

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

With effect from 1<sup>st</sup> April 2023

DRAFT

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## General policy

1. \*Insert North Yorkshire profile\*

### Responsibilities

2. The licensing authority issues the following licences:
  - Combined hackney carriage and private hire driver licence
  - Hackney carriage vehicle licence
  - Private hire vehicle licence
  - Private hire operator licence

### Legislation

3. The principal legislation under which functions are undertaken is contained in:
  - Town Police Clauses Act 1847
  - Local Government (Miscellaneous Provisions) Act 1976
4. North Yorkshire Council adopted the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 by a resolution on \*insert date\*.

### Policy considerations

5. The Regulators' Code<sup>1</sup> has been considered in order to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between the licensing authority and the trade.
6. The council aims to reduce regulatory burdens and supporting compliant business growth by ensuring that each requirement is properly justified by the risk it seeks to address, balancing the cost of the requirement against the benefit to the public.
7. In formulating this policy, the licensing authority has considered the advice contained in the Statutory Taxi & Private Hire Vehicle Standards<sup>2</sup> and the Taxi and Private Hire Vehicle Licensing Best Practice Guidance<sup>3</sup>.

### Objectives

8. The licensing authority's objectives are:
  - to encourage the provision of high quality and accessible hackney carriage and private hire services;
  - to ensure the safety and comfort of users of hackney carriage and private hire services;
  - to ensure the safety and wellbeing of the public affected by the operation of hackney carriage and private hire services; and
  - to facilitate access to an efficient and effective public transport service.

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<sup>1</sup> Department for Business, Innovation & Skills – Better Regulation Delivery Office – April 2014

<sup>2</sup> Department for Transport – July 2020

<sup>3</sup> Department for Transport – March 2010

## **Consultation and partnership working**

9. In preparing this policy, the Council has consulted with the following stakeholders:
  - Licence holders
  - North Yorkshire Police
  - Equality groups
  - Disability groups
  - Highways Authority
  - Passenger Transport
  - Safeguarding Children's Board
  - Other Council departments
  - Service users
10. To promote the policy objectives the licensing authority will work in partnership with the stakeholders detailed above, along with other agencies such as:
  - Driver and Vehicle Standards Agency (DVSA)
  - HM Revenue and Customs
  - Department of Works and Pensions
  - Home Office Immigration Services

## **Applying the policy**

11. This document sets out the policy that the licensing authority will apply when making decisions about applications and licences.
12. Any guidance contained within this policy is to be treated as a guide only and final interpretation of the law will ultimately rest with the courts.
13. Any obligation in this policy not to do any act or thing shall be deemed to include an obligation not to cause or permit that act or thing to be done.
14. Any reference to any statute or subordinate legislation shall be deemed to include a reference to any amendment or re-enactment.
15. The policy will be applied in the majority of cases when considering licence applications, but the licensing authority will consider each application on its individual merits and may, at times, allow exceptions to the general policy.
16. It will be necessary to consider, in relation to any particular application, whether the specific circumstances justify allowing an exception.
17. It will be up to the applicant to show that an exception should be made to the policy<sup>4</sup> and, if the objectives can still be met, the licensing authority may exercise its discretion to depart from the general policy. Where exceptions are made, reasons will be given.

## **Policy review**

18. The implications and effectiveness of this policy will be regularly monitored.

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<sup>4</sup> R v Crown Court at Sheffield, ex p Consterdine (1998)

19. This policy will be reviewed where appropriate (and, in any case at least once every five years) to assess whether any amendments are required taking into account changing circumstances affecting the area, or any relevant changes in national policy.
20. Minor and inconsequential amendments may be made to the policy from time-to-time by a senior officer to reflect legislative changes or to correct any inaccuracies. In all other cases, the licensing authority will consult with stakeholders, interested parties and neighbouring authorities prior to implementation to ensure that the policy continues to meet its objectives.

### **Personal data**

21. The council will hold personal data (about applicants, licensees, complainants etc) in connection with its licensing function.
22. The council will comply with its obligations under data protection legislation.
23. The council's aim is to minimise the unnecessary disclosure of personal data.
24. Personal data will only be obtained, kept or used as authorised by statute.
25. Personal data may be shared where it is necessary for compliance with a legal obligation.
26. Personal data is information that relates to an identified or identifiable individual. It includes information relating to persons who can be identified indirectly from that information in combination with other information. For example, the Information Commissioner considers that vehicle registration marks are personal data (especially when combined with other information).

### **Equality and diversity**

27. An equality impact assessment has been conducted to assess the potential impact of this policy on any individuals with protected characteristics. Appropriate measures have been implemented in the relevant parts of this policy to ensure that all individuals are represented and have their interests protected.
28. The council's policies and procedures will be applied fairly to all irrespective of age, disability, gender reassignment, sex, race, religion or belief, sexual orientation, marriage and civil partnership and pregnancy and maternity. This will apply to applicants, licence holders, customers and complainants.
29. The licensing authority will take a very serious view of any complaints of discrimination by licensees based on these factors or of any similar incidents involving licensees and other licensees.

### **Safeguarding**

30. The council has a duty of care to children and vulnerable persons who use licensed vehicles within North Yorkshire.
31. The council recognises that all children and vulnerable persons have a right to be safe and protected from abuse and harm.

32. The licensing authority will take all reasonable steps to ensure that the drivers and operators of taxis and private hire vehicles pose no threat to children or vulnerable persons.
33. The licensing authority has the power to refuse, revoke or suspend licences after convictions for various offences or any other reasonable cause. A suspension or revocation can be given immediate effect where it is in the interests of public safety.
34. Any allegations made against licence holders suspected of inflicting harm on children or vulnerable adults will be reported to the Designated Safeguarding Officer or a Deputy Officer who will ensure that appropriate action is taken in line with the council's Safeguarding Policy both in regard to the subject of the alleged abuse and the perpetrator. A decision will also be made in relation to any necessary action to be taken against the licence, which could include suspension or revocation.
35. Any decision to refuse or revoke a licence on the basis that the individual is thought to have harmed or presented a risk of harm to a child or vulnerable adult will be referred to the DBS under the Safeguarding Vulnerable Groups Act 2006. Any such referral may result in the individual being added to a barred list and enable other licensing authorities to consider this should further applications be made.

### **Air quality**

36. Air Quality Management Areas (AQMAs) are currently in place in Selby and Harrogate, following elevated levels of pollutants measured within the AQMA areas.
37. Vehicles including hackney carriage and private hire vehicles are identified as a contributor to the poor air quality within the town centres, but the Council also recognises the importance of their availability to provide transport for North Yorkshire residents.
38. Emission standards for hackney carriage and private hire vehicles will be subject to review, taking into consideration up-to-date emission monitoring results to determine whether sufficient progress is being made towards achieving the health-based air quality objectives and improving the health and wellbeing of local residents
39. Frequent maintenance of vehicles is also recommended, and emissions may also be further reduced by switching off engines whilst stationary or idling, particularly at ranks and standing in traffic.
40. The AQMAs in North Yorkshire currently are:
  - Selby: along a short stretch of New Street, near Selby Abbey and The Crescent
  - Harrogate: Wetherby Road, Harrogate York Place, Knaresborough.
41. The Council will look further at the impact of taxi emissions via the introduction of low-emission and hybrid vehicle use and the possibility to provide grant incentives and schemes to promote the uptake of low-emission, hybrid and electric vehicles in the fleet. In addition, these types of vehicles tend to carry much cheaper road tax, fuel and insurance costs.
42. This policy is part of the Council's responsibility to review and assess air quality and meeting national air quality objectives to benefit people's health and create a more pleasant environment for residents and visitors of North Yorkshire.

## Hackney carriages

43. A hackney carriage is a public transport vehicle which is licensed to ply for hire. It is unlawful for a vehicle to be used for the carriage of passengers for immediate hire until such time as a hackney carriage licence is issued in respect of the vehicle<sup>5</sup>.
44. The maximum number of passengers that can be carried in a vehicle for it to be capable of being licensed as a hackney carriage is eight<sup>6</sup>.
45. A vehicle licensed as a hackney carriage continues to be a hackney carriage at all times and anyone driving the vehicle needs a hackney carriage driver licence<sup>7</sup>. The only exception to this general rule is for a person driving a hackney carriage in connection with any test of the mechanical condition of the vehicle or its meter<sup>8</sup>.
46. All hackney carriages must be intended for use predominantly, or entirely, within North Yorkshire<sup>9</sup>.

## Hackney carriage vehicle specification

47. The licensing authority will only generally issue a licence in respect of a hackney carriage vehicle if:
  - It is fit for its purpose, safe and comfortable for its users and any members of the public;
  - It has not been subject to a Category A, B or S insurance write-off;
  - It is less than 5 years old in the case of a new application and less than 10 years old in the case of a renewal application (the age of the vehicle shall be taken from the date of first registration shown on the vehicle registration document, V5C);
  - It has
    - a front nearside door for the use of persons conveyed in the vehicle;
    - a rear nearside door for the use of persons conveyed in the vehicle;
    - a rear offside door for the use of persons conveyed in the vehicle; and
    - a separate means of ingress and egress for the driver.
  - The front windscreen allows at least 75% of light through and the front side windows allow at least 70% of light through<sup>10</sup>;
  - It has nearside and offside exterior rear-view mirrors;
  - A spare wheel conforming to legal requirements has been provided and properly fitted in the vehicle along with a jack and wheelbrace, unless a manufacturer's alternative is provided;
  - It is equipped with a minimum of four road wheels fitted with manufacturers' recommended size tyres;
  - It has a clean and smart appearance, both externally and internally;
  - It is right hand drive;
  - It has a permanent roof which is watertight – standard sunroof allowed (i.e. sunroof fitted when new by manufacturer);

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<sup>5</sup> Section 45 of the Town Police Clauses Act 1847

<sup>6</sup> Paragraph 7 of Schedule 1 to the Transport Act 1985

<sup>7</sup> Yates v Gates [1970] 1 All ER 754

<sup>8</sup> Paragraph 3 of Schedule 7 to the Transport Act 1985

<sup>9</sup> R (on the application of Newcastle City Council) v Berwick-upon-Tweed Borough Council [2008] EWHC 2369 (Admin)

<sup>10</sup> Regulation 32(10) of the Road Vehicles (Construction and Use) Regulations 1986

- It has seating arrangements in accordance with the current Construction and Use Regulations<sup>11</sup> and the manufacturer's specification (unless the modification has been approved via the voluntary Individual Vehicle Approval (IVA) scheme);
  - It has rear seat belts (irrespective of age);
  - It has a separate locking luggage area or in the case of an estate vehicle, a permanent grille, luggage bar(s) or manufacturer's recommended device fitted sufficiently to prevent luggage carried in the rear compartment from coming into contact with persons using the rear seat;
  - It has means for carrying a reference wheelchair<sup>12</sup> and luggage sufficient for the number of passengers for which the vehicle is licensed to carry (if seats are located within the luggage space, the vehicle may be licensed to carry a lower number of passengers in order to comply with the luggage space requirement); and
  - There are sufficient means by which a passenger can communicate with the driver.
48. Notwithstanding the above criteria, any vehicle licensed by either Craven District Council, Hambleton District Council, Harrogate Borough Council, Richmondshire District Council, Ryedale District Council, Scarborough Borough Council or Selby District Council prior to 1<sup>st</sup> April 2023 may remain licensed on renewal until such time as it would have been permitted by the terms of the relevant policy in effect on 31<sup>st</sup> March 2023.

### **Hackney carriage vehicle proprietorship**

49. A person applying for a hackney carriage vehicle licence must be the proprietor of the vehicle to which the application relates. If the applicant is not the sole proprietor, he/she must name all joint proprietors including anyone involved in the day-to-day usage of the vehicle.
50. Unless the applicant's name is the only name on the Vehicle Registration Document, the application should include on the application form the details any person (or company) involved in the keeping, employing or letting for hire the vehicle.

### **Process for new hackney carriage vehicle licence applications**

51. Applications will not be processed by the licensing authority unless it is in receipt of:
- a fully completed application form;
  - the appropriate fee; and
  - the vehicle registration document (V5C) in the name of the proprietor/part-proprietor or formal confirmation from the DVLA that the vehicle has been registered in the applicant's name. If neither is available, verifiable proof of ownership may be accepted (i.e. a bill of sale from a reputable firm).
52. All applicants will be required to sign a declaration as part of their application, stating that the vehicle will be used predominantly within North Yorkshire.
53. Licences will not be granted unless, in addition to the above, the licensing authority is in receipt of:
- a current vehicle insurance certificate or cover note which includes the carriage of passengers for public hire;

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<sup>11</sup> Road Vehicles (Construction and Use) Regulations 1986

<sup>12</sup> As defined by Schedule 1 to the Public Service Vehicle Accessibility Regulations 2000

- confirmation that the vehicle has an MOT test Certificate (required for all vehicles aged over one year as from the date of first registration as shown on the vehicle registration document);
  - proof that the licensing authority's testing arrangements have been satisfied;
  - a certificate confirming that the meter has been calibrated by an authorised agent to the table of fares;
  - an appropriate engineer's report (only for vehicles subject to a Category C, D or N insurance write-off) verifying the standard of repairs;
  - a satisfactory basic criminal record check from [www.gov.uk/request-copy-criminal-record](http://www.gov.uk/request-copy-criminal-record) in respect of all proprietors (or in the case of a company or partnership, in respect of all directors or partners); and
  - a certificate of good conduct (only if the applicant has lived overseas for a period of six months or more in the 10-year period leading up to the date of application).
54. No criminal record check or certificate of good conduct will be required for any applicant who has already been deemed suitable, evidenced by his or her possession of a hackney carriage/private hire driver or private hire operator licence issued by North Yorkshire Council.
55. If the application meets all criteria laid down in the policy, a licence will normally be granted.
56. The licence and plates will be issued directly to the applicant unless the applicant has provided authorisation in writing for an alternative representative to take possession on their behalf.
57. If the authorised officer has any concerns about an application for the grant of a hackney carriage vehicle licence, it will be referred to the **\*insert Committee name\*** for a decision.
58. An appeal against a refusal to grant a hackney carriage licence lies to the Crown Court<sup>13</sup>.
59. Any appeal must be made within 21 days following notice of a decision.

### **Process for hackney carriage vehicle licence renewal applications**

60. Applications for renewal should be made no more than six weeks and no less than two weeks before the expiry date of the current licence to allow reasonable time for the application to be processed.
61. Any application for the renewal of a licence will not be accepted after the date of expiry. In these cases, the vehicle will cease to be a licensed vehicle until such time as a new application for this vehicle is received and subsequently granted.
62. An application will not be processed by the licensing authority unless it is in receipt of:
- a fully completed application form; and
  - the appropriate fee.
63. Licences will not be renewed unless, in addition to the above, the licensing authority is in receipt of:

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<sup>13</sup> By virtue of section 7 of the Public Health Acts (Amendment) Act 1907

- a current vehicle insurance certificate or cover note which includes the carriage of passengers for public hire;
  - confirmation that the vehicle has an MOT test Certificate (required for all vehicles aged over one year as from the date of first registration as shown on the vehicle registration document);
  - proof that the licensing authority's testing arrangements have been satisfied;
  - a satisfactory basic criminal record check from [www.gov.uk/request-copy-criminal-record](http://www.gov.uk/request-copy-criminal-record) in respect of all proprietors (or in the case of a company or partnership, in respect of all directors or partners); and
  - a certificate of good conduct (only if the applicant has lived overseas for a period of six months or more in the 10-year period leading up to the date of application).
64. No criminal record check or certificate of good conduct will be required for any applicant who has already been deemed suitable, evidenced by his or her possession of a hackney carriage/private hire driver or private hire operator licence issued by North Yorkshire Council.
65. If the authorised officer has any concerns about an application to renew a licence, it will be referred to the **\*insert Committee name\*** for a decision.
66. An appeal against a refusal to renew a hackney carriage vehicle licence lies to the Magistrates' Court<sup>14</sup>. Any appeal must be made within 21 days following notice of a decision.

### **Transfer of hackney carriage vehicle licence**

67. If a proprietor transfers his/her interest in a vehicle to somebody else he/she must give notice of the transfer in writing to the licensing authority within 14 days, giving the name and address of the person to whom the interest in the vehicle has been transferred<sup>15</sup>.
68. The new owner must then make an application to transfer the licence into his/her name.
69. The application must be accompanied by:
- a current vehicle insurance certificate or cover note which includes the carriage of passengers for public hire;
  - a satisfactory basic criminal record check from [www.gov.uk/request-copy-criminal-record](http://www.gov.uk/request-copy-criminal-record) in respect of all proprietors (or in the case of a company or partnership, in respect of all directors or partners);
  - a certificate of good conduct (only if the applicant has lived overseas for a period of six months or more in the 10-year period leading up to the date of application); and
  - the vehicle registration document (V5C) in the name of the proprietor/part-proprietor or formal confirmation from the DVLA that the vehicle has been registered in the applicant's name.
70. No criminal record check or certificate of good conduct will be required for any applicant who has already been deemed suitable, evidenced by his or her possession of a hackney carriage/private hire driver or private hire operator licence issued by North Yorkshire Council.

### **Hackney carriage vehicle plates, signs and side panels**

<sup>14</sup> By virtue of section 60 of the Local Government (Miscellaneous Provisions) Act 1976

<sup>15</sup> Section 49 of the Local Government (Miscellaneous Provisions) Act 1976

71. At all times whilst licensed, a hackney carriage vehicle shall display:
- an external plate provided by the licensing authority securely and permanently affixed to the rear of the vehicle;
  - an external plate provided by the licensing authority securely and permanently affixed to the front of the vehicle;
  - a self-adhesive side panel provided by the licensing authority permanently affixed centrally and squarely on each of the front doors of the vehicle;
  - an internal plate provided by the licensing authority displayed on the passenger side of the dashboard facing into the vehicle;
  - a sign, capable of being illuminated, bearing the word "TAXI" facing towards the front of the vehicle mounted on the roof of the vehicle. The only other text on the sign shall be the firm's name and/or telephone number; and
  - at least two adhesive signs advising passengers how to complain to the licensing authority about any licensed driver, vehicle or operator in a position that can be easily read by passengers from the front and rear of the vehicle.
72. The licensing authority must be informed in writing should any of the above plates, signs or panels become lost, stolen, damaged or defaced. The damaged or defaced plate, sign or panel must be returned immediately to the licensing authority along with a report of the damage and a request for a replacement.
73. No vehicle shall be used for public hire purposes without the required plates, signs and panels.
74. The plates and panels are the property of the council and shall be returned to the licensing authority forthwith upon the suspension, surrender, revocation or expiry of the licence. It is an offence to fail to comply with a request to return the rear licence plate<sup>16</sup>.
75. No additional signs, notices, advertisements, plates, marks, letters, figures, symbols, emblems or devices shall be displayed on, in or from the vehicle except:
- the registration plate;
  - any sign required by statute or subordinate legislation;
  - any sign indicating membership of a national motoring organisation;
  - any sign requesting passengers not to smoke; and
  - any sign specifically approved by an authorised officer.
76. The proprietor of a licensed hackney carriage vehicle may apply to display any additional signage on the vehicle by submitting a written request to the licensing authority along with a full-colour copy of the proposed signage or advertisement.
77. Each request will be considered on its individual merits, but advertisements will not be approved if they:
- contain political, ethnic, religious, sexual or controversial texts;
  - display nude or semi-nude figures;
  - advertise tobacco products;
  - are likely to offend public taste;
  - depict or refer to indecency or obscenity;
  - use obscene or distasteful language;

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<sup>16</sup> Section 58(2) of the Local Government (Miscellaneous Provisions) Act 1976

- depict men, women or children as sex objects;
- depict direct and immediate violence to anyone shown in the advertisement or advertise any racist group or organisation which intends to promote the group/organisation and/or any of its activities;
- are proposed to be displayed on any of the windows of the vehicle.

78. Irrespective of any consent which may have been given by the licensing authority, it remains the responsibility of the proprietor to comply with The British Code of Advertising Practice issued by the Advertising Standards Authority.

### **Hackney carriage vehicle testing arrangements**

79. Subject to acceptance of a completed application, the vehicle, in respect of which an application has been made, will be required to meet approved standards of roadworthiness.

80. Before a licence is issued, the vehicle must be presented to one of North Yorkshire Council's appointed garages for inspection.

81. All vehicles must be maintained to no less than the standards set out in the VOSA publication 'MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing', ISBN 978-0-9549352-5-2. In addition, the test will be failed if any of the following apply:

- Lights inoperable, damaged, mis-aligned or of insufficient intensity
- Spare wheel, jack and wheelbrace (or manufacturers' alternative) not provided and secured
- Insufficient, damaged or worn seatbelts
- Loose, damaged, missing or defective mirrors
- Leaks, excessive wear, damaged or insecure pipes
- Excessive smoke emission
- Excessive corrosion/damage, unsightly appearance, poor repair/paint match staining, sharp edges
- Visible rusting
- Significant dents or scratches
- No separation of luggage space from passenger seating area
- Meter not linked to roof sign
- Meter not sealed
- Damaged/illegible/insecure plate
- Insecure roof sign, inconsistent/insufficient illumination or excessive damage to wiring
- Defective locks, windows, door lights or damaged/missing door seals
- Excessive dirt, stains, holes or tears
- Any other reasonable cause

82. In the case of wheelchair accessible vehicles, the test will also be failed if any of the following apply:

- Wheelchair restraints/seatbelts missing
- Anchorage insecure
- Webbing frayed
- Locking ineffective
- Inappropriate/insufficient ramps

- Non-slip provision worn
  - Risk of obstruction or trip hazard
  - Wiring defects
  - Insufficient safety barriers
  - Safe working load not displayed
83. No licence application will be granted unless the vehicle has passed the test to the satisfaction of the appointed garage.
84. 6-monthly tests are required in the case of any vehicle that is over the age of five years at the time the licence is granted (or renewed).
85. An authorised officer may also require any vehicle to be presented for inspection at any time. It is an offence to fail to attend for inspection as requested<sup>17</sup>. If the authorised officer is not satisfied as to the mechanical fitness of the vehicle, the licence may be suspended or revoked.
86. Failure to attend an inspection may lead to suspension or revocation of the licence.

### **Hackney carriage vehicle insurance**

87. All proprietors are required to ensure that a valid insurance policy which includes the carriage of passengers or goods for public hire or reward is kept in force in respect of any hackney carriage vehicle and in relation to its use by any drivers employed by the proprietor.
88. On being required by an authorised officer of the council or a police officer, the original certificate of insurance shall be made available for examination, provided that, if the driver fails to provide such certificate on request, he/she shall within seven days of such request produce it to the licensing authority at the offices of the council<sup>18</sup>.

### **Hackney carriage proprietor criminal record checks**

89. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that they take appropriate steps to ensure that vehicles and drivers are safe and suitable. All proprietors are therefore required to produce an annual basic disclosure from the DBS in order for the licensing authority to satisfy itself that proprietors pose no threat to the public and have no links to serious criminal activity.
90. In the case of a company or partnership, a basic disclosure must be provided by all directors or partners.
91. Basic DBS disclosures will not be required for any proprietors who are already regarded as a fit and proper person, evidenced by their possession of a hackney carriage/private hire driver licence or a private hire operator licence issued by North Yorkshire Council.
92. If an applicant (including any director or partner of a company or partnership) has lived overseas for a period of six months or more in the 10-year period leading up to the date of application, they must produce a further criminal record check or 'certificate of good conduct'. Applications need to be made in the relevant country or to the relevant

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<sup>17</sup> Section 50(1) of the Local Government (Miscellaneous Provisions) Act 1976

<sup>18</sup> Section 50(4) of the Local Government (Miscellaneous Provisions) Act 1976

embassy in the UK. Information on the application process is available here:  
[www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants](http://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants)

93. North Yorkshire Council complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of a conviction or any other information revealed.
94. The licensing authority is committed to the fair treatment of all users and potential users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.
95. The Applicant Suitability and Criminal Convictions section of this policy makes provision for dealing with applications from ex-offenders. The licensing authority actively promotes equality of opportunity for all and welcomes applications from all, including those with criminal records.
96. A criminal record does not mean that an applicant will automatically be refused a licence. Each application is considered on its individual merits. The council's overriding consideration is always the protection of the public. A statutory declaration is requested as part of the application process. If the licensing authority decides to refuse an application, written reasons for this decision will be provided. Any applicant who is aggrieved at such a decision has the right of appeal to the Magistrates' Court.
97. All criminal record documentation is kept in accordance with the DBS requirements relating to secure storage. If a disclosure indicates no criminal record this will be recorded on an applicant's file and the disclosure documentation will be destroyed. Disclosures with entries will be retained in secure storage until the application has been determined and any subsequent appeal is disposed of.

### **Hackney carriage vehicle damage**

98. Any vehicle damage materially affecting the safety, performance or appearance of the vehicle shall be reported in writing to the licensing authority by the proprietor as soon as practicable and in any event within 72 hours of its occurrence<sup>19</sup>.
99. If any damage is considered by the authorised officer to be extensive enough to affect the safety or general appearance of the vehicle, a notice of suspension will be issued.
100. Vehicles subject to a Category A, B or S insurance write-off will not be licensed as hackney carriages.
101. Vehicles subject to a Category C, D or N insurance write-off may be licensed as hackney carriages provided the applicant or proprietor has provided an appropriate engineer's report (approved by an authorised officer of the council) verifying the standard of repairs.

### **Dual hackney carriage plating**

102. No hackney carriage vehicle will be granted a licence if it is licensed in another district due to the problems of meeting the variance in conditions applied in different districts and the enforcement of those conditions in cases of non-compliance (i.e. signs, meters, suspensions or revocations).

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<sup>19</sup> Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976

## **Mechanical breakdown of hackney carriage vehicle**

103. If, during a hiring, any vehicle becomes unfit to complete a journey:

- the driver shall be entitled to demand the fare for the distance already travelled;
- the driver shall secure alternative transport without delay to complete the journey if the hirer so wishes;
- if the original vehicle is repaired and completes the hiring, the driver shall be entitled to the full fare with the exception of any time that the hirer waited for the repair to be executed; and
- any such incident must be reported to the licensing authority within one working day.

## **Complaints to hackney carriage proprietors**

104. The proprietor of any hackney carriage who receives a complaint concerning the driver's conduct or about the vehicle's fitness, appearance, safety or fare levied shall inform the licensing authority, in writing, within 48 hours of the receipt of such a complaint.

## **Hackney carriage proprietor convictions and other sanctions**

105. The proprietor of a licensed hackney carriage vehicle must at the earliest opportunity, and in any case, within 48 hours, disclose to the licensing authority in writing the details of any arrest, criminal charge or conviction imposed upon him or her (or in the case of a company or partnership, on any of the directors or partners). The same applies to any simple cautions, fixed penalties, DVLA licence endorsements and community resolutions.

106. Any failure to comply may raise doubts as to the proprietor's suitability to hold a licence, in which case, the matter may be referred to the **\*insert Committee name\*** for consideration.

## **Hackney carriage vehicle first aid equipment**

107. There shall be provided and maintained in the vehicle at all times when it is in use or available for hire a suitable first aid kit containing appropriate first aid dressings and appliances for use in an emergency.

## **CCTV in hackney carriage vehicles**

108. No CCTV system shall be installed in a hackney carriage vehicle unless it has previously been authorised in writing by the licensing authority. If authorisation is obtained, the proprietor will be required to ensure compliance with all licence conditions relating to CCTV to ensure that the CCTV system is appropriately installed and maintained so as not to interfere with the safety and comfort of passengers, as well as ensuring the integrity of any images captured.

109. No authorisation is required for the installation of external-facing cameras used for the purposes of recording accidents or incidents outside the vehicle (e.g. dashcams) provided the system does not record audio or images of any interior parts of the vehicle in which passengers may be seated.

110. This policy details the minimum standards that will normally be expected to be met.

111. Each case will be determined on its own merits and exceptions may be made at the discretion of an authorised officer if the circumstances justify making such an exception.
112. The licensing authority has specified minimum criteria that it would expect a CCTV system to satisfy in order for the system to be installed in licensed vehicles.
113. The proprietor must meet the current Information Commissioner data protection requirements.
114. The CCTV system shall:
  - be capable of date and time system identification stamping;
  - be capable of recording and storing images for a minimum period of 14 days;
  - be capable of capturing images that, in low light conditions, are of sufficient quality to enable identification of any person travelling in the vehicle and of such quality that they can be used for prosecution purposes;
  - provide that cameras are capable of being fitted in locations that do not affect the safety of any person travelling in the vehicle, and located as securely and discreetly as possible to avoid passengers travelling in the vehicle from tampering with them;
  - provide that, where the system uses a DVD recorder, the system is protected from shock; and
  - be marked with the EMC (Electro Magnetic Certification), which signifies that it meets the European Industry Standard.
115. Any audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or drivers) consider it necessary).
116. Audio recording must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of any audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.
117. The licence holder must provide evidence that the CCTV system complies with the licensing authority's minimum recommended specification.
118. The licence holder shall ensure that notification is lodged with the Information Commissioner's Office to cover the purposes for which the CCTV system is used.
119. Notices informing passengers of the CCTV must be displayed inside the vehicle where they can be easily viewed by passengers.
120. The licence holder shall take reasonable steps to ensure that there is no unauthorised access to data recorded by the CCTV.
121. Notwithstanding the above criteria, any CCTV system installed in a vehicle licensed by either Craven District Council, Hambleton District Council, Harrogate Borough Council, Richmondshire District Council, Ryedale District Council, Scarborough Borough Council or Selby District Council prior to 1<sup>st</sup> April 2023 may remain in use until 31<sup>st</sup> March 2025 provided it would have been permitted by the terms of the relevant policy in effect on 31<sup>st</sup> March 2023.

## **Trailers on hackney carriage vehicles**

122. No licensed vehicle may tow any trailer unless permission has been granted by the licensing authority and a further licence plate has subsequently been issued.
123. No such permission will be given unless evidence of valid insurance to cover such use for hire has been produced.
124. The vehicle licence plate giving the licence number must be clearly displayed on the rear of any trailer used, this sign being in addition to that on the rear of the vehicle.
125. The contents of any such trailer must be secured and covered in a proper manner.
126. Trailers must not be used on hackney carriage vehicles when plying for hire on a hackney carriage stand (rank).
127. The use of any trailer used must comply with regulations in all respects.

### **Smoking in hackney carriage vehicles**

128. All hackney carriage vehicles are required to be smoke-free at all times and 'No smoking' signage must be displayed in the vehicle<sup>20</sup>. Failure to comply with this may lead to a fixed penalty notice being issued or a criminal prosecution.

### **Hackney carriage proprietor change of address**

129. All hackney carriage proprietors are required to notify the licensing authority in writing of any change of his/her address during the period of the licence within seven days of such change taking place<sup>21</sup>.

### **Hackney carriage proprietor change of directors or partners**

130. Where a hackney carriage vehicle licence is held by a company or partnership, any changes to the directors or partners must be notified to the licensing authority as soon as practicable and, in any case, within seven days of any such change.

### **Hackney carriage stands (ranks)**

131. It is an offence to leave a hackney carriage vehicle unattended on a taxi rank<sup>22</sup>. Hackney carriages can only wait on a rank whilst standing for hire.
132. The following hackney carriage stands have been appointed for public hire purposes in accordance with section 63 of the Local Government (Miscellaneous Provisions) Act 1976:  
**\*to be confirmed\***
133. The number of vehicles standing at any rank must not exceed the number for which the rank is appointed at any time.
134. It is not acceptable to make bookings to pick up from the rank. Ranks are to be used exclusively to stand for public hire – not to pick up bookings and not to park whilst

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<sup>20</sup> Regulation 2 of the Smoke-free (Signs) Regulations 2012

<sup>21</sup> Section 44 of the Town Police Clauses Act 1847

<sup>22</sup> Section 62 of the Town Police Clauses Act 1847 and *Rodgers v Taylor* [1987] RTR 86

looking for customers. If any member of the public approaches a vehicle on the rank, they are entitled to expect to be offered a public hire service.

### **Hackney carriage meters**

135. The licensing authority requires all hackney carriages to be fitted with a calendar-controlled taxi meter. The meter must be maintained in good working order at all times and must be sealed and calibrated to the correct tariff by an authorised agent.
136. All meters must meet any statutory requirements and the accuracy of any meter must be maintained.
137. Roof signs should be wired through the meter ensuring that when the meter is activated, the illuminated roof sign is extinguished when the fare commences.
138. The meter must be engaged for every journey from the point at which the hirer commences his/her journey. The meter must be engaged whether the vehicle has been pre-booked or not.

### **Hackney carriage fares**

139. The hackney carriage table of fares is set by the licensing authority and is a maximum fare that can be charged by hackney carriage drivers.
140. It is an offence to charge in excess of the council's table of fares for any journey within North Yorkshire<sup>23</sup>. If the hiring takes the journey outside the boundary of North Yorkshire, the driver cannot charge any more than this table of fares allows unless a fare has been agreed with the hirer before the commencement of the journey<sup>24</sup>.
141. The table of fares shows the maximum charge and drivers are permitted to negotiate a fare provided they do not charge any more than the table of fares allows<sup>25</sup>.

### **Calculation of hackney carriage licence fees**

142. The costs associated with vehicle inspections, administration, the provision of hackney carriage stands and the table of fares will be recovered via the licence fees for hackney carriage licences<sup>26</sup>.
143. The cost of the service is determined by several factors including staffing (salaries, National Insurance, pensions etc), accommodation, utilities, IT support, legal costs, software, insurance, printing, postage etc.
144. The licence fee for each type of application is then dependent on several other factors including, where relevant, the time spent on complaints, committees, inspections, advertising, administration, consultations etc.
145. Some costs are associated with specific types of applications and these must be recovered accordingly. For instance, the costs of the hackney carriage stands and the table of fares must be recovered only from hackney carriage vehicle licence fees

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<sup>23</sup> Section 58 of the Town Police Clauses Act 1847

<sup>24</sup> Section 66 of the Local Government (Miscellaneous Provisions) Act 1976

<sup>25</sup> Section 54 of the Town Police Clauses Act 1847

<sup>26</sup> Section 70(1) of the Local Government (Miscellaneous Provisions) Act 1976

whereas other costs (such as policy and service development) will apply to all licence fees.

146. The licence fee is refundable upon request in the event of an unsuccessful application. However, the licensing authority will not reimburse the applicant for any payments made in relation to mechanical tests, insurance etc.

### **Hackney carriage vehicle accessibility**

147. The licensing authority maintains a list of designated wheelchair accessible hackney carriage and private hire vehicles<sup>27</sup>. For these purposes, wheelchair accessible means that it would be possible for the user of a “reference wheelchair<sup>28</sup>” to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.

148. The drivers of any designated vehicles must:

- carry the passenger while in the wheelchair if requested to do so and provide reasonable assistance to enable the passenger to get into or out of the vehicle;
- carry the wheelchair if the passenger chooses to sit in a passenger seat and provide reasonable assistance to load the wheelchair into or out of the vehicle;
- provide reasonable assistance to load the passenger’s luggage into or out of the vehicle;
- take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- not make any additional charge<sup>29</sup>.

149. Prior to publishing a list of designated wheelchair accessible vehicles, the licensing authority will confirm the designation in writing to each proprietor of any such vehicle.

150. The proprietor of a designated wheelchair accessible vehicle may appeal against the decision of the licensing authority to include their vehicles on the designated list<sup>30</sup>. The appeal should be made to the Magistrates’ Court and must be made within 28 days of the vehicle in question being included on the authority’s published list.

151. Any wheelchair accessible hackney carriage vehicle must have European Community Whole Vehicle Type Approval (ECWVTA). This will be shown on either the vehicle’s V5 registration document, additional chassis number on the vehicle or by a ‘Certificate of Conformity’ (COC), which shows that the vehicles have been produced to a very high and vigorous standard. The COC should show the number of passengers the vehicle is able to carry with the wheelchair conversion.

152. Approved anchorages must be provided for the wheelchair and the wheelchair user. These anchorages must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and occupant must be independent of each other. Anchorage must also be provided for the safe stowage of a wheelchair when not in use, folded or otherwise, if carried within the passenger compartment. They must be designed so as not to cause injury within the passenger compartment.

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<sup>27</sup> Section 167 of the Equality Act 2010

<sup>28</sup> As defined by Schedule 1 to the Public Service Vehicle Accessibility Regulations 2000

<sup>29</sup> Section 165 of the Equality Act 2010

<sup>30</sup> Section 172 of the Equality Act 2010

153. A ramp or ramps for the loading of a wheelchair and occupant must be available at all times for wheelchair accessible vehicles.
154. An adequate locking device must be fitted to ensure that the ramps do not slip or tilt when in use. Provision must be made for the ramps to be stored safely when not in use.
155. If the vehicle has a purpose designed wheelchair lift, then a 'LOLER' certificate must be produced with the initial application, and this must be renewed annually. The onus will be on the vehicle proprietor to ensure this is kept up to date and the certificate can be requested at any time by an authorised officer.
156. Hackney carriages are an essential mode of transport for disabled and elderly persons. The combination of the personal service they offer, their wide availability and their door-to-door operations enable them to respond particularly well to the travel needs of people with mobility difficulties.
157. The licensing authority is committed to ensuring a wide variety of opportunities is available to those with mobility difficulties. For this reason, the licensing authority considers it important that people with impairments have access to all forms of public transportation.
158. The licensing authority intends to encourage proprietors to invest in wheelchair accessible vehicles, thus improving the accessibility of vehicles to disabled customers. For this reason, the age limits outlined in paragraph \*47 (subject to change)\* do not apply to designated wheelchair accessible hackney carriage vehicles. Furthermore, North Yorkshire Council will continue to review its options in terms of encouraging more proprietors to obtain licences in respect of wheelchair accessible vehicles.

### **Horse-drawn carriages**

159. Proprietors of horse-drawn carriages will be subject to any hackney carriage vehicle licence conditions excluding those specifically relating to vehicle design.
160. A Veterinary Certificate signed by a veterinary surgeon stating that each horse is fit to carry out the work required of it shall be submitted to the licensing authority as part of the application process.
161. A competent person nominated by the council (and representing the British Driving Society, the British Horse Society, the Heavy Horse Society or other body able to assess the competence of drivers) shall assess and provide a report stating that the driver is competent to drive the carriage as part of the application process.
162. The location of the stables in which the horses are normally housed shall be notified to the licensing authority as part of the application process. Access to the stables shall be granted to authorised officers and their advisers at any time.
163. Should the council receive a report from the RSPCA, a veterinary surgeon or other qualified person that the conditions under which the horses are being kept are not in the interests of the health of the animal and its capacity to pull a carriage, the licence shall be suspended by officers until satisfied that the horses are being kept in a satisfactory manner. The stables must also satisfy the fire safety requirements for stables by Fire & Rescue Service. In the event that the stables do not satisfy these requirements, the licence will be suspended until adequate fire precautions have been made.

164. The proprietor/driver shall be limited to routes specified in writing by the licensing authority following appropriate consultation.

### **Hackney carriage vehicle licence conditions**

165. The licensing authority may attach to the grant of a hackney carriage vehicle licence any such conditions as they may consider reasonably necessary<sup>31</sup>.

166. Unless there are exceptional circumstances that require a different approach, the following conditions will generally be imposed on all hackney carriage vehicle licences:

- 1) The proprietor must ensure that the vehicle complies in all respects with the requirements of any Act and Regulation in relation to the use of motor vehicle and any Code of Practice or policy implemented by the council.
- 2) The proprietor must ensure that the vehicle is subject to a daily visual safety check of all lights, oil, water, tyres, mirrors and seat belts. A written record of each safety check must be made including the details of any faults and remedial action taken. The record must be signed and kept for a minimum period of six months to be produced to an authorised officer on request.
- 3) The licence plates, side panels and roof sign shall be properly fixed in the positions required by the licensing authority at all times in accordance with the reasonable instructions of the authorised officer of the council. Any defects must be reported to the licensing authority for repair immediately.
- 4) The holder of this licence shall cause to be affixed and maintained in a conspicuous position, in accordance with the directions of the licensing authority, any sign or notice as required from time to time by the licensing authority.
- 5) All wheelchair accessible vehicles shall display the recognised disability symbol.
- 6) The holder of this licence shall ensure that the driver understands how to operate the vehicle and any equipment, including, where applicable, any equipment fitted to make the vehicle accessible by disabled persons.
- 7) The vehicle, including all fittings and specialist equipment, must be well maintained and kept in good working order.
- 8) The interior and exterior of the vehicle shall be kept in a clean and tidy condition and all body work shall be sound and reasonably well maintained, free from dents and other distortions/damage. Any repairs and cosmetic improvements shall be of a reasonable quality and a good paint match achieved. Doors, door locks, boot/tail gate and locks, bonnet, hinges and catches, windows, sunroofs and hoods shall operate correctly and all upholstery shall be reasonably well maintained and free from unsightly repairs, stains and burns.
- 9) Where the vehicle is converted to be propelled by Liquid Petroleum Gas the holder of the licence shall produce to the licensing authority a certificate showing that the vehicle has been examined by a person approved by the Liquid Petroleum Gas Association and that the installation is safe, well maintained and in good working order.
- 10) The holder of this licence shall provide sufficient means by which any person in the vehicle may communicate with the driver during the course of the hiring.
- 11) The holder of this licence shall cause the interior of the vehicle to be kept wind and watertight.
- 12) The holder of this licence shall provide any necessary windows and means of opening and closing with not less than one window on each side of the passenger compartment.

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<sup>31</sup> Section 47(1) of the Local Government (Miscellaneous Provisions) Act 1976

- 13) The holder of this licence shall ensure that glass in all windows shall be kept clean and clear of obstruction to ensure that there is a clear view, both into and out of the vehicle.
- 14) The holder of this licence shall cause the seats in the passenger compartment to be properly cushioned and covered.
- 15) The holder of this licence shall ensure that all seating is fitted and maintained in accordance with the vehicle manufacturer's specification and any Construction and Use Regulations applicable to the type of vehicle and seats shall not face sideways to the direction of travel unless approved in writing by the licensing authority.
- 16) The holder of this licence shall cause the floor in the passenger compartment to be provided with proper carpet, mat or other suitable covering.
- 17) The holder of this licence shall ensure that provision is made for carrying luggage sufficient for the number of persons for which the vehicle is licensed and provision is made to protect the luggage from inclement weather.
- 18) The holder of this licence shall not allow the specification of the vehicle to be varied without the written consent of the licensing authority.
- 19) No signs, notices, advertisements, marks or other devices whatsoever shall be displayed on, in or from the vehicle except as may be required by statutory provisions or authorised by the licensing authority.
- 20) The holder of this licence shall, at the earliest opportunity, and in any case within 48 hours, disclose to the licensing authority in writing the details of any arrest, criminal charge, conviction, caution, fixed penalty notice, DVLA licence endorsement or community resolution imposed upon him or her (or, in the case of a company or partnership, on any of the directors or partners).
- 21) Where this licence is held by a company or partnership, any changes to the directors or partners must be notified to the licensing authority as soon as practicable and, in any case, within seven days of any such change.
- 22) The holder of this licence shall only permit the vehicle to be driven by a driver who understands how to operate the vehicle and any equipment fitted to make the vehicle accessible by disabled persons.
- 23) Seat belts shall be properly and securely fitted for each passenger authorised to be carried in the vehicle and shall be maintained in a safe condition.
- 24) The proprietor shall ensure the vehicle is fitted with a suitable, calendar-controlled taximeter, locked and sealed by the manufacturer/supplier so that tariff rates change automatically and cannot be changed or tampered with manually by the driver.
- 25) The taximeter shall be calibrated to a level no greater than the current maximum tariff agreed by the licensing authority and sealed to prevent unauthorised adjustment. A calibration certificate signed by the meter installer shall be provided to the licensing authority to verify the tariff at which the meter has been set.
- 26) The proprietor shall ensure that a copy of the current maximum fare table supplied by the licensing authority is on display inside the hackney carriage at all times and that the table is clearly visible to passengers when the vehicle is for hire. In cases where the meter has been calibrated to a tariff lower than the Council's maximum rates, this table of fares must also be on display and clearly visible to passengers.
- 27) Taximeters shall be positioned so that passengers in the vehicle can easily read the display.
- 28) The proprietor shall cause the taximeter to be maintained in a sound mechanical condition at all times.
- 29) Except as provided for in this condition, no cameras or CCTV systems shall be installed in the vehicle unless it has previously been authorised in writing by the licensing authority. No authorisation is required for the installation of external-facing cameras used for the purposes of recording accidents or incidents outside the

- vehicle (e.g. dashcams) provided the system does not record audio or images of any interior parts of the vehicle in which passengers may be seated.
- 30) An advisory notice relating to the use of CCTV, approved by the licensing authority, shall be displayed inside the vehicle on each of the rear side passenger windows. The notice shall be positioned in a prominent (though not obstructive) position where they can be easily read by persons both inside and outside of the vehicle. The proprietor shall ensure that all notices are maintained in a clean and legible condition.
  - 31) The proprietor shall ensure that the CCTV system is maintained and fully operative in accordance with the manufacturer's instructions.
  - 32) Upon request for image retrieval by an officer of the licensing authority or a police officer the proprietor shall ensure that the CCTV system is made available to the officer as soon as reasonably practicable, and in any event within seven days of the request.
  - 33) The proprietor of the vehicle shall take all reasonable steps to ensure that any driver of the vehicle is made aware of every condition in relation to any installed CCTV system and has been given adequate instruction regarding the need for the system to be made available as soon as reasonably practicable, and in any event within seven days of any authorised request for any image retrieval.
  - 34) The proprietor shall ensure that notification is lodged with the Information Commissioner to cover the purposes for which the CCTV system is used.
167. An appeal against conditions attached to a hackney carriage vehicle licence lies to the Magistrates' Court<sup>32</sup>.
168. Any appeal must be made within 21 days following notice of a decision.

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<sup>32</sup> By virtue of section 47(3) of the Local Government (Miscellaneous Provisions) Act 1976

## Private hire vehicles

169. Private hire vehicles are licensed to perform pre-booked work only, which is obtained through a private hire operator. Private hire vehicles cannot “ply for hire” or wait on a hackney carriage stand.

170. A vehicle licensed as a private hire vehicle continues to be a private hire vehicle at all times and anyone driving the vehicle needs a private hire driver licence<sup>33</sup>.

## Private hire vehicle specification

171. The licensing authority will only generally issue a licence in respect of a private hire vehicle if:

- It is fit for its purpose, safe and comfortable for its users and any members of the public;
- It has not been subject to a Category A, B or S insurance write-off;
- It is less than 5 years old in the case of a new application and less than 10 years old in the case of a renewal application (the age of the vehicle shall be taken from the date of first registration shown on the vehicle registration document, V5C);
- It has
  - a front nearside door for the use of persons conveyed in the vehicle;
  - a rear nearside door for the use of persons conveyed in the vehicle;
  - a rear offside door for the use of persons conveyed in the vehicle; and
  - a separate means of ingress and egress for the driver.
- The front windscreen allows at least 75% of light through and the front side windows allow at least 70% of light through<sup>34</sup>;
- It has nearside and offside exterior rear-view mirrors;
- A spare wheel conforming to legal requirements has been provided and properly fitted in the vehicle along with a jack and wheelbrace, unless a manufacturer’s alternative is provided;
- It is equipped with a minimum of four road wheels fitted with manufacturers’ recommended size tyres;
- It has a clean and smart appearance, both externally and internally;
- It is right hand drive;
- It has a permanent roof which is watertight – standard sunroof allowed (i.e. sunroof fitted when new by manufacturer);
- It has seating arrangements in accordance with the current Construction and Use Regulations<sup>35</sup> and the manufacturer’s specification (unless the modification has been approved via the voluntary Individual Vehicle Approval (IVA) scheme);
- It has rear seat belts (irrespective of age);
- It has a separate locking luggage area or in the case of an estate vehicle, a permanent grille, luggage bar(s) or manufacturer’s recommended device fitted sufficiently to prevent luggage carried in the rear compartment from coming into contact with persons using the rear seat;
- It has means for carrying a reference wheelchair<sup>36</sup> and luggage sufficient for the number of passengers for which the vehicle is licensed to carry (if seats are located within the luggage space, the vehicle may be licensed to carry a lower number of passengers in order to comply with the luggage space requirement); and

<sup>33</sup> *Benson v Boyce* [1997] RTR 226

<sup>34</sup> Regulation 32(10) of the Road Vehicles (Construction and Use) Regulations 1986

<sup>35</sup> Road Vehicles (Construction and Use) Regulations 1986

<sup>36</sup> As defined by Schedule 1 to the Public Service Vehicle Accessibility Regulations 2000

- There are sufficient means by which a passenger can communicate with the driver.
172. Notwithstanding the above criteria, any vehicle licensed by either Craven District Council, Hambleton District Council, Harrogate Borough Council, Richmondshire District Council, Ryedale District Council, Scarborough Borough Council or Selby District Council prior to 1<sup>st</sup> April 2023 may remain licensed on renewal until such time as it would have been permitted by the terms of the relevant policy in effect on 31<sup>st</sup> March 2023.

### **Private hire vehicle proprietorship**

173. A person applying for a private hire vehicle licence must be the proprietor of the vehicle to which the application relates. If the applicant is not the sole proprietor, he/she must name all joint proprietors including anyone involved in the day-to-day usage of the vehicle.
174. Unless the applicant's name is the only name on the Vehicle Registration Document, the application should include on the application form the details any person (or company) involved in the keeping, employing or letting for hire the vehicle.

### **Process for new private hire vehicle licence applications**

175. Applications will not be processed by the licensing authority unless it is in receipt of:
- a fully completed application form;
  - the appropriate fee; and
  - the vehicle registration document (V5C) in the name of the proprietor/part-proprietor or formal confirmation from the DVLA that the vehicle has been registered in the applicant's name. If neither is available, verifiable proof of ownership may be accepted (i.e. a bill of sale from a reputable firm).
176. Licences will not be granted unless, in addition to the above, the licensing authority is in receipt of:
- a current vehicle insurance certificate or cover note which includes the carriage of passengers for private hire;
  - confirmation that the vehicle has an MOT test Certificate (required for all vehicles aged over one year as from the date of first registration as shown on the vehicle registration document);
  - proof that the licensing authority's testing arrangements have been satisfied;
  - an appropriate engineer's report (only for vehicles subject to a Category C, D or N insurance write-off) verifying the standard of repairs;
  - a satisfactory basic criminal record check from [www.gov.uk/request-copy-criminal-record](http://www.gov.uk/request-copy-criminal-record) in respect of all proprietors (or in the case of a company or partnership, in respect of all directors or partners); and
  - a certificate of good conduct (only if the applicant has lived overseas for a period of six months or more in the 10-year period leading up to the date of application).
177. No criminal record check or certificate of good conduct will be required for any applicant who has already been deemed suitable, evidenced by his or her possession of a hackney carriage/private hire driver or private hire operator licence issued by North Yorkshire Council.

178. If the application meets all criteria laid down in the policy, a licence will normally be granted.
179. The licence and plates will be issued directly to the applicant unless the applicant has provided authorisation in writing for an alternative representative to take possession on their behalf.
180. If the authorised officer has any concerns about an application for the grant of a private hire vehicle licence, it will be referred to the **\*insert Committee name\*** for a decision.
181. An appeal against a refusal to grant a private hire vehicle licence lies to the Magistrates' Court<sup>37</sup>.
182. Any appeal must be made within 21 days following notice of a decision.

### **Process for private hire vehicle licence renewal applications**

183. Applications for renewal should be made no more than six weeks and no less than two weeks before the expiry date of the current licence to allow reasonable time for the application to be processed.
184. Any application for the renewal of a licence will not be accepted after the date of expiry. In these cases, the vehicle will cease to be a licensed vehicle until such time as a new application for this vehicle is received and subsequently granted.
185. An application will not be processed by the licensing authority unless it is in receipt of:
- a fully completed application form; and
  - the appropriate fee.
186. Licences will not be renewed unless, in addition to the above, the licensing authority is in receipt of:
- a current vehicle insurance certificate or cover note which includes the carriage of passengers for private hire;
  - confirmation that the vehicle has an MOT test Certificate (required for all vehicles aged over one year as from the date of first registration as shown on the vehicle registration document);
  - proof that the licensing authority's testing arrangements have been satisfied;
  - a satisfactory basic criminal record check from [www.gov.uk/request-copy-criminal-record](http://www.gov.uk/request-copy-criminal-record) in respect of all proprietors (or in the case of a company or partnership, in respect of all directors or partners); and
  - a certificate of good conduct (only if the applicant has lived overseas for a period of six months or more in the 10-year period leading up to the date of application).
187. No criminal record check or certificate of good conduct will be required for any applicant who has already been deemed suitable, evidenced by his or her possession of a hackney carriage/private hire driver or private hire operator licence issued by North Yorkshire Council.
188. If the authorised officer has any concerns about an application to renew a licence, it will be referred to the **\*insert Committee name\*** for a decision.

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<sup>37</sup> By virtue of section 48 of the Local Government (Miscellaneous Provisions) Act 1976

189. An appeal against a refusal to renew a private hire vehicle licence lies to the Magistrates' Court<sup>38</sup>. Any appeal must be made within 21 days following notice of a decision.

### **Transfer of private hire vehicle licence**

190. If a proprietor transfers his/her interest in a vehicle to somebody else he/she must give notice of the transfer in writing to the licensing authority within 14 days, giving the name and address of the person to whom the interest in the vehicle has been transferred<sup>39</sup>.

191. The new owner must then make an application to transfer the licence into his/her name.

192. The application must be accompanied by:

- a current vehicle insurance certificate or cover note which includes the carriage of passengers for private hire;
- a satisfactory basic criminal record check from [www.gov.uk/request-copy-criminal-record](http://www.gov.uk/request-copy-criminal-record) in respect of all proprietors (or in the case of a company or partnership, in respect of all directors or partners); and
- a certificate of good conduct (only if the applicant has lived overseas for a period of six months or more in the 10-year period leading up to the date of application); and
- the vehicle registration document (V5C) in the name of the proprietor/part-proprietor or formal confirmation from the DVLA that the vehicle has been registered in the applicant's name.

193. No criminal record check or certificate of good conduct will be required for any applicant who has already been deemed suitable, evidenced by his or her possession of a hackney carriage/private hire driver or private hire operator licence issued by North Yorkshire Council.

### **Private hire vehicle plates, signs and side panels**

194. At all times whilst licensed, a private hire vehicle shall display:

- an external plate provided by the licensing authority securely and permanently affixed to the rear of the vehicle;
- an external plate provided by the licensing authority securely and permanently affixed to the front of the vehicle;
- a self-adhesive side panel provided by the licensing authority permanently affixed centrally and squarely on each of the front doors of the vehicle;
- an internal plate provided by the licensing authority displayed on the passenger side of the dashboard facing into the vehicle; and
- at least two adhesive signs advising passengers how to complain to the licensing authority about any licensed driver, vehicle or operator in a position that can be easily read by passengers from the front and rear of the vehicle.

195. The licensing authority must be informed in writing should any of the above plates, signs or panels become lost, stolen, damaged or defaced. The damaged or defaced plate, sign or panel must be returned immediately to the licensing authority along with a report of the damage and a request for a replacement.

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<sup>38</sup> By virtue of section 60 of the Local Government (Miscellaneous Provisions) Act 1976

<sup>39</sup> Section 49 of the Local Government (Miscellaneous Provisions) Act 1976

196. No vehicle shall be used for private hire purposes without the required plates, signs and panels.
197. The plates and panels are the property of the council and shall be returned to the licensing authority forthwith upon the suspension, surrender, revocation or expiry of the licence. It is an offence to fail to comply with a request to return the rear licence plate<sup>40</sup>.
198. No additional signs, notices, advertisements, plates, marks, letters, figures, symbols, emblems or devices shall be displayed on, in or from the vehicle except:
- the registration plate;
  - any sign required by statute or subordinate legislation;
  - any sign indicating membership of a national motoring organisation;
  - any sign requesting passengers not to smoke; and
  - any sign specifically approved by an authorised officer.
199. At no time will the word "taxi" or "cab" or "for hire" or any word or words of similar meaning or appearances, whether alone or as part of another word be displayed on or in the vehicle.
200. The proprietor of a licensed private hire vehicle may apply to display any additional signage on the vehicle by submitting a written request to the licensing authority along with a full-colour copy of the proposed signage or advertisement.
201. Each request will be considered on its individual merits, but advertisements will not be approved if they:
- contain political, ethnic, religious, sexual or controversial texts;
  - display nude or semi-nude figures;
  - advertise tobacco products;
  - are likely to offend public taste;
  - depict or refer to indecency or obscenity;
  - use obscene or distasteful language;
  - depict men, women or children as sex objects;
  - depict direct and immediate violence to anyone shown in the advertisement or advertise any racist group or organisation which intends to promote the group/organisation and/or any of its activities;
  - are proposed to be displayed on any of the windows of the vehicle.
202. Irrespective of any consent which may have been given by the licensing authority, it remains the responsibility of the proprietor to comply with The British Code of Advertising Practice issued by the Advertising Standards Authority.

### **Private hire vehicle testing arrangements**

203. Subject to acceptance of a completed application, the vehicle, in respect of which an application has been made, will be required to meet approved standards of roadworthiness.
204. Before a licence is issued, the vehicle must be presented to one of North Yorkshire Council's appointed garages for inspection.

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<sup>40</sup> Section 58(2) of the Local Government (Miscellaneous Provisions) Act 1976

205. All vehicles must be maintained to no less than the standards set out in the VOSA publication 'MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing', ISBN 978-0-9549352-5-2. In addition, the test will be failed if any of the following apply:

- Lights inoperable damaged, mis-aligned or of insufficient intensity
- Spare wheel, jack and wheelbrace (or manufacturers' alternative) not provided and secured
- Insufficient, damaged or worn seatbelts
- Loose, damaged, missing or defective mirrors
- Leaks, excessive wear, damaged or insecure pipes
- Excessive smoke emission
- Excessive corrosion/damage, unsightly appearance, poor repair/paint match staining, sharp edges
- Visible rusting
- Significant dents or scratches
- No separation of luggage space from passenger seating area
- Meter not sealed (where applicable)
- Damaged/illegible/insecure plate
- Defective locks, windows, door lights or damaged/missing door seals
- Excessive dirt, stains, holes or tears
- Any other reasonable cause

206. In the case of wheelchair accessible vehicles, the test will also be failed if any of the following apply:

- Wheelchair restraints/seatbelts missing
- Anchorage insecure
- Webbing frayed
- Locking ineffective
- Inappropriate/insufficient ramps
- Non-slip provision worn,
- Risk of obstruction or trip hazard
- Wiring defects
- Insufficient safety barriers
- Safe working load not displayed.

207. No licence application will be granted unless the vehicle has passed the test to the satisfaction of the appointed garage.

208. 6-monthly tests are required in the case of any vehicle that is over the age of five years at the time the licence is granted (or renewed).

209. An authorised officer may also require any vehicle to be presented for inspection at any time. It is an offence to fail to attend for inspection as requested<sup>41</sup>. If the authorised officer is not satisfied as to the mechanical fitness of the vehicle, the licence may be suspended or revoked.

210. Failure to attend an inspection may lead to suspension or revocation of the licence.

### **Private hire vehicle insurance**

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<sup>41</sup> Section 50(1) of the Local Government (Miscellaneous Provisions) Act 1976

211. All proprietors are required to ensure that a valid insurance policy which includes the carriage of passengers or goods for private hire or reward is kept in force in respect of any private hire vehicle and in relation to its use by any drivers employed by the proprietor.
212. On being required by an authorised officer of the council or a police officer, the original certificate of insurance shall be made available for examination, provided that, if the driver fails to provide such certificate on request, he/she shall within seven days of such request produce it to the licensing authority at the offices of the council<sup>42</sup>.

### **Private hire vehicle proprietor criminal record checks**

213. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that they take appropriate steps to ensure that vehicles and drivers are safe and suitable. All proprietors are therefore required to produce an annual basic disclosure from the DBS in order for the licensing authority to satisfy itself that proprietors pose no threat to the public and have no links to serious criminal activity.
214. In the case of a company or partnership, a basic disclosure must be provided by all directors or partners.
215. Basic DBS disclosures will not be required for any proprietors who are already regarded as a fit and proper person, evidenced by their possession of a hackney carriage/private hire driver licence or a private hire operator licence issued by North Yorkshire Council.
216. If an applicant (including any director or partner of a company or partnership) has lived overseas for a period of six months or more in the 10-year period leading up to the date of application, they must produce a further criminal record check or 'certificate of good conduct'. Applications need to be made in the relevant country or to the relevant embassy in the UK. Information on the application process is available here: [www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants](http://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants)
217. North Yorkshire Council complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of a conviction or any other information revealed.
218. The licensing authority is committed to the fair treatment of all users and potential users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.
219. The Applicant Suitability and Criminal Convictions section of this policy makes provision for dealing with applications from ex-offenders. The licensing authority actively promotes equality of opportunity for all and welcomes applications from all, including those with criminal records.
220. A criminal record does not mean that an applicant will automatically be refused a licence. Each application is considered on its individual merits. The council's overriding consideration is always the protection of the public. A statutory declaration is requested as part of the application process. If the licensing authority decides to refuse an application, written reasons for this decision will be provided. Any applicant who is aggrieved at such a decision has the right of appeal to the Magistrates' Court.

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<sup>42</sup> Section 50(4) of the Local Government (Miscellaneous Provisions) Act 1976

221. All criminal record documentation is kept in accordance with the DBS requirements relating to secure storage. If a disclosure indicates no criminal record this will be recorded on an applicant's file and the disclosure documentation will be destroyed. Disclosures with entries will be retained in secure storage until the application has been determined and any subsequent appeal is disposed of.

### **Private hire vehicle damage**

222. Any vehicle damage materially affecting the safety, performance or appearance of the vehicle shall be reported in writing to the licensing authority by the proprietor as soon as practicable and in any event within 72 hours of its occurrence<sup>43</sup>.

223. If any damage is considered by the authorised officer to be extensive enough to affect the safety or general appearance of the vehicle, a notice of suspension will be issued.

224. Vehicles subject to a Category A, B or S insurance write-off will not be licensed as private hire vehicles.

225. Vehicles subject to a Category C, D or N insurance write-off may be licensed as private hire vehicles provided the applicant or proprietor has provided an appropriate engineer's report (approved by an authorised officer of the council) verifying the standard of repairs.

### **Dual private hire vehicle plating**

226. No private hire vehicle will be granted a licence if it is licensed in another district due to the problems of meeting the variance in conditions applied in different districts and the enforcement of those conditions in cases of non-compliance (i.e. signs, suspensions or revocations).

### **Mechanical breakdown of private hire vehicle**

227. If, during a hiring, any vehicle becomes unfit to complete a journey:

- the driver shall be entitled to demand the fare for the distance already travelled;
- the driver shall secure alternative transport without delay to complete the journey if the hirer so wishes;
- if the original vehicle is repaired and completes the hiring, the driver shall be entitled to the full fare with the exception of any time that the hirer waited for the repair to be executed; and
- any such incident must be reported to the licensing authority within one working day.

### **Complaints to private hire vehicle proprietors**

228. The proprietor of any private hire vehicle who receives a complaint concerning the driver's conduct or about the vehicle's fitness, appearance, safety or fare levied shall inform the licensing authority, in writing, within 48 hours of the receipt of such a complaint.

### **Private hire vehicle proprietor convictions and other sanctions**

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<sup>43</sup> Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976

229. The proprietor of a licensed private hire vehicle must at the earliest opportunity, and in any case, within 48 hours, disclose to the licensing authority in writing the details of any arrest, criminal charge or conviction imposed upon him or her (or in the case of a company or partnership, on any of the directors or partners). The same applies to any simple cautions, fixed penalties, DVLA licence endorsements and community resolutions.
230. Any failure to comply may raise doubts as to the proprietor's suitability to hold a licence, in which case, the matter may be referred to the **\*insert Committee name\*** for consideration.

### **Private hire vehicle first aid equipment**

231. There shall be provided and maintained in the vehicle at all times when it is in use or available for hire a suitable first aid kit containing appropriate first aid dressings and appliances for use in an emergency.

### **CCTV in private hire vehicles**

232. No CCTV system shall be installed in a private hire vehicle unless it has previously been authorised in writing by the licensing authority. If authorisation is obtained, the proprietor will be required to ensure compliance with all licence conditions relating to CCTV to ensure that the CCTV system is appropriately installed and maintained so as not to interfere with the safety and comfort of passengers, as well as ensuring the integrity of any images captured.
233. No authorisation is required for the installation of external-facing cameras used for the purposes of recording accidents or incidents outside the vehicle (e.g. dashcams) provided the system does not record audio or images of any interior parts of the vehicle in which passengers may be seated.
234. This policy details the minimum standards that will normally be expected to be met.
235. Each case will be determined on its own merits and exceptions may be made at the discretion of an authorised officer if the circumstances justify making such an exception.
236. The licensing authority has specified minimum criteria that it would expect a CCTV system to satisfy in order for the system to be installed in licensed vehicles.
237. The proprietor must meet the current Information Commissioner data protection requirements.
238. The CCTV system shall:
- be capable of date and time system identification stamping;
  - be capable of recording and storing images for a minimum period of 14 days;
  - be capable of capturing images that, in low light conditions, are of sufficient quality to enable identification of any person travelling in the vehicle and of such quality that they can be used for prosecution purposes;
  - provide that cameras are capable of being fitted in locations that do not affect the safety of any person travelling in the vehicle, and located as securely and discreetly as possible to avoid passengers travelling in the vehicle from tampering with them;
  - provide that, where the system uses a DVD recorder, the system is protected from shock; and

- be marked with the EMC (Electro Magnetic Certification), which signifies that it meets the European Industry Standard.
239. Any audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or drivers) consider it necessary).
240. Audio recording must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of any audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.
241. The licence holder must provide evidence that the CCTV system complies with the licensing authority's minimum recommended specification.
242. The licence holder shall ensure that notification is lodged with the Information Commissioner's Office to cover the purposes for which the CCTV system is used.
243. Notices informing passengers of the CCTV must be displayed inside the vehicle where they can be easily viewed by passengers.
244. The licence holder shall take reasonable steps to ensure that there is no unauthorised access to data recorded by the CCTV.
245. Notwithstanding the above criteria, any CCTV system installed in a vehicle licensed by either Craven District Council, Hambleton District Council, Harrogate Borough Council, Richmondshire District Council, Ryedale District Council, Scarborough Borough Council or Selby District Council prior to 1<sup>st</sup> April 2023 may remain in use until 31<sup>st</sup> March 2025 provided it would have been permitted by the terms of the relevant policy in effect on 31<sup>st</sup> March 2023.

### **Trailers on private hire vehicles**

246. No licensed vehicle may tow any trailer unless permission has been granted by the licensing authority and a further licence plate has subsequently been issued.
247. No such permission will be given unless evidence of valid insurance to cover such use for hire has been produced.
248. The vehicle licence plate giving the licence number must be clearly displayed on the rear of any trailer used, this sign being in addition to that on the rear of the vehicle.
249. The contents of any such trailer must be secured and covered in a proper manner.
250. The use of any trailer used must comply with regulations in all respects.

### **Smoking in private hire vehicles**

251. All hackney carriage vehicles are required to be smoke-free at all times and 'No smoking' signage must be displayed in the vehicle<sup>44</sup>. Failure to comply with this may lead to a fixed penalty notice being issued or a criminal prosecution.

### **Private hire vehicle proprietor change of address**

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<sup>44</sup> Regulation 2 of the Smoke-free (Signs) Regulations 2012

252. All private hire vehicle proprietors are required to notify the licensing authority in writing of any change of his/her address during the period of the licence within seven days of such change taking place.

### **Private hire vehicle proprietor change of directors or partners**

253. Where a private hire vehicle licence is held by a company or partnership, any changes to the directors or partners must be notified to the licensing authority as soon as practicable and, in any case, within seven days of any such change.

### **Private hire meters**

254. Operators and proprietors of private hire vehicles are not required to install a meter. However, if a meter is in use, it must be maintained in good working order at all times.

255. All meters must meet any statutory requirements and the accuracy of any meter must be maintained.

256. Where a private hire operator uses a table of fares to assist customers and drivers in determining the cost of a journey, it must be prominently displayed in the vehicle.

### **Calculation of private hire vehicle licence fees**

257. The costs associated with vehicle inspection and administration will be recovered via the licence fees for private hire vehicle licences<sup>45</sup>.

258. The cost of the service is determined by several factors including staffing (salaries, National Insurance, pensions etc), accommodation, utilities, IT support, legal costs, software, insurance, printing, postage etc.

259. The licence fee for each type of application is then dependent on several other factors including, where relevant, the time spent on complaints, committees, inspections, advertising, administration, consultations etc.

260. Some costs are associated with specific types of applications and these must be recovered accordingly. For instance, the costs of hackney carriage stands and the table of fares cannot be recovered from private hire vehicle licence fees whereas other costs (such as policy and service development) will apply to all licence fees.

261. The licence fee is refundable upon request in the event of an unsuccessful application. However, the licensing authority will not reimburse the applicant for any payments made in relation to mechanical tests, insurance etc.

### **Private hire vehicle accessibility**

262. The licensing authority maintains a list of designated wheelchair accessible hackney carriage and private hire vehicles<sup>46</sup>. For these purposes, wheelchair accessible means that it would be possible for the user of a "reference wheelchair"<sup>47</sup> to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.

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<sup>45</sup> Section 70(1) of the Local Government (Miscellaneous Provisions) Act 1976

<sup>46</sup> Section 167 of the Equality Act 2010

<sup>47</sup> As defined by Schedule 1 to the Public Service Vehicle Accessibility Regulations 2000

263. The drivers of any designated vehicles must:
- carry the passenger while in the wheelchair if requested to do so and provide reasonable assistance to enable the passenger to get into or out of the vehicle;
  - carry the wheelchair if the passenger chooses to sit in a passenger seat and provide reasonable assistance to load the wheelchair into or out of the vehicle;
  - provide reasonable assistance to load the passenger's luggage into or out of the vehicle;
  - take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
  - not make any additional charge<sup>48</sup>.
264. Prior to publishing a list of designated wheelchair accessible vehicles, the licensing authority will confirm the designation in writing to each proprietor of any such vehicle.
265. The proprietor of a designated wheelchair accessible vehicle may appeal against the decision of the licensing authority to include their vehicles on the designated list<sup>49</sup>. The appeal should be made to the Magistrates' Court and must be made within 28 days of the vehicle in question being included on the authority's published list.
266. Any wheelchair accessible private hire vehicle must have European Community Whole Vehicle Type Approval (ECWVTA). This will be shown on either the vehicle's V5 registration document, additional chassis number on the vehicle or by a 'Certificate of Conformity' (COC), which shows that the vehicles have been produced to a very high and vigorous standard. The COC should show the number of passengers the vehicle is able to carry with the wheelchair conversion.
267. Approved anchorages must be provided for the wheelchair and the wheelchair user. These anchorages must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and occupant must be independent of each other. Anchorage must also be provided for the safe stowage of a wheelchair when not in use, folded or otherwise, if carried within the passenger compartment. They must be designed so as not to cause injury within the passenger compartment.
268. A ramp or ramps for the loading of a wheelchair and occupant must be available at all times for wheelchair accessible vehicles.
269. An adequate locking device must be fitted to ensure that the ramps do not slip or tilt when in use. Provision must be made for the ramps to be stored safely when not in use.
270. If the vehicle has a purpose designed wheelchair lift, then a 'LOLER' certificate must be produced with the initial application, and this must be renewed annually. The onus will be on the vehicle proprietor to ensure this is kept up to date and the certificate can be requested at any time by an authorised officer.
271. Private hire vehicles are an essential mode of transport for disabled and elderly persons. The combination of the personal service they offer, their wide availability and their door-to-door operations enable them to respond particularly well to the travel needs of people with mobility difficulties.

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<sup>48</sup> Section 165 of the Equality Act 2010

<sup>49</sup> Section 172 of the Equality Act 2010

272. The licensing authority is committed to ensuring a wide variety of opportunities is available to those with mobility difficulties. For this reason, the licensing authority considers it important that people with impairments have access to all forms of public transportation.
273. The licensing authority intends to encourage proprietors to invest in wheelchair accessible vehicles, thus improving the accessibility of vehicles to disabled customers. For this reason, the age limits outlined in paragraph \*169 (subject to change)\* do not apply to designated wheelchair accessible hackney carriage vehicles. Furthermore, North Yorkshire Council will continue to review its options in terms of encouraging more proprietors to obtain licences in respect of wheelchair accessible vehicles.

### **Executive vehicles**

274. An executive vehicle, limousine or other novelty vehicle is, in essence, a private hire vehicle, and all other interpretations, policies and conditions relevant to licensed private hire vehicles also apply, except where described below.
275. There is no legal definition of executive vehicle. However, there is common acceptance that an executive vehicle would be a relatively expensive vehicle that includes additional features designed to increase the comfort of the driver and passengers, which exhibits the qualities of luxury, prestige, and refinement. A classic car could be an executive vehicle. Vehicles qualifying for executive status must be of a high-end vehicle specification.
276. Executive vehicles usually place more emphasis on comfort, appearance, and amenities such as technological upgrades and higher quality materials than on performance, economy, or utility. They are often built in smaller numbers than more affordable mass-market vehicles. Luxury vehicles are historically 5 or 6 passenger four-door saloons. The term was coined in the 1960s to describe cars targeted at successful professionals and middle to senior managers, often as a company car but retaining enough performance and comfort to be desirable in their own right.
277. Executive cars could be luxury versions of family saloons; at the higher end, they are often larger models by mainstream manufacturers or the entry-level models by companies specialising in larger luxury vehicles.
278. Proprietors of companies wishing to license such vehicles would not normally be mainstream private hire companies but would be offering chauffeur driven contracts, airports runs and other similar services where the driver would be expected to observe a strict dress code. Chauffeur driven contracts for the undertaking of a journey in an executive vehicle would generally be made by way of a written contract.
279. For the purposes of this policy, a stretched limousine is regarded as a luxurious vehicle that has been modified (stretched) to extend the length of the vehicle. The stretch shall not exceed 120 inches [3048 millimetres]. The vehicle shall be capable of carrying up to, but not exceeding eight passengers. Each passenger seating area will be at least 400mm wide.
280. For the purposes of this policy, a novelty vehicle is defined as follows:
- a vehicle that has been specially constructed, adapted or converted by a low volume specialist vehicle manufacture or modifier;
  - a vehicle that has been specially modified from its original design or specification;
  - a vehicle that is capable of carrying up to but not exceeding 8 passengers;

- a vehicle that is intended for the carriage of fare paying passengers that, prior to the introduction of this policy, would not be licensed by the Authority as a private hire vehicle because they did not comply with one or more of the standard conditions relating to private hire vehicles; and
- any vehicle that, in the opinion of an authorised officer, because of its specialist design/styling or origin, requires it to be classed as a novelty vehicle.

### **Exemptions and standards for executive/novelty vehicles**

281. It would be expected that a contract for the hire of an executive vehicle, stretched limousine or other novelty vehicle would normally be in place no less than 24 hours prior to the commencement of the journey. The vehicles would not be used to undertake standard private hire work.
282. There are no age restrictions relating to executive vehicles, stretched limousines and other novelty vehicles but all such vehicles must be exceptionally well-maintained.
283. The licensing authority has the power to disapply the general requirement to display a licence plate where the circumstances justify it<sup>50</sup>. Accordingly, an authorised officer may give an exemption notice to the proprietor of an executive vehicle, stretched limousine or other novelty vehicle.
284. Any applicant seeking an exemption from displaying plates must submit an application form to the licensing authority confirming the details of their executive/novelty arrangements. An exemption notice will only be issued to the applicant if the authorised officer is satisfied that:
- the vehicle will be in immaculate condition with no visible defects, dents or blemishes to the external bodywork or internal trim;
  - no meter or data head shall be fitted to the vehicle;
  - a written contract will be in place from any hirer wishing to employ the services of an executive private hire vehicle. Any such contracts will be in place at least 24 hours prior to the commencement of the journey;
  - the vehicle will not be used for standard private hire work or school contracts.
  - any driver of the vehicle will follow a formal dress code, suit or smart jacket and trousers and collared shirt;
  - no advertising or identification (including company logos) will be displayed on or in the vehicle at any time; and
  - the hirer will be invoiced separately for the pre-agreed fare and no payments will be taken in the vehicle.
285. The licensing authority may withdraw the exemption in the event that an authorised officer is no longer satisfied that the above arrangements are being made.
286. Where an exemption has been granted, the exemption notice and the licence plate must be kept inside the vehicle at all times whilst the vehicle is licensed as a private hire vehicle. The notice and the plate must be made available for inspection to a police officer or authorised officer of the council upon request.
287. Whilst driving an executive vehicle, stretched limousine or other novelty vehicle in accordance with an exemption, the driver of the vehicle will also be exempt from the general requirement to wear his/her driver badge. In these instances, the badge must

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<sup>50</sup> Section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976

be kept inside the vehicle at all times whilst the driver is using the vehicle for private hire purposes and it must be made available for inspection to any passenger, police officer or authorised officer of the council upon request.

### **Private hire vehicle licence conditions**

288. The licensing authority may attach to the grant of a private hire vehicle licence any such conditions as they may consider reasonably necessary<sup>51</sup>.
289. Unless there are exceptional circumstances that require a different approach, the following conditions will generally be imposed on all hackney carriage vehicle licences:
- 1) The proprietor must ensure that the vehicle complies in all respects with the requirements of any Act and Regulation in relation to the use of motor vehicle and any Code of Practice or policy implemented by the council.
  - 2) The proprietor must ensure that the vehicle is subject to a daily visual safety check of all lights, oil, water, tyres, mirrors and seat belts. A written record of each safety check must be made including the details of any faults and remedial action taken. The record must be signed and kept for a minimum period of six months to be produced to an authorised officer on request.
  - 3) The licence plates and side panels shall be properly fixed in the positions required by the licensing authority at all times in accordance with the reasonable instructions of the authorised officer of the council. Any defects must be reported to the licensing authority for repair immediately.
  - 4) The holder of this licence shall cause to be affixed and maintained in a conspicuous position, in accordance with the directions of the licensing authority, any sign or notice as required from time to time by the licensing authority.
  - 5) All wheelchair accessible vehicles shall display the recognised disability symbol.
  - 6) The holder of this licence shall ensure that the driver understands how to operate the vehicle and any equipment, including, where applicable, any equipment fitted to make the vehicle accessible by disabled persons.
  - 7) The vehicle, including all fittings and specialist equipment, must be well maintained and kept in good working order.
  - 8) The interior and exterior of the vehicle shall be kept in a clean and tidy condition and all body work shall be sound and reasonably well maintained, free from dents and other distortions/damage. Any repairs and cosmetic improvements shall be of a reasonable quality and a good paint match achieved. Doors, door locks, boot/tail gate and locks, bonnet, hinges and catches, windows, sunroofs and hoods shall operate correctly and all upholstery shall be reasonably well maintained and free from unsightly repairs, stains and burns.
  - 9) Where the vehicle is converted to be propelled by Liquid Petroleum Gas the holder of the licence shall produce to the licensing authority a certificate showing that the vehicle has been examined by a person approved by the Liquid Petroleum Gas Association and that the installation is safe, well maintained and in good working order.
  - 10) The holder of this licence shall provide sufficient means by which any person in the vehicle may communicate with the driver during the course of the hiring.
  - 11) The holder of this licence shall cause the interior of the vehicle to be kept wind and watertight.
  - 12) The holder of this licence shall provide any necessary windows and means of opening and closing with not less than one window on each side of the passenger compartment.

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<sup>51</sup> Section 48(2) of the Local Government (Miscellaneous Provisions) Act 1976

- 13) The holder of this licence shall ensure that glass in all windows shall be kept clean and clear of obstruction to ensure that there is a clear view, both into and out of the vehicle.
- 14) The holder of this licence shall cause the seats in the passenger compartment to be properly cushioned and covered.
- 15) The holder of this licence shall ensure that all seating is fitted and maintained in accordance with the vehicle manufacturer's specification and any Construction and Use Regulations applicable to the type of vehicle and seats shall not face sideways to the direction of travel unless approved in writing by the licensing authority.
- 16) The holder of this licence shall cause the floor in the passenger compartment to be provided with proper carpet, mat or other suitable covering.
- 17) The holder of this licence shall ensure that provision is made for carrying luggage sufficient for the number of persons for which the vehicle is licensed and provision is made to protect the luggage from inclement weather.
- 18) The holder of this licence shall not allow the specification of the vehicle to be varied without the written consent of the licensing authority.
- 19) No signs, notices, advertisements, marks or other devices whatsoever shall be displayed on, in or from the vehicle except as may be required by statutory provisions or authorised by the licensing authority.
- 20) The word "taxi" or "cab" or any similar word which, in the opinion of the licensing authority, may imply that the vehicle is a hackney carriage shall not appear on the vehicle.
- 21) Where the vehicle is fitted with a taximeter, the meter must be maintained in good working order at all times.
- 22) The holder of this licence shall, at the earliest opportunity, and in any case within 48 hours, disclose to the licensing authority in writing the details of any arrest, criminal charge, conviction, caution, fixed penalty notice, DVLA licence endorsement or community resolution imposed upon him or her (or, in the case of a company or partnership, on any of the directors or partners).
- 23) Where this licence is held by a company or partnership, any changes to the directors or partners must be notified to the licensing authority as soon as practicable and, in any case, within seven days of any such change.
- 24) The holder of this licence shall only permit the vehicle to be driven by a driver who understands how to operate the vehicle and any equipment fitted to make the vehicle accessible by disabled persons.
- 25) Seat belts shall be properly and securely fitted for each passenger authorised to be carried in the vehicle and shall be maintained in a safe condition.
- 26) Except as provided for in this condition, no cameras or CCTV systems shall be installed in the vehicle unless it has previously been authorised in writing by the licensing authority. No authorisation is required for the installation of external-facing cameras used for the purposes of recording accidents or incidents outside the vehicle (e.g. dashcams) provided the system does not record audio or images of any interior parts of the vehicle in which passengers may be seated.
- 27) An advisory notice relating to the use of CCTV, approved by the licensing authority, shall be displayed inside the vehicle on each of the rear side passenger windows. The notice shall be positioned in a prominent (though not obstructive) position where they can be easily read by persons both inside and outside of the vehicle. The proprietor shall ensure that all notices are maintained in a clean and legible condition.
- 28) The proprietor shall ensure that the CCTV system is maintained and fully operative in accordance with the manufacturer's instructions.
- 29) Upon request for image retrieval by an officer of the licensing authority or a police officer the proprietor shall ensure that the CCTV system is made available to the

officer as soon as reasonably practicable, and in any event within seven days of the request.

- 30) The proprietor of the vehicle shall take all reasonable steps to ensure that any driver of the vehicle is made aware of every condition in relation to any installed CCTV system and has been given adequate instruction regarding the need for the system to be made available as soon as reasonably practicable, and in any event within seven days of any authorised request for any image retrieval.
- 31) The proprietor shall ensure that notification is lodged with the Information Commissioner to cover the purposes for which the CCTV system is used.

290. An appeal against conditions attached to a private hire vehicle licence lies to the Magistrates' Court<sup>52</sup>.

291. Any appeal must be made within 21 days following notice of a decision.

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<sup>52</sup> By virtue of section 48(7) of the Local Government (Miscellaneous Provisions) Act 1976

## Hackney carriage and private hire drivers

292. The licensing authority issues combined hackney carriage and private hire driver licences.
293. The licensing authority must be satisfied that every licensed driver of a hackney carriage or private hire vehicle is a fit and proper person to hold a licence.
294. The licensing regime should therefore ensure that licensed hackney carriage and private hire drivers are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest, and not persons who would take advantage of their employment to abuse or assault passengers<sup>53</sup>.
295. There is no judicially approved test of fitness and propriety but, if there is any concern that granting a licence to an individual may have an adverse effect on the public, further consideration will be given as to whether or not the individual is a fit and proper person to hold a hackney carriage and/or a private hire driver licence.
296. When establishing whether or not an individual is a fit and proper person, the licensing authority will consider the relevance of any criminal convictions and it may take into account any other relevant information relating to:
- the applicant's character;
  - the applicant's experience as an employed driver or hackney carriage or private hire driver;
  - the applicant's criminal record;
  - the applicant's driving ability;
  - the applicant's knowledge of spoken/written English, the locality and rules governing licensees;
  - the applicant's medical condition;
  - any other matter that the licensing authority considers relevant.
297. In determining suitability, the licensing authority is entitled to take into account all matters concerning an applicant or licensee. It is not simply concerned with the individual's behaviour whilst working in a hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual's attitude and temperament.
298. The assessment as to whether or not a person is a fit and proper person to hold a licence requires a much broader approach to the mere consideration of any alleged misconduct at any given time. The assessment requires a prospective consideration of any action that may be warranted in the public interest, having regard to the impact of the licence holder's character on passengers and other members of the public.

### Process for new driver applications

299. An application will not be processed unless the licensing authority is in receipt of:
- a fully completed application form;
  - the appropriate fee;

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<sup>53</sup> *McCool v Rushcliffe Borough Council* [1998] 3 All E.R. 889

- the applicant's full driving licence issued by the DVLA;
- a suitable digital photograph of the applicant (taken or approved by a member of the licensing authority); and
- prescribed documentation to confirm that the applicant has a right to work in the UK.

300. Licences will not be granted unless, in addition to the above, the licensing authority is in receipt of:

- an enhanced criminal record check from the Disclosure and Barring Service (if the licence has not been determined within four months of the issue date shown on the disclosure certificate, a further criminal record check must be obtained);
- a certificate of good conduct (only if the applicant has lived overseas for a period of six months or more in the 10-year period leading up to the date of application);
- a certificate to confirm that the applicant has passed a practical driving assessment approved by an authorised officer (a standard assessment is acceptable for most drivers but anyone wishing to drive wheelchair accessible vehicles must undergo a suitable enhanced/upgrade assessment);
- a medical assessment carried out to the appropriate standard no more than one month prior to the date of application (if the licence has not been determined within four months of the date shown on the medical assessment, a further assessment must be obtained);
- a certificate to confirm that the applicant has undertaken appropriate safeguarding training in the last three years (to be approved by an authorised officer);
- a certificate to confirm that the applicant has undertaken appropriate disability awareness training in the last three years (to be approved by an authorised officer); and
- a record of passing a written test delivered by North Yorkshire Council on the applicant's knowledge of the locality, the rules governing licensees and the applicant's understanding of the English language.

301. An appeal against a refusal to grant a hackney carriage or private hire driver licence lies to the Magistrates' Court<sup>54</sup>.

302. Any appeal must be made within 21 days following notice of a decision.

### **Process for driver renewal applications**

303. Any application for the renewal of a licence will not be accepted after the date of expiry. In these cases, the driver will cease to be a licensed driver until such a time as a new application is received and subsequently granted.

304. An application will not be processed unless the licensing authority is in receipt of a fully completed application form and the appropriate fee.

305. An applicant who wishes to renew a licence will need to carry out a check on tax registration (a tax check). The licensing authority will need to obtain confirmation from HMRC that the check has been completed before considering the application<sup>55</sup>.

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<sup>54</sup> By virtue of section 59(2) and section 52 of the Local Government (Miscellaneous Provisions) Act 1976 respectively

<sup>55</sup> Schedule 33 to the Finance Act 2021 and The Finance Act 2021, Schedule 33 (Licensing Authorities: Tax Information) Regulations 2022

306. An appeal against a refusal to renew a hackney carriage and/or private hire driver licence lies to the Magistrates' Court<sup>56</sup>.

307. Any appeal must be made within 21 days following notice of a decision.

### **Duration of driver licences**

308. All hackney carriage and private hire driver licences will expire three years from the date of the grant of the licence. A licence may be granted for a period of less than three years but only in the circumstances of an individual case, not because of a blanket policy<sup>57</sup>.

### **DVLA driving licence**

309. An applicant for a hackney carriage or private hire driver licence must have held a driving licence for at least 12 months. Full driving licences issued by EEA states are acceptable<sup>58</sup>.

310. All applicants are required to provide a DVLA check code (obtained via [www.gov.uk/check-driving-information](http://www.gov.uk/check-driving-information) or by calling 0300 083 0013) to allow the licensing authority to view the applicant's driving record. The code must be provided on application and at 12-month intervals thereafter.

### **Medicals**

311. The licensing authority considers it appropriate for hackney carriage and private hire drivers to have more stringent medical standards than those applicable to normal car drivers because they:

- carry members of the general public who have expectations of a safe journey;
- are on the road for longer hours than most car drivers; and
- may have to assist disabled passengers and handle luggage.

312. All medical assessments are to be to the standard of the Group 2 medical standards applied by DVLA in relation to bus and lorry drivers.

313. A medical form obtained from North Yorkshire Council must be completed by the applicant's GP or by another doctor with access to the applicant's medical history.

314. Further medical assessments are required every three years until the applicant has attained the age of 65 years<sup>59</sup> and annually once the applicant has attained the age of 65 years<sup>60</sup>.

315. The driver shall notify the licensing authority in writing as soon as practicable and in any event within seven days of his/her becoming aware of any medical condition suffered by him/her which may affect his/her ability to drive and operate a hackney carriage/private hire vehicle.

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<sup>56</sup> By virtue of section 61(3) of the Local Government (Miscellaneous Provisions) Act 1976

<sup>57</sup> Section 53(1) of the Local Government (Miscellaneous Provisions) Act 1976 as amended by section 10(2) of the Deregulation Act 2015

<sup>58</sup> Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 as amended by the Driving Licences (Community Driving Licence) Regulations 1996

<sup>59</sup> In line with DfT Best Practice Guidance

<sup>60</sup> In line with the Group 2 medical standards applied by DVLA

## **Driver safeguarding training**

316. The hackney carriage and private hire industry can be a valuable asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if the individuals working within the industry are aware of, and alert to, the signs of potential abuse and they know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

317. Licensed drivers are required to undertake safeguarding training in order to help:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

318. No licence will be granted to any new applicant unless a certificate has been produced to the licensing authority confirming that the applicant has undertaken appropriate training as approved by an authorised officer.

319. Appropriate training must be undertaken by all licensed drivers every three years. Failure to comply may bring into question the licence holder's status as a fit and proper person.

## **Disability awareness training**

320. All drivers are required to undergo disability awareness training prior to being granted a licence to drive hackney carriages and/or private hire vehicles.

321. Appropriate training must be undertaken by all licensed drivers every three years. Failure to comply may bring into question the licence holder's status as a fit and proper person.

## **Duty to carry passengers in wheelchairs**

322. The licensing authority maintains a list of designated wheelchair accessible hackney carriage and private hire vehicles<sup>61</sup>.

323. The driver of any designated vehicle must:

- carry the passenger while in the wheelchair if requested to do so and provide reasonable assistance to enable the passenger to get into or out of the vehicle;
- carry the wheelchair if the passenger chooses to sit in a passenger seat and provide reasonable assistance to load the wheelchair into or out of the vehicle;
- provide reasonable assistance to load the passenger's luggage into or out of the vehicle;
- take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- not make any additional charge<sup>62</sup>.

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<sup>61</sup> Section 167 of the Equality Act 2010

<sup>62</sup> Section 165 of the Equality Act 2010

324. The licensing authority may exempt drivers from the duties to assist passengers in wheelchairs if it is satisfied that it is appropriate to do so on medical or physical grounds<sup>63</sup>.
325. Any person wishing to apply for an exemption certificate must make a request in writing and should provide evidence in the form of a letter or report from a general practitioner.
326. Where a driver has been exempted from these duties, they must display at all times the exemption certificate in the designated vehicle they are driving.

### **Duty to carry and assist any disabled person**

327. The driver of any non-wheelchair accessible vehicle (i.e. a vehicle that is not included on the Council's designated list) must carry and assist disabled passengers without making an extra charge for doing so<sup>64</sup>. This applies to any disabled passenger, including wheelchair users (with the assumption that the wheelchair user transfers to a passenger seat to travel).
328. The duty to assist disabled passengers could include, but may not be limited to:
- opening the passenger door
  - folding manual wheelchairs and placing them in the luggage compartment
  - installing a boarding ramp
  - securing a mobility aid within the passenger compartment
329. In instances where hackney carriages and private hire vehicles have been pre-booked, the driver has a duty to assist any disabled passenger to find or locate the vehicle without making an additional charge for doing so<sup>65</sup>. In order to help fulfil these duties, drivers should consider:
- giving audio directions for a visually impaired passenger (calling the passenger once at the pick-up point)
  - giving visual directions (for example, the colour and registration of the vehicle) for a hearing-impaired passenger
  - repeating key information for a passenger with mental or cognitive impairments
330. The requirement not to charge a disabled person extra means that a meter should not be left running while the driver performs duties required by the Equality Act 2010.

### **Duty to carry assistance dogs**

331. Guide dogs are working animals (not pets) and their owners rely on them for both independence and mobility. Guide dogs have up to two years of intensive training and are monitored closely throughout their working lives. In addition, guide dog owners are given training on how to maintain the extremely high standards of grooming which the dogs require, and the dogs are regularly checked by vets. In terms of travel, guide dogs are trained to sit at their owner's feet at all times, not to bother other people and not to climb on seats.

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<sup>63</sup> Section 166 of the Equality Act 2010

<sup>64</sup> Section 164A of the Equality Act 2010

<sup>65</sup> Section 165A of the Equality Act 2010

332. Licensed hackney carriage drivers are under a duty to carry guide, hearing and other assistance dogs in their taxis without additional charge<sup>66</sup>. Similar rules apply to drivers and operators of private hire vehicles<sup>67</sup>.
333. Drivers who have a medical condition that is aggravated by exposure to dogs may apply to the licensing authority for an exemption from this duty on medical grounds. A notice of any exemption granted by the licensing authority must be displayed in the vehicle while the exempted driver is using it.
334. If any other driver fails to comply with these duties, they will be guilty of a criminal offence and, on conviction, will be liable to a fine of up to £1,000 (level 3 on the standard scale).

### **Driver criminal record checks**

335. A criminal record check is an important safety measure, particularly for those working closely with children and vulnerable adults. Drivers are subject to an Enhanced Disclosure through the Disclosure and Barring Service (DBS).
336. The licensing authority requires criminal record checks to be carried out every six months. Any licensed driver's failure to obtain a criminal record check as required will generally result in the licence being suspended or revoked.
337. The disclosure may include details of spent and unspent convictions, cautions, reprimands, final warnings and any other information held in police records that is considered relevant by the police (e.g. details of minor offences, non-conviction information on the Police National Computer such as Fixed Penalty Notices and, in some cases, allegations).
338. North Yorkshire Council complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of a conviction or any other information revealed.
339. The licensing authority is committed to the fair treatment of all users and potential users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.
340. The Applicant Suitability and Criminal Convictions section of this policy makes provision for dealing with applications from ex-offenders. The licensing authority actively promotes equality of opportunity for all and welcomes applications from all, including those with criminal records.
341. Applications are determined in accordance with any relevant legislation and the council's policies relating to hackney carriage and private hire drivers. Applicants for hackney carriage and private hire driver licences are exempt from the Rehabilitation of Offenders Act 1974. This means that convictions are never "spent" and must be disclosed on the application form for such licences.
342. A criminal record does not, however, mean that an applicant will automatically be refused a licence. Each application is considered on its individual merits.

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<sup>66</sup> Section 168 of the Equality Act 2010

<sup>67</sup> Section 170 of the Equality Act 2010

343. The council's overriding consideration is always the protection of the public. A statutory declaration is requested as part of the application process. If the licensing authority decides to refuse an application, written reasons for this decision will be provided. Any applicant who is aggrieved at such a decision has the right of appeal to the Magistrates' Court.
344. All criminal record documentation is kept in accordance with the DBS requirements relating to secure storage. If a disclosure indicates no criminal record this will be recorded on an applicant's file and the disclosure documentation will be destroyed. Disclosures with entries will be retained in secure storage until the application has been determined and any subsequent appeal is disposed of.

### **DBS update service**

345. The DBS allows applicants to subscribe to its Update Service in order for their DBS Certificate to be kept up to date. More information is available via [www.gov.uk/dbs](http://www.gov.uk/dbs)
346. Once subscribed, applicants will be able to give prospective employers (within the same workforce) or licensing authorities permission to access a web portal, which allows a check to be carried out as to whether or not there have been any changes to the data listed on the most recent disclosure certificate.
347. If there is no change to the data, the licensing authority can make a decision based on the information contained on the existing disclosure certificate. If, however, the web portal indicates a change to the data, a new certificate would need to be obtained.
348. All licensed drivers must evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months.
349. If an applicant has lived overseas in the 10-year period leading up to the date of application, he/she must produce a further criminal record check or 'certificate of good conduct'. Applications need to be made in the relevant country or to the relevant embassy in the UK. Information on the application process is available here: [www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants](http://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants)

### **Smoking**

350. Legislation was introduced in August 2007<sup>68</sup> to prevent smoking in the workplace. A licensed vehicle is deemed to be a workplace and as such drivers must not smoke in any licensed vehicle and must not permit passengers to smoke whilst being carried in the vehicle. Failure to comply with this may lead to a criminal prosecution, fixed penalty and/or a referral to the Licensing Committee.

### **Display of driver badges**

351. One driver's badge issued by the licensing authority shall be displayed on the driver's person at all times when the vehicle is available for hire so that it is visible. A second badge issued by the licensing authority shall be prominently displayed at all times in a position visible to passengers in the front and rear passenger seats.

### **Return of driver badge**

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<sup>68</sup> Health Act 2006

352. The driver shall upon the expiry (without immediate renewal), revocation or suspension of this licence forthwith return to the licensing authority the driver's badges issued to him/her by the licensing authority when granting this licence.

### **Dress code**

353. Whilst the licensing authority does not wish to impose a dress code by way of conditions to any licence, it expects a high standard will be maintained at all times. Licensed drivers will be expected to dress appropriately and to pay particular attention to their personal hygiene.

### **Driver conduct**

354. All licensed drivers are expected to:

- comply with all licence conditions, byelaws and the requirements in this policy;
- drive with care and due consideration for other road users and pedestrians; and
- not consume alcohol before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle.

355. Licensed drivers are expected to demonstrate appropriate professional conduct at all times, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way.

356. Under no circumstances should licensed drivers take the law into their own hands.

357. Drivers are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.

358. Licensed drivers are expected to work cooperatively with officers of the licensing authority and North Yorkshire Police. Any failure to behave in a civil and respectful manner towards officers who are carrying out their duties may raise serious concerns over a driver's suitability to act as a hackney carriage and/or private hire driver.

359. Licensed drivers must not have sexual relationships with passengers or attempt to engage in a relationship with a passenger. Similarly, licensed drivers must not have any form of communication with a passenger which could be regarded as sexually suggestive.

360. Any failure to comply may raise doubts as to the driver's status as a fit and proper person, in which case, the matter may be referred to the **\*insert Committee name\*** for consideration

361. A hearing of the **\*insert Committee name\*** can take a number of weeks to arrange and therefore the licensing authority has made alternative arrangements for the consideration of urgent matters in the interests of public safety. Where the relevant officer is satisfied that there is an immediate risk to public safety and an immediate revocation might be considered appropriate, the matter may be referred to a senior officer for urgent review.

362. Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Council to revoke or refuse to renew a hackney carriage and private hire driver's licence for any reasonable cause and the power can be given immediate effect in the interests of public safety. This applies to decisions made by the **\*insert Committee**

name\* and/or by a senior officer with delegated powers. Check with governance re constitutional proposals

### **Driver convictions and other sanctions**

363. Any licensed driver must at the earliest opportunity, and in any case, within 48 hours, disclose to the licensing authority in writing the details of any arrest, criminal charge or conviction imposed upon him or her. The same applies to any simple cautions, fixed penalties, DVLA licence endorsements and community resolutions.
364. Any failure to disclose such information may raise doubts over the driver's honesty and suitability to hold a licence, regardless of the outcome. Any failure to comply may be referred to the \*insert Committee name\* for consideration.

### **Seat belts**

365. The law relating to the use of seatbelts differs slightly in connection with private hire and hackney carriage vehicles.
366. There is no legal requirement for the driver of a hackney carriage vehicle to wear a seat belt whilst using the vehicle for public hire purposes (i.e. whilst plying/standing for hire or carrying passengers).
367. There is no legal requirements for the driver of a private hire vehicle to wear a seat belt whilst carrying passengers but seat belts must be worn at all other times.
368. Although exemptions apply to both hackney carriage and private hire drivers at certain times, all drivers are advised to wear a seat belt even when there is no legal obligation to do so.
369. It is the driver's responsibility to ensure that children under the age of 14 years are restrained correctly<sup>69</sup>.

### **Meters and fares (hackney carriage only)**

370. The licensing authority requires all hackney carriages to be fitted with a calendar-controlled taxi meter.
371. The meter must be engaged for every journey from the point at which the hirer commences his/her journey. The meter must be engaged whether the vehicle has been pre-booked or not.
372. The driver cannot charge in excess of the council's table of fares for any journey within North Yorkshire. If the hiring takes the journey outside North Yorkshire, the driver cannot charge any more than the table of fares allows unless a fare has been agreed with the hirer before the commencement of the journey.
373. The table of fares represents the maximum charge but drivers are permitted to negotiate a fare provided they do not charge any more than the table of fares allows.

### **Driver change of address**

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<sup>69</sup> Section 15 of the Road Traffic Act 1988

374. All licensed drivers are required to notify the licensing authority in writing of any change of their address during the period of the licence within seven days of such change taking place.

### **Calculation of driver licence fees**

375. The costs associated with the issue and administration of hackney carriage and private hire driver licences can be recovered via the licence fee<sup>70</sup>.

376. The cost of the service is determined by several factors including staffing (salaries, National Insurance, pensions etc), accommodation, utilities, IT support, legal costs, software, insurance, printing, postage etc.

377. The licence fee for each type of application is then dependent on several other factors including, where relevant, the time spent on complaints, committees, inspections, advertising, administration, consultations etc.

378. Some costs are associated with specific types of applications and these must be recovered accordingly. For instance, the costs of the hackney carriage stands and the table of fares must be recovered only from hackney carriage vehicle licence fees whereas other costs (such as policy and service development) will apply to all licence fees.

379. The licence fee is refundable upon request in the event of an unsuccessful application. However, the licensing authority will not reimburse the applicant for any payments made in relation to criminal record checks, medicals or knowledge tests.

### **National register of refusals and revocations**

380. A National Register of Taxi Licence Refusals and Revocations (NR3) is held allowing all licensing authorities to record details of where a hackney carriage or private hire driver licence has been refused or revoked. This enables licensing authorities to gather vital intelligence about an applicant's past behaviour.

381. North Yorkshire Council provides information for the national register and carries out searches of NR3 in order to assess whether an individual is a fit and proper person to hold a hackney carriage or private hire driver licence.

382. Where a driver licence is revoked, or an application is refused, the council will record this decision on NR3.

383. The licensing authority must conduct a search of the register for all applicants and further details will be sought from the relevant authority if any information is recorded<sup>71</sup>.

384. Any request from another authority for information held by North Yorkshire Council will be considered on its own merits, taking into account the data subject's rights and the responsibilities of a taxi driver. A record of every decision in this regard will be made to detail:

- the date of the request;
- the name(s) searched;
- whether any information was provided;

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<sup>70</sup> Section 53(2) of the Local Government (Miscellaneous Provisions) Act 1976

<sup>71</sup> Section 2 of the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

- if information was provided, why it was provided;
- if information was not provided, why it was not provided; and
- how and when the decision (and any information) was communicated to the requesting authority.

### **Driver licence conditions**

385. The licensing authority may attach to the grant of a private hire driver licence any such conditions as they may consider reasonably necessary<sup>72</sup>.

386. Unless there are exceptional circumstances that require a different approach, the following conditions will be imposed on all combined driver licences:

- 1) The driver shall give all reasonable assistance with passengers' luggage.
- 2) The driver shall at all times be clean, respectable in his/her dress and person and behave in a civil and orderly manner.
- 3) The driver shall take all reasonable steps to ensure the safety of passengers conveyed in, entering or leaving the vehicle driven by him/her.
- 4) The driver shall not without the express consent of the hirer, drink or eat in the vehicle.
- 5) The driver shall not without the express consent of the hirer, play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.
- 6) The driver shall at no time cause or permit the noise emitted by any radio or other previously mentioned equipment in the vehicle while he/she is driving to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.
- 7) The driver shall not convey or permit to be conveyed in a vehicle a greater number of persons than that prescribed in the licence for the vehicle.
- 8) The driver shall not allow there to be conveyed in the front of a vehicle beside him/her any child below the age of 10 years.
- 9) The driver shall not without the consent of the hirer of the vehicle convey or permit to be conveyed any other person in that vehicle.
- 10) The driver shall immediately after the termination of any hiring of a vehicle or as soon as practicable thereafter carefully search the vehicle for any property which may have been accidentally left there.
- 11) If any property accidentally left in a vehicle by any person who may have been conveyed therein is found by or handed to the driver, he/she shall take all reasonable steps to return the item to its owner or to make arrangements for its collection on request.
- 12) The driver shall if requested by the hirer of a vehicle provide a written receipt for the fare paid.
- 13) The driver shall not convey in a vehicle any animal in their custody and shall ensure that any animal in the custody of any passenger is conveyed in the rear of the vehicle. This requirement does not apply to assistance dogs.
- 14) The driver of a vehicle shall, if he/she is aware that the vehicle has been hired to be in attendance at an appointed time and place or he/she has otherwise been instructed by the operator or proprietor of the vehicle to be in attendance at an appointed time and place, punctually attend at that appointed time and place, unless delayed or prevented by sufficient cause.

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<sup>72</sup> Section 51(2) of the Local Government (Miscellaneous Provisions) Act 1976

- 15) The holder of this licence shall, at the earliest opportunity, and in any case within 48 hours, disclose to the licensing authority in writing the details of any arrest, criminal charge, conviction, caution, fixed penalty notice, DVLA licence endorsement or community resolution imposed upon him or her.
  - 16) The holder of this licence shall evidence continuous registration with the DBS update service along with any necessary consent to enable the licensing authority to routinely check for new information every six months during the period of the licence.
  - 17) Where a vehicle is fitted with a taxi meter, the driver shall not cause the fare recorded thereon to be cancelled or concealed until the hirer has had a reasonable opportunity of examining it and has paid the fare (unless credit is to be given).
  - 18) The driver shall not demand from any hirer of a vehicle, a fare in excess of any previously agreed fare for that hiring between the hirer and operator, or if the vehicle is fitted with a taxi meter, and there has been no previous agreement as to the fare, the fare shown on the face of the taxi meter.
  - 19) The driver shall not drive a vehicle in such a manner as to be dangerous or potentially dangerous to passengers, other road users or the public.
  - 20) One driver's badge issued by the licensing authority shall be displayed on the driver's person at all times when the vehicle is available for hire so that it is visible. A second badge issued by the licensing authority shall be prominently displayed at all times in a position visible to passengers in the front and rear passenger seats.
  - 21) The driver shall notify the licensing authority in writing as soon as practicable and in any event within seven days of his/her becoming aware of any medical condition suffered by him/her which may affect his/her ability to drive and operate a hackney carriage/private hire vehicle.
  - 22) The licensee shall notify the licensing authority in writing of any change of their address during the period of the licence within seven days of such change taking place.
  - 23) The driver shall not drive a wheelchair accessible vehicle unless he/she understands how to operate the vehicle and any equipment fitted to make the vehicle accessible by disabled persons.
  - 24) The licence does not authorise the driver to drive any wheelchair accessible vehicles licensed by North Yorkshire Council unless an appropriate practical assessment (approved by an authorised officer) has been passed and a certificate has been obtained and submitted to an authorised officer.
387. An appeal against conditions attached to a driver's licence lies to the Magistrates' Court<sup>73</sup>.
388. Any appeal must be made within 21 days following notice of a decision.

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<sup>73</sup> By virtue of section 52(2) of the Local Government (Miscellaneous Provisions) Act 1976

## Private hire operators

389. A private hire vehicle can only be despatched to a customer by a licensed private hire operator.
390. Although private hire operators will not necessarily drive members of the public, they will be in possession of information about the whereabouts of some members of the public and therefore the licensing authority must be satisfied that every private hire operator is a fit and proper person to hold a licence.
391. When establishing whether or not an individual is a fit and proper person, the licensing authority will consider the relevance of any criminal convictions and it may take into account any other relevant information relating to:
- the applicant's character;
  - the applicant's experience as a private hire operator;
  - the applicant's criminal record;
  - the applicant's knowledge of spoken/written English, the locality and rules governing licensees; and
  - any other matter that the licensing authority considers relevant.
392. In instances where the private hire operator is a company or partnership, the licensing authority will apply the 'fit and proper' test to each of the directors or partners in that company or partnership.

### Process for new private hire operator applications

393. Applications will not be processed by the licensing authority unless it is in receipt of a fully completed application form and the appropriate fee.
394. Licences will not be granted unless, in addition to the above, the licensing authority is in receipt of:
- A copy of the private hire operator's policy on employing ex-offenders involved with taking bookings and dispatching vehicles;
  - a satisfactory basic criminal record check from [www.gov.uk/request-copy-criminal-record](http://www.gov.uk/request-copy-criminal-record) in respect of all proprietors (or in the case of a company or partnership, in respect of all directors or partners); and
  - a certificate of good conduct (only if the applicant, including any director or partner, has lived overseas for a period of six months or more in the 10-year period leading up to the date of application). No criminal record check or certificate of good conduct will be required for any applicant who has already been deemed suitable, evidenced by his or her possession of a hackney carriage/private hire driver or vehicle licence issued by North Yorkshire Council; and
  - a certificate to confirm that the applicant has undertaken appropriate safeguarding training in the last three years (to be approved by an authorised officer).
395. An appeal against a refusal to grant a private hire operator licence lies to the Magistrates' Court<sup>74</sup>. Any appeal must be made within 21 days following notice of a decision.

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<sup>74</sup> By virtue of section 55(4) of the Local Government (Miscellaneous Provisions) Act 1976

## **Process for private hire operator renewal applications**

396. Applications for renewal should be made at least two weeks before the expiry date of the current licence to allow reasonable time for the application to be processed.
397. Any application for the renewal of a licence will not be accepted after the date of expiry. In these cases, the operator licence will cease to have effect until such a time as a new application is received and subsequently granted.
398. All renewal applications must be accompanied by the appropriate fee.
399. An applicant who wishes to renew a licence will need to carry out a check on tax registration (a tax check). The licensing authority will need to obtain confirmation from HMRC that the check has been completed before considering the application<sup>75</sup>.
400. A licence will not be renewed unless, in addition to the above, the licensing authority is in receipt of a satisfactory basic criminal record check in respect of all individual applicants or, in the case of a company or partnership, any director or partner. A criminal record check will not be required for any applicant who is already regarded as a fit and proper person, evidenced by his or her possession of a hackney carriage/private hire driver licence issued by North Yorkshire Council.

## **Duration of private hire operator licence**

401. All private hire operator licences will expire five years from the date of the grant of the licence. A licence may be granted for a period of less than five years but only in the circumstances of an individual case, not because of a blanket policy<sup>76</sup>.

## **Private hire operator safeguarding training**

402. The hackney carriage and private hire industry can be a valuable asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if the individuals working within the industry are aware of, and alert to, the signs of potential abuse and they know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.
403. Private hire operators are required to undertake safeguarding training in order to help:
- provide a safe and suitable service to vulnerable passengers of all ages;
  - recognise what makes a person vulnerable;
  - understand how to respond, including how to report safeguarding concerns and where to get advice; and
  - provide advice to drivers in relation to safeguarding issues.
404. No licence will be granted to any new applicant unless a certificate has been produced to the licensing authority confirming that the applicant has undertaken appropriate training as approved by an authorised officer.

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<sup>75</sup> Schedule 33 to the Finance Act 2021 and The Finance Act 2021, Schedule 33 (Licensing Authorities: Tax Information) Regulations 2022

<sup>76</sup> Section 55(2) of the Local Government (Miscellaneous Provisions) Act 1976 as amended by section 10(3) of the Deregulation Act 2015

405. Appropriate training must be undertaken by all licensed private hire operators every three years. Failure to comply may bring into question the licence holder's status as a fit and proper person.

### **Private hire operator criminal record checks**

406. Although private hire operators may not have direct contact with passengers, they are still entrusted to ensure that they take appropriate steps to ensure that vehicles and drivers are safe and suitable. All operators are therefore required to produce an annual basic disclosure from the DBS in order for the licensing authority to satisfy itself that operators pose no threat to the public and have no links to serious criminal activity.

407. In the case of a company or partnership, a basic disclosure must be provided by all directors or partners.

408. Basic DBS disclosures will not be required for any operators who have already been deemed suitable, evidenced by their possession of a hackney carriage/private hire driver or vehicle licence issued by North Yorkshire Council.

409. If an applicant (including any director or partner of a company or partnership) has lived overseas for a period of six months or more in the 10-year period leading up to the date of application, they must produce a criminal record check or 'certificate of good conduct'. Applications need to be made in the relevant country or to the relevant embassy in the UK. Information on the application process is available here: [www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants](http://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants)

410. North Yorkshire Council complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of a conviction or any other information revealed.

411. The licensing authority is committed to the fair treatment of all users and potential users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.

412. The Applicant Suitability and Criminal Convictions section of this policy makes provision for dealing with applications from ex-offenders. The licensing authority actively promotes equality of opportunity for all and welcomes applications from all, including those with criminal records.

413. A criminal record does not mean that an applicant will automatically be refused a licence. Each application is considered on its individual merits. The council's overriding consideration is always the protection of the public. A statutory declaration is requested as part of the application process. If the licensing authority decides to refuse an application, written reasons for this decision will be provided. Any applicant who is aggrieved at such a decision has the right of appeal to the Magistrates' Court.

414. All criminal record documentation is kept in accordance with the DBS requirements relating to secure storage. If a disclosure indicates no criminal record this will be recorded on an applicant's file and the disclosure documentation will be destroyed. Disclosures with entries will be retained in secure storage until the application has been determined and any subsequent appeal is disposed of.

### **Complaints to private hire operators**

415. Any private hire operator who receives a complaint concerning a driver's conduct or about a vehicle's fitness, appearance, safety or fare levied shall inform the licensing authority, in writing, within 48 hours of the receipt of such a complaint.

### **Private hire operator convictions and other sanctions**

416. Any licensed private hire operator (including any directors or partners where applicable) must at the earliest opportunity, and in any case, within 48 hours, disclose to the licensing authority in writing the details of any arrest, criminal charge or conviction imposed upon him or her. The same applies to any simple cautions, fixed penalties, DVLA licence endorsements and community resolutions.

417. Any failure to comply may raise doubts as to the operator's status as a fit and proper person, in which case, the matter may be referred to the **\*insert Committee name\*** for consideration.

### **Booking and dispatch staff**

418. Individuals responsible for taking bookings and dispatching vehicles on behalf of a private hire operator do not require a licence. However, the private hire operator must be satisfied that any such individual will not present an undue risk to the public.

419. Private hire operators must formulate a policy on assessing the suitability of any person taking bookings and dispatching vehicles on their behalf prior to undertaking any such role. The policy must:

- require all booking and dispatch staff to provide a basic DBS disclosure from [www.gov.uk/request-copy-criminal-record](http://www.gov.uk/request-copy-criminal-record) (this requirement will not apply to any staff members who have already been deemed suitable, evidenced by their possession of a hackney carriage/private hire driver or vehicle licence issued by North Yorkshire Council); and
- outline the standards against which any prospective employee will be considered in relation to criminal convictions.

420. In assessing the suitability of booking and dispatch staff, the private hire operator must have sight of, and have regard to a basic DBS disclosure that is no more than three months old at the time of the assessment.

421. A record of any suitability assessments must be kept and maintained in a register of all staff responsible for taking bookings and/or dispatching vehicles. The register should contain as a minimum:

- the name and address of each member of booking and dispatch staff;
- a record of the private hire operator's most recent suitability assessment for each member of staff; and
- the certificate number and issue date of the basic DBS disclosure that was considered.

422. A template policy, along with a template assessment form, is available at **\*insert web address\*** to assist private hire operators with compliance. The templates have been produced only as a guide and therefore operators are not obligated to adopt these documents in their existing state. Ultimately, it is the operator's responsibility to set and uphold appropriate standards in relation to staff undertaking booking and dispatch duties.

423. If a private hire operator fails to adopt an appropriate policy, assess the suitability of staff and maintain a register in accordance with the licence conditions, it may raise serious doubts about their suitability to hold a licence, in which case, the matter may be referred to the **\*insert Committee name\*** for consideration.

### **Private hire operator change of directors or partners**

424. Where a private hire operator licence is held by a company or partnership, any changes to the directors or partners must be notified to the licensing authority as soon as practicable and, in any case, within seven days of any such change.

### **Bookings to carry a disabled person**

425. It is an offence for a private hire operator to refuse or fail to accept a booking from, or on behalf of, a disabled person because the person is disabled or to prevent a driver from being subject to their duties to carry and assist disabled passengers.

426. It is also an offence for a private hire operator to make an additional charge for fulfilling any duty to carry and assist disabled passengers<sup>77</sup>.

### **Bookings to carry an assistance dog**

427. It is an offence for a private hire operator to refuse or fail to accept a booking from, or on behalf of, an assistance dog user because the person will be accompanied by an assistance dog<sup>78</sup>.

428. It is also an offence for a private hire operator to make an additional charge for fulfilling any duty to carry assistance dogs<sup>79</sup>.

### **Planning and public liability**

429. It is the private hire operator's responsibility to ensure that appropriate planning permission and public liability insurance is obtained where necessary prior to making provision for bookings. Any breaches in this regard would be enforceable under the relevant primary legislation.

### **Calculation of private hire operator licence fees**

430. The costs associated with private hire operator licences will be recovered via the licence fees<sup>80</sup>.

431. The cost of the service is determined by several factors including staffing (salaries, National Insurance, pensions etc), accommodation, utilities, IT support, legal costs, software, insurance, printing, postage etc.

432. The licence fee for each type of application is then dependent on several other factors including, where relevant, the time spent on complaints, committees, inspections, advertising, administration, consultations etc.

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<sup>77</sup> Section 167A of the Equality Act 2010

<sup>78</sup> Section 170 of the Equality Act 2010

<sup>79</sup> Section 170 of the Equality Act 2010

<sup>80</sup> Section 70(1) of the Local Government (Miscellaneous Provisions) Act 1976

433. The licence fee is refundable upon request in the event of an unsuccessful application. However, the licensing authority will not reimburse the applicant for any payments made in relation to criminal record checks, insurance etc.

### **Private hire operator licence conditions**

434. The licensing authority may attach to the grant of a private hire driver licence any such conditions as they may consider reasonably necessary<sup>81</sup>.

435. Unless there are exceptional circumstances that require a different approach, the following conditions will generally be imposed on all private hire operator licences:

- 1) The record 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 (the pages of which are numbered consecutively) or by an alternative method approved in writing by the licensing authority.
- 2) The operator shall enter or cause to be entered in the record, before the commencement of each journey, the following details of every booking of a private hire vehicle accepted by him/her:
  - The time and date of the booking and how made (e.g. telephone/personal call);
  - The name and address of the hirer;
  - The date and time of pick-up;
  - The point of pick-up;
  - The destination;
  - The number of passengers to be carried;
  - The agreed fare;
  - The time at which a driver was allocated for the booking;
  - The registration number of the vehicle allocated for the booking;
  - The name and licence number of the driver allocated for the booking; and
  - Any remarks (including the details of any sub-contract).
- 3) The operator shall keep records of the particulars of all private hire vehicles operated by him/her, including details of the owners, registration numbers and drivers of such vehicles, together with any radio or other communication call signs used.
- 4) All records kept by the operator shall be preserved for a period of not less than 12 months following the date of the last entry.
- 5) The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times.
- 6) The operator shall ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place.
- 7) The operator shall keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting.
- 8) The operator shall ensure that any waiting area provided by the operator has adequate seating.
- 9) The operator shall ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.
- 10) The operator shall immediately upon receipt notify the licensing authority in writing of any complaints concerning a contract for hire or purported contract for hire

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<sup>81</sup> Section 55(3) of the Local Government (Miscellaneous Provisions) Act 1976

relating to or arising from his business and of the action (if any) which the operator has taken or proposed to take in respect thereof.

- 11) The operator or, if the operator is a company, its company secretary, shall notify the licensing authority in writing of any change of his/her address or telephone number during the period of the licence within seven days of such change taking place.
- 12) Where this licence is held by a company or partnership, any changes to the directors or partners must be notified to the licensing authority as soon as practicable and, in any case, within seven days of any such change.
- 13) The holder of this licence shall, at the earliest opportunity, and in any case within 48 hours, disclose to the licensing authority in writing the details of any arrest, criminal charge, conviction, caution, fixed penalty notice, DVLA licence endorsement or community resolution imposed upon him or her (or, in the case of a company or partnership, on any of the directors or partners).
- 14) The licensee (including any director or partner of a company or partnership) shall produce an annual basic disclosure from the Disclosure & Barring Service and, if the relevant individual has lived overseas for a period of six months or more in the previous 10-year period, a 'Certificate of Good Conduct' from the relevant country or the relevant embassy in the UK. This requirement will not apply in respect of any individuals in possession of a current hackney carriage/private hire driver or vehicle licence issued by North Yorkshire Council.
- 15) The licensee shall formulate and apply a policy on assessing the suitability of any person taking bookings and dispatching vehicles on their behalf prior to undertaking any such role. The policy must require all booking and dispatch staff to produce an annual basic DBS disclosure (this requirement will not apply to any staff members who are in possession of a hackney carriage/private hire driver or vehicle licence issued by North Yorkshire Council). The policy must also outline the standards against which any prospective employee will be considered in relation to criminal convictions.
- 16) The licensee shall keep and maintain a register of all staff responsible for taking bookings and/or dispatching vehicles. The register should contain as a minimum:
  - the name and address of each member of booking and dispatch staff;
  - a record of the private hire operator's most recent suitability assessment for each member of staff; and
  - the certificate number and issue date of the basic DBS disclosure that was considered (the issue date must be no more than three months old at the time of the assessment).
- 17) The operator shall display the operator licence issued by the Local Authority in a conspicuous position at the premises from which he/she operates the business.
- 18) Any specialist equipment provided for disabled persons shall be maintained and kept in good working order. All persons using this equipment shall be fully aware and trained in its function and use.

436. An appeal against conditions attached to a private hire licence lies to the Magistrates' Court<sup>82</sup>.

437. Any appeal must be made within 21 days following notice of a decision.

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<sup>82</sup> By virtue of section 55(4) of the Local Government (Miscellaneous Provisions) Act 1976

## **Enforcement**

438. This policy sets out the standards and guidance that will be applied by the licensing authority when acting in its role as regulator and enforcement agency for hackney carriage and private hire licensing in respect of drivers, proprietors and operators in North Yorkshire.
439. The policy applies to enforcement and regulation affecting businesses and members of the public.

## **Enforcement objectives**

440. The aim of the licensing authority is to undertake its regulatory and enforcement role in a fair, open and consistent manner. In doing this it will act in accordance with the guidance and standards set out in this policy. In particular, the licensing authority will:
- consult with parties subject to regulation and enforcement by the licensing authority about the standards it sets in undertaking this role;
  - work with individuals and businesses to assist them in complying with their legal duties and obligations;
  - ensure its staff are appropriately trained and apply the policy and standards professionally and consistently;
  - make information about the policy and the standards widely available to the public and businesses within the district;
  - monitor compliance with the policy and review it from time-to-time in consultation with interested parties; and
  - comply with the various requirements and standards of the relevant legislation, guidance, corporate policy and best practice.
441. The licensing authority has a statutory duty to ensure that drivers, vehicles and operators are appropriately licensed and carry out their trade in accordance with relevant legislation, byelaws, statutory notices and conditions.

## **Guiding principles**

442. In undertaking its regulatory and enforcement role, the licensing authority will have regard to the following guiding principles:
- any decision regarding enforcement action will be impartial and objective, and will not be affected by race, gender, sexual orientation or religious beliefs of any alleged offender, complainant or witness;
  - in dealing with any enforcement situation, the licensing authority's actions will be proportionate to the scale, seriousness and intentionality of any non-compliance;
  - there will be consistency of enforcement whilst recognising individual circumstances which may modify the appropriate action to be taken in each case;
  - except in the most serious cases, or where advice/warnings have not been heeded, adequate opportunity will be given to rectify non-compliance before formal legal action is commenced;
  - prosecution will normally only be considered where it is in the public interest to do so and in serious or blatant cases, or where other approaches have failed;
  - regard shall be had to the relevant legislation and codes of practice which protect the rights of the individual and guide enforcement action (including Human Rights Act 1998, the Regulators' Code and any relevant enforcement policies); and
  - regard shall be had to the council's equal opportunities and customer care policies.

443. Decisions about licence applications and enforcement will be consistent, balanced and fair and be made by reference to approved standards. This will ensure the safety of the public is adequately protected. The seriousness of any infringement is the starting point for action to be taken in particular circumstances. Final action taken will depend on any modifying or mitigating factors present.

### **Service standards**

444. The licensing authority will always endeavour to meet the highest standards of service in undertaking its regulatory and enforcement function. The following specific level of service standards will be applied:

- matters relating to enforcement and regulation will be dealt with promptly, with enquiries and complaints receiving a first response within three working days;
- except in the case of necessary and approved covert investigations, officers will announce themselves on arrival at vehicles or premises and show identification unless they are already well known to the person;
- officers will provide their name and a contact telephone number to those persons or businesses with whom they are in contact concerning a regulatory or enforcement matter;
- requests for service relating to enforcement or regulatory matters will normally only be dealt with if the name and address of the complainant is given. Any such identification will be treated in confidence but may need to be disclosed should formal legal proceedings be taken against the person or business to which the complaint relates. Anonymous complaints may, however, be investigated if they relate to protection of children or other vulnerable groups, or matters relating to serious safety issues etc or where the issue complained of can be determined by officers themselves without further involvement from the complainant;
- officers will be professional, courteous and helpful in their conduct of regulatory or enforcement matters and, wherever possible, will seek to work with individuals and businesses towards compliance;
- officers will endeavour to provide advice in a clear and concise manner and, where any corrective or remedial work is necessary, an explanation will be given as to why it is necessary, and over what timescale it is required;
- officers will generally seek an informal resolution to cases of non-compliance except where immediate formal enforcement action is required; and
- where there are rights of appeal against a decision of the licensing authority, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken.

### **Enforcement activities**

445. Enforcement activities will fall into the following broad areas:

- undertaking routine inspections of vehicles and operator premises;
- undertaking proactive inspections, sometimes with other agencies;
- responding to requests for service, complaints or information provided by the public, businesses and others;
- offering general and specific advice to applicants, licensees and the public about the requirements of the licensing regime; and
- taking action and, where necessary, imposing sanctions in response to breaches or the requirements of the licensing regime.

## Advice and warnings

446. Officers may provide advice (verbally or in writing) as a means of securing good conduct by licence holders. Such an approach may be appropriate where no formal action is necessary and there is a high expectation of future compliance.
447. Written warnings may be issued in instances where, again, no formal enforcement action is necessary and the consequences of any non-compliance does not pose a significant risk to public safety.
448. Any communication in this regard will evidence the licensee's knowledge of a certain issue and may be referred to in future if patterns of behaviour emerge.

## Suspension and revocation

449. A licence may be suspended where there is a need for remedial action to be taken and the licensing authority is not satisfied that the revocation of a licence is necessary.
450. A licence may be revoked where the licensing authority is not satisfied that the matter can be addressed by other means. This action may affect the livelihood of the licensee and will not be undertaken lightly. Except in instances where there is an immediate risk to public safety or the licensing authority has no discretion, the decision to revoke a licence will generally be made by the **\*insert Committee name\***

## Prosecution

451. The decision to prosecute is a serious matter and will require consultation with the relevant senior officers. Prosecution will be considered where the law is blatantly or repeatedly disregarded, legitimate instructions of the licensing authority are not followed, the public is put at serious risk and/or a significant public interest purpose would be served.

## Appeals

452. Appeals against decisions of the **\*insert Committee name\*** may be made to the Magistrates' Court or the Crown Court where appropriate.
453. Any notifications of formal enforcement action will include written information about how to appeal. This will explain how, where and within what time period an appeal may be brought and on what grounds. It will also confirm, where appropriate, that the enforcement action is suspended pending the outcome of any appeal.

## Complaints about licence holders

454. Members of the public are able to make complaints to the licensing authority about the conduct and/or service received from licensees. Complaints can be made:
- by post to North Yorkshire Council, **\*insert address\***
  - by email to **\*insert email address\***
  - online via **\*insert web address\***
455. The licensing authority will adhere to the following procedure:
- ascertain the facts regarding the complaint and decide if action is required;
  - register the complaint and refer it to an investigating officer;

- contact the complainant within 5 working days;
  - investigate the complaint;
  - make a decision; and
  - inform all parties of that decision
456. Licence holders who are the subject of a complaint will be informed of the nature of the complaint and, if necessary, given sufficient notice to attend any interview.
457. The outcome of the investigation will be implemented in accordance with this policy.
458. Disputes between licensees should be resolved between themselves and not through this procedure.
459. If there is evidence relating to alleged criminal offences, this will be referred to North Yorkshire Police.
460. Where the licensing authority has information about a hackney carriage or private hire driver licensed by another authority that is relevant to safeguarding or road safety concerns in its area, it must share that information with the authority that issued that driver's licence within 10 working days<sup>83</sup>.
461. Where the licensing authority has received a report of safeguarding or road safety concerns about a driver licensed by North Yorkshire Council, it must consider whether to suspend or revoke the driver's licence. The licensing authority must give notice of any action taken or proposed to the reporting authority within 20 working days of receiving the concerns<sup>84</sup>.

### **Complaints about the service**

462. Any dissatisfaction with the actions of an officer of the council will be dealt with under the council's corporate complaints procedure, copies of which are available from **\*insert details\***

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<sup>83</sup> Section 5 of the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

<sup>84</sup> Section 6 of the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

## **Applicant suitability and criminal convictions**

463. The licensing authority will utilise the following guidelines when determining applications for licences. However, each case will be considered on its individual merits and, where the circumstances demand, the committee or officer may depart from the guidelines.
464. A person with a conviction for a serious offence would normally be expected to remain free of conviction for an appropriate period and show adequate evidence that they are suitable to hold a licence (the onus is on the applicant to produce such evidence).
465. Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is suitable to hold a licence.
466. Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction<sup>85</sup>.
467. Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions<sup>86</sup> and therefore all criminal convictions can be taken into account in assessing suitability. The licensing authority will therefore have regard to all relevant convictions, particularly where there is a history of offending or a pattern of repeat offending.
468. Case law has established that the impact of losing (or not being granted) a licence on the applicant and their family is not a relevant consideration for the licensing authority to take into account<sup>87</sup>. The licensing authority must focus on the impact of the individual’s character on members of the public. Personal circumstances and any perceived financial hardship will not be considered relevant for these purposes.
469. One common misunderstanding is that, if the offence was not committed when the individual was driving a licensed vehicle, it is less serious. The same misunderstanding exists for offences committed in licensed vehicles but not when passengers were aboard. However, this is not relevant. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. Any behaviour that puts any member of the general public at risk will be considered relevant.
470. If an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority may consider:
- How relevant the offences are to the licence being applied for;
  - How serious the offences were;
  - When the offences were committed;
  - The date of conviction;
  - The sentence imposed by the court;
  - The applicant’s age at the time of conviction;
  - Any patterns of offending;
  - Any other character check considered reasonable (e.g. personal references); and
  - Any other factors that might be relevant.

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<sup>85</sup> *Nottingham City Council v. Mohammed Farooq* (1998)

<sup>86</sup> The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002

<sup>87</sup> *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin) and *Cherwell District Council v Anwar* [2011] EWHC 2943 (Admin)

471. These guidelines will apply equally to existing licence holders as they do to new applicants in determining suitability. Therefore, if a new applicant would be refused on the basis of their individual circumstances, a revocation would be an appropriate sanction for an existing licence holder under the exact same circumstances.

### **Misleading information**

472. It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence.

473. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

### **Violence**

474. Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence.

475. A licence will not normally be granted where the applicant has a conviction for an offence such as:

- Murder;
- Manslaughter;
- Manslaughter or culpable homicide while driving;
- Terrorism offences;
- Crimes resulting in death; or
- Any similar offences (including attempted or conspiracy to commit) which replace the above.

476. Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

477. Allegations of violence will be investigated as and where appropriate. No licence will be granted unless the licensing authority is satisfied on the balance of probability that the applicant is a fit and proper person.

### **Public order and criminal damage**

478. Where an applicant has a conviction for one of the below offences, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed:

- Racially aggravated criminal damage;
- Racially aggravated offence; or
- Any similar offences (including attempted or conspiracy to commit) which replace the above.

479. Where an applicant has a conviction for one of the below offences, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed:

- S5 Public Order Act 1986 offence (harassment, alarm or distress);

- S4 Public Order Act 1986 offence (fear of provocation of violence);
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress);
- Obstruction;
- Criminal damage; or
- Any similar offences (including attempted or conspiracy to commit) which replace the above.

### **Possession of a weapon**

480. Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

### **Safeguarding and exploitation**

481. Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not generally be licensed. This includes sexual offences, slavery, child sexual abuse, exploitation, grooming, indecent exposure, soliciting and psychological, emotional or financial abuse, but this is not an exhaustive list.

482. The licensing authority will not normally grant a licence to any applicant who is currently on the adult's or children's barred lists maintained by the DBS.

483. In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.

484. Allegations of sexual offences will be investigated as and where appropriate. No licence will be granted unless the licensing authority is satisfied on a balance of probability that the applicant is a fit and proper person.

### **Dishonesty**

485. A licensed driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deposit such property with police within 24 hours. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

486. Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. This includes (but is not limited to) the following offences:

- Theft;
- Burglary;
- Fraud;
- Benefit fraud;
- Handling or receiving stolen goods;
- Forgery;
- Conspiracy to defraud;

- Obtaining money or property by deception;
- Other deception;
- Taking a vehicle without consent; or
- Any similar offences (including attempted or conspiracy to commit) which replace the above.

487. A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

## **Drugs**

488. A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

489. Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

490. Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed.

491. If there is evidence of persistent drugs use, misuse or dependency, a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict, then they would normally be required to show evidence of five years free from drug taking after detoxification treatment. In these circumstances, the applicant may have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

492. A licence will not normally be granted if an applicant has more than one conviction for a drug related offence.

## **Discrimination**

493. Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

## **Motoring Offences**

494. A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

495. A licence will not normally be granted where the applicant has a conviction for an offence such as:

- Causing death by dangerous driving;
- Causing death by careless driving whilst under the influence of drink or drugs;
- Causing death by driving whilst unlicensed, disqualified or uninsured; or
- Any similar offences.

496. Where an applicant has a conviction for driving with no insurance, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed.

497. As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.
498. Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:
- are much less aware of what's happening on the road around them;
  - fail to see road signs;
  - fail to maintain proper lane position and steady speed;
  - are more likely to 'tailgate' the vehicle in front;
  - react more slowly, take longer to brake and longer to stop;
  - are more likely to enter unsafe gaps in traffic; and
  - feel more stressed and frustrated.
499. Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.
500. A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.
501. Convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence will be taken into account. In certain instances, it may be appropriate to issue a licence for a shorter period of time than the standard duration and it may also be appropriate to issue a warning as to future driving conduct. If a significant history of offences is disclosed, applications will normally be refused.
502. Applicants and licensed drivers with nine or more penalty points endorsed on their driving licence in any rolling three-year period will normally be refused or revoked and will not normally be granted a licence until at least three years have elapsed from the date of the last offence.
503. Applicants who have been disqualified from driving will not normally be granted a licence unless they have held a licence for at least three years following the expiry of the period of disqualification without receiving any further penalty points.
504. Allegations of erratic or dangerous driving will be investigated as and when appropriate. No licence will be granted unless the licensing authority is satisfied on a balance of probability that the applicant is a fit and proper person.

### **Licensing offences**

505. Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

506. A licence will not normally be granted if an applicant has more than one conviction for a licensing-related offence.

### **Other offences**

507. Where an applicant/licensee is convicted of an offence which is not detailed in this policy, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.

### **Non-conviction information**

508. If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration will be given to refusing the application. In assessing the action to take, the safety of the travelling public must be the paramount concern.

509. An admission of guilt is required before a caution can be issued and therefore cautions will be taken into consideration in the same way that they would if there was a conviction. The same applies to fixed penalties and community resolutions. Each case will be considered on its own merits including the details and nature of the offence.

### **Licence holders**

510. If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

511. Applicants who hold a licence with another licensing authority should not automatically assume that their application will be granted by North Yorkshire Council. Each case will be decided on its own merits.

512. Licensees who are licensed by one or more other authorities should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

### **Summary**

513. To summarise, a criminal history in itself may not automatically result in refusal and a conviction for a serious crime need not bar an applicant permanently from becoming licensed. Some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

514. While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction.

515. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person's ability to sustain such change.