

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE – 24 NOVEMBER 2010

Title of report	REVIEW OF PRIVATE HIRE OPERATOR LICENCE CONDITIONS
Contacts	<p>Portfolio Holder - Councillor Alison Smith 01530 835668 alison.smith@nwleicestershire.gov.uk</p> <p>Commercial Services Manager 01530 454610 lee.mansfield@nwleicestershire.gov.uk</p> <p>Licensing Enforcement Officer 01530 4545838 emma.mchugh@nwleicestershire.gov.uk</p>
Purpose of report	For Members to consider the approval of the revised private hire operator's licence conditions.
Strategic aims	Strong and Safer Communities Prosperous Communities
Implications:	
Financial/Staff	All staffing costs associated with the preparation, consultation, adoption and enforcement of the conditions can be met by the existing level of staffing.
Link to relevant CAT	Safer CAT
Risk Management	All proposed conditions relate to the promotion of public, driver or passenger safety.
Equalities Impact Assessment	Equality Impact Assessment to be undertaken during 2010/2011.
Human Rights	Under Article 8, no unfair hindrance should be set up to the carrying out to the proprietors and drivers of legitimate business.
Transformational Government	Not applicable
Comments of Head of Paid Service	Report is satisfactory

Comments of Section 151 Officer	Report is satisfactory
Comments of Monitoring Officer	Report is satisfactory
Consultees	All current private hire operators, Leicestershire County Council, Leicestershire Constabulary, NWLDC Staff Disability Focus Group and onward transmission to other disability groups, The British Chambers of Commerce, Arriva Midlands, Campaign for better Transport 2000, Department for Transport, District Councillors, Parish Councils, Leicestershire County Council, Department of Transport.
Background papers	Taxi and Private Hire Vehicle Licensing Best Practice Guide available from www.dft.gov.uk Local Government (Miscellaneous Provisions) Act 1976 available from www.opsi.gov.uk Disability Discrimination Act 2005 available from www.opsi.gov.uk
Recommendations	<p>(A) TO APPROVE THE REVISED PRIVATE HIRE OPERATOR LICENCE CONDITIONS.</p> <p>(B) AUTHORISATION TO MAKE MINOR AMENDMENTS TO THE OPERATOR CONDITIONS TO BE DELEGATED TO THE DIRECTOR OF SERVICES IN CONSULTATION WITH THE PORTFOLIO HOLDER.</p>

1. LEGISLATION

- 1.1 Under section 55(3) of the Local Government (Miscellaneous Provisions) Act 1976 (LG(MP)A) the District Council 'may attach to the grant of a licence under this section such conditions as they consider reasonably necessary.'

2. BACKGROUND

- 2.1 The current conditions attached to private hire operator licences were approved by Executive Committee on 1st August 2001.
- 2.2 In reviewing the current operator conditions account has been taken of the current edition of the Department for Transport Taxi and Private Hire Vehicle Licensing Best Practice Guide issued in February 2010.
- 2.3 A copy of the current private hire operator conditions is attached at Appendix 1.

3. SUMMARY OF AMENDMENTS

- 3.1 The draft operator conditions are attached as Appendix 2.

3.2 The following is a list of the significant changes to the private hire operator conditions:

Records

- Requirement to keep records relating to Private hire vehicles expanded.
- New requirement to keep an up to date record of all drivers.

Nominated Persons

- If the operator is a limited company, new requirement to nominate a person to be in charge of the day to day running of the operator business.
- Any changes to the nominated person must be notified to the Council within 7 days.

Service Standards

- Where the fee is agreed in advance, the operator shall ensure that no more than the agreed fare is paid.

Complaints

- New requirement to display a notice at the premises informing the public how they can complain.
- Details required when recording service complaints made more explicit.
- New requirement to notify licensing authority of any unresolved complaints.

Convictions

- Requirement to notify us within 7 days of details of convictions extended to arrest, interview, caution and fixed penalty notice.

Staff

- New requirement to encourage and assist drivers in reporting racist behaviour, verbal or physical assaults to Police and Council (template reporting form available on web pages).
- New requirement for operators to take all reasonable steps to ensure that drivers of vehicles employed, used or controlled by him comply with the conditions attached to their PHD licence.

Vehicle insurance, tax and MOT

- Where an operator has fleet insurance policy with vehicle owners and drivers renewing cover on a weekly basis, the operator shall supply to the Council on a weekly basis details of all vehicles and drivers covered by that insurance. (new requirement)

Vehicle Licences

- Operators must report any damage to a vehicle within 72 hours. Damage to be repaired within timescales agreed with the Council. (new requirement)

- Operator must ensure that all vehicles operating for the company are maintained in a safe, comfortable clean and tidy condition whether or not the operator owns the vehicle. (new requirement)
- Operator shall have in place an inspection schedule to show that vehicles are being inspected. Schedule must be submitted to the Council upon request. Must include details of frequency of check and what items were checked and any works carried out. (new requirement)
- Operator must ensure that all mandatory door signs are displayed (new requirement)

Compliance

- New requirement to take all reasonable steps to ensure that all drivers, staff and vehicle licence licensees observe and perform the conditions of their licences and do not commit any offences under the Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976, Disability Discrimination Act 1995 & 2005 and any general Road Traffic Laws.

5. CONSULTEES

5.1 The following is a list of relevant bodies and organisations involved in the consultation process:

- Private hire operators;
- Leicestershire Constabulary;
- NWLDC Staff Disability Focus Group and onward transmission to other disability groups in the District;
- Leicestershire County Council;
- The British Chambers of Commerce;
- Arriva Midlands;
- Campaign for Better Transport 2000;
- Department for Transport;
- All District Councillors;
- All Parish Councils.

Details were also posted on the Council's web site for the duration of the consultation.

5.2 The consultation process began on 16th July 2010 and ended on 8th October 2010.

5.3 A schedule detailing the responses received is attached as Appendix 3. The responses have been considered by Officers and the Commercial Services Manager. Following the consultation exercise, the operator conditions have been amended to incorporate the relevant responses as indicated in the schedule.

6. IMPLEMENTATION DATES

6.1 The implementation date for the revised private hire operator conditions will be 1st December 2010.

**PRIVATE HIRE OPERATOR'S LICENCE
CONDITIONS OF LICENCE**

Section 55(3) of the Local Government (Miscellaneous Provisions) Act 1976 states that "A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary".

1. RECORDS

- (a) 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 or ledger which has consecutively numbered pages.
- (b) The operator shall enter in the record book, before the commencement of each journey, the following particulars of every booking of a private hire vehicle invited or accepted by him:
 - (i) the day, time and date that the booking was made.
 - (ii) the details (ie name, address and telephone number) of the hirer.
 - (iii) the day, time, date and location(s) of the pick-up points of the hirer.
 - (iv) the location of the destination.
 - (v) the registration number, plate number or call sign of the vehicle and the name of the driver allocated for the booking.
 - (vi) remarks (including details of whether the booking is a sub-contract from another operator or is to be sub-contracted by the operator).
 - (vii) the fare quoted for the journey.
- (c) The operator shall also keep records of the particulars of all private hire vehicles operated by him, which particulars shall include details of the owners, registration numbers and drivers of such vehicles, together with any radio call sign used.
- (d) The operator shall keep all records for a period of not less than 6 months following the date of the last entry.
- (e) If a computer system is used, the operator must be able to provide a print out of the particulars of every booking.

2. STANDARD OF SERVICE

The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times and shall in particular:

- (a) Ensure that, when a private hire vehicle has been hired to be in attendance at an appointed time and place, the driver attends punctually at that appointed time and place, unless delayed or prevented by some sufficient cause.
- (b) Keep clean, adequately heated, ventilated and lit any part of the premises provided for the public, whether for the purpose of making a booking or waiting.
- (c) Ensure that any public waiting area at the premises has adequate seating facilities.
- (d) Ensure that any telephone facilities and radio equipment provided at the premises are maintained in a safe condition and comply with statutory requirements.

3. COMPLAINTS

The operator shall keep a record of any complaints received in respect of the operation of the private hire business and the details of any action which the operator has taken or proposes to take in respect of a complaint.

4. CHANGE OF ADDRESS

The operator shall notify the Council in writing of any change of his address (including any address from which he operates or otherwise conducts his business as an operator) during the period of the licence within 7 days of such change. A revised licence will be issued at no cost.

5. CONVICTIONS

The operator shall within 7 days disclose to the Council in writing details of any conviction (motoring or otherwise) imposed on him (or if the operator is a company or partnership, on any of the directors or partners) during the period of the licence.

6. STAFF

The operator shall notify the Council within 7 days of the termination of employment or of operation of any private hire driver or of any private hire vehicle.

7. INSURANCE, TAX AND MOT

The operator shall ensure that every private vehicle operated by him/her in accordance with this licence is covered by a valid policy of insurance for private hire (or such security as complies with statutory requirements), is taxed and has (if necessary) a current MOT certificate.

8. COPY OF CONDITIONS

The operator shall at all times keep a copy of these conditions on any premises used for the purpose of the private hire business and shall make it available for inspection by the hirer or any other passenger on request.

9. PRIVATE HIRE DRIVER AND VEHICLE LICENCES

The operator shall ensure that any driver who is used to drive a private hire vehicle and any vehicle used as a private hire vehicle are in possession of a valid private hire driver's licence and valid private hire vehicle licence issued by North West Leicestershire District Council.

If you are aggrieved by any of the conditions attached to the grant of this licence you may appeal to a magistrates' court within 21 days of the service of the licence on you (Section 55(4) of the 1976 Act).

NOTES:

(i) FAILURE TO COMPLY WITH ANY OF THE CONDITIONS ATTACHED TO THIS LICENCE MAY RESULT IN PROSECUTION AND THE SUSPENSION OR REVOCATION OF THE PRIVATE HIRE OPERATOR'S LICENCE.

(ii) IN ADDITION TO THE PRIVATE HIRE OPERATOR LICENCE CONDITIONS, AN OPERATOR MUST HAVE REGARD TO ALL STATUTORY PROVISIONS WHICH RELATE TO PRIVATE HIRE OPERATORS.

A. A private hire operator's licence is not transferable and it does not authorise the licensee to operate from any address other than the address specified on the operator's licence.

B. Application for the renewal of the operator's licence should be made to the Head of Environmental Health on the prescribed form which is available from the Council Offices, Coalville. All licence holders will be sent a reminder and the necessary forms for renewal in advance of the expiry of the licence. Please note, however, that the responsibility for renewal rests with the licence holder. Reminder letters are sent purely as a courtesy.

C. Any authorised officer of the District Council or a police constable can, on request, inspect the records maintained, by virtue of section 56(2) and (3) of the 1976 Act. Section 56(4) allows inspection of the licence granted to the operator by an authorised officer of the Council or a police constable.

D. The grant of an operator's licence does not allow the use of premises as a private hire operator's base in the absence of planning permission. It is the licensee's responsibility to check with the District Council's Planning and Development Services at the Council Offices, Coalville whether planning permission is required and to submit a planning application if necessary.

HCPH55



**PRIVATE HIRE OPERATOR LICENCE
CONDITIONS**

DRAFT

Section 55(3) of the Local Government (Miscellaneous Provisions) Act 1976 states that “A District Council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary”.

1. RECORDS

- (a) 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 or ledger which has consecutively numbered pages or on a computer system where a print out of the details of every booking can be provided when requested to do so by an Authorised Officer.
- (b) The operator shall enter in the record book, before the commencement of each journey, the following particulars of every booking of a private hire vehicle invited or accepted by him:
- (i) the day, time and date that the booking was made;
 - (ii) the details (i.e. name, address and telephone number) of the hirer;
 - (iii) the day, time, date and location(s) of the pick-up points of the hirer;
 - (iv) the location of the destination;
 - (v) the registration number, plate number or call sign of the vehicle and the name of the driver allocated for the booking;
 - (vi) remarks (including details of whether the booking is a sub-contract from another operator or is to be sub-contracted by the operator);
 - (vii) the fare quoted for the journey.
- (c) The operator shall also keep a record of any private hire vehicle operated by him showing the following details:
- (i) make of the vehicle;
 - (ii) model of the vehicle;
 - (iii) manufacturer of the vehicle;
 - (iv) registration number of the vehicle;
 - (v) proprietor and driver(s) of the vehicle;
 - (vi) any radio call sign of the vehicle;
 - (vii) private hire vehicle licence number;
 - (viii) the date of the expiry of the private hire vehicle licence;
 - (ix) details of insurance to include date of expiry and the insurance provider.
- (d) The operator must keep an up to date schedule of all drivers he employs or uses (“the Operator Driver Schedule”). The Operator Driver Schedule must record the following information:
- (i) name of the driver;
 - (ii) address of the driver;
 - (iii) contact details;
 - (iv) date of expiry of his private hire driver’s licence;
 - (v) date of his next medical;
 - (vi) record date when the CRB will be 3 years old;
 - (vii) date of expiry of his DVLA driving licence;
- (e) The operator shall keep all records for a period of not less than 6 months following the date of the last entry. All records must be made available for inspection when requested to do so by an Authorised Officer.

2. NOMINATED PERSON

- (a) If the operator is a limited company then a person should be nominated who is in charge of the day to day running of the operator's business. This nomination should be notified to the Council.
- (b) Any changes to the nominated person should be notified in writing to the Council within 7 days.

3. STANDARD OF SERVICE

- (a) The operator shall provide a prompt, efficient and reliable service to members of the public at all times and shall in particular:
 - (i) Ensure that, when a private hire vehicle has been hired to be in attendance at an appointed time and place, the driver attends punctually at that appointed time and place, unless delayed or prevented by some sufficient cause.
 - (ii) Keep clean, adequately heated, ventilated and lit any part of the premises provided for the public, whether for the purpose of making a booking or waiting.
 - (iii) Ensure that any public waiting area at the premises has adequate seating facilities.
 - (iv) Ensure that any telephone facilities and radio equipment provided at the premises are maintained in a safe condition and comply with statutory requirements.
 - (v) Where the fee is agreed in advance, the operator shall ensure that no more than the agreed fare is paid.
 - (vi) Where a request for a hiring is received and the vehicle to be used for that hiring is not fitted with a meter, the operator must inform the person making the booking and shall not accept the booking without first telling that person the basis of the hire charge (and if requested, put that information in writing).

4. COMPLAINTS

- (a) In any part of the premises to which the public have access, the operator shall prominently display a notice stating that "All complaints, compliments and comments are welcomed and should be directed in the first instance to: (Name of the Nominated Person)". The notice should also state "If your complaint is not adequately dealt with, please contact the District Council's Licensing Section on 01530 454545."
- (b) On receipt of a complaint, the operator shall document in a suitably bound book or on any other approved system, the following information:
 - (i) date and time of complaint;
 - (ii) contact details of the complainant;
 - (iii) name of driver(s) against whom the complaint has been made;
 - (iv) badge number of driver;

- (v) vehicle registration number;
- (vi) details of allegation including complaints of dissatisfaction with service delivery or any alleged breach of contract with the operator;
- (vii) date investigation was completed;
- (viii) action taken.

A complaint template can be downloaded from www.nwleics.gov.uk

- (c) The complaint records referred to above shall be held and secured at the operators business address and shall be immediately available at the request of an Authorised Officer or Police Officer at all reasonable times. Records shall be kept for a period of one year.
- (d) The operator shall, within 7 days from the date of receipt of any complaint, notify the Council in writing of any unresolved complaint received by the operator.

5. CHANGE OF ADDRESS

The operator shall notify the Council in writing of any change of his address (including any address from which he operates or otherwise conducts his business as an operator) during the period of the licence within 7 days of such change. A revised licence will be issued at no cost.

6. CONVICTIONS

The operator must notify the Council in writing, within 7 days, details of any interview, arrest, conviction, caution or Anti-Social Behaviour Order (ASBO) by the Police or other Licensing Authority in respect of any matter AND any fixed penalty notice (motoring or otherwise) imposed on him or the Nominated Person during the period of the licence. If the operator is a company or partnership, any action listed above taken against the company or any of the directors or partners must also be notified to the Council.

7. STAFF

- (a) The operator shall notify the Council within 7 days of the commencement of employment of any private hire driver.
- (b) The operator shall notify the Council within 7 days of the termination of employment or of operation of any private hire driver or of any private hire vehicle.
- (c) The operator shall notify in writing to the council within 7 days of the termination of any arrangement which the operator provides a service of a driver who is self employed.
- (d) The operator shall encourage and assist drivers in reporting racist or homophobic behaviour, verbal and physical assaults on drivers to the Police and Council. A template incident reporting form for staff is available to download at www.nwleics.gov.uk.
- (e) The operator shall take all reasonable steps to ensure that drivers of vehicles employed, used or controlled by him comply with the conditions attached to their private hire vehicle driver's licence and all other relevant statutory requirements.

8. VEHICLE INSURANCE, TAX AND MOT

- (a) The operator shall ensure that every private vehicle operated by him/her in accordance with this licence is covered by a valid policy of insurance for private hire (or such security as complies with statutory requirements), is taxed and has (if necessary) a current MOT certificate.
- (b) Where the operator has in force a fleet insurance policy with vehicle owners and drivers renewing their insurance cover on a weekly basis, the operator shall supply to the Council on a weekly basis (or a lesser frequency as agreed with the Licensing Officer) the details of all vehicles and drivers covered by that insurance.

9. COPY OF CONDITIONS

The operator shall at all times keep a copy of these conditions on any premises used for the purpose of the private hire business and shall make it available for inspection by the hirer or any other passenger on request.

10. VEHICLE LICENCES

- (a) The operator must report in writing any damage that affects the safety, performance or appearance or the comfort or convenience of passengers carried therein of any private hire vehicle that is owned, used or controlled by him to the Council within 72 hours. Any damages so reported must be repaired within a specified timescale agreed by the Council.
- (b) The operator must ensure that all vehicles operating for the company are maintained in a safe, comfortable, clean and tidy condition at all times whether or not the operator owns the vehicle. The operator must ensure that at all times all vehicles meet all relevant legal obligations including the vehicle conditions imposed by the Council.
- (c) The operator must have in place a schedule to ensure that all vehicles are visually inspected on a daily basis. A record of the visual inspection shall be kept for a period of at least 6 months. Any defects identified must be repaired within a reasonable amount of time as agreed by the Council.
- (d) The operator shall be responsible for every contract for the hire of a private hire vehicle and shall ensure that every private hire vehicle whether or not the operator provides the vehicle is in possession of a current licence granted under the provisions of the Local Government (Miscellaneous Provisions) Act 1976.
- (e) The operator shall ensure that all mandatory door signs are displayed at all times on private hire vehicles (unless an exemption is in place) operating from his/her company and that all such signs on all private hire vehicles operating from his/her company are of the same design and style.

11. DRIVER LICENCES

The operator shall be responsible for every contract for the hire of a private hire vehicle and shall ensure that every private hire driver is in possession of a current licence granted under the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

12. COMPLIANCE

The operator shall take all reasonable steps to ensure that all drivers, staff and vehicle licence licensees observe and perform the conditions of their licences and do not commit any offences under the Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976, Disability Discrimination Act 1995 & 2005 and any general Road Traffic Laws.

If you are aggrieved by any of the conditions attached to the grant of this licence you may appeal to a magistrates' court within 21 days of the service of the licence on you (Section 55(4) of the 1976 Act).

NOTES:

(i) FAILURE TO COMPLY WITH ANY OF THE CONDITIONS ATTACHED TO THIS LICENCE MAY RESULT IN THE SUSPENSION OR REVOCATION OF THE PRIVATE HIRE OPERATOR'S LICENCE.

(ii) IN ADDITION TO THE PRIVATE HIRE OPERATOR LICENCE CONDITIONS, AN OPERATOR MUST HAVE REGARD TO ALL STATUTORY PROVISIONS WHICH RELATE TO PRIVATE HIRE OPERATORS.

A. A private hire operator's licence is not transferable and it does not authorise the licensee to operate from any address other than the address specified on the operator's licence.

B. Application for the renewal of the operator's licence should be made to the Head of Environmental Health on the prescribed form which is available from the Council Offices, Coalville. All licence holders will be sent a reminder and the necessary forms for renewal in advance of the expiry of the licence. Please note, however, that the responsibility for renewal rests with the licence holder. Reminder letters are sent purely as a courtesy.

C. Any authorised officer of the District Council or a police constable can, on request, inspect the records maintained, by virtue of section 56(2) and (3) of the 1976 Act. Section 56(4) allows inspection of the licence granted to the operator by an authorised officer of the Council or a police constable.

D. The grant of an operator's licence does not allow the use of premises as a private hire operator's base in the absence of planning permission. It is the licensee's responsibility to check with the District Council's Planning and Development Services at the Council Offices, Coalville whether planning permission is required and to submit a planning application if necessary.

I confirm that I have read and understood the above conditions. I will comply with the conditions at all times. I understand that any breach of these conditions may result in the suspension or revocation of my private hire operator's licence.

Print Name.....

Signed

Dated

DOCUMENT HISTORY

Issue Number	Issue Date	Approved By
1	1 August 2001	Executive Committee
2		

DRAFT

LICENSING COMMITTEE – 24TH NOVEMBER 2010

COMMENTS ON REVISED PRIVATE HIRE OPERATOR CONDITIONS

From	Comments	Included in Policy
Passenger Transport Agency at Leicestershire County Council	See attached email – Appendix 4	Comments regarding records and complaints have been incorporated.
NWLDC Staff Disability Focus Group	Font size to be increased to Council's standard.	Font and size changed to reflect the Council's standard.
Disabled Working Group at Leicestershire County Council	No comments made on the operator conditions	N/A
Long Whatton & Diseworth Parish Council	No comments	N/A