

# Public Document Pack

## 1 **Agenda document** (Pages 3 - 120)

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# Council



Listening Learning Leading

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## Summons to attend a meeting of Council

to be held on

**THURSDAY 18 OCTOBER 2012 AT 6:00PM**

at

**COUNCIL CHAMBER, COUNCIL OFFICES, CROWMARSH GIFFORD**

South Oxfordshire District Council aims to increase access to its public meetings. This meeting will be broadcast live on the Council's website and the record archived for future viewing. You can view this broadcast at [www.southoxon.gov.uk](http://www.southoxon.gov.uk)



MARGARET REED  
Head of Legal and Democratic Services

Note: Please remember to sign the attendance register.

# Agenda

## 1. Apologies

## 2. Declaration of interest

To receive any declarations of disclosable pecuniary interests in respect of items on the agenda for this meeting.

## 3. Minutes, 19 July and 30 August 2012

## 4. Chairman's announcements

## 5. Questions from the public

## 6. Treasury management outturn 2011/12

(Cabinet member responsible: Mr D Dodds)

Cabinet, at its meeting on 18 October 2012, will consider a report on the outturn performance of the treasury management function for the financial year 2011/12.

**The report of the Head of Finance, which Cabinet will consider on 18 October, will be circulated to all councillors with the Cabinet agenda. Please bring this report to the meeting.**

**The recommendation of Cabinet will be circulated to councillors at the Council meeting.**

## 7. Flood and Water Management Act 2010: agency arrangements with Oxfordshire County Council (OCC)

(Cabinet member responsible: Mrs J Nimmo-Smith)

Cabinet, at its meeting on 18 October 2012, will consider a report on an agency agreement with Oxfordshire County Council to carry out work on their behalf related to the Flood and Water Management Act 2010.

**The report of the Head of Economy, Leisure and Property, which Cabinet will consider on 18 October, will be circulated to all councillors with the Cabinet agenda. Please bring this report to the meeting.**

**The recommendation of Cabinet will be circulated to councillors at the Council meeting.**

## **8. New Homes Bonus: allocation of funding to community led schemes in areas accommodating new housing**

(Cabinet member responsible: Mrs E A Ducker)

Cabinet, at its meeting on 18 October 2012, will consider a report on the allocation of new homes bonus funding to Cholsey Parish Council.

**The report of the strategic director, which Cabinet will consider on 18 October, will be circulated to all councillors with the Cabinet agenda. Please bring this report to the meeting.**

**The recommendation of Cabinet will be circulated to councillors at the Council meeting.**

## **9. Joint licensing policy for hackney carriage and private hire**

**At its meeting on 4 October 2012 the General Licensing Committee considered a report on a joint policy for hackney carriage and private hire with Vale of White Horse District Council. The committee considered the consultation responses and met informally with Vale of White Horse District Council's committee to work together on a joint policy.**

The report of the head of legal and democratic services, which General Licensing Committee considered on 4 October, was circulated to all councillors with the committee agenda. Please bring this report to the meeting.

**A copy of the policy agreed for recommendation to Council is available in hard copy in the councillors' resource room and on request. The policy incorporates the recommendations of this council's committee not to operate a council set hackney carriage tariff in South Oxfordshire but to require all hackney carriages licensed by this council to be fitted with a taximeter.**

**Recommendation:** to

1. adopt the licensing policy for hackney carriage and private hire to come into force on 1 January 2013; and
2. authorise the head of legal and democratic services in consultation with the chairmen of the South and Vale General Licensing Committees to make minor administrative amendments to the policy where necessary.

## **10. Review of the council's constitution**

To consider the report of the Head of Legal and Democratic Services on proposed amendments to the Council's constitution (attached).

## **11. Appointments to planning committee**

The Conservative Group has indicated that it wishes to replace Ms R Wallis as a member of the planning committee with Mr F Bloomfield and appoint Ms R Wallis as a substitute member.

### **RECOMMENDATIONS**

1. To appoint Mr F Bloomfield as a member of the planning committee
2. To appoint Ms R Wallis as a substitute member of the planning committee.

MARGARET REED  
Head of Legal and Democratic Services

# Minutes

## OF A MEETING OF

# Council



Listening Learning Leading

HELD AT 6.00PM ON 18 OCTOBER 2012

AT COUNCIL OFFICES, CROWMARSH GIFFORD

### Present:

Mrs J Carr (Chairman)

Mrs A Badcock, Mr R Bell, Ms J Bland, Mr F Bloomfield, Mrs C Collett, MBE, Mr B Cooper, Mr J Cotton, Mr P Cross, Mrs M Davies, Mrs P Dawe, Mr L Docherty, Mrs E A Ducker, MBE, Mrs E Gillespie, Mr M Gray, Mr W Hall, Mr T Harbour, Mrs E Hards, Mr N Harris, Mr P Harrison, Mr S Harrod, Dr C Hood, Mr M Leonard, Ms L Lloyd, Mrs J Nimmo-Smith, Mr A Rooke, Mrs P Slatter, Mr D Turner, Mrs M Turner, Mr M Welply and Mrs J Wood.

### Apologies:

Apologies for absence were submitted on behalf of Mr D Bretherton, Mrs D Brown, Mr S Connel, Ms K Crabbe, Mr D Dodds, Mr M Harris, Mr M Hiles, Mrs E Hodgkin, Mr I Lokhon, Mrs A Midwinter, Rev'd A Paterson, Ms A Purse, Mr C Quinton, Mr B Service

### Officers:

Mr S Bishop, Mr D Buckle, Mr S Corrigan, Mr R Draper, Mrs L Hayden, Mr M Prosser, Mrs M Reed, Mrs A Robinson

## 13. Minutes

**RESOLVED:** to approve the minutes of the meetings held on 19 July and 30 August 2012 as correct records and agree that the Chairman sign them as such.

## 14. Chairman's announcements

The Chairman reminded councillors that the December Council meeting will commence at 6.00pm preceded at 5.00pm by the chief constable's annual presentation. She reminded councillors of the forthcoming charity concert taking place at Cornerstone, Didcot on 12 January 2013.

## 15. Treasury management outturn 2011/12

Council considered the Cabinet's recommendation, made at its meeting on 18 October 2012, on the outturn performance of the treasury management function for the financial year 2011/12 and the approval of the actual 2011/12 prudential indicators in accordance with the requirements of the CIPFA Treasury Management Code of Practice and Treasury Management Practice 6.

**RESOLVED:** to

1. approve the treasury management outturn report for 2011/12;
2. approve the actual 2011/12 prudential indicators within the report of the Head of Finance to Cabinet on 18 October 2012.

## 16. Flood and Water Management Act 2010: agency agreement with Oxfordshire County Council (OCC)

Council considered the Cabinet's recommendation, made at its meeting on 18 October 2012, on an agency agreement with Oxfordshire County Council to carry out work on their behalf related to the Flood and Water Management Act 2010.

The agency powers would involve giving formal agreement for structures to be put in water courses (consenting), using legal powers to make sure riparian landowners carry out their duties (enforcement) and considering causes of flooding to property and making recommendations to reduce flood risk (investigation of flooding events).

A number of councillors acknowledged that officers and Monson staff had extensive experience in carrying out flood work. In continuing the delivery of this service, residents would benefit from the continuity of personnel and knowledge.

**RESOLVED:** to accept agency and all other necessary powers from Oxfordshire County Council to carry out work under the Flood and Water Management Act 2010 and to authorise the Head of Legal and Democratic Services to complete the appropriate agreements.

## 17. New Homes Bonus: allocation of funding to community led schemes in areas accommodating new housing

Mr M Gray left the meeting for the duration of this item because as a Cholsey parish councillor he did not consider it appropriate to take part in a decision to award the parish council funds.

At its meeting on 18 October 2012 Cabinet agreed to provide funding of £250,000 for Cholsey Parish Council towards the costs of a new pavilion in Cholsey.

Council considered the Cabinet's recommendation, made at the meeting, to add the sum of £433,000 to the provisional capital programme for the community led element of the new homes bonus funding.



**RESOLVED:** to add the sum of £433,000 to the provisional capital programme for the community led element of new homes bonus funding.

## **18. Joint licensing policy for hackney carriage and private hire**

Mr T Harbour made a statement that he held an account with Pryor Taxis related to his mobility issues but that this did not affect his ability to consider the licensing policy with an open mind.

Council considered the General Licensing Committee's recommendation, made at its meeting on 4 October 2012, to adopt a licensing policy for hackney carriage and private hire to come into force on 1 January 2013.

Mr Parvaiz, Chairman of the South Oxfordshire Taxi Association, addressed Council on this item. He supported fixed price tariffs in line with the approach taken by other local authorities such as Maidenhead, Reading and High Wycombe to prevent smaller operators being disadvantaged. As many of his members operated in the south of the district he requested the designation of MOT compliance stations to cover the whole area of the district.

Mr Hullock, a taxi driver, addressed Council in support of the requirement to install meters, which should be in place before next year's Henley Regatta, but against the setting of a council set hackney carriage tariff on the grounds that individual taxi drivers should have the freedom to set their own tariff.

Mr Pryor, of Pryor's Taxis, addressed Council objecting to the setting of a council set hackney carriage tariff. Allowing taxi firms/drivers to set their own tariffs would increase competition and result in improved services for passengers. He supported the requirement to install taximeters which would increase fare transparency.

In response to questions Mr Leonard, Chairman of the General Licensing Committee, and Mr R Draper, Shared Licensing Team Leader, provided the following responses:

- The council aimed to ensure a good coverage of MOT stations across the district
- Bringing forward the date by which taximeters should be fitted by one month was achievable
- Only new drivers would be required to take the English test
- A basic command rather than good command of English was considered adequate for conveying information between the driver and passenger
- The test requirements for vehicles were proportionate to the greater risks associated with older vehicles
- The council only had anecdotal evidence of the demand for wheelchair accessible hackney carriage/private hire vehicles

Mr Leonard moved and Mrs E Gillespie seconded the recommendation of the General Licensing Committee.

Mrs A Ducker moved and Mrs A Badcock seconded an amendment to add the following words after paragraph 18 in order to establish whether the public supported the introduction of a council set tariff:

“Subject to the requirements of Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 South Oxfordshire District Council will undertake a public consultation on whether to introduce a council set tariff”;

and to amend page 52, paragraph 21a to bring forward the date by which taximeters should be fitted by one month to ensure that the taximeters are fitted in South vehicles by Henley Regatta which runs from 3 to 7 July 2013 (additional words shown in bold and deleted words shown with strikethrough below):

“21 (a).All hackney carriage vehicles shall be fitted with a taximeter compliant with the Measuring Instruments (Taximeters) Regulations 2006 (S.I. 2006/2304) from ~~4 August 2013~~ **30 June 2013**. The taximeter shall be maintained in a sound working condition at all times. The taximeter shall be set at the tariff displayed in the vehicle. Hackney carriage proprietors and drivers shall ensure the "For Hire" sign or other illuminated sign is extinguished when the fare commences and the taximeter is brought into operation. “

Mrs M Reed, Shared Head of Legal and Democratic Services, advised that whilst the policy included reference to no sexual activity between drivers and passengers to protect both drivers and passengers it was not the responsibility of the licensing authority or taxi drivers to regulate sexual activity between passengers and as such the inclusion of such a restriction in the policy was not appropriate.

Whilst no councillor voted against the amendment to bring forward the date by which taximeters should be fitted a number of councillors opposed the amendment to undertake a public consultation on whether to introduce a council set tariff because the council had consulted on the draft policy and taxi drivers should have the ability to set their own tariffs.

Both amendments were declared carried on being put to the vote.

**RESOLVED:** to

1. adopt the licensing policy for hackney carriage and private hire to come into force on 1 January 2013 subject to the inclusion of the following words after paragraph 18:

“ Subject to the requirements of Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 South Oxfordshire District Council will undertake a public consultation on whether to introduce a council set tariff”;

and amended wording to paragraph 21a on page 52 as follows:

“21 (a).All hackney carriage vehicles shall be fitted with a taximeter compliant with the Measuring Instruments (Taximeters) Regulations 2006 (S.I. 2006/2304) from 30 June 2013. The taximeter shall be maintained in a sound working condition at all times. The taximeter shall be set at the tariff displayed in the vehicle. Hackney carriage proprietors and drivers shall ensure the "For Hire" sign or other illuminated sign is extinguished when the fare commences and the taximeter is brought into operation. “

2. authorise the Head of Legal and Democratic Services in consultation with the chairmen of the South and Vale General Licensing Committees to make minor administrative amendments to the policy where necessary.

## 19. Review of the council's constitution

Council considered the report of the Head of Legal and Democratic Services on proposed amendments to the council's constitution.

In light of Council's decision to accept agency powers from Oxfordshire County Council to carry out work under the Flood and Water Management Act 2010 (Minute 15 refers), Mr S Corrigan, Shared Democratic Services Manager, advised Council of the need to amend delegation 7.5 "to exercise powers delegated to the council under agency agreements with Oxfordshire County Council" to enable implementation of these agency agreements.

A number of councillors expressed concern that the decision of the Leader of Council to authorise Cabinet members to take any decision within their portfolio would further distance backbenchers from the decision making process, reduce Cabinet meetings and reduce transparency.

### **RESOLVED:** to

1. note the Leader's proposed delegation to the Head of Planning to specify neighbourhood planning areas;
2. note the Leader's revised scheme of delegation attached at appendix one to the report of the Head of Legal and Democratic Services to Council on 18 October 2012 for inclusion in the council's constitution
3. agree the additional delegations to the Head of Health and Housing set out in paragraph six of the report of the Head of Legal and Democratic Services to Council on 18 October 2012;
4. agree the amendments set out in paragraph seven and appendix two of the report of the Head of Legal and Democratic Services to Council on 18 October 2012;
5. agree to amend the wording of delegation 7.5 on page 79 of the council's Constitution to read "to exercise powers delegated to the council under agency agreements with Oxfordshire County Council";
6. authorise the Head of Legal and Democratic Services to make the necessary changes to the council's constitution to reflect the changes set out in this report;
7. authorise the Head of Legal and Democratic Services to make any minor or consequential amendments to the constitution required for clarification, consistency and compliance with the council's style guide.

## 20. Appointments to planning committee

Council considered a proposal from the Conservative Group to make changes to its membership of the planning committee.

**RESOLVED:** to

1. appoint Mr F Bloomfield as a member of the planning committee;
2. appoint Ms R Wallis as a substitute member of the planning committee.

The meeting closed at 8.00pm.

Chairman

Date

# Report to: Cabinet Council



## Audit and Corporate Governance Committee

Report of: Head of Finance

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Cabinet Member responsible: David Dodds

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To: Audit and Corporate Governance Committee on: 27 September 2012

To: Cabinet on: 18 October 2012

To: Council on: 18 October 2012

AGENDA ITEM NO 5

## Treasury management outturn 2011/12

That Audit and Corporate Governance Committee:

1) Scrutinise the report to ensure that the treasury activities are carried out in accordance with the treasury management strategy and policy.

That Cabinet:

Considers any comments from Audit and Corporate Governance Committee and recommends Council to:

- 1) Approve the treasury management outturn report for 2011/12;
- 2) Approve the actual 2011/12 prudential indicators within the report.

### Purpose of report

1. The report fulfils the legislative requirements to ensure the adequate monitoring and reporting of the treasury management activities. This report is to advise Councillors of the performance of the treasury management function (the management of our investments) for the financial year 2011/12. This complies with the requirements of the Chartered Institute of Public Finance and Accountancy (CIPFA's) Code of Practice on Treasury Management (revised) 2009.

## Strategic objectives

2. Effective treasury management is required in order to meet our strategic objective of managing our business effectively. Managing the finances of the authority in accordance with the treasury management strategy enables resources to be available to meet the Council's other strategic objectives.

## Background

3. As part of the 2011/12 budget setting process, Council approved the treasury management strategy for 2011/12 on 24 February 2011. The treasury management strategy sets the parameters within which officers manage the Council's treasury management activities.
4. This report details the performance of treasury activities against benchmarks and explains how background events in the financial markets and economy have affected investments and returns for 2011/12.

## Economic conditions

5. The financial markets remained focused on the sovereign debt crisis throughout 2011/12. The Greek government's failure to implement austerity measures as part of their bailout agreement in July 2011 culminated in a real risk of Greece withdrawing from the EU. The European Central Bank (ECB) responded by providing credit lines of almost one trillion euros to address the liquidity crisis among the European Union (EU) banks.
6. Despite a further bailout package for Greece in March 2012, concerns remain that these measures have just postponed the crisis and not solved it.
7. The UK coalition Government maintained a tight fiscal policy. Expectations of a base rate rise faltered as weak growth continued to prevail. The Monetary Policy Committee (MPC) increased quantitative easing (QE) by £75bn in October and a further £50bn in February 2012 in an attempt to increase liquidity in the banks and stimulate lending to businesses.
8. Inflation remained above the Bank of England (BoE) 2% target for the whole year. It peaked at 5.2 per cent in September and fell to 3.2 per cent in March 2012.
9. Whilst the BoE base rate remained at 0.5 per cent throughout 2011/12, risk has remained a constant factor in money market deposit rates beyond three months. Both short and long term rates remained at extremely low levels throughout the year compared to historic rates.
10. The economic environment remains volatile and concerns over investment counterparty risk persist. The Council has continued to restrict investments to the UK throughout the year.

## Icelandic bank default – Kaupthing Singer & Friedlander

11. As previously reported, the Council invested £2.5 million in July 2007, with the failed Icelandic bank Kaupthing Singer and Friedlander Ltd (KSF). The Council has received £1,920,829 to date, in respect of the claim for £2.6 million (£2.5 million investment plus interest).

12. As a wholesale depositor, the Council is treated as an unsecured creditor in the administration process, and ranks equally with all other unsecured creditors. The administrators intend to make further payments at regular intervals. The latest creditors' report now indicates that the estimated total amount to be recovered should be in the range of 81p to 86p in the pound. In total terms this would mean receiving between £2,130,975 and £2,262,517. The amount shown below in table 1 of £579,000 is the balance remaining on the initial investment £2.500m less the amount received to date of £1.921m.

### Base rate and LIBID rate

13. The London Inter-bank Bid rate (LIBID) is the benchmark used to compare treasury management performance against because historically it has reflected the market conditions at which rates the banks lend to each other. The three month LIBID rate started 2011/12 at 0.69 per cent, peaked at 0.96 per cent and closed the year at 0.90 per cent, whilst base rate in comparison remained constantly at 0.50 per cent throughout 2011/12.

## Treasury activities in 2011/12

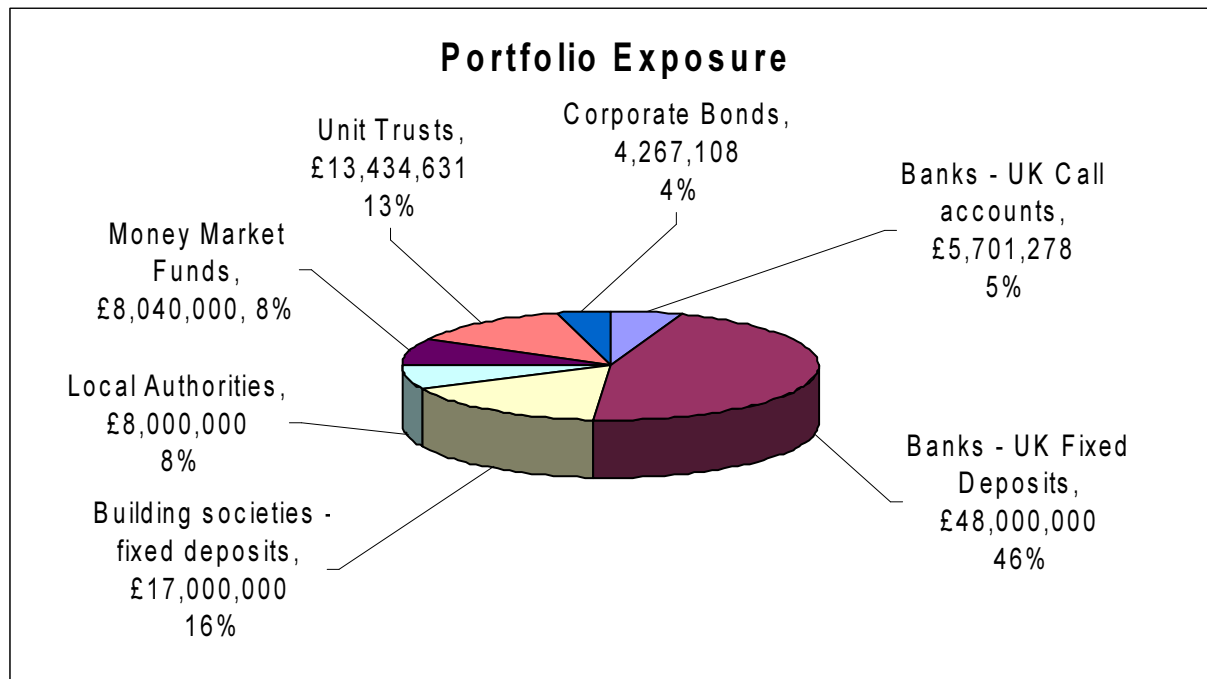
### Council investments as at 31 March 2012

The Council's investments, analysed by age as at the end of 2011/12 is shown in table 1 below. The investments position is organised in order to ensure adequate liquidity for revenue and capital activities, security for investments and to manage risks within all treasury management activities.

**Table 1: maturity structure of investments (as at 31 March 2012):**

	<b>Total</b>	
	<b>£000</b>	<b>%</b>
<b>Cash deposits:</b>		
Call	5,701	5%
30 day notice	1,482	1%
Up to 1 month	6,500	6%
1 - 2 Months	3,500	3%
2-3 Month	1,000	1%
3-4 Month	8,500	8%
4-6 Month	7,000	7%
6-12 Month	9,000	9%
1 -2 Year	31,500	30%
2-3 Year	2,000	2%
3-5 Year	3,000	3%
Kaupthing Singer & Friedlander*	579	1%
<b>Total cash deposits</b>	<b>79,762</b>	<b>76%</b>
<b>Equities</b>	13,435	13%
<b>Corporate bonds</b>	4,267	3%
<b>Money market funds</b>	8,040	8%
<b>Overall total</b>	<b>105,505</b>	<b>100%</b>

A significant proportion of the portfolio is held in the form of fixed interest rate cash deposits. These provide some certainty over the investment return. The chart below shows in percentage terms how the portfolio is spread across the investment types:



### Investment income

14. The total interest earned on investments during 2011/12 was £2.5 million, compared to the original estimate of £1.8 million, as shown in table 1a below:

**Table 1a: Investment interest earned by investment type**

Investment type	Interest Earned		
	Actual £000's	Budget £000's	Variation £000's
Short term - Cash Deposits	1,570	1,150	420
Long term - Equities & Corporate Bonds	943	713	230
	<b>2,513</b>	<b>1,863</b>	<b>650</b>

15. The variation in investment earnings of £650,000 above the original estimate for 2011/12 is due to a number of reasons:

- Interest received on unit trusts was £400,000 higher than forecast due to the overall increase in the value during the year.
- Interest earned on corporate bonds was £169,000 lower due to maturities that were not reinvested in corporate bonds
- Interest earned on cash deposits was £420,000 higher than forecast due to longer dated investments combined with higher interest rates achieved.
- The total actual average interest rate achieved for the year was 2.12 per cent. The increase above the estimate used in January 2011 of 0.26 per cent equates to £0.26 million of additional interest.



### Movement in the value of investments

16. Table 2 below shows the movement in value of the Council's investments at the end of the year.

**Table 2: Investment portfolio values and movements.**

	31/03/2011	31/3/2012	Movement in
	£m	£m	Investments
<b>Cost Values (£m's)</b>			
Bank & Building Society deposits	82.65	87.22	4.57
Equities	13.32	13.43	0.11
Corporate Bonds	5.23	4.27	(0.96)
	<b>101.20</b>	<b>104.92</b>	<b>3.72</b>

The value of investment deposits fluctuates throughout the year due to cash flow and spending patterns.

### Performance

17. Table 3 below shows in summary the performance of the Council's investments against benchmark returns as set out in the treasury management strategy.

**Table 3: Investment returns achieved against benchmark<sup>1</sup>**

	Benchmark Return	Actual Return	Growth/ (Below) above Benchmark	Benchmarks
Bank & Building Society deposits - internally managed	0.82%	1.80%	0.98%	3 Month LIBID
Unit trusts	(2.82%)	(4.06%)	(1.24%)	FTSE All Shares Index
Corporate Bonds	0.50%	6.56%	6.06%	Bank of England Base Rate
Total average return		<b>2.12%</b>		

Note: the benchmark return for unit trusts reflects the movement in capital value. All other benchmarks reflect earnings of investment income. The total actual return for the whole investment portfolio was 2.12 per cent. This is 0.72 per cent above the industry average.

### Cash deposits

18. As noted above, bank and building society deposits increased by £4.5 million during the year from £82.85 million as at 1 April 2011 to £87.22 million at the 31 March 2012.

19. Returns on internally managed cash deposits are benchmarked against the three month LIBID rate, which was an average of 0.82 per cent for 2011/12. The performance for the year of 1.80 per cent exceeded the benchmark by 0.98 per cent.

20. When opportunities arose in the first six months of year investments were made to other local authorities. A total of £8m was invested in local authorities in the year. In the second half of the year it became more difficult to find opportunities

<sup>1</sup> The figures in this table were amended at the Audit and Corporate Governance committee meeting to correct the unit trust figures. The totals in the unamended table were correct in the papers originally circulated.

that provided added value, in this sector as lower PWLB rates have driven returns down considerably. During the year officers aimed to extend the deposit periods and increase the weighted average life of the Council's investments. Opportunities were taken to invest £20 million primarily between October 2011 and January 2012 with the highest rated UK banks. In addition, officers also made use of special tranches of investment rates available to local authorities early in 2011. These combined investments have earned an additional £420,000 investment income for the year. The weighted average maturity period has been increased from 222 at the 30 September 2012 to 298 days at the end of March 2012.

21. There are a number of limiting factors which affect the rate achievable on investments. Officers have restricted placing investments to only those organisations which have a high credit rating, although this remained a moving target given the frequency of credit rating changes throughout the year.
22. For the purposes of providing comparative performance indicators, the market average rates of interest are shown in table 4. Local authority market rates for cash deposits have historically been around the same level as the three month LIBID rate. However, actual rates achieved are dictated by changeable factors such as cash flow and the market demand for funds.

**Table 4: Cumulative performance against benchmark & industry average**

	Cumulative % returns
Actual	2.12
Benchmark - 3 Month LIBID	0.82
Variance - (Under)/Over benchmark	1.30
Industry average*	1.40
Variance - (Under)/Over Ind Average	0.72

\*Source: Sector - weighted average of 7 fund managers results covering 38 funds

### Equities

23. The Council invested in unit trust equity investments ('shares' in unit trust form) because of good historical performance over the longer term. The current holdings with the Legal & General (L&G) UK 100 Index Trust were purchased in 2000/01 at an initial cost of £10 million. This is an authorised unit trust incorporated in the United Kingdom and regulated by the FSA. The trust's objective is to track the capital performance of the UK equity market as represented by the FTSE 100 index.
24. The unit trusts are accounted for in the Council's financial statements at fair value<sup>1</sup>. The opening value of unit trusts at 1 April 2011 of £13.32 million closed at £13.43 million by March 2012. The value has recovered from a low of £12 million in September 2011. This volatility is expected in the current economic climate where investors move out of equities into 'safer' sectors such as gilts until markets look calmer. Table 5 below shows the movement in capital value:

**Table 5: Unit Trusts - Movement in capital**

	£	£
Market Value as at 31.3.12		13,434,630
Less:		
Dividends received in year	417,170	
Accrued dividends	235,306	
		(652,476)
Amended market value as at 31.3.12		12,782,154
Market value as at 1.4.11		13,323,490
Decrease in Market Value in year		(541,336)

25. The value quoted in the statement of accounts includes adjustments for accrued interest. In order to assess the true unit trust performance an adjustment must be made to amend the market value<sup>2</sup>. Table 6 below shows the unit trust performance without the accounting adjustments required for the statement of accounts:

**Table 6: Unit Trust performance 1.4.11 - 31.3.12**

Decrease in FTSE all share was	(2.82%)
Decrease in Market Value	(4.06%)
Under-performance	(1.24%)
	£
Market Value (1.4.11)	13,323,490
less 2.82% FTSE decrease	(375,722)
Benchmark Market Value at 31.3.12	12,947,768
Market Value (amended at 31.3.12)	12,782,154
<b>Under performance 1.4.11 to 31.3.12</b>	<b>(165,614)</b>

28. Unit trusts fluctuated quite a lot throughout the year, as volatility in the markets has driven investors to move to safer havens such as gilts.

29. Dividends received of £0.4 million were reinvested to acquire additional fund units. Since the end of March 2012 the value rose to £13.52 million in July. The unit trusts are benchmarked against the FTSE All Shares Index, which represents 98-99 per cent of the UK market capitalisation. The index shows the performance of all eligible companies listed on the London Stock Exchange main market and today covers 630 constituents with a combined value of nearly £1.6 trillion. It is recognised as the main benchmark for unit trusts. In terms of performance the Council's unit trusts under-performed the benchmark in 2011/12 by £165,614 as shown in table 6 above.

## Corporate Bonds

30. The Council's corporate bonds are also accounted for in the financial statements at fair value. The opening carrying value<sup>3</sup> for 1 April 2011 was £5.1 million. The closing carrying value at 31 March 2012 was £4.2 million. The carrying values and market values for the corporate bonds are shown in table 7 below:

**Table 7: corporate bond values**

Bonds	Original cost £000	Nominal value £000	Carrying value as at 1/4/11 £000	Carrying value as at 1/4/12 £000	Market value at 1/4/12 £000
Santander 11.50%	422	270	348	335	304
Lloyds 9.125%	901	750	790	0	0
RBS 9.625%	1,973	1,500	1,713	1,621	1,672
Halifax 11.5%	2,942	2,000	2,288	2,178	2,201
			<b>5,139</b>	<b>4,209</b>	<b>4,104</b>

Notes:

1. Original cost = principal value
  2. Nominal value = capital value to be paid if held to maturity
  3. Carrying value = carrying value brought forward plus interest due in year based on Effective Interest Rate calculation.
  4. Market value = sale value at specific date
31. The Council continues to maintain holdings of corporate bonds. The returns on these securities over their remaining lives should out perform the current bond markets given the current economic forecasts that interest rates and yields will continue to remain low. One bond matured in 2011/12 for the nominal value of £750,000.
32. The weighted average return on the Council's corporate bonds for 2011/12 was 5.89 per cent, which significantly exceeded the benchmark return.
33. The corporate bonds mature on dates between 2011 to 2017. Annual interest earned will remain the same for the whole period a bond is held. Table 8 below shows the redemption yield of the bonds if kept until the redemption date.

**Table 8: corporate bond redemption yields if held to maturity**

Bank	Interest rate %	Original cost £000	Nominal value £000	Redemption date	Redemption yield
Santander	11.50%	422	270	04/01/2017	5.59%
Lloyds	9.13%	901	750	17/10/2011	6.51%
RBS	9.63%	1,973	1500	22/06/2015	6.20%
Halifax	11.50%	2,942	2000	17/01/2014	5.25%

## Money market funds (MMFs)

34. Money market funds are commercially run pooled investments. They work rather like unit trusts, but whereas the latter are based upon shares in companies, MMFs rely on loans to companies. As their pooled funds have a high total value,

better rates of return can be obtained. Legislation allows authorities to access only those MMFs with the highest possible credit rating (AAA).

35. Access and liquidity together with high security have meant these funds have been used throughout the year. The Council currently invests in three MMFs and the amount held in each at the 31<sup>st</sup> March 2012 is shown below:

**Table 9: Money market funds**

	31/03/2012 £000
Deutsche Bank	2,540
Black rock	3,950
Goldman Sachs	1,550
	<u>8,040</u>

**Other investments**

**PENSION FUND CONTRIBUTIONS**

36. The Council made two contributions of £5 million to the Oxfordshire County Council pension fund, one in April 2005, the other in April 2008. The Council made these payments to reduce the ongoing contributions to the fund. Based on historical performance statistics, the return earned by the pension fund has been better than that achieved by the Council. The pension fund is able to invest far larger amounts than we do and therefore can attract higher rates of return.
37. The value of the pension fund assets and liabilities is based on a series of actuarial assumptions. Based on the actuarial valuation as at the 31 March 2012, the long term rate of return per annum expected on the funds assets was 5.7 per cent (6.8 per cent as at 31 March 2011).

**LAND AND PROPERTY**

38. The Council holds a portfolio of investment property, which includes land, industrial estates, depots, garages and shops that are used on a commercial basis. These assets had a net book value of £16.3 million at 31 March 2012 (£16.2 million at 31 March 2011) and generated income of £0.9 million in 2011/12 (£0.9million in 2010/11).
39. The Economy, Leisure and Property (ELP) team manages investment property ensuring that rent is collected and rent reviews are implemented. The performance of the investment property is assessed annually by ELP to determine if assets should be retained or disposed of and agree any actions to improve or enhance the value of the investment property holdings.

**Treasury management advisers**

40. Together with Vale of White Horse District Council, the Council jointly re-tendered the contract for treasury advisors in October 2011. The contract was awarded to Sector Treasury Services Ltd for a period of three years. The joint procurement provided annual savings to both Councils. Sector Treasury

Services Limited is a subsidiary of the Capita Group plc and is a leading independent provider of treasury advisory services to the public sector.

41. Whilst the treasury advisers provide support to the internal treasury function, under current market rules and the CIPFA Code of Practice the final decision on treasury matters remains with the Council.
42. The services provided include the provision of credit rating information, strategic advice including a review of the investment and borrowing strategies and policy documents, advice to assist the Council to formulate a view on interest rates, performance indicators and fund management performance monitoring.

### Treasury management limits on activity

43. The limits are set each year in the Treasury Management Strategy. The purpose of these limits are to ensure that the activity of the treasury function remains within certain parameters, thereby mitigating risk and reducing the impact of an adverse movement in interest rates. However, if these limits are set to be too restrictive they will impair the opportunities to reduce costs/improve performance. The limits are shown in table 10 below:

**Table 10: treasury management limits on activity**

	2011/12	2011/12
<b>Investments</b>	Actual	Limit
	£m	£m
<b>Interest rate exposures</b>		
Limits on fixed interest rates	78	100
Limits on variable interest rates	27	30
<b>Maximum principal sums invested &gt; 364 days</b>		
Upper Limit for principal sums invested > 364 days	36.5	50
Limit to be placed on investments to maturity:		
1 - 2 years	31.5	70
2 - 5 years	5	50
5 years +	0	50
<b>Debt</b>		
<b>Interest rate exposures</b>		
Maximum fixed rate borrowing	0	10
Maximum variable rate borrowing	0	10

(Note: interest rate exposure limits identify the maximum limits that can be invested with fixed interest rate and a variable interest rate. Total principal funds invested for greater than 364 days – these limits are set with regards to the Council’s liquidity requirements and to reduce the need for early sale of an investment, and are based on the availability of funds after each year end.

### Liquidity and yield

44. The benchmarks for liquidity are set to ensure that sufficient funds can be accessed at short notice. These are targets and not limits. The weighted average life in days sets a benchmark for how long investments should be

made and the maximum benchmark is a target set to ensure that investments are not made for too long. For example the amount to be maintained for liquidity was £10m and the actual of £17m was above the benchmark. The actual for the WAL of 298 days exceeded the benchmark of 182.5 days and did not exceed the maximum of 1095 days.

45. The year end position against the original benchmarks approved in February 2011 is shown below:

**Table 11: risk-liquidity against benchmark**

	2011/12 benchmark £m	2011/12 actual £m
Bank overdraft	0.5	0
Short term deposits - minimum available within 1 week	10	17
	2011/12 benchmark days	2011/12 actual days
Weighted average life ( days)	182.5	298.0
Weighted average life - maximum	1095.0	298.0

## Debt activity during 2011/12

46. During 2011/12 there has been no need for the Council to borrow. The Council will continue to take a prudent approach to its debt strategy. It is not expected to enter into any significant borrowing in the medium or long term. The prudential indicators and limits set out in table 10 below provide the scope and flexibility for the Council to borrow in the short-term up to the maximum limits, if such a need arose within the cash flow management activities of the authority, for the achievement of its service objectives. The Local Government Act 2003 requires the Council to produce prudential indicators and monitor activity against them.

**Table 12: prudential indicators - authorised limit for external debt**

	2011/12 Original Estimate £m	31.3.2012 Position £m
<b>Authorised limit for external debt</b>		
Borrowing	5	0
Other long term liabilities	5	0
	<b>10</b>	<b>0</b>
<b>Operational boundary for external debt</b>		
Borrowing	2	0
Other long term liabilities	3	0
	<b>5</b>	<b>0</b>

47. The authorised limit of £10 million is set to provide for any short-term borrowing that could be required temporarily to deliver the treasury management strategy.

This is the statutory limit determined under section 2(1) of the Local Government Act 2003.

48. This operational boundary is set below the authorised limit and a figure of £5 million is reasonable to allow the flexibility to borrow short-term for cash-flow variations if the need arose within the day to day treasury management activities of the authority.
49. During 2011/12 the Council has performed within all the limits set out in the Treasury Management Strategy 2011/12. The Council is debt free and has no borrowing to support capital assets.

## **Financial implications**

50. Details of the financial implications are set out in the report.

## **Legal implications**

51. Under the Local Government Act 2003 and relevant secondary legislation and associated guidance, the Council agreed the treasury management strategy for 2011/12 at its meeting of 24 February 2011.
52. All the Council's investments are, and will continue to be, within its legal powers.
53. There are no other legal implications of this report.

## **Conclusion**

54. As at 31 March 2012, the Council's financial investments had a cost value of approximately £104 million. During 2011/12 investments generated £2.513 million in investment income which was £650,000 above the £1.863 million original estimate. This was as a result of proactive management of investments held and extending the maturity structure of investments during the year, by investing in fixed term deposits at higher rates.
55. The financial year 2011/12 provided volatile conditions with regard to treasury management. There was very little material movement in interest rates throughout the year and fluctuations in the markets have moved with expectations of growth in the economy. Concerns for counterparty risk continue to present the council with a difficult environment to invest in. The main implications of these factors were:
  - sums at risk with an Icelandic institution in administration;
  - low investment returns and difficulty to forecast;
  - increased counterparty risk – reduced choice of counterparties;
  - Interest rate exposure risk – due to investments held in short-term maturity periods.
56. Despite the continued uncertainty the overall investment performance was above the industry average for 2011/12. Investments were made in the year that provided a good return whilst maintaining security and liquidity.



## Background papers

- Chartered Institute of Public Finance and Accounting (CIPFA) code of practice for treasury management in the public sector.
- CIPFA treasury management in the public services code of practice and cross sectoral guidance notes
- Treasury Management Strategy 2011/12 – Council 18 February 2011.

## Definitions

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<sup>1</sup> Fair value: is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's-length transaction. In some cases this will be the amount paid for purchasing the investment. This may not always be the case, where there have been substantial transaction costs (as in an investment fund), or where interest payable does not reflect market rates or obligations (as in corporate bonds).

<sup>2</sup> Market value: this is the price that would be paid on a specific date.

<sup>3</sup> Carrying value: the accounting treatment of investments will depend on the financial asset category within which they are deemed to be. For some categories the amount carried in the balance sheet will be either written up or down over the term of the investment. This is done to reflect things such as transaction costs or deferred interest payments and is required to spread the effect equally over the life of the investment. The adjusted value is the carrying value.

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Listening Learning Leading

## **Licensing Policy for Hackney Carriage and Private Hire**

This policy was adopted by the Vale of White Horse District Council at the meeting of Council on 24 October 2012 and South Oxfordshire District Council at the meeting of Council on 18 October 2012 and comes into force on 1 January 2013 and will be reviewed five years from that date unless previously amended.

## FOREWORD

This policy statement has four main purposes, which are:

- **to confirm to members** of the General Licensing Committees the boundaries and powers of the councils and the parameters within which to make decisions
- **to inform licence applicants** of the parameters within which the councils will make licensing decisions and therefore how licensed operators drivers and vehicles can operate within the area of the council which licenses them
- **to inform local residents and businesses** of the parameters within which the councils will make licensing decisions and therefore how their needs will be addressed
- **to support a case in a court of law** where either council has to show how it arrived at its licensing decisions.

### Using this policy

- the policies are shown in text boxes, which are separately numbered and titled.
- the additional text gives examples, background and reasons for the policies.

If you have any queries about licensing issues please contact the licensing teams at the following addresses: -

The Licensing Unit  
Vale of White Horse District Council  
Abbey House,  
Abingdon,  
OX14 3JE

Tel. 01235 540570  
E mail: [licensing.unit@whitehorsedc.gov.uk](mailto:licensing.unit@whitehorsedc.gov.uk)

The Licensing Unit  
South Oxfordshire District Council  
Benson Lane,  
Crowmarsh Gifford,  
Wallingford,  
OX10 8NL

Tel: 01491 823209  
E mail: [licensing@southoxon.gov.uk](mailto:licensing@southoxon.gov.uk)

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## GLOSSARY OF TERMS

Term	Description	Reference for Details
Convictions and cautions	Any reference to convictions also includes, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders, traffic offences and fixed penalty notices, including those that would previously have been regarded as spent under the 1974 Act	
Council	The Vale of White Horse District Council in its capacity as licensing authority for the area of Vale of White Horse, and/or South Oxfordshire District Council in its capacity as licensing authority for the area of South Oxfordshire.	
CRB	Criminal Records Bureau	
DfT guidance on stretched limousines	The Department for Transport Guidance for Operators of Stretched Limousines, published 22 September 2009	
DSA	Driving Standards Agency – an Executive Agency of the Department for Transport	
DVLA	Driver and Vehicle Licensing Agency	
DVLA driving licence	A full original Great Britain driving licence	
EEA	European Economic Area	
General Licensing Committee	The committee of councillors of the Vale of White Horse District Council that is responsible for the council's hackney carriage and private hire licensing functions in the area of Vale of White Horse. The committee of councillors of South Oxfordshire District Council that is responsible for the council's hackney carriage and private hire licensing functions in the area of South Oxfordshire.	
Group 2 Medical	The DVLA Group 2 standard of medical fitness for professional drivers.	
Hackney carriage	A vehicle licensed to ply for hire throughout the respective district.	Town Police Clauses Act 1847

HGV	Heavy Goods Vehicle	
Low emission vehicle (LEV)	One with CO <sub>2</sub> emissions of 120 g/km or lower	
Licensing panel	A Taxi Licensing Panel of South Oxfordshire District Council or Vale of White Horse District Council.	
Private hire vehicle	A motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle or a London cab or tramcar, which is provided for hire with the services of a driver for the purpose of carrying passengers	Local Government Miscellaneous Provisions Act 1976 Sec 80 (1)
Private hire operator	A person who makes provision for the acceptance of private hire bookings to undertake themselves or pass to others to undertake. "operate" means in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle	Local Government Miscellaneous Provisions Act 1976
PSV	Passenger Service Vehicle	
Regulated occupation	The principles of the 1974 Act do not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of taxis is listed as a "Regulated Occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.	Rehabilitation of Offenders Act 1974  Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002
Taxi	This word has no meaning in law and is often used generically to describe both hackney carriages and private hire vehicles	To avoid confusion, the use is limited to instances where reference is made to other documents which have used it
The DfT	The Department for Transport, including previous names under which that Department has been known	
The DfT guidance	The Department for Transport - HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENSING: BEST PRACTICE GUIDANCE, published in March 2010	
Vehicle or licensed vehicle	Both a hackney carriage and private hire vehicle.	

## INTRODUCTION

1 In setting out this joint policy, the councils seek to promote the following objectives:

- the protection of public health and safety
- the maintenance of a professional and respected hackney carriage and private hire trade
- access to an efficient and effective transport service
- the protection of the environment.

2 The aim of the licensing process, in this context, is primarily to protect the public as well as to ensure that the public have reasonable access to these services, because of the part they play in local transport provision. It is important that the councils' hackney carriage and private hire licensing powers are used to ensure that licensed vehicles in the district are safe, comfortable, properly insured and available where and when required.

3 This policy contains information about legal requirements, government guidance, council policy, procedures and standards. It has been produced pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Acts 1847 and 1889, the Public Health Act 1875 and the Local Government Act 1972 which place on the councils the duty to carry out licensing functions in respect of hackney carriage and private hire vehicles, drivers and operators.

4 In exercising their discretion in carrying out their regulatory functions, the councils will have regard to this policy document and the objectives set out above. Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits in accordance with the relevant council's enforcement policy. Where it is necessary for either of the councils to depart substantially from this policy, clear and compelling reasons will be given for doing so.

5 The councils' hackney carriage and private hire licensing policies have been introduced and reviewed at different times. A review of the policies and procedures has taken place to produce this single joint policy covering both councils. The policy will remain in existence for a period of five years, during which time it shall be kept under review and revised as necessary. The Head of Legal and Democratic Services in consultation with the Chairmen of the General Licensing Committees is authorised to make minor administrative amendments to the policy where necessary.

6 The policy provides guidance for applicants, drivers and operators to assist them with the application processes and operation of their businesses. This guidance, application forms and current fees are also available on the relevant council website. In order to ensure that the most up to date version is used,



applicants, drivers and operators should not store these forms on their own system but should download the latest version of a form when it is required.

## **BACKGROUND**

### **Role of hackney carriages and private hire vehicles**

7 Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide demand responsive services in situations where public transport is either not available (for example in rural areas, or outside “normal” hours of operation such as in the evenings or on Sundays), and/or for those with mobility difficulties.

### **Licensing profile**

#### **SOUTH OXFORDSHIRE**

The council currently licenses 570 vehicles: 398 hackney carriages and 172 private hire vehicles. There are 821 drivers and 61 operators licensed by the council.

#### **VALE OF WHITE HORSE**

The council currently licenses 223 vehicles: 112 hackney carriages and 111 private hire vehicles. There are 244 drivers and 43 operators licensed by the council.

### **Best practice guidance and legislation**

8 The DfT has national responsibility for hackney carriage and private hire legislation in England and Wales. As a result of the Office of Fair Trading producing a report on the UK hackney carriage and private hire trade, the DfT was asked to produce best practice guidance for local licensing authorities. The latest guidance was issued in March 2010. In addition, the Equality Act 2010 has implications for both hackney carriage and private hire operators in respect of disabled access to vehicles and further guidance and directions are expected on this matter.

9 The DfT guidance is directed at local authorities in England and Wales with responsibility for hackney carriage and private hire licensing who will “decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes”. The document recognises that licensing authorities may reach their own decisions both on overall policies and on individual licensing matters, in the light of their own circumstances.

10 The councils have taken account of the DfT guidance to shape this policy.

11 This policy also takes account of the legislative basis of the councils’ taxi licensing powers, contained in the Town Police Clauses Act 1847 and 1889, the Public Health Act 1875, the Local Government Act 1972 and the Local Government (Miscellaneous Provisions) Act 1976 as amended, which the councils have both adopted.

The Law Commission have recently consulted on changes to the law on hackney carriages and private hire vehicles in the document 'Reforming the law of taxi and private hire services'. The consultation period ended on the 10 August 2012 and the commission intend to produce a draft bill for consideration by parliament in November 2013. Bearing in mind the timescales and uncertainty of outcomes at this time no additional consideration has been taken of the consultation document in producing this policy.

## **Costs and benefits of licensing policies**

12 The DfT guidance stresses that licensing requirements which are unduly stringent are likely to unreasonably restrict the supply of hackney carriage and private hire services by increasing the cost of operation or by otherwise restricting entry to the trade. Councils are therefore cautioned to recognise that too restrictive an approach may well work against the public interest and can have safety implications.

13 Councils are encouraged to ensure that each of their various licensing requirements is properly justified by the risk it seeks to address. The financial or other cost of a particular requirement, in terms of its effect on the availability of transport to the public, should at least be matched by the benefit it will provide to the public, for example through increased safety.

14 The cost of administering the policy including the cost of enforcement where the law allows will be met from licensing fees. In adopting this policy the councils have had regard to the likely costs of implementation and have endeavoured to strike a balance between the financial interests of the trade, public safety and the delivery of other council policies.

## **Enforcement**

15 The DfT guidance is clear on the necessity of enforcement to maintain high standards of public safety. This may be of the statutory requirements or the council's policies as directed by regulations and current best practice. All enforcement schemes need to be proportionate and transparent. While the ultimate authority is the court the expectation is that enforcement will be carried out by licensing officers overseen by the General Licensing Committees and their associated panels.

16 Any enforcement system needs to deal with persistent, low level breaches up to serious, possibly, criminal behaviour. There needs to be a grade of sanctions from informal advice and warnings through to suspension and revocation of licence. It is clear that the majority of enforcement will be for relatively minor offences or breaches and will be undertaken by the licensing officers.

17 There is a strong professional relationship between the licensing teams and the trade. This is based on the application of consistent standards for all parties. The adoption of a points based system provides a transparent set of breaches and proportionate penalties. This builds on the current enforcement policies. The points system does not affect the driver's or operator's rights of appeal within the councils' democratic systems and ultimately the magistrate's court. The details of the system are shown in Appendix H.

**POLICY ENFORCEMENT 1: Penalty points system**

The councils will operate a points based enforcement scheme. Points will be issued by the council based on a standard tariff. Points remain on a driver's or operator's licence for 12 months from date of issue. Details of the scheme are shown in Appendix H.

**POLICY ENFORCEMENT 2: Points limit in 12 months.**

Drivers who exceed 12 points or operators who exceed 30 points in any 12 month period will be required to attend a hearing before the relevant licensing panel to determine whether they are a fit and proper person under relevant licensing legislation.

The penalty points system will commence on 1 January 2013.

**Tariff**

**POLICY TARIFF 1**

South Oxfordshire District Council does not operate a council set hackney carriage tariff.

**POLICY TARIFF 2**

The Vale of White Horse District Council operates a council set hackney carriage tariff.

18 The tariff is a maximum figure that hackney carriage drivers can charge based on a range of factors including time of day or night and special occasions such as bank holidays. The tariff does not apply to private hire vehicles or pre-booked journeys where the cost is agreed in advance. Drivers may charge any amount for a journey provided it does not exceed the fare on the meter. Hackney carriage vehicles must clearly display the tariff card within the vehicle.

Subject to the requirements of Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 the Vale of White Horse District Council will undertake a public consultation on whether to continue to operate a council set tariff and, if retained, the structure and level of the tariff with a view to any changes being implemented by 31 July 2013.

## **HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

### **Limitation of numbers**

19 No powers exist for the councils to limit the number of private hire vehicles that they license. The present legal provisions on quantity restrictions for hackney carriage vehicles are set out in section 16 of the Transport Act 1985. This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed hackney carriages “if, but only if, the relevant council is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet”. In the event of a challenge to a decision to refuse a licence on these grounds it would, therefore, have to be established that the council had been reasonably satisfied that there was no significant unmet demand. The councils take the view that the market will determine the number of hackney carriage vehicles to meet demand.

20 If the councils were to take the view that a quantity restriction could be justified in principle, the DfT guidance advises that the level at which the limit should be set is addressed by means of a survey, including details on associated costs.

#### **POLICY VEHICLE 1: Numbers**

The councils will not set a limit on the number of hackney carriages that they license.

### **Specifications and conditions**

21 The councils are empowered to impose such conditions as they consider reasonably necessary, in relation to the grant of hackney carriage or private hire vehicle licences. Hackney carriages and private hire vehicles provide a service to the public; the councils will only license vehicles suitable for this purpose. It is important to set criteria for the external and internal condition of the vehicle, provided that these are not unreasonably onerous, to maintain high standards within the trade.

22 The councils will not license purpose built hackney carriage vehicles as private hire as this can confuse members of the public.

**POLICY VEHICLE 2: Minimum standards**

The councils have adopted minimum standards that they will apply to all licensed vehicles. These are set out in Appendix A for hackney carriages and Appendix B for private hire vehicles.

**POLICY VEHICLE 3: Number of passengers**

Vehicles will, in general, be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be accepted, provided that there is compliance with the specifications set out in Appendix A or Appendix B. The councils will determine 'novelty vehicles' on a case by case basis.

**POLICY VEHICLE 4: Q plate vehicles**

Any vehicle with a 'Q' plate registration will not be licensed as 'Q' plates are issued for vehicles which are either not originally registered in the UK and proof of age was unavailable at registration or for vehicles that have been built using a significant proportion of used parts. 'Q' plates are also used to disguise stolen or accident damaged vehicles.

## **Accessibility**

### **SOUTH OXFORDSHIRE**

The council currently licenses 570 vehicles; 398 hackney carriages and 172 private hire vehicles. Of these 19 (11%) private hire vehicles and 9 (2%) hackney carriages are wheelchair accessible.

### **VALE OF WHITE HORSE**

The council currently licenses 223 vehicles; 112 hackney carriages and 111 private hire vehicles. Of these 13 (12%) private hire vehicles and 15 (13%) hackney carriages are wheelchair accessible.

23 The councils are committed to social inclusion and ensuring that disabled residents have a variety of opportunities to enjoy a high quality of life. For this

reason, the councils consider it important that disabled residents have access to all forms of public transportation.

24 It is arguable that different accessibility considerations apply to hackney carriage and private hire vehicles in that hackney carriages can be hired immediately in the street or at a hackney carriage stand by the customer dealing directly with a driver, whereas private hire vehicles can only be used by prior booking. On the basis that those with disabilities must have equal access to transport services, the council considers that it is particularly important that a disabled person should be able to hire a hackney carriage on the spot with the minimum delay or inconvenience; having accessible hackney carriages available helps make that possible.

25 Due to the limited number of disabled access vehicles available, any wheelchair accessible hackney carriage meeting the European Community Whole Vehicle Type Approval or the UK Low Volume Type Approval (ESVA or IVA) and has suitable tracking, seatbelt and wheelchair anchorages will be given a reduced licensing fee. The councils will give careful consideration to other incentives to increase the number of disabled access vehicles within the districts.

#### **POLICY VEHICLE 5: Wheelchair accessible vehicles (WAV)**

The councils will continue to encourage the licensing of vehicles that are wheelchair accessible by giving a reduction in vehicle licence fees.

The eligibility of such vehicles is defined as any vehicle that has:

- met the European Community Whole Vehicle Type Approval or the UK Low Volume Type Approval (ESVA or IVA)
- has suitable tracking, seatbelt and wheelchair anchorages been constructed or modified to accommodate disabled passengers.

The licence fee reductions are subject to annual review.

Vehicle type

26 Any vehicle that has been purpose built, or any vehicle that has been modified or converted to carry a disabled person confined to a wheelchair, will be considered for licensing provided the vehicle complies with the requirements and guidelines laid down by the councils.

#### **POLICY VEHICLE 6: Certification for wheelchair adapted vehicles**

When a vehicle has been modified post manufacture to provide access or special facilities for disabled passengers the vehicle must have all modifications and adaptations, including all seats, seat belts and anchorages, retested or approved to meet either the European Whole Vehicle Type Approval or the UK Low Volume Type Approval (ESVA or IVA) that meets the required standard. Prior to the first licensing of the vehicle the operator must produce certification that the vehicle meets the required standards.

27 Vehicles will have a maximum seating capacity of up to eight passenger seats and only forward or rearward facing seats shall be fitted. When carrying a wheelchair this must be included in, and not in addition to, the maximum number of seats. When the wheelchair facility is not required the vehicle may operate as a normal hackney carriage or private hire vehicle with seating for the number of passengers the vehicle is licensed to carry.

28 Prior to licensing the applicant must provide the council with written confirmation from the manufacturer or modifier that the vehicle meets the required standard. This will include the seating, the system and devices used to secure the wheelchair and occupant and the wheelchair access equipment. A licensing officer may require the vehicle to be referred to one of the council's designated vehicle testing centres. This inspection will be carried out at the owner's cost.

## **Access**

29 All wheelchair accessible vehicles must be able to load a wheelchair using the access equipment by the side or rear access doors. The side access door must be the door situated on the nearside of the vehicle, i.e. the kerbside when stopped in a normal road.

30 The aperture of the door into which the access equipment is fitted shall have minimum clear headroom in its central third of 1220mm (48 inches). The measurement shall be taken from the upper centre of the aperture to a point directly below on either the upper face of the fully raised platform or the upper face of the ramp fully deployed on level ground.

31 A locking mechanism shall be fitted that holds the access door in the open position whilst in use.

## **Equipment**

32 A wheelchair accessible vehicle shall be fitted with either of the following forms of wheelchair access equipment:

### **Ramps**

33 Any purpose designed access ramp that is carried must be lightweight and easy to deploy. The installed ramp shall have visible reference to a safe working load of 250 kg and certified to BS6109.

### **Wheelchair lift**

34 A purpose designed wheelchair lift shall conform to the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER). Vehicles presented for inspection with a wheelchair lift will require a valid LOLER certificate. All equipment used to lift people requires inspection every six months. The LOLER regulations require that records of inspection must be kept for two years or until the next inspection as a minimum.

35 The wheelchair access equipment shall be fitted such that it terminates at the interior floor level so as to allow smooth entry/exit of the wheelchair.

### **Anchorage**

36 The wheelchair must always be carried in a secure and stable position as recommended by the vehicle manufacturer or conversion company. In the case of purpose built vehicles i.e. London style taxis, this position will be facing the rear of the vehicle. In the case of vehicles which have been specially converted for the purpose of conveying wheelchairs, the converter's recommendations shall be followed. **Please note this will always be either facing the front or rear of the vehicle. Wheelchairs must never be carried facing sideways in a vehicle.**

37 A system for the effective anchoring and securing of wheelchairs shall be provided within the vehicle in all spaces designated as wheelchair spaces. The system and the devices used to secure a wheelchair to the vehicle shall comply with the relevant standards laid down in European Directive 76/115 EEC (as amended by 90/629 EEC).

38 All wheelchair tracking must comply with European Standard UNECE Regulation 14 (EC Directive 76/115 EEC).

39 Each wheelchair user shall be provided with a disabled-person seatbelt, which fastens to the structure of the vehicle either permanently or temporarily by use of approved fixings to the position of the wheelchair. This is required by (European Directive 76/115 EEC and Regulations 46 & 47 Road Vehicles (Construction and Use) Regulations 1986).

40 A VOSA certificate of compliance following a post conversion inspection or construction to agreed standards will indicate compliance with the above standards.

41 The councils are aware of the different demands for private hire vehicles, particularly those involved in providing transport through school contracts for disabled children. Operators also need to be aware of their liabilities under health and safety legislation in respect of staff that they employ to ensure that they provide a safe system of work for the driver.



### POLICY VEHICLE 7: Private hire vehicles and hackney carriage vehicles

The councils will require all new hackney carriage and private hire vehicles that have been manufactured or adapted to carry passengers in their wheelchairs and have side or rear-loading facilities to have:

- been fitted with an appropriate ramp or tail lift that has been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998.
- The wheelchair must always be carried in a secure and stable position as recommended by the vehicle manufacturer or conversion company
- A system for the effective anchoring and securing of wheelchairs shall be provided within the vehicle in all spaces designated as wheelchair spaces
- All wheelchair tracking must comply with European Standard UNECE Regulation 14 (EC Directive 76/115 EEC)
- Each wheelchair user shall be provided with a disabled-person seatbelt, which fastens to the structure of the vehicle either permanently or temporarily by use of approved fixings to the position of the wheelchair
- A VOSA certificate of compliance following a post conversion inspection or construction to agreed standards will indicate compliance with the above standards

Any driver must be fully trained in the safe operation of the equipment. The equipment must be maintained in good working order and available for use at all times.

### Maximum age of vehicles

42 The DfT guidance states that it is possible for an older vehicle to be in good condition and that the setting of an age limit beyond which they will not license vehicles may be arbitrary and disproportionate. The councils have not set age limits on vehicles but have set a robust regime of vehicle testing that reflects the greater risk posed by older vehicles.

### POLICY VEHICLE 8: Maximum age of vehicles

The councils will not apply age restrictions to vehicles meeting the required standards as set out in Appendix A and Appendix B.

## Vehicle testing

43 The DfT guidance recognises that an annual MOT test for licensed vehicles of whatever age is necessary. More frequent tests are recommended for older vehicles. The DfT guidance also suggests that it is good practice for councils to consider having more than one testing station and argues that there could be advantages in contracting out the testing work to different garages. The councils will not license vehicles unless they have an MOT and certificate of compliance.

44 The councils will approve testing stations to which all hackney carriages and private hire vehicles must be taken when being tested in connection with licensing requirements. The approved testing stations will be decided upon through an open application process that takes place every five years. Having taken into account the DfT guidance that best practice is to approve more than one testing station the councils will approve a minimum of two testing stations in the Vale of White Horse area and/or neighbouring districts and a minimum of three testing stations in South Oxfordshire and/or neighbouring districts. The location and contact information for approved testing centres will be available on the councils' websites from 1 September 2013.

South Oxfordshire District Council will require all vehicles licensed or renewing their licence after 30 September 2013 to have a certificate of compliance from an approved test centre.

### POLICY VEHICLE 9: Certificates of compliance

The councils will only accept MOTs and certificates of compliance from council approved testing centres that have been issued within 28 days of the vehicle licence renewal date.

45 Anyone who wishes to complain about or is in dispute with any of the approved testing stations may contact the licensing team who will investigate the complaint. Complaints concerning the part of the test that checks the councils' conditions will be dealt with by the licensing team with reference to an expert if necessary. Complaints about the mechanical MOT part of the test may be referred to VOSA.

### POLICY VEHICLE 10: Compliance testing requirements

The councils require all vehicles (with exception to vehicles less than one month old and less than 1500 recorded miles which are exempt) to be licensed as hackney carriages and private hire vehicles to undergo an MOT and compliance test before the issue of a licence. Testing must be undertaken in a council approved testing centre. In addition to this vehicles must be tested and licensed in accordance with Policy Vehicle 9: Certificates of compliance above.

46 Vehicles less than one month old and with less than 1500 recorded miles will be exempt from the requirement for a compliance check.

Vehicles up to the third anniversary of their date of registration will require an annual compliance check.

Vehicles older than the third anniversary of their registration but less than the seventh anniversary of their registration will require compliance checks every six months.

Vehicles older than the seventh anniversary of their date of registration will require compliance checks every four months.

The test must take place in accordance with the council's testing procedures. Vehicles will be required to meet the required MoT standard for their age and construction and the council's standards as laid out in Appendix A and Appendix B. In addition the accuracy of the meter will be checked over a measured mile.

### POLICY VEHICLE 11: Display of licence plate

All hackney carriages and private hire vehicles must display a licence plate affixed to the outside rear of the vehicle. This is a key feature in helping to identify vehicles that are properly licensed.

The external licence plate supplied by the council shall be securely fixed to the outside and rear of the vehicle either by direct fixing, e.g. screw, bolt or rivet, or on a secure bracket. No temporary fixing such as magnets or Velcro<sup>®</sup> are allowed. An exemption for private hire vehicles from displaying the plate may be given at the discretion of the licensing officer in accordance with Policy Vehicle 14.

## **Signage and advertising**

47 Members of the public can often confuse private hire vehicles with hackney carriages, without realising that private hire vehicles are not available for immediate hire or allowed to be hailed in the street. It is therefore important that the public are able to easily distinguish each type of vehicle.

48 For this reason private hire vehicles must not display any roof signs and hackney carriage vehicles must display roof signs as specified in Policy Vehicle 12 below.

49 Both hackney carriages and private hire vehicles must display a licence plate on the rear of the vehicle. The plates are different colours for hackney carriages and private hire vehicles. The councils will continue using different colours and styles for the different type of licences.

50 Hackney carriages must also display a roof sign measuring 18 inches (45 cm) long by six inches (15 cm) high and six inches (15 cm) deep; this is a key feature in helping to identify licensed hackney carriage vehicles.

Hackney carriage vehicles licensed by the Vale of White Horse must comply with Policy Vehicle 12 after 1 April 2013 when the vehicle is licensed or the licence renewed. Vehicles displaying a compliant roof box will not have to display signage on the rear doors.

POLICY VEHICLE 12: Hackney carriage roof signs

All hackney carriage vehicles licensed by the council must carry a fully illuminated roof-mounted sign to the specifications below:

The requirements for the roof sign are:

- the roof sign is an aerodynamic triangular structure and is referred to by some sign manufacture's as "streamline" or "sloped"
- the long dimension is 45 cm (18 inches) , the base is 15 cm (six inches) and the height is 15 cm (six inches)
- the roof sign has a white background
- the roof sign must be connected to the taximeter and it must be automatically controlled.
- the roof sign must be lit when the taximeter is not active or when the vehicle is plying for hire and not lit when the taximeter is in use or the vehicle is not available for hire
- the relevant council's logo, measuring 12.5cm wide and 9.5cm high (see appendix D), must be displayed on the far left of the front of the roof sign. The proprietor's surname or company name must be displayed in the remaining space. The word "taxi" may also be displayed in conjunction with the owner or company name
- nothing else is displayed on the front of the roof sign.

51 The roof sign must be affixed to the vehicle at all times. The only exceptions to this are:

- when the vehicle is parked at a proprietor's home or in a taxi office car park for security reasons
- when the vehicle is undergoing maintenance work or is being cleaned.

52 In both cases the roof sign must be put back on the vehicle before the vehicle is used on the highway.

53 There is no exception to the roof sign unless the vehicle is a London style cab or other similar vehicle that has a built in taxi roof sign. In this case the council's logo, measuring 12.5cm wide and 9.5cm high, must be displayed in both rear passenger door windows.

54 The hackney carriage proprietor may use the rear face to display the proprietor's telephone number. (see appendix D).

55 Advertising will be permitted on licensed vehicles. Complaints about unsuitable or offensive advertisements may be referred to the relevant council's licensing panel.

**POLICY VEHICLE 13: Advertising on licensed vehicles**

Advertising on licensed vehicles will be permitted.

**Plate exemption for private hire vehicles**

56 Private hire vehicles which are used for contract work for at least 75 per cent of the time can be exempted from displaying a plate. The operator's records for these vehicles must prove that the required amount of contract work is being carried out and the relevant council will require evidence as to why plate exemption is required. Where an exemption is granted the vehicle will display a prescribed licence in accordance with Policy Vehicle 14 below. The licence contains vehicle/ licence details and must be visible from the outside and the vehicle/ licence details must be visible from the inside.

57 The licence plate will be provided by the council and must be carried in the boot of the vehicle at all times. Vehicles given this exemption will normally be executive type cars. The relevant council will determine applications for exemption on a case by case basis. The plate exemption must be applied for on an annual basis on the anniversary of the renewal of the vehicle licence. Operators/drivers should not automatically assume that when licensing a new vehicle to replace an existing plate exempted vehicle or renewing an existing plate that the plate exemption will continue.

**POLICY VEHICLE 14: Plate exemption**

Private hire vehicles which have been granted an exemption from displaying their licence plate by the council shall affix the supplied licence internally on the windscreen adjacent to the tax disc holder. Exempted vehicles shall also display a second licence in the back window of the vehicle. This displays the vehicle licence details so that they are visible from the rear. The licence shall be affixed in the centre of the window horizontally and at the top or bottom of the window, depending of the location of any brake-lights. Both licences shall be clearly visible from the inside and outside of the vehicle and neither shall be placed in a position that obstructs the view of the driver. These licences are in a prescribed form and will only be issued by the council to avoid opportunities for unlicensed drivers to acquire them. The standard licence plate must also be carried in the boot of the vehicle at all times.

58 The licence fee payable for plate exemption is subject to annual review and will be published together with other council licensing fees.

**Security and closed circuit television (CCTV)**

59 The DfT recommends councils to look sympathetically on the installation of security measures, such as a screen between driver and passengers or CCTV systems as a means of providing some protection for vehicle drivers.

**POLICY VEHICLE 15: CCTV**

The councils will not require enhanced security or CCTV measures in vehicles. Operators and drivers may install such equipment but its use must be clearly indicated by signs in the vehicle including contact details for the system manager/operator. All such equipment and images must be operated in accordance with the Data Protection Act 1998. It is the responsibility of the driver/operator to ensure compliance.

No audio, video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the council.

## Environmental considerations

60 The licensing policy promotes more efficient licensed vehicles which reduce the levels of CO<sub>2</sub> and NO<sub>x</sub> emitted. A move towards the use of alternative fuels and improved technology will further reduce emissions.

61 Hackney carriage and private hire vehicles are an essential form of transport in the councils' areas. Many people depend on these services for trips that buses do not make. Some are able to achieve higher occupancy rates than a private car and so, to some extent, already play their part in helping to achieve environmental improvements in the districts. It is, however, clearly important that emissions from hackney carriages and private hire vehicles are reduced as far as possible.

62 The councils will offer reduced licence fees for vehicles that produce lower carbon dioxide emissions. This will be based on the current vehicle tax bands.

Band CO<sub>2</sub> emission (g/km)

A	Up to 100
B	101-120
C	121-150
D	151-165
E	166-185
F	Over 185
G	Over 225 – for cars registered before 1 March 2001

63 Within the Vale of White Horse District Council area the council has declared an Air Quality Management Area in parts of Abingdon and Botley (places where national air quality standards have been breached as a result of vehicle emissions). The Council's AQAP (Air Quality Action Plan) was approved by the Licensing and Regulatory Committee in April 2009. This plan refers to the consideration of possible further measures to reduce emissions from hackney carriages and private hire vehicles.

64 Within the South Oxfordshire District Council area the council has declared Air Quality Management Areas in Wallingford, Watlington and Henley (places where national air quality standards have been breached as a result of vehicle emissions).

### **POLICY VEHICLE 16: Reduced licence fees for less polluting vehicles**

The councils will seek to achieve a reduction in emissions from hackney carriages and private hire vehicles by continuing to offer a reduction in fees for vehicles with CO<sub>2</sub> emissions of 120 g/km or lower.

65 In the event that central government introduces measures to control emissions or local emission controls were to be required by an air quality action plan the councils would review the policy on emission standards for licensed vehicles, if necessary.



### Stretched limousines and novelty vehicles

66 Stretched limousines are elongated saloon cars. The number of stretched limousines being imported, particularly from the United States, has been increasing. They are generally used for private hire work and special occasions.

67 Councils are sometimes asked to license stretched limousines as private hire vehicles. The councils will assess licence applications for these vehicles in accordance with the “novelty vehicles policy” set out in appendix B.

68 Where a vehicle has been modified to provide access or special facilities for disabled passengers, the councils will require either VOSA approved certification from the manufacturer or installers prior to licensing approval (Policy Vehicle 6).

69 Where a vehicle has been imported from another country, the councils may require VOSA approved certification prior to licensing approval. Due to the individual nature of stretched limousines or novelty vehicles, it will inevitably give rise to issues that would not apply to conventional private hire vehicles and therefore it will be necessary for the council to consider whether to include special conditions on any licence. The council will take into consideration the guidance issued by the DfT “Guidance for operators of stretched limousines”.

#### POLICY VEHICLE 17: Stretched limousines and novelty vehicles

Stretched limousines or novelty vehicles may be granted a private hire vehicle licence provided that they are capable of carrying no more than eight passengers and meet the requirements of the SVA or IVA as set out in Policy Vehicle 18.

#### POLICY VEHICLE 18: Single Vehicle Approval (SVA) certificates

In accordance with the DfT guidance, all applications to license stretched limousines or novelty vehicles as private hire vehicles will be judged on their merits. As these vehicles will not meet the usual vehicle specification, additional documentation and inspection will be needed in order that the relevant council’s responsibility to ensure safety and suitability, prior to a licence being issued, can be met. This documentation will normally be a Single Vehicle Approval (SVA) or Individual Vehicle Approval (IVA) certificate.

#### POLICY VEHICLE 19: Imported stretched limousines or novelty vehicles

Where a vehicle has been imported from another country VOSA approved certification may be required prior to licensing approval.

## **Funeral and wedding vehicles**

70 There is currently no requirement for a vehicle to be licensed where it is being used in connection with a funeral, or is being wholly or mainly used by a person carrying on the business of a funeral director for the purpose of funerals.

71 A vehicle does not need to be licensed to be used in connection with a wedding. Written certification from the council of the relevant exemption claimed is not currently required and it is not proposed to change this arrangement. However, if a licensed hackney carriage vehicle is used for a wedding the licence plate and roof sign must be displayed.

## **Livery**

72 Some councils require licensed vehicles to conform to particular requirements in terms of livery and markings, in order that they may be easily identified. This is not considered necessary in the councils' area. The visual distinction between hackney carriages and private hire vehicles can be achieved by the signage (see Appendix A). The councils do not require that licensed vehicles are finished in a special livery or appearance.

## **Transfers**

73 A proprietor of a licensed hackney carriage or private hire vehicle may transfer their interest in the vehicle to another person. Under Section 49 of the Local Government (Miscellaneous Provisions) Act 1976, they must ensure that the relevant council is notified of the new proprietor's name and address within 14 days.

### **POLICY VEHICLE 20: Transfer of licences**

Applications to transfer a licence must be made on the prescribed application form.

74 A 'transfer' is the sale of a licensed vehicle (including the paper licence and licence plate) from one person to another as opposed to when a proprietor wishes to license a vehicle as a hackney carriage or private hire vehicle which is not currently licensed as such, which is an application for a 'new vehicle licence'.

75 The licence fee payable for a transfer is subject to annual review and will be published together with other council licensing fees.

## **Accidents**

76 Where damage that requires repair arises from an accident the driver is required to report the accident to the relevant council within three days. The councils' primary concern is to ensure that the vehicle is in a safe and suitable condition to be used as a licensed vehicle.

77 A licensing officer or approved testing station may examine the extent of the damage and determine whether or not the vehicle must be repaired to allow it to continue as a licensed vehicle. Officers will advise drivers and operators of the outcome of the inspection within a maximum of three working days.

**POLICY VEHICLE 21: Accidents**

The councils require that the proprietor of a hackney carriage or driver of a private hire vehicle that is involved in a road traffic accident that causes any damage to the vehicle that requires repair shall report the accident on the council's accident notification pro-forma within three working days of the accident occurring and bring the vehicle for inspection if requested.

**Application procedure**

78 Applications for a hackney carriage or private hire vehicle licence must be made on the prescribed application form which is available on the relevant council's website together with guidance to assist in the completion of the application.

**POLICY VEHICLE 22: Application**

Applications for a hackney carriage or private hire vehicle licence must be made on the prescribed application form in accordance with the council's application procedure.

79 The licence fees payable are subject to annual review and will be published together with other council licensing fees.

**Consideration of applications**

**POLICY VEHICLE 23: Consideration of applications**

The councils will consider all applications on their own merits once they are satisfied that the application is complete.

**Grant and renewal of licences**

80 Legislation limits hackney carriage or private hire vehicle licences to a maximum period of 12 months.

**POLICY VEHICLE 24: Duration of vehicle licences**

The councils will grant hackney carriage and private hire vehicle licences for a period of one year. However a licence may be granted for a shorter period, should this be justified in a specific case.

**POLICY VEHICLE 25: Operator's responsibility**

It is the proprietor's or operator's responsibility to ensure that vehicle re-tests are carried out in sufficient time for a new certificate of compliance to be issued and that insurance, vehicle registration documents and the annual fee are available for processing by council staff in time for the issue of a licence.

81 The councils will only accept complete applications comprising all the necessary paperwork as set out in Policy Vehicle 25. Incomplete or missing documentation may result in the application being returned to the applicant. If an application is received late, the licence may expire before a new one can be issued. The vehicle will then be unlicensed and must not be used as a hackney carriage or private hire vehicle.

**Change of details**

**POLICY VEHICLE 26: Change of details**

The proprietor must notify the relevant council in writing of any change of address or telephone number during the period of the licence within seven days of the change taking place.

## HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS

### Parallel procedures

82 The statutory and practical criteria and qualifications for a private hire driver are broadly similar to those for a hackney carriage driver. The sections below apply equally to private hire and hackney carriage drivers.

\*\* 'Fit and Proper Person' is not defined in any of the legislation but is key when determining a driver application or renewal. The following statement is commonly used as a guide to clarifying the meaning. "Would you allow your son, daughter, mother, spouse or other person you care about get into this vehicle with this person alone?"

This statement was confirmed in discussion by Silber J. in the case of Leeds City Council v Hussain (2002) which surrounds the suspension of a driver:

"... the purpose of the power of suspension is to protect the users of licensed vehicles and those who are driven by them and members of the public. Its purpose is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault people"

Officers and licensing panels will bear the above statement in mind when determining applications, renewals and when making enforcement decisions. Other factors will also be considered on a case by case basis.

### Age and experience

83 The DfT guidance recommends against setting a maximum age limit for drivers provided that regular medical checks are made on them. It also considers that minimum age limits, beyond the statutory age for holding a full driver's licence are unnecessary, advising that applicants should be assessed on their merits.

#### POLICY DRIVER 1: Age and experience

The councils will not impose either a maximum or minimum age limit for drivers. There is a statutory requirement that an applicant must have held a DVLA licence for a least a year.

84 In relation to those persons over 65, reference should be made to Policy Driver 10 below.

## Knowledge test

85 Hackney carriage and private hire drivers need a good working knowledge of the area for which they are licensed. The law requires that members of the public are transported by the most direct and therefore cheapest route. Hackney carriages can be hired immediately, directly with the driver, at hackney carriage stands or hailed on the street, whereas private hire vehicle drivers will normally have time to check the shortest or quickest route on a map and discuss the options with the hirer prior to the hire commencing. The DfT recognises that most councils require prospective drivers to pass a test of local topographical knowledge as a condition of gaining a licence.

86 In order to maintain the high standards expected of drivers, the councils will not grant a licence to drive a hackney carriage or private hire vehicle unless it is satisfied that the applicant is a fit and proper person. In this context the ability to find destinations and read maps is seen as a fundamental skill in providing a quality service for passengers.

87 In order to determine such fitness, applicants will be required to undertake a test as to their knowledge of:

- local geography
- the Highway Code
- hackney carriage and private hire licensing law and the councils' policy.

### POLICY DRIVER 2: Knowledge test

The councils will not issue a licence to drive a hackney carriage or private hire vehicle unless the applicant has passed a knowledge test of the area covering local geography, the councils' hackney carriage and private hire licensing policy, the law relating to hackney carriage and private hire licensing and the Highway Code.

No applicant may sit the test more than five times in any 12 month period except in exceptional circumstances.

88 There has been an increase in the number of applications for hackney carriage and private hire drivers' licences from people whose first language is not English. Sitting the knowledge test is a reasonable test of English language proficiency and therefore no additional written test is considered to be necessary at this time. Most communication between drivers and passengers is spoken so it is essential that all candidates have a reasonable standard of spoken English. The licensing officer may decide to undertake additional testing of the applicant's spoken English. Applicants who have difficulties with spoken English will be required to demonstrate their ability to converse in English in an independently administered test. Candidates will be responsible for all the costs associated with this additional testing.

## Test failure and re-sits

89 Applicants are given their result as soon as possible and always within one week. If the applicant has passed the test, their application can proceed to the next stage. If they have failed the test they are given feedback and a re-sit is booked as soon as the applicant requires and there is a place available.

90 There is a fee to sit and re-sit the test and this is published separately together with the other council licensing fees. No applicant may sit the test more than five times in any 12 month period except in exceptional circumstances.

### POLICY DRIVER 3: Spoken English test

Drivers must demonstrate a basic level of spoken English or they will be required to pass an independently administered English test prior to their application for a private hire or hackney carriage driver's licence being considered.

This policy will apply from 30 September 2013.

## Driving proficiency, qualifications and giving assistance

91 The councils have concluded that the standard DVLA driving test provides sufficient evidence of driving competency for the drivers of hackney carriage and private hire vehicles. There are nationally recognised vocational qualifications for the hackney carriage and private hire trades. These cover customer care, including how best to meet the needs of people with disabilities and there may be advantages in encouraging drivers to obtain one of these qualifications in the future. The councils encourage such training as this enhances the standing of the trade as one with recognised qualifications to demonstrate competence.

92 A driver who has been suspended by the council because of proven complaints about the standard of their driving or has been suspended because they have accumulated nine penalty points on their DVLA driving licence may be required to pass the DSA Taxi and Private Hire Drivers Assessment before their licence will be reinstated.

### POLICY DRIVER 4: Competence to drive

Drivers who have had their hackney carriage and private hire licence suspended due to accumulating nine or more points on their DVLA licence or who have complaints proven against them about the standard of their driving may be required to pass the Driving Standards Agency Taxi and Private Hire Drivers Assessment in order to be licensed by the councils.

**POLICY DRIVER 5: Additional professional qualifications**

The councils will encourage drivers to attend training and assessment for qualifications relevant to the licensed carriage trade.

13.1 per cent of both South Oxfordshire's and the Vale's populations have a declared disability. In 2011 it is estimated that 18.2 per cent of the South Oxfordshire population are over 65 years of age and this is projected to rise to 23.5 per cent by 2026. In 2011 it is estimated that 17.8 per cent of the Vale's population are over 65 and this is projected to rise to 23.4 per cent by 2026.

93 Applicants for a hackney carriage/private hire driver's licence will be required to undergo disability awareness training. Applicants with existing, equivalent qualifications such as an NVQ in Road Passenger Transport must produce documentary evidence at the time of application. Alternative qualifications are accepted at the discretion of the council. Qualifications obtained more than five years prior to application may not be accepted. All disability awareness training must be completed within the first six months of licensing and those already licensed to be trained within the first 12 months of licence renewal. The cost of the training shall be met by the applicant/licence holder or their employer.

The requirement for South Oxfordshire licensed drivers to comply with Policy Driver 6 will commence on 1 January 2013.

**POLICY DRIVER 6: Disability awareness qualification**

All licensed drivers must demonstrate successful completion of a disability awareness qualification within six months of first being licensed or within 12 months of renewing their licence.

94 If an applicant can show they have passed adequate similar training by some other means, they may be exempted from the training arranged by the councils.

95 Drivers who fail to comply with this requirement will have their licence suspended until they demonstrate to the relevant council that they have met this requirement.

96 Applicants who have held a full driving licence issued by an EEA country for at least 12 months can apply for a hackney carriage or private hire vehicle driver's licence. Upon application, applicants will have to apply to convert their existing driver's licence to a DVLA driver's licence. The councils will not renew a licence to drive a hackney carriage or private hire vehicle unless the applicant holds a DVLA driver's licence.



97 Applicants from EEA Accession States are eligible to acquire a hackney carriage/private hire driver's licence if they have held an ordinary driving licence for 12 months which was issued by an Accession State.

98 Those applicants whose driving licences were not issued by an EEA state, an Accession State or Northern Ireland will be required to hold the converted DVLA licence for 12 months prior to being issued with a hackney carriage/private hire vehicle driver's licence. However, those who have held a driving licence issued by an EEA state, an Accession state or Northern Ireland for 12 months will be eligible to apply immediately.

99 It is possible to convert any existing driving licence to a DVLA driving licence, either by straight transfer or by undertaking a driving test.

#### **POLICY DRIVER 7: Driving licences**

Applicants for a hackney carriage/private hire vehicle driver's licence who have held a full EEA driving licence must have held it for at least 12 months in order to be granted a hackney carriage or private hire vehicle driver's licence.

#### **POLICY DRIVER 8: DVLA check**

Before the grant or renewal of a driver's licence, the applicant will be required to submit to a DVLA check. This will be either by post or in person. The DVLA charges a small fee for the service that is passed on to the applicant.

100 This check brings to light any driving offences committed that may not appear on the licence submitted and which should have been declared on the application form.

#### **MEDICAL EXAMINATION**

101 The DfT recognises that it is good practice for medical checks to be made on each driver as a condition for the initial grant of a licence and for each renewal. Adopting 'Group 2' medical standards as applied by DVLA to the licensing of lorry and bus drivers and applying standards to hackney carriage and private hire drivers is considered to be best practice by DfT guidance.

102 A request form for a medical examination, which must be presented to a GP at the applicant's registered GP surgery, is obtainable from the licensing team. The applicant will be responsible for paying the fee for the examination to their GP surgery. On completion of the examination, a confidential report will be submitted to the council. The GP completing the medical examination will be required to certify that they have checked the applicant's personal medical records before completing the medical examination. The applicant may request a copy of the report.

103 The DVLA Group 2 medical standard stipulates that over the age of 45 drivers will require a medical every five years. Drivers aged 65 and over, or those with relevant medical conditions, will require an annual examination. More frequent checks will be required if the medical practitioner thinks it is necessary. Holders of current PSV and/or HGV licences who can produce proof of a current medical examination, not more than one month old, will not need to undergo a further medical examination before licensing or re-licensing.

104 Licence holders must advise the licensing team, in writing, of any deterioration in their health that may affect their driving capabilities. If there is any doubt as to the medical fitness of the applicant, the councils may require the applicant to undergo a further medical examination by a medical practitioner appointed by the council. In these circumstances the councils will pay for the examination. Where there remains any doubt about the fitness of any applicant, the relevant licensing panel will review the medical evidence and make the final decision.

Policy Driver 9 and Policy Driver 10 will come into force from 1 January 2013

**POLICY DRIVER 9: Medical examination**

A medical examination carried out by a GP at the surgery the applicant is registered at is required before the grant of a driver's licence in order to assess an applicant's fitness to drive a licensed vehicle. A DVLA Group 2 standard of medical fitness for professional drivers will be required.

**POLICY DRIVER 10: Medical re-examination**

Licence holders must be re-examined in accordance with the DVLA Group 2 standard. More frequent checks will also be required if, in the opinion of the medical practitioner, it is necessary. Drivers age 45 and over will require a medical every five years. Drivers aged 65 and over must be examined annually. Drivers or applicants with insulin dependent diabetes are subject to satisfactory annual consultant assessment as per the DVLA's 'At a Glance Guide to the Current Medical Standards of Fitness to Drive'.

**POLICY DRIVER 11: Medical problems**

Licence holders must advise the relevant council within seven days, in writing, of any deterioration in their health that may affect their driving capabilities.

## Criminal record checks

105 A criminal record check on a driver is an important safety measure. The DfT considers that such checks should be at the level of enhanced disclosure through the Criminal Records Bureau as these disclosures include details of spent convictions and police cautions.

106 The Rehabilitation of Offenders Act 1974 and associated amendments sets out the period after which a conviction/caution/warning would be regarded as “spent” and not normally require disclosure of that conviction. However, in 2002 the Rehabilitation of Offenders Act 1974 was amended so as to exclude hackney carriage and private hire drivers from the 1974 Act. This was because the driving of hackney carriages and private hire vehicles was listed as a “Regulated Occupation” in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

107 Applicants for such licences must therefore disclose all convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders, traffic offences and fixed penalty notices, including those that would previously have been regarded as spent under the 1974 Act.

108 The councils are approved Criminal Records Bureau bodies. Therefore applicants can deal with the CRB through the relevant council. The councils will not accept portability of CRBs. The councils may request another disclosure at any time if a further check is considered necessary. As a further safeguard a regime of random Enhanced CRB checks on drivers may be carried out. If a driver is given notice to undertake a random CRB check by the council they must do so within 28 days of the request.

### POLICY DRIVER 12: Criminal Record Bureau checks

The councils will require an Enhanced Criminal Records Bureau disclosure before a licence is granted and then every three years. The councils will not accept CRBs from other organisations.

### POLICY DRIVER 13: Random CRB checks

Drivers given notice to undertake a random CRB check by the council must do so within 28 days of the request or their licence will be suspended until a satisfactory CRB check has been received by the relevant council.

109 The councils will place a condition on the licence to advise drivers that their hackney carriage or private hire driver’s licence may be suspended or revoked if any relevant information is later found on the CRB disclosure.

110 The councils are bound by rules of confidentiality, and will not divulge any information to third parties. The applicant for a CRB disclosure is sent a separate disclosure report to their home address, and the council also receives a copy. The councils will manage information arising from disclosures in accordance with the CRB's codes of practice.

**POLICY DRIVER 14: Disclosure of convictions, cautions, traffic offences etc.**

Applicants for licences are required to disclose all convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) including those that would be regarded as spent under the 1974 Act.

**POLICY DRIVER 15: Reporting of all convictions, cautions, traffic offences etc.**

Licensed drivers must report all new convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) in writing within seven working days.

111 Currently the CRB only has details of offences committed in England, Scotland, Wales, Northern Ireland, Jersey, Guernsey, the Isle of Man and Gibraltar, therefore if an applicant has lived in countries other than these an authenticated certificate of good conduct from the relevant embassy/ies will be required. If an applicant submits a certificate of good conduct in a language other than English, the council may appoint a translator and the translation fee will be passed on to the applicant. The application will not be considered complete if this fee has not been paid. Most embassies produce the certificate in English.

**POLICY DRIVER 16: Certificate of good conduct**

Applicants who have lived outside of England, Scotland, Wales, Northern Ireland, Jersey, Guernsey, the Isle of Man and Gibraltar, must provide an authenticated certificate of good conduct from the relevant embassy. If an applicant submits a certificate of good conduct in a language other than English, the council may appoint a translator and the translation fee will be passed on to the applicant. The application will not be considered complete if this fee has not been paid.

**POLICY DRIVER 17: Age limits for certificates of good conduct**

There is no suggested age or period of time that a certificate of good conduct should cover. As many of the council's applicants already require a certificate of good conduct, determining an age from which any criminal offences are checked is necessary and so the relevant council will require a certificate of good conduct to cover an applicant from the age of ten in line with what is checked for the CRB. The relevance of convictions at young ages will be taken into account as outlined in the policy.

**Relevance of convictions and cautions**

112 The DfT guidance recommends that, when considering an individual's criminal record, authorities must consider each case on its merits, but to take a particularly cautious view of any offences involving violence, and sexual attack. It recommends that authorities have a clear policy for the consideration of criminal records that must address:

- the type of offence
- the number of offences
- the number of elapsed years since the offence.

113 When assessing whether an applicant is a fit and proper person to hold a licence, or whether an existing licence holder is still a fit and proper person to continue to hold a licence, the council will consider each case on its merits. It will take account of convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders, and fixed penalties (including traffic offences) whether spent or unspent, but only in so far as they are relevant to an application for a licence. The licensing officer will assess the information provided, in accordance with the licensing policy, and decide whether the applicant is a fit and proper person to hold a licence or whether the existing licence holder is still a fit and proper person to continue to hold a licence. Where the applicant meets the requirements of the policy and the licensing officer concludes that the applicant is a fit and proper person the Head of Legal and Democratic Services has the delegated authority to approve the application.

**POLICY DRIVER 18: Consideration of previous convictions**

When assessing whether an applicant is a fit and proper person to hold a licence or an existing licence holder to continue to hold a licence, the relevant council will consider each case on its merits taking into account the driver's previous history of behaviour. It will take account of convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) whether spent or unspent, but only in so far as they are relevant to an application for a licence.

114 Where the licensing officer cannot be satisfied that either the applicant or an existing licence holder is a fit and proper person the matter may be referred to the relevant panel.

115 When dealing with convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders, and fixed penalties (including traffic offences), the relevant council will take into account:

- whether convictions are spent or unspent
- the nature of the offences
- the age of the offences
- whether the offences are relevant
- the number of offences.

116 Guidance about specific offences is given in Appendix G. In general terms, if the offence is recent and relevant to public safety, the relevant council is:

- less likely to approve the application for a new licence, and
- more likely to revoke an existing licence.

117 The licensing officer will initially consider either an application for a new licence or the suspension of an existing licence in those cases where any convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders, and fixed penalties (including traffic offences) are relevant and unspent, as stated in the Rehabilitation of Offenders Act 1974. The licensing officer may then make a recommendation to the Head of Legal and Democratic Services who has delegated authority under the scheme of delegation to officers, to issue a refusal or suspend or revoke an existing licence. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information the applicant is not "fit and proper" or that an existing licence holder no longer is a "fit and proper" person, the licensing officer may submit a report for consideration by the panel. Applicants can appeal to the magistrate court against a

refusal to grant or decision to suspend or revoke the licence under the Public Health Act 1936.

118 In particular, an applicant or an existing licence holder may be referred to the relevant panel as stated below in policy driver 19.

**POLICY DRIVER 19: Consideration of previous convictions**

Applicants or existing licence holders may be referred to the relevant panel where the applicant/existing licence holder's record includes one or more of the following:

- any term of imprisonment or custody
- any conviction for a violent or sexual offence, or dishonesty which is of a serious nature
- any serious motoring offence, such as dangerous driving, driving whilst disqualified, or drink driving
- nine or more points on their DVLA Driving Licence.

119 The council will require a mandate for release of information under the data subject access provisions of the Data Protection Act 1984, section 21 (1) and (2), from the DVLA for every application.

**POLICY DRIVER 20: Release of information**

Applicants will be required to sign a mandate for release of information under the data subject access provisions of the Data Protection Act 1984, section 21 (1) and (2), from the DVLA for every application.

## Proof of right to work in the u.k.

120 Since 2008 employers have been liable to a civil penalty of up to £10,000 per illegal worker if they have not established 'an excuse' for employing someone who does not have the right to work in the UK. The UK Border Agency has produced guidance "Prevention of Illegal Working Immigration, Asylum and Nationality Act 2006: - Comprehensive Guidance for Employers on Preventing Illegal Working" published November 2010.

121 Whilst not being the employer of hackney carriage or private hire drivers, the DfT considers it necessary for licensing authorities to check on an applicant's right to work before granting a hackney carriage/private hire driver's licence. The councils agree that this is not only good practice but helps protect the income of those currently licensed who do have the right to work. All applicants can be provided with a copy of the Agency's 'List A – Documents Which Provide An Ongoing Excuse' and 'List B – Documents Which Provide An Excuse For Up To 12 Months' so that they are aware of what documents they are required to submit. A copy of all new applicants' documentation will be taken and will remain on file. If the document is from 'List A' they will not be asked to prove their right to work again.

### POLICY DRIVER 21: Proof of right to work

The councils will refer to the UK Border Agency's Guidance "Prevention of Illegal Working Immigration, Asylum and Nationality Act 2006: - Comprehensive Guidance for Employers on Preventing Illegal Working" (November 2010) when dealing with applicants and therefore all applicants will have to prove their right to work in the UK by supplying the relevant documentation as detailed in the guidance.

122 If an applicant is unable to provide satisfactory proof of their right to work in the UK, there will be no option other than to refuse to grant or refuse to renew the licence, or if circumstances came to light during the duration of a licence, to revoke it. To issue the licence may be regarded as condoning the offence and assisting the applicant to gain employment to which they are not entitled.

123 All current licensed drivers if required will be asked to prove their right to work on renewal of their licence. The right to work will normally only need to be proved once.

124 If an applicant is only able to submit documentation from 'List B' they will only be licensed for one year or a lesser period if their right to work will expire before that date. There is no discounted fee for licences of less than three years.

125 If after referring to the UK Border Agency's guidance, licensing officers are still unsure about an applicant's right to work in the UK, they will discuss the applicant's documentation with the agency by using their helpline. If it transpires the applicant is illegally in the UK (due to illegally entering or overstaying for example) council officers will assist the UK Border Agency, Immigration Office or police in their enquiries as necessary.



## Behaviour and conduct of drivers

126 Adopting a Code of Good Conduct for hackney carriage and private hire drivers serves to promote the councils' licensing objectives.

127 The councils consider that to assist both drivers and the public it would be useful to set down the standards which must be adopted in maintaining a safe, professional and efficient approach to the transport of members of the public. It is considered that drivers must be aware of the law and minimum standards of behaviour, should adopt safe and non-aggressive driving techniques and set a good example to other road users. The Code of Good Conduct forms part of the conditions attached to a hackney carriage/private hire driver's licence.

### POLICY DRIVER 22: Expected standards of behaviour

The standards expected of licensed drivers are set out in the Code of Good Conduct that is included within the conditions attached to the driver's licence and set out at Appendix C.

128 Failure to comply with any aspect of the Code of Good Conduct will not necessarily result in enforcement action. However, breach of the code is an indicator which licensing officers will use to help decide upon subsequent enforcement action. This may result in warnings or penalty points being given by licensing officers or if necessary, by the relevant panel. Repeated breaches following such education or warnings may lead to more serious consequences including if necessary, refusal to renew, suspension or revocation of licences.

## Sexual activity

129 In order to protect both passengers and drivers there must be no sexual activity, including consensual activity, between drivers and passengers either in a licensed vehicle or when a licensed driver is on duty.

### POLICY DRIVER 23: Sexual activity

There must be no sexual activity, including consensual activity, between drivers and passengers either in a licensed vehicle or when a licensed driver is on duty.

## Application procedure

130 The councils require that applications for a hackney carriage/private hire driver's licence must be made on the prescribed application form which is available on the relevant council's website together with guidance to assist in the completion of the application.

### POLICY DRIVER 24: Consideration of applications

Once the relevant council is satisfied that it has a complete application the council will consider the application on its own merits taking into account the driver's previous history of behaviour to determine if they meet the "fit and proper person" criteria. Full details of how applications are considered can be seen at Appendix E.

131 The licence fees payable to the relevant council are subject to annual review and will be published together with other council licensing fees on the relevant council's website.

## Grant and renewal of licences

132 The licensing of hackney carriage and private hire drivers is governed by Section 53 of the Local Government (Miscellaneous Provisions) Act 1976. This provides that these licences shall remain in force for up to three years or for such lesser period as may be determined. The councils offer drivers a three year licence only.

### POLICY DRIVER 25: Duration of driver licences

The councils will only offer three year drivers licences.

133 To allow sufficient time for documents to be processed, applicants should ensure that the council receives their complete application, including the fee, at least eight weeks before expiry of a driver's licence.

134 Licensing officers will aim to send a reminder letter to drivers ten weeks before their existing CRB Disclosure expires and six weeks before their existing licence expires if a CRB is not required in order to assist applicants in their prompt submission of renewal applications. Drivers are reminded that the councils are not obliged to do this and the responsibility of ensuring licences and CRB Disclosures do not expire remains with the licence holder. If a CRB disclosure has not been issued in time the councils will only renew a driver's licence if the applicant has returned their application form for the CRB disclosure in the time specified by the council when it invites the renewal.

135 The councils may refuse to grant licences where the application is missing any of the necessary paperwork. Incomplete or missing documentation may result in the application being returned to the applicant. If an application is received late, the licence may expire before a new one can be issued, therefore the driver will be unlicensed during which time it will be illegal for them to drive a licensed hackney carriage or private hire vehicle or to use an unlicensed vehicle for the carriage of passengers for hire or reward.

### Change of details

136 Drivers must notify the relevant council in writing within seven days of any change of address or telephone number during the period of the licence.

#### **POLICY DRIVER 26: Change of details**

Drivers must notify the relevant council in writing within seven days of any change of address or telephone number during the period of the licence.

### Sharing of information

137 The councils will share all information with other enforcement bodies including other councils, the police, UK Border Agency, HMRC and the Department for Work and Pensions on enforcement related issues involving licensed drivers, operators and vehicle owners. When sharing information the following statement will be added to statement:-

“I have checked the Council records in respect of \_\_\_\_\_, of \_\_\_\_\_, date of birth \_\_\_\_\_. The documents were created or received by a person in the course of a trade, business, profession or other occupation, or as the holder of a paid or unpaid office and the person who supplied the information contained in the statement (the relevant person) had or may reasonably be supposed to have had knowledge of the matters dealt with, and each person through whom the information was supplied from the relevant person received the information in the course of a trade, business, profession or other occupation, or as the holder of a paid or unpaid office.”

#### **POLICY DRIVER 27: Sharing of information**

The councils will share all information with other enforcement bodies including other councils, the police, UK Border Agency, HMRC and the Department for Work and Pensions on enforcement related issues involving licensed drivers, operators and vehicle owners.

## Private hire operators

### Requirements and obligations

138 Any person who operates a private hire service (who is not a hackney carriage proprietor who permits hackney carriages to be used for private hire) must apply to the relevant council for a private hire operator's licence. The objective in licensing private hire operators is the safety of the public who will be using operators' premises, and vehicles and drivers arranged through them. Best practice in respect of the controls required over private hire operators is to ensure that the costs of any licensing requirements are commensurate with benefits that they seek to achieve.

139 A private hire vehicle may only be dispatched to a customer by a licensed private hire operator. Such a licence permits the operator to invite or accept bookings for a vehicle. Private hire operators must ensure that every private hire vehicle that they operate is licensed by the same council who issued them with the operator's licence and that it is driven by a person who holds a private hire driver's licence issued by the same council.

140 Applicants must apply for an operator's licences using the prescribed form, and submit the correct fee. All new private hire operators must submit a business plan and undergo a Basic CRB disclosure (if the operator is also a licensed driver with the council the requirement for the CRB disclosure is waived as the driver will have been subject to an Enhanced Disclosure). The council will then decide whether the applicant is a fit and proper person to hold such a licence. The applicant must provide the relevant council with proof that they are entitled to work within the UK. For details of the requirement and guidance please see Policy Driver 21.

#### POLICY PHO 1: Proof of right to work

The councils will refer to the UK Border Agency's Guidance "Prevention of Illegal Working Immigration, Asylum and Nationality Act 2006: - Comprehensive Guidance for Employers on Preventing Illegal Working (November 2010)" when dealing with applicants and therefore all applicants will have to prove their right to work in the UK by supplying the relevant documentation as detailed in the guidance.

141 If an applicant is unable to provide satisfactory proof of their right to work in the UK, there will be no option other than to refuse to grant or refuse to renew the licence, or if circumstances came to light during the duration of a licence, to revoke it. To issue the licence may be regarded as condoning the offence.

### Criminal record checks

142 Private hire operators are not exempt from the Rehabilitation of Offenders Act 1974 (refer to point 106). Before it considers an application for a private hire

operator's licence the relevant council requires the applicant to undertake a Basic CRB disclosure of criminal convictions or a certificate of good conduct from the relevant embassy in the case of an overseas applicant. If the operator holds a hackney carriage or private hire driver's licence with the council, no CRB disclosure is required. Where the private hire operator is trading as a limited company the council may also require the directors and company secretary to undertake a Basic CRB check.

143 The applicant will also have to submit a business plan to the relevant council to demonstrate how they intend running the business. They will need to provide two references: one must be from a previous employer, the other from a professional person, e.g. an accountant or solicitor, as evidence that the applicant is capable of keeping adequate records.

144 The councils will consider each application on its own merits once the application form and supporting documents are complete. Companies that wish to expand will be required to submit a revised business plan before further licences are granted.

#### **POLICY PHO 2: CRB disclosure**

The councils require a Basic Criminal Records Bureau disclosure and Certificate of Good Conduct (if required) before a licence is granted and then every three years. Where the private hire operator is trading as a limited company the council may also require the directors and company secretary to undertake a Basic CRB check.

#### **POLICY PHO 3: Applications**

Applications for a private hire operator's licence must be accompanied by a business plan setting out how the operator intends running the business. Applications also have to be accompanied by two references: one must be from a previous employer, the other from a professional person, e.g. an accountant or solicitor, as evidence that the applicant is capable of keeping adequate records.

#### **Conditions**

145 The relevant council has the power to impose such conditions on an operator's licence as it considers reasonably necessary.

#### **Record keeping**

146 Section 56(2) and (3) of the Local Government (Miscellaneous Provisions) Act 1976 requires operators to record specific information. The information shall be kept in a suitable book or on a computer or any other similar device. If using a book the

pages must be numbered consecutively and the operator shall enter or cause to be entered before commencement of each journey, the following particulars of every booking accepted:

- the time and date of the booking
- the name of the hirer
- the fare quoted
- how the booking was made, e.g. telephone or email and the time
- the time of the proposed pick up
- the point of pick up and drop off
- the registration or plate number of the vehicle allocated for the booking and the name of the driver.

147 Operators are legally required to keep records in respect of all bookings, vehicles and drivers, for a period of one year as set out in the private hire operator's conditions in Appendix B.

148 Operators who maintain computerised records will be required to give access to these records to licensing officers upon request in order that the licensing officers can carry out their enforcement duties.

149 Operators will also be required to provide adequate instruction to licensing officers in order to enable them to interrogate the computerised records to gather the information they require to carry out their enforcement duties.

#### **POLICY PHO 4: Record keeping**

Operators are required to keep records of each booking, including date and time of booking, the name of the passenger, the pick-up point, the destination, the name of the driver, the registration and plate number of the vehicle and any fare quoted at the time of the booking. These records must be available at the address supplied on the application form.

#### **POLICY PHO 5: Records kept for one year**

Operators must keep records in respect of all bookings, vehicles and drivers, for a period of one year.

**POLICY PHO 6: Access to computerised records**

Operators who maintain computerised records will be required to give access to these records to licensing officers upon request in order that the licensing officers can carry out their enforcement duties.

**POLICY PHO 7: Instruction on operator computer systems**

Operators will be required to provide adequate instruction to licensing officers in order to enable the licensing officers to interrogate the computerised records to gather the information they require to carry out their enforcement duties.

## **Insurance**

150 If premises are open to the public applicants must produce evidence that they have taken out public liability insurance for the premises to be licensed, before the relevant council will approve an application for a private hire operator's licence.

**POLICY PHO 8: Public liability insurance**

The councils will require applicants to provide evidence that public liability insurance to the value of £5 million has been taken out for premises that are open to the public (e.g. waiting rooms) and will not issue a licence until it is satisfied that this is the case.

## **Address from which an operator may operate**

151 The address used on the operator's application must be the one where the invitation and acceptance of bookings take place. This will be the premises where the records referred to above are kept and at which they may be inspected by licensing officers. This will also be the address at which the vehicle(s) will normally be kept and be available for inspection.

**POLICY PHO 9: Planning consent**

Holders of an operator's licence should note that the grant of an operator's licence does not allow the use of the premises as a private hire operator's base in the absence of planning permission.

152 It will be the responsibility of the operator to ensure that necessary planning consent exists for the operational address to be used for that purpose.

#### Bases outside the relevant council area

##### **POLICY PHO 10: Bases outside councils' areas**

The councils will not grant a private hire operator's licence for an operator with an operating base that is outside the councils' areas. This is to ensure that proper regulation and enforcement measures may be taken by the relevant council and is not intended to be a restraint of trade.

#### Sub-contracting

153 A private hire operator may sub-contract a booking to another licensed operator and a record of who the booking was sub-contracted to and when must be made in accordance with the above.

#### Application procedure

154 Applications for operator's licences must be made on the prescribed application form which is available on the relevant council's website together with guidance to assist in the completion of the application.

##### **POLICY PHO 11: Consideration of applications**

The councils will consider each application on its own merits once it is satisfied that the application is complete.

155 The licence fees payable are subject to annual review and will be published together with other council licensing fees.

#### Grant and renewal of licences

156 All private hire operator licences will be issued for three years. Licences of a shorter duration may be issued if required.

##### **POLICY PHO 12: Duration of licences**

Private hire operator's licences will be granted for a three-year period subject to the power to grant a licence for a shorter period if required.



157 Whilst licensing officers will aim to send a reminder letter to the current operator one month before their existing licence expires in order to assist applicants in their prompt submission of renewal applications, operators are reminded that the councils are not obliged to do this and the responsibility for ensuring licences do not expire remains with the licence holder.

158 Applicants for renewal of a private hire operator's licence are required to provide a current (less than one month old) Basic Criminal Record Bureau disclosure obtained by the relevant council every three years. Licensing officers will aim to send a reminder letter to operators ten weeks before their existing CRB Disclosure expires and six weeks before their existing licence expires if a CRB is not required in order to assist applicants in their prompt submission of renewal applications. Operators are reminded that the councils are not obliged to do this and the responsibility of ensuring licences and CRB disclosures do not expire remains with the licence holder.

159 If a CRB disclosure has not been issued in time the councils will only renew an operator's licence if the applicant has returned their application form for the CRB disclosure in the time specified by the council when it invites the renewal. However, the relevant council will place a condition on the licence to advise operators that their private hire operator's licence may be suspended or revoked if any relevant information is later found on the CRB disclosure.

160 The councils may refuse to grant licences where the application is missing any of the necessary paperwork. Incomplete or missing documentation may result in the application being returned to the applicant. If an application is received late, the licence may expire before a new one can be issued, resulting in it being illegal to operate as no operator's licence would be in force.

### Change of details

161 The operator must notify the relevant council in writing within seven days of any change of address, (whether this is a home address or the operating address) or change of telephone number or any other details during the period of the licence.

#### **POLICY PHO 13: Change of details**

Private hire operators must notify the relevant council in writing within seven days of any change of address or telephone number or any other details during the period of the licence.

## APPENDIX A

### HACKNEY CARRIAGE VEHICLE SPECIFICATION AND SCHEDULE OF CONDITIONS

#### Hackney carriage vehicle conditions

1. A hackney carriage proprietor is an owner or part owner of a vehicle, or where a vehicle is subject to leasing contract, hiring agreement or hire purchase, a proprietor is the person in possession of the vehicle under the agreement. In both cases the proprietor requires a hackney carriage proprietor's licence from the council, before they are legally entitled to use the vehicle for plying for hire.
2. Licences can be obtained by making an application to the relevant council. Each applicant must submit an application in respect of every vehicle for which a licence is required. The following details specify the standard minimum requirements for vehicles licensed for hire or reward by the councils. They have been set down for the purposes of indicating to any prospective licence holder what will be acceptable, under delegated powers, to licensing officers and this should be borne in mind BEFORE a vehicle is purchased. Any vehicle presented for licensing which does not comply may only be accepted after consideration of the merits of the application by a panel. The applicant will, in these circumstances, be required to submit a persuasive and substantial case for departing from the normal policy.

#### SPECIFICATION

3. The vehicle must meet the following specification:
  - a. the vehicle must be capable of carrying not fewer than four passengers and no more than eight.
  - b. each passenger seat shall be fitted with a seat belt. No seats may be side facing.
  - c. the seat provided for each passenger will have a minimum width of 16 inches measured across its narrowest part.
  - d. each passenger shall have direct access to a door without the need to remove or completely fold flat any other seating in order that passengers may access their seat easily and escape without delay in case of emergency. The council will consider vehicles that have seats that "tilt" forward by a single operation. If this type of seat is fitted the driver must inform the passengers of the operation of the seats before a journey commences.
  - e. the vehicle will be right hand drive.
  - f. the vehicle will have four road wheels.
  - g. the vehicle will have an engine with a capacity of at least 1400cc. including vehicles badged by the manufacturer as "1.4" models.

- h. the vehicle in addition to the driver's door, will have three doors each of which must be fitted with an efficient handle, lock and window operation to allow access and egress for passengers.
- i. the vehicle must have a boot or luggage compartment which provides sufficient space to carry a reasonable amount of luggage for the total capacity of the vehicle.
- j. estate cars must have a guard/cover fitted to prevent luggage entering the passenger compartment.
- k. no alteration to the manufacturer's specification for the vehicle, including a change of or additional fuel type, shall be carried out except with the prior written approval of the relevant council.
- l. the front windscreen, front and rear windows must have a visible light transmission (VLT) of not less than 75 per cent so that the passengers can be seen from the outside of the vehicle. Only vehicle manufacturer tints are permitted on the vehicle.

#### VEHICLE AGE AND TESTING REQUIREMENTS

- 4. The councils do not place age restrictions on hackney carriage vehicles provided they meet the requirements laid out in this appendix.
- 5. Vehicles less than 1 month old and with less than 1500 recorded miles will be exempt from the requirement for a compliance check.

Vehicles up to the third anniversary of their date of registration will require an annual compliance check.

Vehicles older than the third anniversary of their registration but less than the seventh anniversary of their registration will require compliance checks every six months.

Vehicles older than the seventh anniversary of their date of registration will require compliance checks every four months.

- 6. The test must take place in accordance with the council's testing procedures. Vehicles will be required to meet the required MoT standard for their age and construction and the council's standards as laid out in this appendix. In addition the accuracy of the meter will be checked over a measured mile.

#### EQUIPMENT

- 7. The vehicle must carry the following equipment:
  - a. an in-date suitable and efficient fire extinguisher (1.0 kg dry powder or larger foam fire extinguisher) to meet BS EN 3 1996 (BS 5423), maintained at all times. It shall be securely fixed in the vehicle and be readily visible and available for immediate use in an emergency. Each driver of a vehicle must familiarise themselves with the use of the fire extinguisher contained in the vehicle.

- b. a spare wheel suitable for immediate use and properly maintained; if the spare wheel is of the temporary space saver type, it may only be used to complete the particular journey or hiring the vehicle is engaged on when the wheel change is necessary and vehicles that have modern technology may be exempt from this condition at the discretion of the relevant council.
- c. a jack and tools for changing the wheels
- d. a spare auto lamp kit applicable to the vehicle and the taxi sign
- e. a warning triangle
- f. a torch
- g. a first aid kit.

#### CONDITION OF VEHICLE

8. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the council and in particular the exterior of the vehicle shall be free of large dents, rust or un-repaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacturer. The interior shall be free of stains, spills, tears and the seats must function in accordance with the original manufacturer's specification. The vehicle will comply with all relevant statutory requirements applicable to the class of vehicle to which it belongs including, but without prejudice to the Motor Vehicle (Construction and Use) Regulations.

#### INSURANCE AND OTHER DOCUMENTATION

9. The proprietor shall not use the vehicle, nor permit it to be used, as a hackney carriage vehicle if it does not have a policy of insurance, or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, covering the use of the vehicle to carry passengers for hire or reward/ public hire. The proprietor must produce when requested a valid certificate of insurance. On renewal of the insurance an original of the new certificate must be provided to the council. The councils will only accept insurance from UK insurance bodies that are registered with the Motor Insurance Bureau.

10. The proprietor must produce when requested the vehicle registration document, a valid MOT certificate, Certificate of Compliance and must ensure that the vehicle displays a valid vehicle excise licence. Any advisory item on the MOT or Certificate of Compliance must be corrected and a "clean certificate" issued before the vehicle will be licensed. Only original documents are acceptable.

#### LICENCE PLATES

11. The external licence plate supplied by the council shall be securely fixed to the outside rear of the vehicle either by direct fixing, e.g. screw, bolt or rivet or on a secure bracket. The penalty for failing to display a licence plate is a fine not exceeding Level 3 on the Standard Scale. The licence plate remains the property of the council at all times. If required to do so at any time the licence holder must return the plate to the council within seven days.

**TAXI SIGNS, LIVERY AND ADVERTISING**

12. No external signs, other than those required by law, which are visible from the outside of the vehicle shall be displayed other than as set out below:

- the roof sign is an aerodynamic triangular structure and is referred to by some sign manufacturers as the “streamline” or “sloped”
- the long dimension is 45 cm (18 inches), the base is 15 cm (six inches) and the height is 15 cm (six inches)
- the roof sign has a white background
- the roof sign must be connected to the taximeter and it must be automatically controlled.
- the roof sign must be lit when the taximeter is not active or when the vehicle is plying for hire and not lit when the taximeter is in use or the vehicle is not available for hire
- the relevant council’s logo, measuring 12.5cm wide and 9.5cm high (see appendix D), must be displayed on the far left of the front of the roof sign. The proprietor’s surname or company name must be displayed in the remaining space. The word “taxi” may also be displayed in conjunction with the owner or company name
- nothing else is displayed on the front face of the roof sign.
- the hackney carriage proprietor may use the rear face to display the proprietor’s telephone number. (see Appendix D).
- the roof sign must be permanently affixed to the vehicle at all times whatever journey or job the vehicle is undertaking. The roof sign can be removed when the vehicle is parked at a proprietor’s home or in a taxi office car park for security reasons. The roof sign can also be removed when the vehicle is undergoing maintenance work or is being cleaned. In both cases the roof sign must be put back on the vehicle before the vehicle is used on the highway.
- there is no exception to the roof sign unless the vehicle is a London style cab or other similar vehicle which has a built in taxi roof sign. In this case council’s logo, measuring 12.5cm wide and 9.5cm high, must be displayed on both rear passenger doors.

### **Interior of the vehicle**

13. Advertisements are permitted on the interior of purpose built hackney carriages on the underside of the tip up seats and across the bulkhead above the dividing glass partition only. The permitted sizes are as follows:

- bulkhead 60cm x 8cm
- tip up seat 33cm x 30.5cm.

14. No advertisement may be placed on the dividing glass partition other than notices approved by the council.

15. Advertisements are not permitted on the interior of non-purpose built hackney carriage vehicles, without prior written permission from the council.

### **Exterior of the vehicle**

16. Advertisements are permitted the exterior of hackney carriages.

17. Proprietors may display a full livery and/or vehicle 'body-wrap'.

18. Operators are also permitted to display the following on the vehicle:

- a sign indicating membership of the AA, RAC or other similar motoring organisation
- a first aid kit sticker
- any other material supplied by government or a government organisation or corporation with the permission of the council.

### **Audio, video or surveillance systems**

19. No audio, video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the council.

### **Smoking**

20. No smoking is permitted in the vehicle by either the driver or passengers. The vehicle must comply with The Smoke-free (Exemptions and Vehicles) Regulations 2007 (S.I. 2007/765).

### **Meters/fare card (South Oxfordshire licensed hackney carriage vehicles)**

21 (a). All hackney carriage vehicles shall be fitted with a taximeter compliant with the Measuring Instruments (Taximeters) Regulations 2006 (S.I. 2006/2304) from 1 August 2013. The taximeter shall be maintained in a sound working condition at all times. The taximeter shall be set at the tariff displayed in the vehicle. Hackney carriage proprietors and drivers shall ensure the "For Hire" sign or other illuminated

sign is extinguished when the fare commences and the taximeter is brought into operation.

22 (a). The taximeter must:

- be of the clock calendar type and change according to the tariff card displayed in the vehicle
- show the fare recorded on the taxi meter in plainly legible figures and the word 'FARE' shall be clearly displayed so as to apply to such figures
- be kept securely fixed in such a position so that the fare recorded is visible to all passengers within the vehicle at all times and the figures shall be illuminated for this purpose whenever necessary.

23 (a). A fare card must be fixed in such a position so that the fare to be charged is visible to all passengers within the vehicle at all times. The fare card shall clearly display the vehicle's licence number.

### **Meters/fare card (Vale of White Horse licensed hackney carriage vehicles)**

21 (b). All hackney carriage vehicles shall be fitted with a taximeter compliant with the Measuring Instruments (Taximeters) Regulations 2006 (S.I. 2006/2304). The taximeter shall be maintained in a sound working condition at all times. The taximeter shall be set for the current maximum tariff agreed by the council (or can be set at a lower tariff, however the maximum tariffs must still be displayed) and shall be sealed by one of the council's approved testing stations to prevent unauthorised adjustment of that meter. Hackney carriage proprietors and drivers shall ensure the "For Hire" sign or other illuminated sign is extinguished when the fare commences and the taximeter is brought into operation.

22 (b). The taximeter must:

- be of the clock calendar type and change according to the wording of the council's agreed current maximum fare tariff or a lower tariff set by the operator
- not be altered or tampered with except with the approval of the council and must be retested by one of the council's approved testing stations if it is altered. All openings shall be sealed with a 'tamper evident' seal supplied by the council.
- show the fare recorded on the taxi meter in plainly legible figures and the word 'FARE' shall be clearly displayed so as to apply to such figures
- be kept securely fixed in such a position so that the fare recorded is visible to all passengers within the vehicle at all times and the figures shall be illuminated for this purpose whenever necessary.

23 (b). A fare card must be fixed in such a position so that the fare to be charged is visible to all passengers within the vehicle at all times, and the figures shall be illuminated for this purpose. The fare card shall clearly display the vehicles licence number.

### **Wheelchair access**

24. If the vehicle is designed or adapted to carry a wheelchair, the owner of the vehicle must ensure that the driver has received sufficient training to load and convey wheelchair bound passengers.

25. Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times.

### **Trailers**

26. Trailers may only be used with the prior written approval of the relevant council. The trailer can only be used in connection with pre booked bookings and cannot be used for plying for hire on a rank or the street.

- the trailer must at all times comply with all requirements of Road Traffic legislation in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078)
- the vehicle insurance must include cover for towing a trailer
- a suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use.

### **Lost property**

27. The proprietor or driver of a hackney carriage must hand in any found lost property to the nearest police station within 48 hours.

### **Convictions/ change in particulars of proprietor**

28. The proprietor shall give notice in writing to the council within seven days of any conviction, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders, and fixed penalties (including traffic offences) or change of their registered particulars, e.g. address or change of name.



**Legislation**

29. The holder of every hackney carriage licence shall comply with the provisions relating to hackney carriages contained in the following legislation:

- Town Police Clauses Act 1847
- Part II Local Government (Miscellaneous Provisions) Act 1976
- Road Traffic Act 1988 Part 11 (a) Construction and Use of Vehicles and Equipment
- Equalities Act 2010 Section 168 (Assistance Dogs)

## APPENDIX B

### PRIVATE HIRE VEHICLE LICENCE AND PRIVATE HIRE OPERATOR'S CONDITIONS

1. A private hire vehicle proprietor is an owner or part-owner of a vehicle, or where a vehicle is subject to a hiring agreement or hire purchase, the person in possession of the vehicle under the agreement. A private hire vehicle proprietor must obtain a private hire vehicle licence from the council within whose area he or she wishes to trade for each vehicle used for private hire. The vehicle can only be operated under a relevant operator's licence.

2. Licences can be obtained by making an application to the relevant council. Each applicant must submit an application in respect of every vehicle for which a licence is required. The following details specify the standard minimum requirements for vehicles licensed for hire or reward by the councils. They have been set down for the purposes of indicating to any prospective licence holder what will be acceptable, under delegated powers, by licensing officers and this should be borne in mind before a vehicle is purchased. Any vehicle presented for licensing which does not comply may only be accepted after consideration of the merits of the application by a panel. The applicant will, in these circumstances, be required to submit a persuasive and substantial case for departing from the normal policy.

#### Specification

3. The vehicle must meet the following specification:
- The vehicle must be capable of carrying not fewer than four passengers and no more than eight
  - Each passenger seat shall be fitted with a seat belt. No seats may be side facing.
  - The seat provided for each passenger will have a minimum width of 16 inches measured across its narrowest part
  - Each passenger shall have direct access to a door without the need to remove or completely fold flat any other seating in order that passengers may access their seat easily and escape without delay in case of emergency. The council will consider vehicles that have seats that "tilt" forward by a single operation. The driver must explain to the passengers the operation of the seats before a journey commences.
  - will be right hand drive
  - will have four road wheels
  - have an engine with a capacity of at least 1400cc. including vehicles badged by the manufacturer as "1.4" models

- will in addition to the driver's door, have three doors each of which must be fitted with an efficient handle, lock and window operation to allow access and egress for passengers
  - the vehicle must have a boot or luggage compartment which provides sufficient space to carry a reasonable amount of luggage for the total capacity of the vehicle.
  - estate cars must have a guard/cover fitted to prevent luggage entering the passenger compartment
  - no alteration to the manufacturer's specification for the vehicle, including a change of or additional fuel type, shall be carried out except with the prior written approval of the relevant council
  - the front windscreen, front and rear windows must have a visible light transmission (VLT) of not less than 75 per cent so that the passengers can be seen from the outside of the vehicle. Only vehicle manufacturer tints are permitted on the vehicle
4. A private hire vehicle must not be of such design or appearance as to lead any person to believe it is a hackney carriage.

### **Vehicle age and testing requirements**

5. The councils do not place age restrictions on private hire vehicles provided they meet the requirements laid out in this appendix.

6. Vehicles less than 1 month old and with less than 1500 recorded miles will be exempt from the requirement for a compliance check.

Vehicles up to the third anniversary of their date of registration will require an annual compliance check.

Vehicles older than the third anniversary of their registration but less than the seventh anniversary of their registration will require compliance checks every six months.

Vehicles older than the seventh anniversary of their date of registration will require compliance checks every four months.

7. The test must take place in accordance with the council's testing procedures. Vehicles will be required to meet the required MOT and Certificate of Compliance standard for their age and construction and the council's standards as laid out in this appendix. In addition the accuracy of the meter (if fitted) will be checked over a measured mile.

### **Equipment**

8. The vehicle must carry the following equipment:

- An in-date suitable and efficient fire extinguisher (1.0 kg dry powder or larger foam fire extinguisher) to meet BS EN 3 1996 (BS 5423), maintained at all

times when the vehicle is licensed shall be securely fixed in the vehicle and be readily visible and available for immediate use in an emergency. Each driver of a vehicle must familiarise themselves with the use of the fire extinguisher contained in the vehicle

- A spare wheel suitable for immediate use and properly maintained; if the spare wheel is of the temporary space saver type, it may only be used to complete the particular journey or hiring the vehicle is engaged on when the wheel change is necessary and vehicles that have modern technology may be exempt from this condition at the discretion of the relevant council
  
- a jack and tools for changing the wheels
- a spare auto bulb kit applicable to the vehicle
- a warning triangle
- a torch
- a first aid kit.

### **Condition of the vehicle**

9. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the council and in particular the exterior of the vehicle shall be free of large dents, rust or un-repaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacturer. The interior shall be free of stains, spills, tears and the seats must function in accordance with the original manufacturer's specification. The vehicle will comply with all relevant statutory requirements applicable to the class of vehicle to which it belongs including, but without prejudice to the generality of the Motor Vehicle (Construction and Use) Regulations which currently apply.

### **Insurance and other documentation.**

10. The proprietor shall not use the vehicle, nor permit it to be used, as a private hire vehicle if it does not have a policy of insurance, or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, covering the use of the vehicle to carry passengers for private hire. The proprietor must produce when requested a valid certificate of insurance. On renewal of the insurance a copy of the new certificate must be provided to the council. The councils will only accept insurance from UK insurance bodies that are registered with the Motor Insurance Bureau.

11. The proprietor must produce when requested the vehicle registration document, a valid MOT and Certificate of Compliance and must ensure that the vehicle displays a valid vehicle excise licence. Any advisory item on the MOT or Certificate of Compliance must be corrected and a "clean certificate" issued before the vehicle will be licensed. Only original documents are acceptable.

## Licence plates

12. The external licence plate supplied by the council shall be securely fixed to the outside and rear of the vehicle either by direct fixing, e.g. screw, bolt or rivet, or on a secure bracket. The licence plate remains the property of the council at all times. If required to do so at any time the licence holder must return the plate to the council within seven days. The penalty for failing to comply with this request is a fine not exceeding Level 3 on the Standard Scale. An exemption for private hire vehicles from displaying the plate may be given at the discretion of the licensing officer in accordance with the policy on plate exemption.

## Private hire signs and advertising

13. The proprietor must ensure that their vehicle does not display any advertising or promotional material, subject to the following exceptions:

- a sign indicating membership of the AA, RAC or other similar motoring organisation
- a sign which requires passengers not to smoke
- a first aid kit sticker
- any other material supplied by government or a government organisation or corporation with the permission of the council.

## Audio/video or surveillance systems

14. No audio/video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the council.

## Smoking

15. No smoking is permitted in the vehicle by either the driver or its passengers. The vehicle must comply with The Smoke-free (Exemptions and Vehicles) Regulations 2007 (S.I. 2007/765).

## Meters/fare card

16. A private hire vehicle may be fitted with taximeter. If the vehicle is fitted with a taximeter it shall be fitted with a taximeter compliant with The Measuring Instruments (Taximeters) Regulations 2006 (S.I. 2006/2304). The taximeter shall be maintained in a sound working condition at all times.

17. The taximeter must:

- be of the clock calendar type and change according to the wording of the displayed fare tariff;
- show the fare recorded on the taxi meter in plainly legible figures and the word 'FARE' shall be clearly displayed so as to apply to such figures;
- be kept securely fixed in such a position so that the fare recorded is visible to all passengers within the vehicle at all times and the figures shall be illuminated for this purpose whenever necessary.

### Wheelchair access

18. If the vehicle is designed or adapted to carry a wheelchair, the owner of the vehicle must ensure that the driver has received sufficient training to load and convey wheelchair bound passengers.

19. Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times.

### Trailers

20. Trailers may only be used with the prior written approval of the council and subject to the following requirements:

- trailers can only be used in connection with private hire bookings
- the trailer must at all times comply with all requirements of Road Traffic legislation in particular those laid down in the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078).
- the vehicle insurance must include cover for towing a trailer
- a suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use.

### Lost property

21. The proprietor or driver of a private hire vehicle must hand in any found lost property to the nearest police station within 48 hours.

## Convictions/change in particulars of proprietor

22. The proprietor shall give notice in writing to the council within seven working days of any convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) or change of their registered particulars, e.g. address or change of name.

## Private hire operators conditions

23. The holder of a private hire operator's licence shall comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976.

24. The records required to be kept by the operator under Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 shall be kept in a suitable book or on a computer or any other recordable device. If using a book the pages must be numbered consecutively and the operator shall enter or cause to be entered before commencement of each journey, the following particulars of every booking accepted:

- the time and date of the booking
- the name of the hirer
- the fare quoted
- how the booking was made, e.g. telephone or email and the time
- the time of the proposed pick up
- the point of pick up and drop off
- the registration or plate number of the vehicle allocated for the booking and the name of the driver.

25. If the operator uses a computerised booking system the council will require access to the system so that the council is able to establish that records are entered sequentially and that it is able to establish the date and time at which the record was created.

26. The operator shall also keep records of the particulars of all private hire vehicles, which shall include details of the owner, registration numbers and drivers of such vehicles, together with any radio call signals used. All records kept by the operator shall be kept for a period of not less than 12 months following the date of the last entry and shall be made available, upon request to an authorised officer of the council, police officer or any other relevant enforcement agency.

27. Operators will also be required to provide adequate instruction to licensing officers in order to enable them to interrogate the computerised records to gather the information they require to carry out their enforcement duties.

## Legislation

28. The holder of every private hire vehicle licence shall comply with the provisions relating to private hire vehicles contained in the following legislation:

- Part II Local Government (Miscellaneous Provisions) Act 1976
- Road Traffic Act 1988 Part 11 (a) Construction and Use of Vehicles and Equipment
- Equalities Act 2010 Section 168 (Assistance Dogs)

## Novelty vehicles

29. This element of the policy only applies to private hire vehicles.

30. For the purpose of this policy, a novelty vehicle shall mean a vehicle that is used for a particular occasion or occasions of a restricted nature, e.g. transport to parties or an “executive vehicle” and is not a conventional vehicle used for standard private hire work. Examples of vehicles that may fall within the ‘special event’ category are stretch limousines, classic cars, executive vehicles or a vehicle that has fewer than four seats.

31. This element of the policy does not apply in relation to vehicles used solely in connection with weddings and funerals, as these are exempt from private hire licensing.

32. The general licence conditions for private hire vehicles will not normally allow for novelty vehicles to be licensed for a number of reasons including the style and design of the vehicle.

33. Any novelty vehicle that has not been type approved, which does not meet the requirements of the Construction and Use Regulations or which otherwise would not meet the standard private hire vehicle conditions, the proprietor may apply to be licensed by seeking variation or exemption from some of the standard conditions.

34. Each vehicle will be considered and assessed on merit taking account of:

- the overall condition of the vehicle
- the number of passengers for which it is required to be licensed
- the specific criteria for which exemption is sought.

35. The primary consideration will always be the safety and comfort of the travelling public.

36. This policy sets out the general considerations the council will take into account when considering an application for the licensing of a novelty vehicle.



## Specification

37. Vehicles may be right or left hand drive provided that left hand drive vehicles have vehicle type approval from the Vehicle Certification Agency, Department for Transport, of which the council requires proof.

- the vehicle must not have fewer than four road wheels
- the number of doors must be sufficient to allow safe access and egress for the number of passengers for which approval is sought
- the vehicle must comply with Constructions and Use Regulations.

38. Vehicles must carry:

- a fire extinguisher of a minimum of 1Kg power type and BS EN3 compliant, serviced in accordance with BS 5306, and a service record kept for inspection by an authorised officer of the council. The extinguisher must be securely affixed in the vehicle and ready for immediate use.
- a first aid kit.
- a spare wheel suitable for immediate use.
- a jack and tools for changing the wheels.
- the screen sticker, if supplied by the council, must be displayed in the lower nearside corner of the rear windscreen.
- spare light bulbs.
- no audio, video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the council.

39. Any vehicle that has been constructed or adapted to seat more than eight passengers cannot be licensed as a private hire vehicle.

40. The licensing officer will consider applications for vehicles older than ten years. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the council. In particular, the exterior of the vehicle shall be free of large dents, rust or un-repaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacturer. The interior shall be free of stains, spills and tears and the seats must function in accordance with the original manufacturer's specification.

41. No age limit will be set for novelty vehicles but they are required to be tested as per private hire vehicles.

Vehicles less than 1 month old and with less than 1500 recorded miles will be exempt from the requirement for a compliance check.

Vehicles up to the third anniversary of their date of registration will require an annual compliance check.

Vehicles older than the third anniversary of their registration but less than the seventh anniversary of their registration will require compliance checks every six months.

Vehicles older than the seventh anniversary of their date of registration will require compliance checks every four months.

42. The council will only accept vehicle compliance tests that are valid for more than 11 months.

43. The individual nature of a novelty vehicle will inevitably give rise to issues that would not apply to conventional private hire vehicles and therefore it will be necessary to consider whether special conditions should be included on any licence.

### Plate exemption

44. Vehicles which are used for contract work for at least 75 per cent of the time may be exempted from displaying a plate. The operator's records for these vehicles must prove that the required amount of contract work is being carried out and the council will require evidence as to why plate exemption is required. Such vehicles must display front and rear windscreen badges, which will be provided by the council. These badges will show the details of the vehicle as they appear on the plate. The licence plate will be provided and must be carried in the boot of the vehicle at all times. Vehicles given this exemption will normally be executive type cars. The council will determine applications for exemption on a case by case basis. The plate exemption must be applied for on an annual basis on the anniversary of the renewal of the vehicle licence. Operators/drivers should not automatically assume that when licensing a new vehicle to replace an existing plate exempted vehicle or renewing an existing plate that the plate exemption will continue.

## APPENDIX C

### HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS CONDITIONS AND CODE OF CONDUCT

1 All drivers are required to be familiar with all parts of the council's policy and comply with the requirements of the policy and the conditions that form a part of their licence.

2 Any hackney carriage/private hire driver's badge that is supplied by the council will cease to be valid on the expiry of the licence or upon suspension, surrender or revocation of the licence. Any badge supplied remains the property of the council and must be returned to the council if suspended, revoked or expired. If demanded the licence holder must return their licence and badge to the council. The penalty for failing to comply with this request is a fine not exceeding Level 1 on the Standard Scale.

3 Whilst in control of a hackney carriage or private hire vehicle, the driver shall, if required to do so by any person, give his or her name and badge number and also the name and address of the owner/proprietor and the identification marks of the vehicle.

4 The driver shall give notice in writing to the council within seven working days of any convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) or change of their registered particulars, e.g. address or change of name.

5 If a driver is given notice to undertake a random CRB check by the council they must do so within 28 days of the request.

6 The driver shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle. Drivers must ensure their appearance is smart and professional when working.

7 Any driver of a hackney carriage/ private hire vehicle acting in a disorderly, abusive, aggressive, or violent manner towards any member of the public, other driver or officer of the council may be deemed not to be a fit and proper person to hold a licence.

8 No driver of a hackney carriage/private hire vehicle shall at any time engage in any sexual activity in a licensed vehicle, whether consensual or otherwise, with a passenger. Any driver who contravenes this condition may be deemed not to be a fit and proper to hold a licence.

9 Vehicle proprietors and drivers shall ensure that licensed vehicles do not cause an obstruction or nuisance to local residents when parked or collecting passengers.

10 To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:-

- not sound the vehicle's horn.
- keep the volume of audio and communications equipment to a reasonable level.
- switch off the engine if required to wait.
- take all reasonable additional action as is necessary to avoid disturbance to residents in the neighbourhood.

11 Every driver shall at all times when in charge of a licensed vehicle wear their driver's badge supplied by the council and the badge should be clearly visible.

12 Under Equalities Act 2010 Section 168 (Assistance Dogs), drivers will be required to carry an assistance dog accompanying a disabled person without any additional charge unless the driver has a medical exemption certificate that allows him/her not to carry dogs for medical reasons.

13 A driver shall give notice in writing to the council within seven working days of any change in medical condition. If required by the council a new medical may be required to determine if the driver is "fit and proper".

14 At hackney carriage ranks drivers shall:-:

- queue in an orderly manner and proceed along the rank in order and promptly.
- if approached by a potential customer, direct them to the hackney carriage at the front of the rank unless the passengers specifically ask for a particular driver or company.
- assist in improving air quality by switching off vehicle engines when parked, unless there are reasonable safety or comfort grounds for not doing so, for example keeping warm in very low temperatures.
- remain in or within 10 metres of the vehicle.
- not park on the rank when not working.

15 Every driver of a licensed vehicle when requested by any person hiring or seeking to hire the vehicle shall:

- convey a reasonable quantity of luggage.
- afford reasonable assistance in loading and unloading.
- be polite, helpful and fair to passengers, particularly those whose mobility may be restricted.

## Legislation

16 The holder of every hackney carriage and private hire vehicle and drivers licence shall comply with the provisions relating to hackney carriage and private hire drivers and vehicles contained in the following legislation:

- Town Police Clauses Act 1847
- Part II Local Government (Miscellaneous Provisions) Act 1976
- Road Traffic Act 1988 Part 11 (a) Construction and Use of Vehicles and Equipment
- Section 168 Equalities Act 2010 (Assistance Dogs).

17 Notwithstanding the relevant legislation, the council's conditions, the council's hackney carriage and private hire driver, vehicle and operator policy and the council's byelaws, drivers, proprietors and operators should be aware of the following criminal offences:

- failure to give assistance to wheelchair users or failure to carry them safely
- charging an additional fee/fare for carrying a passenger needing assistance or for carrying an assistance dog
- refusal to carry an assistance dog without a medical exemption
- driving whilst using a hand held mobile telephone or device
- smoking in a hackney carriage or private hire vehicle
- driving whilst under the influence of alcohol, illegal or prescription drugs. Any amount of alcohol or illegal drug can affect a driver's capability to drive safely.
- exceeding the safe permitted number of working hours
- claiming benefits for which there is no entitlement
- and should always be aware of and obey traffic regulations and The Highway Code. This list is not exhaustive and the relevant enforcement agency (Police, local authority etc.) may take action as it sees fit. This may include prosecution.

## APPENDIX D

### Hackney carriage roof box



Front (SODC logo shown to indicate size and location of council logo)



Back (Telephone number optional)



Side

## APPENDIX E

### CONSIDERATION OF APPLICATIONS FOR THE GRANT, RENEWAL, SUSPENSION OR REVOCATION OF LICENCES

1. Upon receipt of a completed application form, the licensing officer will consider the application on its individual merits taking into account the person's previous history of behaviour to determine whether they meet the fit and proper person criteria. Where the consideration is a review of an existing licence holder this will be to determine whether that person continues to meet the fit and proper person criteria. Where the application is incomplete, it will not be considered until the missing details or documents are supplied and may be returned along with any fee provided.
2. Where having considered the application or review against the criteria of the council's policy the licensing officer considers that the person meets the criteria of a fit and proper person the Head of Legal and Democratic Services who has delegated powers under the scheme of delegation to officers, may approve the application.
3. Successful applicants will be notified in writing and issued with a licence. Those who are granted a driver's licence will be issued with a badge, which will remain the property of the council and must be surrendered if the driver's licence is suspended or revoked. If a licence is suspended the driver must within seven days of that suspension return the badge to the council. If that suspension is subsequently lifted the badge will be returned to the driver within two working days. Hackney carriage driver licences must be retained by the driver's employer until that employment ceases, when it will be returned to the driver to pass to any new employer.
4. Where having taken into account the applicant's history of behaviour including convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) the licensing officer is not satisfied that the person meets the criteria of a fit and proper person and should therefore not be granted a licence, the officer will make a recommendation to the Head of Legal and Democratic Services.
5. Where the Head of Legal and Democratic Services concludes that the person is not a fit and proper person they may refuse the application or revoke or suspend the existing licence in accordance with the scheme of delegation to officers.
6. If Head of Legal and Democratic Services, is required to do so by the council's policy or for other reasons considers it necessary they will refer the matter to a panel for consideration. The applicant or licence holder will be advised of the date, time and venue of the panel.
7. The proceedings and terms of reference of the licensing panel are set out on the councils' website.

## APPENDIX F

### TESTING APPLICANTS – THE KNOWLEDGE TEST

#### Introduction

1. In order to maintain the high standards that the council expects of its drivers, new applicants will be required to undertake an assessment of competence. This will take the form of a written test and will contribute to satisfying the requirement to be a fit and proper person. The written test is a test of the candidate's command of written English as well as their knowledge of local geography and legislation. Candidates may also be tested on their understanding and use of spoken English. Candidates must demonstrate an adequate level of spoken English before they will be assessed as competent. This assessment may be in the form of an independent qualification or certification.

#### Local geography

2. Applicants will be tested on their knowledge of the relevant district's geography, by recording the shortest routes between locations in the area or primary destinations such as airports.

#### Highway code

3. Applicants will be asked to answer a number of questions as to driving skills, road information and etiquette as set out in the Highway Code.

#### The hackney carriage and private hire licensing legislation and council rules and policy

4. Applicants will be tested on their knowledge and understanding of the law as it applies to hackney carriage and private hire licensing.

#### Disability issues

5. In view of the special considerations to be made when dealing with passengers with differing abilities, all drivers will be expected to undertake and pass training in disability awareness within six months of obtaining their licence or renewing their licence. Drivers with existing qualifications will be assessed on their merits as to whether they are exempt from this requirement.

#### Test re-takes

6. Applicants who fail to achieve the pass mark in the written test will be invited to take a different test on another occasion. They will not be considered to be fit and proper to hold a licence until they have achieved the requisite pass mark. No



candidate will normally be allowed to take the test more than five times within a 12 month period.

7. To ensure that all applicants are encouraged to prepare for the above process, a non-returnable fee will be charged for each test taken.

### Procedures and guidelines for tests

8. The procedures and guidance to applicants concerning the test, fees and dates of test are available on the relevant council website.

## APPENDIX G

### Guidelines relating to relevance of previous convictions

1. All applicants for a hackney carriage/private hire driver's licence must complete an enhanced Criminal Records Bureau (CRB) check prior to the granting of a licence.
2. On completing the council's licence application form all convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) and pending court cases or licensing hearings must be declared. Failure to disclose convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) which are subsequently notified by the Criminal Records Bureau or any pending court cases or licensing hearings will be considered to be an act of dishonesty and may result in the application being refused or licence revoked. Applicants should note that any reference in this Appendix to conviction also includes all convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders and fixed penalties (including traffic offences).
3. All past all convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) will be considered against Home Office guidelines. The Rehabilitation of Offenders Act 1974 sets out the period after which all convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) are regarded as "spent" and which would not normally necessitate disclosure. In 2002 the Act was amended so as to exclude hackney carriage and private hire drivers from the effects of the 1974 Act. Applicants for such licences are now required to disclose all convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) including those that would previously have been regarded as spent under the Act. The council will use the Rehabilitation of Offenders Act 1974 as guidance but in every case the individual facts will be considered in accordance with the criteria set out in policies Policy Driver 18 and Policy Driver 19.
4. The overriding consideration is the safety of the public. The council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.
5. A person with a current conviction for a serious crime need not be permanently barred from obtaining a licence but should be expected to (a) remain free of conviction for an appropriate period and (b) show adequate evidence of good character from the time of the conviction. Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character.

6. Some discretion may be applied if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.

## **The Rehabilitation of Offenders Act 1974**

7. Rehabilitation of Offenders Act 1974 guidelines will be used by the council, but for repeat offenders or offences that are not stipulated under the Rehabilitation of Offenders Act 1974 the following guidelines will be used to determine if an applicant is a fit and proper person to hold a licence.

### **Minor traffic offences**

8. Convictions for minor traffic offences should not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence. However, the number, type and frequency of such offences will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of conviction of at least six months. An application will normally be refused where an applicant has nine or more penalty points on his/her DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last six months. An existing licence holder may be suspended where the person has nine or more penalty points on his/her DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last six months. Where an application has been refused or an existing licence holder suspended because of this provision they may be required to pass the DSA Taxi and Private Hire Assessment in accordance with Policy Driver 4 before the licence is granted or the suspended licence reinstated. These offences are detailed on page 81.

### **Major traffic offences**

9. Isolated convictions, without disqualification, for a major traffic offence should not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence but will normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire drivers. More than one conviction for this type of offence within the last two years would require the application or an existing licence holder to be referred to the panel for a decision. No further application would normally be considered until a period of three years free from convictions has elapsed. Where an application has been refused or an existing licence holder suspended because of this provision they may be required to pass the DSA Taxi and Private Hire Assessment in accordance with Policy Driver 4 before the licence is granted or the suspended licence reinstated. These offences are detailed on pages 82 and 83.

## Hybrid traffic offences

10 Offences of this type will be treated as major traffic offences if the court awarded four or more penalty points or as minor traffic offences if the court awarded three or less penalty points and will then be dealt with in accordance with either paragraph 8 or 9 above as necessary. These offences are detailed on page 83.

## Use of handheld mobile telephones whilst driving

11 Isolated convictions for use of a handheld mobile telephone or device should not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence. However, the number, type and frequency of such offences will be taken into account and if there are more than two offences of this nature the applicant will normally be expected to show a period free of conviction of at least six months. Existing drivers witnessed using a hand held mobile telephone or device whilst driving will be given points under the penalty points scheme and may also be suspended. Where an application has been refused or an existing licence holder suspended because of this provision they will be required to pass the DSA Taxi and Private Hire Assessment in accordance with Policy Driver 4 before the licence is granted or the suspended licence reinstated.

## Offences under the town police clauses act 1847 and part ii of the local government (miscellaneous provisions) act 1976

12 One of the main purposes of the licensing regime is to ensure the protection of the public. For this reason a serious view is taken of all convictions, warnings, reprimands, ASBOs, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) when deciding whether an applicant or an existing licence holder is to be treated as a fit and proper person to hold or continue to hold a licence.

13 An applicant may be refused a licence where he or she has been convicted of an offence under the Acts at any time during the six months preceding the application, or has more than one conviction within the two years preceding the date of the application. If an existing proprietor, operator or driver is convicted of an offence under the legislation it could lead to all relevant licences being revoked for a minimum of five years; those who committed two or more offences would not normally be considered for a minimum of ten years but in most cases would be refused a licence for life. For new applicants who have submitted applications but are suspected of breaching the above named Acts, their application will be kept on hold pending a full investigation by the licensing officer. Those drivers who have had a licence revoked by any other local authority will not normally be considered for a minimum of five years after that revocation.

14 If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not "fit and proper" or

that an existing licence holder no longer is a “fit and proper” person, the licensing officer will submit a report for consideration by the Head of Legal and Democratic Services. If they conclude that the person is not a fit and proper person they may refuse the application or revoke or suspend the existing licence in accordance with the scheme of delegation to officers. The Head of Legal and Democratic Services may refer the report to the relevant panel.

## Driving under the influence of alcohol offences

15 Convictions of driving or being in charge of a vehicle while under the influence of drink will be viewed seriously. An isolated spent conviction under the guidelines of The Rehabilitation of Offenders Act 1974 may not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence, but a warning will be given as to future behaviour. If an applicant has been convicted of drink driving whilst in charge of a licensed vehicle the applicant will be refused a licence until five years after restoration of the DVLA driving licence. Where an application has been refused or an existing licence holder suspended because of this provision they will be required to pass the DSA Taxi and Private Hire Assessment in accordance with Policy Driver 4 before the licence is granted or the suspended licence reinstated.

16 An unspent conviction for this type of offence will result in the refusal of the application or the revocation of an existing licence. If the licensing officer having considered the applicant’s or existing licence holder’s previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not “fit and proper” or that an existing licence holder no longer is a “fit and proper” person, the licensing officer will submit a report for consideration by the Head of Legal and Democratic Services. If they conclude that the person is not a fit and proper person they may refuse the application or revoke or suspend the existing licence in accordance with the scheme of delegation to officers. The Head of Legal and Democratic Services may refer the report to the relevant panel for decision.

## Public disorder offences involving alcohol

17. An isolated conviction for an alcohol related offence need not prevent an applicant from gaining a licence or an existing licence holder keeping their licence. If the licensing officer having considered the applicant’s or existing licence holder’s previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not “fit and proper” or that an existing licence holder no longer is a “fit and proper” person, the licensing officer will submit a report for consideration by the Head of Legal and Democratic Services. If they conclude that the person is not a fit and proper person they may refuse the application or revoke or suspend the existing licence in accordance with the scheme of delegation to officers. The Head of Legal and Democratic Services may refer the report to the relevant panel for decision.

## Drugs

18. An applicant with a conviction for a drug related offence will be required to show a period of a least five years free of convictions before an application is granted. An existing licence holder who is convicted of a drug related offence will be referred to the panel who could order that all relevant licences are revoked. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not "fit and proper" or that an existing licence holder no longer is a "fit and proper" person, the licensing officer will submit a report for consideration by the Head of Legal and Democratic Services. If they conclude that the person is not a fit and proper person they may refuse the application or revoke or suspend the existing licence in accordance with the scheme of delegation to officers. The Head of Legal and Democratic Services may refer the report to the relevant panel.

## Indecency offences

19. Applicants with convictions for soliciting will be refused a licence until five years free of such offences. An existing licence holder who is convicted of soliciting will be referred to the panel who could order that all relevant licences are revoked. Applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, will be refused until a minimum of ten years free of such offences has passed. An existing licence holder who is convicted of any of these offences will be referred to the panel who could order that all relevant licences are revoked. More than one conviction for this kind of offence will mean that no licence will be granted. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not "fit and proper" or that an existing licence holder no longer is a "fit and proper" person, the licensing officer will submit a report for consideration by the Head of Legal and Democratic Services. If they conclude that the person is not a fit and proper person they may refuse the application or revoke or suspend the existing licence in accordance with the scheme of delegation to officers. The Head of Legal and Democratic Services may refer the report to the relevant panel.

20. Where an existing licence holder is found to be in breach of Condition 8 of the hackney carriage and private hire driver conditions set out at Appendix C to this policy the licensing officer will submit a report for consideration by the Head of Legal and Democratic Services. If they conclude that the person is not a fit and proper person they may refuse the application or revoke or suspend the existing licence in accordance with the scheme of delegation to officers. The Head of Legal and Democratic Services may refer the report to the relevant panel.

## Violence

21. As hackney carriage and private hire drivers maintain close contact with the public any existing licence holder with a conviction for any of the offences set out below will have his licence revoked. Any applicant for a licence will be refused where they have an unspent conviction for any of the offences below:

- murder
- manslaughter
- manslaughter or culpable homicide while driving
- arson
- malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
- actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
- grievous bodily harm with intent (s.18 Offences Against the Person Act)
- grievous bodily harm (s.20 Offences Against the Person Act)
- robbery
- racially aggravated criminal damage (s.30 Crime and Disorder Act 1998)
- racially aggravated s.4 Public Order Act 1986 offence (fear or provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
- racially aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress) (s.31 (1)(b) Crime and Disorder Act 1998)
- racially aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
- racially aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32 (1) (b) Crime and Disorder Act 1998).

22. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not "fit and proper" or that an existing licence holder no longer is a "fit and proper" person, the licensing officer will submit a report for consideration by the Head of Legal and Democratic Services. If they conclude that the person is not a fit and proper person they may refuse the application or revoke or suspend the existing licence in accordance with the scheme of delegation to officers. The Head of Legal and Democratic Services may refer the report to the relevant panel.

23. As hackney carriage and private hire drivers maintain close contact with the public any existing licence holder with a conviction for any of the offences set out below will have his licence revoked. Any applicant for a licence will be refused where they have an unspent conviction for any of the offences below:

- common assault
- common assault which is racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
- assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
- assaulting a police officer
- affray
- racially aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)
- riot
- obstruction
- possession of an offensive weapon
- possession of a firearm
- criminal damage
- violent disorder
- resisting arrest.

24. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not "fit and proper" or that an existing licence holder no longer is a "fit and proper" person, the licensing officer will submit a report for consideration by the Head of Legal and Democratic Services. If they conclude that the person is not a fit and proper person they may refuse the application or revoke or suspend the existing licence in accordance with the scheme of delegation to officers. The Head of Legal and Democratic Services may refer the report to the relevant panel for decision.

## Theft and fraud

25. Drivers of hackney carriage and private hire vehicles are expected to be honest.

26. As hackney carriage and private hire drivers maintain close contact with the public any existing licence holder with a conviction for an offence of theft or fraud will have his licence revoked. Any applicant for a licence will be refused where they have an unspent conviction for any of the offences listed below:

- theft
- burglary
- fraud
- perjury
- benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- handling or receiving stolen goods



- forgery
- conspiracy to defraud
- obtaining money or property by deception
- other deception
- any other similar offence of dishonesty

27. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not "fit and proper" or that an existing licence holder no longer is a "fit and proper" person, the licensing officer will submit a report for consideration by the Head of Legal and Democratic Services. If they conclude that the person is not a fit and proper person they may refuse the application or revoke or suspend the existing licence in accordance with the scheme of delegation to officers. The Head of Legal and Democratic Services may refer the report to the relevant panel for decision.

### Drivers behaviour

28. Any hackney carriage/private hire driver acting in a disorderly, abusive or violent manner towards any member of the public, other driver, police officer or any council official (including non South Oxfordshire or Vale of White Horse District Council officials) will in accordance with Condition 7 of Appendix C to this policy be deemed not to be a fit and proper person to hold a licence and will be referred for consideration by the Head of Legal and Democratic Services. If they conclude that the person is not a fit and proper person they may refuse the application or revoke or suspend the existing licence in accordance with the scheme of delegation to officers. The Head of Legal and Democratic Services may refer the report to the relevant panel.

### Information

29. The date of the court conviction is to be taken as the start date of the rehabilitation period, unless a sentence of imprisonment or corrective training exceeding 30 months was imposed, in which case the offence is never rehabilitated.

30. The following examples are for guidance only. Each application will be considered on its individual merits taking into account the person's previous history of behaviour to determine if they meet the fit and proper person criteria, and it may be that, having regard to the particular circumstances of any application, it would be right to depart from the policy. Initial consideration of applications will be undertaken by the licensing officer. If the licensing officer considers that the applicant is not a fit and proper person he will refer the matter to the Head of Legal and Democratic Services with a recommendation.

31. A decision to refuse, revoke or suspend the licence can be appealed under the Public Health Act 1936 to the Magistrates' Court within 21 days of the date on which the council's decision was served.

**Summary of rehabilitation periods applicable to certain sentences  
(section 5 rehabilitation of offenders act 1974)**

<b>Sentence</b>	<b>Rehabilitation Period</b>
A sentence of imprisonment, exceeding thirty months.	Never spent
A sentence of imprisonment, detention in a young offenders institution or youth custody or corrective training for a term exceeding six months but not exceeding thirty months.	Ten years
A sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's service.	Ten years
A sentence of imprisonment, detention in a young offender's institution or youth custody for a term not exceeding six months.	Seven years
A sentence of dismissal from Her Majesty's service	Seven years
Any sentence of detention in respect of a conviction in service disciplinary proceedings	Five years
A fine or any other sentence subject to rehabilitation under this Act Probation order or Community Order	Five years
Conditional Discharge, binding over, care order, supervision order or reception order	1 year or until order expires (whichever is longer)
Absolute Discharge	Six months
Caution	Three months

**For persons under eighteen, rehabilitation periods are subject to a reduction by half at the date of conviction.**

## Sex Offenders Register

How long do offenders remain on the register?

32. Those given a jail sentence of more than 30 months for sexual offending are placed on the register indefinitely. Those imprisoned for between six and 30 months remain on the register for 10 years, or five years if they are under 18. Those sentenced to six months or less are placed on the register for seven years, or three-and-a-half years if under 18. Those cautioned for a sexual offence are put on the register for two years, or one year if under 18.

## Major traffic offences

(Appendix G Paragraph 9 refers)

AC10 Failing to stop after an accident

AC20 Failing to give particulars or to report an accident within 24 hours

AC30 Undefined accident offences

BA10 Driving while disqualified by order of court

BA30 Attempting to drive while disqualified by order of court

CD10 Driving without due care and attention

CD20 Driving without reasonable consideration for other road users

CD30 Driving without due care and attention or without reasonable consideration for other road users

CD40 Causing death through careless driving when unfit through drink

CD50 Causing death by careless driving when unfit through drugs

CD60 Causing death by careless driving with alcohol level above the limit

CD70 Causing death by careless driving then failing to supply a specimen for analysis

CD80 Causing death by careless or inconsiderate driving

CD90 Causing death by driving: unlicensed, disqualified or uninsured drivers

DD40 Dangerous driving

DD60 Manslaughter or culpable homicide while driving a vehicle

DD80 Causing death by dangerous driving

DD90 Furious driving

DR10 Driving or attempting to drive with alcohol level above limit

DR20 Driving or attempting to drive while unfit through drink

DR30 Driving or attempting to drive then failing to supply a specimen for analysis

DR40 In charge of a vehicle while alcohol level above limit

DR50 In charge of a vehicle while unfit through drink

DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive

DR70 Failing to provide specimen for breath test

DR80 Driving or attempting to drive when unfit through drugs

DR90 In charge of a vehicle when unfit through drugs

IN 10 Using a vehicle uninsured against third party risks

LC20 Driving otherwise than in accordance with a licence

LC30 Driving after making a false declaration about fitness when applying for a licence

LC40 Driving a vehicle having failed to notify a disability

LC50 Driving after a licence has been revoked or refused on medical grounds

MS50 Motor racing on the highway

MS60 Offences not covered by other codes

UT50 Aggravated taking of a vehicle

**Aiding, abetting, counselling or procuring**

Offences as coded above, but with 0 changed to 2 (e.g. LC20 becomes LC22)

**Causing or permitting**

Offences as coded above, but with 0 changed to 4 (e.g. LC20 becomes LC24)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. DD40 becomes DD46)

**Minor traffic offences**

(Appendix G Paragraph 8 refers)

MS10 Leaving a vehicle in a dangerous position

MS20 Unlawful pillion riding

MS30 Play street Offences

MS40 Driving with uncorrected defective eyesight or refusing to submit to a test

MS70 Driving with uncorrected defective eyesight

MS80 Refusing to submit to an eyesight test

MS90 Failure to give information as to identity of driver etc.

MW10 Contravention of Special Road Regulations (excluding speed limits)

PC10 Undefined contravention of Pedestrian Crossing Regulations

PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle

PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle

TS10 Failing to comply with traffic light signals

TS20 Failing to comply with double white lines

TS30 Failing to comply with a "Stop" sign

TS40 Failing to comply with direction of a constable or traffic warden

TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)

TS60 Failing to comply with school crossing patrol sign

TS70 Undefined failure to comply with a traffic direction sign

**Aiding, abetting, counselling or procuring**

Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

**Causing or permitting**

Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

**Inciting**

Offences as coded above, but with 0 changed to 6 (e.g. PC16 becomes PC16)

**Hybrid traffic offences**

(Appendix G Paragraph 10 refers)

CU10 Using vehicle with defective brakes

CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition

CU30 Using a vehicle with defective tyre(s)

CU40 Using a vehicle with defective steering

CU50 Causing or likely to cause danger by reason of load or passengers

CU80 Breach of requirements as to control of the vehicle, mobile telephones etc.

SP10 Exceeding goods vehicle speed limit

SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)

SP30 Exceeding statutory speed limit on a public road

SP40 Exceeding passenger vehicle speed limit

SP50 Exceeding speed limit on a motorway

SP60 Undefined speed limit offence

**Aiding, abetting, counselling or procuring**

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

**Causing or permitting**

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

**Inciting**

Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)

33 This list is not exhaustive and codes may be changed or added during the duration of this policy. If an applicant or current licence holder has been disqualified or given points that are not listed here, they will still be taken into account.

## APPENDIX H

### Enforcement

1 As part of both councils aim to offer fair and transparent enforcement of their statutory functions the councils operate a penalty points scheme.

2 Enforcement is viewed as part of the overall licensing control process exercised by the councils and is seen as an important way of maintaining and improving the standards within the trade and the quality of service delivered to the general public.

3 Enforcement action will be taken to:

- ensure public safety
- support the policies of the council
- respond to individual public and trade complaints
- support partnerships with other agencies like the Police and Vehicle Inspectorate
- complement the council's corporate enforcement policy.

4 Authorised officers of the council are empowered to give and recommend any of the following disciplinary measures:

- verbal warning
- written warning
- penalty points
- appearance before panel/delegated officer
- prosecution

5 Licence holders have a clear legal duty to offer assistance and information to any authorised officer and must not wilfully obstruct or give false information.

## **PENALTY POINTS SCHEME**

6 The councils operate a penalty points scheme under which points can be issued to licence holders for breaches of licensing conditions or non-compliance with the law as an alternative to prosecution.

7 The main features of the scheme are as follows:

- points are issued to licence holders for breaches of licensing conditions or legislation;
- a total of 12 points credited to an individual licence/licensee in any 12 month period will result in a review of the licence at a panel;
- in the case of a private hire operator licence the total number of points credited in any licensing year is extended to 30 points;
- points against a licence holder will be automatically removed after 12 months have elapsed from the date the points were issued; and
- licence holders have a written right of appeal within seven days of the points being issued.

8 There is no financial penalty associated with this scheme and drivers or operators may continue to work if points are awarded.

9 A list of breaches covered by the scheme, together with the points that can be awarded for each breach is shown below.

**For breaches by hackney carriage and private hire drivers and operators**

**Scale of penalty points**

<b>No</b>	<b>Breach</b>	<b>Points</b>
1	Hackney carriage or private hire vehicle not displaying licence plate	4
2	Hackney carriage vehicle not displaying prescribed roof sign	4
3	Failing to comply with any other vehicle licence conditions e.g. not carrying equipment, general condition of the vehicle etc.	4
4	Minor vehicle defects e.g. broken tail light, blowing exhaust, ineffective/broken windscreen wiper/wash	4
5	Failing to produce MOT certificate, driving licence or insurance certificate, which is valid on the day of request, within the prescribed time limit.	6
6	Failing to notify the council of details of road traffic collision within the prescribed time limit.	3
7	Private hire driver plying for hire	12
8	Failure to present vehicle for inspection when requested.	3
9	Failure to wear driver licence badge.	4
10	Making false statement or withholding information to obtain a licence.	12
11	Charging more than the displayed fare	6
12	Charging more than the meter fare when HC used as a PH.	6
13	Unnecessarily prolonging a journey.	4
14	Obstruction of an authorised officer or constable or failure to comply with requirement of an authorised officer or constable.	6
15	Carrying person other than the hirer without consent.	6
16	Failure by PHV operator to keep records of bookings.	10
17	Failure by operator to keep records of vehicles.	10
18	Parking in contravention of public highway parking restrictions	4
19	Failing to notify change of address or change of medical circumstances within prescribed time limit	6
20	Licensed vehicle displaying unauthorised markings (inside or outside)	6
21	Failing to display hackney carriage fare card in vehicle	4
22	Leaving a hackney carriage unattended whilst on a designated rank.	4
23	Aggressive behaviour	4-12
24	Hackney carriage plying for hire outside the relevant council's area.	6



# Council Report



Report of Head of Legal and Democratic Services

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To: COUNCIL

DATE: 18 October 2012

Agenda item no 10

## Review of the council's constitution

### Recommendations

That Council:

1. notes the Leader's proposed delegation to the head of planning to specify neighbourhood planning areas;
2. notes the Leader's revised scheme of delegation attached at appendix one to this report;
3. agrees the additional delegations to the head of health and housing set out in paragraph six of this report;
4. agrees the amendments set out in paragraph seven and appendix two to this report;
5. authorises the head of legal and democratic services to make the necessary changes to the council's constitution to reflect the changes set out in this report;
6. authorises the head of legal and democratic services to make any minor or consequential amendments to the constitution required for clarification, consistency and compliance with the council's style guide.

### Purpose of report

1. To consider proposed amendments to the constitution.

### Strategic objectives

2. The constitution underpins all of the council's areas of activities and, therefore, contributes to the achievement of all its strategic objectives.

## Background

3. Officers are undertaking a review of the constitution with the aim of condensing and simplifying its content. This report sets out a number of proposed amendments that require a decision outside this review.

## Leader's scheme of delegation

4. Attached at appendix 1 is a Leader's scheme of delegation for implementation from 1 November 2012. The document sets out the current arrangements and records the intention of the Leader of council to authorise Cabinet members to take any decision within their portfolio from 1 November 2012. This will not impact on the existing delegations to officers. The intention to increase the scope of delegations to Cabinet members facilitates more efficient decision making. Cabinet will retain the ability to take collective decisions on significant matters.

## Neighbourhood plan areas

5. Section 116 of the Localism Act empowers local communities to take forward planning proposals at a local level. The Government enacted the Neighbourhood Planning Regulations on 6 April 2012. The regulations indicate that applications for neighbourhood areas should be published and that the application should specify the organisation or relevant body for the neighbourhood area. The Localism Act confirms that where a parish council exists they should be the relevant body. It also advises that the specified area should include the whole or any part of the area of the parish council. Currently Cabinet takes decisions on the designation of neighbourhood areas. Council is requested to note that the leader of council intends to authorise the head of planning to take such decisions from 1 November 2012. This would not prevent the waiving of the delegation and seeking a councillor decision in sensitive cases at Cabinet member or Cabinet level. Ward councillor(s) would continue to be consulted.

## Management restructure - amendment to the council's constitution

6. At its meeting on 26 April 2012 Council agreed revised delegations to rationalise the split of duties between health and housing and legal and democratic services covering skin piercing, animal welfare, scrap metal and motor salvage operations and street trading. In making these changes to the constitution officers agreed that the delegations could be more specific. Officers therefore recommend the following additional delegations to the head of health and housing as follows:
  - *To exercise the council's powers and duties under The Dangerous Wild Animals Act 1976, The Pet Animals Act 1951, The Breeding of Dogs Acts 1973 & 1991, The Animal Boarding Establishments Acts 1964 &*

*1970, The Zoo Licensing Act 1981 and The Riding Establishments Acts 1964 & 1970 including licensing and registration functions, taking of enforcement action, inspections, powers of entry and the appointment of inspectors.*

- *To exercise the council's powers and duties under Scrap Metal Dealers Act 1964 and The Vehicle (Crime) Act 2001 including licensing and registration functions, taking of enforcement action, inspections, powers of entry and the appointment of inspectors.*

## **Revised executive arrangements**

7. The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 came into force on 10 September 2012. The council already complies with a number of the proposals in terms of openness to the public, media and councillors not on the Cabinet. Officers have also introduced changes to reflect the new regulations that change the way councils produce forward plans and advertise forthcoming cabinet key decisions. There is no longer a requirement to publish a monthly forward plan although we intend to continue to publish the plan regularly. The forward plan is now called the cabinet work programme and lists forthcoming cabinet key decisions, cabinet member decisions, and any key decisions to be taken by an officer under delegated authority. These changes require changes to the wording of the constitution. Council is asked to authorise the head of legal and democratic services to make these changes.

## **Scheme of delegation and proper officer appointments**

8. **Attached** at appendix 2 are proposed changes, with reasons, to the scheme of delegation and proper officer provisions.

## **Revised constitution**

9. Council is requested to approve the changes set out in this report for implementation from 1 November 2012.

## **Financial Implications**

10. The democratic services budget for printing will meet the costs of producing copies of the amended constitution.

## **Legal Implications**

11. Section 37 of the Local Government Act 2000 requires the Council to keep its constitution under review.

## **Conclusion**

12. This report sets out a number of proposals to amend the constitution. Officers recommend that Council supports these proposals, and authorises the head of legal and democratic services to make these changes and any further minor or consequential amendments to the constitution.

**Background paper:** None

Appendix one

# South Oxfordshire District Council

## SCHEME OF DELEGATION OF THE LEADER OF THE COUNCIL TO CABINET MEMBERS AND OFFICERS

### Introduction

1. The Local Government Act 2000 provides that the leader may discharge any executive functions or may arrange for the discharge of any of those functions by the cabinet, by another member of the cabinet, by a committee of the cabinet or by an officer of the council.
2. This scheme of delegation to cabinet members and to officers is made pursuant to the Local Government Act 2000 and was approved by the leader of the council on 1 November 2012 and came into force immediately. This scheme replaces all previous schemes.
3. The scheme may be amended by the leader of the council at any time during the year. The scheme is subject to the general terms and conditions described below.

### Terms and conditions

4. Any decision taken by a cabinet member under this scheme of delegation shall only be taken having regard to any advice from the strategic director responsible for the relevant function associated with the decision.
5. Any decision which could attract to the council adverse legal consequences shall be taken after consultation with the monitoring officer.
6. Any decision which could attract adverse financial implications shall be taken after consultation with the chief finance (section 151) officer.
7. Where functions may be discharged by a cabinet member under this scheme of delegation the cabinet member may arrange for the discharge of any of those functions by an officer of the council.
8. Any cabinet member exercising any delegated powers under this scheme also has the power to do anything which is calculated to facilitate or is conducive or incidental to the exercise of such delegated powers.
9. Once a cabinet member has exercised any delegated power under this scheme, he or she shall make a record of the decision which shall include the views of any officer consulted on the issue. The record of the decision shall be forwarded by the cabinet member or officer immediately to democratic services.

## **Responsibility for executive functions**

10. The following cabinet members are responsible and are delegated authority to take decisions in respect of the functions and projects set out below until they are amended or withdrawn by the leader in writing.

Mrs Ducker - HR, customer services, legal and democratic, Didcot, corporate strategy (except waste and parks, community safety and grants)

Rev'd Paterson – deputy leader, planning (including building control) and IT

Mrs Badcock - health and housing

Mr Dodds - finance, waste and parks

Mrs Nimmo-Smith - economic development, property and technical services

Mr Service – leisure, grants and community safety

11. I delegate authority to the chief executive to discharge all executive functions and to request any member of the cabinet to act on behalf of the leader in the leader's and deputy leader's absence.

12. I delegate authority to officers to discharge executive functions as set out in schedule 1 of the scheme of delegation in part 3 of the constitution.

Councillor Ann Ducker

1 November 2012

**Appendix two**

Changes to the scheme of delegation and proper officer appointments

<b>References in part 3 of the constitution – scheme of delegation</b>	<b>Proposal</b>	<b>Reason for proposing change</b>
Page 155	Transfer delegation for maintenance and review of politically restricted posts from head of HR, IT and customer services to head of paid service.	In accordance with schedule 4 of the Localism Act.
Page 56 item 4	Replace “proposed street names/street name changes” with “proposed street name changes”.	The Oxfordshire Act 1985 requires a committee decision on name changes but not on new street names.
Delegation 1.11 page 113	Delete delegation.	Council no longer provides loans for cars.
Page 114 3.0 heading	Delete “closures” in heading.	Road closure function sits within remit of legal and democratic services.
Page 114 delegation 3.1	Replace “the naming or alteration of any street name provided it is unopposed” with “the naming of any street, or the alteration of any street name provided it is unopposed”.	Reflects wording of the Oxfordshire Act 1985.
Page 115 delegation 1.3	Transfer delegation to serve any high hedges remedial notice and authorise works to be carried out in default of compliance with such a notice to the head of planning in consultation with the head of legal and democratic services.	This delegation should sit with the head of planning as the department responsible for this area of work.
Page 161	Authorise Head of Legal & Democratic Services to approve dispersal orders.	Reflects correct allocation of officer responsibility.

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