



## **HACKNEY CARRIAGE AND PRIVATE HIRE POLICY STATEMENT**

**From 01 JANUARY 2022**

### **1. VISION STATEMENT**

- 1.1 The overriding factor in licensing is the safety of the public. This policy sets out how Eastleigh Borough Council will apply legislation to maintain public safety, to ensure users of licensed vehicles receive a safe and pleasant service and those providing the service are appropriately rewarded and protected.

### **2. INTRODUCTION**

- 2.1 The Council and those who provide taxi and private hire services share the aim of providing a safe, reliable, and efficient service. This document and its appendices set out the policies and conditions applied to taxi and private hire licensing.
- 2.2 The Council has an overriding duty to protect the public. In setting its policies and licence conditions the Council has to ensure this is done but in such a manner that does not unnecessarily restrict prosperous business within the trades.
- 2.3 It therefore makes sense for the Council and those who drive, operate and own taxis and private hire vehicles to work together. Council officers and members representing the licensing committee will hold regular meetings with taxi trade reps.
- 2.4 The Council is responsible for issuing licences and making policy and conditions. Elected councillors set these. Officers of the council, or their agents, put them into practice. Appendices 1 to 5 set out the specific policy and conditions for the 5 types of licensing. As hackney carriage drivers cannot have conditions applied to their licences the council has adopted a code of conduct for drivers to set standards expected. This is at Appendix 9
- 2.5 Section 177(4) of 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.
- 2.6 In carrying out these functions Councillors and officers must have regard to the Statutory guidance. "Having regard" is more than having a cursory glance at a document before arriving at a preconceived conclusion
- 2.7 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. For those in the trade they are at risk of abuse, assault and theft.
- 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.
- 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.

- 2.10 The Statutory Guidance 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.
- 2.11 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.
- 2.12 Any changes in licensing requirements will 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. Where appropriate licence holders will be given time to meet any new requirements. For more subjective changes such as a change in convictions policy each case will be determined on its own merits. Where there are exceptional, clear and compelling reasons to deviate from policy the authority will consider doing so and record the reasons for doing so.

### **3. CONSULTATION**

- 3.1 Eastleigh Borough Council will consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation will include not only the taxi and private hire vehicle trades but also groups likely to be the trades' customers.
- 3.2 As 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 Eastleigh Borough Council will engage with these areas to identify any concerns and issues that might arise from a proposed change.
- 3.3 Officers, members of the licensing committee and representatives agreed by the council will meet quarterly to discuss matters relevant to the trade. A code of conduct for these meetings is at appendix 6. Working groups on specific matters are run involving, trade, members and officers.
- 3.4 Eastleigh Borough Council officers attend the Hampshire and Isle of Wight Licensing Officers Group meetings to discuss licensing matters including taxi matters.

### **4. DURATION OF LICENCES**

- 4.1 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.
- 4.2 Vehicle licences cannot be for more than one year. To manage the renewal process and spread demand across the year Eastleigh Borough Council has allocated plate expiry dates to blocks of licences. See the table below. For new vehicle applications this will mean the grant of the licence will be for a period less than one year. Applicants will always be offered the longest period that is available. For licences that are less than 6 months in duration a reduced fee will be charged.

## Plating Schedule

### Hackney Carriages

| Plate     | Expiry Date | Renewal Date | Mech Insp + MOT on renewal               | Over 6yrs old 2 <sup>nd</sup> Mech insp        |
|-----------|-------------|--------------|--|--|
| 1 to 40   | 30 SEP      | 1 OCT        | No more than 30 days before renewal date | 1st April<br>(can be done 10 days either side) |
| 41 to 80  | 31 OCT      | 1 NOV        | No more than 30 days before renewal date | 1st May<br>(can be done 10 days either side)   |
| 81 to 120 | 30 NOV      | 1 DEC        | No more than 30 days before renewal date | 1st June<br>(can be done 10 days either side)  |

### Private Hire Vehicles

| Plate      | Expiry Date | Renewal Date | Mech Insp + MOT on renewal               | Over 6yrs old 2 <sup>nd</sup> Mech insp            |
|------------|-------------|--------------|--|--|
| 1 to 70    | 31 JAN      | 1 FEB        | No more than 30 days before renewal date | 1st August<br>(can be done 10 days either side)    |
| 71 to 140  | 28 (29) FEB | 1 MAR        | No more than 30 days before renewal date | 1st September<br>(can be done 10 days either side) |
| 141 to 210 | 31 MAR      | 1 APR        | No more than 30 days before renewal date | 1st October<br>(can be done 10 days either side)   |
| 211 to 280 | 30 APR      | 1 MAY        | No more than 30 days before renewal date | 1st November<br>(can be done 10 days either side)  |
| 281 to 350 | 31 MAY      | 1 JUN        | No more than 30 days before renewal date | 1st December<br>(can be done 10 days either side)  |
| 351 to 420 | 30 JUN      | 1 JUL        | No more than 30 days before renewal date | 1st January<br>(can be done 10 days either side)   |
| 421 to 500 | 31 JUL      | 1 AUG        | No more than 30 days before renewal date | 1st February<br>(can be done 10 days either side)  |

## 5. WHISTLEBLOWING

- 5.1 Eastleigh Borough Council has an [Anti-fraud and corruption policy](#). This sets out the process for staff to report concerns if policies are not being correctly applied.

## **6. INFORMATION TO BE CONSIDERED FOR APPLICATIONS**

- 6.1 The licensing authority will consider all relevant information when determining the suitability of an applicant or current licence holder. The following is not an exhaustive list.
- 6.2 Eastleigh Borough Council will require drivers to subscribe to the DBS update service and undertake an enhanced DBS check including both the children and adult barred lists. Other licence holders will be required to undergo standard DBS checks.
- 6.3 Eastleigh Borough Council maintain a close link with the police and other regulatory bodies and when necessary share information for the purpose of determining applications.
- 6.4 Licence holders are required to notify the Licensing Authority immediately and certainly 2 working days of either a notification of an investigation or release from custody for any criminal or motoring offence. Such a notification will result in a review as to whether the licence holder continues to be fit.
- 6.5 Eastleigh Borough Council will share with authorities within Hampshire and the Isle of Wight and on the National NR3 site details of any licence revoked or refused. The authority will carry out checks of applicants on the NR3 database.
- 6.6 The authority will only release the reasons for any such decision on an official and legal request from another authority.
- 6.7 The licensing team will maintain contacts with various departments within the Council and partners such as Children and Adult Services, School transport commissioning teams and community wardens to assist in identifying and reporting on risks linked to the taxi and private hire trades.
- 6.8 The licensing team will keep a separate record of all complaints and enquiries relating to licence holders, both current and expired. This will include the date, nature of the complaint, the licence complained about and result.
- 6.9 Applicants that have been abroad for a period in excess of 6 months in any one year in the previous 5 years will be required to obtain a certificate of good conduct from the country/countries they visited in that time. Any inability to obtain such a certificate will result in the application being refused.

## **7. ENFORCING THE LICENSING REGIME**

- 7.1 Eastleigh Borough Council will work with relevant enforcement agencies such as the police and other local authorities to ensure any licensed vehicle or driver working in Eastleigh Borough, regardless of the authority that licences them, meets any national standards and is legally compliant.
- 7.2 Complaints and condition breaches will be monitored and considered when assessing the suitability of any applicant.
- 7.3 Eastleigh Borough Council will ask for complaints to be submitted either through the '[Our Complaints Procedure](#)' webpage [email](#) or letter to:  
  
Southampton and Eastleigh Licensing Partnership,  
Eastleigh House,  
Upper Market Street  
Eastleigh  
SO50 9YN
- 7.4 Verbal complaints will only be accepted in exceptional circumstances.

## **8. DECISION MAKING**

- 8.1 Eastleigh Borough Council will ensure any individuals involved in determining licensing applications are appropriately trained. For officers determining to grant licences this will involve training on the legislation, including case law, on taxi and private hire legislation. These officers will be provided with refresher training as and when required.
- 8.2 For officers and any Councillors involved in making a determination whether to suspend, revoke or refuse a licence the training will be annual and delivered by a legal professional well versed in licensing legislation, including, but not limited to, hearing processes, decision making and taxi legislation.
- 8.3 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies will be used as internal guidance and is supported by a member/officer code of conduct.
  - any implications of the Human Rights Act will be considered.
  - the rules of natural justice will be observed.
  - decisions will be reasonable and proportionate.
  - where a hearing is required it will 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
- 8.4 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they must declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they will not participate in the determining process.
- 8.5 Each case will be considered on its own merits.

## **9. REGULATORY STRUCTURE**

- 9.1 Eastleigh Borough Council's constitution sets out how the functions and responsibilities will be carried out.
- 9.2 The Administration Committee will determine policy and from that committee it delegates to officers the determination of licences.
- 9.3 The Legal Services Manager or their nominee will consult with an appropriate member of the council to determine cases where refusal, suspension or revocation are being considered.

## **10. FIT AND PROPER TEST**

- 10.1 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. When assessing whether an applicant or licensee is fit and proper the following question will be considered:

*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?*

- 10.2 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 10.3 Licensing authorities have to make difficult decisions, but the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee will 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 will 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.

## **11. SUITABILITY TO HOLD A TAXI OR PRIVATE HIRE LICENCE**

- 11.1 To assist in applying the fit and proper test Eastleigh Borough Council has taken note of the [Department for Transport recommendation in their Statutory Taxi and Private Hire standards](#) and the [Institute of Licensing Guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trades](#). Appendix 7 has been adopted as the policy for determining the suitability to hold a licence.

## **12. DRIVER MEDICALS**

- 12.1 Eastleigh Borough Council have adopted the DVLA Group 2 medical standards for all drivers. See appendix 8

## **13. EQUALITY ACT 2010**

- 13.1 Eastleigh Borough Council is committed to an accessible public transport system in which disabled people have the same opportunities to travel as other members of society. Hackney Carriages and Private Hire Vehicles are a vital link in the accessible transport chain and it is important that people who use wheelchairs or assistance dogs can have confidence that drivers will accept them and their wheelchair or assistance dog and carry them at no extra charge.
- 13.2 Eastleigh Borough Council maintains a list of wheelchair accessible vehicles which can be [found here](#).
- 13.3 See appendix 10 for the policy for drivers to obtain medical exemptions from the obligations placed upon them by the Equality Act 2010.

## **APPENDIX LIST**

Appendix 1 Hackney Carriage policy and conditions

Appendix 2 Hackney carriage driver policy and code of conduct

Appendix 3 Private hire vehicle policy and conditions

Appendix 4 Private hire driver policy and conditions

Appendix 5 Private hire operator policy and conditions.

Appendix 6 Taxi trade rep consultation meetings code of conduct

Appendix 7 Department for Transport Assessment of previous convictions

Appendix 8 Medical policy

Appendix 9 Drivers code of conduct

Appendix 10 Medical Exemptions under Equality Act 2010