning Authority” and “Police Authority” are not used anywhere within the document, removing them from the glossary would avoid potential confusion. Coincidentally, the reference to the “Police Authority” would seem to have been intended to be a reference to the “Police Force”; and police authorities are, of course, shortly to be replaced by elected Police and Crime Commissioners.
4	Glossary of Terms	As the term “Designated Officer” is not used anywhere within the document, removing it from the glossary would avoid potential confusion.
5	Glossary of Terms	As the descriptions of the terms “Hackney Carriage”, “Private Hire Vehicle” and “Private Hire Operator” have not been given their statutory definitions, as provided for in section 80(1) of the Local Government (Miscellaneous Provisions) Act 1976, there is a potential for confusion. By way of example, the description of a private hire vehicle would equally apply to a 9 passenger seat minibus, even though such a vehicle could only be licensed as a PSV (Public Service Vehicle).
5	Glossary of Terms	The description of “Private Hire Operator” should probably be extended to make it clear that a booking can only be sub-contracted to a private hire operator licensed by the same council as that which originally accepted the booking. See Shanks v North Tyneside Council [2001] EWHC Admin 533.
6	Glossary of Terms	Whilst it is appreciated that the draft policy was written before the making of The Police Act 1997 (Criminal Records) (Amendment) Regulations 2012 that came into force on 26 March 2012, it would be prudent to consider whether the term and / or description and / or “Reference for Details” should be revised to better reflect the new legislative position.
4 to 6	Glossary of Terms	The glossary would be more usable as a reference tool if the terms were listed alphabetically.

Page(s)	Item	Comment
7	Paragraph 3 (the first one, because there are two paragraphs numbered 3)	It is wrong to state: “It has been produced pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976 which places on the councils the duty to carry out licensing functions in respect of hackney carriage and private hire vehicles, drivers and operators.” because the statutory duty to licence hackney carriages is derived from the Town Police Clauses Acts 1847 and 1889, the Public Health Act 1875 and the Local Government Act 1972. Furthermore, the Local Government (Miscellaneous Provisions) Act 1976, Part II was an adoptive provision, so the councils only have a duty is they chose to adopt that Part of the Act, which also extends a councils powers in relation to hackney carriages.
7	Paragraph 4	Whilst it is presumed that the first part of the paragraph is a reference to what the councils have done in the past, it has not been written clearly. In order to avoid the need to revise the wording when the policy is reviewed in three years’ time, might it be prudent to say something to the following effect: “In 2012 the councils, which had previously adopted separate policies, collaborated in the adoption of a joint policy in order to promote consistency across the area of the two councils.”
7	Paragraph 4	In the second part of the paragraph, which might best be separately numbered, the provisions relating to the making of minor amendments is addressed. Not only is it unclear as to what would or would not be a “minor amendment”, but neither is it clear as to what is meant by the word “policy”, because on some occasions it seems the word is used to refer to the whole of the document and on others it seems to only refer to those parts that are expressly referred to as the numbered and titled policies in text boxes. Whatever is intended by this provision must be expressed clearly.
7	Paragraph 5	The purpose of this paragraph, particularly the sentence: “The policy refers to guidance that is available to applicants, drivers and operators to assist them with the application processes and the running of the service.” is unclear.
8	Paragraph 6	Whilst there is nothing wrong with the statements made, it does fail to recognise the fact that hackney carriages and private hire vehicles provide the only demand-responsive door-to-door service 24 / 7.

Page(s)	Item	Comment
9	Paragraph 10	The legislative position is badly expressed, because it is as referred to above in the comments on page 7, paragraph 3 (the first paragraph numbered 3). It would be prudent for the councils to satisfy themselves that Part II of the Local Government (Miscellaneous Provisions) Act 1976 was adopted throughout the whole of the districts, because prior to the implementation on 1 January 1987 of the provisions of section 15 of the Transport Act 1985, hackney carriage licensing could not be extended to the areas of the former rural district councils and, as a consequence, the 1976 Act could not be adopted in those areas either.
9	Paragraph 13	Whilst the Councils are right to acknowledge that not all enforcement costs can be met from licensing fees, the Councils have not clearly stated for which licences enforcement costs cannot be met from licensing fees. In view of the fact enforcement costs cannot be charged for driver licensing and it is drivers (and not vehicles) that do things wrong, a significant proportion of the enforcement costs of the Councils have to be met from central funds. Whilst enforcement costs can be met from operator licence fees, it is again only in relation to vehicles, whereas it is drivers who are capable of doing things wrong. The Councils would be well advised, if they do not already do so, to operate separate accounts for all five types of licences for each of the councils.
9	Paragraph 15	On occasions it may not be necessary for a warning to be given for a minor and inadvertent transgression, but the current wording seems to exclude the possibility of the giving of advice, which might be all that is needed to avoid further wrongdoing.

Page(s)	Item	Comment
9	Paragraph 16	Contrary to the interpretation placed by many on the widely reported (but seemingly, as yet, unpublished) case concerning a penalty points system operated by Cardiff City Council, it seems that such schemes are lawful, as long as there remains a genuine exercise of discretion. It is suggested that the scheme would, in the first instance, have to give a person an opportunity to dispute the allegation and, if it were accepted or established to the Council's satisfaction that wrongdoing had occurred there would then have to be an opportunity for them to have any mitigation considered, before determining how many points to impose. However, ultimately the number of points awarded for each incident would have to be considered by a Licensing Committee or Sub-committee, who might then also have to re-examine the facts and / or the number of penalty points imposed as part of the general consideration of whether a person remained a 'fit and proper person' for licensing purposes. The Councils are respectfully encouraged to secure a copy of the aforementioned judgment and to determine whether they wish to persist in the operation of a penalty points system.
10	Policy Enforcement 1	To rigidly impose penalty points in accordance with the policy is to fail in the Council's duty to exercise discretion, particularly for those matters for which a fixed number of penalty points are imposed, but also when there is a range unless each alleged offence is subject to a quasi-judicial process for consideration.
10	Policy Enforcement 2	To suspend every licence upon the accumulation of 12 penalty points is to fail in the Council's duty to exercise a discretion in determining what, if any, action it is appropriate to take.

Page(s)	Item	Comment
10	Paragraphs 17 and 18	Contrary to the statement made, a hackney carriage tariff does apply to booked journeys – see section 67 of the Local Government (Miscellaneous Provisions) Act 1976. If a journey goes outside the hackney carriage zone or area of the council, as may be the case, a fare that is higher than the tariff may be charged, but only if agreed before the journey begins – see section 66 of the Local Government (Miscellaneous Provisions) Act 1976. It appears from what is said that the perceived need to introduce a tariff in South Oxfordshire arises solely from complaints it is said are received on occasions, such as Henley Regatta. However, the introduction of a tariff would be ineffective for regulating fares for journeys going out of district, as stated above. As a tariff would inevitably include a charge for waiting time, it is probable that the metered fare for a journey taken on an occasion, such as Henley Regatta, would be higher than expected, because of the time a vehicle would spend in congestion. Ironically, the introduction of a tariff by South Oxfordshire District Council would not apply to hackney carriages licensed with any other council, so those licensed by Vale of White Horse District Council would be able to engage in booked work at whatever fare they chose to charge, because those vehicles would be outwith the district in which they were licensed. Ultimately, if the trade was generally opposed to any tariff introduced by South Oxfordshire District Council, the Council would run the risk that the majority would become licensed for private hire. If that were to happen, the Council could not regulate the fares charged (because a council cannot regulate the fares charged by a private hire operator) and would reduce the provision of hackney carriages to its local community.
10	Policy Tariff 1	The purpose of removing the current tariff set by Vale of White Horse District Council is not stated, so it is unclear as to whether there is an intention to increase or reduce fares or to harmonise that tariff with that proposed to be introduced by South Oxfordshire District Council. If the intention is harmonisation, the Councils should appreciate that a tariff for one area may not be appropriate for another. Fares will be affected by the numbers of vehicles and the demand for their services at different times and locations, as well as the amount of time spent by vehicles standing and waiting to be hired.
11	Paragraphs 19 to 21	For the avoidance of doubt, the summary of the legal position, best practice and policy proposal are all agreed.

Page(s)	Item	Comment
11	Paragraphs 22 to 26	Whilst there are no issues arising directly from these five paragraphs, issues do arise in relation to the Policy Vehicle 2 to 4 and to Appendices A and B.
11	Policy Vehicle 2	As stated above, there are matters to be raised later to Appendices A and B.
11	Policy Vehicle 3	The wording is ambiguous in that it expressly refers to Appendix A, which incorporates the specification for hackney carriages, but then also refers to private hire vehicles. Whilst it may well be appropriate to require hackney carriages to have a minimum passenger seating capacity of four, there is equally no reason why not to permit licensed vehicles, particularly private hire vehicles, to carry only one passenger. If there was demand by commuters for vehicles to carry only one person, which were very environmentally friendly, why should any council decline to licence such a vehicle?
11	Policy Vehicle 4	Agreed.
11	Paragraph 29 Policy Vehicle 5 Policy Vehicle 6	The M1 European Community Whole Vehicle Type Approval is the category for a vehicle designed to carry no more than eight passengers in addition to the driver, i.e. a motor car. Many wheelchair accessible vehicles are not adapted from category M1 vehicles, but from either larger passenger carrying vehicles (category M2) that are designed to carry more than eight passenger seats or commercial vehicles designed for the carriage of goods (category N1). The current wording of the policy seems to discourage the licensing of larger vehicles that may have been especially adapted for carrying more than one person in a wheelchair. Whilst the introduction of incentives would always be welcome, the trade would encourage the Councils to undertake a survey to assess the transport needs of all disabled people in the districts, because not every disabled person needs a wheelchair accessible vehicle; and even those who do use a wheelchair often prefer to transfer from that to the seat of a standard saloon car.

Page(s)	Item	Comment
16	Policy Vehicle 7	The requirement for rear-loading wheelchair accessible vehicles to be fitted with a tail lift is irrational – such vehicles are easier for loading, if parked facing down a slight gradient, because the gradient reduces the height difference and strength required by the driver or another person to load a wheelchair. Side-loading vehicles are not known to be available with a lift. When used on a front to rear gradient, the risks to a wheelchair user and the driver are greater than with a rear-loading vehicle, because the two ramps are at different angles. Unless a rear-loading vehicle is capable of carrying a larger type wheelchair and passenger exceeding 250 kilograms, there is no reason to require a tail-lift.
17	Policy Vehicle 8	The Councils propose three alternative options, including maintaining the status quo, i.e. Option 3. In the absence of evidence demonstrating a problem with the current arrangements, it is suggested that there is no need to change the Councils' policies in this regard. In the event that either or both Councils determine to pursue a policy for change, they are encouraged to state the reason for pursuing such a policy and to consult with the trade and other stakeholders.
18	Policy Vehicle 9 Policy Vehicle 10 Paragraph 52	The two policies each provide for every vehicle (Policy Vehicle 9) regardless of age (Vehicle Policy 10) to be subject to a compliance test before being licensed, whereas paragraph expressly provides an exemption from such testing for "brand new registered vehicles that have less than 1,500 miles on the clock". If nothing else there should be consistency between paragraph 52 and the two policies. It is suggested that the limited exemption provided by paragraph 52 is appropriate.
19	Policy Vehicle 11	Whilst it is accepted that generally a private hire vehicle must display a plate there are two statutory exceptions, namely: (i) section 75(1)(d)(ii) of the Local Government (Miscellaneous Provisions) Act 1976 exempts a private hire vehicle from displaying a plate (or any other signage or identifying marks) if it is hired for a period of not less than 24 hours; and (ii) section 75(3) of the Local Government (miscellaneous Provisions) Act 1976 may be exempted from displaying a plate by the issue of a notice by the council. The latter being the provision under which councils generally exempt a private hire vehicle used for executive or chauffeur hire from the provisions of section 48(6)(a) that ordinarily requires a plate to be displayed. Policy Vehicle 13, which refers to advertising on vehicles, seems to be irrelevant to the display of a plate on a private hire vehicle; and, despite the reference to Policy Vehicle 14, there is no policy of that name / number in the policy. It is suspected the reference ought to be to Policy Vehicle 15.

Page(s)	Item	Comment
21	Paragraphs 62 and 63	If the Councils were to permit private hire vehicles to display the plate, which the Councils issue for carriage in the boot, magnetically or by some other immediately removable means, such as Velcro ®, the notice issued under section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976 could permit the vehicle not to display the plate whilst engaged on or travelling to or from a contract hire. This would eradicate the need for such vehicles to undertake at least 75 per cent of their work for contract hire and would mean that the plate was displayed whenever such a vehicle was being used for standard private hire. Such exempted vehicles would permanently display the licences, as prescribed by Policy Vehicle 15.
22	Paragraph 64 Policy Vehicle 16	The Councils may wish to revise the terms of paragraph 64 and Policy Vehicle 16 to expressly refer to the need to comply with the provisions of the Data Protection Act 1998 and to recommend that a data controller refers to the guidance available on the Information Commissioner's Office website www.ico.gov.uk
23 to 24	Paragraphs 66 to 73 Policy Vehicle 17	Whilst lower fees are welcome for lower emission vehicles, the unfortunate reality is that as more of the fleets become lower emission vehicles, the fee revenue will reduce and the Councils will have to increase the fees, which will then frustrate the financial incentive the Councils are endeavouring to achieve.
25	Stretched limousines and other modified vehicles	It is suggested the term 'novelty vehicles' should be used instead of "other modified vehicles", because the suggested term includes modified vehicles whereas a novelty vehicle is not necessarily a modified vehicle. For example, a decommissioned fire engine is not a modified vehicle, but would certainly be a novelty vehicle, if licensed as a private hire vehicle.
25	Paragraphs 74 to 77 Policy Vehicle 18 Policy Vehicle 19	For the reasons above, references to 'other modified vehicles' should be replaced by a reference to 'novelty vehicles'.

Page(s)	Item	Comment
26	Paragraph 79	Whilst there is no statutory exemption to permit a hackney carriage to be used for a wedding without displaying its plate (and roof sign), section 75(1)(cc) of the Local Government (Miscellaneous Provisions) Act 1976 expressly exempts a private hire vehicle whilst it is being used for a wedding from all provisions of Part II of the said 1976 Act. As Parliament has expressly exempted a private hire vehicle from the provisions of the Act, a council would be acting ultra vires (beyond its powers) to require otherwise.
31	Paragraph 98	Whilst it does not seem to be unreasonable to limit a candidate to a maximum of five attempts to pass the knowledge test within any 12 month period, it is suggested that this should be re-worded to provide that the Councils will "not usually" allow someone to take more than five tests in any 12 month period, but this would then allow for a Council to exercise its discretion in an appropriate case to allow a further test or tests. For example, if a Council were not to realise until after a candidate's third attempt that their English is inadequate, it may be reasonable to allow them to exceed the five tests if the last two tests had been taken after the candidate had taken an English language course.
31	Paragraph 99 Policy Driver 5	Whilst encouraging drivers and new entrants to the trade to undertake NVQs and other qualifications, the Councils might wish to adopt a slightly more cautious approach, because generally speaking, a person with a NVQ Level 2 qualification is generally excluded from funding assistance for the purpose of securing a second such qualification, but it may be that the current legislative review by the Law Commission might result in the introduction of a national qualification.
31	Paragraph 100 Policy Driver 4	By prescribing that a driver who has accumulated nine penalty points on their DVLA driving licence "will" be required to pass the DSA Taxi and Private Hire Drivers Assessment before their licence will be reinstated, the Councils have fettered their discretion. Councils must exercise their discretion when determining driver fitness and propriety.

Page(s)	Item	Comment
32 and 33	Paragraphs 103 to 108 Policy Driver 7	There appears to be confusion about community licences, Northern Ireland driving licences and exchangeable licences. A community licence is one issued by an EEA state. The holder of an EEA state licence does not have to convert to a DVLA driving licence, because a DVLA driving licence is itself an EEA driving licence. See sections 99A(1) and 108 of the Road Traffic Act 1988. A Northern Ireland driving licence also has equal status to a DVLA driving licence by virtue of section 109(1) of the Road Traffic Act 1988 and the Deregulation (Taxis and Private Hire Vehicles) Order 1998 (SI No: 1998 / 1946). Exchangeable driving licences are those issued by some countries outside of Europe, such as Australia, New Zealand, Cyprus and Malta. These licences are recognised by section 108 of the Road Traffic Act 1988 and / or specific statutory instruments. See paragraph 57 of the Department for Transport 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' (March 2010) and paragraphs 10.14 to 10.19 of 'Button on Taxis' (Third Edition).
33	Paragraph 110	The provisions relating to diabetes and Group 2 and C1 driving licences were repealed on 15 November 2011 by The Motor Vehicles (Driving Licences) (Amendment) Regulations 2011 (SI No: 2011 / 2516), which amended The Motor Vehicles (Driving Licences) Regulations 1999. The current 'At a glance guide to the current medical standards of fitness to drive' published by the Drivers Medical Group, DVLA, Swansea is available to download at http://www.dft.gov.uk/dvla/medical/ataglance.aspx
33	Paragraph 112 Policy Medical 10	The Department for Transport 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' (March 2010) does not suggest that Group 2 medicals should be repeated every three years. It simply suggests that the Group 2 medical standards should apply. Those standards provide for a medical on application and then at 45, 50, 55, 60 and 65 years and thereafter annually.
34	Paragraph 113 Policy Driver 9	It is suggested that it is unnecessary and unreasonable to require the holder of a PSV and / or HGV licence to undergo a further medical, if their current Group 2 medical is more than one month old, because they have already undergone a Group 2 medical and have the legal right to engage in driving PSVs and / or HGVs commercially. Policy Driver 9 fails to include the limited exemption currently granted to holders of a PSV and / or HGV licence that has a medical certificate less than one month old.

Page(s)	Item	Comment
34 and 35	Paragraph 115	Paragraph 58 of the Department for Transport 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' (March 2010) stated that only a Standard CRB check could be required for a hackney carriage or private hire vehicle driver unless the driver was (or was to be) engaged in a 'regulated activity'. However, the law changed on 26 March 2012 when The Police Act 1997 (Criminal Records) (Amendment) Regulations 2012 (SI No: 2012 / 523) came into force and a licensing authority may now lawfully (for the first time) undertake Enhanced CRB checks for drivers and applicant's for driver licences.
34 to 40	Paragraphs 115 to 148 Policy Driver 12 to Policy Driver 20	Nowhere within these 34 paragraphs and nine policies is reference made to The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2008 (SI No: 2008 / 3259), which introduced rehabilitation to cautions in accordance with the Rehabilitation of Offenders Act 1974. Whilst it is accepted a council may have regard to spent convictions and cautions, it should only do so if such convictions or cautions are relevant; and, of course, consideration cannot be given to whether spent convictions and cautions are relevant if one does not first appreciate when they are spent.

Page(s)	Item	Comment
41	Paragraphs 155 to 157 Policy Driver 22	Whilst codes of conduct are operated by many councils, the enforceability of them is questionable unless they actually form part of the conditions attached to a licence. If they are not implemented by means of conditions attached to a licence, a breach of a code of practice can only be considered in the widest context of fitness and propriety, whereas a breach of a condition of a licence might also tend to demonstrate a propensity by a driver to break or disregard the rules by which they are regulated. However, the majority of councils accept that following the ruling of the High Court in Wathan v Neath Port Talbot County Borough Council [2002] EWHC 1634 (Admin) that conditions cannot be attached to a hackney carriage driver's licence. However, conditions can be imposed by way of byelaws under section 68 of the Town Police Clauses Act 1847, which also renders a breach a criminal offence for which an individual could (but need not be) prosecuted. It should, however, be acknowledged that the Department for Transport proffered an alternative view in the 'Guidance note and model byelaws' it published in July 2005. See Appendix A2.10 of 'Button on Taxis' (Third Edition) at pages 1050 to 1058. In the circumstances, the Councils should firstly decide whether they follow the ruling of the High Court or prefer the untested legal opinion of the Department for Transport and, having determined that issue, should then assess what conditions it considers reasonably necessary to attach to each type of licence or create by way of byelaw, as the case may be.
43	Paragraph 165	Whilst a council may choose to refuse to grant a licence or refuse to renew a licence, because it does not receive what it considers to be a complete application, its options are: (i) make a formal request for the information it requires under section 57 of the Local Government (Miscellaneous Provisions) Act 1976 or to refuse to grant or to renew a licence under section 61(1)(b) of the said 1976 Act. To purport to reject an application as incomplete is to deprive an applicant for the renewal of a licence their statutory rights under sections 63(3) and 77 of the 1976 Act and sections 300 to 302 of the Public Health Act 1936.
43 and 44	Paragraph 167 Policy Driver 27	Neither the paragraph or the policy refers to the National Fraud Initiative coordinated by the Audit Commission or the need for application forms to include the 'fair processing notice' of which full particulars and the legal basis for it are contained on the Audit Commission's website at http://www.audit-commission.gov.uk/fraud/nfi/Pages/fair-processing-notice.aspx

Page(s)	Item	Comment
45	Paragraphs 168 to 174 Policy PHO 1 to Policy PHO 3	Neither the paragraphs nor the policies allude to the fact that a private hire operator may be a limited company. Whilst it is accepted this is not indicated by sections 55 and 56 of the Local Government (Miscellaneous Provisions) Act 1976, section 57 that is concerned with the powers of a council to require an applicant to submit information expressly provides at section 57(2)(c)(ii) that "if the applicant [for a private hire operator's licence] is a company, information as to any convictions recorded against a director or secretary of that company; any trade or business activities carried on by any such director or secretary; any previous application made by any such director or secretary for an operator's licence; and any revocation or suspension of an operator's licence previously held by such director or secretary" a district council may require an applicant to submit such information to them. In all the circumstances, the Council are urged to revise the policy to recognise this provision and to include provision for directors and secretary to submit a Basic CRB check.
45	Paragraph 169	Whilst it is correct that a private hire vehicle can only be dispatched by a private hire operator licensed by the same council, no licence is required by anyone who accepts bookings for only hackney carriages – see Stockton-on-Tees Borough Council v Fidler [2010] EWHC 2430 (Admin).
45 and 46	Paragraphs 170 and 172 Policy PHO 2	Paragraph 170 and Policy PHO 2 correctly refer to a Basic CRB check being a requirement for a person applying for a private hire operator's licence, whereas paragraph 172 wrongly refers to a Standard CRB check. A Standard CRB check is not available for a person applying for a private hire operator's licence, because such a check would disclose details of spent convictions and cautions to which a council has no right as the occupation of private hire operator is not an exempt occupation.
48	Paragraph 181	Whilst it is anticipated the Councils have presumed that booking records will be kept at the premises at which provision is made to invite and accept bookings, there is no practical reason why that should be the case. For example, with a computerised system it is perfectly possible for an operator with two premises to keep all the records electronically at one of those premises, but provision would still be made at both premises for the invitation and acceptance of bookings for private hire vehicles. The paragraph should be changed to expressly state that the Councils will only licence the premises at which the operator will make provision for the invitation and acceptance of bookings for a private hire vehicle and that it shall be a condition of the licence that the booking records for the previous 12 months shall be available for inspection at those premises.

Page(s)	Item	Comment
49	Policy PHO 9 Paragraph 182	Whilst it is accepted that the Councils' Licensing Committees and officers would prefer for planning permission to be determined before the grant of a private hire operator's licence, the same is probably true of the Planning Committees and planning officers. In reality, it is unnecessary and unreasonable to prescribe which of the two applications must be determined first, not least because such matters may be entirely beyond the control of the applicant, having submitted their applications. However, it is irrelevant as to which is determined first, because without both planning permission and a private hire operator's licence it would be illegal for the operator to commence trading.
50	Paragraphs 186 and 187 Policy PHO 12	There is no determent to the Councils or anyone else in the granting of licences for five years instead of three years, because the Councils have the ability at any time to suspend or revoke a private hire operator's licence under section 62 of the Local Government (Miscellaneous Provisions) Act 1976. In the circumstances, renewing licences at intervals of three years merely increases the administrative burden on the Councils and their officers and the licence holder, but also increases the costs to the trade, but without there being any benefit to the public.
51	Paragraph 191	As was stated in relation to applications for the renewal of driver licences at paragraph 165 above, whilst a council may choose to refuse to grant a licence or refuse to renew a licence, because it does not receive what it considers to be a complete application, its options are: (i) make a formal request for the information it requires under section 57 of the Local Government (Miscellaneous Provisions) Act 1976 or to refuse to grant or to renew a licence under section 62(1)(d) of the said 1976 Act. To purport to reject an application as incomplete is to deprive an applicant for the renewal of a licence their statutory rights under sections 62(3) and 77 of the 1976 Act and sections 300 to 302 of the Public Health Act 1936.

Page(s)	Item	Comment
52 to 58	Appendix A	The Appendix fails to clearly specify what parts are matters of policy and which are conditions attached to the hackney carriage proprietor's licence. The Councils are asked to consult specifically upon these matters once they have separated them from each other. The Councils should also note that the Appendix unnecessarily duplicates statutory provisions, which may tend to give the impression that they are conditions of licence when, as a matter of fact, they are matters subject to criminal law for which transgression may result in prosecution and conviction. Furthermore, there are inconsistencies between the Appendix and the remainder of the document. For example, at paragraph 19 therein, it is stated that written permission is required from the Council for the installation of surveillance equipment when paragraphs 64 and 65 and Policy CCTV 1 expressly state that operators and drivers may install such equipment without any suggestion that permission may be required by a Council.
59 to 67	Appendix B	As in relation to Appendix A, there is a failure to clearly separate policy from conditions of licence, but in this Appendix is further confused by the fact it refers to both private hire vehicles and private hire operators. Additionally, as was said in relation to Appendix A, the Councils unnecessarily duplicate statutory provisions, which may tend to give the impression that they are conditions of licence when, as a matter of fact, they are matters subject to criminal law for which transgression may result in prosecution and conviction.
65 to 67	Appendix B - Policy on special event vehicles (paragraphs 29 to 44)	This 'policy' within the Appendix uses different terminology to that used in the main policy; defines such vehicles differently and seems possibly to prescribe a different specification for them.
68 to 70	Appendix C	This Appendix fails to distinguish between a code of conduct, which is not enforceable as a byelaw or condition of licence; and the conditions applicable to hackney carriage drivers by way of byelaw and private hire vehicle drivers by condition attached to the driver's licence. The details therein also unnecessarily duplicate statutory provisions, as has been said in relation to Appendices A and B. Read literally (and there is no indication that it should be read otherwise), paragraph 14 seems to provide that private hire vehicles may us taxi ranks, because there is nothing to indicate that ranks may only be used by hackney carriages and that the provisions of that paragraph apply only to a hackney carriage driver.

Page(s)	Item	Comment
72	Appendix E	This Appendix refers to a separately published procedure for hearings conducted by a Licensing Sub-committee / panel, but that document has not been appended to the policy. Whilst there is no requirement to do so, it would be useful to incorporate all relevant material into the policy as a comprehensive resource to be used by Members, officers, the trade and members of the public alike.
75 to 86	Appendix G	This Appendix has a tendency to prescribe precisely the action that will be taken by the Councils and does not allow for the exercise of discretion, thereby fettering the Councils' discretion. Furthermore, by way of example, in relation to paragraph 8 it is suggested that it may be more appropriate not to suspend a driver's licence upon them accumulating nine or more penalty points, but to require a driver to pass the DSA Taxi and Private Hire Assessment at their own expense within a specified period on the basis that, if they fail to do so, the Council would then be likely to revoke their licence. It is submitted that the purpose of taxi licensing is not to punish a driver for a second time, but to protect the public, which is likely to be more effectively addressed by requiring them to immediately take steps to address any issues concerning the manner of their driving. The policy tends to treat honest mistakes by licence holders more seriously that deliberate wrongdoing by an unlicensed owner, driver or operator. For example, paragraph 13 provides that an operator convicted of a single offence may have all their licences revoked and be prevented from re-licensing for a minimum period of five years, whereas an unlicensed individual would only be refused a licence for a period of six months. Paragraph 29 is incorrect in that a person sentenced to more than 30 months' imprisonment is never regarded as rehabilitated. Sentences of 30 months or less are subject to rehabilitation as set out in the table following paragraph 31. It would be useful to expressly refer to the lists of minor, major and hybrid motoring offences that appear at the end of the Appendix in paragraphs 8, 9 and 10 respectively.

Page(s)	Item	Comment
87 to 89	Appendix H	Whilst this Appendix is entitled ‘enforcement’ it appears not to be an enforcement policy, although it is assumed the Councils have policies detailing their approach generally to enforcement. Any such polices should be updated to include reference to the penalty points scheme, presuming it is implemented and, whether it is implemented or not, this policy would benefit from the inclusion of the Councils’ enforcement policies. On the basis of the little the author knows currently of the recent High Court case concerning Cardiff City Council’s penalty points scheme, it is believed the concept not to be unlawful, but the Councils would be well advised to secure a copy of the judgment and to secure its own legal advice on its meaning and affect, if any, on this proposed policy. Should the policy be implemented, the policy would benefit from having the provisions for appeals expanded to explain who and how such an appeal is to be considered.