



Havant
BOROUGH COUNCIL

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**HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING
GUIDANCE**

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1. INTRODUCTION

1.1 This guidance document sets out how Havant Borough Council intends to carry out the licensing and control of the Hackney Carriage and Private Hire trade within its district.

1.2 Licensing is necessary to ensure the safety of the public; the public should be able to use the local services confident that they will reach the end of their journey in safety.

1.3 The following legislation allows Havant Borough Council to fulfil its aims in this respect:

- section 37, Town Police Clauses Act 1847
- section 45, Local Government (Miscellaneous Provisions) Act 1976

1.4 In addition, byelaws which apply to the district of Havant Borough Council have been made under Section 68 of the Town Police Clauses Act 1847, section 65(7) of the Local Government (Miscellaneous Provisions) Act 1976 and section 171 of the Public Health Act 1875.

1.5 We must be satisfied on the suitability of the Operators, Drivers and Vehicles and issue licences before they are allowed to operate. Conditions will apply to licences to ensure that the aims are achieved.

2. HACKNEY CARRIAGE LICENCES

2.1 Havant Borough Council currently limit the number of Hackney Carriage licences that it issues to ensure that a sustainable trade can be maintained and that they continue to be a valuable service to the public.

2.2 The Government views the restriction of the numbers of such licences as only being justified where the consumer gains some benefit. The DfT accepts that local authorities are in the best position to identify public interests. The knowledge they have is set against a number of questions concerning the market value of licences, the existence of a relevant survey and the number of disabled accessible vehicles licensed. HBC has restricted the number of hackney carriage vehicle licences it issues for at least 50 years up to 2014.

2.3 In order to continue to limit the number of licences it issues and to ensure that the limit is set at the correct level, Havant Borough Council will commission unmet demand surveys. This is the accepted manner of determining that the limit and levels are legally justifiable. The surveys will be undertaken by professional independent traffic consultants. A survey seeks to establish whether or not there exists within the licensing area any unmet demand (patent or latent) for hackney carriages. If any unmet demand is found then the licensing authority can no longer justify restricting the numbers of hackney carriage vehicle licences it issues. Alternatively if no unmet demand exists then the authority has discretion whether to increase the number of licences it issues or not.

2.4 The surveys will generally be conducted every three years.

3. ENFORCEMENT

3.1 Enforcement will be applied in accordance with the Council's Licensing Enforcement Policy. Our principles of enforcement will include openness, proportionality, consistency and helpfulness.

3.2 The purpose of enforcement action is to:

- Protect the public
- Change the behaviour of offenders
- Deter future non-compliance
- Punish offenders
- Provide a fair trading environment for compliant businesses

3.3 The Council's Licensing Enforcement Policy will apply and officers will ensure they are fully acquainted with the requirements of the policy and any future amendments.

4. PENALTY POINTS SCHEME

4.1 The primary objective of the Penalty Points scheme is to improve the levels of compliance amongst licensed drivers, hackney carriage proprietors and private hire vehicle operators. The scheme will act as a record of a licence holder's behaviour and conduct so as to ascertain whether they are a fit and proper person.

4.2 For each substantiated complaint or offence one or more penalty points will be added to the individual's hackney carriage / private hire vehicle driver licence or private hire vehicle operator licence. This will depend on the seriousness of the offence and will be at the discretion of the Licensing Officer. Should a driver accumulate three points during a rolling twelve month period, consideration will be given to presenting them to the Licensing Committee to decide whether they remain a fit and proper person to continue to hold a licence.

4.3 The Penalty Points scheme does not prejudice the Council's ability to take other forms of action, such as:

- Offering advice, verbal warnings/requests for action, the use of letters and the issue of licensing inspection reports
- Suspension / revocation of licenses
- Issuing a Formal Caution
- Prosecution

5. REQUIREMENTS FOR DRIVERS AND VEHICLES

5.1 Communication skills

It is important that drivers can communicate effectively with their customers and others. Applicants will be expected to show competence in the English language. This will be assessed as part of the knowledge test process.

5.2 Conduct

We expect licensed drivers to conduct themselves in a proper and civil manner and to be clean and tidy in appearance. They should maintain a high level of personal hygiene, be prompt, polite and helpful. To enable drivers and officers to be clear what is meant by 'a clean and tidy appearance' we have implemented a dress code. Details of this code are provided to all drivers each year. Drivers failing to keep to this code are likely to receive penalty points under the council's penalty point scheme.

5.3 Medical requirements

All drivers are required to meet the criteria for a Group 2 vocational drivers licence as set out in the latest edition of the DVLA publication for Medical Practitioners, 'At a glance guide for current medical standards of fitness to drive' and The Medical Commission's accident prevention publication 'Medical aspects of fitness to drive'.

The Council requires a new applicant for a dual hackney carriage and private hire vehicle driver's licence to show proof of satisfactory medical fitness. Generally speaking, a new completed medical test form must be produced on first application, then at 45, every five years until the age of 65 years and every year from the age of 65. Licensed drivers must also submit to a medical examination, at their own expense, when specifically requested to do so by an authorised officer of HBC.

5.4 Vehicle Specification

All licensed vehicles must comply with the requirements of any Acts and Regulations relating to motor vehicles in force during the period and the Specification for Hackney Carriage and Private Hire Vehicles document available from the Licensing Department. Stretched limousines vintage, classic or niche vehicles must comply with additional specifications.

Purpose-built vehicles are not compulsory

5.5 Vehicle Age policies

The consideration on the age of a vehicle at application will be prompted in the first instance by a maximum age threshold from the date the vehicle was first registered to when it is mechanically tested for fitness. In all cases the final decision will be made on the vehicle's safety and condition. Other options include more frequent safety inspections or agreements to replace vehicles before the next application.

5.6 Vehicle Examination

A full vehicle safety check is needed for the protection of the driver and public. The annual MOT test is not sufficiently detailed for this purpose. This test will be carried out at the Havant Borough Council Vehicle workshops, Southmoor Depot, Penner Road, Havant. The frequency of these checks will be determined by the age of the vehicle but may be more frequent if there are additional safety concerns eg if the vehicle has been involved in an accident.

5.7 CCTV

New technology that makes a contribution to achieving the aims of Licensing will be considered as and when it becomes available, e.g. in-vehicle CCTV.

5.8 Disabled Access

Legislation is due to be introduced in the next few years making minimum requirements for disabled access. We will inform interested parties at the earliest opportunity when details are known so as to enable changes to the guidance to be made and give time for planned vehicle replacements as necessary.

6. Requirements for Private Hire Operators

An operator is what most customers think of as the 'taxi company'. In law it is the person who is licensed to provide the bookings. To do this they will have a place from which they make their bookings and keep records, eg the company office.

Operators must be 'Fit and Proper Person' and will be subject of a standard DBS or Disclosure Scotland check (this will not be necessary if a proprietor is already a HBC licensed driver), a suitable premises within the borough for your office and a completed application form.

An Operators Licence lasts for 60 months from the date that it is approved.

Details of the requirements for Operators are shown on the Operators Licence including the requirement to keep full records of bookings taken and any contracts that are received or given by way of a Sub Contract from another Licensed Private Hire Operator.

With effect from 14th January 2016, Havant Borough Council will not accept any new applications for Private Hire Operators that are based outside of the Havant Borough Boundary.

Furthermore, any Private Hire Operator currently Licensed by Havant Borough Council but based outside the Borough boundary will be given written notice that their Operator Licence will only continue for a maximum period of 36 months . Any private Hire Operator currently licensed by Havant Borough Council may renew their Operators Licence but only for a maximum period of 36.

6. FEES AND CHARGES

Fees and charges will be set with the intention of balancing the Council's costs in operating the licensing service. They will normally be reviewed and set as part of the Council's budget process and come into force from the 1 April each year. We will issue a public notice as part of this review. If the demands on the service make it necessary, then fees may be amended during the financial year. Licences are issued for one year. We will send timely reminders of renewal due dates together with application forms.

7. EQUAL OPPORTUNITIES & RACIAL EQUALITY

The Race Relations Act 1976, as amended, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. It is a requirement of this Act that the local authority produces a Race Equality Scheme. In terms of the scheme, the local authority must assess and consult on the likely impact of proposed policies on race equality, monitor policies for

any adverse impact on the promotion of race equality, and publish the results of such consultations, assessments and monitoring.

8. HUMAN RIGHTS

A licence is regarded as a possession for the purposes of Article 1 of the First Protocol of the European Convention on Human Rights. This means that when considering whether there should be any sanction which would include suspension or revocation of a licence the sanction must be necessary and proportionate. The rights of the individual to peaceful enjoyment of his possessions under the Convention must be taken into account and balanced against the arguments for any sanction.

9. APPEALS PROCEDURES

Where a licence application is refused, or an existing licence is suspended or revoked the applicant has a right of appeal to the local Magistrates' Court, except in the case of the refusal to licence a vehicle as a Hackney Carriage; the appeal is to the Crown Court. An appeal to the Magistrates' Court must be lodged in writing within 21 days of notification of the refusal, suspension or revocation. Where a new condition is applied to a licence, the licence holder is entitled to appeal to the Magistrates' Court within 21 days of that application of the condition.

10. DATA PROTECTION

The Council may use the information submitted on any application form for any licence(s) for the purpose of its statutory function(s). This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on forms for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. Please note that the Council may provide information submitted on any application form for a licence or permission to other statutory authorities, such as Her Majesty's Revenue and Customs (HMRC). All licence holders have the right to ask for a copy of the information that the Council holds about them by making an application to the Council for any licence applicants consent to our processing sensitive personal data about them where this is necessary. We will maintain public registers of licensed drivers and hackney carriage proprietors and vehicles.

11. CRIME AND DISORDER ACT

Under section 17 of the Crime and Disorder Act 1998, the Council is under a duty to exercise its various functions with regard to the likely effect on and the need to do all it reasonably can to prevent crime and disorder in its area. This means that when carrying out our licensing functions we must consider the impact directly or indirectly our decisions might have on crime and disorder and community safety, whether it is a reduction in crime or a potential increase in crime and disorder.

12. CONSULTATION

It is our policy to consult with all interested parties before making decisions on general and detailed matters referred to in this policy. These include the Police, the Highways Authority, licensed hackney carriage and private hire representatives and others as thought appropriate. This consultation will be an ongoing process and will help form our future decisions.