

TEST VALLEY BOROUGH COUNCIL

TOWN POLICE CLAUSES ACT 1847 S 38

PUBLIC HEALTH ACT 1875 S 171

TRANSPORT ACT 1985

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

Hackney Carriage and Private Hire Vehicle Licensing Guidelines

PART 1 : BACKGROUND

The Test Valley Borough is situated in the County of Hampshire in the picturesque valley of the river Test. Its 155,138 acres stretch from Vernham Dean, on the Hampshire/Berkshire/Wiltshire borders, in the northern extent of the Borough, right down to Chilworth, which lies just outside the City of Southampton at its southern extremity. The area is populated by approximately 114,000 persons and is in the main a rural area, with the former market towns of Andover and Romsey comprising the urban settlements.

Because the Borough is predominately a rural area, Hackney Carriages and Private Hire Vehicles form a vital part of the public transport network.

Test Valley Borough Council has a statutory duty to provide licensing of both Hackney Carriages and Private Hire Vehicles and is the Licensing Authority for these purposes. The function is undertaken by the Licensing Section of the Administration Service with the Council's Commercial Services Organisation acting on behalf of the Licensing Section for the purposes of vehicle inspections.

Other Legislation

Prior to submitting an application to the Licensing Authority an applicant for a Private Hire Operator's licence must ensure that Planning Permission for this activity is/is not necessary.

The Council recognizes that there should be a clear separation of the Planning and Licensing systems and Private Hire Operator licensing applications will be viewed independently of any application made to the Planning Service. To achieve this, there will be a liaison maintained between the Planning Service and the Licensing Section.

PART 2 : INTRODUCTION

Test Valley Borough Council (“the Council”) is the Licensing Authority pursuant to the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 (“the Act”) and is responsible for considering all applications for Hackney Carriage and Private Hire Vehicle licensing. The purpose of licensing is to ensure the safety and comfort of the travelling public at all times.

These guidelines have been prepared having taken account of the Taxi and Private Hire Vehicle Licensing Best Practice Guidance issued by the Department for Transport in October 2006.

These Guidelines will be kept under review and where any amendments are considered necessary these will only be made after consultation has taken place in accordance with Section 11 of the Guidance. Proper weight shall be given to the views of all those consulted. Those to be consulted will include:

- The Chief Officer of Police for Test Valley Borough
- Bodies and persons representing the Hackney Carriage and Private Hire Trade
- Bodies of persons representing the travelling public
- Any other bodies the Council deems appropriate

The Council recognises that the best means of promoting safe licensing of operators, vehicles, and drivers is through the co-operation and partnership of local authorities, the police, the trade and the travelling public.

Licensing Objectives

When dealing with licensing matters the Council will promote and have regard to the following licensing objectives:-

- The safety and comfort of the travelling public
- The protection of vulnerable adults and children

The Council’s primary focus is the safety of the travelling public at all times in respect of vehicles, drivers and operators.

Integration of Strategies

The Council will take into consideration the following in so far as they are relevant to the licensing objectives:

The Council’s wish to make Test Valley a safer place to live and work, together with improving cultural and recreational facilities and enhancing town centres to make them more attractive to residents within the Borough as detailed in the Council’s Corporate Plan. Ultimately all of these have a potential impact on the transport systems within the Borough of which Hackney Carriages and Private Hire Vehicles form a significant part.

The Council will ensure at all times it takes into account the views of its stakeholders to ensure proper integration of transport strategies.

Number of Hackney Carriage Vehicle and Private Hire Licences within the Borough

Test Valley is currently a restricted area in terms of Hackney Carriage Vehicle Licensing. This regulates the controls over the number of Hackney Carriage Vehicle licences that can be issued within the Borough which currently stands at 35. Any increase to this number can only be made following a resolution of the Council's Licensing Committee.

In the case of Private Hire Licensing no limit can be placed upon the number of Private Hire Vehicles that the Borough Council can license. The Council has no powers to prescribe fares, or types of vehicles that can be licensed although it can lay down minimum specifications for Private Hire Vehicles. These are contained in the conditions referred to. The area for Private Hire operation is the total area of the Council.

Hackney Carriage & Private Hire Licensing Conditions

In order to promote any of the licensing objectives, the Council will attach Hackney Carriage and Private Hire Vehicle Licensing Conditions to each and every licence. Disproportionate and over burdensome conditions on vehicles, drivers and operators will not be imposed unnecessarily. Standardised conditions are used at the present time which can be obtained from the Licensing Section or on the Council's website at www.testvalley.gov.uk/licensing. Conditions attached to vehicle, drivers and operators licences will so far as possible and appropriate, reflect local crime prevention strategies.

Enforcement

The Council will establish protocols with the local Police on enforcement issues. This will enable a more efficient deployment of local authority staff and Police Officers who are commonly engaged in enforcing licensing law. The aim of the protocol will be to target agreed problem and high risk areas i.e. outbreaks of violence at taxi ranks late at night.

Delegation of Functions

In the interests of speed and efficiency the Council will, where possible, delegate licensing decisions and functions to officers (presently the Head of Administration). However, if the matter to be decided is controversial in any way or the determination of the matter under delegated powers is precluded by law then it will be decided by the Council's Licensing Committee.

Statutory Rights of Appeal

It is clear that a local authority committee or officer making a decision on the question as to whether or not to grant a licence cannot fulfil the requirement for a hearing before “an independent and impartial tribunal”. However, the fact that there is in relation to every licence relating to hackney carriage and private hire matters, a statutory right of appeal to an independent tribunal (either Magistrates’ Court or Crown Court), means that the requirements of article 6 of the European Convention on Human Rights (Human Rights Act 1998) in respect of independence and impartiality are not compromised and it is unlikely that a successful challenge could be launched against the local authority determining the question.

Security and CCTV

The Council actively encourages the installation of security measures such as CCTV systems as a means of providing protection for vehicle drivers. Installation and usage of CCTV systems must comply with the Council’s CCTV Code of Practice in use at that time.

Hackney Carriage Fares

The maximum fares that can be charged by a hackney carriage must not exceed the table of fares currently in force. Fare rates are currently, normally only reviewed by the Council following representations from the taxi trade or from a particular sector of the trade.

PART 3 : TYPES OF LICENCES

Hackney Carriage and Private Hire Vehicle Drivers Licence

Each application must be judged on its own merits but it is worth bearing in mind that Public Safety must be paramount, and a good measure of this to bear in mind at all times takes the form of a question that the Council must ask itself when determining each application: Knowing everything that is known about an applicant would you let any of your loved ones travel alone with this person? If there is any uncertainty then a cautious approach will be taken. The Council should not be seen as a form of employment service.

A Hackney Carriage/Private Hire Vehicle Drivers Licence will be granted to any applicant who has fulfilled the following criteria:

- Has held a full DVLA driving licence (or equivalent) for at least 12 months.
- Has undergone a successful medical examination to DVLA Group 2 standards by their doctor (General Practitioner), who in turn will have completed and signed the Medical Certificate on behalf of the applicant.

- Has fully completed and signed a DVLA Mandate for the release of their driving record to the Council.
- Has fully completed, signed and supplied the relevant accompanying I.D. documentation for an Enhanced Criminal Records Bureau check to be carried out.
- In addition to the CRB check, if the applicant has lived overseas for any time since the age of 10 then he/she must provide the Council with a letter of good conduct or similar documentation for the country or countries in which he/she has lived, which shows whether the applicant has a criminal record.
- Has provided documentation proving their right to work in the United Kingdom in accordance with the Immigration, Nationality and Asylum Act 2006.
- The relevant fee is paid
- A Knowledge Test has successfully been completed.

Provided that the relevant reports from both the DVLA and the Criminal Records Bureau (CRB) are clear [the CRB will send the applicant a copy of his/her Disclosure result direct in the post as well as notifying HARWIN], then the licence can be issued on the day that the final report is received. Such a quick turnaround is normal as one of the Council's Key Performance Indicators is the despatch of Driver licences within 4 days of receipt of all information.

In the case of an applicant who lived overseas for any time since the age of 10 then a satisfactory letter of good conduct or similar documentation for the country or countries in which they have lived must also be available. Any costs associated in obtaining this documentation must be met by the applicant. Certain countries do have a similar arrangement to the Criminal Records Bureau. Further information can be obtained from their website at www.crb.gov.uk. If the country that you are looking for is not listed you may wish to contact the country's representative in the United Kingdom. Contact details for those countries that have a representative in the United Kingdom can be found on the Foreign and Commonwealth website www.fco.gov.uk or telephone 020 7008 1500.

Applicants that have been granted permanent leave to stay in the United Kingdom as a result of seeking asylum should also obtain a letter of good conduct.

The requirement to provide a letter of good conduct does not apply to any applicant that has lived overseas as a serving member of HM Forces.

Applications that do not meet these criteria will be rejected. In the case where a report received from the CRB or equivalent overseas documentation reveals a conviction or a conviction for a comparable offence in a foreign jurisdiction then this will be considered in line with the Council's policy as set out in Part 4 of these guidelines.

Any prospective driver must pass a test to make sure that they can perform their duties to a basic professional standard and that they know the law and local conditions affecting how they work. This protects the safety and general interest of the driver, public and businesses that use hackney carriage and private hire services. The test consists of these four parts, which must all be passed.

Part of Test	Pass Mark
Premises and locations – required to name the road or street upon which popular premises are located	10 out of 24
Road knowledge – required to list two roads which can be directly accessed off a particular road	10 out of 30
Map reading/route finding – two questions asking for the location of a particular premises to be marked upon a map and three questions asking for the description of the route taken between two particular locations	2 out of 5
Rules and regulations – questions based upon this document and driver and vehicle licence conditions	14 out of 22

Applicants will be sent an appointment to attend the test upon receipt of their completed application. A maximum of 90 minutes will be allowed for the test. A candidate who fails the test will be able to take 2 subsequent tests at a minimum of 4 weeks apart subject to arrangement with the Licensing Section. Any new applicant failing on 3 attempts will not be allowed to re-apply until 12 months have lapsed. The whole test can be taken verbally by prior arrangement with the Licensing Section if required.

Licences issued to Hackney Carriage and Private Hire Drivers are subject to the Council’s Licensing Conditions, and in the case of Hackney Carriage Drivers Licence, Hackney Carriage Byelaws, at all times or any other conditions or warnings that the Head of Administration may wish to impose at the time of grant of licence. The licence is renewable annually or after three years. Licensed drivers must wear the identification badge issued to them at all times when driving a licensed vehicle.

For those persons wishing to drive both types of vehicle, it should be noted that a combined Hackney Carriage and Private Hire Vehicle Driver’s Licence is available.

The Council considers that as a professional driver, a licensed driver should not charge above the maximum fare, should adopt safe and passive driving techniques and set a good example to other road users.

Hackney Carriage Vehicle Licence

The Hackney Carriage is the oldest form of hire vehicle that is recognised in England and Wales. The principal features of a hackney carriage are: it can carry passengers for hire or reward; it can be hailed by a passenger; it can park on a rank to await the approach of passengers. The fares that a hackney carriage proprietor can charge for his services are prescribed by the Council. Proprietors must not charge more than the prescribed fare that has been set by the Council. It must be driven by a driver who holds a hackney carriage driver's licence. The philosophy behind this licensing is that each hackney carriage is individually controlled and is available for public hire.

To enable a hackney carriage vehicle licence to be issued the following criteria apply:

- Application form fully completed and signed.
- Original documentation to be produced for photo-copying are: DVLA Registration Certificate or in the case of a new vehicle, the bill of sale; Current Certificate of Insurance to cover Hackney Carriage work; Annual/Biannual Council Certificate of Compliance; Current MOT certificate if applicable (Hackney Carriage Vehicles over one year old require an MOT).
- Relevant fee paid for the licence.

Provided all the necessary paperwork is in order and the fee is paid then the licence can be prepared. Licence identification plates require preparation and cannot always be provided on demand. Accordingly requests for vehicle licence plates must be received by the Licensing Section no later than 1530 hours. Requests received after this time will be processed on the next working day.

The Hackney Carriage Vehicle Licence is issued to the applicant and is subject to the Council's Licensing Conditions and Hackney Carriage Byelaws. The licence is renewable annually/biannually. A hackney carriage may carry advertising subject to approval from the Council.

It is worthy of note that the Council would **not** be prepared to license any vehicle where passenger comfort was questionable as in the case of a vehicle where leg room in some of the rear seats is limited. In such a case the Council Vehicle Inspector may recommend that the vehicle be licensed for a lesser seating capacity than the manufacturer's specification. As at October 2008 the following vehicles fall into this category - Vauxhall Zafira, Volkswagen Touran, Ford S-Max.

Private Hire Vehicle Licence

A Private Hire Vehicle cannot resemble a Hackney Carriage. It cannot ply for hire or stand in a rank. It must be pre-booked with a Private Hire Operator. The private hire operator is the lynch-pin to the private hire vehicle licensing regime. He takes the booking for a private hire vehicle and despatches the vehicle (which must be driven by a licensed private hire driver) to fulfil that request. A private hire vehicle cannot operate independently from a private hire operator.

The main difference between hackney carriage and private hire vehicles is in their fares. The Council has no powers to prescribe fares for private hire vehicles. This will, therefore, be a matter for arrangement between the operator and the hirer and should be agreed prior to the commencement of the journey.

To enable a private hire vehicle licence to be issued the following criteria must be applied:

- Application form fully completed and signed.
- Original documentation to be produced for photo-copying are: DVLA Registration Certificate or in the case of a new vehicle, the bill of sale; Current Certificate of Insurance to cover Private Hire work; Annual/Bi-annual Council Certificate of Compliance; Current MOT certificate if applicable (Private Hire Vehicles over three years old require a MOT).
- Relevant fee paid for the licence.

Provided all the necessary paperwork is in order and the fee is paid then the licence can be prepared. Licence identification plates require preparation and cannot always be provided on demand. Accordingly requests for vehicle licence plates must be received by the Licensing Section no later than 1530 hours. For any requests received after this time the plate will be available on the following working day.

The Private Hire Vehicle Licence is issued to the applicant and is subject the Council's Licensing Conditions. The licence is renewable annually/biannually. Private hire vehicles may only carry advertising giving the operator's details and if so the words "pre-booking only" must be included. Private hire vehicles may not use roof signs.

It is worthy of note that the Council would **not** be prepared to license any vehicle where passenger comfort was questionable as in the case of a vehicle where leg room in some of the rear seats is limited. In such a case the Council Vehicle Inspector may recommend that the vehicle be licensed for a lesser seating capacity than the manufacturer's specification. As at October 2008 the following vehicles fall into this category - Vauxhall Zafira and Volkswagen Touran, Ford S-Max.

Private Hire Operators Licence

A private hire vehicle can only be despatched to a customer by a private hire operator. That is a person who holds an operator's licence. This licence allows him/her to operate private hire vehicles. "Operate" means in the course of business to make provision for the invitation or acceptance of booking for a private hire vehicle.

Provided the Council is satisfied that the applicant is "a fit and proper person" to hold an operator's licence, then the application can be granted.

Although an operator does not drive members of the public (unless he/she also holds a Private Hire driver's licence) he will be in possession of information about people's whereabouts and movements and will also be dealing with the public, either face-to-face or over the 'phone. As a result, the need for him/her to be a "fit and proper person" is just as important as it is for a private hire driver.

Licensed Private Hire Operators must ensure the following:

- Ensure that any vehicle hired attends punctually.
- If any rooms are provided for the public, for waiting or making bookings, they must be clean, adequately heated and ventilated and lit.
- No booking should be accepted unless the hirer knows the basis of the hire charge.
- Maintain a record of bookings in a form satisfactory to the Council.
- Not to permit people who are drunk to remain on the premises; and
- No maintenance of vehicles at the operating base.

It should be noted that a licensed Private Hire Vehicle Operator is solely responsible for the drivers in his operation and how they run that operation. Any problems with drivers or their behaviour could ultimately cause the Operator's Licence to be reviewed and perhaps revoked.

The Council will specify the address or addresses from which the operator may operate. It is important that these are correct, so that if the operator moves address, he not only informs the Council, but also ensures that a revised licence is issued.

It is important to remember that Planning Permission should be sought for the operating base premises and this will be easily ascertained when the applicant completes a questionnaire which forms part of the application form. These questionnaires are forwarded on to the Planning Service for them to decide whether full Planning Permission is required or whether it would form part of a permitted activity within the applicant's residence. The decision of the Planning Service is notified directly by the Planning Service to the applicant and a file copy of that decision is sent to the Licensing Section for their reference.

To enable a Private Hire Operators licence to be issued the following criteria must be applied:

- The application form must be correctly completed and signed.
- The attached Planning Service questionnaire must be fully completed.
- A character reference must accompany the application. This must be from someone other than a person who is related to the applicant or someone who currently holds a Private Hire Operators Licence (this is for the initial application only).
- The correct payable fee.

Provided all the necessary paperwork is in order and the fee is paid then the licence can be prepared.

The Private Hire Operators Licence is issued to the applicant and is subject the Council's Licensing Conditions. The licence is renewable annually or every three years.

Cross-Border Hiring – It is worth mentioning that a situation can arise where a booking is made with a private hire operator which is not for a journey that commences and ends, and is throughout its course, wholly within Test Valley. A private hire operator licensed by Test Valley Borough Council can only operate a private hire vehicle which has been licensed by Test Valley Borough Council. In addition, it must be driven by a private hire driver licensed by Test Valley Borough Council.

The simplest way to establish whether or not an offence has been committed is to inquire whether all three licences have been issued by the same authority. If the answer is “yes”, then there is no restriction on the geographical area in which the journey can take place. However, should a booking be accepted by an operator in Test Valley and he/she is unable to fulfil that obligation then the booking can only be offered to another operator licensed by Test Valley Borough Council and must not be offered to an operator in a neighbouring authority. To do so would mean that an offence would be committed by the operator in Test Valley, for offering it, and by the operator in the neighbouring authority, for accepting that booking.

Licences – fees

Details of fee levels, application prescribed forms and conditions may be viewed on the Test Valley Borough Council website at www.testvalley.gov.uk/licensing, or can be obtained from the Council's Licensing Section at Beech Hurst, Weyhill Road, Andover, Hampshire SP10 3AJ.

Fees are set at a level sufficient to be able to cover the costs of inspecting vehicles, providing hackney carriage ranks and administering the control and supervision of hackney carriages and private hire vehicles. The fee structure is reviewed annually as part of the budgetary process and licence holders are notified of any changes.

In common with most types of licence, the appropriate fee will be paid when the application is submitted. The Council does not make any refunds in respect of the unexpired portions of the licence fees. It is often more expensive to refuse a licence than to grant a licence, therefore any application fee is not refundable. Incomplete applications by virtue of dishonoured payments will automatically result in the respective licence being suspended until the licence is paid for.

Hackney Carriage Ranks

Details of the location of ranks may be obtained from the Licensing Section. It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on a hackney carriage rank. Drivers of hackney carriages may only wait on a rank whilst plying for hire or waiting for a fare; drivers who park on a rank and leave their vehicle unattended are committing an offence.

PART 4 : MATTERS FOR CONSIDERATION BY APPLICANTS

Hackney Carriage and Private Hire Vehicles

Before any application is considered, the vehicle to be licensed must have been inspected and approved by the Council's Vehicle Inspector. It is the responsibility of all applicants to arrange for this inspection to be carried out (at the Council's West Portway Depot, Macadam Way, Andover) and an appointment should be made directly with the Inspector, by telephoning 01264 368363. This is the only testing station that can test a vehicle for licensing as a hackney carriage or private hire vehicle in Test Valley. There is a charge for the test which is separate to the licence fee and will need to be paid at the time of the inspection.

The vehicle will be tested above the normal MOT standard so as well as looking at the mechanical aspects, the tester will also check the vehicle for cosmetic appearance, safety and comfort. Passing the test does not mean that the vehicle is licensed. The issuing of a certificate of compliance is only part of the application process. You will then have to visit the Council's offices at either Andover or Romsey and submit the appropriate documentation, application form and fee. The sections in this document regarding vehicle licence applications give more details of this process.

A vehicle presented for licensing as a Hackney Carriage or Private Hire Vehicle shall be in a suitable condition to the satisfaction of the Borough Council's Vehicle Inspector. Vehicles over 6 years old must be maintained to an equally high standard and will be inspected and licensed at 6 monthly intervals.

The Council may, at its discretion, grant approval to any vehicle of any age, which it considers suitable for use as either a Hackney Carriage or Private Hire Vehicle. The age of the vehicle will be calculated from the day of its first registration at the DVLA.

All licensed vehicles must be fully insured to carry out Hackney or Private Hire work and therefore if the vehicle is also used as a family car **all persons** who will be driving the vehicle at **any time**, i.e., wives, husbands, partners, family members, friends and colleagues, must also hold a Hackney Carriage Drivers or Private Hire Vehicle Drivers licence otherwise the insurance cover will be voided.

Stretched Limousines – Private Hire

In the past few years there has been an enormous increase in the use of stretched limousines, "a dramatically elongated saloon motor car which is becoming familiar on our streets", which have moved from their traditional use as wedding and funeral cars into the mainstream private hire arena. Their use includes all the usual private hire uses, plus "special occasions" such as outings to the races, transport to parties and balls, hen and stag nights and children's birthday parties.

The licensing of these vehicles should not be a problem in itself. The services provided are those provided by private hire vehicles, and these vehicles have a legitimate role to play in meeting a public demand.

There are many unscrupulous operators who do not bother with any kind of licensing for this type of vehicle, which are potentially mechanically unsafe and over loaded with passengers. Hence, in the interests of the safety of the travelling public, which must always be paramount, Test Valley Borough Council has taken the view that it is appropriate to license stretched limousines.

However, although the Authority has adopted the power to licence such a limousine there are certain criteria that have to be observed before an application can be received and considered:-

- Some vehicles seat more than eight passengers and a licensed private hire vehicle can only seat up to 8 passengers. Requests therefore, can only be accepted for vehicles with a passenger carrying capacity of 8 persons. Vehicles with more than eight passenger seats then become a Passenger Carrying Vehicle and are the responsibility of the Department for Transport.

- A Single Vehicle Approval Certificate must be provided in addition to the inspections and documentation required for all vehicles presented for licensing.
- The vehicle must be suitable in type, size and design for use as a private hire vehicle.
- The vehicle must have adequate emergency exits.
- The vehicle must be in a suitable mechanical condition.
- The vehicle must be safe and comfortable.

Alcoholic drinks can only be provided in the vehicle under the terms of an appropriate licence issued under the Licensing Act 2003 relating to the sale and supply of alcohol. Alcohol shall only be served while the vehicle is stationary and afterwards, the bottle shall be placed in a secure receptacle. If the occupants of the vehicle are below the age of 18, there should be no alcohol in the vehicle. Any glassware in the vehicle must be made of either shatterproof glass or plastic.

Exemptions - Private Hire Vehicle Licensing and “Contract” work

Previously the undertaking of contract work by a Private Hire Vehicle Operator constituted an exemption from private hire licensing. From January 2008 a change in the law removed any such exemption and so from now on all vehicles, operators and drivers will need to be licensed.

The only exception to this is any vehicle being used in connection with a wedding and any vehicle where it is being used in connection with a funeral, or is being wholly or mainly used by a person carrying on the business of a Funeral Director.

Exemption – Displaying Private Hire Licence Plates

Over the last few years there has been a substantial increase in the demand for chauffeur driven services for companies and individuals and this has brought about an increasing number of private hire vehicle operators, who wish to undertake this type of specialist work, requesting an exemption from displaying a private hire licence plate on the rear of their vehicle.

Test Valley Borough Council has the power to grant such a request in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976 Section 75(3) (relating to the display of Private Hire Vehicles plates). Satisfactory applicants will therefore be issued with a smaller version of the plate which should be displayed in the vehicle’s front windscreen.

Hackney Carriage and Private Hire Drivers

Persons wishing to apply for a Hackney Carriage or Private Hire Drivers Licence may find the following guidelines relating to the relevance of convictions and/or cautions useful.

Each application must be considered on its own merits.

It should be noted that the Rehabilitation of Offenders (ROA) Act 1974 (Exceptions) Act 1975, as amended, was made under the ROA 1974, s 4(4). Regulation 3 excludes the provisions of s 4(2) from applying in relation to questions asked by a person in the course of their duties or employment who is ascertaining the suitability of an individual in relation to certain occupations. These occupations are listed in ROA 1974, Sch1. Since March 2002 hackney carriage and private hire drivers, both outside and within London, have been listed (referred to in the Order as “taxi drivers”) as Regulated Occupations and in ROA 1974, Sch1, Part III. The effect of this in relation to hackney carriage and private hire drivers is to render ROA 1974 inapplicable. For all practical purposes, it is as if the Rehabilitation of Offenders Act 1974 had never been passed for Hackney Carriage and Private Hire Drivers.

A person with a current conviction or caution or other finding of guilt for a serious crime need not be permanently banned from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration must be the protection of the travelling public.

The following examples give a general guide on the action to be taken where conviction/cautions are admitted or revealed under the Criminal Records Bureau Disclosure (CRB) or equivalent foreign documentation:-

NO LICENCE WILL BE ISSUED for a conviction for any of the following: Murder, Manslaughter, Causing Death by Reckless Driving, Armed Robbery or Rape. No licence will be issued to any person listed on the Sex Offenders Register.

MINOR TRAFFIC OFFENCES e.g. obstruction, waiting in a restricted street, speeding etc., should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant’s DVLA driving licence then a Hackney Carriage or Private Hire Drivers licence may be granted after its restoration but only in accordance with the following:-

One year clear of driving from disqualification and attending and completing in its entirety the Driving Standards Agency (DSA) Taxi Drivers Test before the issue of any licence.

Any driver who accumulates more than 9 points on his licence will have his/her driver’s licence suspended pending the completion of the DSA Taxi Drivers Test.

Any driver who has an endorsement for careless driving/undue care and attention will be expected to provide a full account of the charge.

Any driver who has more than 2 miscellaneous traffic offences (as per the endorsement offence codes applied by the courts) in one year will have his licence suspended pending the completion of the DSA Taxi Drivers Test. An explanation of the codes is available in DVLA leaflet INS57P Driver Licensing Information.

MAJOR TRAFFIC OFFENCES such as an isolated conviction for reckless driving or driving without due care and attention etc. should normally merit a warning as to future driving and advice on the standard expected of a hackney carriage and private hire vehicle driver. More than one conviction for this type of offence within the last two years should merit refusal and no further application would be considered until a period of 1 to 3 years free from convictions has elapsed. Attendance at the DSA Taxi Drivers Test will be compulsory prior to any licence being granted.

However, the following offences should be specifically looked at in accordance with this policy.

Reckless driving – Licence granted after 3 years from conviction. Attendance at the DSA Taxi Drivers Test will be compulsory prior to any licence being granted.

Drink Driving with a Motor Vehicle - A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident will not necessarily debar an applicant but this guidance will be considered.

A licence may be granted after 3 years for isolated incident of drunkenness; more than one conviction for drunkenness will result in a 5 year clear period from conviction before an application could be considered. Attendance at the DSA Taxi Drivers Test will be compulsory prior to any licence being granted.

If there is any suggestion that the applicant is an alcoholic, a special medical examination will be required before an application is entertained. If the applicant is found to be an alcoholic a period of 5 years must elapse after treatment is complete before a further licence application will be considered. Attendance at the DSA Taxi Drivers Test will be compulsory prior to any licence being granted.

Drunkenness not in a motor vehicle - An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a 1 year period free of convictions from the end of any disqualification period is required before an application will be considered.

Driving without insurance – Licence may be granted after 2 years free from further convictions.

Taking a vehicle without consent – Licence may be granted after 2 years free from convictions. Attendance at the DSA Taxi Drivers Test will be compulsory prior to any licence being granted.

Drugs – An applicant with a conviction for a drug related offence will 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.

Indecency offences – As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, would normally be refused a licence. If a licence is granted, a strict warning as to future conduct will be issued.

Violence – As hackney carriage and private hire vehicle drivers maintain close contact with the public a serious view will be taken of any offences of a violent nature will be considered in line with the following.

Grievous bodily harm with intent: At least 3 years free of convictions.

Grievous bodily harm/wounding: At least 3 years free of convictions.

Aggravated burglary: At least 3 years free from convictions

Robbery: At least 3 years free from convictions

Actual bodily harm: At least 3 years free from convictions

Assault: At least 3 years free from convictions

Burglary: At least 3 years free from convictions

If a licence is granted then a strict warning will be administered before a licence is granted.

Dishonesty – hackney carriage 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 may become fair game for an unscrupulous driver. For these reasons a serious view will be taken of any convictions involving dishonesty. In general, a period of 3 to 5 years free from conviction is required before an application will be entertained.

Racism/harassment etc. – Any offences relating to racism, harassment and the similar require a period of 3 years free from convictions.

All of the foregoing guidance criteria assume:-

- 1) that convictions are never spent.
- 2) that any sentence of imprisonment whether suspended or otherwise is completed.
- 3) that any period of probation is completed.
- 4) that any period of disqualification from driving is completed.
- 5) the use of the word conviction includes other findings of guilt such as a conditional discharge and also relates to the disclosure of a Caution.

Depending upon the nature of the information revealed by the CRB disclosure or equivalent an applicant will be offered an interview as follows:-

- The applicant will be written to advising that the Head of Administration intends not to grant a licence and offering the applicant a chance to make representations before a final decision is made.
- If the applicant opts to attend an interview with the Head of Administration the applicant is interviewed by the Head of Administration in the presence of one other officer before a conclusion is reached as to whether a licence should be granted after all.

Miscellaneous matters

Applicants should bear in mind that once they become a licensed driver they are expected to render reasonable assistance in loading and unloading of luggage.

Part 5 of the Disability Discrimination Act 1995 has not yet been enacted but will place specific duties on drivers requiring them to carry disabled people including those who use wheel chairs and to assist them if required to do so. Regulations will require the driver to carry the appropriate equipment (ramps etc) and to ensure a wheelchair is carried securely. The Act will only apply to Hackney Carriages (not Private Hire Vehicles). Part 3 of the Disability Discrimination Act is now in place and applies to providers of hackney carriages and private hire vehicles. Providers are under a legal duty to take reasonable steps, depending on the circumstances, to make services accessible to disabled people. This does not affect vehicles but an example would be that operators with a booking office open to the public should ensure that where possible the office is accessible to disabled people.

A licensed driver shall not refuse to carry a passenger with a guide, hearing or other assistance dog and are to carry such dogs, without a charge, unless he/she has medical evidence of an allergy and has sought exemption from the Council. Most drivers with a medical condition severe enough to warrant an exemption are likely to be under a specialist (consultant) medical practitioner and evidence as to the severity of the condition would be sought from them before an application for an exemption could be applied for.

Once a Hackney Carriage or Private Hire Drivers Licence has been issued to an applicant he/she is advised to make themselves fully aware of all the Council's Licensing Conditions/Hackney Carriage Byelaws which relates to their licence/s ensuring that there will be no breach of the Licensing Conditions/Byelaws. The Council reserves the right to take any appropriate action against licensed drivers, vehicle owners and operators if at any time it believes the safety of the travelling public is at risk. The Council will generally only take action upon receipt of formal complaints but reserves the right to take action in other circumstances should the importance of the situation warrant it.

The Council welcomes comments and observations on these guidelines. These should be addressed to:

*The Licensing Section,
Legal & Democratic Service,
Test Valley Borough Council,
Beech Hurst,
Weyhill Road,
Andover,
SP10 3AJ*

E/mail: licensing@testvalley.gov.uk

For further information please contact Michael White on 01264 368013 or Marilyn Hillier on 01264 368023