Proposed Taxi Licensing Policy Amendments

1. Transfer of vehicle Licences

The existing policy needs to be clarified so that all existing vehicle licence holders are aware that it is the vehicle that is licensed which means a licensed 'plate' cannot be transferred without a vehicle attached to it.

Proposed amendment to policy

A proprietor of a licensed hackney carriage or private hire vehicle may transfer their interest in the vehicle to another person. Under Section 49 of the Local Government (Miscellaneous Provisions) Act 1976, they must ensure that the Council is notified of the new proprietor's name and address within 14 days. The application to transfer ownership will also provide the V5 with the new owners details shown as the registered keeper.

Whilst there can be joint proprietary interest in a vehicle licence, vehicle proprietors should be aware that the vehicle 'plate' belongs to the Council. The licence is not the property of an individual and so the licence cannot be transferred separately from the vehicle.

2. DVLA checks

Since the abolition of the Driving Licence paper counterpart the Licensing Department have been unable to easily check current driving endorsements that may have accrued.

From January 2017 Local Authorities will no longer be able to request an extended mandate for an extract of an applicant's driving history. The DVLA does provide a free service to check a driver's current endorsements. It is proposed this to be adopted for all new and current drivers so the Licensing Authority can ensure drivers remain 'fit and proper' persons.

Proposed addition to policy

Applicants are encouraged to make use of the DVLA's free online Shared Driving Licence Service to enable the Council to check their driving licence record. This service can be found at www.gov.uk/view-driving-licence.

Checks may also be made by the Council, requiring the applicant or licensed driver to provide a shared DVLA driving licence code at other times. This will either be where the Council believes an applicant or licence holder has been convicted of an offence not previously declared, there has been a delay in the application process and the Council wish to ensure they have updated details before determining an application or, as part of periodic compliance checks of licensed drivers.

If an applicant is unable to, or chooses not to, use the free Shared Driving Licence Service, he/she will be required to give written consent to the Council to apply to the DVLA for their driver record. The applicant must pay the reasonable administrative fees of the Council as well as those of the DVLA. Utilising this service will result in delays in the Council processing an application.

Existing licensed drivers will be expected, and conditioned, to provide a shared driving licence code upon the request of the Council during the course of a 3 year licence where the Council deem it appropriate to check that a driver has not received any endorsements that have not been disclosed to the Council.

3. Immigration-Right to Work Check

There is now a legal responsibility imposed on the Council by the Immigration Act 2016 to ensure that right to work checks on drivers and operator licence holders are completed.

Proposed addition to policy

The Council must comply with the legal requirement not to issue a licence to someone who is disqualified from holding the licence by reason of their immigration status. This duty is discharged by requiring the applicant to submit one of a number of prescribed documents which show that the applicant has permission to be in the UK and undertake work as an operator or PHV or taxi driver.

All initial applicants and renewals for a hackney carriage drivers licence, private hire driver's licence or Operator Licence will be required to demonstrate that they have the right to live and work in the United Kingdom. We will follow the advice given by the UK Border Agency following the implementation of the Immigration Act 2016. Once the check has been completed satisfactorily it will not normally need to be repeated. A licence will not be granted to an applicant who is not entitled to work in the UK. It shall be incumbent upon an applicant to produce such official documentation as to demonstrate such an entitlement. This requirement shall apply equally to British, EEA and non-EEA nationals. No assumptions will be made about a person's right to work in the UK or their immigration status on the basis of their nationality, ethnic or national origin, accent, the colour of their skin, or the length of time they have been resident in the UK.
For those drivers and applicants who have time-limited permission to be in the UK, the check must be repeated at each subsequent application to renew or extend the licence until such time as the applicant demonstrates that they are entitled to remain indefinitely in the UK. A licence will only be granted for the duration of the validity of the Visa or permission.

4. Disclosure Barring Service(DBS) Update Service

Currently drivers have to provide enhanced disclosures for a number of bodies. This incurs a charge to them for the issue of each certificate. The DBS update service provides the facility for certificates to be checked online. This has the benefits of a significant cost saving for the drivers and a significant saving of officer time in repeated checking and submission of documentation when the applications are processed.

Proposed policy update

Disclosure Barring Service(DBS) Update Service
The Council encourages drivers to enrol in the DBS Update Service.
The Update Service allows the applicant to pay a subscription fee direct to the Disclosure and Barring Service, in return for ongoing monitoring of the official records for information relating to the applicant. Subscribers will be able to give employers and licensing authorities permission to carry out a status check, in order to verify whether an original DBS certificate remains valid, even if it is several years later. Therefore we will allow taxi and private hire drivers to use the Update Service as an alternative to obtaining a new certificate every three years. In such cases, the original certificate that the Update Service relates to must initially be produced to the Licensing Department for verification that it is suitable.

The applicant must have subscribed within 19 days of the issue of the last certificate. If the subscription lapses, or if the police records show new information since the

certificate was issued, we will not be able to obtain a status check, and the applicant will need to apply for a new disclosure certificate.

5. Licence Plate Exemption

Plate exemptions allow vehicles that provide a discreet private hire service to corporate and VIP clients to remove the licensing plate from the rear of the vehicle. The condition is amended to clarify the circumstances under which the plate can be exempt and when the Council can remove the exemption for misuse of the system.

Proposed amendment to policy

Plate exemption is for vehicles providing a discreet service to corporate and VIP clients. Where vehicles are also undertaking normal private hire work or engaging in a school contract then they will display both the internal and external plate, display the required door signs and the driver will wear their driver badge.
The display of the external identification plate on a licensed vehicle and a driver's badge is important in terms of public safety and reassurance. They indicate to the travelling public that prior to being licensed both the vehicle and the driver have been subjected to checks to ensure their (the public's) safety. The visible licence number of the vehicle and driver affords members of the public and other persons such as the Police traceability via the local licensing authority. The plate exemption must be applied for on an annual basis on the anniversary of the renewal of the vehicle licence. Operators/drivers should not automatically assume that when licensing a new vehicle to replace an existing plate exempted vehicle or renewing an existing plate that the plate exemption will continue.
If the plate exemption is found to being misused then consideration will be given to the exemption for that vehicle being removed.

6. Fit and proper – False or misleading information

Proposed amendment to Policy

An applicant may not be considered to be a fit and proper person to hold a licence if there is any evidence that the he/she has been dishonest in making the application or it can be evidenced that they or an existing licence holder has misled, or attempted to mislead, the Council (officers or elected members of the licensing committee) during any part of the application process or with the administration of the licence throughout its duration.

7. Assistance Dogs

Proposed amendment to Policy

All licensed drivers are under a legal duty to carry guide, hearing and any other assistance dogs in their vehicles without any additional charge to the passenger. A licensed driver may only refuse to do so where they have a medical exemption. A medical exemption may only be granted by the licensing authority where the licensed driver has provided detailed medical evidence that shows a medical condition will be aggravated by exposure to dogs. If the medical exemption is granted, the licensed driver will be issued with an exemption certificate and a notice of exemption. The notice must be displayed in the vehicle by fixing it in a prominent position facing outwards on the dashboard.

8. Medical

Our current policy on medical examination needs to be expanded to clarify the process and requirements.

Proposed amendment to Policy

Applicants and licence holders must notify the Council as soon as it is practicable of any deterioration in their health that may affect their ability to drive a licensed vehicle and/or their suitability to be a licensed driver The Council will take a serious view of any licence holder continuing to drive if that driver is aware of, or as a licensed driver should be aware of, any health problems that could endanger the lives of their passengers.

Where the Council is not satisfied as to the medical fitness of an applicant, it will require the applicant to undergo and pay for a further medical examination, at an appropriate medical facility. This will be conducted by either the applicants GP or other qualified medical practitioner with access to the applicant's full medical records to certify in writing that the applicant meets the relevant standard to act as a licensed driver. Where there remains any doubt about the fitness of any applicant or licence holder the Council will review the medical evidence and, if necessary, put further questions to the relevant medical practitioner (such costs to be borne by the applicant or licence holder), before making any final decision about the application.

9. Knowledge Test

It is a requirement that all new applicants undertake a knowledge test of the area. Unfortunately some applicants choose to cheat during the test and at present they can re-sit the exam. It is proposed that we exclude those individuals from holding a licence on grounds of dishonesty and not being a fit and proper person.

Proposed amendment to Policy

Where an applicant takes the Council's knowledge test, any attempt at cheating in that test will result in their application being refused. Cheating in this context may include, but is not limited to, copying another applicant's answers, disruptive behaviour during the test, utilising any non-permitted papers or devices, or otherwise trying to gain an unfair or improper advantage.

10. Private Hire Operators- Office waiting area.

Following a review of the current Policy no minimum standards are set for waiting facilities provided by an Operator for members of the public to ensure their safety or comfort whilst using the waiting facilities.

Proposed condition to the Operators Licence:

Operators that provide waiting facilities for the public should ensure the following:

a. Any premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting; are kept clean, adequately heated, ventilated and lit
b. ensure that any waiting area provided by the operator has adequate seating facilities;
c. appropriate public liability insurance must be taken out for premises that are open to the public (e.g. taxi waiting rooms) and the appropriate certificate of insurance should be provided for examination when required by Council Officers'

11. Sub contracted booking details

Since October 2015 Operators have been able to sub-contract bookings to other Operators either in the same or another district. Accurate records of all sub-contracted bookings should be maintained therefore in addition to the current requirements of Condition 2 of the Operator Licence it is proposed that the following to be added regarding sub-contracted bookings.

Proposed condition to the Operator's Licence

a. If the booking was undertaken at the request of another operator, the name of that operator must be recorded.
b. If the booking was passed to another operator to fulfil, the name of that operator and confirmation that the customer was informed that the booking will not be completed by a Mid Sussex District Licensed driver and vehicle.

12. Notification of Convictions on an Operator's Licence

Currently the condition that requires Operators to inform the Council of any convictions does not have a time limit on how long they have to make the notification. It is therefore proposed to amend Condition 12 to read –

Proposed amendment to conditions for an Operator's Licence

The licence holder(s) will, within seven days, disclose to the Council in writing details of any conviction; including any fixed penalty notice (endorsable or non endorsable), any Criminal Behaviour Order or any High Court or County Court judgement recorded against their name during the period of the licence, and any Police Caution. In addition the licence holder (s) will inform the Council within seven days, of any arrest or interview under caution as a suspect.

13. Dual Plating

A new section to the policy is necessary because of the problems of meeting the different standards that apply in different areas and the enforcement of those conditions in cases of non-compliance. Therefore obtaining a vehicle licence from any other authority would automatically invalidate any hackney carriage or private hire vehicle licence issued for that vehicle by Mid Sussex District Council.

Proposed amendment to conditions for an Operator's Licence

No Vehicle will be granted a licence if it is already licensed in another district.

14. Inspection of electronic booking records – assistance to Inspecting Officers

A significant number of Operators use technology /systems to record their licensable activities. In order to allow us to conduct compliance checks Officers need access to the system. A new condition will make it a requirement that Operators help us to effectively access the records.

Proposed amendment to conditions for an Operator's Licence

Operators who maintain computerised records will be required to give access to these records to licensing officers upon request in order that the licensing officers can carry out their enforcement duties. Operators will be required to provide adequate instruction to licensing officers in order to enable the officers to interrogate computerised records and gather information they require.

15. Electric Vehicles for Hackney and Private Hire Vehicle licence conditions

At present the current Policy makes no reference to electric vehicles. There are a number of Hybrid vehicles within the licensed fleet but at present there is no opportunity for licensed vehicles to be solely electric. Electric vehicles produce no direct CO2 emissions, and as electricity can be produced from sustainable sources, such vehicles can be considered to be environmentally friendly. Electrically powered taxis are currently running in Holland, Switzerland, Germany, Portugal, Spain and the UK. Transport for London is examining options to ensure that "from 2018 all taxis presented for licensing should be zero emission capable". In addition to Transport for London, several other areas have revised their conditions with respect to the matters described in this report, taking cognisance of technical developments in engine capacity/power and vehicle emissions. Electric vehicles may now be licensed in Nottingham, Cornwall, Blackpool, Blyth and Wigan, among others. The benefits of giving drivers the opportunity to license electric vehicles would assist in the drive to reduce emissions.

Proposed amendment to Hackney and Private Hire Vehicle licences conditions

The Council will licence electric, hybrid or similar vehicles providing they are of such design as to be able to undertake a full range of journeys, whilst carrying the maximum licensed number of passengers and associated luggage.

16. Convictions/arrest to Private Hire and Hackney Drivers Licences concerning details of arrests , convictions and cautions.

The arrest and release on bail with or without charge can indicate that there has been an event, which may cause the Council to review the suitability of an applicant or a licensed driver to hold a licence. The current condition requires drivers to notify the Council of convictions and cautions. This addition requires details when arrests and/or interviews under caution as a suspect are made.

Proposed amendment to Hackney and Private Hire Driver licence conditions

The licence holder will, within seven days, disclose to the Council in writing details of any conviction; including any fixed penalty notice (endorsable or non endorsable), any Criminal Behaviour Order or any High Court or County Court judgement recorded against their name during the period of the licence, and any Police Caution. In addition the licence holder will inform the Council within seven days, of any arrest or interview under caution as a suspect.