

# Public Document Pack



**COTSWOLD  
DISTRICT COUNCIL**

Tuesday, 2 March 2021

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## PLANNING AND LICENSING COMMITTEE

A meeting of the Planning and Licensing Committee will be held remotely, via Cisco Webex on Wednesday, 10 March 2021 at 10.00 am.

Rob Weaver  
Chief Executive

To: Members of the Planning and Licensing Committee  
(Councillors Councillor Ray Brassington, Councillor Patrick Coleman, Councillor Stephen Hirst, Councillor Nikki Ind, Councillor Sue Jepson, Councillor Julia Judd, Councillor Richard Keeling, Councillor Juliet Layton, Councillor Dilys Neill, Councillor Gary Selwyn and Councillor Clive Webster)

Due to the current social distancing requirements and guidance relating to Coronavirus Regulations 2020 – Part 3 – Modification of meetings and public access requirements this meeting will be conducted remotely using Cisco Webex.

Members of the public will be able to follow the proceedings through a broadcast on

Cotswold District Council, Trinity Road, Cirencester, Gloucestershire, GL7 1PX

Tel: 01285 623000 [www.cotswold.gov.uk](http://www.cotswold.gov.uk)

[Cotswold District Council Facebook account](#) (You do not need a Facebook account for this).

Recording of Proceedings – The law allows the public proceedings of Council, Cabinet, and Committee Meetings to be recorded, which includes filming as well as audio-recording. Photography is also permitted.

As a matter of courtesy, if you intend to record any part of the proceedings please let the Committee Administrator know prior to the date of the meeting.

# AGENDA

1. Apologies
2. Substitute Members  
To note details of any substitution arrangements in place for the Meeting.
3. Declarations of Interest  
To receive any declarations of interest from Members and Officers, relating to items to be considered at the meeting.
4. Minutes (Pages 5 - 10)  
To confirm the minutes of the meeting of the Committee held on 10 February 2021.
5. Chair's Announcements (if any)
6. Cotswold District Council's Hackney Carriage and Private Hire Licensing Policy Review (Pages 11 - 166)  
To provide the Planning and Licensing Committee with an opportunity to review the Draft Common Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire in advance of a consultation exercise.
7. Amendment to Cotswold District Council's Street Trading Policy (Pages 167 - 186)  
To request that the Planning and Licensing Committee amend the annual renewal date for Street Trading Consents.
8. Schedule of Applications (Pages 187 - 232)  
To consider and determine the applications contained within the enclosed schedule:

Application No:	Description:	Ward Councillor(s):	Case Officer/Page No:
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20/02374/FUL	Change of use of agricultural buildings to flexible office & storage use, construction of new office hub building & new agricultural buildings, along with associated infrastructure at Land At Calmsden Estate, Calmsden, North Cerney.	Councillor Jenny Forde	Martin Perks
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9. Sites Inspection Briefing (to be held virtually)

Members for Wednesday 7 April 2021 (if required):

Councillors Juliet Layton, Ray Brassington, Stephen Hirst, Julia Judd, Gary Selwyn.

10. Licensing Sub-Committee (to be held virtually)

Members for Wednesday 28 April 2021 (if required)

Councillors Ray Brassington, Patrick Coleman, Nikki Ind, Sue Jepson, Richard Keeling.

(END)





**COTSWOLD**  
DISTRICT COUNCIL

Planning and Licensing Committee  
10 February 2021

## **Minutes of a meeting held remotely of Planning and Licensing Committee held on 10 February 2021**

Councillors present:

Juliet Layton - Chair  
Patrick Coleman  
Stephen Hirst  
Nikki Ind  
Sue Jepson

Ray Brassington - Vice-Chair  
Julia Judd  
Richard Keeling  
Dilys Neill  
Gary Selwyn

Clive Webster

Officers present:

Team Leader - Development  
Management  
Legal Services Manager  
Democratic Services

Senior Case Officers  
Service Leader - Licensing

Observers:

Tony Berry.

PL.87 No apologies had been received.

PL.88 **Substitute Members**

There were no substitute Members.

PL.89 **Declarations of Interest**

There were no declarations of interest from Members or Officers.

PL.90 **Minutes**

**RESOLVED** that the Minutes of the Meeting of the Meeting of the Committee held on 13 January 2021 be approved as a correct record.

**Record of Voting - for 9, against 0, abstention 2, absent 0.**

PL.91 **Chair's Announcements**

There were no announcements from the Chair.

PL.92 **Cotswold District Council's Statement of Licensing Policy under the Licensing Act 2003**

The Committee was requested to consider a Draft Statement of Licensing Policy prior to formal consultation. The Statement would outline the principles the Council would apply when exercising its functions under the Licensing Act 2003 from July 2021 when the document was expected to be adopted by the Council.

The Service Leader - Licensing introduced the report and responded to various questions from Members.

A Member requested that with regard to noise management plans referred to in paragraph 6.3 of the Policy, the word 'are' be replaced with 'include' to read, 'examples where they (Noise Management Plans) include outdoor events or late evening venues'. In addition, in paragraph 10.6 that mention be made to communication which he considered was essential prior to any public event.

**RESOLVED that the Draft Statement of Licensing Policy be approved for consultation.**

**Record of Voting - for 11, against 0, abstention 0, absent 0.**

PL.93 **Consideration of Licence Deferrals**

The Committee was requested to consider whether licences could be deferred until a later date to assist licence holders during the Covid-19 pandemic.

The Service Leader - Licensing introduced the report and responded to various questions from Members.

A Member commented if the deadline of the 31 December 2021 was suitable given the Christmas holiday period and if the deadline could be extended to 31 January 2022. In response, the Service Leader confirmed this would be possible as there would be no risk of legal implications arising from this extension.

A Proposition, that the Officer's recommendation be supported, subject to the amendment of the renewal date to 31 January 2022, was duly Seconded.

**RESOLVED that any licence holders that have licence renewals due before 30 September 2021 be deferred until 31 January 2022.**

**Record of Voting - for 11, against 0, abstention 0, absent 0.**

PL.94 **Schedule of Applications**

**20/03998/FUL**

**Demolition of 4 existing dwellings and outbuildings and erection of 4 dwellings, carports and all associated works at 1-4 Orchard Cottages and Adjacent Land, Station Road, Ebrington.**

The Case Officer drew attention to additional information and then displayed a map of the site and aerial photograph, layout plan, existing and proposed elevations, a Google virtual street view and photographs of the site from various vantage points.

The Committee Officer then read out comments on behalf of the Parish Council.

The Ward Member, who served on the Committee, was then invited to address the Committee. The Ward Member explained that she had referred the application to the Committee on material grounds only and on the basis that she considered the proposed Cotswold stone usage would look out of place in the area which heavily featured red brick, owing to the connection and history of the nearby railway. She added that whilst Cotswold stone was seen in the village of Ebrington, Station Road was visible from the Campden Road and this would only add to highlighting the unsuitability of the proposed materials. The Ward Member concluded that whilst the proposals were not for an overly large building, if constructed of brick this had the potential to be a more affordable property and that the Committee's responsibility should be to ensure that the area reflected the Cotswold Design Code.

In response to various questions from Members it was reported that the existing properties were circa 100 years old and did not meet any historic criteria for non-designated heritage assets; there was no existing Local Plan policy which covered assessing the carbon impact of the proposals and therefore the proposals were dependent on building control regulations; the Committee's consideration need to be based upon the materials proposed and a refusal reason could not be based upon the Committee's wish for a different proposed material to be used; Officers considered the most suitable coloured material was honey stone which was available from a local quarry; Policy DS4 did not preclude the demolition of buildings, or the requirement to justify any demolition; the Applicant had confirmed that a private sewage system would be used; the Applicant had expressed a wish to use natural stone in place of brick.

Some Members expressed that they considered the view of the Parish Council, who had expressed its wish for a different material other than Cotswold stone to be used, should be noted and supported by the Committee.

Various Members commented that whilst they were sympathetic to the Parish Council, the application would be difficult to refuse, as there were numerous examples within the area of where different material properties of contrasting styles had been built together.

A Proposition, that the application be approved, subject to the inclusion of an amendment in relation to lighting (to cover its impact on the Cotswolds AONB) being conditioned, was duly Seconded.

The Ward Member was invited to address the Committee again. She commented that she supported the Parish Council's view and that if built in Cotswold stone, the properties would stand out in the vicinity due to their contrasting style.

**Approved, as recommended, subject to an amendment to Condition 20 to ensure that the external lighting scheme would not have an adverse impact upon the character or appearance of the Cotswolds Area of Outstanding Natural Beauty.**

**Record of Voting - for 7, against 4, abstention 0, absent 0.**

**20/03046/FUL**

**Erection of a new dwelling, associated access and landscaping at Croft House, Somerford Keynes, Cirencester, GL7 6DW**

The Case Officer drew attention to additional information and then displayed a site location plan, elevations, floor plans and photographs of the site from various vantage points.

The Agent was then invited to address the Committee.

The Ward Member, who did not serve on the Committee, was then invited to address the Committee. The Ward Member explained that the Applicant and his family had lived in the house for over 40 years and were involved in village life, in addition to the Applicant also being a former Minister of the Environment. The Ward Member added that there had been no objections from any consulted parties and that the Parish Council had raised no objection and therefore concluded that as there were no real issues arising from the application, the Committee should approve the application.

In response to various questions from Members it was reported that Officers considered that a proposed dwelling of one and a half storeys may be acceptable; the Conservation Area boundary ran through the centre of the application site but excluded the site for the dwelling, but included the adjacent Croft House; Officers had visited the site as part of the pre-application advice process and had advised at that time that the main concern from Officers was the proposed two storey size of the dwelling; the existing four metre high hedge would be retained and there was no concern for overlooking of neighbours or impact on amenity; an existing outbuilding would be retained for ancillary purposes; no comments had been received from the Parish Council; the plans currently presented were the original plans submitted by the Applicant in August 2020 as the Applicant had opted to proceed with the application as submitted without amendment; despite the fact the dwelling would not be visible, this did not suggest that there would be no harm caused by the development.

A Member commented that she considered the proposals were interesting and that she did not consider there would be harm caused to the listed building.

Another Member expressed that the Applicant had received pre-application advice, which had advised against the submission of proposals for a two-storey dwelling and that therefore the Committee should look to uphold this advice.

A Proposition, that the application be refused, was duly Seconded.

Various Members expressed support for the application and the views expressed in the Heritage Impact Assessment undertaken by a consultant on behalf of the Applicant.

A Further Proposition, that the application be approved, was duly Seconded.

The Ward Member was invited to address the Committee again. He referred to the wording within the Heritage Impact Assessment produced by the Applicant's consultant, which stated that less than substantial harm would be caused. The Ward Member reminded the Committee that no objections had been raised by the Parish Council and that the Committee should therefore approve the application.

**Refused, as recommended.**

**Record of Voting - for 7, against 4, abstention 0, absent 0.**

(ii) Public Submissions

Public submissions were made or read to the Committee as follows:-

20/03998/FUL	)	Ebrington Parish Council
20/03046/FUL	)	Paul Fong (Agent)

Copies of the representations by the public speakers would be made available on the Council's Website in those instances where copies had been made available to the Council.

**PL.95 Sites Inspection Briefings (Members for Wednesday 3 March 2021)**

It was noted that Councillors Juliet Layton, Nikki Ind, Julia Judd, Richard Keeling and Dilys Neill would represent the Committee at the virtual Sites Inspection Briefing, if required.

**PL.96 Licensing Sub-Committees (Members for 24 March 2021)**

It was noted that Councillors Juliet Layton, Stephen Hirst, Dilys Neill, Gary Selwyn and Clive Webster would represent the Committee at the virtual Licensing Sub-Committee on 24 March 2021, if required.

**PL.97 Other Business**

There was no other business.

The Meeting commenced at 2.00pm, adjourned between 3.06pm and 3.15pm, and closed at 4.20pm.

Chair

(END)

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Council name	<b>COTSWOLD DISTRICT COUNCIL</b>
Name and date of Committee	<b>PLANNING AND LICENSING COMMITTEE – 10 MARCH 2021</b>
Report Number	<b>AGENDA ITEM 6</b>
Subject	<b>COTSWOLD DISTRICT COUNCIL'S HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY REVIEW</b>
Wards affected	ALL
Accountable member	Cllr Andrew Doherty Cabinet Member for Waste, Flooding and Environmental Health Email: <a href="mailto:andrew.doherty@cotswold.gov.uk">andrew.doherty@cotswold.gov.uk</a>
Accountable officer	Michelle Bignell, Service Leader (Licensing and Business Support) Tel: 01285 623000 Email: <a href="mailto:michelle.bignell@publicagroup.uk">michelle.bignell@publicagroup.uk</a>
Summary	To provide the Planning and Licensing Committee with an opportunity to review the Draft Common Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire in advance of a consultation exercise
Annexes	<p><b>Annex A</b> – Department for Transport (DfT) Statutory Taxi and Private Hire Standards</p> <p><b>Annex B</b> – Draft Common Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire</p> <p><b>Annex C</b> – Cotswold District Council's current Hackney Carriage and Private Hire Licensing Policy (April 2018)</p> <p><b>Annex D</b> – Comparison Table between current requirements and proposed requirements</p> <p><b>Annex E</b> – Institute of Licensing's Guide to determining suitability of applicants and licensees in the hackney and private hire trades</p>
Recommendation	<p><i>a) that the Committee considers the draft Common Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire at Annex A, and</i></p> <p><i>b) subject to any further amendments approves a consultation exercise to seek the views of the trade and relevant stakeholders on the revised policy.</i></p>
Corporate priorities	Ensure that services delivered by the Council are delivered to the highest standard
Key Decision	NO
Exempt	NO
Consultees/ Consultation	Consultation with Chair and Vice-Chair of Planning and Licensing Committee – 12 February 2021

## **I. BACKGROUND**

- 1.1. In July 2020, the Department for Transport (DfT) brought out updated guidance for local councils on their approach to their taxi/private hire licensing function. The Statutory Taxi and Private Hire Vehicle Standards guidance is attached at **Annex A**.
- 1.2. The DfT recommended that Licensing Authorities should have reviewed their current policies against the document by January 2021 and have a plan to implement the Standards.

## **2. MAIN POINTS**

### **Joint approach**

- 2.1. Cotswold District Council's licensing team works closely with the other licensing authorities in Gloucestershire and it was felt that the best approach to the new Statutory Standards would be to set up a working group and develop a County approach.
- 2.2. The County approach would ensure that we all have a level playing field when it comes to the licensing of drivers, operators and vehicles and enables the Council to set up information sharing agreements with the County Council, Gloucestershire Police and agree Joint Authorisations for Officers carrying out enforcement.
- 2.3. Looking at the DfT document, the requirements were put into a draft Common Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire. The document is attached at **Annex B**.
- 2.4. Cotswold District Council already has a high standard when it comes to the licensing of drivers, operators and vehicles to ensure that public safety is not jeopardised. The joint document has been amended in some areas where the Council has a higher standard than the County. For example, the mandatory requirement to sign up for the DBS (Disclosure and Barring Service) Online Update Service will be by 2023 for the County, however this is already mandatory for our drivers to do this and so this has been amended.
- 2.5. The DfT Standards raises the Council's standards even higher and focusses on the safeguarding of travelling passengers including children and vulnerable individuals who are over 18 from harm when using these services.
- 2.6. A copy of our current Hackney Carriage and Private Hire Licensing Policy is attached at **Annex C**.
- 2.7. A comparison document between the DfT Statutory Standards and our current policy requirements is attached at **Annex D**.

### **Convictions Policy**

- 2.8. It was felt by the working group that the assessment of previous convictions in the DfT document was too unclear and would not offer adequate guidance to Members, applicants and licence holders when faced with an application or review of a licence due to convictions.
- 2.9. The Convictions policy at Appendix B of the draft County document has been written by the working group. The working group took the proposed standards in the DfT document, the Institute of Licensing's 'Guidance on determining suitability of applicants and licensees in the hackney and private hire trades' (copy attached at **Annex E**) and current policies from the County and drafted a widespread document so that Members have extensive guidance to make decisions. It also lays out clear guidelines to licence holders and applicants and minimises the risk of deviating from the policy and facing appeals.



## **Consultation**

- 2.10. It is proposed to carry out a full consultation for a period of 12 weeks. Comments will be reported back to the Planning and Licensing Committee along with a draft final policy for approval in Autumn 2021.
- 2.11. Licensing will consult with:
- All current licence holders (drivers, operators and vehicles)
  - Ward members
  - Town/Parish Councils
  - Authorities e.g. Gloucestershire Police
  - Trade customers
  - Trade associations
- 2.12. As this is a County Wide approach, this will be supported by press releases across the Councils in Gloucestershire.

## **CCTV**

- 2.13. At present, CCTV is permitted in licensed vehicles as long as the licence holder complies with other data protection legal requirements.
- 2.14. The DfT document also states that *'licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues'*.
- 2.15. The County work is reviewing the driver standards. It is proposed that a second piece of work in 2021/22 will look at the vehicle part of the Council's Policy and review in line with the Council's climate change priorities.
- 2.16. At this point it is proposed to ask a question within the consultation as to whether the trade and other bodies feel that there is a need to implement mandatory CCTV. This piece of work will follow at a later date.

## **Change to current policy document**

- 2.17. The County document will be consulted on alongside the comparison table. The final document that is presented to the Planning and Licensing Committee will be an amended full Hackney Carriage and Private Hire Licensing Policy with tracked changes for adoption.

## **3. FINANCIAL IMPLICATIONS**

- 3.1. There will be a financial impact as a result of these changes. Private Hire Operators will incur increased costs due to additional DBS checks upon staff.
- 3.2. The Council will face an increase in work to comply with the Statutory Standards. The cost of this work will be absorbed in the fee setting process in 2021/22.

#### **4. LEGAL IMPLICATIONS**

- 4.1. Licensing should consult on any changes to the licensing rules or its policy that might affect passengers or trade. Such consultations should include not only the taxi and private hire trades but also groups likely to be the trade's customers. In accordance with section 177(4) of the Policing and Crime Act 2017, licensing authorities must have regard to the DfT 2020 guidance when exercising their functions.
- 4.2. Privacy notices on the application forms will need to be reviewed to ensure that the changes proposed under the DfT 2020 guidance are reflected.
- 4.3. There are data protection implications arising from adopting the National Register of Taxi Licence Revocations & Refusals (NR3). Licensing has been working closely with the Data Protection Officer to ensure that the Council is fully compliant and follows the LGA Guidance on adopting the National Register of Taxi Licence Revocations & Refusals (NR3).

#### **5. ALTERNATIVE OPTIONS**

No alternative options are proposed.

(END)



Department  
for Transport

# Statutory Taxi & Private Hire Vehicle Standards

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# 1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
  - (b) is experiencing, or is at risk of, abuse or neglect, and
  - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

## Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

## 2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,



holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

### 3. Administering the Licensing Regime

#### Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

*“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride.”*

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

*“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”*

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

## Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

## Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

### Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

### Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

## 4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

### The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

## The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

### Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

### Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

### Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).



## Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

## Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

### **Multi-agency Safeguarding Hub (MASH)**

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

### Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

### Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

## 5. Decision Making

### Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

### Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
  - any implications of the Human Rights Act should be considered.
  - the rules of natural justice should be observed.
  - decisions must be reasonable and proportionate.
  - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
  - decision makers must avoid bias (or even the appearance of bias) and predetermination.
  - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

### The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close



connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

### Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

**Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?**

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

### Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.



## 6. Driver Licensing

### Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

### Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- 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.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

### **‘County lines’ exploitation**

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

### Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

## 7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

### Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

### **In-vehicle visual and audio recording – CCTV**

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. 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). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

### **Stretched Limousines**

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.



## 8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator licence also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

### Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

### Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a ['responsible organisation'](#) to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.



8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

## Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

## Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

**as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.**

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

## 9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

### Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

### Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

### Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

## Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

**Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.** Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

### Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

### Exploitation

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 be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

### Offences involving violence against the person

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.

### Possession of a weapon

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.

### Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

### Dishonesty

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.

## Drugs

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.

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. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

## Discrimination

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 convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

## Drink driving/driving under the influence of 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. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

## Using a hand-held device whilst driving

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.

## Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions <sup>1</sup>	Yes	Yes	Yes	Yes
Spent convictions <sup>2</sup>	No	Yes	Yes	Yes
Spent cautions <sup>1 &amp; 2</sup>	No	Yes	Yes	Yes
Additional police Information <sup>3</sup>	No	No	Yes	Yes
Barred list(s) Information <sup>4</sup>	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

## Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access



and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

## Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.

# Common Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire

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## Introduction

1. Following the publication of the Department for Transport's ("DfT") Statutory Taxi and Private Hire Vehicle Standards ("the statutory guidance"), the licensing authorities for Gloucestershire has adopted common standards for licensing of hackney carriage and private hire drivers, vehicle proprietors and operators. Please refer to the scope below for further information. These common standards are based on the statutory guidance.
2. The purpose of these common standards is to set a common basic licensing standard for all licence holders and new applicants to promote best practice, maintain high safeguarding standards and to reduce the burden on licence holders and businesses.
3. The scope of the common standards are outlined below and individual licensing authorities retain the right to set its own licensing standards for aspects that are not included in scope.

## Licensing Authorities

The Gloucestershire licensing authorities that have signed up to the common standards are:

1. Cotswold District Council
2. Forest of Dean District Council
3. Gloucester City Council
4. Stroud District Council
5. Cheltenham Borough Council
6. Tewkesbury Borough Council

## General Principles

### Licensing Policies

Each licensing authority that has adopted these common standards will have a comprehensive and a cohesive licensing policy document that brings together procedures on taxi and private hire vehicle licensing including these common standards.

Licensing policy documents will be reviewed every five years or more frequently should there be significant issues arising in their area, and their performance annually. Changes to adopted policies will be consulted on as appropriate including the local licensed trade, with licensing authorities that have adopted these common standards and other key stakeholders.

Any changes in licensing policy and/or requirements will be followed by a review of the licences already issued in accordance with the statutory guidance and on a case to case basis.

### Ancillary Policies

Although not in scope of these common licensing standards, each licensing authority that has adopted these common standards will have in place the following ancillary policies:

- Whistleblowing policy and procedure for raising concerns about licensing matters and procedures
- Data sharing agreements and processes to enable sharing licensing information with other licensing authorities
- Procedure(s) for immediate suspension and revocation of licences as circumstances dictate.

### Regulatory Structure

Each licensing authority that has adopted these common standards will operate its licensing function in accordance with its own scheme of delegation.

## Enforcing the Licensing Regime

The licensing authorities that have adopted these common standards collectively acknowledge the importance of a fair and robust enforcement scheme and approach.

To this end, the following measures have been adopted:

1. Common Enforcement and Complaints Policy & Procedure (Appendix C)
2. Joint authorisation of enforcement officers off the licensing authorities that have adopted these common standards;
3. Information sharing agreements between the licensing authorities that have adopted these common standards

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## Specific Policies & Procedures

### Fit & Proper

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. The question of whether a person is a fit and proper person will be based on the following standard:

*Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?*

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

The overriding consideration will be safeguarding the public. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the Licensing Sub-Committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Licensing officers are delegated in accordance with the table set out in **Appendix A** including for dealing with serious matters that may require the immediate action in relation to a licence.

### Information Sharing

#### Criminal records checks and information

The assessment of fit and proper includes, amongst other things, an assessment of an applicant or licensee's character and any relevant information relating to current or previous history.

Hackney carriage and private hire applicants or licensees will be subject to enhanced criminal records checks through the Disclosure & Barring Service (DBS) including checks against the national barred list.

The DBS check must satisfy the following:

- Workforce must state 'Other Workforce'
- Child and Adult Barring lists must be included

**Appendix B**, outlines the common standards for rehabilitation times relating to criminal records and other relevant matters outlined.

Hackney carriage and private hire applicants or licensees must be subscribed to the DBS's Update Service.

Each of the licensing authorities that have adopted these common standards will undertake six monthly enhanced DBS checks including checks against the children and adult Barred Lists for licensed drivers. The six month checking requirement will be brought into scope once these standards have been adopted (Autumn 2021).

In the interests of public safety, a licence is unlikely to be granted to any individual that appears on either barred list.

Each of the licensing authorities that have adopted these common standards will have also subscribe to the national refusals database (NR3). Hackney carriage and private hire applicants or licensees must declare on application whether they have had a hackney carriage and private hire driver's licence refused or revoked by another authority. Each applicant and licensee's application will be checked against the NR3 database to confirm if the information declared is correct and accurate.

Licence refusals and revocations will also be recorded on NR3 database. A decision to refuse or revoke a licence where this decision related to a risk of harm to a child or vulnerable adult, will be referred to the DBS and Gloucestershire Constabulary.

#### [Licensee self-reporting](#)

Licence holders are required to notify the issuing authority **within 48 hours** of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.

An arrest for any of the offences mentioned above is likely to result in a review by the issuing authority as to whether the licence holder is fit to continue.

Please also refer to the relevance of convictions policy at **Appendix B** for more information on the relevance of other convictions, arrests, cautions and criminal investigations.

#### [Complaints against licensees](#)

Licensees are required to display, in their licensed vehicles, guidance for passengers on making complaints directly to the licensing authority. The guidance for passengers must be displayed where it can easily be read. Signage to be displayed in licensed vehicles showing the guidance will be issued by the licensing authority. The signage will include:

- the licensing authority's name, contact email and address,
- the vehicle plate number for reference when making complaint,
- the licensing authority's website address where there will be further information for passengers about how to make complaint.

Licensees who are found to not be displaying the complaint guidance face a suspension of their vehicle licence and a possible review of their driving licence.

Complaints will be recorded, investigated and appropriate action taken in accordance with the Enforcement and Complaints policy at **Appendix C**.

#### [Certificate of Good Character](#)

Where any applicant has been resident abroad at any time from the age of 18 prior to an application they must provide a Certificate of Good Conduct, a Criminal Record Check or similar document from each and every country within which they have been resident.

Residency for these purposes is considered by this Licensing Authority as where the person has lived in a country for longer than 6 months in a given calendar year. Where this Certificate has been produced in a non-English language, the applicant is required to produce a translation of the Certificate from the Embassy or Consulate of that country and provide the original document. An exception might be permitted where a refugee has been allowed to stay in the UK and has been given asylum, and this exception will only apply to that country.

[Criminal records checks for overseas applicants](#), will assist you further in obtaining this document.

### Immediate suspension and revocation of licences

Where it comes to the attention of a licensing authority that the fitness of a licence holder has been called into question, which raises concerns as to whether the relevant licence holder should be allowed to continue to operate under their licence and that decision cannot wait until the next scheduled Licensing Sub-Committee, the licensing authority will decide if immediate action is necessary under its own scheme of delegation. Immediate action can include a decision to suspend or revoke the licence.

Circumstances that might give rise to concern about the fitness of a licence holder would include, for example, serious complaint, criminal investigation, serious allegation, formal caution, conviction or any other circumstances deemed sufficiently serious that requires immediate action.

For the avoidance of doubt, licence holder relates to a driver, vehicle and/or operator licence.

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## Hackney Carriage & Private Hire Drivers

### Duration of licences

Hackney carriage and private hire driving licences will be granted for a standard period of three years.

Individual licensing authorities retain the right to issue shorter driving licences in exceptional circumstances where circumstances deems this appropriate.

### Mandatory Training

Applicants for a hackney carriage or private hire driving licence must undertake mandatory safeguarding and equality awareness training prior to the issue of their licence. A common training approach and provision has been adopted by licensing authorities that have adopted these common standards.

Existing licensees will be required to undertake refreshers training every three years as a condition of the grant of their licence.

### Language proficiency

The assessment of fit and proper includes an assessment of an applicant or licensee's English language proficiency. A lack of English language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

Applicants for a hackney carriage or private hire driving licence must therefore have a sufficient English language proficiency and be able to demonstrate this.

Some applicants may not be required to take the English proficiency test. This is the case if they can demonstrate their ability to communicate in English by providing an appropriate educational certificate for a qualification related to English. Acceptable qualifications may include a GCSE (or equivalent) in a subject such as English language or literature, a degree in a subject containing substantial English content, or an NVQ or BTEC in a subject that requires its students to communicate well in English.

If applicants are unable to provide such a certificate, or if the licensing officer is not satisfied that the certificates provided sufficiently demonstrate the applicant's ability to communicate in English, the applicant will need to pass the English proficiency test.

English language proficiency requirements will apply to new applicants from date of adoption of these standards however, discretion remains to refer existing licence holder for an assessment on a case to case basis.

## Hackney Carriage & Private Hire vehicle proprietors

### Criminality checks for vehicle proprietors

Licensed vehicle proprietors will be subject to an annual basic disclosure check from the DBS unless they are also a licensed hackney carriage or private hire driver licensed with the same authority where they hold the vehicle licence.

Whether a licensed vehicle proprietor is fit and proper will be determined based on the definition set by the common licensing standards and the relevance of convictions policy at Appendix A.

Should the licensed vehicle proprietor cease to hold a driver hackney carriage or private hire driver licence a basic certificate should will be required immediately.

A refusal to license an individual as a hackney carriage or private hire driver or to suspend or revoke a driver licence, does not automatically mean that that individual cannot be issued or continue to hold a hackney carriage of private hire vehicle or private hire vehicle operator licence.

Under these circumstances, a decision on the fitness and propriety of a vehicle proprietor will be made independent of a driver licence refusal, based on the appropriate information and taking into consideration the individual circumstances of each case. An important consideration will be the information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

## Private Hire Operators

### Duration of licences

Private hire operating licences will be granted for a standard period of five years.

Individual licensing authorities retain the right to issue shorter driving licences in exceptional circumstances where circumstances deems this appropriate.

### Criminality checks for private hire vehicle operators

Licensed private hire operator(s) will be subject to an annual basic disclosure check from the DBS unless they are also a licensed hackney carriage or private hire driver licensed with the same authority where they hold the operating licence.

Whether a private hire operator(s) is fit and proper will be determined based on the definition set by the common licensing standards and the relevance of convictions policy at **Appendix B**.

Should the private hire operator(s) cease to hold a driver hackney carriage or private hire driver licence, a basic certificate should will be required immediately.

Refusal to license in individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence.

Under these circumstances, a decision on the fitness and propriety of a private hire operator(s) will be made independent of a driver licence refusal, based on the appropriate information and taking into consideration the individual circumstances of each case. An important consideration will be the information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

A private hire vehicle operator licence may be applied for by a company or partnership. In this case, the 'fit and proper' test will apply to each of the directors or partners in that company or partnership.

A licensed private hire operator issued to a company or partnership must advise the licensing authority of any change in directors or partners. Any change to directors or partners will require additional criminality checks.

### Booking and dispatch staff

Licensed private hire operator(s) will be subject to a licence condition ensuring that all booking and dispatch staff have had a basic DBS check. In addition, private hire operators must ensure they have written policies and procedures in place to:

- a. ensure criminality checks are undertaken on all booking and dispatch staff at appropriate intervals; and
- b. set out its approach on employing all booking and dispatch staff that are ex-offenders.

Where a licensed private hire operator has outsourced its booking and dispatch function that licensed private hire operator must ensure the third-party have adequate arrangements in place as outlined above.

### Record keeping

As a common standard enforced by way of a licensing condition, all licensed private hire operators will be required to record the following information for each booking accepted:

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

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## Appendix A - Table of Delegations

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Licensing Officers</b>
Full policy review	All cases		
Application for driver's licence, with no convictions			All cases
Application for driver's licence, with relevant convictions		Cases where referral for determination required, other than traffic offences	Cases in relation to traffic offences
Suspension of driver's licence (public safety)		All cases where referral for determination required	
Revocation of driver's licence (public safety, immigration)		Cases where referral for determination required	Cases where immediate effect required
Application for vehicle licence			All cases
Suspension of vehicle licence (public safety)			All cases with a reasonable cause
Revocation of vehicle licence (public safety)		Cases where referral for determination required	Cases where immediate effect required
Application for operator's licence			All cases
Application for operator's licence, with relevant convictions		All cases where referral for determination required	
Suspension of operator's licence (public safety)		All cases where referral for determination required	
Revocation of operator's licence (public safety)		Cases where referral for determination required	Cases where immediate effect required
Assistance dogs in taxis: exemption certificate request forms			All cases

Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases
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## Appendix B – Relevance of Convictions Policy

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### GLOUCESTERSHIRE LICENSING AUTHORITIES – TAXI AND PRIVATE HIRE CONVICTIONS POLICY

#### INFORMATION FOR APPLICANTS AND EXISTING LICENCE HOLDERS

1. This policy is intended to provide guidance on determining suitability of new applicants and existing licence holders where the applicant or licence holder has been convicted of a criminal or driving offence.
2. The policy lists the types of offences that may give concern to the Licensing Authority. For the more serious offences the expectation is that an application will be refused or an existing licence holder will have their licence revoked. For other offences the policy gives the timescales that it is expected will have elapsed since the conviction before an application will be granted.
3. The Policy states that each case will be treated on its own merits. Where an applicant or Licence Holder has an offence listed in this policy it will not necessarily mean an automatic barring or revocation. However, the applicant or licence holder can expect that their application or licence will be put before a Licensing Sub-Committee for consideration who will take account of this policy. The obligation will be on the applicant or licence holder to put forward reasons and/or evidence in support of their case for the Licensing Sub-Committee to consider.
4. If an application is refused or a licence is revoked the applicant or licence holder will have right of appeal to the Magistrate's Court. The application to the Magistrates Court should be made within 21 days of the applicant or licence holder being notified by the Licensing Authority of the decision to refuse or revoke.
5. Where a licence holder is convicted of an offence where the Licensing Authority believes that the safety of the public may be at immediate risk, the licence may be suspended/revoked with immediate effect. The licence holder will have right of appeal to the Magistrates Court against a suspension issued with immediate effect however they may **not** use the licence until any decision is made by the Court.
6. Existing licence holders that have been granted licences previous to this policy coming into effect may have convictions on their record that fall within the timescales within this policy. The Licensing Authority will have made decisions on those licences based on policies in place at the time where the timescales may have been lesser or those offences not included. It is not reasonable that those licences should be automatically be revoked. The Licensing Authority will review all existing licences in light of this policy and where the Licensing Authority has concerns about a particular licence holder and/or there are further offences, breaches or complaint, the licence holder may be reviewed by a Licensing Sub-Committee who will take into account all matters including any previous offences that may now fall within this current policy. In particular, serious account will be taken of any history of safeguarding matters. Where appropriate, existing licence holders may be requested to apply for a new enhanced DBS certificate in order that the Council can review historic offences in line with this policy.

## OVERVIEW

7. The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must have the confidence that the driver is safe and suitable.
8. Taxi legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence. If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
9. These guidelines apply to all new applications for a taxi or private hire driver licence and all licensed taxi and private hire drivers.
10. In addition, where relevant, they will also be applied to taxi and private hire vehicle licence applicants and licence holders, and private hire operator licence applicants and licence holders. Where such applicants and licence holders are not applying for, or already hold a taxi or private hire driver licence they will be required to provide a basic criminal conviction checks on application and then at regular intervals. The Licensing Authority will take account of any current criminal convictions showing on the basic criminal conviction check, or criminal conviction received, in accordance with this policy.
11. Taxi legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence.
12. This policy is based on the Statutory Taxi and Private Hire Vehicle Standards issued by the Department of Transport in July 2020, Annex - Assessment of Previous Convictions. <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>
- 13. The Licensing Authority will consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.**
14. In each case appropriate weight should be given to the evidence provided. This will include assessing the risk of re-offending and harm.
15. The Licensing Authority will be looking at the entirety of the individual when making the decision whether an applicant or licence holder is a safe and suitable person. Time periods are relevant and weighty considerations, but they are not the only determining factor. Other factors that the Licensing Authority will take into account when making a decision include but are not exhaustively:
  - Relevance and date of the offence
  - Sentence imposed by the court
  - Age of person and circumstances when the offence was committed
  - Subsequent periods of good behaviour
  - Overall conviction history
  - Any history of complaints made to the Licensing Authority against an existing licence holder. Unproven complaints may in some circumstances be taken into account if it is considered that there is a strong likelihood that the complaints are justified and the nature and/or number of complaints raise concern regarding suitability of applicant
  - Whether the applicant has intentionally misled the Licensing Authority or has lied as part of the application process



- Information provided by other agencies or other services at the Licensing Authority. This may include information disclosed by the Police or Safeguarding Services
  - Any other matters that are relevant
16. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime.
  17. A caution is regarded in exactly the same way as a conviction.
  18. Fixed penalties and community resolutions will also be considered in the same way as a conviction.
  19. 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 and that any and all criminal convictions (apart from "protected convictions" and "protected cautions" where they have been declared) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered
  20. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. This places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.
  21. It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered.
  22. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
  23. In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
  24. Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
  25. In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
  26. It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the

licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.

27. Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
28. Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
29. These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person.
30. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

## **OFFENCES**

### **Crimes resulting in death**

31. Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury (where there was an intention or strong likelihood of death) of another person they will not be licensed. A licence holder who is convicted of the above will have their licence revoked.

### **Exploitation**

32. 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 be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional, financial abuse, domestic abuse, harassment and stalking but this is not an exhaustive list.

### **Offences involving violence against the person**

33. Licensed drivers have close regular contact with the public who could be at risk from violent behaviour. Drivers are often entrusted with the care of children, young persons and vulnerable adults. The Licensing Authority seeks to protect the safety of the public and minimise risk.
34. 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. A licence holder convicted of the above will have their licence revoked

Examples of Violent offences include (this is not an exhaustive list)

- a. Arson
- b. Malicious wounding or grievous bodily harm
- c. Actual bodily harm
- d. Grievous bodily harm with intent

- e. Robbery
- f. Riot
- g. Assault Police
- h. Any racially aggravated assault
- i. Violent disorder
- j. Resisting arrest
- k. Common assault/battery
- l. Affray
- m. Obstruction

### **Possession of a weapon**

35. 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. A licence holder convicted of the above will have their licence revoked

### **Sexual offences**

36. As licensed drivers often carry unaccompanied and vulnerable passengers, the Licensing Authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences should be considered as serious.

37. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. A licence holder convicted of the above will have their licence revoked

38. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list. A licence holder who goes on any of the above will have their licence revoked

39. Sexual/Indecency Offences include (this is not an exhaustive list)

- a. Rape
- b. Assault by penetration
- c. Offences involving children or vulnerable adults
- d. Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
- e. Making or distributing obscene material
- f. Possession of indecent photographs depicting child pornography.
- g. Sexual assault
- h. Indecent assault
- i. Exploitation of prostitution
- j. Soliciting (kerb crawling)
- k. Making obscene / indecent telephone calls
- l. Indecent exposure
- m. Any similar offences (including attempted or conspiracy to commit) offences

40. Any licence holder charged with, convicted or issued with a formal caution for any of the offences mentioned above should expect to have their licence revoked with immediate effect.

## **Dishonesty**

41. Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways. In certain situations, drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station. For these reasons convictions of dishonesty are treated very seriously
42. 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. A licence holder convicted of any of the above will have their licence revoked
43. Dishonesty offence includes (this is not an exhaustive list)
  - a. Theft
  - b. Burglary
  - c. Fraud
  - d. Benefit fraud
  - e. Handling or receiving stolen goods
  - f. Forgery
  - g. Conspiracy to defraud
  - h. Obtaining money or property by deception
  - i. Other deception
  - j. Any similar offence

## **Drugs**

44. 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.
45. 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. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs. A licence holder convicted of the above will have their licence revoked

## **Discrimination**

46. 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. A licence holder convicted of the above will have their licence revoked
47. Examples of Discrimination offences include (this is not exhaustive list)
  - a. Racially aggravated common assault
  - b. Any racially-aggravated offence against a person or property.

- c. Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- d. Offences under Equality Act 2010
- e. Any offence considered as hate crime. Hate crime is any criminal offence which is perceived by the victim, or anybody else, to be motivated by hostility or prejudice towards someone's: race, religion, sexual orientation, transgender identity, disability.

### **Motoring convictions**

48. Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.
49. For the purposes of this policy a minor traffic offence is one where the DVLA has imposed no more than 3 penalty points on the applicant's DVLA driving licence for the offence. A major conviction is one where the DVLA has imposed more than 3 penalty points on the applicant's DVLA driving licence for the offence. There is more information about endorsement codes and penalty points on the Government's website. <https://www.gov.uk/penalty-points-endorsements/endorsement-codes-and-penalty-points>
50. For the purposes of this policy, a 'valid' traffic offence is the same definition as used by the DVLA. Points that stay on a DVLA licence for 4 years are 'valid' for 3 years. Points that stay on a DVLA driving licence for 11 years they are 'valid' for 10 years. There is more information on the Government's website <https://www.gov.uk/penalty-points-endorsements/how-long-endorsements-stay-on-your-driving-licence>
51. Where an applicant has more than one minor traffic offence a licence would be refused whilst the relevant points remain 'valid' on their driving licence.
52. Where an applicant has a major conviction the application will be refused whilst the relevant points remain 'valid' on their driving licence.
53. Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the Licensing Authority considers that the licensee remains a fit and proper person to retain a licence.
54. Where there is a second occurrence of a minor traffic offence, whilst the first minor traffic offence is valid, or a single occurrence of a major traffic offence of up to 6 points, a licence holder can agree to complete a driving assessment, at their own expense, through an approved provider, as an alternative to a review/revocation of their licence by a Licensing Sub-Committee
55. Where a licence holder has more than 6 valid penalty points for driving offences their licence will be revoked.

### **Drink driving/driving under the influence of drugs**

56. 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. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs. A licence holder convicted of the above will have their licence revoked

### **Using a hand-held device whilst driving**

57. 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. A licence holder convicted of the above will have their licence revoked.
58. Where the offence is dealt with as driving offence and penalty points have been imposed on a DVLA licence, the licence will not be granted until at least four years have passed. This is the length of time these points remain current of the DVLA licence. A licence holder who has had penalty points imposed on their DVLA licence for using a held-hand mobile telephone or a hand-held device, will have their licence revoked.

### **Hackney Carriage and Private Hire Offences**

59. Where an applicant has any offences under any relevant hackney carriage or private hire legislation a licence will not be granted until at least 7 years have elapsed since the conviction. A licence holder convicted of the above will have their licence revoked

## Appendix C - Enforcement and Complaints Policy & Procedure

### Enforcement

This policy takes a risk based proportionate, targeted and flexible approach to inspection and enforcement and where appropriate will work with external agencies such as the Police.

When a potential breach or offence is identified Licensing Officers will investigate the matter.

If it is in relation to a licensed vehicle the licence holder may be requested to bring in the vehicle for an inspection by a Licensing Officer or to take the vehicle to an MOT approved garage for a full inspection.

If it is in relation to a licensed driver or operator the licence holder may be requested to attend an interview. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law the interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

### Complaints by the Public

The public are able to make complaints to the licensing service about licensed drivers and operators. This could include such issues as offensive comments by a driver, unsafe driving, failure or lateness of attending bookings and refusal to take guide dogs.

Licensing Officers will normally ask the complainant to put their complaint in writing or by email giving details of the nature of the complaint with date, time and location if relevant.

All such complaints will be recorded and investigated and the licence holder notified. Licensing Officers may request the licence holder to attend an interview in order determine the facts. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law that interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

Some complaints such as those alleging a serious criminal offence, traffic offence, violence or verbal abuse may be referred to the Police.

### Actions that may be Taken Following Enforcement or Complaint

When deciding what action to take the Licensing Officers will consider each case on its own merits and will consider all relevant matters including:

- Seriousness of the offence, breach or complaint
- Any history of previous offences, breaches and/or complaints
- Consequences of non-compliance
- Effectiveness of any action
- Danger to the public
- In the case of an unproven allegation the seriousness of the allegation and the likelihood and risk of danger to the public

Action	Examples (but not an exhaustive list)
Take no action	<ul style="list-style-type: none"> <li>• Breach, offence or complaint is proven to be false.</li> <li>• Matter is minor or unproven and there is no previous history</li> </ul>
Verbal or written advice for example recommendation to re-take driver assessment test	<ul style="list-style-type: none"> <li>• Matter is minor and/or due to misunderstanding by the licence holder</li> </ul>
Verbal or written warning	<ul style="list-style-type: none"> <li>• Complaint made by the public</li> <li>• Minor traffic offence</li> <li>• Contravention of the code of conduct or dress code</li> </ul>
Fixed penalty notice	<ul style="list-style-type: none"> <li>• Smoking offences in a licensed vehicle</li> </ul>
Immediate suspension or revocation of licence	<ul style="list-style-type: none"> <li>• Suspension of vehicle (S 68) issued when on inspection of a vehicle Officers believe that it has a defect or is potentially unsafe for passengers or the meter is defective</li> <li>• Suspension of driver licence (s 61 (2B) if in interest of public safety for example failing a medical, safeguarding or serious criminal allegations</li> <li>• Suspension of driver licence (s 61) if driver fails to provide relevant documentation by expiry e.g. DBS/Medical</li> </ul>
Suspension of licence – 21 days notice	<ul style="list-style-type: none"> <li>• Suspension of a vehicle licence (s60) for failure to have a Council Vehicle Inspection or provide relevant document or visual condition of vehicle is not satisfactory</li> </ul>
Simple caution issued by authorised officer	<ul style="list-style-type: none"> <li>• A licence holder admits to committing a less serious offence and the issuing of such a caution is likely to reduce re-offending</li> </ul>
Review of the licence by the Licensing Sub-Committee	<ul style="list-style-type: none"> <li>• A licence holder receives criminal conviction, police caution, major motoring offence, safeguarding concern or serious complaint or allegation</li> <li>• A licence holder has a history of complaints and/or offences. In the case of complaints by the public these complaints could be unproven if there is previous history of such complaints or a likelihood that the complaint is justified and the public could be at risk</li> <li>• A licence holder that had received more than 3 warnings from Officers for breaches of conditions, policy or legislation within a 12 month period</li> <li>• A licensed driver who has accumulated more than 6 current points on their driving licence</li> <li>• Any matter where a possible outcome is the revocation of the licence</li> </ul>
Prosecution	<ul style="list-style-type: none"> <li>• Using an unlicensed vehicle</li> <li>• Unlicensed driver driving a licensed vehicle</li> <li>• Unlicensed operator</li> <li>• Driving without valid insurance</li> <li>• Refusing to carry a guide dog</li> </ul>



- |  |   |
|--|---|
|  | <ul style="list-style-type: none"><li>• Exceeding the number of passengers on the plate</li></ul> |
|--|---|

### **Review of the Licence by the Licensing Sub-Committee**

The licence holder will be invited to a Licensing Sub-Committee meeting. The licence holder will be given reasonable notice of the meeting. However if the licence holder does not attend without reasonable cause the panel may undertake the review in his/her absence. The licence holder may bring another person with them to the review to support or represent them or they may wish to put comments in writing for the panel to consider. After considering all the facts the panel may take any action they feel appropriate. Below is a list of possible actions.

- No action
- Oral or written warning
- Requirement to take action within a time period for example recommendation to take an anger management course, safeguarding or disability awareness training, speed awareness course or driving assessment
- Suspend the licence until an action or requirement has been met
- Suspend the licence for a period of time as a deterrent to ensure future compliance
- Revoke the licence
- Recommend a simple caution
- Recommend prosecution

### **Right of Appeal**

A licence holder has a right of appeal to the Magistrates Court for any decision by the Council to refuse, suspend or revoke a driver, vehicle licence or operator licence or against any conditions added to a licence. This appeal must be made within 21 days of the notification of the Council's decision.

There is an exception to the above right of appeal in the case of a decision to refuse to grant a Hackney Carriage vehicle licence. In this case the right of appeal is to the Crown Court.

There is no right of appeal against an immediate suspension of a vehicle licence (s68).

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# HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

APRIL 2018



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## General

### Introduction

The Council has the responsibility to regulate and control all operators, drivers and vehicles used for carrying passengers for hire and reward within the Cotswold District under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

This document includes Cotswold District Council's Policy and Conditions with regard to Hackney Carriage (Taxis) and Private Hire licensing and will provide guidance to applicants, interested parties, Officers and Members on the approach the Council will take on Hackney Carriage and Private Hire licensing matters. Additionally, this document provides guidance on legislation and other issues that have an impact on Hackney Carriage and Private Hire licensing.

For the purposes of this document, Hackney Carriage vehicles will be referred to as Hackney Carriages.

#### **Objectives**

In setting out its Policy, the Council seeks to promote the following objectives:-

- a) Safety and health of drivers and the public;
- b) Vehicle safety, comfort and access;
- c) To prevent crime and disorder and protect the public.

#### **Future Amendments to Policy and Conditions**

All licences are granted subject to compliance with the Policies and Conditions contained within this document.

This document was approved by the Planning and Licensing Committee on 14 March 2018 and came into force on 1 April 2018.

This document may be amended and republished from time to time to take account of changes in legislation and minor amendments. However, any such changes or amendments that have significant impact on the Policies and Conditions in this document shall first be considered by the Planning and Licensing Committee for approval. Matters that would be considered significant include those that could have a financial or negative impact on licence holders or new applicants or that affect the convenience, safety or comfort of passengers.

#### **General Differences between Hackney Carriages and Private Hire**

There are two types of vehicle that carry fare paying passengers that are licensed by Cotswold District Council.



## Hackney Carriages

- Can be flagged down and use designated ranks
- Can be pre-booked
- Hackney Carriages must have a meter and the maximum tariff (fare) is set by the Council.
- Hackney Carriages must display a roof sign

## Private Hire

- Must be booked in advance of a journey.
- The booking must be made through a licensed Private Hire operator
- The fare is agreed in advance between the operator and the customer

## Maximum Number of Passengers

The maximum number of passengers that a Hackney Carriage or Private Hire vehicle can be licensed to carry is 8.

Any vehicles used for hire and reward that carry more than 8 passengers must be licensed by the traffic commissioners as a public service vehicle <https://www.gov.uk/psv-operator-licences/overview>

## Licences issued by Cotswold District Council

There are five types of Licence issued by Cotswold District Council.

### 1. Dual Drivers Licence

This is a licence that allows you to drive both Hackney Carriage and Private Hire vehicles. This licence is issued for 3 years.

### 2. Private Hire Drivers Licence

This licence allows you to drive a Private Hire vehicle only. This licence is issued for 3 years.

### 3. Private Hire Operators Licence

If you take bookings for a Private Hire business, you must hold a Private Hire operator's licence. This licence is issued for 1 or 5 years.

### 4. Hackney Carriage Vehicle Licence

You must have a Hackney Carriage vehicle licence for each Hackney Carriage you own. The licence will be granted for 1 year only.

### 5. Private Hire vehicle Licence

You must have a Private Hire vehicle licence for any vehicle that you use for Private Hire. A Private Hire vehicle must be operated under a Private Hire operator licence. The licence will be granted for 1 year only.

## Application Forms

Application forms and associated documents are available from the Council's website [www.cotswold.gov.uk](http://www.cotswold.gov.uk)

### How can I pay?

- In Person - At the Council Offices at Trinity Road. There is an automated payment machine available during opening hours that will accept cash, debit/credit card payments or cheque.
- By Post - payment by cheque made payable to "Cotswold District Council" and sent to the Business Support (Licensing), Environmental and Regulatory Services, Trinity Road, Cirencester GL7 1PX
- By Telephone – Customer Services can be contacted on (01285) 623000 and the team will take card payment from you

### Renewals

The Council does not have a legal obligation to notify you when your licence is due to expire.

**Please ensure that you are aware of the expiry date and that you submit your renewal application at least 7 days before expiry to ensure that the application is processed in time.**

### Refunds

No refunds are issued for any Hackney Carriage and Private Hire licences.

### Right of Appeal

With two exceptions there is a right of appeal to the Magistrates Court in relation to driver, vehicle and operators licences for the following:

- An application for a new licence, or renewal of a licence, is refused by the Council
- An existing licence is suspended or revoked by the Council
- Any conditions imposed on the licence

The appeal must be lodged within 21 days of the decision being notified to the applicant or licence holder.

### The exceptions are:

- The right of appeal against the refusal to grant or renew a Hackney Carriage vehicle licence is to the Crown Court.
- Where the Council suspends a Hackney Carriage or Private Hire vehicle licence under section 68 (immediate suspension in a situation where, on inspection of the vehicle, the Police or Council are not satisfied to the fitness of the vehicle or accuracy of the meter) there is no right of appeal.

## Hackney Carriage and Private Hire Drivers

### I. Hackney Carriage and Private Hire Driver (Dual Driver) - Application Requirements

#### **The following apply to Dual Driver Licences and Private Hire Driver Licences.**

The dual driver licence permits you to drive both Hackney Carriages and Private Hire vehicles. The Private Hire driver licence permits you to drive a Private Hire vehicle only.

#### I.1 New Application

You must have held a full valid driving licence for at least 12 months authorising you to drive a motor car in the UK.

You must be 18 years of age or over.

An application cannot be granted unless the Council is satisfied that you are a 'fit and proper person' to hold a Hackney Carriage or Private Hire driver licence. There is no judicially approved test, however, when determining whether a driver is 'fit and proper', the Council will consider, amongst other things, the applicant's relevant skills, knowledge, experience, qualifications, conduct, medical fitness, criminal record and any previous history as a licence holder.

**If you have criminal convictions you may wish to wait until the Council has considered your criminal conviction and DVLA conviction history before undertaking the medical or driver assessment as any fees incurred will not be refunded should the Council decide that you are not a 'fit and proper person' in relation to offences.**

You are required to notify the Council of any convictions, cautions, fixed penalties received or any court cases pending during the application period (i.e. the time between the application being submitted and the licence being granted).

To make a new application you must submit the following (for information on how to obtain these please visit the driver application section of the website):

- **Application form**
- **Application fee**
- **Passport size photograph**, recently taken and clearly showing your full face uncovered, without sunglasses or hat
- **Valid DVLA driving licence**, authorising you to drive a motor car in the UK, showing your current home address
- **DVLA check code**
- **Disclosure and Barring Service (DBS) Enhanced Criminal Convictions Certificate** which is not more than 1 month old at time of application, or if you are registered with the DBS, provide the relevant information to allow Officers to make an on-line enhanced check of your current criminal record. If you are unable to provide either of the above you can make an application for a DBS Certificate through the Council. You will need to complete a DBS Enhanced Criminal Record application form, provide 3 forms of appropriate identity documentation and pay the relevant fee.

If your application is delayed you may be required to obtain a new DBS disclosure certificate if the date of the original certificate is more than 6 months old at the time of making a decision whether to grant the licence.

Convictions (whether spent or unspent) must be disclosed on your application form. Please see our convictions policy in Annex 2 for further details.

- **Satisfactory Group 2 medical certificate** completed by your own General Practitioner or a medical practitioner that has access to your medical records. A medical certificate will not be accepted if it is dated more than 4 months prior to submitting the application. All costs associated with the medical certificate are met by the applicant and paid direct to the medical practitioner.
- **Evidence of successful completion of a Driving Assessment** through Gloucestershire County Council. Assessment Certificates will not be accepted that are over 12 months old.
- **Evidence of successfully passing a Safeguarding Training Course** as specified by Cotswold District Council.
- **Evidence that you have passed a knowledge test.** The knowledge test is an examination held at the Council Offices. Please see Annex 3 for details about the Knowledge Test.
- **A right to work check under the Immigration Act 2016 will be carried out before your licence is issued.** This will be at the knowledge test

### **Additional Application Requirements for Foreign Nationals and Persons That Have Resided Outside of England, Wales and Republic of Ireland**

The Council must be satisfied that you are a 'fit and proper person'. The DBS Criminal Record Check covers England, Wales and Republic of Ireland. The Council needs to take account of any offences committed outside these countries. If you are a foreign national or are a person who has resided outside of England, Wales and The Republic of Ireland, you must provide the following:

- DBS Enhanced Criminal Record Disclosure Certificate as detailed in new application requirements (unless you have only just arrived in this country). The DBS Enhanced Criminal Record Disclosure will show any convictions that have been committed in the UK.
- Criminal record check from all countries outside of England, Wales and The Republic of Ireland you have resided in from the age of 18 or, if those countries do not produce such information, a certificate of good conduct from the Embassy or Legation from all countries outside the UK that you have resided in from the age of 18. This certificate must be an original and, if in a foreign language, must be accompanied by an original certified translation from a sworn translator. Any costs involved in such certificates and translations must be paid by you.
- Driving Licence that permits you to drive in the UK for vocational purposes (driving as a job). If you hold an EC/EEA driving licence the Council will normally expect you to convert this to a GB driving licence prior to making your application.
- If your first language is not English you must have an adequate standard of spoken and written English and you may be required to pass an English proficiency test to demonstrate this. If the Licensing Officer has concerns, the applicant will be referred to the Licensing Sub-Committee to determine the application.

### **1.2 Renewal Application**

A renewal application must be completed prior to the expiry date of your current Hackney Carriage and/or Private Hire driver licence. If you do not renew your licence before your licence expires you will become unlicensed. Any application received after expiry will be treated as a

new application and all the requirements and fees of a new application will apply. **It is your responsibility to make sure you renew your licence.** To enable the service to process your application in time, it is advisable to submit this application at least 7 days prior to expiry.

You have the option of applying for a 1 year or 3 year licence.

To make a renewal application you must submit:

- Renewal application form
- Fee
- Valid DVLA driving licence authorising you to drive a motor car in the UK showing your current home address
- DVLA check code

**Renewals will not be processed if there are any DBS and medicals certificates outstanding.**

## 2. Hackney Carriage & Private Hire Drivers (Dual Driver)- Cotswold District Council Policy

### 2.1 Duration of Licence

The Licence shall remain in force for a period of 3 years. The Council retains the right to only issue a licence for 1 year duration if appropriate.

### 2.2 Medical Criteria

You must provide a satisfactory Group 2 medical certificate completed by your own General Practitioner or a medical practitioner that has access to your medical records at the following times:

- On application
- Every five years between the ages of 45 – 65 years
- Every year from the age of 65

All costs associated with the medical certificate are met by the applicant.

A recent satisfactory Group 2 medical examination for a PCV or HGV may be acceptable as an appropriate medical. This is, however, at the discretion of the Licensing Officer and you **must** be able to provide sufficient evidence that the medical was completed by your own General Practitioner or a medical practitioner that has access to your medical records and the DVLA have determined you are fit to drive a PCV/HGV. This certificate must be no more than 4 months old.

The Group 2 standard precludes the licensing of drivers with insulin treated diabetes. However, exceptional arrangements do exist for drivers with insulin treated diabetes, who can meet a series of 'medical criteria' to obtain a licence to drive category C1 vehicles. The Council will apply those standards.

You **must** notify the Council immediately if you develop any health or medical issues that may affect your fitness as a driver. The Council may require you to produce medical evidence of continuing fitness to drive during the period of the licence.

**The applicant will receive up to 3 reminders prior to the expiry of their medical. Reminder letters are sent via the post and generated at the beginning of the month which means that applicants will receive their first reminder between eight & twelve weeks prior to its expiry and further reminders at the beginning of each consecutive month until it's expiry. If a satisfactory medical is not received by the expiry date, the licence will be suspended the following working day.**

### 2.3 Requirement to return Driver Badge

If you no longer intend to be a Hackney Carriage or Private Hire driver, or your badge is suspended or revoked, you must return your licence and badges to the Council **within 7 days**.

## 2.4 Notification of Changes

If you move house or change your name, or if any other details included on the application form change, you must write and let the Council know **within 7 days**. If you cease to work for a Hackney Carriage proprietor or Private Hire operator or change to work for another Hackney Carriage proprietor or Private Hire operator you must write and let the Council know **within 7 days**.

## 2.5 Convictions, Cautions and Fixed Penalties

If you get any convictions, cautions, fixed penalties or have a court case pending, you must write (or email) and let the Council know **within 7 working days**. If you are arrested you should let the Council know within **3 working days**.

### 2.5 DBS Check (Disclosure and Barring Service) criminal history

It is a requirement as a licensed driver to have a satisfactory criminal check (DBS) in place at all times.

**The applicant will receive up to 3 reminders prior to the expiry of their DBS. Reminder letters are sent via the post and generated at the beginning of the month which means that applicants will receive their first reminder between eight & twelve weeks prior to its expiry and further reminders at the beginning of each consecutive month until it's expiry. If a satisfactory DBS is not received by the expiry date, the licence will be suspended the following working day.**

**It will be mandatory from 1 April 2018 for all licence holders sign up to the Online Update Service with the DBS so that the check remains active. A reference number must be provided to licensing to record on file. Please see the DBS website for further details. If the licence holder fails to sign up to this service on renewal of their DBS (or issue for new applicants), the licence will be suspended.**

When the new DBS has been submitted, if there are previous convictions/cautions that have already been considered, no further action will be taken. If there are convictions/cautions that have been imposed since the last DBS that have not been declared by the licence holder, the licence will be suspended with immediate effect until a Licensing Sub-Committee can be held to determine the licence.

## 2.6 Code of Conduct

While working as a Hackney Carriage or Private Hire driver, you shall act in accordance with the following:

- Display your driver badge where it is easily visible
- Have a clean and tidy appearance in accordance with the Dress Code
- Behave in a polite and courteous manner
- Take reasonable precautions to ensure the comfort and safety of passengers at all times
- Attend punctually at the appointed time and place when hired
- If requested offer reasonable assistance with the loading and unloading of bags and luggage
- Offer reasonable assistance to passengers with a disability when they are getting in and out of the vehicle and, if appropriate, to and from their starting point or destination
- Unless otherwise directed by the hirer, should proceed to the destination by the shortest or most economical route

- Not eat or drink in the vehicle whilst working as a Hackney Carriage or Private Hire vehicle
- Comply with a passenger's request not to play any radio or other sound producing equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle
- Not play any radio or other sound producing equipment in the vehicle so loud that it causes a noise nuisance to anyone inside or outside the Hackney Carriage or Private Hire vehicle
- Not carry animals in the vehicle whilst working as a Hackney Carriage or Private Hire except those carried in connection with the hiring of the vehicle. The driver has the discretion to decide whether he/she wants to take an animal belonging to a passenger in the vehicle, however, that animal may only be carried in the rear of the vehicle
- **Must carry a customer's guide, hearing or assistance dog** unless the driver holds an exemption on medical grounds
- Shall ensure that the vehicle is clean, tidy and free of rubbish and unnecessary personal belongings whilst being used to carry passengers
- Shall ensure that they comply with the Intended Use Policy at all times (see Annex 4)

## 2.7 Dress Code

The purpose of Cotswold District Council's driver dress code is to seek a standard of dress that portrays a positive image of the district; to enhance a professional image of the drivers licensed by the Council and to ensure that public and driver safety is not compromised. The Council expects all licensed drivers to be dressed in an appropriate manner whilst working as a Hackney Carriage or Private Hire driver.

### Unacceptable standards of dress include:

- Dirty and ripped clothing
- Words or graphics on any clothing that is of an offensive or suggestive nature
- Beachwear
- Outdoor footwear for all drivers must be suitable. Flip flops and forms of footwear which are not secured around the heel are deemed unacceptable.

## 2.8 Lost Property

When a passenger is leaving your vehicle, you should check to make sure that no property has been left behind.

If a passenger does leave something in your vehicle you should take it to a local Police Station and get a receipt for it from the duty officer.

## 2.9 Safeguarding

There are well-publicised issues relating to child sexual exploitation and human trafficking that have occurred throughout the country. These are abhorrent crimes and the Hackney Carriage and Private Hire trade have a role to play in tackling this issue by acting as the 'eyes and ears' of the community to help identify and help those who are vulnerable or being exploited.

Cotswold District Council is working with the other Gloucestershire Licensing Authorities and the Gloucestershire Safeguarding Board to set up training for all Hackney Carriage and Private Hire drivers. Initially such training will be provided free of charge, however, at a later time a fee may be introduced which must be paid by the licence holder.



The Council expects that, if safeguarding training is available, that all licensed drivers undertake this training and no licences will be issued to new applicants without undertaking this training.

Failure to undertake the training within the timescales, except in exceptional circumstances at the discretion of the Licensing Officers, will lead to suspension of the licence until such a time as the training is completed.

There may be a requirement to undertake refresher training should legislation or best practice changes.

**2.10 English Test** – Drivers of licensed vehicles have to be able to communicate with their passengers, be able to understand instructions and requests and also be able to respond appropriately. It is therefore essential that drivers have a good understanding and command of the English language which is the predominant language used in the Cotswold District. If there are substantiated concerns, either at application or whilst licensed with us, the individual will be referred to the Licensing Sub-Committee.

## 3. Hackney Carriage & Private Hire Drivers (Dual Driver) - Requirements under Legislation

### 3.1 Equality Act 2010

The Equality Act 2010 makes it unlawful to discriminate, either directly or indirectly, against members of the public on the grounds of disability, gender reassignment, pregnancy and maternity, race, sex, sexual orientation, religion or belief.

### 3.2 Wheelchair Users

Under the Equality Act 2010, from 6 April 2017, drivers of Hackney Carriage and Private Hire vehicles designated by the local licensing authority as being wheelchair accessible must comply with the requirements of Section 165 of the Equality Act 2010, unless they have been issued with an exemption certificate.

Drivers must:

- carry the passenger while in a wheelchair
- not make any additional charge for doing so
- if the passenger chooses to sit in a passenger seat, to carry the wheelchair
- take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- give the passenger such mobility assistance as is reasonably required

Section 166 allows us to exempt drivers from the duties to assist passengers in wheelchairs if it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties.

The licensing authority will also maintain a list of designated wheelchair accessible vehicles on its website.

### 3.3 Assistance Dogs

Under the Equality Act 2010, licensed drivers of Hackney Carriages and Private Hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to

- a) Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
- b) Not to make any additional charge for doing so

It is best practice to ask the passenger where they want themselves and their dog to sit in the vehicle.

Under the Equality Act 2010, it is an offence for any operator or driver to refuse to carry assistance dogs or to charge more for the fare or booking. On conviction for such an offence, drivers can be fined up to £1,000 and have their licence removed.

To ensure that the Equality Act 2010 is upheld, Cotswold District Council will have a zero tolerance policy to access refusals and will investigate all reported violations of the Act with a view to pursuing a conviction.

Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the Council for exemption from the duty on medical grounds. The Council will only issue an exemption certificate when it is authorised by the driver's GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history. The notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.

### **3.4 Smoke Free Legislation**

Under the Health Act 2006, Hackney Carriage and Private Hire vehicles are smoke free vehicles by law. This means that neither the driver nor the passengers are able to smoke in the vehicle at any time. Even if you are driving a licensed vehicle without passengers you will be committing an offence if you smoke in the vehicle.

Vaping and electronic cigarettes are also prohibited in licensed Hackney Carriage or Private Hire vehicles.

### **3.5 Immigration Act 2016**

Any person who does not have the right to work in the UK is disqualified from holding a Hackney Carriage or Private Hire driver licence. The Council will need to see documentation to check that an applicant is not disqualified for reason of their immigration status.

## Hackney Carriages and Private Hire vehicles

### 4. Vehicles - Application Requirements

#### 4.1 New Application

To make an application you must submit the following:

- Application form
- Fee
- Vehicle registration document in your name or, if not available, a bill of sale, an invoice or a credit agreement
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT certificate (unless the vehicle is less than 1 year old from registration date)
- Meter Calibration Certificate. This applies to all Hackney Carriages. For Private Hire vehicles it only applies if a meter is fitted
- LOLER and weight test certificate (if applicable)

#### 4.2 Renewal Application

A renewal application must be completed prior to the expiry date of the current Hackney Carriage vehicle licence. If you do not renew your licence before it expires your vehicle becomes unlicensed and should not be used for hire and reward. Any application received after expiry will be treated as a new application and all the requirements and fees of a new application will apply. **It is your responsibility to make sure you renew your licence.** To enable the service to process your application in time, it is advisable to submit this application at least 7 days prior to expiry.

To make a renewal application you must submit:

- Application form
- Fee
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Hackney Carriage, Hackney Carriage or public hire. For Private Hire vehicles insurance will state Private Hire
- MOT certificate (unless the vehicle is less than 1 year old from registration date)

#### 4.3 Transfer of Ownership Application

(Ownership of a licensed vehicle is transferred to another person(s)).

To make a transfer application the new owner must submit the following:

- Transfer application form
- Fee
- Proof of transfer of the licensed vehicle such as a registration certificate in the new owner's name or, if not available, a bill of sale, an invoice or a credit agreement
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT (unless the vehicle is less than 1 year old from registration date)
- Written consent to transfer from previous licence holder

The existing licence plate will be valid for the remainder of the current licence. A new plate will not be issued.

#### **4.4 Change of Vehicle Application**

(A licensed vehicle is replaced with another vehicle either temporarily or permanently)

To make a change of vehicle application you must submit:

- Change of vehicle application form
- Fee
- Proof of ownership of the vehicle such as a registration certificate in your name or, if not available, a bill of sale, an invoice or a credit agreement
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT certificate (unless the vehicle is less than 1 year old from registration date)
- Return any plates and discs previously issued by the Council

For permanent transfers, the licence holder can choose whether to be issued with a new plate for a full year or for the remainder of the current year.

For insurance companies providing vehicles temporarily, a new plate will be provided. The cost will be the same as a new licence. The application form should be completed by the insurance company.

#### **4.5 Change of Registration of Vehicle Application**

(The registration number of a licensed Hackney Carriage or Private Hire vehicle is changed eg personalised number plate)

To make a change of registration application you must submit:

- Change of registration application form
- Fee
- Documents from DVLA confirming change of registration
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT certificate showing new registration
- Return any plates and discs previously issued by the Council

## 5. Hackney Carriage and Private Hire vehicles - Cotswold District Council Policy

### 5.1 Vehicles

The vehicle shall be of a suitable size, type and design to be safe and comfortable for passengers.

The vehicle must be right hand drive.

Normally vehicles should be four door saloons; five door estates, multi purpose vehicles (people carriers), minibus or purpose built Hackney Carriages.

The vehicle must be constructed and the doors open sufficiently wide as to allow easy access in to and egress from the vehicle and cause no inconvenience to passengers.

A minibus, or similar type of vehicle, in addition to the driver's door, must have at least two other doors that provide adequate entry/egress to the vehicle for use by passengers. These doors must permit easy access for passengers entering and exiting the vehicle and be readily opened from inside the vehicle. They may consist of:

- Either two sliding doors, one to either side of the vehicle, or
- A door on the 'near side' of the vehicle and a door at the rear of the vehicle

The vehicle licence holder shall ensure that the vehicle and all fittings and seating are efficient, safe, tidy and clean.

The **outside of the vehicle** will be free from dents, rust or unrepaired accident damage and with even paintwork matching that applied by the manufacturer. This includes alloy wheels, hub caps and wheel trims.

The **inside of the vehicle** will be free of all visible stains, splits, and tears unless satisfactorily repaired or covered neatly. All carpets and mats will be fitted so as to not be a trip hazard.

**A vehicle must not be structurally damaged or have been an insurance write-off, except where repaired and certified to the Council's satisfaction.**

### 5.2 Age policy for vehicles

A new application for a Hackney Carriage or Private Hire vehicle licence will be refused if a vehicle is more than 5 years old from date of first registration.

An application to change the vehicle licensed as a Hackney Carriage or Private Hire vehicle will be refused if a vehicle is more than 5 years old from date of first registration.

An application to renew a Hackney Carriage or Private Hire vehicle will be refused if the vehicle is more than 15 years old from date of first registration. Existing vehicles will be permitted a 2 year period from the implementation of this policy to adhere to this requirement (1 April 2020).

Wheelchair accessible vehicles will be exempt from the above policy.

Licensing Officers have the discretion to licence a vehicle that does not meet the above age policy in the case of elite vehicles such as purpose built Hackney Carriage cab, Rolls Royce or similar

provided the vehicle is in excellent condition. Any such requests for licensing a vehicle should be made in writing by email.

Existing licence holders that have a vehicle over 15 years old at the time this policy is adopted will have a 2 year period to replace it with a vehicle that meets the age policy. After the 2 year period any renewal application for a vehicle that does not meet the age policy will be refused.

### 5.3 Converted Vehicles (including wheelchair accessible)

A vehicle that has been converted since manufacture, for example, many wheelchair accessible vehicles, must provide one of the following M1 approvals following conversion:

- European Whole Vehicle Type approval (ECWVTA)
- UK Low volume approval (UKLVTA)
- UK Individual Vehicle Approval (IVA)
- Certificate of Initial Fitness (COIF)
- UK Voluntary Standard Individual Vehicle Approval

Vehicles converted from vans which have a type approval other than M1 will not be acceptable unless they are presented with approved M1 certification for the resultant vehicle.

Please note that to achieve Voluntary Standard Individual Vehicle Approval VOSA are likely to require valid certification that all alterations such as seat fitting and tracking are M1 compliant. There is information about voluntary approvals on the Government's website. <https://www.gov.uk/vehicle-approval/voluntary-approval>

Where a wheelchair accessible vehicle has been converted by a bona fide converter, and the vehicle has then been registered with DVLA after conversion, the Council will accept that this vehicle will have passed appropriate approval in order to be registered and so the vehicle will be accepted for licensing without need for further documentation unless it appears that further conversions have been made to the vehicle following registration.

For vehicles that have been converted and currently licensed with Cotswold District Council, an IVA will be required by 1 April 2020.

### 5.4 Wheelchair Accessible Vehicles

Where a vehicle is utilised for the carriage of passengers in a wheelchair, the following conditions shall apply:

- The vehicle must be capable of accommodating a wheelchair user in a wheelchair so that the wheelchair faces forwards. The wheelchair must not be placed sideways
- Access to and egress from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus
- **Wheelchair internal anchorage** must be of the manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit
- A **suitable restraint** must be available for the occupant of a wheelchair
- Access ramps or lifts to the vehicle must be securely fixed prior to use and be able to support the wheelchair, occupant and helper
- Ramps and lifts must be securely stored in the vehicle before it may move off
- When deployed, **ramps must run flush** with the interior floor level
- Any **equipment fitted to the Hackney Carriage or Private Hire vehicle for lifting a wheelchair** into the vehicle must have been tested in accordance with the

requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times

## **5.5 Stretched Limousines**

### **Hackney Carriages**

Stretched Limousines are not permitted to be licensed as Hackney Carriage vehicles.

### **Private Hire vehicles**

Stretched limousines are permitted to be licensed as Private Hire vehicles.

The vehicle may be left or right hand drive.

The vehicle will be licensed to carry no more than 8 passengers.

All limousines must have a UK single vehicle approval certificate issued by VOSA.

Any proprietor who wishes to license an American Stretched Limousine will need to prove the vehicle has been converted by an approved converter under the Ford, Quality Vehicle Modifier (QVM) programme or on the Cadillac, Cadillac Master Coachbuilders (CMC) programme. It is the responsibility of the proprietor to provide the evidence to support this.

Where any vehicle is 'stretched' within the European Union the proprietor must produce the appropriate 'Low Volume' or 'European Whole Vehicle Type Approval' certification identifying the converting company.

Each Private Hire Licensed Stretched Limousine shall be required to produce a new MOT certificate every 6 months. The MOT test should be carried out by a VOSA registered MOT testing station with facilities to accommodate such vehicles.



## 6. Hackney Carriage and Private Hire vehicles - Cotswold District Council Conditions

These conditions are attached to all Hackney Carriage and Private Hire vehicle licences issued by Cotswold District Council.

### 6.1 Vehicle Testing

All vehicles over 5 years old will be subject to obtaining a satisfactory MOT certificate every 6 months. It will be the licence holder's responsibility to ensure that this certificate is submitted to licensing in a timely manner. Any vehicle that does not comply with this requirement will be suspended.

### 6.2 Vehicle Plates

Hackney Carriages only - an external licence plate must be attached to the outside of the vehicle adjacent or near to the rear vehicle number plate and must be visible at all times that the licence is in force.

Hackney Carriages and Private Hire - an internal licence plate must be attached to the internal bottom passenger side corner of the front windscreen and must be visible from inside and outside the vehicle at all times that the licence is in force.

All plates shall remain the property of the Council and in the event that the licence is suspended, revoked or expired shall be returned to the Council **within 7 days** from the date of a notice served on the licence holder by the Council.

### 6.3 Roof Signs

#### Hackney Carriages

A roof sign must be displayed on the top of the vehicle clearly showing the word 'Taxi'. The sign shall be attached to the meter and shall be illuminated when the vehicle is available for hire. The design of the roof sign shall be approved by the Council. The following may be incorporated in the roof sign:

- the trade name or name of the proprietor;
- the telephone number, email address and/or website of the proprietor;
- the words 'For Hire' which are only illuminated when the licensed Hackney Carriage is available for hire;

The roof sign may be of any colour except blue, but must conform to national legislation and Road Vehicle Lighting Regulations in respect of the display of lights to the front and rear of any vehicle.

Any exceptions to this rule must be submitted to the Licensing Officer for consideration.

#### **Private Hire vehicles**

The displaying of signs on or above the roof of a Private Hire vehicle is permitted but can only consist of the company name, telephone number and must state pre-booking only. The words 'taxi', 'cab' or 'Hackney Carriage' are strictly prohibited.

Requests for roof signs on Private Hire vehicles must be approved by the Licensing Officer.

#### **6.4 Fire Extinguisher**

The vehicle licence holder shall ensure that an appropriate fire extinguisher is provided in the vehicle and is maintained in good working order and readily available for use in an emergency.

#### **6.5 First Aid Kits**

It is recommended that a First Aid Kit is carried in the vehicle.

#### **6.6 CCTV**

CCTV in vehicles is not currently a requirement.

If the licence holder chooses to install CCTV, they must be registered with the ICO.

CCTV systems must be operated in accordance with data protection legislation.

Any vehicle with CCTV that records inside the vehicle must display a sign advising passengers that a CCTV system is in operation in the vehicle.

Audio recording CCTV systems must not be used to record conversations between members of the public as this is highly intrusive and unlikely to be justified except in very exceptional circumstances. You must choose a system without this facility wherever possible; however, if the system comes equipped with a sound recording facility then this functionality should be disabled. There are limited circumstances in which audio recording may be justified due to a specific threat to an individual's personal safety, e.g. when a 'panic button' is utilised in response to a threat of physical violence. Where this audio recording facility is utilised a reset function must be installed which automatically disables audio recording and returns the system to normal default operation after a specified time period has elapsed. The time period that audio recording may be active should be the minimum possible and should be declared at the time of submission for approval of the equipment. In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out.

Further information on CCTV and data protection can be found on the Information Commissioners' website at <https://ico.org.uk>

#### **6.7 Tinted Windows**

Vehicles will not be accepted that have tinted film on the windows, however, factory fitted tinted windows are permitted.

#### **6.8 Luggage**

All luggage must be stored securely and, if appropriate, the vehicle shall be fitted with suitable equipment to prevent luggage from entering the passenger compartment.

Any roof racks, roof boxes and trailers to be used must be approved by a Licensing Officer. When using such equipment you should ensure that the luggage is safely secured.

## 6.9 Seatbelts

For each passenger carried in the licenced vehicle there shall be available a properly fitted, maintained and EU approved seatbelt as per the manufacturer's specification.

## 6.10 Meters

### Hackney Carriages

All Hackney Carriages must have a meter.

For requirements relating to meters in Hackney Carriages please see Hackney Carriage Byelaws (see section 7).

A meter certificate issued by a meter fitter, approved by the meter supplier, will be required in the following cases:

- When a vehicle is first licensed
- If a meter is replaced
- A meter is moved to another licensed vehicle
- Cotswold District Council rates are changed
- At the request of a Licensing Officer where there is concern about the accuracy of the meter

Hackney Carriage meters may be tested for accuracy at the discretion of the Council.

### Private Hire vehicles

A meter may be installed in a Private Hire vehicle, however, if installed, it must have a sign attached stating that 'This is a Private Hire vehicle' and clearly display the tariff to which the meter is set. The tariff set should not exceed the authorised tariff for Hackney Carriages set by the Council. A meter certificate certifying the meter has been calibrated accurately must be provided when the meter is installed, changed or moved to another vehicle.

## 6.11 Fares

### Hackney Carriages

For a journey that wholly takes place within the controlled district the meter shall be running at no higher than the prescribed rate and the fare charged shall be the fare showing on the meter unless a fare is agreed with the passenger(s) prior to the commencement of the journey. Such an agreed fare shall not exceed the prescribed rate.

For a journey that either wholly or in part takes place outside the controlled area the fare or method of calculation of the fare shall be agreed with the passenger(s) prior to the commencement of the journey.

### Private Hire

All journeys must be pre-booked. The fare must be agreed in advance with the customer or, if a meter is fitted, it must be agreed prior to the journey to use the meter.

### 6.12 Setting of fares

Upon receipt of a request to review the fares for the District, the licensing authority must conduct a review.

The request must be supported by independent operators and firms to ensure that the request is required by a combination of licence holders. As a rule, a request will not be accepted if there is less than 10% of the trade requesting it.

A request will only be entertained providing that there has been no other review within the past 12 months.

Once a request has been received, the licensing authority will ensure that the consultation commences within 3 months of receipt.

### 6.13 Advertising

A copy of the policy guidelines on signage, advertising and other vehicle signage is shown in Appendix 9. The requirements are detailed below:

#### For Hackney Carriage Vehicles

- a) Vehicle markings which comply with the following condition do not require approval by the Licensing Officer: The proprietor's company name and/or telephone number may be displayed on a sign which measures not greater than 305mm (12 inches) by 305mm (12 inches) or 457mm (18 inches) width by 203mm (8 inches) depth. This sign must be affixed to the lower front door panels of the vehicle.
- b) New vehicle markings which do not fall within the standard condition at (a) above must be given prior approval by the Licensing Officer. Applications should be made following procedures and guidelines which are available from licensing. No new markings or advertising can be displayed until the application has been approved.
- c) The Hackney Carriage company / proprietor's trade-name, telephone number, email address and/or website, may be displayed anywhere on the vehicle. The size, style and colours of the lettering are not restricted but must be approved by the Licensing Officer beforehand.
- d) Third-party advertising – for example sponsorship by a local company – may be allowed, but each application must be made in writing and will be decided by the Council's Licensing Sub-Committee. No such advertising may be used without the Licensing Sub-Committee's prior agreement.
- e) Lettering or signage on the windows and windscreens of the vehicle must not obscure the driver's view, must conform with national legislation concerning the placing of such signs on vehicle windscreens, and must be approved by the Licensing Officer beforehand.
- f) Markings and advertising on the vehicle must not be of a racial, sexual, potentially offensive, political or religious nature, and any markings considered by the Licensing Officer to be inappropriate will not be permitted.

**For Private Hire vehicles**

- a) Vehicle markings which comply with the following condition do not require approval by the Licensing Officer: The proprietor's company name and/or telephone number may be displayed on a sign which measures not greater than 305mm (12 inches) by 305mm (12 inches) or 962mm (18 inches) width by 203mm (8 inches) depth. This sign must be affixed to the lower front door panels of the vehicle.
- b) New vehicle markings which do not fall within the standard condition at (a) above must be given prior approval by the Licensing Officer. Applications should be made following procedures and guidelines which are available from the Licensing Team. No new markings or advertising can be displayed until the application has been approved.
- c) The Private Hire Operator's trade-name, telephone number, email address and/or website, may be displayed anywhere on the vehicle. The size, style and colours of the lettering are not restricted but must be approved by the Licensing Officer beforehand.
- d) The use of the following words, or derivatives of them, is PROHIBITED anywhere on a Private Hire vehicle: 'TAXI', 'CAB', 'HACKNEY CARRIAGE'
- e) Third-party advertising – for example sponsorship by a local company – may be allowed, but each application must be made in writing and will be decided by the Council's Licensing Sub-Committee. No such advertising may be used without the Licensing Sub-Committee's prior agreement.
- f) Lettering or signage on the windows and windscreens of the vehicle must not obscure the driver's view, must conform with national legislation concerning the placing of such signs on vehicle windscreens, and must be approved by the Licensing Officer beforehand.
- g) Markings and advertising on the vehicle must not be of a racial, sexual, potentially offensive, political or religious nature, and any markings considered by the Licensing Officer to be inappropriate will not be permitted.

**Approval of signage and advertising**

All new signs, markings and advertisements must be approved by the Council. In the case of disagreement between the Licensing Officer and the applicant, the applicant may ask for the application to be considered by the Council's Licensing Sub-Committee.

## 7. Hackney Carriage Byelaws

### **These bye laws only apply to Hackney Carriages, they do not apply to Private Hire vehicles**

Byelaws made under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875, by the Cotswold District Council with respect to Hackney Carriages in the Cotswold District.

### **Interpretation**

1. Throughout these bye laws "the Council" means the Cotswold District Council and "the district" means the area of Cotswold District Council.

### **Provisions regulating the manner in which the number of each Hackney Carriage corresponding with the number of its licence shall be displayed.**

2. (a) The proprietor of the Hackney Carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.

(b) A proprietor or driver of a Hackney Carriage shall:-

- i. not wilfully or negligently cause or suffer any such number to be concealed from the public view while the carriage is standing or plying for hire;
- ii. not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

### **Provisions regulating how Hackney Carriages are to be furnished or provided.**

3. The proprietor of the Hackney Carriage shall:-

- (a) provide sufficient means by which any person in the carriage may communicate with the driver;
- (b) cause the roof or covering to be kept water-tight;
- (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
- (d) cause the seats to be properly cushioned or covered;
- (e) cause the floor to be provided with a proper carpet, mat, or other suitable covering;
- (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
- (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
- (h) provide an efficient fire extinguisher which shall be carried in such a position as to be ready available for use; and
- (i) provide at least two doors for the use of persons conveyed in such carriage and separate means of ingress and egress for the driver.

4. The proprietor of the Hackney Carriage shall cause the same to be provided with the taximeter so constructed, attached, and maintained as to comply with the following requirements, that is to say:-

- (a) the taximeter shall be fitted with a key, flag, or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
- (b) such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for hire of the carriage by the council;
- (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
- (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

**Provisions conduct of the proprietors and drivers of Hackney Carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges.**

5. The driver of a Hackney Carriage provided with a taximeter shall:-

- (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
- (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
- (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half-an-hour after sunset and half-an-hour before sunrise and also at any other time at the request of the hirer.

6. A proprietor or driver of a Hackney Carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.

7. A driver of a Hackney Carriage shall, when plying for hire in any street and not actually hired:-

- (a) proceed with reasonable speed to one of the stands appointed by the Council;
- (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
- (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so to face in the same direction; and
- (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved.

8. A proprietor or driver of a Hackney Carriage, when standing or plying for hire shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.

9. The driver of a Hackney Carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

10. The proprietor or driver of a Hackney Carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place, shall unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.

11. A proprietor or driver of a Hackney Carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.

12. If a badge has been provided by the Council and delivered to the driver of a Hackney Carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.

13. The driver of a Hackney Carriage so constructed as to carry luggage shall, when requested by any persons hiring or seeking to hire the carriage:-

- (a) convey a reasonable amount of luggage;
- (b) afford reasonable assistance in loading and unloading; and
- (c) afford reasonable assistance in removing it to or from the entrance of the building, station, or place at which he may take up or set down such person.

**Provisions fixing the rates or fares to be paid for Hackney Carriages within the district, and securing the due publication of such fares.**

14. The proprietor or driver of a Hackney Carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by distance and time unless the hirer expresses at the commencement of the hiring his desire to engage by time.

Provided always that where a Hackney Carriage furnished with a taximeter shall be hired by distance and time the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.

15. (a) The proprietor of a Hackney Carriage shall cause a statement of the fares fixed by Council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- (b) The proprietor of a Hackney Carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

**Provisions securing the safe custody and re-delivery of any property accidentally left in Hackney Carriages, and fixing the charges to be made in respect thereof.**



16. The proprietor or driver of a Hackney Carriage shall immediately after the termination of any hiring or as soon as practicable thereafter, carefully search the carriage for any property which may have accidentally be left therein.

17. The proprietor or driver of a Hackney Carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed in to him:-

- (a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to the office of the Council, and leave in the custody of the officer in charge of the office on his giving receipt for it; and
- (b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

**Penalties**

18. Every person who shall offend against these byelaws shall be liable on summary conviction to a fine not exceeding one hundred pounds scale and in the case of a continuing offence to a further fine not exceeding five pounds for each day running which the offence continues after conviction therefor.

Given under the Common Seal of the Cotswold District Council this 24th day of April 1987 in the presence of P.A. Cutts (Chairman) and D.Waring (Chief Executive).

The foregoing byelaw is hereby confirmed by the Secretary of State and shall come into operation on the 1st day of August 1987.

## 8. Hackney Carriage and Private Hire vehicles - Requirements under Legislation

### 8.1 Duration of Licence

The licence shall remain in force for a period of one year.

### 8.2 Number of Passengers permitted

A Hackney Carriage or Private Hire vehicle shall not be licensed to carry more than 8 passengers.

A Hackney Carriage or Private Hire vehicle shall not carry any more passengers than the number stated on the Hackney Carriage or Private Hire vehicle plate.

### 8.3 Hackney Carriage must be driven by a licensed Hackney Carriage Driver

Once a vehicle is licensed as a Hackney Carriage it can only be driven by a person holding a Hackney Carriage driver's licence issued by the same Council throughout the duration of that Hackney Carriage vehicle licence. This includes when the Hackney Carriage is being used for private use.

### 8.4 Private Hire vehicle must be operated by a licensed Private Hire Operator and driven by a licensed Private Hire Driver

A Private Hire vehicle must at all times be operated by a Private Hire operator licensed with the same Council.

Once a vehicle is licensed as a Private Hire vehicle it can only be driven by a person holding a Private Hire drivers licence issued by the same Council throughout the duration of that Private Hire vehicle licence. This includes when the Private Hire vehicle is being used for private use.

### 8.5 Private Hire vehicle must not look or be used like a Hackney Carriage

A Private Hire vehicle must not be or resemble a Hackney Carriage or otherwise be of such design or appearance as to lead any person to believe that the vehicle is a Hackney Carriage. For example it should not resemble a London style Hackney Carriage.

A Private Hire vehicle must not display any sign that includes the word 'Taxi' or 'Cab' or 'For Hire' or any word of similar meaning or appearance to any of those words.

### 8.6 Plying for Hire – Hackney Carriages only

Plying for hire means waiting for passengers at a taxi rank or being flagged down in the street.

Hackney Carriages licensed by Cotswold District Council can only ply for hire within Cotswold District boundaries.

A Private Hire vehicle is not permitted to ply for hire.

### 8.7 Change of Address or Details of Licence

A holder of a Hackney Carriage or Private Hire vehicle licence must notify the Council in writing **within 7 days** of any changes in the details of their licence including a change of address.

### 8.8 Notification of Accidents

A holder of a Hackney Carriage or Private Hire vehicle licence must notify the Council as soon as reasonably practical and **no longer than 72 hours** after any accident that causes damage affecting the safety, performance or appearance of a Hackney Carriage or Private Hire vehicle or the comfort and convenience of the passengers.

### 8.9 Smoke Free Legislation

Hackney Carriages and Private Hire vehicles are smoke free vehicles by law and neither the driver nor the passengers are able to smoke in the vehicle at any time. Even if there are no passengers the driver cannot smoke in the vehicle.

Vaping and electronic cigarettes are also prohibited in licensed vehicles.

A 'No Smoking' sign must be displayed in each compartment in the vehicle which shows the international 'No Smoking' symbol (a minimum of 70 mm in diameter).

### 8.10 Seat Belt and Child Restraint legislation

The driver of a Hackney Carriage or Private Hire vehicle is responsible for ensuring that all passengers under the age of 14 are wearing the correct seat belts or restraints.

There is an exemption in legislation for Hackney Carriages and Private Hire vehicles regarding child restraints. If the correct size child restraints are not available in the vehicle then the following apply:

- Under 3s may travel unrestrained but in the rear seat only;
- Those 3 years and above in the rear seat must use an adult belt if the appropriate child seat or booster is not available;
- A child up to 12 years old or up to 135 cms in a front seat of any vehicle including Hackney Carriages must use the correct child seat or booster.

The driver of a Hackney Carriage or Private Hire vehicle is exempt from wearing a seatbelt whilst the vehicle is being used for seeking hire, or answering a call for hire, or carrying a passenger for hire. However, as a matter of safety, the Council would advise that drivers do wear their seatbelts at all times and in particular when not carrying passengers.

### 8.11 Sale of Alcohol

Sale of alcohol is a licensable activity under the Licensing Act 2003. Sale of alcohol is prohibited on a moving vehicle. If a sale of alcohol is made as part of a booking arrangement that sale must be authorised by either a premises licence or temporary event notice in accordance with the Licensing Act 2003.

## PRIVATE HIRE OPERATORS

### 9. Private Hire Operators - Application Requirements

#### 9.1 New Applications

You have the option to apply for a licence that lasts for 1 year or 5 years. The application process is the same but the fee is higher for a 5 year licence.

To make an application, you must submit the following:

- Application form
- Fee
- Satisfy the Council that you are a 'fit and proper person'. You must provide a Standard DBS and provide appropriate identity documentation. (Where you have also submitted an application for a Hackney Carriage or Private Hire driver licence to the Council (and that application or licence is still current), the Enhanced Criminal Record Check that is undertaken as part of that application will be accepted instead of needing to provide a Basic Disclosure)

#### Additional New Application Requirements for Foreign Nationals and Persons That Have Resided Outside the UK

- Provide a Standard DBS as detailed in application requirements above (unless you have only just arrived in this country). The Standard DBS issued through DBS will show any convictions that have been committed in the UK
- In addition to the Basic DBS you must provide the Council with a criminal record disclosure from all countries outside the UK you have resided in from the age of 18; or if those countries do not produce such information a certificate of good conduct from the Embassy or Legation from all countries outside the UK that you have resided in from the age of 18. This certificate must be an original and if in a foreign language must be accompanied by an original certified translation from a sworn translator. Any costs involved in such certificates and translations must be paid by you

#### 9.2 Renewal Application

A renewal application must be completed prior to the expiry date of the Private Hire Operator's licence. There is normally no period of grace if a renewal is submitted after the expiry date. If you do not renew your licence on time you will become unlicensed. Any application received after expiry will be treated as a new application and all the requirements and fees of a new application will apply. **It is your responsibility to make sure you renew your licence.** To enable the service to process your application in time, it is advisable to submit this application at least 7 days prior to expiry.

You have the option to renew for a licence that lasts for 1 year or 5 years.

To make a renewal application you must:

- Submit renewal application form
- Pay the appropriate renewal fee

## 10. Private Hire Operators Conditions

These conditions are attached to all Private Hire operator licences issued by Cotswold District Council.

### 10.1 Duration of Licence

The licence is issued for a period of 1 year or 5 years.

### 10.2 Convictions, Cautions and Fixed Penalties

If any person named on the Private Hire operator's licence gets any convictions, cautions, fixed penalties or has a court case pending, he/she must notify the Council in writing **within 7 days**.

### 10.3 Change of Address or Details of Licence

Any person named on the Private Hire operator's licence must notify the Council in writing **within 7 days** if the information supplied in his/her application for a Private Hire operator's licence is altered for any reason including a change of address.

### 10.4 Responsibility for Drivers and Vehicles

A Private Hire operator must ensure that all vehicles and drivers operating under his/her operator's licence are complying with the legislation and conditions relating to Private Hire vehicles and drivers.

### 10.5 Accepting Bookings

A Private Hire operator must not accept a booking unless the person making the booking knows the basis of the hire charge.

### 10.6 Records

A Private Hire operator must keep records of all bookings at their operator base in either a bound book or as a computer record which must include:

- The time and date of booking
- The name and address of person making the booking
- Name of passenger
- How the booking is made
- The time of the pick up
- Fare quoted
- The point of pick up
- The destination
- The driver that is allocated to the booking
- The plate number or registration of the vehicle allocated to the booking
- Any other comments such as details of sub-contract

A Private Hire operator must keep records of all Private Hire vehicles that he/she operates. This includes:

- The owner of the vehicle;
- The registration number and plate number;
- The driver of the vehicle and badge number.

All records should be kept for **6 months** from the date of the last entry.

Details of all bookings must be entered into the records immediately after they have been accepted or as soon as reasonably practicable.

An operator shall notify the Council in writing **within 7 days** of the termination of employment of a Private Hire vehicle or driver.

### **10.7 Advertising**

A Private Hire operator must not use the words 'taxi' or 'cab' or any word of similar meaning or appearance to any of those words in any advertising of the operator's company except where an operator also makes licensed Hackney Carriages available.

### **10.8 Standard of Service**

A Private Hire operator shall ensure that when a Private Hire vehicle has been hired it shall attend punctually at the appointed time and place unless delayed or prevented with reasonable cause.

### **10.9 Location of Operator Base**

The location where a Private Hire operator makes provision for taking a booking must be within the Council's boundaries. This may be an office address, business address or a home address.

### **10.10 Premises**

If any rooms or areas are provided for the public for waiting or making bookings they must be clean, adequately heated and ventilated and lit and have adequate seating facilities.

If any rooms or areas are provided for use by the public the Private Hire operator must hold public liability insurance for those areas if relevant.

## **11. Private Hire Operators - Requirements under Legislation**

### **11.1 Drivers and Vehicles**

An operator must not use unlicensed drivers or vehicles.

An operator may only make use of drivers and vehicles licensed by the same Council that has issued the operator's licence.

### **11.2 Sub-Contracting**

An operator may sub-contract a booking to another operator licensed with any Council. Both operators must keep a record of the booking. The contract and responsibility for the booking remains between the operator that took the booking and the client.

### **11.3 Records**

An operator must make available records, on request, to an authorised officer of the Council or to a Police Officer.

### **11.4 Smoke Free Legislation**

Private Hire vehicles and Hackney Carriages are 'Smoke Free' vehicles which means that no one can smoke in these vehicles at any time and the appropriate signage must be displayed.

Vaping and electronic cigarettes are also prohibited in licensed vehicles.

Any enclosed premises that are used by the public, for example for making bookings or are used as a workplace, must be smoke free.

### **11.5 Equality Act**

The Equality Act 2010 makes it unlawful to discriminate, either directly or indirectly, against members of the public on the grounds of disability, gender reassignment, pregnancy and maternity, race, sex, sexual orientation, religion or belief.

### **11.6 Bookings Made by Disabled Persons Accompanied by Assistance Dogs**

A Private Hire operator may not refuse to take a booking by a disabled person if the reason for that refusal is because the person will be accompanied by an assistance dog.

A Private Hire operator may not make an additional charge to carry an assistance dog.

### **11.7 Planning Permission**

The use of a premises for a Private Hire operators business may require planning permission. Operators are advised to check with the relevant Planning Authority.

### **11.8 Sale of Alcohol**

Sale of alcohol is a licensable activity under the Licensing Act 2003. Sale of alcohol is prohibited on a moving vehicle. If a sale of alcohol is made as part of a booking arrangement that sale must be authorised by either a Premises Licence or Temporary Event Notice in accordance with the Licensing Act 2003.

### **11.9 Immigration Act 2016**

Any person who does not have the right to work in the UK is disqualified from holding a Private Hire operator licence. The Council will need to see documentation to check that an applicant is not disqualified for reason of their immigration status.



## 17. ANNEXES

1. Criminal Convictions Policy
2. Enforcement and Complaint
3. Knowledge Test
4. Intended Use Policy
5. Policy guidelines for signage, advertising and other markings on licensed vehicles
6. Service Delivery Timescales

## ANNEX I

# POLICY ON CONVICTIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS

## GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

### **General Policy**

1. Each case will be decided on its own merits.

The overriding consideration must be the safety of the public. The council has a duty to ensure so far as is possible that persons licensed to drive Hackney Carriage and Private Hire vehicles are fit and proper persons to do so.

This policy is merely a guide and the Sub-Committee can choose to determine contrarily to this document if there are good reasons to do so.

2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain:
  - (a) Free of convictions for an appropriate period, and
  - (b) Show evidence of good character from the time of the conviction. Simply remaining free of conviction does not necessarily provide sufficient evidence of good character.

Where an applicant was imprisoned for offences, they must demonstrate that they have been free of convictions and provide evidence of good character subsequent to their release from imprisonment.

Discretion would be appropriate where an offence is an isolated one and there are mitigating circumstances. Multiple offences or a series of offences over a period of time would give greater cause for concern and may give indications of a pattern of criminal behaviour which would need to be taken into account.

3. Under the Rehabilitation of Offenders Act 1974, offences by Hackney Carriage or Private Hire drivers are never 'spent'. However, if these offences are disclosed on the application form by the Applicant, then these would be considered 'spent'. The Licensing Officer will determine whether there is a risk to public safety based on the nature of the offence and the history of reoffending. If the Licensing Officer deems that there is a risk to public safety then the application will be determined by the Licensing Sub-Committee.

4. The following examples afford a general guide on the action to be taken where convictions are disclosed:

**a) Minor Traffic Offences**

Isolated convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, etc., should not prevent a person from proceeding with an application. However the number, type and frequency of the type of offence should be taken into account. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a Hackney Carriage or Private Hire Drivers Licence may be granted after its restoration but a warning should be issued as to future conduct.

**b) Major Traffic Offences**

An isolated conviction for a major traffic offence should normally merit a warning as to future driving and advice on the standard expected of Hackney Carriage and Private Hire vehicle drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 years free from convictions has elapsed.

(A list of those offences considered as major is attached).

**(c) Drunkenness**

(i) With Motor Vehicle

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour.

More than one conviction for this type of offence should raise grave doubts as to the applicants' fitness to hold a licence and, where disqualification has occurred, at least 3 years from the date of restoration of the drivers licence should have elapsed before the application is considered.

If there is any suggestion that the applicant is an alcoholic a special medical examination should be arranged and if the applicant is found to be an alcoholic there should be a period of at least 5 years from the completion of detoxification treatment before an application is entertained

(ii) Not in Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see above). In some cases, a warning may be sufficient.

**(d) Drugs**

An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict.

**(e) Sexual, Indecency and Child Protection Offences**

A licence will not be granted to an applicant currently on the sex offenders' register.

Drivers of Hackney Carriage and Private Hire vehicle are often entrusted with the care of children, young persons and vulnerable adults. Therefore where there is a conviction for a sexual offence

that involves a child, young person or vulnerable adult, an application for a licence will be refused.

Applicants with a conviction for rape, indecent assault, or other similar offences or similar offences under the Sexual Offences Act 2003, will be refused a licence.

Applicants with a conviction relating to sexual offences such as soliciting, importuning, indecent exposure or other similar offences or similar offences under the Sexual Offences Act 2003, will normally be refused a licence until they can show a period of at least 10 years free from any such conviction. If there is more than one such offence an application for a licence will be refused.

#### **(f) Violence**

As Hackney Carriage and Private Hire vehicle drivers maintain close contact with the public a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. Depending on the seriousness of the offence at least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

#### **(g) Dishonesty**

Hackney Carriage drivers and Private Hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

#### **(h) Licensing Offences**

Any contravention of licensing laws or conditions, irrespective of whether or not these are related to Hackney Carriage or Private Hire licensing, are important as they suggest a disregard of the importance of those requirements. Depending on the nature and seriousness of the offence 1 to 3 years should have elapsed following conviction before an application is entertained. Further information regarding licensing offences whilst a licence holder, can be found in our enforcement policy (Annex 2).

#### **(i) Offences of Discrimination**

Offences of discrimination are a serious concern to all as they represent unacceptable treatment of certain sections of our society. A conviction for this type of offence should be taken extremely seriously. Each case would need to be assessed on an individual basis and although the applicant may not be debarred from receiving a licence a strict warning should always be given. On considering any case care should be taken before issuing a licence to assess if the applicant is deemed to be a 'fit and proper person' to hold a licence.

#### **(j) Other Miscellaneous Offences**

These could include local authority offences, bye law offences, nuisance offences etc. which although may not be directly relevant to Hackney Carriage and Private Hire licensing would demonstrate a feckless or irresponsible attitude and should not be discounted lightly. Each case would need to be assessed on an individual basis and although they may not necessarily debar an applicant from receiving a licence a strict warning should be given.

**(k) Spent Convictions**

The Council will only consider spent convictions if it appears to be relevant for deciding whether the applicant is a fit and proper person to hold a licence and that full consideration for determining the application cannot be given except by admitting or requiring evidence relating to that spent conviction.

**(l) Cautions and Endorsable Fixed Penalties**

For the purposes of these guidelines formal cautions and endorsable fixed penalties shall be treated as though they were convictions.

## MAJOR TRAFFIC OFFENCES

### Paragraph 3(b) refers

AC10	Failing to stop after an accident.
AC20	Failing to give particulars or to report an accident within 24 hours.
AC30	Undefined accident offences.
BA10	Driving while disqualified due to care and attention.
BA20	Attempting to drive while disqualified by order of the court.
CD10	Driving without due care and attention.
CD20	Driving without reasonable consideration for other road users.
CD30	Driving without due care and attention or without reasonable consideration for other road users.
CD40	Causing death through careless driving when unfit through drink.
CD50	Causing death by careless driving when unfit through drugs.
CD60	Causing death by careless driving with alcohol level above the limit.
CD70	Causing death by driving then failing to supply a specimen for analysis.
DD40	Dangerous driving.
DD60	Manslaughter or culpable homicide while driving a vehicle.
DD80	Causing death by dangerous driving.
DR10	Driving or attempting to drive with alcohol level above limit.
DR20	Driving or attempting to drive while unfit through drink.
DR30	Driving or attempting to drive then failing to supply a specimen for analysis.
DR40	In charge of a vehicle while alcohol level above limit.
DR50	In charge of a vehicle while unfit through drink.
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive.
DR70	Failing to provide specimen for breath test.
DR80	Driving or attempting to drive when unfit through drugs.
DR90	In charge of vehicle when unfit through drugs.
IN10	Using a vehicle uninsured against third party risks.
LC20	Driving otherwise than in accordance with a licence.
LC30	Driving after making a false declaration about fitness when applying for a licence.
LC40	Driving a vehicle having failed to notify a disability.
LC50	Driving after a license has been revoked or refused on medical grounds.
MS50	Motor racing on the highway.
MS60	Offences not covered by other codes.
UT50	Aggravated taking of a vehicle.

#### **Aiding, abetting, counselling or procuring**

Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)

#### **Causing or permitting**

Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)

#### **Inciting**

Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16)

## ANNEX 2

### Enforcement and Complaints – With Effect from 1 April 2018

#### **Enforcement**

Cotswold District Council takes a risk based proportionate, targeted and flexible approach to inspection and enforcement and where appropriate will work with external agencies such as the Police.

When a potential breach or offence is identified Licensing Officers will investigate the matter.

If it is in relation to a licensed vehicle the licence holder may be requested to bring the vehicle to Cotswold District Council Offices for inspection by a Licensing Officer or to take the vehicle to an MOT approved garage for a full inspection.

If it is in relation to a licensed driver or operator the licence holder may be requested to attend an interview at Cotswold District Council Offices. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law the interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

#### **Complaints by the Public**

The public are able to make complaints to the licensing department about licensed drivers and operators. This could include such issues as offensive comments by a driver, unsafe driving, failure or lateness of attending bookings and refusal to take guide dogs.

Licensing will normally ask the complainant to put their complaint in writing or by email giving details of the nature of the complaint with date, time and location if relevant.

All such complaints will be recorded and investigated and the licence holder notified. Licensing may request the licence holder to attend an interview at Cotswold District Council Offices in order to determine the facts. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law that interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

Some complaints such as those alleging a serious criminal offence, traffic offence, violence or verbal abuse may be referred to the Police.

#### **Actions that may be Taken Following Enforcement or Complaint**

When deciding what action to take the Licensing Officers will consider each case on its own merits and will consider all relevant matters including:

- Seriousness of the offence, breach or complaint
- Any history of previous offences, breaches and/or complaints
- Consequences of non-compliance
- Effectiveness of any action
- Danger to the public
- In the case of an unproven allegation the seriousness of the allegation and the likelihood and risk of danger to the public Immediate suspension of licence

<b>Action</b>	<b>Examples (but not an exhaustive list)</b>
Take no action	<ul style="list-style-type: none"> <li>• Breach, offence or complaint is proven to be false.</li> <li>• Matter is minor or unproven and there is no previous history</li> </ul>
Verbal or written advice for example recommendation to re-take driver assessment test	<ul style="list-style-type: none"> <li>• Matter is minor and/or due to misunderstanding by the licence holder</li> </ul>
Verbal or written warning	<ul style="list-style-type: none"> <li>• Complaint made by the public</li> <li>• Minor traffic offence</li> <li>• Contravention of the code of conduct or dress code</li> </ul>
Fixed penalty notice	<ul style="list-style-type: none"> <li>• Smoking offences in a licensed vehicle</li> </ul>
Immediate suspension of licence	<ul style="list-style-type: none"> <li>• Suspension of vehicle (S 68) issued when on inspection of a vehicle Officers believe that it has a defect or is potentially unsafe for passengers or the meter is defective</li> <li>• Suspension of driver licence (s 61 (2b) if in interest of public safety for example failing a medical or serious criminal allegations</li> <li>• Suspension of driver licence (s 61) if driver fails to provide relevant documentation by expiry e.g. DBS/Medical</li> </ul>
Suspension of licence – 21 days notice	<p>Suspension of of a vehicle licence (s60) for failure to have a Council Vehicle Inspection or provide relevant document or visual condition of vehicle is not satisfactory.</p>
Simple caution issued by Business Support Service Leader	<ul style="list-style-type: none"> <li>• A licence holder admits to committing a less serious offence and the issuing of such a caution is likely to reduce re-offending</li> </ul>
Review of the licence by the Licensing Sub-Committee	<ul style="list-style-type: none"> <li>• A licence holder receives criminal conviction, police caution major motoring offence, or serious complaint or allegation</li> <li>• A licence holder has a history of complaints and/or offences. In the case of complaints by the public these complaints could be unproven if there is previous history of such complaints or a likelihood that the complaint is justified and the public could be at risk</li> <li>• A licence holder that had received more than 3 warnings from Officers for breaches of conditions, policy or legislation within a 12 month period</li> <li>• A licensed driver who has accumulated more than 6 current points on their driving licence</li> <li>• Any matter where a possible outcome is the revocation of the licence</li> </ul>
Prosecution	<ul style="list-style-type: none"> <li>• Using an unlicensed vehicle</li> <li>• Unlicensed driver driving a licensed vehicle</li> <li>• Unlicensed operator</li> <li>• Driving without valid insurance</li> <li>• Refusing to carry a guide dog</li> <li>• Exceeding the number of passengers on the plate</li> </ul>



**Review of the Licence by the Licensing Sub-Committee**

The panel will be 3 members of the Licensing Committee. The licence holder will be invited to attend the review and will be given reasonable notice, however, if the licence holder does not attend without reasonable cause the panel may undertake the review in his/her absence. The licence holder may bring another person with them to the review to support or represent them or they may wish to put comments in writing for the panel to consider. After considering all the facts the panel may take any action they feel appropriate. Below is a list of possible actions.

- No action
- Oral or written warning
- Requirement to take action within a time period for example recommendation to take an anger management course, speed awareness course or driving assessment
- Suspend the licence until an action or requirement has been met
- Suspend the licence for a period of time as a deterrent to ensure future compliance
- Revoke the licence
- Recommend a simple caution
- Recommend prosecution

**Right of Appeal**

A licence holder has a right of appeal to the Magistrates Court for any decision by the Council to refuse, suspend or revoke a driver, vehicle licence or operator licence or against any conditions added to a licence. This appeal must be made within 21 days of the notification of the Council's decision.

There is an exception to the above right of appeal in the case of a decision to refuse to grant a Hackney Carriage vehicle licence. In this case the right of appeal is to the Crown Court.

There is no right of appeal against an immediate suspension of a vehicle licence (s68).

## ANNEX 3

### Hackney Carriage and Private Hire Drivers - Knowledge Test Guidance

All Hackney Carriage and Private Hire Driver applicants must pass a knowledge test.

The test is taken at Cotswold District Council's offices in a group sitting and you must bring your passport and Photocard Driving Licence with you for identification purposes. The passport will also be checked to ensure that you have the right to work in the UK. If you do not hold a passport you must bring additional documentation showing that you have the right to work in the UK.

The knowledge test is broken down into the following sections:

#### **For Dual Drivers (Hackney Carriage and Private Hire):**

- 1) Highway Code
- 2) Numeracy
- 3) Policy Questions
- 4) Routes
- 5) Places of interest

#### **For Private Hire Drivers:**

- 1) Highway Code
- 2) Numeracy
- 3) Policy Questions

Each section has 20 questions. You must score at least 16/20 in each section and achieve a pass mark of 80% overall (e.g. Dual Drivers 80/100 and Private Hire Drivers 48/60).

Questions about the Policy will be taken from the Policy. You should make sure that you have read this document before attempting to take the test.

The questions on the Highway Code are based on the national rules for safe driving.

Questions about places of interest in Cotswold District will include questions on pubs, clubs, hotels, supermarkets, public buildings, train stations, museums, schools and some of the main road names.

Questions about routes are those within the district that will require you to know the names and numbers of the main roads in the district. Questions about routes to locations outside the district will focus on major destinations such as airports, ferry ports and large sport and entertainment centres and will require knowledge of the major motorway network.

The maths questions will include simple calculations such as how much change to give a customer.

The knowledge test must be booked in advance. You will be allowed up to one and half hours to complete the test. You will be advised of your results by email within 5 days of the test date.

If you fail your test you will be allowed to retake it. You must pay for the knowledge test each time you take the test.

If the test is failed twice, you will not be permitted to resit the test until a period of 6 months has lapsed.

If you pass, test papers are valid for 6 months, after which time you will need to retake the test.

## ANNEX 4

### Intended Use Policy for Licensing of Hackney Carriages (Hackney Carriage Vehicles)

The law permits a Hackney Carriage vehicle licensed by one local authority to be used to fulfil pre-booked hiring's on behalf of a Private Hire operator licensed by another local authority. In order to close this loophole, Cotswold District Council is likely to refuse to grant a Hackney Carriage vehicle licence where the applicant for that licence intends their Hackney Carriage vehicle to be used entirely or predominately for the purpose of fulfilling pre-booked hiring's on behalf of a Private Hire operator licensed by another local authority. (e.g. Cheltenham, Swindon or Stroud).

**Intended Use Policy** - The policy is for the following types of application:-

- New vehicle licence;
- Renewal of vehicle licence;
- Transfer of vehicle ownership;
- Change of vehicle;

**New applicants** wishing to licence a Hackney Carriage with Cotswold District Council will be required to make a statement on their application form about their intended use of the vehicle, i.e. whether the applicant intends the vehicle to be used.

- (i) Exclusively or predominantly to ply for hire/or take advance bookings in the Cotswold District (that is determined as 80% of the time; the journey may finish outside of Cotswold District) – **Complies with policy**
- (ii) Exclusively or predominantly (more than 20% of the time) operate taking pre booked journeys from operators outside of the Cotswold District – **fails to comply with policy, presumption of refusal**

#### **Renewal of a Hackney Carriage vehicle licence**

The driver or operator will need to maintain an accurate record of all uses of the vehicle when being used to fulfil pre-booked hiring's on behalf of a Private Hire operator licensed by another local authority. The record should contain:

- Name and address of the operator on behalf of which the journey was being undertaken; pick up point and destination date and time.
- Evidence of the number of days over the previous year they have plied for hire in the Cotswold District.

If the records maintained show the vehicle use fails to comply with the policy, (see (ii) above, there will be a presumption of refusal of renewal.

#### **Existing Licence Holders**

Where a licence has been granted under the terms that the applicant intends to ply for hire or trade to a material extent within the Cotswold District but is subsequently found not to be plying for hire to a material extent in the District and/or to be trading in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) will be referred to the Licensing Sub-Committee for determination.

### **Exceptional Circumstances**

Each application will be decided on its merits, however, the presumptions that intended use is to ply for hire or trade to a material extent within the Cotswold District will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that it would not frustrate the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.

## ANNEX 5

### Policy guidelines for signage, advertising and other markings on licensed vehicles

Vehicle markings which comply with the following conditions do not require approval by the Licensing Officer:

Hackney Carriages: The proprietor's company name and/or telephone number may be displayed on a sign which measures not greater than 305mm (12 inches) by 305mm (12 inches) or 457mm (18 inches) width by 203mm (8 inches) depth. This sign must be affixed to the lower front door panels of the vehicle.

All signage, advertising and other markings which do not fall within the condition shown above **must be given the Council's prior approval.** Further details are as follows:

1. Third-party advertising (i.e. carrying adverts for companies other than the proprietor's own business) on licensed Hackney Carriage (HC) and Private Hire (PH) vehicles must have the prior approval of the Council's Licensing Sub-Committee. Applications should be made in writing including a pictorial representation of the proposals. A meeting of the Licensing Sub-Committee will then be arranged to consider the proposal. **No third-party advertising is permitted without the prior approval of the Licensing Sub-Committee.**
2. For further details about applying to the Sub-Committee for third-party advertising, please contact the Licensing Officer.
3. The Licensing Officer has the authority, on behalf of the Sub-Committee, to approve other signage and markings on vehicles, such as the name of the Hackney Carriage / Private Hire business, contact details, the services provided (e.g. "Airport Runs") etc. No such signage is permitted until the Licensing Officer has seen and approved the proposals.
4. In order to make an application to have such markings on a HC or PH vehicle, proprietors should submit their proposal in writing to the Licensing Officer, including a full description of the advertising they intend to have on the vehicle and a pictorial representation such as a sketch or a photograph of similar markings.
5. The HC / PH proprietor must ensure that any proposed signage, advertisements and markings do not breach advertising standards industry guidelines.
6. Advertisements must not be of a racial, sexual, political or religious nature and must not be discriminatory or offensive.
7. Lettering or signage on the windows and windscreens of the vehicle must not obscure the driver's view and must conform to national legislation concerning the placing of such signs on vehicle windscreens.
8. Once the Licensing Officer has given written approval, the HC / PH proprietor may proceed with the advertising as submitted in the original proposal.
9. If the Licensing Officer deems the proposed signage, markings or advertising to be inappropriate, the request will be refused.
10. HC / PH proprietors may appeal to the Licensing Sub-Committee if their proposal has been refused.

## ANNEX 6

### Service Delivery Timescales for Hackney Carriage and Private Hire Applications

Type of application	Delivered to licence holder
Driver – New	5 days
Driver – Renewal	7 days
Vehicle – New	5 days
Vehicle – Renewal	7 days
Vehicle Transfer	1 working day
Customer query	5 days
Complaints	Initial response within 5 days
Serious allegation	Initial response within 1 working day

**These timescales are based on a full and valid application being submitted. Any invalid applications will be returned to the applicant and may result in further delays.**

**Renewals should be submitted at least 7 days before the expiry date to guarantee that they are issued prior to expiry.**

This document can be produced in Braille, large print, audio tape and in other languages.

If you would like a copy in one of these formats, please phone the Print and Design Department on 01285 623215.



# Consultation on Draft Common Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire 2021

## Comparison between Cotswold District Councils current Taxi and Private Hire Policy and the Proposed Gloucestershire Common Standards

	Topic	Current	Proposal	Impact on licence holders
1	<b>Joint Enforcement</b>	Cotswold District Council officers can only enforce for breaches made by licence holders licensed with Cotswold District Council	Joint authorisation of enforcement officers of the licensing authorities that have adopted these common standards	Officers from all Gloucestershire authorities will be able to enforce for breaches against the common standards and taxi and private hire legislation by any Gloucestershire licence holders
2	<b>Delegations for Decisions</b>	The Service Leader is delegated to make all decisions on new applications and can suspend/revoke licences with immediate effect. Reviews of licences and revocation of a licences are dealt with by the Licensing Sub Committee.	Licensing Officers to be delegated to make all decisions on new applications except where there are relevant convictions. Officers to be able to suspend and revoke with immediate effect. A Licensing Sub-Committee will consider new applications with relevant convictions (except minor motoring convictions) and will continue to review existing licences where relevant	New applicants with relevant convictions will be able to present their case to a Licensing Sub-Committee. Officers will be able to take immediate action in cases where there is a public risk and there is not time to arrange a Licensing Sub-Committee
4	<b>Frequency of DBS Enhanced Criminal Checks</b>	On new application and then every three years on renewal	Every six months	<p>Provided drivers subscribe to the update service this should not have financial impact.</p> <p>The Council will use the Multiple Status Check Facility (MSCF) which allows you to run a check on all licence drivers automatically</p>

5	<b>Time period for licence holders to notify the Council of arrest, charges and offences</b>	7 working days for convictions, cautions, fixed penalties or court case pending. 3 working days if arrested.	48 hours for arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.	No significant impact on licence holders
6	<b>How to complain Signage in vehicles</b>	Council contact details for complaint displayed on the rear of the internal vehicle disc displayed in front windscreen	Signage to be displayed in vehicles giving guidance for passengers and how to complain and displayed where it can easily be read. Failure to display could lead to suspension and a possible review of their licence.	Licence holders will need to display an additional sign in the vehicle. There will be a cost for the sign and a holder. Likely cost is £3 to £4. The sign will only need to be replaced if the vehicle is changed
7	<b>Immediate suspension and revocation of licences</b>	Where there are concerns that cannot wait until the next Licensing Sub-Committee the Service Leader can immediately suspend or revoke a licence but Officers cannot	Where there are concerns that cannot wait until the next Licensing Sub-Committee, Officers will be able to decide if immediate action is necessary including to suspend or revoke the licence.	This gives more flexibility for officers to take immediate action if there is a possible public risk
8	<b>Mandatory Training</b>	Safeguarding was mandatory for all existing driver licence holders in 2017	Existing licensees will be required to undertake refresher training every three years.	This is an additional cost and time commitment for existing licence holders  Likely cost of the training will be between £50 and £70  The requirement for refresher training will be within 3 years of the policy being approved due to current economic climate (Autumn 2024)
9	<b>Language proficiency</b>	If an applicant's first language is not English they must have an adequate spoken and written standard and may be referred to a Licensing Sub-Committee if there are concerns	All new applicants must take an English Proficiency test unless they can provide an appropriate educational certificate for a qualification related to English.  English language proficiency requirements will apply to new applicants from date of adoption of these standards	This places an additional criteria and possible cost for all new driver applicants if they do not have an appropriate educational certificate (Officers to have discretion)  Likely cost of an English Proficiency Test is £60 - £70

			Discretion to refer an existing licence holder for an assessment on a case to case basis.	
10	<b>Criminality checks for vehicle proprietors</b>	No requirements for licensed vehicle proprietors to provide a criminal certificate	Licensed vehicle proprietors must provide an annual basic disclosure certificate from the DBS unless they are also a licensed driver.	Cost of basic DBS (£23) Currently there are no vehicle proprietors that do not hold a CDC drivers licence and subject to an enhanced DBS
11	<b>Criminality checks for private hire vehicle operators</b>	Licensed private hire operators must provide a basic disclosure check from the DBS every 5 years on renewal unless they are also a licensed driver	Licensed private hire operators must provide an annual basic disclosure check from the DBS unless they are also a licensed driver	Small impact as nearly all licensed operators licensed by Cotswold District Council also hold a driver licence
12	<b>Private Hire Operator Booking and dispatch staff</b>	No requirement for operators to make criminality checks on booking and dispatch staff	Private hire operators must have written policies and procedures in place to ensure criminality checks are undertaken on all booking and dispatch staff at appropriate intervals and set out its approach on employing staff that are ex-offenders.  Where a booking is outsourced the operator must ensure the third-party have adequate arrangements in place as outlined above.	Some impact on operators who must develop policies and procedures. Basic criminal conviction disclosure cost £23
13	<b>Use of National Register of Refusals and Revocations (NR3)</b>	Not currently a requirement	All new drivers and licence holders on renewal will be checked against the National Register to ensure that they have not been refused or revoked by another Licensing Authority (quite often this would be for grounds that are not included on a DBS certificate e.g. a failed medical)	The Council will be required to carry out all steps as included in the report to the Planning and Licensing Committee (10.03.21)  This provides a more robust check on individuals and assists to safeguard the public

13	<b>Convictions Policy</b>	A current criminal convictions policy	An enhanced convictions policy that adds further conviction categories and extends some of the time scales applicants are expected to be clear of offences. It reflect the statutory standards - see separate conviction policy comparison table below	Existing licence holders may have convictions that fall in the timescales within the proposed policy. It is not reasonable that those licences should automatically be revoked. All existing licences will be considered in line with the new policy and where there is concern, they will be reviewed by a Licensing Sub-Committee
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## Comparison Table for Convictions Policy

Suitability of new applicants is considered in relation to the period of time that has elapsed since the conviction or sentence. Offences are grouped in categories. This table shows a summary of the current and proposed policy

Offence Category	Cotswold District Council's current Conviction Policy	Common Gloucestershire standards based on Statutory standards
Exploitation	Not included	Never
Violence	3 years	All offences 10 years
Possession of Weapon	Not included	7 years
Sexual Offences	Offences categorised to either never or 10 years	Never
Dishonesty	3 to 5 years	7 years
Drugs	3 to 5 years	5 to 10 years
Discrimination	Not specifically included	7 years
Motoring convictions New Applicants	Minor – isolated should not prevent a person from holding a licence but the number, type and frequency should be taken into account. Major – an isolated conviction should normally merit a warning. More than one within the last 2 years should merit refusal and no further application should be considered for a period of 1 to 3 years from convictions lapsing.	One or more major – 10 years More than one minor – 3 years
Motoring convictions - current licence holders	Same as new applicant	Two minor or one major up to 6 points - licence holder to complete driving assessment More than 6 points referred to a subcommittee for revocation
Drink driving or under influence of drugs	(i) With Motor Vehicle An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for this type of offence should raise grave doubts as to the applicants' fitness to hold a licence and, where disqualification has occurred, at least 3 years from the date of restoration of the drivers licence should have	7 years since conviction or completion of any sentence or driving ban

	<p>elapsed before the application is considered.</p> <p>If there is any suggestion that the applicant is an alcoholic a special medical examination should be arranged and if the applicant is found to be an alcoholic there should be a period of at least 5 years from the completion of detoxification treatment before an application is entertained</p> <p>(ii) Not in Motor Vehicle</p> <p>An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see above). In some cases, a warning may be sufficient.</p>	
Use of handheld device whilst driving	Not specifically included	5 years since conviction or completion of any sentence or driving ban
Hackney carriage or private hire offence	1 to 3 years	7 years

# Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades



April 2018

 Institute of Licensing

Produced by the Institute of Licensing in partnership with:

 **LLG**  
Lawyers in Local Government

 **NALEO**

 **Local Government Association**

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## Foreword

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty. The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one's driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise.

Therefore, this guidance is to be welcomed. It rightly emphasises that any circumstance relating to the licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to licensing authorities as to how they ought to approach their important task of making determinations about the safety and suitability of drivers and operators.

While, of course, licensing is a local function, it seems absurd that precisely the same conduct might result in a short period without a licence in one district, and a much longer period in a neighbouring district. If a driver is suitable in district A, they are surely suitable in district B, and vice versa. If, as is hoped, this guidance becomes widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the system of licensing. Adherence to the guidance may also provide protection to licensing authorities on appeal.

The guidance is therefore commended to licensing authorities. It is hoped that, in due course, it will sit at the elbow of every councillor and officer working in taxi licensing.

Philip Kolvin QC  
Cornerstone Barristers

April 2018

## Chapter 1: Introduction

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- 1.1 This guidance has been produced by the Institute of Licensing working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation. We are grateful to all three organisations for their contributions. This guidance is formally endorsed by all of those organisations.
- 1.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications<sup>1</sup>. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.4 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.5 There is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision. This guidance complements the LGA's Taxi and Private Hire Licensing Councillor's Handbook and any forthcoming Government guidance. Local authorities should also be aware of the forthcoming National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences.
- 1.6 This document is intended to provide guidance on determining suitability, taking into account the character of the applicant or licensee. It can then be used by local authorities as a basis for their own policies: in particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.
- 1.7 A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the

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<sup>1</sup> Except vehicle proprietors. In those cases there is no "fit and proper" requirement, but the authority has an absolute discretion over granting a licence.

authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*<sup>2</sup>.

- 1.8 In Chapter 2 this Guidance explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.7 and Chapters 3 and 4.
- 1.9 This Guidance contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.
- 1.10 This Guidance cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and the other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national minimum standards.
- 1.11 In preparing this document the Institute's Working Party has consulted with and considered the issues from all perspectives including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.

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<sup>2</sup> [2007] 1 WLR 2067

## Chapter 2: Offenders and Offending - An Overview

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- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'.<sup>3</sup> With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.
- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done, is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of re-offending and harm<sup>4</sup>. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

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<sup>3</sup> DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 8

<sup>4</sup> Kemshall, H. (2008). Understanding the Management of High Risk Offenders (Crime and Justice). Open University Press

- 2.6 Flaud<sup>5</sup> noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place<sup>6</sup>.
- 2.7 The National Offender Management Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards static and dynamic factors.
- 2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future<sup>7</sup>. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%<sup>8</sup>. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences<sup>9</sup>.
- 2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity<sup>10</sup>. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.
- 2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population<sup>11</sup>. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

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<sup>5</sup> Flaud, R. (1982). Cited in, Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

<sup>6</sup> Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

<sup>7</sup> Craig, L. A. and Browne, K. B (2008). *Assessing Risk in Sex Offenders: A Practitioner's Guide* Paperback.

<sup>8</sup> Ministry of Justice (2017) *Proven reoffending statistics: July 2014 to June 2015*, London: Ministry of Justice.

<sup>9</sup> Ministry of Justice (2015): *Transforming Rehabilitation: a summary of evidence on reducing reoffending*. London: Ministry of Justice.

<sup>10</sup> McGuire, J. (2008). A review of effective interventions for reducing aggression and violence. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363(1503), 2577-2597

<sup>11</sup> Nash, M. (1999) *Police, Probation and Protecting the Public*. London: Blackwell Press.

### Risk of re-offending:

- 2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as “any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual’s ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time”<sup>12</sup>.
- 2.12 Kurlychek, 2007 in her study noted that “a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age”<sup>13</sup>.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over<sup>14</sup>. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships<sup>15</sup>. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males<sup>16</sup>.
- 2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist<sup>17</sup>. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.
- 2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance<sup>18</sup>. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some

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<sup>12</sup> National Offender Management Service (2016). Public Protection Manual Edition. Proven Reoffending Statistics Quarterly Bulletin, October 2015 to December 2015

<sup>13</sup> Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

<sup>14</sup> Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364.

<sup>15</sup> Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

<sup>16</sup> Trueman, C.N. (2015). Women and Crime. The History Learning Site. Ingatestone: Essex.

<sup>17</sup> Farrell, S (2005). Understanding Desistance from Crime: Emerging Theoretical Directions in Resettlement and Rehabilitation (Crime and Justice) Paperback.

<sup>18</sup> Maguire, M., Morgan, R. and Reiner, R. (2002). The Oxford Handbook of Criminology. 3<sup>rd</sup> Edition. Oxford: Oxford University Press.

ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”<sup>19</sup>.

- 2.16 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. 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. This can be a long process that can only be achieved over time.

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<sup>19</sup> Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.



## Chapter 3: 'Taxi' Licensing Overview

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- 3.1 Taxis are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver's hands.
- 3.2 Local authorities (districts, unitaries and Welsh Councils) and TfL are responsible for hackney carriage and private hire licensing.
- 3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the DfT *"Taxi and Private Hire Licensing – Best Practice Guide"* para 8 which states:
- "The aim of local authority licensing of the taxi and PHV trades is to protect the public."
- 3.4 Within the two licensing regimes, there are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver and private hire operator.
- 3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.
- 3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.
- 3.9 What is the role of each of these, and how do authorities determine an application, or take action against a licence?

### Taxi Drivers

- 3.10 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory



criteria to be met before a licence can be granted and many authorities grant “dual” or “combined” licences to cover driving both types of vehicle.

- 3.11 An applicant must hold a full DVLA or equivalent driver’s licence, have the right to work in the UK, and be a “fit and proper” person<sup>20</sup>.
- 3.12 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.
- 3.13 An applicant must also have the right to remain, and work in the UK<sup>21</sup>.
- 3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.<sup>22</sup>
- 3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*<sup>23</sup>. Silber J said:
- “... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”
- 3.16 This is reflected in a test widely used by local authorities:
- ‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’<sup>24</sup>
- 3.17 It is suggested that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.

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<sup>20</sup> Local Government (Miscellaneous Provisions) Act 1976. Section 51(1) covers private hire drivers, and section 59(1) covers hackney carriage drivers.

<sup>21</sup> Local Government (Miscellaneous Provisions) Act 1976 S51(1)(a)(ii) in respect of private hire drivers and S59(1)(a)(ii) in respect of hackney carriage drivers.

<sup>22</sup> “Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales” - Home Office, 1<sup>st</sup> December 2016 available at <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

<sup>23</sup> [2002] EWHC 1145 (Admin), [2003] RTR 199

<sup>24</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 10.21

- 3.18 How can a local authority assess and then judge whether or not someone is safe and suitable to hold a drivers' licence?
- 3.19 The local authority has the power to require an applicant to provide:
- “such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”<sup>25</sup>
- This “information” can include any pre-conditions or tests that they consider necessary
- 3.20 Some of these are universal, such as medical assessments<sup>26</sup>. Others are required by some authorities, but not others. These include:
- Enhanced DBS certificates and sign-up to the update service;
  - Knowledge tests;
  - Driving tests;
  - Disability Awareness;
  - Signed Declarations;
  - Spoken English tests.
- 3.21 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.
- 3.22 Both 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 and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared<sup>27</sup>) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker<sup>28</sup>.
- 3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks<sup>29</sup> and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.

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<sup>25</sup> Local Government (Miscellaneous Provisions) Act 1976 s57(1)

<sup>26</sup> See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

<sup>27</sup> “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates.

<sup>28</sup> See *Adamson v Waveney District Council* [1997] 2 All ER 898

<sup>29</sup> “For Taxi [driver] Licensing purposes the correct level of check is always the Enhanced level check, with the Adults and Children’s Barred list check. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2” DBS email 31st August 2017.

- 3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.
- 3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability<sup>30</sup>.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account<sup>31</sup>. This then leads to the question of whether the stance taken by local authorities is robust enough to achieve that overriding aim of public protection.
- 3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.30 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been)

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<sup>30</sup> As recommended by the DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 59

<sup>31</sup> *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199 and *Cherwell District Council v Anwar* [2011] EWHC 2943 (Admin)

to assault another sexually has demonstrated completely unacceptable standards of behaviour.

- 3.31 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.
- 3.32 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.33 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.
- 3.34 As a society, we need to ask the question “who is driving my taxi?” and be secure in the knowledge that the answer is “a safe and suitable person”. The vast majority of drivers are decent, law abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public’s confidence in the trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi drivers. This is detrimental to all involved.

## Private Hire Operators

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same

authority<sup>32</sup>. A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person<sup>33</sup>.

- 3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.
- 3.39 Although this is by no means a perfect system, it does give local authorities a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.
- 3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used:
- “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”<sup>34</sup>
- 3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they

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<sup>32</sup> See *Dittah v Birmingham City Council*, *Choudhry v Birmingham City Council* [1993] RTR 356 QBD

<sup>33</sup> Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

<sup>34</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 12.35

obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.

- 3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation<sup>35</sup>. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

## Vehicle Proprietors

- 3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.44 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.
- 3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence<sup>36</sup> and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.
- 3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.
- 3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be

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<sup>35</sup> See s57(1)(c) of the 1976 Act.

<sup>36</sup> S37 of the 1847 Act in relation to hackney carriages; section 48 of the 1976 Act to private hire vehicles.

satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”<sup>37</sup>

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<sup>37</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 8.98

## Chapter 4: Guidance on Determination

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- 4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 4.2 Many members of our society use, and even rely on, hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.
- 4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 4.4 The purpose of this document is to offer guidance on how licensing authorities can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, a policy can be robust, and if necessary, say never, and each case is then considered on its own merits in the light of that policy.

### Pre-application requirements

- 4.5 Licensing authorities are entitled to set their own pre-application requirements. These will vary depending upon the type of licence in question but can include some or all of the following (these are not exhaustive lists):

#### Vehicles:

- Basic DBS checks;
- Specifications e.g. minimum number of doors, minimum seat size, headroom, boot space etc;
- Mechanical tests and tests of the maintenance of the vehicle e.g. ripped seats etc;
- Emission limits/vehicle age limits;
- Wheelchair accessibility requirements.



#### Drivers:

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;
- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

#### Operators:

- Basic DBS checks;
- Details of their vetting procedures for their staff;
- Knowledge of the licensing area.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership<sup>38</sup>) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the 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.

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<sup>38</sup> Section 57(2)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction<sup>39</sup>. Fixed penalties and community resolutions will also be considered in the same way as a conviction<sup>40</sup>.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated

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<sup>39</sup> This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

<sup>40</sup> This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

- 4.19 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.20 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 4.21 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 4.23 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 4.24 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

## Drivers

- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
- 4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

- 4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

#### Crimes resulting in death

- 4.29 Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

#### Exploitation

- 4.30 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 be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

#### Offences involving violence

- 4.31 Where an applicant has a conviction for an offence of violence, 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.

#### Possession of a weapon

- 4.32 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 7 years have elapsed since the completion of any sentence imposed.

#### Sex and indecency offences

- 4.33 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.
- 4.34 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

### Dishonesty

- 4.35 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Drugs

- 4.36 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.
- 4.37 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 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

### Discrimination

- 4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Motoring convictions

- 4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

### Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

- 4.40 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 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 4.41 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 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

### Other motoring offences

- 4.42 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.
- 4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Hackney carriage and private hire offences

- 4.44 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Vehicle use offences

- 4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## Private Hire Operators

- 4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.

- 4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

## Vehicle proprietors

- 4.50 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.
- 4.51 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 4.52 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 4.53 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 4.54 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

## Acknowledgements

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In December 2015, the Institute of Licensing established a working party to look at the creation of a model or standard set of guidelines in relation to assessing the suitability of applicants and licence holders in relation to taxi drivers, operators and vehicle proprietors, taking into account the character of the applicant or licensee.

The core project group comprised:

- Stephen Turner, Solicitor at Hull City Council, Licensing Lead for Lawyers in Local Government and Vice Chair of the North East Region IoL (Project Group Chair)
- Jim Button, Solicitor at James Button & Co and President of IoL
- Philip Kolvin QC, Cornerstone Barristers and Patron of IoL
- John Miley, Licensing Manager for Broxtowe Borough Council, National Chair for NALEO and Vice Chair of the East Midlands Region IoL
- Linda Cannon, previously Licensing Manager for Basingstoke & Dean and Hart Councils, and now private licensing consultant and Chair of the South East Region IoL
- Phil Bates, Licensing Manager for Southampton City Council
- Sue Nelson, Executive Officer of IoL

This Guidance is the result of the work of the project team and includes consideration of antecedent history of the applicant or licence holder and its relevance to their 'character' as well as consideration of convictions, cautions and non-conviction information.

The Institute is delighted to have the Local Government Association, the National Association of Licensing and Enforcement Officers and Lawyers in Local Government contributing to and supporting this project with IoL.

The Institute is also grateful to others who have contributed to the work of the project group, including former probation officer Hannah Jones (now Housing Officer at Flintshire Council) who has assisted the group in providing the chapter on 'Offenders and Offending'.



This project has been further enhanced by invaluable contributions from the following individuals and organisations:

- Ellie Greenwood and Rebecca Johnson, Local Government Association
- Tim Briton, Lawyers in Local Government
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- Louise Scott Garner
- Jenna Parker, Institute of Licensing

Finally, grateful thanks go to all those who responded to the initial fact-finding survey and the subsequent consultation on the draft guidance.

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The Institute of Licensing (IoL) is the professional body for licensing practitioners across the UK.  
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The Local Government Association (LGA) is the national voice of local government.  
[www.local.gov.uk](http://www.local.gov.uk)



Lawyers in Local Government (LLG). [www.lawyersinlocalgovernment.org](http://www.lawyersinlocalgovernment.org)



National Association of Licensing and Enforcement Officers (NALEO). [www.naleo.org.uk](http://www.naleo.org.uk)

Council name	<b>COTSWOLD DISTRICT COUNCIL</b>
Name and date of Committee	<b>PLANNING AND LICENSING COMMITTEE – 10 MARCH 2021</b>
Report Number	<b>AGENDA ITEM 7</b>
Subject	<b>AMENDMENT TO COTSWOLD DISTRICT COUNCIL'S STREET TRADING POLICY</b>
Wards affected	ALL
Accountable member	Cllr Andrew Doherty, Cabinet Member for Waste, Flooding and Environmental Health Email: andrew.doherty@cotswold.gov.uk
Accountable officer	Michelle Bignell, Service Leader (Licensing and Business Support) Tel: 01285 623000 Email: michelle.bignell@publicagroup.uk
Summary	To request that the Planning and Licensing Committee amend the annual renewal date for Street Trading Consents
Annexes	<b>Annex A</b> – Copy of Cotswold District Council's current Street Trading Policy
Recommendation	<i>That the Committee amends the current renewal date from 1 April to 31 March to a period of 12 months from the date the Street Trading Consent is issued.</i>
Corporate priorities	Ensure that services delivered by the Council are delivered to the highest standard
Key Decision	NO
Exempt	NO
Consultees/ Consultation	None

## **I. BACKGROUND**

- 1.1. The powers to control street trading within the Council's area are contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, 'the Act', which has been adopted by the Council. Under Schedule 4 of the 'Act' the Council can manage street trading by designating streets as 'consent streets', 'licence streets' or 'prohibited streets'. The Council has adopted powers in the 'Act' to regulate street trading through a Street Trading Consent (STC) scheme.
- 1.2. Cotswold District Council's Street Trading Policy (attached at **Annex A**) outlines the Council's approach to licensing of street trading in Cotswold district and was adopted by the Committee in December 2014.
- 1.3. The 'Act' states that 'a street trading consent may be granted for any period not exceeding 12 months'.
- 1.4. Annual STC's in the Cotswold District are currently issued from 1 April to 31 March each year. There are also other options such as day consents.

## **2. MAIN POINTS**

- 2.1. During the pandemic, the Council has seen an increase in the amount of applications for STC's and has risen by approximately 20%. This is due to businesses becoming more innovative and individuals who have been left with no option but to look for alternative employment.
- 2.2. Due to the annual policy date, the STC's have been issued pro-rata until the end of the year (31 March).
- 2.3. Each year, the licensing team faces a 'bulk' in work during late February/March due to the renewal date for STC's and a historic workload in other areas of licensing (e.g. taxi renewals).
- 2.4. To enable businesses to trade for a full year and to stagger the workload within the team it is proposed to remove the 1 April to 31 March period from the policy and permit STC's to be issued for 12 months from date of grant.

## **3. FINANCIAL IMPLICATIONS**

- 3.1. There are no financial implications.
- 3.2. The financial benefit is that there will be a full year's income received rather than a pro-rata amount.

## **4. LEGAL IMPLICATIONS**

- 4.1. There are no implications.
- 4.2. STC's will not be issued for any longer than the 12-month period specified in the 'Act'.

## **5. ALTERNATIVE OPTIONS**

No alternative options are proposed.

(END)

# Street Trading Policy

This policy was adopted by Cotswold District Council at the meeting of Council on 16 December 2014 and will be reviewed five years from that date unless previously amended.

Version: 18/12/14



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# Glossary

**The Council** - Cotswold District Council

**District** - The district of Cotswold District Council

**Licensing Sub-Committee** - The Sub-Committee established by the Council to determine applications for Street Trading Consent

**The Applicant** - The trader who has submitted an application for a Street Trading Consent

**Consent holder** - A person or Company to whom the consent to trade has been granted by the Council

**Street trading** - The selling, exposing or offering for sale of any article (including a living thing) in a street; and the supplying of or the offering to supply any service in a street

**A street** - Includes any road, footway, beach or other area to which the public have access without payment; and part of a street and a service area as defined in Section 329 of the Highways Act 1980

**Representation** - A comment made in response to an application

**Licence street** - A street in which street trading is prohibited without a licence granted by a district council (NB: there are currently no Licence Streets in the Council's District)

**Consent street** - A street in which street trading is prohibited without the consent of the council

**Street Trading Consent** - A permission to trade, which is granted by the council, pursuant to paragraph 7, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 subject to conditions and the payment of a fee

**A Roundsman** - An individual who visits a 'round' of customers and delivers the orders of those customers, for example a milkman. A person operating an ice-cream van is not classed as a roundsman

**A Pedlar** - A pedlar is a trader who must:

- be 17 years and above
- travels and trades on foot carrying to sell or exposing for sale; procuring orders or selling or offering for sale; goods wares or merchandise
- keep moving, stopping only to serve customers at their request
- move from place to place and not circulate within the same area
- carry all goods for sale
- hold a valid pedlar's certificate, issued by a Chief Constable of Police

**Authorised Officer** - An Officer authorised by the Council to act in accordance of the provisions of the Local Government (Miscellaneous Provisions) Act 1982

**Activities not requiring consent - Trading:**

- as a pedlar under a Pedlar's Certificate
- at an established Charter or statutory market
- in a trunk road picnic area
- as a news vendor where only newspapers or periodicals are sold
- at a petrol filling station or shop
- at a premises used as a shop or in a street adjoining premises and as part of the business of the shop [e.g. street café]
- as a Roundsman (i.e. delivering pre-ordered goods to customers)
- from a licensed highway area
- under a Street Collection Permit for charitable purposes

## 1.0 The Policy

- 1.1 The powers to control street trading within the Council's area are contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, 'the Act', which has been adopted by the Council. Under Schedule 4 of the Act the Council can manage street trading by designating streets as 'consent streets', 'licence streets' or 'prohibited streets'. The Council has adopted powers in the Local Government (Miscellaneous Provisions) Act 1982 to regulate street trading through a Street Trading Consent scheme.
- 1.2 This policy sets out the framework for the management of street trading in the area of Cotswold District Council.
- 1.3 The Council recognises the valuable contribution that street trading can make to the local culture and economy and the services that street traders provide to residents and visitors.
- 1.4 The Council is committed to improving the support provided to small businesses, ensuring there is no unnecessary burden placed on them and they are provided with sufficient guidance and advice.
- 1.5 This document sets out the street trading objectives the Council will use when they consider applications for Street Trading Consents. It sets out the Council's general expectations to how an application for street trading is determined.
- 1.6 The policy supports the Council's commitment to work in partnership with other agencies, and avoiding duplication with other statutory controls.
- 1.7 In determining this policy, the Council has consulted the following:
  - Gloucestershire Constabulary
  - Gloucestershire Fire and Rescue Service
  - Gloucestershire County Council Highways
  - Gloucestershire County Council Trading Standards
  - Parish and Town Councils
  - Parish Meetings
  - Current street traders
- 1.8 In addition the Council's regulatory and enforcement services have been consulted. These include:
  - Development Services
  - Environmental Services
  - Economic Development
  - Leisure and Communities
  - Legal and Property Services
- 1.9 This policy will be reviewed every five years. If required, periodic updates may be undertaken following the consultation process.



## 2 Legislation

2.1 The Act sets out a number of definitions and provisions.

‘Street Trading’ is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street. The Act makes certain activities exempt from the requirement to hold a Street Trading Consent. The exempt activities are:

- (a) Trading as a Pedlar under the authority of a Pedlar’s Certificate granted under the Pedlars Act 1871.
- (b) Any trade in a market or fair held under a charter which has been granted or established by statute. This exemption does not apply to car boot sales and informal markets which have been set up.
- (c) Trading in a trunk road picnic area provided under the Highways Act 1980 (section 112). Motorway service areas fall within this exemption.
- (d) Trading as a news vendor (where the only articles sold or offered for sale are newspapers and periodicals).
- (e) Trading at premises used as a petrol filling station or from a street adjoining a shop premises as part of the business or shop. This exemption enables people operating petrol stations to offer a range of goods on their forecourt and for shop keepers to offer goods outside their shop premises (for example a display of fruit and vegetables outside a greengrocers or plants/flowers outside a florists).
- (f) Offering or selling things as a Roundsman. For these purposes a “Roundsman” is a person who follows the round of his customers to take orders and deliver the pre-ordered goods of his customers. Case law has established that mobile ice cream sales are not exempt from street trading controls.
- (g) The use for trading under the Highways Act 1980 (Part VIIA Section 115B) of an object or structure (such as a booth or kiosk) placed on, in or over a highway.
- (h) The operation of facilities for recreation or refreshment provided under of the Highways Act 1980 (Part VIIA Section 115C);
- (i) Street collections for charitable purposes authorised by a street collection permit (issued under regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916)

2.2 Schedule 4 defines a “street” as any road, footway, beach or other area to which the public have access without payment and a service area as defined in section 329 of the Highways Act 1980. This statutory definition of “street” is clearly wider than the dictionary definition of that word.

2.3 A Consent Street is a street in which street trading is permitted only if the consent of the local authority has first been obtained.

2.4 All streets within the Council’s District are designated as Consent Streets.

### 3 Licensing process and delegation of functions

3.1 The Council's aim is to provide a clear, consistent licensing service for applicants and consent holders. The setting and any revisions to this policy will be submitted with recommendations from the Licensing Committee to Full Council for consideration and approval.

3.2 The Council's relevant Licensing Sub-Committee:

- determines the application for a Street Trading Consent (where valid representations are made against the application)

When determining an application for the grant, renewal or revocation of a Street Trading Consent a Licensing Sub-Committee may:

- (a) Grant consent to the applicant as applied for
- (b) Grant consent to the applicant subject to modifications to any of the following matters:
  - The days on which trading can take place
  - The times during which trading can take place
  - The location(s) where trading can take place
  - The articles that can be traded
  - The conditions attached to the Consent
  - The duration of the Consent
- (c) Refuse to grant the Consent
- (d) Revoke an existing Consent

3.3 The Public Protection Manager and Licensing Officers are authorised to:

- (a) issue Street Trading Consents and attach such conditions as are considered reasonably necessary under the Local Government (Miscellaneous Provisions) Act 1982.
- (b) vary the conditions attached to an existing Street Trading Consent when necessary to promote public safety and/or prevent nuisance or annoyance to affected parties.
- (c) refer to Licensing Sub-Committee
  - for a review of an existing Street Trading Consent where there has been a substantiated complaint about an existing street trader or the trader has breached the conditions of the Street Trading Consent.
  - refer new applications for street trading consents to the Licensing Sub Committee where a valid representation has been made.

## 4 Street Trading Objectives

4.1 The following street trading objectives will be considered in deciding whether or not a Street Trading Consent will be granted and on what conditions:

(a) Public safety

Whether the street trading activity represents, or is likely to represent, a risk to the public e.g. obstruction of a street or a danger to persons using the street, obstruction to key sight lines for CCTV cameras, obstruction for emergency vehicles.

(b) Public Order

Whether the street trading activity represents, or is likely to represent, a risk to public order. Gloucestershire Constabulary will be consulted on all applications regarding public order.

(c) Preventing nuisance or annoyance

Whether the street trading activity represents, or is likely to represent, a risk of nuisance or annoyance to the public e.g. from noise, odour, fumes, litter or waste.

## 5 Application advice for new applicants

### 5.1 Advice for New Applicants

New applicants are advised to contact the Council at their earliest opportunity, preferably before an application is made. This allows Officers to provide advice, as well as clarifying any areas of uncertainty.

### 5.2 Planning Permission

5.2.1 It is the responsibility of the applicant to identify the location(s) in which they wish to trade.

5.2.2 Private land is regarded as a 'street' if the public have access without payment. Written permission should be obtained from the land owner for the business to operate from that location.

5.2.3 Units which are moved on and off a site on a regular basis will require a Street Trading Consent.

5.2.4 Units which are permanently based on a site (even if they are capable of being moved) may need planning permission. If planning permission is granted for a permanent unit then it may not require a Street Trading Consent.

### 5.3 Site location

5.3.1 The following will be considered when determining suitability of the site for a static trader:

- Safety of other street users including traffic and pedestrians
- Safety of customers using the street trading unit
- Potential for obstruction, interference, inconvenience or nuisance to other street users including, other traders, traffic and pedestrians
- Potential for nuisance to residents and other businesses for example noise and/or smell
- Number of existing street traders in any one street

5.3.2 The A419 and A417 are designated as trunk roads. Road Management Services (Gloucester) Ltd [RMS] will not approve any street trading applications for laybys or slip roads along the A417 and A 419.

5.3.3 The Council may in exceptional circumstances grant more than one Street Trading Consent in a layby.

5.3.4 The Council will generally consider an application for a Street Trading Consent in respect of any Council owned car park only after consent to trade under the relevant Parking Order has been obtained.

### 5.4 Premises Licence

Street traders that serve hot food or hot drink at any time between 11.00pm and 05.00am will require a Premises Licence that authorises late night refreshment under the Licensing Act 2003.

### 5.5 Food Safety

The applicant should be able to demonstrate that all food handlers are appropriately trained / experienced. Food hygiene training certificates should be available for food handlers.

The applicant must provide evidence to demonstrate the food business is registered with a local authority.

### 5.6 Health and Safety

A valid gas safety certificate for all gas appliances should be available for inspection. Certificates must be issued by a Gas Safe registered engineer who holds the relevant competencies (commercial/catering and liquefied petroleum gas). As a minimum catering gas appliances should be inspected and tested every 12 months.

## 6 Submitting an application

6.1 All applicants must be 17 years of age or above. An application for consent must be made on the Council's standard form.

Applications forms:

- May be downloaded from the Council's website
- Electronic applications can be made through the Council's website

6.2 Two types of Street Trading Consent are issued; static and mobile

- (a) A static Street Trading Consents is issued for a trader who remains in one place during trading.
- (b) A mobile Street Trading Consent is issued to a trader who wishes to move from place to place. In order to meet the criteria for mobile consent a trader generally must not remain in one place for more than 30 minutes at a time and not return to the same site within 2 hours.

6.3 All applications for the grant of a new Street Trading Consent site must include:

- (a) Completed application form
- (b) Where the proposed trading is from a specified location, a location plan showing the proposed location of the street trading site. This map should clearly identify the proposed location by marking the site boundary with a red line.
- (c) Where the proposed trading is on a mobile basis, a list of Towns/Parishes in which trading is proposed to take place providing details where possible of the streets.
- (d) Colour photographs of the vehicle/stall showing any signage. If the vehicle/stall has not been constructed submit supplier drawings/brochure.
- (e) Valid insurance certificate for £5,000,000 public liability and public indemnity cover.
- (f) Documents to establish the applicant's identity i.e. photo driving licence or passport and one original proof of address issued within 3 months of the date of consent application e.g. utility bill (gas , electric), bank statement, mortgage statement.

6.4 For a new application the applicant must affix a prescribed Public Notice (issued by the Council) Appendix I in the location they wish to trade upon submission of the application for a period of 28 days. This must remain in place until the application has been determined.

## 7 Consultation Period

- 7.1 All new applications will be subject to a 28 day consultation period. The consultation period commences on the next working day following the receipt of the full application.

The consultation will seek the views of the following:

- Relevant Parish/ Town Council/Parish Meeting
- Councillor(s) for the Ward(s) concerned
- Gloucestershire Constabulary
- Gloucestershire Fire and Rescue Service (where applicable)
- Gloucestershire County Council Highways
- Gloucestershire County Council Trading Standards
- Planning and Development Services – Cotswold District Council
- Public Protection - Cotswold District Council
- Any other person(s) or bodies the Council deems relevant
- Consideration will be given to all written Representations, which are not irrelevant, frivolous, or vexatious.

## 8 Determination of application

### **Determining applications with no valid representations**

- 8.1 A Street Trading Consent will be automatically granted if the application meets the Street Trading Objectives and there are no valid representations.

### **Determining applications through mediation**

- 8.2 If the application does not meet the Street Trading Objectives, or there are valid representations Officers will contact the applicant to discuss changes that could be made to the proposed location, goods or trading hours and/or additional conditions that could be introduced.
- 8.3 If changing the application and/or introducing additional conditions can resolve the representation and/or street trading objectives a Street Trading Consent will be issued.

### **Determining applications where mediation has not resolved the representations**

- 8.4 If making changes to the application or introducing additional conditions cannot resolve the street trading objectives and/or representation the application will be referred to Licensing Sub-Committee.

## 9 Decisions

- 9.1 Where an application is referred to the Licensing Sub-Committee as a result of a valid representation being made, it will determine each application on its own merits. Applicants and the person/agency making the representation will be invited to attend. Members of the Licensing Sub-Committee will consider the information submitted as part of the application and give due consideration to persons making a representation.
- 9.2 Following the determination of an application, the Licensing Section will notify the applicant of the decision in writing within ten working days of the decision.
- 9.3 All Street Trading Consents are subject to the Council's standard conditions. Individual applications may be approved subject to additional conditions. Additional conditions form part of the Street Trading Consent and must be complied with at all times.
- 9.4 A Consent may be refused on any reasonable grounds. (LG(MP)A Paragraph 7(3) of Schedule 4). Where the council refuses an application the applicant will be informed in writing of the reasons for not granting the application.
- 9.5 There is no statutory right of appeal against refusal to issue a Street Trading Consent or against conditions that may be included in a Street Trading Consent.
- 9.6 A person aggrieved by a decision of the Council may make an application to the High Court for Judicial Review of the decision. For further information on potential grounds for Judicial Review applicants should seek advice from an independent solicitor as soon as they receive notice of the decision.

## 10 Conditions

- 10.1 The Council will apply standard conditions to all Street Trading Consents. Appendix 2 contains the Council's approved standard conditions. Additional conditions may be attached to individual consents if the circumstances warrant this, provided the conditions are reasonable and relevant to the Consent. (LG(MP)A Paragraph 7(7) and (8) of Schedule 4)
- 10.2 The conditions attached to the Consent can be varied. In the interests of fairness any proposed variation will be notified in advance to the consent holder (LG(MP)A Paragraph 7(6) of Schedule 4)

## 11 Duration of Street Trading Consent

- 11.1 Street Trading Consents are issued for periods not exceeding 12 months (from the 1 April to the 31 March). New Consents will be issued pro-rotta based on the number of months remaining until 31 March each year.
- 11.2 A Street Trading Consent may be surrendered at any time. It shall then cease to be valid.

## 12 Short Term Consents

- 12.1 Street Trading Consents are generally issued by the Council on an annual basis. Seasonal trading consents may be considered for a 6 month period e.g. mobile ice cream vehicles. A short term Consent may be granted for a period of up to 7 days.
- 12.2 The process is the same as for an annual Consent.

## 13 Renewals

- 13.1 Applications for renewal must be submitted no later than 6 weeks prior to the expiry date of the current Consent. Renewal applications made after this date will not be valid and a new application will have to be made. No trading may take place until the new Consent is issued.
- 13.2 The application form for the renewal of a Street Trading Consent site must be accompanied by:
- Street Trading Consent fee (in full)
  - Evidence of valid public liability and public indemnity insurance cover of not less than £5,000,000
- 13.3 Renewal applications will be automatically granted provided the following criteria have been met;
- no substantiated complaints have been received in the previous 12 months which relate to the Street Trading Objectives [refer to paragraph 4.0]
  - no relevant enforcement action has been taken against the applicant or persons working for the applicant
- If the criteria are not met the renewal will be subject to the same procedure as new application.

## 14 Transfers

- 14.1 A Street Trading Consent cannot be transferred or sold to another person.
- 14.2 Whilst the subletting of a Street Trading Consent location or pitch will ordinarily be prohibited, the Council may permit sub-letting in the case of a Consent granted to a Town or Parish Council where it is satisfied that the Town or Parish Council has, or will put in place, satisfactory measures to ensure that any individual/ organisation to whom they sublet will comply fully with the conditions subject to which the Town or Parish Council's Consent was granted.



## 15 Revocation

- 15.1 A Street Trading Consent may be subject to revocation during the 12 month consent period. Any valid Representation made against the Consent holder or persons working on behalf of the Consent holder will be referred to the Licensing Sub Committee to determine whether the Consent should be revoked. (LG(MP)A paragraph 7(10) of Schedule 4)
- 15.2 There is no right of appeal to the Magistrates Court against the revocation of a Street Trading Consent.

## 16 Markets

- 16.1 Charter markets are outside the scope of the Street Trading Policy.

## 17 Community and charity events

- 17.1 The Licensing Committee resolved in March 2013 that the following types of events should be exempt from the requirement to pay a Street Trading Consent fee;
- Fetes, carnivals or similar community based and run events of short duration (less than 1 day), e.g., Christmas lights switch-on events
  - Non-commercial, community or charitable events where the profits are not used for private gain or are wholly passed to a charity, educational organisation or community-based organisation.
- 17.2 This policy further requires that the following criteria must be met in order to qualify for the exemption;
- Traders cannot trade at the location for more than 1 day or return to the location more frequently than once in any four week period
  - Traders must be pre-booked by the organisers
  - Submission of a Returns form within 28 days of the event – detailing monies raised and details of the charity, educational or community based organisation that the monies have been passed to
- 17.3 This exemption includes community car boot sales.
- 17.4 For 'hybrid' events that are part community or charity based the fee will not be reduced.
- 17.5 The fee may be waived by Officers in consultation with the Chair and Ward Councillor(s). Where necessary, the application for the waiver of the fee will be referred to Licensing Sub-Committee for determination.

## 18 Selling a vehicle on a street

- 18.1 A Street Trading Consent is required where vehicles are placed on a street and advertised for sale. This includes any vehicle displaying signs that name an individual or business; or displays notices/signs intended to sell the vehicle.

## 19 Fees

- 19.1 Fees will be set for the granting and renewal of a Street Trading Consent. The fees will be fixed by the Council on a full cost recovery basis and reviewed annually. The level of fees applicable takes into account the administrative cost of issuing the consent and the cost of Council Officers to ensure compliance with the conditions in the consent.
- 19.2 Where trading ceases during the term of a Street Trading Consent, or the consent is revoked a part refund on a pro-rata basis may be issued if appropriate. Details of the current fees can be found on the Council's website.
- 19.3 Street Trading Consent fees must be paid in full before trading commences.

## 20 Enforcement

- 20.1 The Council is committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies, to provide consistent enforcement on licensing issues.
- 20.2 The Licensing Section aims to work closely with other enforcement authorities when dealing with issues related to street trading.
- 20.3 Where licensable activities are conducted without a Street Trading Consent or where conditions are breached, the Council will gather evidence and take enforcement action as required.
- 20.4 The Act creates an offence of trading in a Consent Street without a Street Trading Consent punishable by a fine of up to £1000 on conviction by the Magistrates' Court.

## 21 Contacts

- 21.1 Commercial Team - Licensing Section  
Public Protection  
Cotswold District Council  
Trinity Road  
Cirencester  
GL7 1PX  
01285 623000  
licensing@cotswold.gov.uk
- 21.2 The Council has a corporate complaints procedure, copies of which are available from the Council Offices or on the Council's website [www.cotswold.gov.uk](http://www.cotswold.gov.uk)

**Appendix I: Public Notice**

**NOTICE OF APPLICATION FOR A STREET TRADING CONSENT**

Name of Applicant	
Location	
Summary of application (hours of trading, articles to be sold etc.)	
<p>NOTICE IS HEREBY GIVEN that an application has been made to Cotswold District Council for a Consent to carry out street trading at above location.</p>	
<p>Copies of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and of the application may be inspected at:  Cotswold District Council  Licensing Team  Trinity Road  Cirencester  Gloucestershire  GL7 1PX  Between 09:00a.m. and 16:00 (Monday to Friday except public holidays)  Email: <a href="mailto:licensing@cotswold.gov.uk">licensing@cotswold.gov.uk</a></p>	
<p>Any person wishing to make representations about this application may do so in writing to Cotswold District Council no later than:  .....  (no later than 28 days from the date of application)</p>	

## Appendix 2

### Standard conditions for Street Trading Consent

1. A Street Trading Consent is valid only for the period specified on the Consent.
2. The Consent holder must pay the fee in full prior to trading
3. Street trading is limited to the days of the week and between the hours stated on the Consent.
4. The valid identification disc or card issued by Cotswold District Council must be displayed in a conspicuous place, clearly visible to the public on the street trading unit.
5. The Street Trading Consent relates to the following vehicle/stall only:
6. The Consent holder must ensure that the stall/vehicle is positioned only in the allocated space in the location for which the Street Trading Consent is issued.
7. The Council must approve any changes to or replacement of the stall or vehicle.
8. The Consent holder must not use the site for any other purpose other than that of the operation of the Street Trading Consent
9. The Consent holder must not carry on their trade in such a way as to cause obstruction of any street or endanger persons using the street or cause any nuisance or annoyance
10. The Consent holder and/or his employees must only sell or offer for sale those goods specified in the Consent granted to the Consent holder
11. The Consent holder's vehicle/stall must be kept in a clean, safe and well maintained condition
12. Every static street trading vehicle/ stall must be removed from the site at the end of the trading day unless agreed by the Council.
13. Holders of mobile Street Trading Consent must not trade in one place for more than 30 minutes at a time and must not return to the same location within 2 hours.
14. The Consent holder must ensure refuse originating from their trade is disposed of by a licensed waste carrier and must leave the site and its immediate vicinity clear of refuse at the completion of trading.
15. No water or waste material must be discharged on to the highway or any adjacent property.
16. When trading from a layby leave a maximum usable space permitting safe ingress and exit for vehicles.
17. No free standing signs e.g. 'A' boards must be displayed on the street. No free standing seating, tables, chairs, sunshades or other unapproved items are to be displayed.
18. No television, radio or other device used in the reproduction or amplification of sound whilst trading must be audible beyond a distance of 5 metres from the trading unit.
19. The granting of this Consent does not imply the right to violate any order or prohibition or restriction made under the various Road Traffic Acts and Highway Acts.
20. A Street Trading Consent cannot be transferred or sold to another person.
21. The sub-letting of a Street Trading Consent location is prohibited unless agreed by the Council.
22. The Consent holder must be the principal operator and have day-to-day control of the stall/vehicle. The Consent holder may employ any other person to assist in operating the stall/vehicle.
23. The Consent holder will comply with the Equality Act 2010, ensuring they do not discriminate, harass or victimise customers or staff during the course of their trading. They will also ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.

24. The Consent holder must have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover must be £5,000,000 and must cover the operator's vehicle, or stall and any additional equipment under their control.
25. These general conditions, which apply to all Street Trading Consents, may be varied, having regard to a particular location. Additional conditions may be required and will be displayed and listed on the Street Trading Consent.
26. The Consent holder may terminate a Street Trading Consent by written notice to the Council.
27. Consent may be revoked by Cotswold District Council at any time.

### **Failure to comply with these conditions**

If the consent holder fails to comply with any of the conditions attached to a Street Trading Consent, the Consent may be revoked. The Consent holder may also be prosecuted for trading outside of the location or times specified in the Street Trading Consent.

### **Additional conditions (where applicable)**

1. Where gas cylinders are used a valid gas safety certificate is required to ensure the safety of all gas appliances
2. Where the vehicle or stall has a 240 volt electrical system a valid electrical installation certificate is required.
3. A serviceable fire blanket and suitable fire extinguisher/s must be provided at all times.
4. A basic first aid kit must be provided.
5. A mobile phone must be available for use.
6. All staff involved in the preparation of food must hold a current Level 2 food safety certificate, accredited by the Chartered Institute of Environmental Health, the Royal Society of Health, or the Royal Institute of Public Health and Hygiene.
7. No signage or objects (e.g. tables/chairs) must be placed on the highway or the site without prior approval by the Council.
8. No generator must be used without the consent of the Council.
9. Where seating is provided for consumption of food on site toilet facilities must be made available
10. The Consent holder must make arrangements to ensure that all persons connected with the operation of the vehicle/stall have the means and opportunity to visit suitable toilet facilities when necessary.

This document can be produced in Braille, large print, audio tape and in other languages.

If you would like a copy in one of these formats, please phone the Print and Design Department on 01285 623215.

## PLANNING AND LICENSING COMMITTEE 10th March 2021

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### SCHEDULE OF APPLICATIONS FOR CONSIDERATION AND DECISION (HP)

- **Members are asked to determine the applications in this Schedule. My recommendations are given at the end of each report. Members should get in touch with the case officer if they wish to have any further information on any applications.**
- **Applications have been considered in the light of national planning policy guidance, the Development Plan and any relevant non-statutory supplementary planning guidance.**
- The following legislation is of particular importance in the consideration and determination of the applications contained in this Schedule:
  - **Planning Permission:** Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 - special regard to the desirability of preserving the (listed) building or its setting or any features of special architectural or historic interest.
  - **Listed Building Consent:** Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 - special regard to the desirability of preserving the (listed) building or its setting or any features of special architectural or historic interest.
  - **Display of Advertisements:** Town and Country Planning (Control of Advertisements) (England) Regulations 2007 - powers to be exercised only in the interests of amenity, including any feature of historic, architectural, cultural or similar interest and public safety.
- The reference to **Key Policy Background** in the reports is intended only to highlight the policies most relevant to each case. Other policies, or other material circumstances, may also apply and could lead to a different decision being made to that recommended by the Officer.
- Any responses to consultations received after this report had been printed, will be reported at the meeting, either in the form of lists of **Additional Representations**, or orally. Late information might result in a change in my recommendation.
- The **Background Papers** referred to in compiling these reports are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; responses from bodies or persons consulted on the application; other representations supporting or objecting to the application.

**PLANNING AND LICENSING COMMITTEE 10th March 2021**  
**INDEX TO APPLICATIONS FOR CONSIDERATION AND DECISION**

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Parish	Application	Schedule No.
North Cerney	Land At Calmsden Estate Calmsden North Cerney Gloucestershire 20/02374/FUL Full Application	01



**Item No 01:-**

**20/02374/FUL**

**Land At Calmsden Estate  
Calmsden  
North Cerney  
Gloucestershire**

## Item No 01:-

**Change of use of agricultural buildings to flexible office & storage use, construction of new office hub building & new agricultural buildings, along with associated infrastructure at Land At Calmsden Estate Calmsden North Cerney Gloucestershire**

<b>Full Application 20/02374/FUL</b>	
Applicant:	Calmsden Estate
Agent:	SF Planning Limited
Case Officer:	Martin Perks
Ward Member(s):	Councillor Jenny Forde
Committee Date:	10th March 2021
<b>RECOMMENDATION:</b>	<b>PERMIT</b>

### **Main Issues:**

- (a) Economic Development in a Rural Area
- (b) Design and Impact on the Character and Appearance of Calmsden Conservation Area and the Setting of Listed Buildings
- (c) Impact on the Character and Appearance of the Cotswolds Area of Outstanding Natural Beauty
- (d) Access and Parking
- (e) Impact on Residential Amenity
- (f) Impact on Protected Species
- (g) Flooding and Drainage

### **Reasons for Referral:**

The application has been referred to Planning and Licensing Committee at the request of Councillor Forde who states:

*'Thank you for the report - I note that it appears as if the application meets all policy grounds in the previous sections, but in the case of whether or not it is a 'sustainable' development a subjective view has had to be made about whether the harms caused by increased private car travel to the site will be outweighed by the benefits that the provision of new office space will bring. I think that's worth considering again with more of a focus on the climate emergency, and perhaps in asking the applicant to provide data on the numbers of journeys they expect the site to generate?'*

*Calmsden is a very remote, highly inaccessible hamlet in the heart of listed properties and country roads, even access by car is not straightforward and even a slight increase in car traffic would have a detrimental effect on the countryside.*

*A hard objection from highways on the grounds of poor accessibility by means other than private car and the fact that it fails to address sustainable transport is reason enough for a committee decision.'*

### **I. Site Description:**

This application site is located on the eastern and northern edges of the village of Calmsden. It measures approximately 4.25 hectares in size. The site is split into two sections which lie to the north and south of a lane that extends from Calmsden in the west to the A429 in the east. The

southern part of the site measures approximately 1.4 hectares in area. A range of historic and post war agricultural buildings occupy the southernmost part of the aforementioned area. An agricultural field lies between the buildings and the lane to the north. The existing buildings are located approximately 110m to the south of the lane. An unsurfaced track extends along the eastern side of the field and links the aforementioned buildings to the lane. A range of stone buildings lie immediately to the south of the application site. The buildings are currently used for BI business purposes and share a farmyard/access with the application site.

The south-western corner of the site is located approximately 50m to the east of a lane that passes through the centre of the village. The western boundary of the southern part of the site adjoins the rear boundaries of approximately 7 residential properties. Agricultural fields lie to the east of the site.

The southern barns are located approximately 30m to the south east of a Grade listed terrace of 6 dwellings (Nos 63-68 ). The Grade II listed 'Old House' is located approximately 80m to the south west of the southern buildings. No's 59 and 60 located adjacent to the Old House are also Grade II listed. A further Grade II listed building (Barn Circa 50m south of the Old House) is located approximately 110m to the south western of the southern buildings.

The Grade II\* 'Cross Shaft and Cross Shaft Base circa 40m south of No 59' is located approximately 130m to the south west of the southern buildings. The cross is also a designated Scheduled Ancient Monument - Wayside Cross.

The south-eastern corner of the site is located within Calmsden Conservation Area (CA). The CA boundary extends along the western boundary of the southern part of the application site and the southern edge of an existing portal framed building. It incorporates a stone barn and Dutch barn located to the east of the aforementioned portal framed building.

The northern part of the site measures approximately 2.85 hectares in size. It consists primarily of agricultural fields. A group of post war portal framed barns occupy the western part of the site. The buildings front onto a lane that extends from the centre of the village in the south to Chedworth in the north. The existing barns are set back approximately 10m from the aforementioned lane and approximately 70m from the lane to the south. Agricultural fields lie to the north, east and west of the site. A single storey estate office building and car park adjoin the south-western corner of the northern part of the site.

The application site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB).

The site is located within a Flood Zone 1.

## **2. Relevant Planning History:**

### Northern Buildings

CT.2655 Proposed storage and grain handling equipment. Granted 1962

CT.2655/A Erection of a grain store and general purpose building. Granted 1966

09/00552/AGFO Agricultural grain store and drier buildings at Calmsden. Prior approval not required. 2009

09/02913/AGFO Upgrade of grain drier and additional storage capacity. Prior approval not required. 2009

12/00636/AGFO Lean-to on side of existing grain store. Prior approval not required. 2012

## Southern Buildings

CT.4614 Erection of agricultural buildings. Granted 1972

CT.4614/A Change of use from agricultural to light industrial at bull/cattle barn. Granted 1996

CT.8038 Change of use from agricultural to light industrial. Granted 2000

17/04338/FUL Variation of Condition 2 of planning permission 00/00251/FUL to allow Class B1 use. Granted 2017

### **3. Planning Policies:**

EN14 Managing Flood Risk

EN15 Pollution & Contaminated Land

EC1 Employment Development

EC3 All types of Employment-generating Uses

INF3 Sustainable Transport

INF4 Highway Safety

INF5 Parking Provision

EN1 Built, Natural & Historic Environment

EN2 Design of Built & Natural Environment

EN4 The Wider Natural & Historic Landscape

EN5 Cotswolds AONB

EN7 Trees, Hedgerows & Woodlands

EN8 Bio & Geo: Features Habitats & Species

EN10 HE: Designated Heritage Assets

EN11 HE: DHA - Conservation Areas

EN12 HE: Non-designated Heritage Assets

EN13 HE: Conv'n of non-domestic historic bldgs

### **4. Observations of Consultees:**

Gloucestershire County Council Highways: Objection - 'This proposal is car dominated and fails to address sustainable transport, these matters cannot be mitigated.' Response attached.

Gloucestershire County Council Lead Local Flood Authority: No objection

Environmental and Regulatory Services Contamination: No objection

Landscape Officer: No objection

Conservation Officer: No objection

Biodiversity Officer: No objection

Thames Water: No objection

Historic England: No comments

### **5. View of Town/Parish Council:**

None received

### **6. Other Representations:**

None

## **7. Applicant's Supporting Information:**

Design and Access Statement  
Heritage Assessment  
Flood Risk Assessment  
Bat Activity Survey Report  
Preliminary Bat Roost Assessment and Preliminary Ecological Appraisal  
Geo-Environmental Desk Study Report  
Transport Assessment  
Site Wide Sustainable Drainage Systems Strategy  
Cattle barn Structural Statement  
Sequential Test

## **8. Officer's Assessment:**

### **Proposed Development**

This application relates to an existing rural estate which extends to approximately 2000 acres in size. The estate business focuses on arable and livestock farming along with a mix of residential and commercial tenancies. The estate is looking to develop and diversify its existing activities. This application seeks permission for the conversion of a number of existing farm buildings to a business use together with the erection of new agricultural buildings. The southern part of the site will be re-developed to provide a new rural business hub. The northern part of the site will be altered/re-developed to provide improved agricultural buildings and facilities.

The principal elements of the proposed rural business hub include:

- i) The demolition of an existing Dutch barn and steel portal framed building and the partial demolition of an existing beef building.
- ii) The change of use and alteration of an existing livestock barn and threshing barn to provide office space as well as a B8 storage facility. The external walls of the livestock barn will consist of timber and metal cladding, metal roller shutters and glazed screens. Solar panels will be added to the roof the building.
- iii) The erection of a single storey flat roofed extension linking the existing livestock barn with an existing stone threshing barn to its east. The proposed link will measure approximately 9m long by 8.6m wide by 2.5m high. The proposed link will have glazed walls and a green roof.
- iv) The erection of a 2 storey office and business hub building. The proposed building will be located approximately 5m to the east of the existing threshing barn at its closest point. The proposed building will consist of two Dutch barn style elements joined together by a 2 storey flat roofed link. The Dutch barn elements will sit at an angle to one another with the link extension having a dog-leg footprint in order to create a connection between the Dutch barn elements. The Dutch barns will measure approximately 7m in height. The link extension will measure approximately 5.7m high. The Dutch barns will be clad in a powder coated corrugated metal. The walls of the link extension will be glazed. The applicant is also proposing to introduce climbing plants onto the exterior of the link extension and the sections of the Dutch barns.
- v) The creation of a new visitor/staff car park located adjacent to the north elevation of the existing livestock barn. The proposed car park will provide 64 parking spaces. It will extend approximately 28m to the north of the livestock barn. The surface of the car park will be set down approximately 1m below the level of the field to the north. A new native species hedgerow and 1m high drystone wall will be erected along the northern boundary of the proposed car park.
- vi) Vehicular access will be via an existing farm track which extends from the existing barns onto the lane to the north. The access track will be upgraded in order to provide additional passing spaces along its length.

The principal elements of the proposed agricultural re-development include:

- i) The addition of single storey extensions to the sides and rear of an existing grain store. The proposed extensions will measure approximately 4.5m in height. The existing building measures approximately 10.5m high. The extensions will be clad in a powder coated metal.
- ii) The erection of a new beef livestock barn. The proposed barn will be located approximately 30m to the north of the main body of the existing grain store building. The proposed building will measure approximately 42.5m long by 30m wide by 9.4m high. It will be set back approximately 19m from the Calmsden to Chedworth road. The proposed building will be clad in a powder coated corrugated metal.
- iii) The erection of a new straw barn approximately 10m to the north of the proposed cattle barn. The proposed barn will measure approximately 24m long by 12m wide by 6.9m high. It will be open sided on two sides. The remaining sides will be clad in a powder coated corrugated metal.
- iv) The creation of new hard surface areas and a new vehicular access onto the lane to the south. The proposed access will be located roughly opposite the existing access to the estate buildings lying to the south of the lane.

### **(a) Economic Development in a Rural Area**

The proposed development is intended to support an existing rural business. The following policies are considered applicable to this proposal:

#### **Policy ECI Employment Development**

*Employment Development will be permitted where it:*

- a. *supports the creation of high quality jobs in professional, technical and knowledge-based sectors and seeks to support economic opportunities which capitalise on the strength of existing academic and training institutions and research organisations;*
- b. *maintains and enhances the vitality of the rural economy;*
- c. *enables opportunities for more sustainable working practices, including home-working;*
- d. *supports and improves the vitality and viability of Primary, Key, District and Local Centres; or*
- e. *supports sustainable tourism in ways that enables the District to attract higher numbers of longer-stay visitors.*

#### **Policy EC3 Proposals for All Types of Employment-Generating Uses**

1. *Within Development Boundaries, proposals for employment-generating uses on sites that are not currently identified as an established employment site will be permitted in principle.*
2. *Outside Development Boundaries, and outside established employment sites, proposals for small-scale employment development appropriate to the rural area will be permitted where they:*
  - a. *do not entail residential use as anything other than ancillary to the business; and*
  - b. *are justified by a business case, demonstrating that the business is viable; or*
  - c. *facilitate the retention or growth of a local employment opportunity.*

Policy EC5 Rural Diversification states:

*Development that relates to the diversification of an existing farm, agricultural estate, or other land based rural business will be permitted provided that:*

- a. The proposal will not cause conflict with the existing farming operation including severance or disruption to the agricultural holding that would prejudice its continued viable operation;*
- b. Existing buildings are reused wherever possible; and*
- c. The scale and design of the development contributes positively to the character and appearance of the area.*

Policy EC6 Conversion of Rural Buildings

*The conversion of rural buildings to alternative uses will be permitted provided:*

- a. The building is structurally sound, suitable for and capable of conversion to the proposed use without substantial alteration, extension or re-building;*
- b. It would not cause conflict with existing farming operations, including severance or disruption to the holding that would prejudice its continued viable operation; and*
- c. The development proposals are compatible with extant uses on the site and existing and planned uses in close proximity to the site.*

In addition to the above, the following national guidance is considered to be of relevance to this application:

Paragraph 83 of the National Planning Policy Framework (NPPF) states:

*Planning policies and decisions should enable:*

- a) The sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) The development and diversification of agricultural and other land-based rural businesses;*
- c) Sustainable rural tourism and leisure developments which respect the character of the countryside; and*
- d) The retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.*

Paragraph 84 of the NPPF states:

*'Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to the surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist'.*

It is evident from the above that both national and local planning policy and guidance can be supportive of the creation of new economic development in the countryside. It is also of note that policy and guidance can be supportive of the erection of new buildings designed for employment/economic use as well as proposals for the conversion of existing rural buildings.

With regard to Policy EC1, the proposed development will provide professional office and meeting space which is designed to help local businesses and rural workers. It will provide a quality of workspace which will support the rural economy and assist its vitality. The proposal is considered to accord with the aspirations of Policy EC1.

With regard to Policy EC3, the proposed economic development part of this application is considered to be small scale when assessed against the size of the rural estate as a whole and the relatively limited site area of the rural hub. The application is accompanied by a detailed planning statement which sets out the business case for the development and how the proposal will assist the viability of the existing rural estate. The proposal will enable the existing business to diversify thereby providing additional revenue streams. The proposal will also centralise the farming activities on a single site to the north thereby helping to improve the efficient running of the agricultural enterprise. It is considered that the re-development of the existing barns will not undermine the viability of the existing estate business. The creation of the rural business hub will also facilitate the creation of a new employment opportunity for the benefit of the local economy.

With regard to Policy EC5, the proposed rural hub will be separate from the new centralised group of farm buildings to the north. The two developments will be accessed independently of one another and are of sufficient distance apart so as to avoid potential noise, odour or disturbance issues. It is considered that the rural hub can operate without prejudicing the estate's agricultural activities. The proposed hub will also utilise existing barns where possible. The new build development will replace existing post war buildings which are surplus to requirement and which are not readily suited to conversion. Suitable replacement agricultural buildings can be erected on the farmyard to the north thereby offsetting the loss of the existing barns. Moreover, the relocation of the existing livestock element of the business to the north will move the aforementioned activity further away from existing residential dwellings within the village to the benefit of residents' residential amenity. The scale and design of the buildings will be addressed later in this report.

With regard to Policy EC6, the existing livestock and threshing barns proposed for conversion are considered to be structurally sound and capable of conversion without substantial alteration or re-build. As stated previously, the proposed rural hub is considered not to cause conflict with existing farming operations or future operations should this application be permitted. It will not cause severance or disruption to the estate's agricultural activities. The proposed office, storage and agricultural uses are considered to be compatible with existing uses on and around the site. Agricultural, office and storage facilities are already present on the southern part of the site.

The proposed office use falls within the definition of a main town centre use as set out in Annex 2: Glossary of the NPPF. Such uses should primarily be located in town centres or adjacent to such centres before sites outside centres are considered.

Criteria 7 and 8 of Local Plan Policy EC8 Main Town Centre Uses state:

7. *'When considering proposals for main town centre uses beyond the identified Centre boundaries, (in edge of centre or out of centre locations), proposals will be permitted that are:*
  - a. *accessible and well connected to the Centre by public transport, walking and cycling;*



*b. contribute to the quality, attractiveness and character of the settlement and the street frontage within which the site is located;*

*c. maintain or improve, where possible, the health and wellbeing of the District's residents through increased choice and quality of shopping, leisure, recreation, arts, cultural and community facilities; and*

*d. except where the proposal is in conformity with an allocation for main town centre uses elsewhere in the Plan, comply with the sequential test, by demonstrating that there are no sequentially preferable sites or premises to accommodate the proposed development, taking into account the need for flexibility in the scale and format of proposals.*

8. *In addition to Clause 7 criteria (a)-(d) proposals for retail, leisure and office uses outside of defined centres will be assessed in relation to their impact on:*

*a. the vitality and viability of those defined town centres within the catchment area of the proposal; and*

*b. existing, proposed and committed town centre investment in defined centres within the catchment area of the proposal.*

*Such assessments should, where appropriate, extend to an assessment of the cumulative effects, taking into account other committed and recently completed developments.'*

Paragraph 86 of the NPPF advises that main town centre uses should only be considered on out of centre sites if suitable sites are not available in town centre or edge of centre locations.

Paragraph 88 of the NPPF states that the sequential approach should not be applied to applications for small scale rural offices or other small scale rural development.

Notwithstanding the wording of criterion 7d of Policy EC8, it is evident that paragraph 88 of the NPPF does not require a sequential test to be applied to applications for small scale rural office development. The guidance in paragraph 88 represents a significant material consideration. There is no definition in the Local Plan or the NPPF of what constitutes small scale rural office development. However, in light of the difference in wording between the Local Plan and the NPPF, it is considered reasonable to consider the sequential test requirement for completeness.

The site is located in an out of centre location. A sequential assessment of the town centre of Northleach has been undertaken in order to establish whether suitable alternative office floorspace is available within its town centre. However, due to the limited size of the town centre and the nature of the buildings within it, there are no suitable alternative premises available for office use of a size or form similar to that proposed as part of this application. In addition, a property search indicates that there are no units within Cirencester town centre or edge of centre sites that are available for the size of office space proposed as part of this application, even if flexibility in scale and format is taken into account. It is considered that there are no suitable alternative sites available for the proposed development. The proposal is therefore considered to pass the sequential test.

The proposed development does not involve retail development and will not therefore draw retail expenditure away from existing town centres. The proposal has the potential to divert

office occupancy from town centres to the application site. However, this impact also has to be balanced against the support for rural economic development elsewhere in the NPPF, the support in Policies EC1 and EC3 for new employment development and the fact that the proposal will be assisting a rural estate which already makes an important contribution to the economy of the local area. On balance, it is considered that the impact on the vitality and viability

of town centres will be outweighed by the other economic and employment benefits arising from the proposed scheme.

The issue of accessibility will be addressed in the Access and Parking section of this report.

Overall, it is considered that the proposed development has the potential to generate economic benefits for both an established rural estate and for the local economy. The proposal will improve farm infrastructure and provide new office and storage space for local people and businesses. It is considered that the proposed development accords with the aspirations of Local Plan Policies EC1, EC3, EC5, EC6 and EC8 as well as paragraphs 83 and 84 of the NPPF. The economic benefits of the proposal are considered to represent a significant material consideration.

### **(b) Design and Impact on the Character and Appearance of Calmsden Conservation Area and the Setting of Listed Buildings**

The southern part of the application site is located partly within Calmsden Conservation Area (CA). In addition, a number of listed buildings are located to the west and south-west of the site. A Scheduled Ancient Monument (SAM) -Wayside Cross is located approximately 130m to the south-west of the application site.

Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 states that when considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

With respect to any buildings or other land in a conservation area, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Considerable weight and importance must be given to the aforementioned legislation.

The following Local Plan policy is considered relevant to this application:

Local Plan Policy EN1 Built, Natural and Historic Environment states:

*'New development will, where appropriate, promote the protection, conservation and enhancement of the historic and natural environment by:*

- a. ensuring the protection and enhancement of existing natural and historic environmental assets and their settings in proportion with the significance of the asset;*
- b. contributing to the provision and enhancement of multi-functioning green infrastructure;*
- c. addressing climate change, habitat loss and fragmentation through creating new habitats and the better management of existing habitats;*
- d. seeking to improve air, soil and water quality where feasible; and*
- e. ensuring design standards that complement the character of the area and the sustainable use of the development.'*

## Local Plan Policy EN2 Design of the Built and Natural Environment

*'Development will be permitted which accords with the Cotswold Design Code. Proposals should be of design quality that respects the character and distinctive appearance of the locality.'*

## Local Plan Policy EN10 Designated Heritage Assets states:

*1 In considering proposals that affect a designated heritage asset or its setting, great weight will be given to the asset's conservation. The more important the asset, the greater the weight should be.*

*2 Development proposals that sustain and enhance the character, appearance and significance of designated heritage assets (and their settings), and that put them to viable uses, consistent with their conservation, will be permitted.*

*3 Proposals that would lead to harm to the significance of a designated heritage asset or its setting will not be permitted, unless a clear and convincing justification of public benefit can be demonstrated to outweigh that harm. Any such assessment will take account, in the balance of material considerations:*

- The importance of the asset;*
- The scale of harm; and*
- The nature and level of the public benefit of the proposal.'*

## Local Plan Policy EN11 Designated Heritage Assets - Conservation Areas states:

*'Development proposals, including demolition, that would affect Conservation Areas and their settings, will be permitted provided they:*

*a. Preserve and where appropriate enhance the special character and appearance of the Conservation Area in terms of siting, scale, form, proportion, design, materials and the retention of positive features;*

*b. Include hard and soft landscape proposals, where appropriate, that respect the character and appearance of the Conservation Area;*

*c. Will not result in the loss of open spaces, including garden areas and village greens, which make a valuable contribution to the character and/or appearance, and/or allow important views into or out of the Conservation Area.*

*d. Have regard to the relevant Conservation Area appraisal (where available); and*

*e. do not include internally illuminated advertisement signage unless the signage does not have an adverse impact on the Conservation Area or its setting.'*

## Local Plan Policy EN13 The Conversion of Non-Domestic Historic Buildings (Designated and Non-Designated Heritage Assets) states;

*1. Proposals for the conversion of non-domestic historic buildings to alternative uses will be permitted where it can be demonstrated that:*

*a. the conversion would secure the future of a heritage asset, and/or its setting, which would otherwise be at risk;*

- b. *the proposed conversion would conserve the significance of the asset (including its form, features, character and setting);*
- c. *the heritage asset is structurally sound; and*
- d. *the heritage asset is suitable for, and capable of conversion to the proposed use without substantial alterations, extension or rebuilding which would be tantamount to the erection of a new building.*

*2. Proposals to extend or alter heritage assets that have been converted, will be permitted where it can be demonstrated that the proposed works would preserve the significance of the asset (including its form and features), its setting and/or the character or the appearance of the surrounding landscape in a manner that is proportionate to the significance of the asset.'*

The following national guidance is also of relevance:

Paragraph 193 of the NPPF states that *'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.'*

Paragraph 194 states *'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'*

Paragraph 196 states that *'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.'*

Paragraph 009 (Reference ID: 18a-009-20140306) of the Planning Practice Guidance (PPG) states that *'heritage assets may be affected by direct physical change or by change in their setting.'*

Paragraph 013 (Reference ID: 18a-013-20140306) of the PPG states *'Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not.'*

In addition to the above, the stone threshing barn located in the southern part of the site is considered to represent non-designated heritage asset by virtue of its age, design, materials and historic interest. The following policy and guidance is applicable:

#### Local Plan Policy EN12 Non-Designated Heritage Assets

- 1. Development affecting a non-designated heritage asset will be permitted where it is designed sympathetically having regard to the significance of the asset, its features, character and setting.*
- 2. Where possible, development will seek to enhance the character of the non-designated heritage asset. Proposals for demolition or total loss of a non-designated heritage asset will be subject to a balanced assessment taking into account the significance of the asset and the scale of harm or loss.*
- 3. The assessment of whether a site, feature or structure is considered to be a non-designated heritage asset, will be guided by the criteria set out in Table 6.*

Paragraph 197 of the NPPF states that *'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing*

*applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'*

The application site is essentially split into two parts. The southern part of the site lies partly within a CA and near to a number of designated heritage assets. The northern part of the site is more distant from the heritage assets. The site of the proposed new farm buildings is located approximately 190m to the north of the CA.

With regard to the development of the southern part of the site, it is noted that a number of historic and post war buildings are already present on this area of land. The site has already been subject to development. The buildings are used for a mix of agricultural and commercial purposes which in turn influence the character and appearance of the site. The existing buildings have a functional form that reflects their current and historic uses. The character and appearance of the site is consistent with that typically associated with a working rural estate.

The proposed development will remove a post war Dutch barn and a portal framed building. The aforementioned buildings are located in close proximity to the existing stone threshing barn. The removal of the buildings will free up space around the threshing barn, thereby revealing more of its historic interest and significance which, in turn, will enhance the character and appearance of the CA. The historic barn will become a more visible part of the CA. The history of the CA will become more apparent as a result of the loss of the modern buildings.

The alterations proposed to the livestock building seek to retain the functional character and appearance of the existing building. The proposed building will therefore still appear as an agricultural style of building. The proposed materials and the form of fenestration are considered to respect the appearance of a post war agricultural building. The proposed link extension is modest in size and, by virtue of the glazed walls and flat roof, is considered to represent a relatively modest and discreet addition that will not detract from the historic significance of the threshing barn. The external alterations proposed to the threshing barn are limited. It will retain the appearance of traditional stone barn.

The proposed new build element to the east of the existing barns will be a more noticeable addition to the site. However, the buildings have been designed to resemble Dutch barns (of which there is already one on the site). Following discussions, the design of the proposed building has been amended so as to achieve a visual break where the building turns the corner. The applicant initially proposed to create a building with a single ridgeline. However, following discussions, the link extension has been reduced in height in order to break up the mass of the development and to provide greater visual interest to the scheme.

The design of the new office building is contemporary. However, the Cotswold Design Code can be supportive of such development. Paragraph D.29 of the Design Code states that '*original and innovative proposals that reinforce a sense of place and help raise the standard of design generally are welcomed. A contemporary design should make strong local references and respect elements of the Cotswold vernacular, in order to maintain the architectural distinctiveness of the area*'. Paragraph D.33 states '*in some instances the use of modern, non-local materials may contribute towards a successful contemporary design. This might include the use of more extensive areas of glazing, zinc or copper roofs, or timber cladding. However, obvious local references should still be made.*'

The proposed development represents a modern design interpretation of a Dutch barn. There are a number of Dutch barns within the rural landscape in the District. The design therefore seeks to reflect a style of agricultural development already present within the Cotswold landscape. The cladding and fenestration have also been designed to ensure that the building retains a functional and relatively plain appearance befitting its location. The mass of the development has been broken up by the manner in which the windows, doors and cladding have

been introduced into the design. The use of green walls also breaks up the mass of the proposed building. It is considered that the proposed design represents a sensitive interpretation of a Dutch barn and one which is appropriate for this part of the CA. In combination with the removal of the existing barns and the freeing up of space around the threshing barn, it is considered that the new building will result in an enhancement of the character and appearance of the CA.

With regard to the car park element of the scheme, it is noted that its creation will require the hard surfacing of part of an existing field and a reduction in land levels. However, it is also noted that it will be located adjacent to the existing post war livestock building which has a significant influence on the setting of the CA and the listed buildings to the west. The set down position of the car park will also limit its wider visibility. In addition, the presence of trees and vegetation along the western boundary of the site will also provide a landscape buffer between the proposed car park and the CA/listed buildings to the west. Moreover, the listed buildings to the west back onto the application site with the result that a parking area and flat roof garage buildings lie between the listed buildings and the proposed car park. The setting of the listed buildings has therefore already been affected by existing development to their rear. On balance, it is considered that the proposed car park will not have an adverse impact on the setting of designated heritage assets.

The southern part of the development is considered to respond sympathetically to the setting, character and appearance of the CA and nearby listed buildings. The proposed scheme will retain the character and appearance of a rural working estate development and is considered appropriate for its location.

With regard to its impact on the setting of the SAM, the proposed development will not extend closer to the SAM than existing buildings. The new build office development and the car park will not be viewed in association with the SAM. The livestock building proposed for conversion will retain a functional character and appearance reflective of its farmyard location. The external alterations to the building are considered not to have an adverse impact on the setting of the SAM.

Historic England has no comments to make in respect of the impact of the proposed development on the setting of the Grade II\* listed cross or the SAM.

The alterations to the threshing barn combined with the removal of the modern barns are considered not to have an adverse impact on its historic or architectural significance. The proposed scheme will reveal more of the existing stone barn than at present thereby helping to reveal more of its historic context and significance. In addition, the proposed development of the livestock building and the erection of the new build offices are considered not to detract from the setting of the historic stone barn located to the south of the livestock building. The aforementioned barn is also considered to represent a non-designated heritage asset. It will continue to sit within a working estate yard. The proposal is considered to accord with Local Plan Policy EN12 and guidance contained in paragraph 197 of the NPPF.

With regard to the northern part of the application site, the applicant is seeking to extend an existing post war grain store building and to erect a new livestock barn and straw barn to its north. The existing grain store is situated between the boundary of the CA and the proposed new buildings. There will therefore be no direct visual interconnectivity between the new build barns and the CA. In addition, the proposed extensions to the grain store represent a minor addition to the building and will appear as subservient elements of the building as a whole. The proposed extensions are considered not to have an adverse impact on the setting of the CA given the size of the existing building. The design of the extensions and new buildings are plain

and functional in form. Their appearance reflects the design of agricultural buildings typically seen within a working agricultural landscape.

The proposed development will involve the creation of a new access approximately 80m to the east of the CA boundary. A new area of hard surfacing will also be created between the new access and the existing grain store. The access and hard surfacing will be separated from the CA by an existing building, grassed areas and roadside vegetation. In light of these factors and the distance between the CA and new development, it is considered that this element of the scheme will not have an adverse impact on the setting of the CA.

Overall, it is considered that the design of the proposed scheme respects local character and distinctiveness in accordance with Local Plan Policy EN2. In addition, the development is considered not to have an adverse impact on the setting, character or appearance of Calmsden Conservation Area, listed buildings, the SAM or non-designated heritage assets. The proposal is therefore also considered to accord with Local Plan Policies EN10, EN11, EN12 and EN13 and guidance in Section 16 of the NPPF.

### **(c) Impact on the Character and Appearance of the Cotswolds Area of Outstanding Natural Beauty**

The site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB) wherein the Council is statutorily required to have regard to the purpose of conserving and enhancing the natural beauty of the landscape (S85(1) of the Countryside and Rights of Way Act 2000).

The following Local Plan policies are considered relevant to this proposal:

Local Plan Policy EN4 The Wider Natural and Historic Landscape states:

1. *'Development will be permitted where it does not have a significant detrimental impact on the natural and historic landscape (including the tranquillity of the countryside) of Cotswold District or neighbouring areas.'*
2. *'Proposals will take account of landscape and historic landscape character, visual quality and local distinctiveness. They will be expected to enhance, restore and better manage the natural and historic landscape, and any significant landscape features and elements, including key views, the setting of settlements, settlement patterns and heritage assets.'*

Local Plan Policy EN5 Cotswolds Area of Outstanding Natural Beauty (AONB) states:

1. *'In determining development proposals within the AONB or its setting, the conservation and enhancement of the natural beauty of the landscape, its character and special qualities will be given great weight.'*
2. *'Major development will not be permitted within the AONB unless it satisfies the exceptions set out in National Policy and Guidance.'*

In terms of national policy, Paragraph 170 of the National Planning Policy Framework (NPPF) states that planning policies and decisions should contribute to and enhance the natural and local environment by *'protecting and enhancing valued landscapes'* and *'recognising the intrinsic character and beauty of the countryside'*.

Paragraph 172 of the NPPF states that *'great weight should be given to conserving and enhancing landscape and scenic beauty in ... Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.'*

The application site and its surroundings are classified in the Cotswolds Conservation Board's Landscape Character Assessment (LCA) as falling within Landscape Character Area 9D Cotswolds High Wold Dip Slope. This in turn falls within Landscape Character Type High Wold Dip Slope. Characteristics of this particular landscape include a *'soft, gently undulating landscape with a south-easterly fall dissected by a series of predominantly south-east flowing rivers; large scale open arable fields with little tree cover, leading to a more complex mosaic of smaller scale arable and pasture contained within a strong framework of hedges and woodland'*; and *'sparsely settled with intermittent isolated farmsteads and hamlets, many marking fording points ensure the landscape retains a strong rural character.'*

The LCA identifies the *'conversion of farm buildings and conversions that might compromise rural landscape character and dispersed settlement patterns, including farm buildings converted to residential use'* and the *'conversion of traditional farm buildings to new uses'* as Local Forces for Change. The Potential Landscape Implications of such development is identified as *'visual intrusions introduced to the landscape; the erosion of the sparse settlement pattern of the High Wold Dip Slope; introduction of 'lit' elements to characteristically dark landscapes; loss of tranquillity and sense of seclusion; erosion of distinctive features and loss of Cotswold character; loss of locally historic features and erosion of the integrity of the historic landscape; loss of historic features/character of distinctive buildings if converted to uses requiring inappropriate interventions to historic fabric and form; loss and erosion of Farmstead Character and how the buildings relate to the surrounding agricultural land use and landscape and a decline in quality of landscape.'*

The LCA's Landscape Strategies and Guidelines recommend the following - *'avoid isolated development, that will intrude negatively into the landscape and cannot be successfully mitigated; conserve the distinctive rural and dispersed settlement pattern; restore existing stone farm buildings and structures in preference to new built development; when restored or converted to new uses, buildings must retain their historic integrity and functional character; maintain the sense of openness and consider the impact of built development, including cumulative development on views to and from the adjacent High Wold and Dip Slope Lowland; respect traditional position of agricultural buildings and their relationship to the surrounding land; conserve vernacular farm buildings for their own sake and/or by developing other options for their use whilst retaining their agricultural character; new uses should not prejudice the effective operation of the farm enterprise.'*

The southern part of the application site lies on the eastern edge of the village of Calmsden. Residential development lies adjacent to the western edge of this part of the site. Agricultural fields are located to the east and south of the site. The northern part of the site is occupied by post war agricultural buildings. Agricultural fields are located to the north, east and west of the aforementioned buildings.

With regard to the southern part of the site, the principal public view of the aforementioned area is from the lane that runs to the north. The existing barns are located approximately 120m from the aforementioned road and are visible over an existing roadside drystone wall. A field is located between the road and the barns. The existing barns are viewed partly in context with existing housing to the west of the site. The buildings are viewed in context with village development rather than as isolated development in the countryside. The application buildings have a functional agricultural character and appearance which is consistent with the buildings typically seen within a working rural landscape.

The proposed scheme seeks to retain the functional character of the existing livestock barn. When viewed from the lane to the north, the barn will not appear significantly different within



the landscape. The removal of the post war barns to its east will also reduce the amount of development around the historic threshing barn. The introduction of the office hub building will extend development further to the east than at present. However, the proposed building will have the character of an agricultural building and will be seen in context with existing village development. The office building will not therefore result in a discernible encroachment of development into the open countryside. It will be visually connected with the village. In addition, commercial activity is undertaken in an existing stone building to the south of the site. The character of this part of the AONB is therefore already influenced by agricultural and commercial development. It is considered that the proposed development will not have an adverse impact on the AONB when viewed from the north.

The other public view of the site is from the village road to the south-west of the application site. At present, the existing livestock barn can be viewed in part between existing buildings and trees. The proposed scheme will add cladding and glazing to the building but will not materially alter its size. The proposed building will retain a functional character which is considered to respect the character of the existing site. It is considered that the proposed alterations will not have an adverse impact on the AONB when viewed from the west. The proposed office hub will not be readily from the road to the west.

The proposed car park area will be set down below the field to its north. A new drystone wall and hedgerow will also provide screening of the parked cars from the road to the north. In light of the distance from the road, its set down position and relationship to existing buildings it is considered that the car park will not have an adverse impact on the AONB.

The proposed office use is considered not to represent a form of development that will generate noise and disturbance that would have an adverse impact on the tranquillity of the AONB. The use of timber mullions and planting will also mitigate light pollution arising from the development.

With regard to the northern part of the site, the proposed barns will extend agricultural development into a field to the north of existing barns. However, the proposed barns will be located in close proximity to a larger grain store and will have the appearance of agricultural buildings. Roadside vegetation will also provide a degree of screening of the barns from the lane to the west. Having regard to the relationship of the proposed development to existing buildings and the existing vegetation, it is considered that the new agricultural buildings will not have an unacceptable adverse impact on the AONB.

The new vehicular access will require the creation of a new opening in a roadside drystone wall. However, the opening will be located roughly opposite an existing entrance serving the southern part of the site. It will therefore be seen in context with an existing access point rather than a new isolated field entrance unconnected with existing village development. The new access will also reduce the need for farm vehicles to utilise a relatively tight junction to the west.

The proposed scheme will introduce new native species hedgerow planting across the site together with new tree and wildflower planting and drystone walls. The proposed landscaping will soften the impact of development and also enhance certain parts of the site such as the route of the access road serving the southern part of the site or the boundary of the farmyard to the north.

It is considered that the proposed development can be undertaken without having an adverse impact on the character or appearance of the AONB having regard to Local Plan Policies EN1, EN4 and EN5 and guidance contained in paragraphs 170 and 172 of the NPPF.

It is considered that the proposed scheme does not constitute major development for the purposes of paragraph 172 of the NPPF. The proposed scheme will secure the re-use of existing buildings, the erection of agricultural buildings adjacent to existing estate buildings and the erection of an office hub adjacent to an estate yard in which there is already commercial development. The proposed is considered not to have a significant adverse impact on the purposes for which the area has been designated as an AONB.

#### **(d) Access and Parking**

The following Local Plan policies are considered applicable to this application:

Local Plan Policy INF3: Sustainable Transport states:

*' Development will be permitted that assists the delivery of the objectives of the Local Transport Plan and in particular:*

- a. Actively supports travel choice through provision, enhancement and promotion of safe and recognisable connections to existing walking, cycling and public transport networks (including, where appropriate, the rail network);*
- b. Gives priority to pedestrians and cyclists and provides access to public transport facilities taking account of the travel and transport needs of all people;*
- c. Does not have a detrimental effect on the environment by reason of unacceptable levels of noise, vibration or atmospheric pollution;*
- d. Ensures links with green infrastructure including Public Rights of Way and, where feasible, wider cycle networks;*
- e. Makes a positive contribution, where appropriate, to the restoration of former railway lines by retaining existing embankments, cuttings, bridges and related features;*
- f. Incorporates, where feasible, facilities for secure bicycle parking and for charging plug-in and other ultra-low emission vehicles;*
- g. Accommodate, where appropriate, the efficient delivery of goods and supplies; and*
- h. Considers the needs of people with disabilities by all modes of travel.'*

Local Plan Policy INF4 Highway Safety states:

*' Development will be permitted that:*

- a. Is well integrated with the existing transport network within and beyond the development itself, avoiding severance of communities as a result of measures to accommodate increased levels of traffic on the highway network;*
- b. Creates safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoids street clutter and where appropriate establishes home zones;*
- c. Provides safe and suitable access and includes designs, where appropriate, that incorporate low speeds;*

d. *Avoids locations where the cumulative impact on congestion or other undesirable impact on the transport network is likely to remain severe following mitigation; and*

e. *Has regard, where appropriate, to the Manual for Gloucestershire Streets or any guidance produced by the Local Highway Authority that may supersede it.'*

The application site lies approximately 2.1km by road to the west of the A429. The site can therefore be accessed from an A road without the need to drive through the village or other settlements in the locality. There is therefore a reasonable connectivity between the site and the principal highway network. Notwithstanding this, it is also noted that the site is not served by public transport and that future users of the office hub/ storage space will be likely to rely on the use of the private motor to visit the site. Gloucestershire County Council (GCC) Highway Officers are therefore objecting to the application on the grounds of its poor accessibility by means other than the private car. GCC considers that the *'proposal is car dominated and fails to address sustainable transport'* and *'that there are no genuine transport choices available'*.

Whilst it is noted that the development will be likely to result in an increase in vehicle movements to and from the site, there is also need to balance this impact against the potential benefits for a rural business and the need to provide improved office/business space for the rural community. The rural nature of the District means that many settlements in the District have limited accessibility to office space or high tech accommodation. The current proposal has the potential to attract users from nearby settlements such as Chedworth, North Cerney or Rendcomb thereby reducing their need to travel further afield. The proposal therefore has the potential to support the local rural community. In addition, the existing estate maintains a number of buildings and premises which contribute to the local area in both visual and economic terms. The income generated from the proposed development will help to support the maintenance of such buildings. It will also provide an additional source of income to the business at a time of uncertainty following the country's departure from the European Union.

In addition to the above, it is noted that GCC's response focuses on Section 9 Promoting Sustainable Transport of the NPPF. However, it is also necessary to consider the NPPF in its entirety when assessing a planning application. The support for rural businesses set out in paragraphs 83 and 84 of the NPPF therefore also carries significant weight. Moreover, Local Plan Policy EC1 and EC3 are also supportive of rural economic development.

It is noted that GCC makes reference to paragraph 103 of the NPPF. The aforementioned paragraph states *'significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.'* It is evident that paragraph 103 makes a distinction between urban and rural areas when considering sustainable transport solutions. There is therefore a need to recognise that rural communities will not always be well served by public transport and cycle route provision. There is therefore a need to approach the matter in a flexible manner if rural communities are to develop and thrive.

It is considered that the proposed development does not conflict with criteria b - d of Policy INF4. With regard to criterion a, the site is located approximately 2km from the A429 which forms part of the transport network. A major A road is therefore located within reasonable distance of the site. Whilst the site is not well connected to public transport services or cycle routes, this is true for most of the District outside the larger settlements. It is therefore necessary to balance this lack of connectivity against the other benefits arising from the proposal.

The proposal will not, however, result in a level of traffic that will cause the severance of the community and does not therefore conflict with criterion a in this respect.

With regard to Policy INF3, it is noted that the proposal does not actively support travel choice for pedestrians, cyclists or public transport users. However, as previously stated this impact has to be weighed against the other benefits of the scheme. It is noted that the scheme can incorporate electric vehicle charging points which accords with the aspirations of criterion f of Policy INF3.

In addition to the above, it is noted that sustainability does not just relate to the environmental impact of a development. Paragraph 8 of the NPPF states that '*achieving sustainable development means that the planning system has three overarching objectives, which are interdependent of one another and need to be pursued in mutually supportive ways*'. The 3 objectives are economic, social and environmental. There is therefore a need to balance the 3 objectives. The economic objective is as important as the environmental objective.

It is also noted that the Council has declared a climate emergency. The generation of vehicle movements has the potential to increase emissions. However, this impact has to be balanced against the economic and other benefits arising from the scheme. In addition, mitigation measures such as electric vehicle charging points, solar panels, green walls and roofs and sustainable construction are proposed. The scheme does therefore seek to be sustainable in other ways in order to mitigate the impacts arising from the vehicle movements.

On balance, it is considered that the benefits of the proposal outweigh the limited accessibility of the site by means other than the private motor car.

With regard to the new access, the applicant has submitted visibility splay plans which demonstrate that the requisite distance of 43m can be achieved in both directions. In addition, the new access will remove the need for agricultural vehicles to utilise the existing junction closer to the centre of the village. The existing junction is bifurcated and due to the width of the lane heading north offers limited manoeuvrability for larger vehicles. The proposed access arrangement is considered to represent a betterment

The proposed development is predicted to generate 43 two way vehicle movements in the peak AM period and 31 two way movements in the peak PM period. The site is located within a reasonable distance of the A429 which is one of the principal routes through the District. The proposed development is considered not to generate a level of traffic that would conflict with paragraph 109 of the NPPF which states '*development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*'.

The proposed development will provide an additional 64 car parking spaces. Appendix F of the Local Plan recommends a maximum requirement of 71 spaces for the size of development being proposed. The level of car parking does not exceed the maximum requirement and is considered to be reasonable for the size and type of development being proposed.

It is considered that the proposed development is acceptable on highway safety terms and that the impacts arising from the increase in vehicle movements to and from the site are outweighed by the economic benefits of the development.

### **(e) Impact on Residential Amenity**

The proposal will relocate an existing livestock use to a site to the north of the village. Livestock activities will therefore be moved further from existing residential properties than at present. This is considered to be a betterment in residential amenity terms.

The proposed office use is considered to be a use compatible with residential properties. It will not cause unacceptable levels of noise or general disturbance.

The proposed car parking will be separated from existing dwellings by vegetation and existing garages and parking space. It is considered that vehicle movements associated with the parking area will not have an unacceptable impact on the residential amenity of existing residents.

It is considered that the proposed development accords with the requirements of Local Plan Policy EN15.

### **(f) Impact on Protected Species**

The application is accompanied by a Bat Activity Survey Report together with a Preliminary Bat Roost Assessment and Preliminary Ecological Appraisal (PEA).

The bat activity survey identified the presence of 3 common pipistrelle day roosts within the stone barn. The proposed scheme seeks to incorporate 4 bat tiles in the roof of the barn to enable access to the roof space as well as the introduction of 3 bat boxes on the building. It is considered that sufficient measures are being put in place to compensate for the potential loss of the day roosts.

There is evidence of a barn owl previously utilising the stone barn. However, no evidence of its presence was found during the most recent owl survey. Notwithstanding this, the applicant is proposing to introduce a barn owl box on the site to mitigate any potential impact.

The scheme includes provision for bird boxes and nesting features. The PEA also makes provision for the protection of reptiles, badgers and hedgehogs during the construction phase of the development.

The proposed scheme seeks to introduce new native species hedgerow planting across the site together with new trees planting and the creation of tussocky grass and wildflower areas. The proposed landscaping is considered to enhance the biodiversity potential of the site, which in combination with solar panels and electric vehicle charging points, is considered to represent an enhancement with regard to biodiversity and climate change.

Overall, it is considered that the proposed development can be undertaken without having an adverse impact on protected species or their habitat in accordance with Local Plan Policy EN8.

### **(g) Flooding and Drainage**

The application site is located within a Flood Zone I which is the lowest designation of Flood Zone. New agricultural and commercial development is acceptable in a Flood Zone I.

The application is accompanied by a Flood Risk Assessment which states that the surface water run-off will be conveyed to infiltration trenches and soakaways around the site. Water can then be released at a rate no greater than existing plus an allowance for climate change. Gloucestershire County Council in its role as Lead Local Flood Authority has assessed the

proposal and raises no objection to the application. The proposal is considered to accord with Local Plan Policy EN14.

### **Community Infrastructure Levy (CIL)**

The proposed development does not involve the creation of residential or retail floorspace and is therefore zero rated for CIL purposes.

### **9. Conclusion:**

Overall, it is considered that the proposed scheme will support a rural estate and contribute positively to the rural economy. The proposed scheme can also be undertaken without having an adverse impact on heritage assets, the Cotswolds AONB, protected species, residential amenity or highway safety. Whilst it is noted that future users of the site will be reliant on the private motor vehicle, it is considered that the benefits to the rural economy of the proposal outweigh the impacts arising from the additional vehicle movements. It is therefore recommended that the application is granted permission.

### **10. Proposed conditions:**

1. The development shall be started by 3 years from the date of this decision notice.

**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in accordance with the following drawing number(s): P/001, P/111/B, P/112, P/210/B, P/211/B, P/212/B, P/213, P/214, P/215, P/216, P/710/A, P/711/A, P/712/B, P/713/A, P/714, 18171.101 Rev E, 18171.102 Rev C, 18171.103 Rev A, CTP-18-657 SK01

**Reason:** For purposes of clarity and for the avoidance of doubt, in accordance with the National Planning Policy Framework.

3. Prior to the construction of any external wall of the development hereby approved, samples/details of the proposed walling and roofing materials shall be approved in writing by the Local Planning Authority and only the approved materials shall be used.

**Reason:** To ensure that, in accordance with Cotswold District Local Plan Policies EN2, EN4, EN5, EN10 and EN11, the development will be constructed of materials of a type, colour, texture and quality that will be appropriate to the site and its surroundings.

4. The timber cladding hereby approved shall be left to weather and silver naturally unless an alternative finish is first approved in writing by the Local Planning Authority.

**Reason:** To ensure the development is completed in a manner sympathetic to the site and its surroundings in accordance with Cotswold District Local Plan Policies EN2, EN4, EN5, EN10 and EN11. The colour of the finish of the external woodwork will have a material effect on the appearance of the proposed development.

5. The new rooflights shall be of a design which, when installed, shall not project forward of the roof slope in which the rooflights are located and shall be permanently retained as such thereafter.

**Reason:** To ensure the development is completed in a manner sympathetic to the site and its surroundings in accordance with Cotswold District Local Plan Policies EN2, EN4, EN5, EN10 and EN11.

6. No external doors, windows, glazed screens shall be installed/inserted/constructed in the new build office building hereby approved, until their design and details have been submitted to and approved in writing by the Local Planning Authority.

The design and details shall be accompanied by drawings to a minimum scale of 1:5 with cross section profiles, elevations and sections. The development shall only be carried out in accordance with the approved details and retained as such at all times.

**Reason:** To ensure the development is completed in a manner sympathetic to the site and its surroundings in accordance with Cotswold District Local Plan Policies EN2, EN4, EN5, EN10 and EN11.

7. The entire landscaping scheme shall be completed by the end of the first planting season (1st October to 31st March the following year) following the first use of the development hereby permitted.

**Reason:** To ensure that the landscaping is carried out and to enable the planting to begin to become established at the earliest stage practical and thereby achieving the objectives of Cotswold District Local Plan Policies EN2, EN4 and EN5.

8. Any trees or plants shown on the approved landscaping scheme to be planted or retained which die, are removed, are damaged or become diseased, or grassed areas which become eroded or damaged, within 5 years of the completion of the approved landscaping scheme, shall be replaced by the end of the next planting season. Replacement trees and plants shall be of the same size and species as those lost, unless the Local Planning Authority approves alternatives in writing.

**Reason:** To ensure that the planting becomes established and thereby achieves the objectives of Cotswold District Local Plan Policies EN2, EN4 and EN5.

9. In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme must be prepared to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and which is subject to the approval in writing of the Local Planning Authority.

**Reason:** To prevent pollution of the environment in the interests of the amenity in accordance with Local Plan Policy EN15 and Section 15 of the NPPF.

10. Prior to the first use of the office hub hereby permitted, electricity vehicle charging points shall be installed within the application site in accordance with details first agreed in writing by the Local Planning Authority. The charging points shall be retained fully in accordance with the approved details thereafter.

**Reason:** To promote sustainable travel and healthy communities in accordance with Local Plan Policy INF3 and paragraph 110 of the National Planning Policy Framework.

11. The development shall be completed in accordance with the recommendations in Section 5 of the Bat Activity Survey Report (dated 11/06/2020 and prepared by Wildwood Ecology) and the recommendations in Section 6 of the Preliminary Roost Assessment and Preliminary Ecological Appraisal report (dated 29/09/2020 and prepared by Wildwood Ecology) as submitted with the planning application. This includes a pre-works check for barn owls and the recommended precautionary working for protected species, as well as an additional measure of storing materials on pallets off the ground. All the recommendations shall be implemented in full according to the specified timescales, unless otherwise agreed in writing by the local planning authority, and all bat mitigation features shall thereafter be permanently retained.

**Reason:** To ensure that the species and habitats are protected in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 as amended, Policy EN8 of the Cotswold District Local Plan 2011-2031, Circular 06/2005, paragraphs 170 to 175 of the National Planning Policy Framework and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

12. All external lighting shall be installed in accordance with the specifications and locations set out in the Lighting Strategy (drawing no. 18171.102 Rev C), and these shall be retained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed on the site.

**Reason:** To protect foraging/commuting bats and to conserve the rural character and appearance of the Cotswolds Area of Outstanding Natural Beauty in accordance with Local Plan Policies EN2, EN4, EN5 and EN8.

13. Before the erection of any external walls of any of the buildings hereby permitted, details of the provision of bat roosting feature(s) (integrated into or mounted onto the new external walls) and nesting opportunities for birds (e.g. house sparrow terrace, swift brick, starling box, swallow nest cup) shall be submitted to the local planning authority for approval. The details shall include a technical drawing showing the types of features, their location(s) within the site and their positions on the elevations of the buildings, and a timetable for their provision. The development shall be completed fully in accordance with the approved details and the approved features shall be retained in accordance with the approved details thereafter.

**Reason:** To provide additional roosting for bats and nesting birds as a biodiversity enhancement, in accordance with the EC Wild Birds Directive, Policy EN8 of the Cotswold District Local Plan 2011-2031, paragraphs 170 and 175 of the National Planning Policy Framework and Section 40 of the Natural Environment and Rural Communities Act 2006.

14. Prior to the creation of the green roofs and green walls hereby approved, details of the plant species to be used together with details of their future management shall be approved in writing by the Local Planning Authority and the roofs shall be planted fully in accordance with the approved details by the end of the first planting season following the building first being brought into use.

**Reason:** In order to ensure that green roofs are completed in a manner that is appropriate for the location and that will benefit biodiversity having regard to Local Plan Policies EN2, EN8, EN10 and EN11.



## **Informatives:**

1. Please note that the proposed development set out in this application would be liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended), however, no CIL is payable as the Cotswold CIL Charging Schedule gives this type of development a zero rate. However, if the nature of the development were to change, you are advised to contact the Council to discuss the requirement for planning permission and CIL liability.
2. The Lead Local Flood Authority (LLFA) will give consideration to how the proposed sustainable drainage system can incorporate measures to help protect water quality; however pollution control is the responsibility of the Environment Agency.
3. Future management of Sustainable Drainage Systems is a matter that will be dealt with by the Local Planning Authority and has not, therefore, been considered by the LLFA.
4. Any revised documentation will only be considered by the LLFA when resubmitted through [suds@gloucestershire.gov.uk](mailto:suds@gloucestershire.gov.uk) e-mail address.
5. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
6. Please note that this consent does not override the statutory protection afforded to species protected under the terms of the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended), or any other relevant legislation such as the Wild Mammals Act 1996 and Protection of Badgers Act 1992.
7. All British bat species are protected under The Conservation of Habitats and Species Regulations 2017 (as amended), and the Wildlife and Countryside Act 1981 (as amended). This protection extends to individuals of the species and their roost features, whether occupied or not. A derogation licence from Natural England would be required before any works affecting bats or their roosts are carried out.
8. All British birds (while nesting, building nests, sitting on eggs and feeding chicks), their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. Works that will impact upon active birds' nests should be undertaken outside the breeding season to ensure their protection, i.e. works should only be undertaken between August and February, or only after the chicks have fledged from the nest.
9. In the event that your proposals could potentially affect a protected species, or if evidence of protected species is found during works, then you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works (with regard to bats).

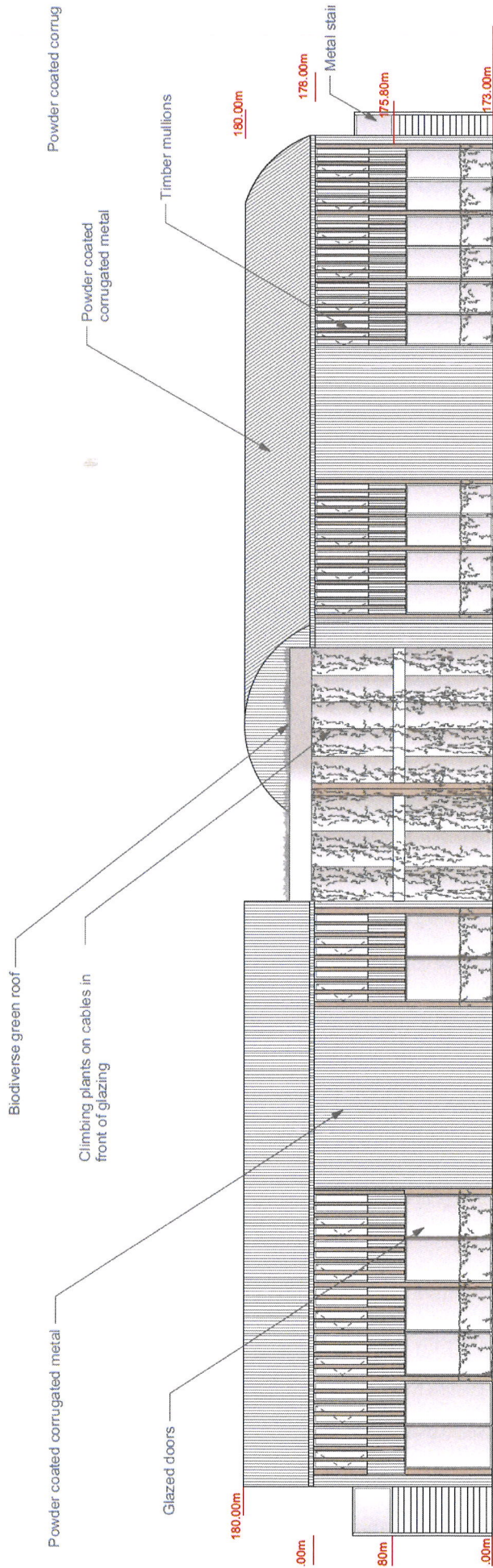
10. There is a low risk that great crested newts (GCN) may be present at the application site. Cotswold District Council considers it would be unreasonable to require the applicant to submit a survey because this could be considered disproportionate to the scale and the likely impacts of the development. However, the application site lies within an amber impact zone as per the modelled district licence map, which indicates that there is suitable habitat for GCN within the area surrounding the application site. Therefore, anyone undertaking this development should be aware that GCN and their resting places are protected at all times by The Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended). Planning permission for development does not provide a defence against prosecution under this legislation or substitute the need to obtain a protected species licence if an offence is likely. If a GCN is discovered during site preparation, enabling or construction phases, then all works must stop until the advice of a professional/suitably qualified ecologist and Natural England is obtained, including the need for a licence. Any trenches left overnight should be covered or provided with ramps to prevent GCN from becoming trapped. Any building materials such as bricks, stone etc. should be stored on pallets to discourage GCN from using them as shelter. Any demolition materials should be stored in skips or similar containers rather than in piles on ground.











P7710 PROPOSED SOUTH-EAST ELEVATION 1:100

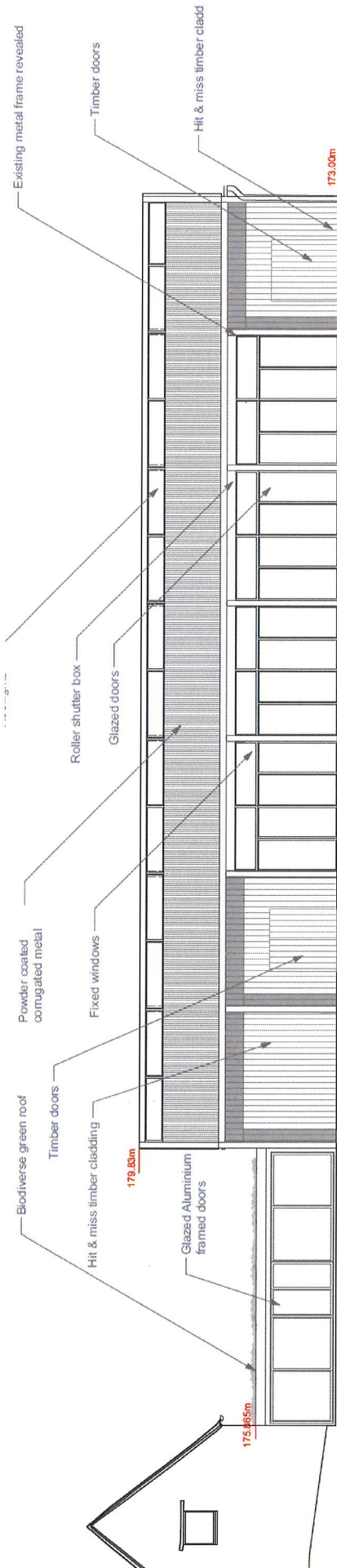
Biodiverse green roof

Biodiverse green roof

Climbing plants on cables in front of glazing

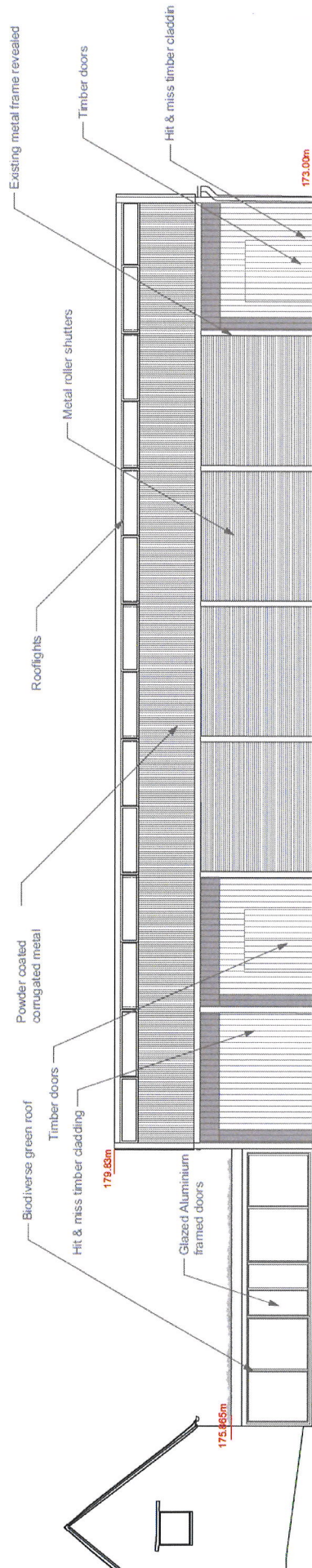
Biodiverse green roof





Threshing Barn North EL.

Cattle Barn North EL.



Threshing Barn North EL.

BARN CONVERSION

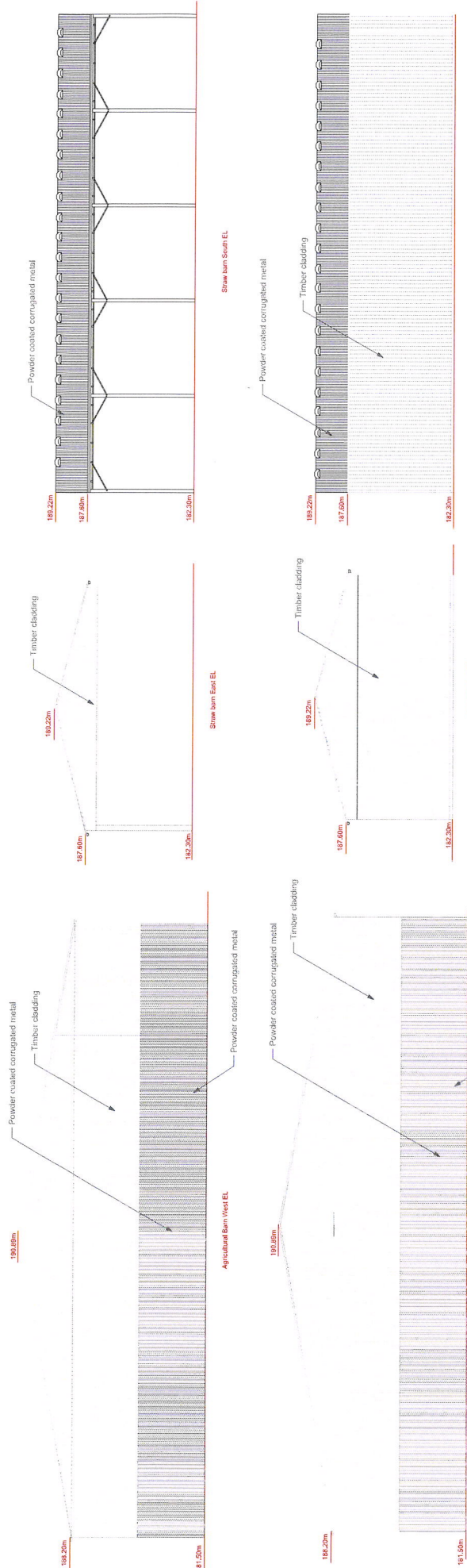




DATE	1/11/2021
BY	MLL
CHECKED	MLL
PROJECT	1100 Proposed Elevations North Building3
DESCRIPTION	1100 Proposed Elevations North Building3
LOCATION	1100 Proposed Elevations North Building3
SCALE	1:100
STATUS	FOR CONSTRUCTION
REVISIONS	

Date: January 2021 Planning Drawings

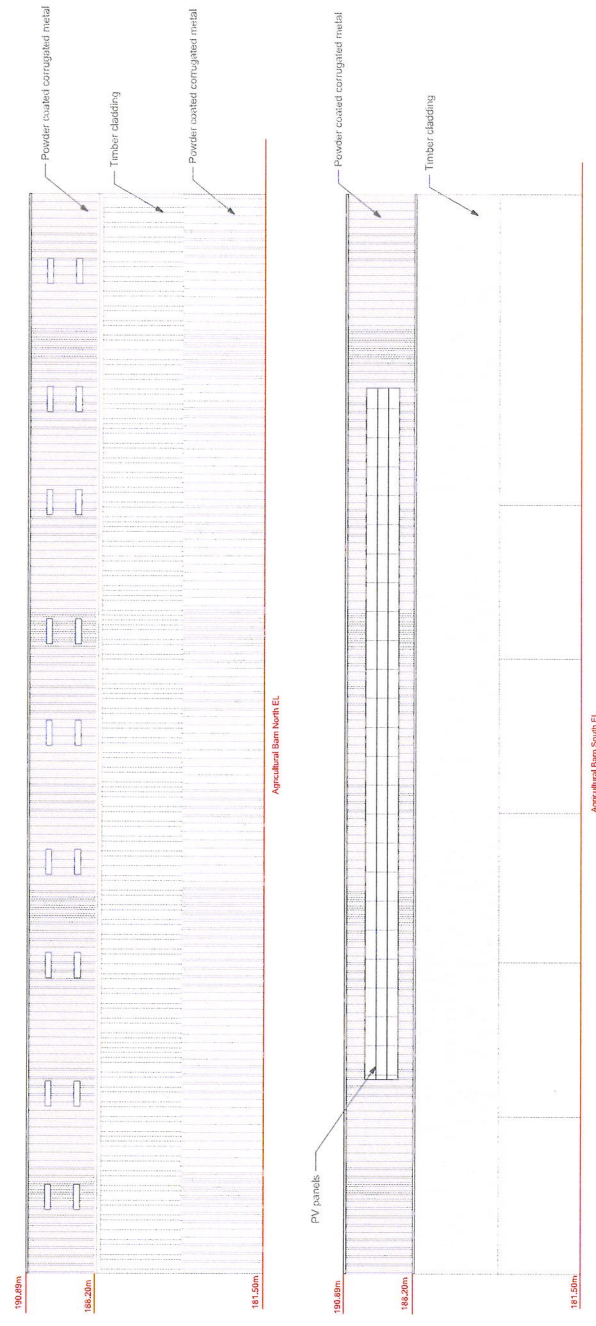
OWNER	MILLAR, HOWARD
ADDRESS	51 Main St Stony Brook, NY 11790
PROJECT	1100 Proposed Elevations North Building3
DATE	1/11/2021
SCALE	1:100
STATUS	FOR CONSTRUCTION
PROJECT	1100 Proposed Elevations North Building3
DATE	1/11/2021
SCALE	1:100
STATUS	FOR CONSTRUCTION



*SLEW BARN*

*SLEW BARN*

*SLEW BARN*



*CATTLE BARN*





- Key**
- Existing tree
  - Existing hedge retained
  - Existing poor quality hedge retained and enhanced
  - Hedge planting
  - Infill planting to existing poor quality hedge (incorporate existing hedge where possible)
  - Tussocky grass margin to hedgerow\*

\*Grassland boundaries with relaxed management regime to enhance the habitat provision on site

Ecological enhancements the form of nesting boxes to be provided as follows, locations to be agreed following completion of all construction and landscape works:

- 2no. Garden bird box (traditional timber bird nest box)
- 1no. House sparrow box (house sparrow terrace nest box)
- 2no. Bat box (2F Schwieger bat box)

Aspect, height and installation of all wildlife boxes shall be in accordance with manufacturers' recommendations.

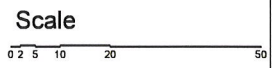
Notes on Ecology:

Landscape works and clearance works should follow guidance for appropriate timings to protect wildlife, including any required pre-work inspections by a licensed ecologist. Methods of work should follow the recommendations listed in the Preliminary Root Assessment and Preliminary Ecological Appraisal as prepared by Wildwood Ecology (September 2020).

Notes on Lighting:

In order to mitigate artificial light spill and lighting disturbance to bats when developing the detailed lighting scheme, the lighting designer should reference recommendations provided in Guidance Note 08/18 'Bats and artificial lighting in the UK: Bats and the built environment' produced by The Bat Conservation Trust and the Institute of Lighting Professionals.

Detailed lighting proposals shall be provided at detailed planning stage by the project engineers.



- Notes**
- 1) Do not scale directly from this drawing.
  - 2) This drawing is to be read in conjunction with all other relevant MHP drawings and information supplied by other consultants.
  - 3) Hatch patterns displayed on this drawing are indicative only and do not represent actual paving units or material sizes.
  - 4) All tree planting in proximity to buildings to be checked by engineers to ensure foundation detailing is appropriate.

**Plant Schedule**

All plants to be supplied from an HTA approved nursery and in accordance with the National Plant Specification.

**MIXED SPECIES NATIVE HEDGE PLANTING**

Key	Species	%	Size/Type	No
Ac	Acer campestre	10	1+0 100cc Cell grown	358
Cs	Cornus sanguinea	5	1+0 100cc Cell grown	178
Ca	Corylus avellana	10	1+0 100cc Cell grown	358
Cm	Crataegus monogyna	60	1+0 100cc Cell grown	2150
la	Ilex aquifolium	5	3-40-60cm 3L	178
Rc	Rosa canina	5	1+0 100cc Cell grown	178
Vo	Viburnum opulus	5	1+0 100cc Cell grown	178

To be planted in either a triple staggered row or a double staggered row as indicated on drawing, 300 mm between plants and 400mm between rows. (710 plants per m). Protect with shrub shelter/ guard 60cm in height supported by cane.

**IMPLEMENTATION PROGRAMME**

Rootballed and containerised planting stock to be planted within dormant season (Nov - March) within the first planting season following completion of the building works.











Farm Buildings on the northern part of the site







Southern buildings viewed from road to north

Southern buildings viewed from entrance drive







Barns to be removed







Southern buildings



		Highways Development Management Shire Hall Gloucester GL1 2TH	
<b>Martin Perks</b> <b>Cotswold District Council</b> <b>Trinity Road</b> <b>Cirencester</b> <b>Gloucestershire</b> <b>GL7 1PX</b>		<b>Email: Stephen.hawley@gloucestershire.gov.uk</b>	
<b>Our Ref: C/2020/045724</b>		<b>Your Ref: 20/02374/FUL</b>	
		<b>Date: 21 August 2020</b>	
<b>Proposal:</b>	Change of use of agricultural buildings to flexible office & storage use, construction of new office hub building & new agricultural buildings, along with associated infrastructure  Land At Calmsden Estate Calmsden North Cerney Gloucestershire	<b>Received date:</b>	24 July 2020
<b>Recommendation:</b>	<input type="checkbox"/> No objection	<input type="checkbox"/>	<input type="checkbox"/> No objection (Subject to conditions)
	<input type="checkbox"/> Refusal	<input checked="" type="checkbox"/> X	<input type="checkbox"/> Further information
<b>Document(s), drawing(s) and reference(s):</b>		<b>Planning history ref(s):</b>	
<b>Details of recommendation:</b>	<p>The proposal seeks to provide 2496m<sup>2</sup> of flexible office space, this is a significant development the will generate a large number of movements.</p> <p>The application has been supported with a Transport Assessment to reviews the implications for all modes of access.</p> <p>It is clear that the site is located in a rural community and there are limitations to the choice of transport mode available.</p> <p>There are no footways connecting the site to existing communities and the site is not accessible on foot due to the distances involved.</p> <p>The site may be accessed by bicycle for some individuals, but it not accessible for the majority. The nearest larger community is Cirencester is 9km away whereas the industry recognised cycling distance if 5km.</p> <p>There is a bus stop close by, but the service frequency is once a day, for</p>		

two days a week. This provides no realistic means of access to the site.

The Highway Authority concludes that there are no realistic transport choices other than the private vehicle to gain access to the site. The applicants own Transport Assessment makes the same conclusion in para 3.10 where it is acknowledged that the site "is not considered particularly accessible by sustainable transport modes".

The Highway Authority considers that the proposal conflicts with paragraph 102 and 103 of the National Planning Policy Framework (NPPF), and the consequence of this also see a lack of alignment with 108 and 110.

This proposal is car dominated and fails to address sustainable transport, these matters cannot be mitigated. Tools such as a travel plan cannot address the harm due to the lack of transport choices available to support it.

Additionally, the access fails to evidence the visibility splays resulting in the safety and suitability of the access not being confirmed. The TA cites withdrawn advice and considers it to be robust, this is not a shared opinion. It is considered that the access having not being adequately shown to be appropriate would have a detrimental impact on Highway Safety which would conflict with paragraph 109 of the NPPF. It may be possible for additional evidence to be provided to address this matter, and it would be an item for the applicant to consider if they wished to present further information.

It is the view of the Highway Authority that there are no genuine transport choices available and the suitability of the access for all users has not been demonstrated. The application conflicts with the transport paragraphs of the NPPF, the Local Transport Plan and INF3 and INF4 of the Cotswold Local Plan 2011-2031.

It is therefore recommended that this application is refused.

Should the Local Planning Authority conclude that the wider benefits warrant the approval of this application it is strongly encouraged that common ground be sought on the access design, and parking arrangements to limit the advised harm as far as reasonably practical.

Stephen Hawley BSc (Hons) IEng MCIHT FIHE MTPS Cert(mgmt)open  
Highway Development Management Team Leader  
Highways Development Management  
Communities Infrastructure

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