



Hackney Carriage and Private Hire Licensing Policy

2017

Contents

Introduction	4
Terminology	4
Taxi Licensing Objectives.....	4
Legal Framework.....	4
Policy Decisions.....	5
Administration and Delegation of Functions	5
Committee Hearings and Decisions	5
Licensing Liaison Panel.....	7
Licences.....	7
Fit and Proper Test.....	7
Right to work.....	8
Driver Licences	9
UK & European Driving Licence Checks	10
The Knowledge Test.....	10
Driver Qualifications	10
Criminal Record or Disclosure and Barring Service Checks- DBS.....	11
Medical Examinations	12
Determination of applications by Committee	13
Renewals.....	13
Conditions of Licences.....	13
Code of Conduct.....	13
Smoking.....	14
Use of mobile phones and other communication devices	14
Assistance to passengers in wheelchairs	14
Guide and Assistance Dogs	15
Safeguarding of Children and Vulnerable Adults.....	15
Private Hire Operators Licence	16
Fares.....	16
Records.....	16
Conditions of licence	17
Insurance.....	17
Planning Permission	17
Change of Address	17

Business name.....	17
Taximeters.....	18
Touting	18
Complaints	18
Guide and Assistance Dogs	18
Safeguarding of Children and Vulnerable Adults	18
Out of Town Hackney Carriages.....	19
Vehicle Licences- General Provisions	19
Application Requirements.....	20
Vehicle Testing	21
Trailers.....	21
Change of Vehicle.....	22
Transfer of Vehicle Ownership.....	22
Insurance of Vehicles	22
Accidents.....	23
Transport of animals	23
Record books and receipts.....	23
Change of address.....	23
Vehicle Licences- Vehicle Type Conditions	23
Stretched Limousines.....	36
Compliance and Enforcement.....	40
Warnings	40
Notices	40
Revocation of licences.....	41
Refusal of licences.....	42
Appeals.....	42
Fees	43
Refunds	43
Reminder Letters.....	43
Appendix 1- Scheme of delegation.....	44
Appendix 2- Safeguarding, Suitability and Convictions Policy for Taxi Licensing.....	49
Appendix 3- Early Intervention and Support Directorate Enforcement Policy	69

Introduction

Chorley Council has the responsibility for licensing Hackney Carriage and Private Hire Vehicles, Drivers and Operators within the borough.

This guidance manual is aimed at consolidating in one document the Council's Policy on Hackney Carriage and Private Hire Licensing to ensure a consistent approach to undertaking those licensing and enforcement responsibilities.

Terminology

Where this document refers to both Hackney Carriage and Private Hire Licensing provisions the generic term 'Taxi Licensing' will be used.

Where the term Hackney Carriage is used this refers specifically to Hackney Carriage Licensing. A Hackney Carriage is a vehicle that is licensed to ply for hire by waiting on the rank and also by being hailed by a customer. Pre-arranged journeys booked through an Operator can also be made.

Where the term Private Hire is used this refers specifically to Private Hire Licensing. A Private Hire vehicle can only carry passengers following pre-booking through a private hire operator, who is responsible for dispatching the driver and vehicle.

The Private Hire Operator will be referred to as 'the Operator' in this document.

Private Hire and Hackney Carriage Vehicles whether operating as a passenger vehicle or not, must be driven only by a person with the appropriate and corresponding private hire or hackney carriage driver licence.

Taxi Licensing Objectives

The Local Authority's primary objective is to protect public safety and as such will regulate the Taxi Licensing trade to promote this objective.

Chorley Council also aims to stimulate a professional, responsible and efficient Taxi Trade within the borough. Consistent and fair regulation of the Taxi Trade will facilitate these further objectives without compromise to public safety.

Legal Framework

Chorley Council is responsible for Taxi Licensing within the provisions of the Local Government (Miscellaneous Provisions) Act 1976, in this document to be referred to as 'The Act'.

Additional provisions in relation to Hackney Carriage Vehicles are present within the Town and Police Clauses Act 1847.

There are a number of other important pieces of legislation that the Local Authority must also have regard to including:

The Road Traffic Act 1988

The Rehabilitation of Offenders Act 1974

The Transport Act 1985

The Road Vehicles (Construction and Use) Regulations 1986

The Legislative and Regulatory Reform Act 2006

The Equality Act 2010

Policy Decisions

Taxi licensing legislation is limited and most functions and decisions with regard to Taxi Licensing refer to policy decisions made by the Council.

Chorley Council's Licensing and Public Safety Committee are responsible for making these policy decisions, which provides a framework for how the Council will process, administer, enforce and charge fees for Taxi Licensing.

Policy decisions are held within committee reports and the purpose of this consolidated Policy is to make those policy decisions easily accessible to promote efficiency and consistency in the Council's licensing functions.

Administration and Delegation of Functions

The Council is responsible for a number of licensing functions, including Taxi licensing, and the responsibility for making decisions depends on the type of decision, the Council's constitution and the scheme of delegation.

The Licensing and Public Safety Committee is made up of 15 members, including a chair and vice chair and an additional 3 reserve members. This Committee meets 3 or 4 times per year and is responsible for making all policy decision in relation to taxi licensing. Therefore any changes to how the Councils processes, administers or regulates the service must be agreed by this committee.

In addition, the General Licensing Sub-Committee of the Licensing and Public Safety Committee meets as and when required to consider in particular applications for hackney carriage and private hire licences, where circumstances mean they cannot be decided by Licensing Officers.

Many matters can be dealt with by Officers through the Scheme of Delegation, which allows the Council to efficiently process applications or carry out regulatory functions without hindering applicants, drivers, proprietors or operators by having to wait for a committee meeting.

Delegated Authority is given to the Director of Early Intervention. Individual operational officers are in turn authorised to discharge some of these functions.

A Copy of the relevant section of the Council's Constitution and a summary of the scheme of delegation for taxi licensing is attached as Appendix 1.

Committee Hearings and Decisions

The Licensing and Public Safety Committee is made up of 15 members, including a chair and vice chair. This Committee meets up to 4 times per year and is responsible for making all policy decision in relation to taxi licensing (Full Council decision April 2008).

Reports are submitted by officers for decisions and are published 5 clear working days prior to the meeting.

Officers will give a verbal presentation of the report and the committee will vote. The minutes and decisions are published by Democratic Services.

In April 2016 a formal public questions procedure was agreed by the Council to ensure that members of the public and trade had an opportunity to put questions to the Committee in advance of the meeting and allow a response to be prepared. The Chair may still exercise discretion with regard to permitting additional questions or comments from the public during meetings.

The General Licensing Sub-Committee meetings are provisionally set on a monthly basis; however the dates can change in certain circumstances to accommodate applicants or deal with urgent issues or the meetings cancelled where there are no matters for consideration.

Where the General Licensing Sub-Committee meeting is hearing a matter whereby sensitive or personal information is necessary for the decision process, the reports for such cases will be restricted and not for general publication on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 4 of Part 1 of Schedule 12A to the Local Government Act 1972 (Information relating to any individual).

Information is exempt to the extent that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The General Licensing Sub-Committee consists of 5 members and will be chaired by either the chair or vice chair of the Licensing and Public Safety Committee (Full Council decision April 2008).The hearing follows a written procedure with the parties allowed to speak and question one another in sequence.

A legal advisor from the Council is present at both committees to provide guidance on the legislation and existing policy to members.

An Officer from the Council's Democratic Services team will take minutes and is responsible for the publication of minutes and decisions.

Where representations are made by applicants or the trade, a legal advisor, advocate or friend may represent an applicant or members of the trade and will be given time to present their case.

Members may wish to ask Officers, applicants or trade representative further questions to clarify points regarding the decision.

When the members of the General Licensing Sub-Committee are ready to make a decision all officers, except for the Council's legal advisor and democratic services officer, and all other attendees, including the applicant and their representative must leave the meeting.

Decisions made by the committee will be relayed to the applicant as soon as possible, initially verbally and then in writing within 5 working days of the meeting. Any right of appeal to the courts against the decision will be confirmed within the decision notice and letter.

Licensing Liaison Panel

The Council has established a licensing liaison panel, the purpose of which is to establish a regular means of consultation and discussion between the Council and the trades and trade representation about licensing policy matters and issues that the trades may wish to bring to the Council's attention.

The Consultative Panel does not have a decision making role. Rather, its purpose is to review licensing matters and the wider context of licensed businesses and make recommendations, as appropriate, for the relevant Council bodies and other agencies to consider as they deem appropriate and make any decision as necessary.

Licences

Processing Timescale: An applicant must allow for a minimum of 3 working days for the licence to be issued by the Council once the application has been fully validated and all elements of the application completed.

Expired Licences: The law does not allow the Council to renew a licence that has already expired.

Fit and Proper Test

The Council will apply the 'fit and proper' test to all applicants and licensed drivers and private hire operators. It is the Council's responsibility to ensure that all persons that have any control over a licensed vehicle, either because they drive the vehicle, operate a firm which dispatches the vehicle are safe and suitable and do not pose any risk to the safety of their passengers and the public.

Where an applicant or licensed driver, private hire operator cannot demonstrate that they meet the fit and proper standard, or where there is a suspicion that this may be the case, the Council must act to ensure protection for the public.

Councils must remember that there are generally no other circumstance in which someone will get into a car driven by a person they do not know, excepting when under arrest and being escorted in a police vehicle. This places the passenger in a very vulnerable situation and the driver of the taxi in a position of great power and trust. Drivers and operators are also privy to very private information, such as addresses, passenger's regular routines and holiday dates, information which could be very valuable to those seeking to use it dishonestly. Therefore, it is imperative that safeguards are in place to ensure that only those persons that are safe, suitable and trustworthy are given this power.

The fit and proper assessment should be made either by an authorised officer or by the members of a committee, with the following question in mind:

- Would I want any members of my family, a child or a vulnerable person (including someone who may be intoxicated) to either be alone in a car with or in a vehicle under the control of this person.

If the answer is 'no' or 'not sure' then the fit and proper test has not been satisfied and the licence should be refused or revoked.

When the fitness and propriety of the holder of a driver licence or an operator licence is in issue the Council recognises that it may exercise its discretion to sanction the vehicle licence on the grounds that the holder is not fit and proper and it is undesirable for him/her to have access to a licensed taxi.

Right to work

These requirements apply to all Taxi Licences issued by the Council.

All applicants must provide an EEA Passport or UK birth certificate as part of the application.

Immigration Act 2016

The commencement date for the taxi trade in relation to the Immigration Act 2016 is 1st December 2016. There is a duty on the Council to ensure applicants from the taxi trade have a right to work in the UK. The Act requires the Council to carry out the following checks:

- The need to conduct face to face appointments;
- At the appointment, original documents must be inspected; and
- Colour copies of original documentation must be retained.

The duties placed on the Council are not retrospective. When the leave or right to work expires, the licence automatically lapses and the duty to surrender the licence is placed on the licensee.

Where an applicant's right to leave or work expires and they have applied to the Home Office for an extension, they will be issued with a certificate, the following conditions will apply:

- The Council can only licence applicants with those certificates for six months starting from the date of the certificate (This is because a decision will be made within six months);
- Applicants with T1, T2 and T4 visa's cannot be taxi drivers (This is because they are either:
 - a) Entrepreneurs;
 - b) Skilled sector such as a doctor; or
 - c) Students.
- Visa's held in expired passports can no longer be accepted. The applicant will now be expected to pay for the visa to be moved into a valid passport.

Where the applicant is not able to provide these or there is a query about the documentation provided the Council will contact the Home Office. The application will not be processed until this confirmation is received from the Home Office and therefore may be subject to delay in these circumstances while awaiting information from another agency.

Where the Right to Work does not extend for the length of the driver's Private Hire or Hackney Carriage licence at the time of issue (3 years) or the Private Hire Operators Licence (5 years), then the licence will only be granted up to the date of the expiry of the visa. Once the licence

holder is able to provide satisfactory evidence of a renewed Right to Work and Reside Visa, then the licence will be extended to the natural termination date, or again until the expiry of the latest visa, whichever is the shorter period.

There will be no additional fee to the licence holder for the extension to a licence initially issued for a shorter period than the usual duration of 3 or 5 years for Drivers and Operator Licences respectively. Where a visa is not extended, no refund will be made in relation to the licence, as all fees relate to the administration and issue of the original licence, not the duration for which the licence can be used.

Driver Licences

There are a number of distinctions between licences for Private Hire and Hackney Carriage Drivers and these will be identified as appropriate. However, many of the requirements for licensing are the same for both driver licences.

Application must be made on the Council's form and the appropriate fee paid. Where the applicant meets the Council's criteria for licensing a licence will be issued for a period of 3 years.

The following requirements must be met:

- Applicants must be over 21 years of age;
- Applicants must hold a full UK/European driving licence;
- Applicants must have three years' experience driving under a full licence;
- Applicants must pass the Driving Standards Agency Practical Driving Test for Taxis and Private Hire Vehicles, or the equivalent Council approved assessment. Those that wish to operate a wheelchair accessible vehicle must pass the Enhanced Wheelchair Assessment also;
- Applicants must be able to demonstrate they have a right to work;
- Applicants must pass the Council's Knowledge Test;
- Applicants must complete an enhanced Disclosure and Barring Service check for both grant applications and at each subsequent renewal, electronic applications and updates will be accepted;
- Applicants must demonstrate they are fit to drive by submitting a Chorley Council Group II medical form completed by their GP for both grant applications and at each subsequent renewal, unless over 65 where annual medicals are required;
- Applicants must be able to demonstrate that they are 'fit and proper';
- Applicants (including renewals for existing drivers) will be required to undertake safeguarding training.

Where an incomplete driver application has been received, due to the absence of one or more of the pre-requisites above, the application will be rejected. The applicant will be contacted after 2 months and reminded that the outstanding application items must be submitted within the next 28 days. The application will be rejected following a period of 3 months from the date of receipt of the application where those items have not been provided.

The applicant will be notified in writing and will be entitled to a refund of the application fee, minus any costs incurred to the Council, charges from outside agencies and the standard

administration fee. The applicant will be responsible for contacting the Council and providing the necessary details for a refund.

UK & European Driving Licence Checks

The applicant is required to present their UK or European driving licence for inspection for both grant and application.

Under the 1976 Act the full UK/European driving licence must have been held for at least 12 months

Drivers need an ordinary driving licence covering category B which allows them to drive vehicles up to 3.5 tonnes and with up to eight passengers.

The removal of the DVLA counterpart in 2015 means that the applicant must now make an online application to the DVLA for access to their driving record which can then be made available to the Council for the purposes of the application process.

In addition, there may be times when the Council need to check a driver's licence and this can be done using a service that provides access to these DVLA records for a small fee. There is a requirement for the driver to sign a mandate form at the application stage which permits this access.

The Knowledge Test

All new applicants are required to complete the Council's Knowledge Test

The test will consist of:

- A number of written questions to test the knowledge of routes to local places of interest and a reasonable working knowledge of roads and streets in Chorley and District.
- A number of written questions which will test knowledge of the law, as it relates to the hackney carriage and private hire trade. The applicant will also be tested on their knowledge of the Highway Code.
- A number of written questions in relation to safeguarding.

No persons other than the applicant and the examiner may be present during any part of the test. The applicant will be told at the completion of the test whether they have passed or failed. If the test is failed at the first attempt, then a further test can be taken at a later date. There is a charge for a re-test.

The Knowledge test will still be valid if an applicant has previously taken a test and then apply as a new applicant, if this is within 5 years of the applicant previously holding a Chorley Council PH/HC Drivers Licence.

Driver Qualifications

All drivers applying for a grant of a licence to drive must complete the Driver and Vehicle Standards Agency Practical Driving Test for Taxis and Private Hire Vehicles or Council approved equivalent, except where an existing driver has allowed their licence to lapse and already holds a DVSA qualification, then there is no requirement for this to be repeated on re-application.

DAV and WAV vehicles shall only be driven by an appropriately qualified driver who holds a DAV classified driver's licence. In which case such drivers have completed a recognised course in Equality and Diversity and wheelchair / disability handling and successfully complete the DSA Disabled Access Vehicle Driver assessment to qualify for the DAV/WAV Driver Licence as a condition of application.

Drivers that have achieved this additional qualification will have this recognised on their licence and badge by use of a recognisable wheelchair emblem.

The Council currently approves a number of alternative suppliers to provide practical driver assessments and the details of these are found on the Council's website.

Criminal Record or Disclosure and Barring Service Checks- DBS

When submitting an application applicants are required to declare ALL convictions/cautions or fixed penalty notices or endorsements they may have. The information they give will be treated in the strictest confidence and will only be taken into account in relation to their application. To knowingly or recklessly make a false statement or omit any material particular from an application, or any document submitted with it, is an offence punishable on conviction by a fine.

Drivers (but not Operators) are exempt from the protection of the Rehabilitation of Offenders Act 1974, meaning that ALL convictions will be taken into consideration. Where a driver is renewing a licence and previous convictions have already been considered by committee these will not be revisited unless pertinent to any new convictions or any fresh complaint or behaviour.

The council is empowered by law to check with the DBS for the existence and content of any criminal record held in the name of an applicant. Information received from the DBS is kept in strict confidence while the licensing process takes its course and will be retained for no longer than is necessary.

DBS checks must originate through the Chorley Council or through a company contracted by the Council to carry out this check, as authorised by the DBS, an electronic DBS and updates will be accepted.

Checks on criminal records may take up to four weeks before being returned to licensing authorities. Licences will not be granted in the absence of a DBS Certificate. .

Applicants may be given the option to pay an additional fee for a quick electronic check, which will identify if there are any changes since the previous DBS, the DBS Certificate number will be required. Where no changes are identified the licence may be issued without sight of the full DBS certificate. Where changes are identified then no licence will be granted until the full DBS certificate has been provided to the Council.

The disclosure of a criminal record or other information may not debar an applicant from gaining a licence unless the Council considers that the matters disclosed render the applicant unfit to hold a licence. The Council's Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing' (Appendix 2) will be used to guide applicants and the sub-Committee when determining applicants from those with criminal convictions or any other matters raised by the police on the DBS.

Any licensed taxi driver shall notify the Council in writing of any conviction or caution recorded against him/her and/or the imposition of any endorsement or fixed penalty within 7 days of such conviction or caution or penalty being imposed (LSC Feb 2008). This requirement is a condition of a private hire driver's licence. Failure to do so may result in enforcement action, referral to committee or delays in renewal of licences.

Medical Examinations

A medical examination to Group 2 standards will be required and the necessary forms are included. Once the Chorley Council medical is completed the applicant MUST apply for the licence within 3 Months.

The examination must be carried out by their GP or a GP that has access to the applicant's full medical records. GP's are required to reference the DVLA Group II guidance when completing the medical assessment. The GP will not be requested to give an opinion as to whether the driver meets DVLA Group II standards; this judgement is reserved for the Council's appointed Group II expert medical practitioner only.

Any fee charged by the GP is payable by the applicant. The examination must be carried out by any registered medical practitioner. Medical certificates must be renewed every 3 years in line with the renewal of the licence until the age of 65 years.

An applicant aged 65 years or over must undergo the medical examination every year.

If any of the questions in the Council's medical assessment form are answered indicating any specified Group II medical condition by the driver's GP, then this will be referred by the transactional team to a Council appointed Group II expert medical practitioner.

The Council's experts are employed to advise whether the applicant is fit to drive in accordance with the DVLA Group II standards as adopted by the Council as the standard that all drivers must meet. Applicants will be advised if medicals have been referred and kept informed as to the results of the referral.

Applicants may need to undertake further tests to satisfy the DVLA Group II standards and any charges for this will be met by the applicant. The Council's appointed Group II expert medical practitioners will provide guidance to the Council and will therefore make the judgement on whether the driver meets the Group II standards of fitness to drive.

A Licensee must immediately inform the Council in writing of any deterioration in health, medical condition and illness or of any injury that would affect the licensee's ability to drive a licensed vehicle.

Determination of applications by Committee

The General Licensing Sub-Committee will determine any application where there are criminal convictions or medical conditions not previously considered by the sub-committee or existing conditions which have worsened, or where there are any other reasonable grounds in relation to the applicant meeting the application criteria or the fit and proper person test.

The Committee may grant the application with standard conditions, grant the application with certain additional conditions to be attached or refuse the application.

No application for the Grant of a Driver's Licence will be granted until all application pre-requisites have been met.

Renewals

The invitation to renew any Driver Licence will be made at the point of granting the Licence. The information required will be provided to the driver when the licence is issued.

It is the responsibility of the driver to ensure that an application for renewal is made prior to expiry of the current licence. The applicant can apply for renewal up to 3 months prior to expiry and may submit a medical and enhanced DBS at that time.

The Council do not send out reminders in relation to the renewal and expiry of licences.

Failure to apply for renewal in time may result in a delay in the application being processed and issued.

Where a renewal application is not received on time or there are outstanding checks and the licence lapses, the applicant will ordinarily have to reapply for a grant of a new licence. The driver will not be licensed and it is an offence for the applicant to drive a taxi in the intervening period while awaiting the issue of the licence.

It is therefore in the best interests of the applicant that applications for renewal and provision of the relevant supporting documentation are made in a timely manner.

Conditions of Licences

The Authority is not permitted to place conditions on a Hackney Carriage Driver's Licence other than those enforceable by legislation or included in the Council's Byelaws. A broader spectrum of conditions can be applied to a Private Hire Driver's Licence.

A Hackney Carriage Driver is still bound by the requirements of the application and must meet the fit and proper test. When a Hackney Carriage Driver is driving a Hackney Carriage they are bound by the conditions attached to the Hackney Carriage Vehicle Licence.

Code of Conduct

The Driver shall:

- Afford all reasonable assistance with passengers' luggage.

- At all times be clean and respectable in his/her dress and person and behave in a civil and orderly manner.
- Take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle driven by him/her.
- Not without the express consent of the hirer, drink or eat in the vehicle.
- Not without the express consent of the hirer play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.
- At no time cause or permit the noise emitted by any radio or other previously mentioned equipment in the vehicle which he/she is driving to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.
- A driver must proceed by the shortest route, subject to the instructions of the hirer

Smoking

It is an offence for the driver or passengers to smoke in a licensed vehicle at any time (Legal requirement under the Health Act 2006).

Use of mobile phones and other communication devices

The use of hand held mobile phones for telephone conversations, texting and any other purposes when driving is prohibited under Road Traffic legislation.

The use of hands free devices in licensed vehicles is limited to single touch or voice activation in order to comply with Road Traffic Legislation.

Drivers who are found to be using devices in a way that potentially distracts them from driving safely may be subject to enforcement action and referral to Committee for a determination on their suitability to hold a taxi licence.

Assistance to passengers in wheelchairs

Drivers of wheelchair access vehicles (WAV) must have undertaken additional DVSA qualifications commensurate to their role. Drivers that have achieved this additional qualification will have this recognised on their licence and badge by use of a recognisable wheelchair emblem.

The Equality Act 2010 places a duty of drivers of WAVs to carry the passenger while in the wheelchair or in the passenger seat if the passenger requests this. To take all reasonable steps to ensure the passenger is carried safely and comfortably. To provide assistance to the passenger as required. Not to make any additional charge to a passenger in a wheelchair.

Where it is impossible or unreasonably difficult for a driver to comply with the duties of a DAV/WAV driver due to their physical condition, then the authority will issue an exemption and their licence will be converted to a standard driving licence and only reinstated as a DAV/WAV driving licence when they are fully able to perform those duties.

The WAV conditions will remain and stipulate that only suitably qualified drivers are permitted to drive the vehicle and therefore this will exclude a driver with an exemption from driving this type of vehicle.

Guide and Assistance Dogs

The Equality Act 2010 places a duty on all drivers and operators to accept to carry guide and assistance dogs unless the driver applies for an exemption on medical grounds. An Exemption will only be granted where there is a medical reason confirmed in writing by the driver's GP or hospital consultant.

Safeguarding of Children and Vulnerable Adults

The taxi trade has a very important role to play in ensuring that children and vulnerable adults have access to education and services by providing transport. It is imperative for the protection of those individuals and the reputation of the licensed taxi trade in the borough that drivers undergo adequate checks at the time of application and that the Council has a robust response to complaints and allegations.

It is the responsibility of every individual in society to protect children and vulnerable adults from harm by reporting concerns and supporting the relevant authorities in any investigations.

Where the Council is in receipt of a complaint or allegation regarding concerns over the conduct of a licensed driver or operator then the relevant licence will be suspended forthwith. The matter will be fully investigated and matter referred to the General Licensing Sub-Committee for determination.

Relevant and unlawful activities include but are not limited to physical abuse, emotional abuse, sexual abuse, including child sexual exploitation, or neglect of children and vulnerable adults.

Following further investigations, if it is apparent at any time that any licensed driver or operator is found to be complicit in any unlawful activities by way of failing to report concerns then their licence will also be suspended further to a review by the committee.

The Council may suspend or revoke a licence regardless of charge or conviction by the police where the licensing authority determines that there is a risk to public safety.

The Council will have regard to the 'Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing' (Appendix 2).

The principle of mandatory safeguarding training for all drivers and operators has been agreed by the Licensing and Public Safety Committee. All existing Drivers, vehicle owners and private hire operators are required to attend Safeguarding and CSE Awareness Training. Applicants for the grant or renewal of a driver licence or private hire operator licence will be required to complete a safeguarding training package (except where an existing driver/ operator has attended the Council's course within the last 12 months prior to their renewal).

Private Hire Operators Licence

In order to dispatch a driver and vehicle the operator must be licensed by the Council. An Operator may only dispatch a vehicle and driver that have corresponding valid driver and vehicle licences issued by Chorley Council.

The operator must also demonstrate that they are 'fit and proper' and this can extend to the persons they employ. Therefore, where an operator employs someone with criminal convictions this will reflect on the fit and proper status of the operator and may result in their licence being reviewed or revoked.

The operator's licence is valid for 5 years.

On application and at each renewal the operator and any partners and directors of the company must complete a Basic DBS Disclosure where no enhanced DBS already exists for the applicant. Therefore existing Chorley Council licensed drivers that are already subject to regular enhanced DBS checks are not required to also obtain a basic DBS as part of the PHO licence application or renewal.

Any licensed operator shall notify the Council in writing of any conviction or caution recorded against him/her and/or the imposition of any endorsement or fixed penalty within 7 days of such conviction or caution or penalty being imposed.

All journeys must be pre-booked by the passenger. The operator may use a number of methods for collecting bookings, such as personal visits to the operator site where there is planning permission and waiting room provisions for this, by telephone calls, online using either the operator's or referral company website or by the use of mobile applications.

Journeys may also be on a contract basis booked by a third party, such as a care establishment or school etc. on behalf of the passenger.

When the operator accepts a hiring, he/she shall, unless prevented by some sufficient cause, ensure that a licensed private hire vehicle attends at the appointed time and place

Fares

Where at the time of booking, a fare or rate of fare is not agreed with the hirer, the fare charged to the hirer shall not exceed that printed in the Table of Fares approved by the Council.

Records

The operator must keep detailed records of all journeys including:

- the date and time of the booking,
- hirer name and address and passenger name if different,
- collection and drop off points and times,
- the name and licence numbers of the driver and vehicle used for the journey; and
- any remarks, including contract details.

These records must be kept for a minimum of 2 years and available for inspection by the Council at any reasonable time.

The operator shall maintain an up-to-date list of the owners, the description and registration numbers of all private hire and hackney carriage vehicles employed by the business and their drivers, which shall include details of any radio call sign used, and shall produce such a list on request to any Authorised Officer of the Council or Police Constable.

The operator shall immediately notify the Council when any vehicle or driver ceases in his/her employment, or any vehicle or driver commences in his/her employment.

Except with reasonable cause the operator shall have in his/her possession at all times:

- the current driver's licence issued by the Council of any driver employed as a driver whether or not the vehicle driven is owned by him/her (unless the vehicle used is operated by another licensed operator by a sub-contract); and
- the current vehicle licence issued by the Council of any vehicle operated by him/her (unless the vehicle used is operated by another licensed operator by a sub-contract).

On leaving the employment of an operator a driver or vehicle proprietor shall be entitled to receive immediately on demand the return of the licences.

Conditions of licence

The authority may attach such conditions to the operator's licence as it considers reasonable and necessary to achieve the taxi licensing objectives.

Insurance

The operator must provide evidence of employer's liability insurance before an application will be granted (LPSC March 2015).

Planning Permission

Any premises used by an operator for the purpose(s) authorised by the operator's licence shall have the appropriate planning permission for that use and the operator shall comply with any conditions attached to such permission.

Change of Address

The operator shall notify the Council in writing of any change of his/her address within 7 days of such change taking place.

Business name

The operator shall not include the words "taxi or "cab" or the plural of these words in his/her business name.

Taximeters

Where any vehicle operated by him is fitted with an approved taximeter, the operator shall ensure that the taximeter is set to the fare rate agreed by the Council and properly sealed in accordance with Council regulations.

The operator shall ensure that vehicles operated by him which are fitted with a taximeter, charge a fare or charge calculated from the point in the District at which the hirer commences his journey and shall not exceed that displayed on the taximeter at the finish of his journey, the taximeter being brought into operation at the commencement of the journey.

Touting

The operator shall not:-

- Tout or solicit in a public place any person to hire or be carried for hire in any private hire vehicle; or
- Cause or procure any other person to tout or solicit in a public place any person to hire or be carried for hire in any private hire vehicle.

Complaints

The operator shall on receipt of any complaint relating to a contract for hire or purported contract for hire relating to or arising from his/her business, immediately notify the complainant of his/her right to forward the complaint to the Council.

Any complaint shall be investigated immediately by the operator and the complainant notified of the outcome within a reasonable time.

Where a complaint is investigated by an Authorised Officer of the Council, the operator shall conform to any directions of the Officer in respect of that complaint.

Guide and Assistance Dogs

The Equality Act 2010 places a duty on all drivers and operators to accept to carry guide and assistance dogs unless the driver applies for an exemption on medical grounds. An Exemption will only be granted where there is a medical reason confirmed in writing by the driver's GP or hospital consultant.

Safeguarding of Children and Vulnerable Adults

The taxi trade has a very important role to play in ensuring that children and vulnerable adults have access to education and services by providing transport. It is imperative for the protection of those individuals and the reputation of the licensed taxi trade in the borough that drivers undergo adequate checks at the time of application and that the Council has a robust response to complaints and allegations.

It is the responsibility of every individual in society to protect children and vulnerable adults from harm by reporting concerns and supporting the relevant authorities in any investigations.

Where the Council is in receipt of a complaint or allegation regarding concerns over the conduct of a licensed driver or operator then the relevant licence will be suspended forthwith. The matter will be fully investigated and matter referred to the General Licensing Sub-Committee for determination.

Relevant and unlawful activities include but are not limited to physical abuse, emotional abuse, sexual abuse, including child sexual exploitation, or neglect of children and vulnerable adults.

Following further investigations, if it is apparent at any time that any licensed driver or operator is found to be complicit in any unlawful activities by way of failing to report concerns then their licence will also be suspended further to a review by the committee.

The Council may suspend or revoke a licence regardless of charge or conviction by the police where the licencing authority determines that there is a risk to public safety.

The principle of mandatory safeguarding training for all drivers and operators has been agreed by the Licensing and Public Safety Committee. All existing Drivers, vehicle owners and private hire operators are required to attend Safeguarding and CSE Awareness Training. Applicants for the grant or renewal of a driver licence or private hire operator licence will be required to complete a safeguarding training package (except where an existing driver/ operator has attended the Council's course within the last 12 months prior to their renewal).

Out of Town Hackney Carriages

The legislation allows for a Private Hire Operator to employ a Hackney Carriage Driver and Hackney Carriage Vehicle licensed by another local authority (this must be the same local authority for both the driver and the vehicle they drive) to carry out private hire work within the local authority district by which the operator is licensed.

This is perfectly lawful and the Council cannot take action to prevent this practice.

Vehicle Licences- General Provisions

There are a number of distinctions between licences for Private Hire and Hackney Carriage Vehicles and these will be identified as appropriate. However, many of the requirements for licensing are the same for both vehicle licences.

Only a Chorley Council licensed driver may drive a Chorley Council licensed vehicle, whether or not the vehicle is carrying passengers. The type of licence, be it Private Hire or Hackney Carriage, must correspond to the type of vehicle licensed. The only exception to this is where the vehicle is driven for the purposes of mechanical assessment by a person authorised by the garage for that purpose.

A vehicle must be capable of being licensed for a minimum of 4 passengers and a maximum of 8 passengers. The proprietor of a vehicle must not allow the vehicle to carry more passengers than the licence specifies.

Chorley Council currently limits the number of Hackney Carriage Vehicles that are licensed to 36, 9 of which are wheelchair accessible (7 of these added by LSC April 2006 and conditions amended Nov 2006)). Chorley Council does not require specific models of Hackney Carriage Vehicles, such as London TX range which are the recognisable traditional 'black cab' style.

There is no requirement for the Hackney Carriage to have a separate driver compartment, except for WAV's and therefore there is a wide variety of makes and models of saloons and estate vehicles that are available to the trade for use as ordinary Hackney Carriages.

Hackney Carriage Vehicles, except WAV's, must be white in colour to distinguish them from Private Hire Vehicles.

Application Requirements

Application must be made on the Council's form and the appropriate fee paid. Where the applicant meets the Council's criteria for licensing a licence will be issued for a period of 6 months. Renewal information will be given at the time of issue of the.

The following requirements must be met:

- Any vehicle for which an application for grant of a vehicle licence is being made will be subject to a pre-inspection by an authorised officer of the council to ensure that all vehicle conditions are met prior to the application being accepted. Each vehicle must meet the Council's vehicle conditions in order to proceed to application for licensing.
- Any vehicle for which an application is made for either grant or renewal will be subject to the Council's Taxi Test at one of the Council's approved garages. This test incorporates a VOSA approved MOT test, which must be carried out at the same time as the remaining assessments specific to the Council's Taxi Test.
- The applicant must present the V5 vehicle registration document at the time of the application. Where the original V5 has been passed to the DVLA for change of owner details etc., the applicant must present a copy of the V5 plus the completed section relating to change of owner details or address etc. The updated V5 must be submitted to the Council within 6 weeks of the application date.
- Where the vehicle is fitted with a meter, the calibration certificate must be presented at the time of application.
- The applicant must provide proof of insurance for the vehicle and with specific reference to the proposed use and demonstrate that the vehicle has been

continuously correctly insured during the preceding licensed period. Except during periods where the vehicle has been subject to a suspension notice being issued under section 60 or 68 of the local Government (Miscellaneous Provisions) Act 1976 and was not being driven as a taxi Under s.60 a vehicle may still be driven as a taxi if its suspended pending appeal, the requirement for continuous insurance in this case will still apply.

- The vehicle must not be licensed as a hackney carriage or private hire vehicle with any other Local Authority.

Vehicle Testing

The Council's Taxi Test must be equivalent to or better than an MOT test. The current taxi test incorporates a VOSA approved MOT test, which must be carried out at the same time as the remaining assessments specific to the Council's Taxi Test. The vehicle will also be subject to a road test.

The Taxi Test must be conducted in its entirety at a Council approved garage.

Each licensed vehicle must be tested every 6 months, irrespective of age of the vehicle.

A Taxi Test will only be accepted;

- On renewal, where the vehicle test has been conducted not more than 28 Days prior to the expiry of the Current Vehicle licence and;
- In the case of an application for the grant of a HC / PH vehicle licence the vehicle inspection and Test shall not have been conducted more than 7 Days Prior to the date the application was made. In any case the vehicle shall have satisfactorily completed the Taxi test.

A vehicle can be presented for the Taxi Test for a Vehicle Licence Renewal up to 28 days before the expiry of the licence date. The existing licence expiry date will still be honoured and in all cases the taxi test date will be the same date as the expiry of the licence. The cut-off point for receipt of an application to renew a taxi vehicle licence will be at close of business before the licence expires.

Where a vehicle fails the taxi test the proprietor will have the option to keep the vehicle at the test centre and arrange repair on the premises or remove the vehicle to an alternate location for the necessary repairs. However, at this point should the vehicle be removed from the Testing Station the vehicle will be subject to suspension and the Licence plate will be marked accordingly, until the vehicle is re-tested and passes the taxi test. The testing station will be responsible for notifying Licensing Enforcement where the failed vehicle is to be removed from their site for repairs.

Trailers

No trailer shall be attached to a vehicle unless the trailer has been tested at the same time as the vehicle was tested and the trailer is clearly identifiable by a serial number or other permanent mark for purposes of identification.

Any trailer must provide secure and weatherproof storage for luggage.

Change of Vehicle

There is no provision within legislation or the Council's policy for a proprietor to change a vehicle within an existing licence. Where a vehicle is substituted, either permanently or temporarily, then a new application for a grant of a vehicle licence is required. The new licence will be valid for 6 months, unless subject to surrender, suspension or revocation.

The specific provisions in relation to Hackney Carriage Vehicles are as follows:

- Where the above applies to a HC Vehicle licence the Council will only recognise applications from existing HC vehicle proprietors whose details appear on the Council's register. In such circumstances any application received shall be made in the name of all the registered proprietors for that vehicle. In the case of an existing WAV vehicle only another WAV vehicle will be considered in accordance with the Council's HCV licensing conditions of application.
- Where a vehicle is presented on behalf of an existing HCV proprietor by a company whose business it is to provide relief taxi vehicles (such a company shall be a company recorded at companies house and be of limited status), the application shall reflect the registered keeper details given in the V5 document alongside the original proprietors.
- Where the change of vehicle applies to a HC Vehicle licence the original licence number will be preserved to protect the plate for the HC vehicle proprietor. In all other cases a new Licence & Licence Plate will be issued with a New Number.

Transfer of Vehicle Ownership

Where a licensed vehicle is transferred between proprietors then a transfer notice (Council form) must be completed by both parties and presented to the Council within 14 days, so that the vehicle record can be updated. There is no charge for this notification.

Insurance of Vehicles

The vehicle must be insured at all times for the specific use as a passenger vehicle for hire and reward. The insurance certificate must specify if the vehicle is for Private Hire or Hackney Carriage and provide insurance cover for all persons licensed to and with the authority to drive the vehicle.

The proprietor must be able to demonstrate that the vehicle is insured during the licence period, except for any period where the vehicle has been subject to suspension under s. 68 of the 1976 Act by the Council and was not driven as a taxi, (unless suspended under s.60 and pending an appeal).

Where a vehicle is not correctly insured or the insurance is deemed invalid then the Council's licence conditions have been breached and enforcement action may be taken.

Accidents

The proprietor of a licensed vehicle shall report to the Council as soon as is reasonably practicable, and in any case within 72 hours of the occurrence of any accident to the licensed vehicle causing damage materially affecting the safety, performance and appearance of the licensed vehicle or the comfort or convenience of persons carried.

The Council may wish to inspect the vehicle and the proprietor must provide access to the vehicle for this purpose.

Where a vehicle has been involved in an accident the Council may choose to serve a defect notice requiring certain repairs where the damage is slight and the safety of the vehicle is not compromised.

In more serious cases, the Council will suspend the vehicle until such time as the repairs are completed and the vehicle is presented for re-inspection.

Further enforcement action may be required depending on the severity of the damage, such as a requirement to produce a full mechanical inspection report in order for the vehicle to be considered for licensing.

Transport of animals

All animals must be accompanied by and under the control of the hirer and must be transported in the rear of the vehicle.

All drivers and operators must accept to carry guide and assistance dogs unless the driver applies for an exemption on medical grounds. There can be no additional charge made for the carriage of such dogs.

Record books and receipts

The proprietor shall ensure that a record book is kept at all times in the vehicle. This record book must show the occasions when a receipt is issued. A receipt must be given if requested and each receipt must show the licence number of the driver, the date and the amount charged. A sign should be displayed in the vehicle indicating that a receipt will be given if requested.

Change of address

The proprietor shall notify the Council in writing of any change in his address within 7 days of such change taking place.

Vehicle Licences- Vehicle Type Conditions

There are a number of distinctions between licences for Private Hire and Hackney Carriage Vehicles and these will be identified as appropriate. However, many of the requirements for licensing are the same for both vehicle licences.

The table of conditions will make clear where there is any distinction between conditions which are only applicable to or vary between Private Hire Vehicles and Hackney Carriage Vehicles.

Before a vehicle can be granted a licence it must undergo an inspection by a Council Officer to ensure compliance with all conditions below. This inspection is carried out prior to application to reduce the likelihood of the vehicle being refused a licence at the point of inspection once the administration of the licence has already begun, as the applicant would not be eligible for a full refund at that stage.

Condition	Reason for Condition
<p>1. Colour:</p> <ul style="list-style-type: none"> a) All Hackney Carriage Vehicles must be white in colour except where the vehicle is a WAV, where other colours are permitted. b) Private Hire Vehicles may not be white in colour, unless it is a stretched limousine or other similar vehicle. c) Bizarre or garish colour schemes will not be permitted. 	<p>To ensure a clear distinction for the public between Hackney Carriage Vehicles and Private Hire Vehicles.</p> <p>To maintain the professional and respectable reputation of the taxi trade within Chorley.</p>
<p>2. Insurance write offs and accident damage:</p> <ul style="list-style-type: none"> a) Vehicles that have been categorised as ‘write offs’ by any insurance company at any level will not be considered for licensing. b) Where the vehicle shows signs of accident damage but has not been subject to an insurance write off, the Council may use its discretion and licence the vehicle where the vehicle passes a further mechanical and structural assessment, including assessment of road worthiness and handling. The testing must be conducted by a qualified independent expert who must be able to demonstrate that they have responsibility for insurance assessment and collision investigation. The assessor must provide details of their professional indemnity insurance. c) All vehicles (except those newly registered) must be checked against HPI and a full printed report submitted as part of the application to the Council to confirm whether the vehicle has been subject to an insurance write off. 	<p>To protect public safety, vehicles subject to insurance write off must be identified.</p> <p>In order to protect public safety any vehicle that shows signs of accident damage would need to be tested to demonstrate that the vehicle is safe for fee paying passengers and structurally sound in that it is comparable with another vehicle of the same age, make and model that has not been subject to accident damage.</p> <p>The Assessor must provide a recommendation as to whether the vehicle meets the quality and safety standards and confirm if there is any additional risk associated with the vehicle in comparison to a vehicle of the same make, model and year of manufacture that has not been subject to accident damage and subsequent repair.</p> <p>The cost of any additional testing would be borne by the applicant.</p> <p>The DVLA have changed their process and no longer reissue the V5 log book following insurance write off for either Category C or D. Therefore in order for the Council and the prospective/ new owner of the vehicle to</p>

	determine if the vehicle has been subject to such write off an HPI check would be required.
<p>3. Type Approval and Vehicle Adaptations and Conversions:</p> <p>a) Any vehicle presented for licensing shall meet the technical standards for type approval to</p> <p>i) European Whole vehicle type approval ii) British National type approval iii) British Single vehicles approval or iv) British Low volume type approval</p> <p>b) The vehicle must have a capacity for at least 4 adult passengers.</p> <p>c) A vehicle that was designed and built for 5 persons will not be licensed for more than 4 passengers.</p> <p>d) The proprietor shall not permit the vehicle to be used to carry a greater number of passengers than that prescribed in the licence</p> <p>e) Chorley Council may licence a suitable vehicle for up to 8 passengers. Where such a passenger vehicle is a conversion or adaptation of such a chassis, the applicant must demonstrate that this conversion was undertaken by a qualified conversion company and meets all necessary safety standards of the type approval.</p> <p>f) In order to demonstrate that the vehicles is suitable and meets the requirements of 3 a) above, has been properly converted and meets all necessary safety standards, the applicant must submit a conversion certificate / certificate of conformity / type approval or other relevant document in relation to any conversion or alteration that has cause to alter that vehicle since its manufacture.</p> <p>g) No 'Q' plated vehicles will be considered for licensing.</p> <p>h) The proprietor shall not allow the mechanical and structural specification of the hackney carriage to be varied without the consent of an Authorised Officer of the Council. Unauthorised variations will result in the licence becoming immediately invalid.</p>	<p>All vehicles used for the carriage of passengers must have the relevant Type Approval, which determines the vehicles structural suitability for this purpose.</p> <p>The vehicle will be licensed to carry the number of passengers it was specifically designed to carry in order to protect public safety.</p> <p>Many versatile chassis are built by manufacturers with the ability to be used in any number of ways, and the chassis will be given a specific approval type which demonstrates its suitability for safe conversion to a number of configurations. As such these vehicles are often converted to transport more than 4 passengers.</p> <p>This new condition allows for conversion to be undertaken after UK registration but require the applicant to demonstrate that the vehicle meets type approval and safety standards by way of certification. The additional officer time associated with reviewing certificates and reports, employing independent experts to review such and compiling additional reports for the Licensing Committees would need to be met by the licensing fees.</p> <p>For safety reasons the Council will not licence a Q plated car because a Q plate denotes a kit car or rebuild, where the full traceability of the vehicle cannot be authenticated by the DVLA.</p>
<p>4. Disabled & Wheelchair Access Vehicles:</p> <p>a) Where a Hackney Carriage Vehicle is licensed for Disabled and /or Wheelchair</p>	This DAV/WAV type for type replacement

<p>Access, then any replacement vehicle must also be of equivalent accessible design.</p> <p>b) Any vehicle incorporating a lifting device shall at first application provide a certificate of conformity issued in accordance with the LOLER Regulations 1998, and produce at any subsequent renewal a certificate of safety issued in accordance with LOLER Regulations 1998 and guidance to the satisfaction of the council.</p> <p>c) Vehicles presented at first licensing from 5th October 2010 intended to provide Disability access shall for the purpose of Type 1 Disability Access will have the following:</p> <ol style="list-style-type: none"> i. Wheel chair means of access and egress and means of securing wheelchairs safely in the vehicle where all fixtures and fitting meet E1 Type Approval or equivalent. ii. A fixed bulkhead incorporating: <ul style="list-style-type: none"> • A partition screen • A pay point • Assisted means of communication. iii. Offer suitable accommodation for the provision of at least one adult size occupied wheelchair. iv. Suitable hand grips designed to be clearly recognisable to aid in the access and egress of passengers. v. Where the DAV/WAV is a Hackney Carriage a forward facing illuminated top sign permanently fixed to; or a built-in taxi sign as an integral part of the structure and operated by the taxi meter (The top sign does not have to display the words Chorley Borough Council)? vi. All vehicles will have 2 side passenger doors to access the rear compartment of the vehicle. vii. All seats must be accessible by a clear permanent opening of 400mm viii. All wheelchair accessible vehicles will have provision for at least two permanently fixed passenger seats in the rear compartment of the vehicle. ix. All vehicles will have been converted by a recognised coachbuilder / conversion company. x. Any ancillary equipment shall be capable of being stored securely and 	<p>ensures that the disabled taxi provision is maintained.</p> <p>The requirement to comply with LOLER protects the safety of passengers using these lifting facilities.</p> <p>The conditions relating to the accommodation and fixing of wheelchairs protects the safety and comfort of passengers using these facilities.</p> <p>Wheelchair Accessible Vehicles will be identified by use of a recognisable disability emblem on the plate.</p>
---	--

<p>safely</p> <p>xi. All vehicles will be inspected and licensed at the discretion of the Council,</p> <p>d) All vehicles of Type 1 or 2 Disability Access shall display the appropriate disability emblem in a prominent position on the vehicle.</p>	
<p>5. Identification plates & livery:</p> <p>a) The identification plate and livery shall remain the property of the Council at all times. The Plate will display the expiry date of the vehicle licence and therefore must be replaced at each renewal.</p> <p>b) The licence plate shall be affixed to the vehicle by the proprietor at his own expense, in the following manner:-</p> <ul style="list-style-type: none"> • at the rear of the vehicle, and • to the exterior of the vehicle, and • with the number facing to the rear, and • in a vertical plane, and • must be affixed by bolts or screws or other similar secure means as approved by the Council, in such a manner as to be easily removed by an Authorised Officer. <p>c) The proprietor of the vehicle shall ensure the identification plates are maintained and kept in such condition that the information contained on the identification plate is clearly visible to public view at all times.</p> <p>d) Internal licence plate must be fixed to the dashboard not obscuring the drivers view or on the windscreen outside the swiped area.</p> <p>e) The internal disc must be fixed to the windscreen outside the swiped area not obscuring the driver's view with the expiry date information visible from the vehicle exterior.</p> <p>f) The vehicle shall display Council provided livery to the front driver and passenger door fixed in a readable position. The Council's door signs shall be fixed permanently to the vehicle and the use of magnets or other means of temporary fixing shall not be used.</p> <p>g) The proprietor shall cause to be fixed to the roof of any Hackney Carriage an illuminated sign bearing the words "CHORLEY BOROUGH TAXI" on both the forward and rearward faces of the sign. The sign shall be</p>	<p>The publication of the vehicle licence expiry on the licence plate allows the public, other proprietors and enforcement officers to easily see if the vehicle has a valid licence and reduces the risk of unlicensed but plated vehicles being used unlawfully.</p> <p>It is important for the public to be able to easily identify a Chorley Council licensed vehicle and distinguish between a Hackney Carriage and Private Hire by use of clear signage.</p> <p>A suitable internal licence display allows the passenger to confirm any details of the vehicle while travelling.</p> <p>The illuminated roof sign is a clear indicator to the public of the availability for hire of a Hackney Carriage.</p>

<p>capable of being so operated that when the vehicle is engaged for hire, the sign is not illuminated, this operation shall be controlled by the meter.</p>	
<p>6. Exemptions to Signage Requirements:</p> <ul style="list-style-type: none"> a) An Exemption Notice issued by Chorley Council, exempting a proprietor from the requirement to display the external licence plate on a private hire vehicle and the concurrent exemption for the wearing of the private hire driver's identification badge is granted subject to the licensed vehicle being operated in accordance with the following conditions: <ul style="list-style-type: none"> i. When operating under the exemption notice the internal plate issued by the licensing authority will be displayed on the nearside of the windscreen or dashboard so as not to obscure the drivers view. ii. The Exemption Notice issued by the Licensing Authority in respect of the licensed private hire vehicle will be carried in the vehicle at all times and will be produced upon request to any authorised officer or any police officer. iii. Other than the internal plate, the proprietor will not display in, on or from the vehicle any advertisement, signage, logos or insignia advertising the operating company or the vehicle's status as a private hire vehicle without the approval of the Licensing Authority. iv. The private hire vehicle licence plate will be affixed in a visible position within the boot of the vehicle and shall not be displayed externally whilst the exemption notice is in force. Upon request the licence plate will be shown to any authorised officer or any police officer. v. When issued with an exemption notice, the vehicle will not be required to display any other signs which the Licensing Authority may at any time require private hire vehicles to display. vi. No taximeter shall be fitted in the vehicle. vii. A table of fares/tariffs will not be displayed in the vehicle. viii. During the period of the exemption notice, the driver shall not wear the private hire driver's badge but will have it available for inspection by any authorised officer or any police officer on request. 	<p>These conditions only apply to Private Hire Vehicles and would normally only be considered for stretched limousines and chauffeur driver executive saloons.</p> <p>Failure to comply with these conditions may result in the withdrawal of the exemption notice. Once an exemption notice has been issued the vehicle cannot be used for normal private hire work, it must be used exclusively for contract hire.</p>

<p>ix. At all times during the period of the exemption notice the driver of the vehicle will be appropriately dressed in either a formal chauffeur’s uniform or a business suit with collar and tie.</p>	
<p>7. Other Signage:</p> <p>a) Approved no smoking signage must be fitted internally to the vehicle for the benefit of all passengers.</p> <p>b) No signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices whatsoever shall be displayed on, in or from the vehicle except as may be required by any statutory provision or required or permitted by these conditions.</p> <p>c) Except where the sign:</p> <ul style="list-style-type: none"> • contains no words or numbers other than the name, address and telephone number of the operator of the vehicle or the name under which he carries on his business and his business address and telephone numbers; • displays sponsored commercial advertisements, for which prior permission has been obtained from the Council. • displays an information sticker or disc describing membership of a taxi trade associations or similar taxi trade body is permitted in the windscreen of licensed hackney carriage and private hire vehicles provided that it is of such a size and in such a position so as not to obscure the field of vision of the driver. The display of such sticker or disc shall be limited to one per vehicle. <p>d) Any additional livery must not be above 12” measured from the bottom of the front passenger and driver door, and in any case must not protrude higher than the bump bar strip fitted to the door, this area will be regarded as the lower panel of the door</p> <p>e) Every Hackney Carriage vehicle must display in a prominent position inside the vehicle, the Council’s table of fares in force at that time.</p>	<p>The limitation on other signage reduces the likelihood of confusion or misunderstanding by the public by allowing clear observation of the signs relevant to the licence.</p> <p>Where a meter is used to calculate a fare for a journey the passenger should be provided with information relating to the fares charged for that journey.</p>
<p>8. Meters:</p> <p>a) All Hackney Carriage Vehicles must be fitted with a taximeter and this must be linked to the illuminated roof sign in order that the meter controls the illumination of the sign.</p>	<p>A meter is used by a taxi to calculate the fare in accordance with the table of fares published by the Council. Once the meter is on the roof sign must not be illuminated in order to indicate to the public the vehicle is not available for hire.</p>

<p>b) Where any taximeter is fitted to any licensed vehicle, the meter must be calibrated and the table of fares shall be prominently displayed within the vehicle. Any fares should be previously agreed by the Council. The meter shall bear the original seal(s) as fitted by the person authorised to carry out the calibration.</p> <p>c) The calibration certificate should be made available to an authorised officer upon request and provided at each vehicle renewal.</p>	<p>The meter must be calibrated and sealed to ensure that the correct fees are being calculated and the council should be given sight of the certificate to validate the security of the system.</p>
<p>9. Radios and Communication Devices:</p> <p>a) Where radios are used to communicate between the driver, proprietor or operator, the proprietor shall ensure that any radio equipment fitted to a vehicle is at all times kept in a safe and sound condition and maintained in proper working order.</p> <p>b) Any means of radio communication used by the proprietor or driver of a vehicle with respect to the operation thereof must be a means of radio communication using radio frequencies other than those licensed by the Department of Trade and Industry for use by Citizens Band Radio.</p> <p>c) The licensee shall not fit, carry or use any radio frequency scanning apparatus in or on a licensed vehicle.</p> <p>d) The use of data-head systems as a means of dispatching vehicles and for drivers to remotely accept bookings and log journeys is permitted. All data recorded by the system shall be retained by the Operator or proprietor and available for inspection for a minimum of 2 years.</p> <p>e) Where a mobile phone is used as a means for the driver to communicate with the proprietor or operator of the vehicle or any other person during the course of a journey this must be by the use of hands free device which is limited to single touch or voice activation.</p>	<p>Radios should be maintained to ensure that they can be effective for communication.</p> <p>The frequencies used must not interfere with other communication systems.</p> <p>These new conditions relating to the use of data head systems and mobile phones have been included for the following reasons: To reduce the likelihood and risk to public safety associated with the use of hand held mobile devices, hands free systems should be fitted which can be operated by single touch or voice activation. To reflect other legislative requirements on use of mobile phones while driving.</p>
<p>10. Exterior Bodywork Condition:</p> <p>a) No hole or tear of metal, or other items (e.g. trim) to be capable of injuring a pedestrian or passenger. This is to include doors, door panels (inside) etc.</p> <p>b) The bodywork, partially or wholly to show no discoloration that is beyond normal ageing, for the vehicles age/mileage in the</p>	<p>These conditions are to ensure the safety of passengers and protect the reputation of the fleet of licensed vehicles in Chorley.</p>

<p>opinion of the Authorised Officer. It is not acceptable for panels to be of contrasting colour e.g. panels, door skins, bonnet, that are replacements by 'second hand' or primer coated.</p> <p>c) No tape or other means of fixings to any parts of the vehicle will be accepted other than the vehicle's standard fixings.</p> <p>d) The vehicle must not be a convertible, i.e. have a soft top.</p> <p>e) Forward mounted driving mirrors must be fitted on both sides of the vehicle. The mirrors must be maintained at all times to ensure the driver has a clear view to the rear of the vehicle.</p> <p>f) The proprietor shall ensure that the vehicle shall be maintained in a sound mechanical and structural condition and be capable of satisfying the Council's Vehicle Inspection & Safety Test at all times.</p> <p>g) The proprietor shall ensure that at all times when the vehicle is in use or available for hire, it is maintained in an efficient, safe, tidy and clean condition and that all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations) are fully complied with.</p>	<p>This is because convertible cars are usually on two-door, not four-door vehicles. Mirrors must be effective to ensure the safety of both passengers and the public.</p> <p>The vehicle must not show signs of rust, damaged or mismatched paintwork or have any sharp or jagged edges. Windows should not be chipped or scratched and the wipers must work effectively. The external fittings such as bumpers and light units must be securely fixed with the appropriate fitment to ensure the safety of passengers and protect the reputation of the fleet of licensed vehicles in Chorley.</p>
<p>11. Engine Compartment:</p> <p>a) The engine compartment should not have any loose wiring, cables or coverings. The engine and its components must be secure within the engine compartment.</p> <p>b) There should be no signs of leakage of any fluids.</p>	<p>These conditions clarify matters considered by the vehicle inspection to ensure the safety of passengers and also the reputation of the fleet of licensed vehicles.</p>
<p>12. Tyres:</p> <p>a) A vehicle must be fitted with at least four road wheels. This is to ensure the safety and comfort of passengers. Tyres must be road legal with a minimum tread of 1.6mm.</p> <p>b) Where the vehicle is designed to hold a spare wheel then a manufacturers approved spare wheel must be provided.</p> <p>c) The spare wheel must have a minimum of 3mm tread, be inflated to the correct pressure and maintained in a ready to use condition.</p> <p>d) Where there is no provision for a spare wheel then a manufacturer's approved inflation kit will be accepted. Any such kit</p>	<p>These conditions relate to safety for passengers and the public.</p>

<p>must be used in accordance with the manufacturer's instructions.</p>	
<p>13. Lights:</p> <ul style="list-style-type: none"> a) All lights should be working in accordance with their designed function. There should be no loose connections, defective bulbs or LEDs or broken casings. 	<p>These conditions relate to safety for passengers and the public.</p>
<p>14. Dashboard and Steering Column:</p> <ul style="list-style-type: none"> a) The vehicle must not be left hand drive. b) Speedometer and odometer must be working correctly and illuminated. c) All settings to work and de-mist. d) Air-conditioning must be in working order where fitted. e) There should be no warning or service lights visible on the display when the ignition is switched on. 	<p>Left hand drive vehicles may pose a safety risk the passengers and the public because they are not designed or specifically intended for driving on UK roads and as such does not provide the best driving position and visibility for the driver.</p> <p>These conditions clarify matters considered by the vehicle inspection to ensure the safety of passengers and also the reputation of the fleet of licensed vehicles.</p>
<p>15. Interior Trim Condition:</p> <ul style="list-style-type: none"> a) The proprietor shall ensure that at all times when the vehicle is in use or available for hire, it is maintained in an efficient, safe, tidy and clean condition and that all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations) are fully complied with. b) An interior rear mirror must be fitted. The mirror must be maintained at all times to ensure the driver has a clear view to the rear of the vehicle. c) All pedal rubbers should be fitted; none should be worn to the metal, or missing. d) An interior passenger light shall be fitted and operative. e) All floor covering should be secure, tear/hole free, appropriate and present no risk to safety. f) No noticeable/abnormal odours. g) The vehicle should be watertight with no sign of water ingress or staining on the roof covering. h) The roof covering and all trim around doors and sills etc. shall be suitably fixed in position. They should be clean and free from any damage. i) There should be openable windows for passengers on each side of the vehicle and these shall be maintained in working order and be free from damage. j) The floor shall be provided with a proper carpet or other suitable covering that is not 	<p>The internal fittings such as handles, trim and lights must be securely fixed with the appropriate fitment to ensure the safety of passengers and protect the reputation of the fleet of licensed vehicles in Chorley.</p> <p>Mirrors must be effective to ensure the safety of both passengers and the public.</p> <p>These conditions clarify matters considered by the vehicle inspection to ensure the safety of passengers and also the reputation of the fleet of licensed vehicles.</p>

<p>worn and is in such a condition as not to cause any passenger to trip or slip.</p> <p>k) Any mats must be kept in clean condition and must be appropriately fitted so as not to cause any passenger to trip or slip.</p> <p>l) All fittings and fixtures must be kept in a clean condition, well maintained and in every way fit for public use</p>	
<p>16. Doors:</p> <p>a) The vehicle must have at least two side doors for the boarding and alighting of passengers in addition to a separate door for the driver.</p> <p>b) No vehicle will be licensed if the passenger has to climb over seats or luggage to gain access or egress, or where such entrance or exit is sited over a fuel tank or high sill.</p> <p>c) Door catches must be secure at all times whilst being capable of easy operation by passengers.</p> <p>d) All door handles and levers shall be clearly visible and of a type consistent with those fitted to all other doors of the vehicle.</p>	<p>These conditions relate to the ease of ingress and egress from the vehicle for passengers and were agreed to ensure the safety and comfort of passengers and allow all passengers unhindered access and exit from the vehicle.</p>
<p>17. Seats:</p> <p>a) All seats are to be secure. No movement will be allowed that compromises the safety and comfort of any passenger or driver.</p> <p>b) Seating for each passenger must be not less than 400mm (16") with a minimum width, measured between the arm rests, or any other point that is protruding into passenger seating area, and be measured between the rear side passenger doors of not less than 1220mm (48").</p> <p>c) Where the vehicle is fitted with continuous seats, one person shall be counted for each complete length of 400mm (16") measured in a straight line lengthwise on the front of each seat.</p> <p>d) Where any such continuous seat is fitted with arms for the purpose of separating the seating spaces and those arms can be folded back or otherwise put out of use, the seat shall be measured as if it had not been fitted with such arms.</p> <p>e) Only one passenger may be accommodated in the front of the vehicle next to the driver in cases where the vehicle is designed to take only one front seat passenger.</p>	<p>These conditions were agreed by Committee to ensure the safety and comfort of passengers</p>

<ul style="list-style-type: none"> f) All seats must be fitted with the manufacturer's head restraints to protect passenger safety in the event of an accident. g) No vehicle with rear or side facing seating will be considered for licensing except where that vehicle has been purposely constructed to accommodate such seating and holds a suitable vehicle type approval. In any event any vehicle presented with such seating arrangements will be licensed at the discretion of the council. h) Any vehicle application received for a vehicle licence for more than 4 passenger seats, that vehicle shall have been purposely constructed to accommodate such seating and hold a suitable vehicle type approval. i) The vehicle shall be of the original manufactures design and specification, every seat shall be regarded as a permanent seat for the purposes of licensing. j) Where seating is capable of being stowed within the confines of the body of the vehicle the Council may use its discretion to licence the vehicle where it meets the foot-well and legroom provisions in condition 18 below. k) Where additional stowable seating is used in the rear of the vehicle, the seats in front must lift as one unit in order to provide sufficient, easy and safe access to the rear seats. There must be a minimum opening of 400mm to the rear row of seats. l) No vehicle shall by any design or feature of that vehicle be capable to offer seating for more than the number of passengers as stated on the vehicle licence. Any modifications made to satisfy this requirement shall be made to the satisfaction of the council. m) Seats and upholstery shall be dry and have no obvious stains, rips, tears or holes. All upholstery shall match. n) All original seating must be maintained in a clean and serviceable condition. o) Where seat covers are fitted they must be so designed and secured as to prevent any movement of the covering during 	<p>See reasons for Condition 3.</p> <p>This condition relates to the ease of ingress and egress from the vehicle for passengers and comfort for passengers during the journey and were considered by the Committee following inspection of different vehicles with varying configurations. The condition was agreed to ensure the safety and comfort of passengers.</p> <p>This new condition is in response to the consultation and offers some flexibility within the policy to allow vehicles with stowable seating to be considered where the vehicle has sufficient leg and foot space for a comfortable journey and is capable of easy and safe access to these seats by an average sized adult.</p> <p>These conditions clarify matters considered by the vehicle inspection to ensure the safety of passengers and also the reputation of the fleet of licensed vehicles.</p>
--	---

<p>use by passengers. They must be kept in a clean and serviceable condition and must be of a colour which is in keeping with the original trim of the vehicle.</p> <p>p) The law relating to child seats does not apply to taxis, children under 3 years old may travel without a car seat or seat belt but must be on the back seat. Children over the age of 3 must wear an adult seat belt and may travel in either the front or the back passenger seats.</p> <p>q) Where a passenger provides their own child seat the driver must ensure that it is properly fitted and secured for the duration of the journey.</p>	<p>These conditions clarify the legal position with regard to child seats.</p>
<p>18. Legroom:</p> <p>a) There shall be a minimum gap of 180mm (7") between the back of any forward seat and the front edge of any rear seating; this shall be measured when the front seating is in its furthest pushed back position. (Seating relates to the base of the seat as opposed to the back support of the seating arrangement).</p> <p>b) Each passenger must be able to place their feet into a foot-well, in order that sufficient legroom is available for a comfortable journey. A foot-well will be defined as a marked/ observable difference in level between the floor level where the base of the seat is fixed and the space where the passenger would place their feet.</p>	<p>This condition relates to the ease of ingress and egress from the vehicle for passengers and their comfort and safety during the journey. This condition was included by the Committee following inspection of different vehicles with varying configurations. The condition was agreed to ensure the safety and comfort of passengers and was retained in February 2016 following the trade consultation where the trade proposed relaxation of this condition.</p> <p>Most stowable additional seating is unsuitable for the use of passengers as they do not usually provide sufficient leg room or a defined foot-well space. This condition ensures the comfort and safety of passengers.</p>
<p>19. Headroom:</p> <p>a) The height as measured between the rear seat and the height to the roof lining in a vertical plane must be not less than 860mm (34"). This shall be measured at the centre of a passenger seat situated between the two rear passenger doors.</p>	<p>This is to ensure the comfort of passengers.</p>
<p>20. Luggage Space:</p> <p>a) Every estate type vehicle shall be fitted with the manufacturer's approved or other universal type approved grille, securely fixed to the frame of the vehicle between the passenger area and load (luggage) carrying area.</p> <p>b) Each vehicle must provide suitable and sufficient luggage space and a means of securing the luggage to prevent damage or injury</p>	<p>This is to prevent any injury to passengers where luggage may become dislodged.</p>
<p>21. Emissions Standards:</p>	<p>Taxis provide a public transport service and as</p>

<ul style="list-style-type: none"> a) Hackney Carriage Vehicles waiting on the rank are required to switch off engines (except in extreme weather conditions where heaters would be required for the welfare of the driver) in order to reduce air pollution emissions in the town centre. b) Vehicles presented for licensing as taxis should meet a minimum Euro 5 emissions standard. Require all vehicles subject to a grant of a Hackney Carriage or Private Hire Vehicle Licence to meet this condition from 1st January 2017; except allow those vehicles that have previously been subject to a licence, but where this has lapsed or been suspended, to be treated as existing vehicles, rather than at the next grant application. c) That where a vehicle is written off due to a none-fault accident, the grandfather rights as described above are honoured and the replacement like for like vehicle of the same make, model and year will be accepted as an existing vehicle; and d) Require all existing vehicles to comply from 1st January 2024 	<p>such are subject to a large number of journeys and high mileage. These vehicles have the ability to impact on the air quality of the district in the same way that any other public transport vehicle does. In the same way that fleet vehicles and public transport vehicles are required to meet a minimum emissions standards, vehicles licensed by the Council should also meet a minimum standard to ensure that the Council is fulfilling its duty in reducing harmful air emissions that impact on public health.</p> <p>The additional of grandfather rights for non-fault accidents was added following consultation with the trade and proposed at the LLP</p>
<p>22. NCAP Safety Rating:</p> <ul style="list-style-type: none"> a) Vehicles presented for licensing as taxis should meet a minimum NCAP European Safety rating of 4 stars. Require all vehicles subject to a grant of a Hackney Carriage or Private Hire Vehicle Licence to meet this condition from 1st January 2017; except allow those vehicles that have previously been subject to a licence, but where this has lapsed or been suspended, to be treated as existing vehicles, rather than at the next grant application. b) That where a vehicle is written off due to a none-fault accident, the grandfather rights as described above are honoured and the replacement like for like vehicle of the same make, model and year will be accepted as an existing vehicle; and c) Require all existing vehicles to comply from 1st January 2024 	<p>The purpose of vehicle licensing is primarily to protect public safety.</p>

Stretched Limousines

Conditions in relation to stretched limousines were agreed by the LPSC in December 2008, as these vehicles are not able to conform to the usual vehicle type conditions.

No stretched limousine will be considered for use as a **Hackney Carriage** Vehicle and will only be licensed for Private Hire.

The following conditions apply:

Condition	Reason for condition
<p>1. Left Hand Drive Vehicles:</p> <p>a) Left Hand Drive stretched limousines will be considered for licensing as a PHV.</p>	<p>The majority of stretched limousines are imported from the U.S. and are left hand drive. The Department for Transport has recommended that Councils should not refuse to licence limousines simply because they have characteristics which contravene their existing policy, i.e. left hand drive.</p>
<p>2. Sideways Seating:</p> <p>a) Stretched limousines with sideways facing seating will be considered for licensing as a PHV.</p>	<p>A main characteristic of stretched limousines is their sideways facing bench seats. In line with the Department for Transport's guidance outlined above, the Council will consider the suitability of limousines with sideways seating for licensing.</p>
<p>3. Signage:</p> <p>a) The signage on limousines will consist of an internal plate fixed to the inside of the windscreen or dashboard on the nearside so as not to obscure the drivers view.</p> <p>b) Limousines do not require Council door signs.</p> <p>c) The private hire plate has to be fixed in the boot, clearly visible and be able to be produced on demand to any authorised officer or a police officer</p> <p>d) The proprietor shall ensure that the licence plate & internal plate are displayed in accordance with the current requirements of the Council.</p> <p>e) No other signs, notices or any other markings will be displayed on or in the vehicle without the written permission of the Council.</p>	<p>Signage serves to distinguish PHVs from ordinary saloon cars and to make them clearly identifiable to the public. However, the naturally distinctive appearance of stretched limousines means that they are very unlikely to be confused with a private road user's vehicle.</p> <p>The internal plate must be displayed so that passengers know it is a licensed vehicle and the seating capacity</p> <p>To convey information to passengers where appropriate.</p> <p>To ensure that any material displayed in the limousine is suitable for public viewing.</p>
<p>4. Tinted Glass:</p> <p>a) Stretched limousines with heavily tinted glass in the windows behind the driver's cockpit will be considered for licensing. Glass in the driver cockpit must satisfy the current legal requirements.</p>	<p>It is recognised that the privacy provided by tinted glass in the passenger compartment is a central characteristic of a limousine. However, glass in the driver cockpit must satisfy the standards within the Road Vehicles (Construction and Use) Regulations 1986 as amended.</p>
<p>5. Fare Table/ Taximeter:</p> <p>a) Limousines are not required to display a fare table or have a</p>	<p>Stretched limousines often do not operate under a fare system as journeys are generally pre-paid in advance based on the length of</p>

taximeter fitted.	time they are hired for.
6. Roadworthiness: a) The stretched limousine must hold a valid Single Vehicle Approval (SVA) Certificate.	The SVA test comprises a visual examination of a vehicle by VOSA and certifies its safety and roadworthiness.
7. Vehicle Age: a) Stretched limousines to be licensed in accordance with the Council's current PHV age policy.	To ensure that the limousines licensed by the Council are in a good and safe condition.
8. Insurance: a) An appropriate insurance policy must be in place which covers use of the vehicle for hire and reward.	The Council has concerns that some limousines may be operating under insurance policies which do not cover use for hire and reward or take into account that the vehicle has been stretched.
9. Tyres: a) The limousine must be fitted with tyres that meet the appropriate specification for both the size and weight.	Given the increased weight of the vehicle, tyres of the correct weight and size rating must be used at all times.
10. Vehicle Testing: a) Licensed limousines must be tested in accordance with the councils current PHV testing policy	To ensure that limousines licensed by the Council are maintained to high standards and remain safe.
11. Maximum Passengers: a) The limousine's seating capacity must be reduced where necessary to a maximum of 8 passengers. b) No seats in the driver's compartment shall be used to carry passengers c) The vehicle must not carry more than 8 passengers at any time. (A babe in arms is classed as a passenger no matter what their age). d) In any advertisement publicising their limousine service, the operator must state that the vehicle is only licensed to carry 8 passengers.	Councils can only licence vehicles with a maximum seating capacity of 8. This is to ensure that passengers are not carried in the front of the vehicle to improve driver and passenger safety. This condition will be enforced by Council officers performing spot checks on licensed vehicles, and is in line with legislative requirements. To inform customers of the maximum carrying capacity of the vehicle.
12. Seat Belts: a) Seatbelts must be fitted to all forward and rear facing seats and must be worn at all times by passengers whilst the vehicle is in motion. b) There is no legal requirement for seatbelts on sideways facing seats.	As per construction and use regulations.
13. Alcohol: a) Alcoholic drinks provided in the vehicle shall be under the terms of an appropriate licence relating to the sale and supply of alcohol b) Alcohol shall only be served while the vehicle is stationary and afterwards, all bottles shall be placed in a secure	To comply with requirements of the Licensing Act 2003 and to safeguard the public.

<p>receptacle.</p> <p>c) No alcohol should be sold or supplied to any passenger under 18 years of age</p>	
<p>14. Entertainment:</p> <p>a) The driver shall not play or permit the performance of any media which, because of its age restricted classification or its content, is unsuitable for the age of the passengers in the vehicle (based on the age of the youngest passenger).</p> <p>b) The limousine operator shall ensure that a performing rights licence is held where appropriate.</p> <p>c) The limousine operator shall ensure that a licence under the provisions of the Licensing Act 2003 is held where appropriate.</p>	<p>To safeguard child passengers from viewing unsuitable material.</p> <p>Limousines which have the capability of playing recorded media for the entertainment of customers and may be required to hold a performing rights licence.</p> <p>Entertainment regulated under the Act includes TV, video, video games, loudspeakers, or any other activity provided for the passenger's enjoyment.</p>

(The conditions relating to fire extinguishers has been removed in accordance with the removal of this conditions for all other vehicles and the signage conditions have been consolidated for clarity)

Compliance and Enforcement

Any applicant must meet the application criteria in relation to the particular licence before a licence will be issued. The Council has some discretion to depart from that policy on an individual basis and therefore some matters will be presented to the General Licensing Sub-Committee for a decision.

Once a licence is granted the holder must comply with all the conditions which relate to that licence.

The local authority is responsible for enforcing the requirements of the appropriate legislation and the conditions associated with each licence.

The Local Authority's Early Intervention and Support Enforcement Policy has regard for the Regulator's Compliance Code. The enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. The principle of consistent, transparent and proportionate enforcement is a material consideration of any enforcement approach.

Enforcement action will be taken in accordance with the Council's enforcement policy where it is necessary and reasonable to protect public safety. Therefore the impact of certain circumstances on the livelihood of the trade is inevitable. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

There are a number of enforcement options available for consideration and the action taken will depend on the circumstances of the case.

Warnings

In respect of minor breaches where there is no evidence of persistent offending, a written warning may be issued.

For instance, warnings may be issued following a delegated decision to renew a driver's licence where driving offences have become apparent at renewal, but have not been declared at the time of receipt in accordance with the requirement to notify the Council within 7 days.

This warning will be kept on the licence holder's file and may be presented at future hearings as appropriate.

Notices

There are a number of notices which may be served on licence holders, the decision to take such action is not made lightly and will require careful consideration by the authorised officer based on the evidence presented.

Production of documentation- sections 50 & 53 of the Act provides a formal mechanism for an Authorised Officer of the Council to require certain documents, such as proof of insurance and production of a driving licence on request. Failure to comply with the notice is an offence and may result in prosecution.

Suspension of vehicles- sections 60 and 68 of the Act allows an authorised officer to issue a suspension notice on the proprietor of a vehicle where the vehicle is deemed to not meet the relevant fitness standard (section 60 or 68), that a hackney carriage driver has committed an offence under the 1847 Act (section 60 only) or for any other reasonable cause (section 60 only). The proprietor may appeal against the suspension to the magistrates' court. Where a section 68 notice is served requiring repairs to the vehicle and the vehicle to be represented for the necessary testing and the vehicle does not pass such tests, after 2 months from the service of the notice, then the licence is automatically revoked. Where a vehicle fails the taxi test at the point of renewal, the vehicle will be suspended and the application for renewal will be refused if a vehicle not meeting the Council's vehicle conditions is presented as part of the application.

Suspension of drivers- section 61 of the Act provides for a suspension notice to be served on a driver where the driver has been convicted of offences, or where a Hackney Carriage driver has failed to comply with the requirements of the 1847 Act or for any other reasonable grounds. A suspension may be issued where attention is brought to the Council in relation to activities that breach the accepted code of conduct or have the potential to undermine public safety, this can include medical conditions that require further investigation before the driver's fitness to drive by meeting the group 2 standards can be ascertained. The suspension may be immediate where this action would be in the interests of public safety, or may come in to effect after 21 days in all other cases and be stayed pending the disposal of any appeal.

Suspension of Operators- section 62 of the Act allows the Council to suspend a Private Hire Operator Licence on a number of grounds. Again there is a right of appeal against the notice to the magistrate's court.

NB: a suspension notice should in general only be served where there is a perceived temporary issue to be overcome or investigated. It should not generally be issued where there is an intention to follow this with a permanent sanction, then this permanent sanction should usually be pursued in the first instance.

Revocation of licences

Where there is a potential threat to public safety, consideration of which information available at the time would normally preclude a driver from holding a licence then it is imperative that the Council takes action swiftly and revokes an existing licence. The Council must employ this precautionary approach as it is the Council's responsibility to protect public safety as a priority. Where further investigations and evidence then demonstrate that the licence should be reinstated, this should also be done as swiftly as possible.

Cases relating to revocation will normally be present to the General Licensing Sub-Committee for consideration and decision, this maybe following the service of a suspension notice where the matter cannot be resolved and therefore a permanent sanction is necessary.

The members of the sub-committee will take all evidence into consideration when making the decision.

It is important to note that it is not a requirement for the licence holder to be in receipt of a criminal conviction for any alleged offence for which the matter is being brought before committee. The committee must consider the evidence on the balance of probability and therefore a much lower threshold of proof is required in comparison to a criminal court

hearing. Nor do the police need to be conducting an investigation for the matter to be presented to the committee.

The Committee must first and foremost consider the allegations and complaint and make their determination in the interests of public safety, without reliance on criminal convictions as the sole indicator.

The Council's Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing is attached as Appendix 2

The right of appeal against the committee decision exists any appeal must be lodged with the magistrate's court within 21 days of receipt of notice of the decision.

Refusal of licences

The scheme of delegation gives officers the authority to refuse to grant or renew vehicle licence applications. With applications which present no issues this will be done under delegated powers without reference to members. If there are relatively minor issues with an application such as a minor speeding offence then the driver licence may be granted by officers under delegated powers but only in consultation with the Chair or Vice-Chair.

All other determinations in relation to applications for driver licences must be made by the General Licensing Sub-Committee.

Again, the applicant has a right of appeal to the magistrates' court and to the Crown Court in respect of a refusal to grant a hackney carriage proprietor's licence.

Appeals

Appeals heard by the Magistrates' Court may result in the following action:

- Dismissal of appeal
- Substitution of decision
- Make an order for costs

The Magistrates' Court should not lightly reverse a decision that has been made by the authority, where the decision is in accordance with the authority's existing policies. It is not for the courts to be quick to undermine those policies, only to consider if they have been adhered to and executed properly or if there have been any failures of the authority to comply with the legislation.

Fees

The legislation provides that the fees charged for taxi licensing should reflect the costs of administering those functions. This includes the processing of applications and costs associated with hearings, licensing liaison panels and recovery of any direct costs to the council including taxi tests, medical expert referrals and DVLA checks etc.

The application fees are agreed by the Licensing and Public Safety Committee and are subject to an advertising process and regular review.

All fees must be paid on the submission of the application. Where the application fee is paid by cheque, the licence will not be issued until the cheque has been cleared by the bank.

Refunds

Fees are only eligible for refund where the licence application is rejected, refused or withdrawn. In which case, only the application fee is refunded and is subject to an administration charge, as set out in the fees and charges schedule. No refund for any other reason or of additional charges, such as DBS checks, knowledge test, taxi test fees etc. will be made.

This policy was reaffirmed in March 2015 by the LPSC, where it was reiterated that the fees reflect the cost to the Council of issuing the licence regardless of how long the licence holder chooses to use the licence, therefore there is no refund applicable for the surrender of any licence.

Reminder Letters

The Council has ceased sending reminder letters as each driver, operator and vehicle proprietor renews the relevant licences. The renewal application information will be provided with the licence. Each licence displays the expiry date and the responsibility lies with the licence holder to ensure that the renewal is made in good time.

Appendix 1- Scheme of delegation

Summary of Scheme of Delegation for Taxi Licensing

The Licensing and Public Safety Committee are responsible for making policy decisions in relation to Taxi Licensing

The comprehensive list of delegations can be found in the Council’s Constitution. This table is to be used as a guide to assist in understanding how common matters are processed within the Constitution.

Decisions made by the Lead Licensing and Enforcement Officer may be passed up to the Regulatory Services Manager or Head of Service and any decision can be referred to a higher level or in consultation with the chair/vice chair of the Committee where this is considered appropriate.

Matter to be dealt with	Decision Delegated to Director of Early intervention and Support			Decisions in consultation with Chair/Vice chair	Decision Delegated to General Licensing Sub-Committee
	Processing elements delegated to Transactional Team	Enforcement decisions delegated to the Lead Licensing and Enforcement Officer (LLEO)	Director Decision		
Application for grant or renewal of Private Hire/ Hackney Carriage Driver Licence	Process applications and grant only where all criteria are met, i.e. passed knowledge test, DVSA or equivalent certificate, medically fit, DBS checks show no criminal convictions or convictions have already been scrutinised by committee, valid DVLA licence, as per policy. If not met refer to LLEO in such cases. Grant and renew upon application a Private Hire/Hackney Carriage DAV (Disabled Access Vehicle) licence where appropriate requirements have been met (paragraph 2.17	Grant (or in the case of an existing licence) revoke and immediately re-grant a Private Hire or Hackney Carriage Driver Licence with the addition of non-standard conditions following consultation with and recommendations from the Council’s Medical expert.	Grant or renewal where driving convictions, or where criminal convictions or other matters requiring consideration that fall within the policy are minor (paragraphs 2.8 and 2.9 of the constitution)	Approve applications for Drivers Licences which fall outside the Council’s usual policies for approval and to be reported to the Licensing and Public Safety Committee (paragraph 2.11 of the constitution)	All other cases such as refusal or grant with non-standard conditions

	of the constitution)				
Application for grant or renewal of Private Hire/ Hackney Carriage Vehicle Licence	Grant only where all criteria met i.e. Taxi test, insurance, HPI etc. (paragraph 2.12 of the constitution)	Grant where an element of discretion in applying the conditions is required but the vehicle still meets overall standards set by the policy (paragraph 2.12 of the constitution as amended) Rejection of vehicle on pre-inspection prior to application being received, where the vehicle does not meet vehicle conditions or where the hackney Carriage application is made when the maximum limited number of vehicles has been met. Authority to refuse to grant and refuse to renew private hire and hackney carriage vehicle licences where the applicant has failed to meet all the Council's requirements, such as the vehicle not meeting the Council's vehicle conditions or failure of the taxi test or another aspect of the application is incomplete. (paragraph 2.16 of the constitution)	All other cases or where referred by officer		
Application for grant or renewal Private Hire Operator Licences	Grant only where all criteria met i.e. employers liability insurance, DBS checks show no criminal convictions. If not met refer to committee in such cases.		Grant or renewal where driving convictions (paragraph 2.8 of the constitution)		All other cases
Revocation of Private Hire / Hackney Carriage		Authority to revoke an existing Chorley Private Hire/Hackney Carriage Driver licence and immediately re-grant to the same person with			All other cases

Driver Licence		Disabled Access Driver (DAV) Driver provision where the appropriate requirements have been met (paragraph 2.17 of the constitution) In the case of an existing licence, revoke and immediately re-grant a Private Hire or Hackney Carriage Driver Licence with the addition of non-standard conditions following consultation with and recommendations from the Council's Medical expert			
Suspension of Private Hire / Hackney Carriage Driver Licence (s 61 (2) and 61 (2B))		In urgent cases requiring immediate suspension - cases exercisable by the LLEO in respect of suspensions for periods not exceeding 28 days, in consultation with the Chair or Vice-Chair, where reasonably practicable and a report is submitted to the next available meeting of the Licensing and Public Safety Committee) (paragraphs 2.6 of the constitution)	Suspending by written notice to the licence holder any Private Hire or Hackney Carriage Driver's Licence for a period not exceeding two months (paragraphs 2.6 of the constitution)	In urgent cases- On consultation request from LLEO in absence of Director or CEO	On referral following urgent suspension
Issue Warning to of Private Hire / Hackney Carriage Drivers		Summary report prepared by LLEO		Issue written warnings as to future conduct to existing Private Hire and Hackney Carriage drivers (paragraphs 2.10 of the constitution)	
Revocation of Private Hire / Hackney					All other cases

Carriage Vehicle Licence					
Suspension of Private Hire / Hackney Carriage Vehicle Licence (s. 60 and s68)		Suspending by written notice to the licence holder any Private Hire or Hackney Carriage Vehicle Licence for a period not exceeding 28 days, in consultation with the Chair or Vice-Chair, where reasonably practicable and a report is submitted to the next available meeting of the Licensing and Public Safety Committee) (paragraphs 2.6 of the constitution)	Suspending by written notice to the licence holder any Private Hire or Hackney Carriage Vehicle or Driver's Licence for a period not exceeding two months (paragraphs 2.6 of the constitution)	In urgent cases- On consultation request from LLEO in absence of Director or CEO	On referral following urgent suspension
Suspension or Revocation of Private Hire Operators Licence					All Cases
Review of Private Hire Operator Conditions					All Cases
Production of documents (s50 and s53 of the Act)		All cases			
Applications for exemption under s 166, 169 or 171 of the Equality Act 2010		Grant exemption on medical grounds under Equality legislation following referral for consideration where criteria is met, refuse where criteria is not met (paragraph 2.16 of the constitution)			On referral when refusal of application needs to be considered due to lack of medical evidence.

Application for plate exemption		All cases			
---------------------------------	--	-----------	--	--	--

Applicants have a right of appeal to decision made in the magistrate's Court. (There is no right of appeal on a s.68 vehicle suspension, the right of appeal only comes in after 2 months when the licence lapses and a notice should be issued under s.60 where there is a right of appeal)

Appendix 2- Safeguarding, Suitability and Convictions Policy for Taxi Licensing



SAFEGUARDING, SUITABILITY AND CONVICTIONS STATEMENT OF POLICY FOR TAXI LICENSING

INTRODUCTION

The Council is responsible for licensing Hackney Carriage Drivers and Vehicles, Private Hire Drivers and Vehicles and Private Hire Operators. For the purposes of this document this provision will be referred to as Taxi Licensing.

This policy covers new and renewal applications as well as any existing licences for drivers and operators.

Licences may only be granted where the Council is satisfied that the individual is a “fit and proper person” to hold such a licence.

This Policy is intended to give guidance on one aspect of whether an individual is or is not a “fit and proper” person; specifically, the situation where an individual has previous convictions, cautions, complaints, reprimands and/or other relevant matters.

In carrying out its Taxi Licensing functions the Council’s primary objective is to protect public safety and therefore must ensure:

- That an individual is a “fit and proper” person
- That the public are not put at risk by individuals with a history of dishonesty, indecency and/or violence
- The safeguarding of children, young persons and vulnerable adults

The drivers, proprietors and operators of licenced vehicles are in a unique position of trust in relation to the personal safety of their passengers and the information they have about their journeys, regular activities and routines.

Few people would get into a car with a stranger, but that is the situation when you get into a taxi. In these circumstances passengers may also be at their most vulnerable, such as being alone or under the influence of alcohol.

Few people would allow their disabled child to be taken to school by a stranger, but this happens regularly with school contracts.

Few people would give their holiday plans to a stranger, identifying their property as being empty for a determined period of time, but that is the situation when you book your taxi to and from the airport or train station.

For these reasons it is imperative that the Council has a robust policy for ensuring that all those associated with the taxi industry are suitable and safe to be trusted with the safety of passengers and the personal information they hold on individuals.

Assessment of Suitability

The most important questions that the Members of any Committee that decides on whether to grant, renew, suspend, revoke or refuse a licence to a driver, vehicle or operator, are:

1. Would I trust this person to be responsible for driving or operating a vehicle that any member of my family would use (children, parents, grandparents, grandchildren, husband or wife), with particular regard to whether they might be alone &/or vulnerable at the time?
2. And would I trust this person with sensitive personal information about my routines and holiday plans?

If the answer to those questions is 'No', 'don't know' or 'not sure' then a licence should not be granted or renewed and should be refused or where an existing licence is in place revoked, on the grounds that Members are not convinced that the applicant is safe and suitable.

Safeguarding Considerations

Particular regard must be had for the safeguarding of children and vulnerable adults. Vulnerable persons not only includes those with learning or physical disability or impairment (including dementia), but also includes those under the influence of drugs or alcohol, or in any other circumstances which render them less capable of making decisions; this might include suffering from shock after an incident or traumatic experience.

Following the review of Rotherham's Licensing Services serious failings were identified and consequently the Council did not take sufficient steps to protect the public. Chorley Council must learn from the mistakes of Rotherham and Rochdale and ensure that the appropriate policies and safeguards are in place to ensure that only those persons that meet the fit and proper test are permitted to hold any form of Taxi licence.

Therefore, it is important to not only consider convictions but also take steps to give sufficient weight to relevant personal relationships and associations with known or suspected criminals, complaints, allegations, investigations, arrests and charges, even where convictions are not secured, when making any decisions that can impact on the safety of the public.

The Licensing Committee is not a jury in a criminal court and does not have to be convinced beyond reasonable doubt of guilt. The precautionary principle should be applied in all cases.

Child Sexual Exploitation is not a remote problem that only affects other areas of the country, statistically there is evidence to support the claim that it happens everywhere, and that the people responsible for perpetrating and organising these crimes live and work in our

communities. There is evidence of an association between taxi drivers, proprietors and operators and also other licenced premises, such as takeaways, pubs and off licences. As such the Licensing and Public Safety Committee and sub-committees have a clear responsibility to the public when making their decision, the consequences of failure in this respect are far reaching, not only personally for the victims, but also for the reputation of the Council.

Convictions

Although convictions are not the only consideration for the Council, they are important and clear guidelines are crucial.

The Rehabilitation of Offenders Act 1974 does not apply to individuals wishing to be or currently licensed to drive a taxi, although it does apply to operator licences. It is acknowledged that employment plays a vital role in reducing reoffending and changing behaviour, however, the Council's primary role when carrying out the licensing function is to protect public safety and ensure all those persons licensed by the Council are fit and proper to hold such a licence.

When submitting an application for a licence to drive a Hackney Carriage or Private Hire vehicle, individuals are required to declare any and all previous convictions. Individuals are also required to declare any and all:

- Formal/simple cautions
- Matters of restorative justice
- Fixed penalties and endorsable fixed penalties
- Details of matters of which they are currently the subject of criminal investigation and/or prosecution.

In relation to operator licences applicants are only required to disclose convictions which are not spent for the purposes of the Rehabilitation of Offenders Act 1974.

The Council requires that all Taxi Driver applicants provide an enhanced DBS (Disclosure and Barring Service) certificate, which will include details of all convictions and also may include details of charges and arrests which were not upheld and convicted in court. This information is just as pertinent as any convictions, as there are a number of technical reasons that a case may be withdrawn or lost and the detail of the case should be examined closely.

The Council's Policy also includes the requirement for Private Hire Operators (PHO) (including all business partners and directors of the company) that are not already subject to a Chorley enhanced DBS as a licensed driver, to provide a basic DBS on application and renewal of the PHO licence. Although spent convictions will not be visible because the PHO is not exempt from the provisions of the Rehabilitation of Offenders Act, like a driver, this policy still provides an additional safeguard, as the PHO has a strong influence on the use and potential misuse of a vehicle under their control.

The information will be treated in confidence and will only be taken into account in relation to the relevant application in order to assist the Council in determining whether the applicant is

a “fit and proper” person to hold a driver’s licence for the purposes of Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, or “fit and proper” to hold an operator’s licence and / or whether the Council should exercise any of its powers under Section 61 and 62 of this Act (i.e. suspension, revocation or refusal to renew a existing licence).

We will consider all convictions based upon the Council’s guidelines. When considering convictions, complaints, allegations, investigations, arrests and charges the Council will be mindful of the severity of, the relevance to the licence applied for and the time elapsed since the offence or alleged offence. The age of the applicant at the time of the offences/ alleged offences will also be taken into account.

Complaints include those made directly to the Council, police, private hire operators or any other agency. Intelligence received from other agencies, which includes circumstances that have not resulted in a criminal conviction, caution or other disposal may be taken into account. By way of example, this would also include incidents that have resulted in a police investigation, but there has been no further action due to the criminal burden of proof, if the Council is satisfied that the incident occurred based on the balance of probabilities.

The disclosure of a criminal conviction, caution or other relevant information relating to an individual’s conduct will not debar that individual from being granted, retaining or renewing a licence. It will depend on whether or not an individual can satisfy the Council that they are a “fit and proper” person to hold such a licence.

The Council may not be satisfied that an individual is a “fit and proper” person to hold a licence for any good reason. If adequate evidence that an individual is a fit and proper person is not presented or if there is good reason to question or doubt the evidence provided, then that could amount to good reason to refuse a licence or make any decision adverse to the licence holder.

In considering evidence of an individual’s good character and fitness to hold a driver / operator licence and where previous convictions / cautions or other information relating to criminal matters or character are disclosed, the Council will consider:

- The nature of the offence / issue and penalty
- When it was committed / took place
- The date of conviction / issue and the length of time elapsed
- The age of the individual when the offence / incident took place
- Whether or not it is part of a pattern of behaviour
- The intent the harm could or did cause
- Any other factors which may be relevant

Greater weight will be given to recent convictions, complaints, allegations, investigations, arrests and charges and in particular those criminal offences involving dishonesty, violence, drugs, alcohol, criminal damage and sexual offences, together with serious offences connected with the driving of a motor vehicle.

The Council will, where appropriate, contact other agencies for any other information (e.g. other local authorities, the Police, Children’s Services) which they may hold in order to determine the application or existing licence. . Any checks made with the police will be in accordance with the guidelines in the Department of Transport Circular 2/92 and the Home

Office Circular 13/92. This information will be kept in strict confidence and will be retained no longer than is necessary and in any event will be destroyed in accordance with the requirements of the Data Protection Act 1998 and good practice after the application is determined or any appeal against such determination is decided.

Whilst a licence is in force, we should receive updates from the Police, of new convictions and cautions for licence holders. This will allow us to decide whether action needs to be taken on the continuation of the licence. It is the responsibility of each licence holder to inform the Council promptly in writing of any conviction, caution or fixed penalty arising during the currency of the licence. A criminal record check is required on application, and thereafter every three years.

GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

The Council has adopted the following guidelines relating to the relevance of convictions to which it refers in determining applications for drivers' licences.

The guidelines cannot deal with every possible offence and the Council will take into account offences not specifically referred to, or any other conduct which may be relevant to an application. If an applicant has a conviction for an offence not covered by the guidelines a judgement will be made based on the factors outlined at paragraph 3 when determining the application.

Offences are given a general description in the guidelines and offences of a similar nature created in any statutory provision, modification or re-enactment, will be taken into account and interpreted in accordance with the spirit of the guidelines

The guidelines are not an attempt to provide a definition of what constitutes a "fit and proper person".

Any individual who is refused a driver's licence on the grounds that the Council is not satisfied he is a 'fit and proper' person has a right of appeal to the Magistrates' Court within 21 days of the notice of refusal.

The guidance will be used for the determination of all new applications, the renewal of existing licences and the continuous review of current licences where any offences are committed during their period of validity.

General Policy

1. Each case will be decided on its own merits.
2. The Council has a duty to ensure that applicants are 'fit and proper' persons to hold private hire or hackney carriage driver licences. One aspect of this is the extent to which previous convictions indicate that an individual is not a "fit and proper" person and / or may take advantage of passengers, abuse or assault them or otherwise take advantage of the role that the licence provides. This includes, but is not limited to, convictions for:
 - Offences against children, young people or vulnerable adults
 - Dishonesty
 - Sexual offences
 - Violence and drugs
 - Traffic offences
3. Whether an applicant has any recorded criminal activity is a critical factor in making this judgement.
4. Convictions or cautions which are recorded for any offences may be considered by the Council in determining an application. This guidance refers to the most common groups of relevant offences, namely, offences against children and young persons, dishonesty, sexual offences, traffic offences, violence and drugs.

5. An offence when committed in relation to driving or operating a taxi (or complaint about behaviour) will be viewed in a more serious light and a longer period of rehabilitation will be required.

A person with a conviction for a single serious offence or a number of separate offences is not barred from applying for a private hire or hackney carriage driver licence, but would normally be expected to remain free from conviction for an appropriate period (which will depend on the nature of the offence) and be able to provide supporting evidence to show that they are a 'fit and proper' person to be granted or to continue to hold a licence (the onus is on the individual to produce such evidence).

Simply remaining free of conviction will not generally be regarded as sufficient evidence that a person is a "fit and proper" person to hold a licence.

Consideration will be given to any patterns of offending, intent and the harm which was or could have been caused.

Multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account. Any case which involves a sexual offence, murder or manslaughter the application / licence will normally be refused / revoked.

Specific Guidance on the Relevance of Offences and Convictions

This section of the guidelines lists offence types and details the impact which these or similar offences will have on an application for a licence to drive a private hire or hackney carriage where convictions or cautions are disclosed:

a) Offences of Dishonesty

The Council takes a serious view of any convictions involving dishonesty. In general, an applicant with convictions for dishonesty which is less than **5 years** of the conviction date, is unlikely to be granted a licence, but in all cases would be referred to a hearing for determination.

In particular, an application will normally be refused where the applicant has a conviction for an offence listed below and the conviction is less than 3-5 years prior to the date of the application. Between 3 and 5 years after conviction, or release from prison (whichever is the most recent), regard will be made to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a licence.

- Burglary
- Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- Blackmail
- Bribery
- Conspiracy to defraud
- Forgery (e.g. producing false insurance policy)
- Fraud
- Handling or receiving stolen goods
- Obtaining money or property by deception
- Theft

- Offence of possession of goods with false trade mark for sale or hire-Trade Marks Act 1994
- Other deception
- Similar offences
- Offences which replace any of the above offences.

Justification

Drivers of private hire and hackney carriage 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.

Passengers may include especially vulnerable people and children.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. 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.

The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into drivers.

b) Violence

Convictions for violence are amongst the most serious of all criminal offences.

Offences of violence against children and young people

Drivers of private hire and hackney carriage vehicle are often entrusted with the transportation of children and young persons who are particularly vulnerable whilst in the care of the driver.

An extremely serious view will be taken where an applicant has been convicted of any offence of violence involving a child (under 14 years of age) or a young person (aged 14 to 17 years) and, in order to afford an appropriate degree of protection to children and young people, an applicant will be required to provide substantial evidence of rehabilitation before the Council will be satisfied that the applicant passes the 'fit and proper' test.

All applicants with such convictions will be referred to a hearing for determination of the application. A conviction less than **5 years** old will generally be refused. Between 5 and 10 years after conviction, or release from prison (whichever is the most recent), regard will be made to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a licence.

Where the commission of an offence involved the loss of life, a licence will normally be refused.

Offences against adults

Private hire and hackney carriage vehicle drivers maintain close contact with the people from all parts of the community and the Council takes the view that law abiding citizens should not be exposed to a risk of violence by placing them in a vehicle driven by a person with a history of criminal violence. The elderly and infirm, the vulnerable, lone females and people who are the worse for wear through drink are all at particular risk from a driver with a tendency to resort to violence.

Where the commission of an offence involved the loss of life, a licence will normally be refused.

All applicants with such convictions will be referred to a hearing for determination of the application. A conviction less than **3 years** old will generally be refused.

Offence types

Convictions falling into the most serious group offences of violence involving the loss of life is likely to result in **outright refusal** of an application; e.g.

- (i) murder
- (ii) manslaughter
- (iii) culpable homicide
- (iv) Similar offences
- (v) Offences which replace the above offences

Applicants with one or more convictions for very serious violence should expect the application to be refused until a period of at least **10 years** has elapsed from the date of the last offence or their release from prison (whichever is most recent); e.g.

- Arson
- Malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861)
- Actual bodily harm (s.47 Offences Against the Person Act 1861)
- Which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
- Grievous bodily harm with intent (s.18 Offences Against the Person Act 1861)
- Grievous bodily harm with intent (s.20 Offences Against the Person Act 1861)
- Robbery
- Possession of firearm
- Riot
- Kidnap
- Assault Police
- Common assault which is racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
- Violent disorder
- Resisting arrest
- Similar offences
- Offences which replace the above offences

Applicants with one or more convictions for serious violence should expect the application to be refused until a period of at least **5 years** has elapsed from the date of conviction or their release from prison (whichever is most recent), including:

- Racially-aggravated criminal damage (s.30 Crime and Disorder Act 1998)
- Fear of provocation of violence which is racially-aggravated (s.4 Public Order Act 1986) or (s.31(1)(a) Crime and Disorder Act 1998)
- Intentional harassment, alarm or distress which is racially-aggravated (s.4A Public Order Act 1986 offence) or (s.31(1)(b) Crime and Disorder Act 1998)
- Harassment which is racially-aggravated (s.2 Protection from Harassment Act 1997) or (s.32(1)(a) Crime and Disorder Act 1998)
- Putting people in fear of violence which is racially-aggravated (s.4 Protection from Harassment Act 1997) or (s.32(1)(b) Crime and Disorder Act 1998)

- Harassment, alarm or distress which is racially-aggravated (s.5 Public Order Act 1986) (s.31(1)(c) Crime and Disorder Act 1998)
- Similar offences
- Offences which replace the above offences

Applicants with one or more convictions for other offences of violence should expect the application to be refused until a period of at least **3 years** has elapsed from the date of conviction or their release from prison (whichever is most recent), including:

- Common assault
- Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
- Affray
- Battery
- Harassment, alarm or distress (S5 Public Order Act 1986 offence)
- Fear of provocation of violence (s.4 Public Order Act 1986 offence)
- Intentional harassment, alarm or distress (s4A Public Order Act 1986 offence)
- Obstruction
- Possession of offensive weapon
- Criminal damage
- Similar offences
- Offences which replace the above offences

Justification

Members of the public and in particular, the elderly, infirm and children or vulnerable adults entrust their personal safety to private hire and hackney carriage drivers whenever they take a journey.

Passengers often travel alone and are vulnerable to physical attack etc.

Users of private hire and hackney carriage vehicles have a right to expect that drivers are not individuals with a predisposition towards or a propensity for violent behaviour at any level.

c) Drugs

Supply of drugs - An application will normally be refused where the applicant has a conviction for an offence related to the supply of drugs and the conviction is less than **5 -10 years** prior to the date of application or their release from prison (whichever is most recent). Between 5 and 10 years, consideration will be given to the circumstances of the offence and any evidence demonstrating that the individual is now a fit and proper person to hold a licence.

Possession of drugs - An application will normally be refused where the applicant has more than one conviction for offences related to the possession of drugs and the convictions are less than **5 years** prior to the date of the application.

An application from an individual who has an isolated conviction for an offence related to the possession of drugs within the last **3 to 5 years** will require careful consideration of the facts.

Addiction - If any applicant has been classified as an 'addict' they will be required to show evidence of at least **5 years** free from drug taking following rehabilitation/detoxification treatment supported by their doctor.

Justification

The use of drugs has a tendency to make people unpredictable, unreliable and sometimes violent. Driving whilst under the influence of drugs is illegal and dangerous not only to the driver, but also to passengers and other road users.

In addition, private hire and hackney carriage drivers are in a position where they could quite easily become involved in the transportation and/or supply of drugs by the very nature of the activity. This would clearly be undesirable.

Members of the public have a right to expect that those persons who are granted licences to transport them are not drug users or involved in the supply of drugs.

d) Sexual and indecency offences

Sex Offenders' Register - Any applicant currently on the sex offenders' register should expect an application to be refused.

Offences against Children and Young Persons - Where an applicant has been convicted of a sexual offence involving a child or young person they should expect the application to be refused.

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

Applicants will normally be refused a licence if they have a conviction relating to sexual offences until they can show a substantial period (normally 10 years) free from any such conviction or their release from prison (whichever is most recent). Between 5 and 10 years following conviction or their release from prison (whichever is most recent), regard will be had to the circumstances of the offence and any evidence demonstrating that such an individual is now a fit and proper person to hold a licence, including:

- Importuning
- Indecent exposure
- Soliciting
- Other similar offences or offences under the Sexual Offences Act 2003 when the provisions of that Act come into force

The Council may also consider such circumstances that, if they occurred at the time of the consideration of the application, would not be a criminal offence.

Intelligence and other information which has not resulted in a criminal conviction- The Council will sometimes be made aware of other intelligence or low level information about an individual which has not resulted in the conviction of that person but is relevant in relation to their character. The Council will give appropriate consideration to this information and will seek to consult with other appropriate agencies in order to ensure that they have a comprehensive understanding. Where appropriate, the Council will investigate such information/ intelligence. Any additional information gathered through the investigation process may then be taken into account at any subsequent hearing.

Justification

Drivers of private hire and hackney carriage vehicles are in a position of trust and frequently transport children, young people, vulnerable adults or lone female passengers (who are sometimes drunk etc.). They are often alone with the passenger and are in complete control of the vehicle and the journey and any risk that the driver may sexually assault, attack or interfere with a passenger must be eliminated by refusing a licence.

e) DRUNKENNESS

With a motor vehicle (no disqualification) - An application will normally be refused where the applicant has a conviction, which has not resulted in disqualification by the courts, for an offence which has occurred within **2 years** of the date of the application.

Where there is more than one conviction for this type of offence within the last five years, the application is unlikely to be successful

With a motor vehicle (disqualification) - Where a disqualification has occurred as a result of a drink-driving conviction, at least **5 years** free from conviction should normally elapse from the date of the restoration of the DVLA licence before an applicant is considered for a licence.

Where there is more than one conviction for this type of offence within the last ten years, the application is unlikely to be successful

Not in a motor vehicle - An isolated conviction associated with drunkenness need not automatically prevent an applicant from gaining a licence. In some cases, a warning may be appropriate.

More than one conviction associated with drunkenness could indicate a behavioural problem or 'dependency' necessitating critical examination and refusal of a licence.

Dependency & Alcoholism – Where there is any possibility of dependency or alcoholism a recent medical report from the applicant's Doctor will be required and an applicant will normally be required to show a that period of at least **5 years** has elapsed after completion of rehabilitation/detoxification treatment where they were alcoholic.

Justification

A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink.

Driving whilst under the influence of drink is unacceptable under any circumstances and puts not only the driver, but passengers and other road users at risk. Such irresponsible behaviour is not conducive to properly observing the responsibilities of a private hire or hackney carriage driver.

Other criminal behaviour involving drunkenness, such as being 'drunk and disorderly' also tends to suggest that an applicant does not have the appropriate temperament for the role.

MOTORING OFFENCES

Major Traffic Offences

Any of the offences listed in the Table A, or any offence listed in Table B which resulted in a licence being endorsed with 6 or more penalty points is deemed to be a Major Traffic Offence

An application will normally be refused where an applicant has been convicted of a serious traffic offence less than **2 years** prior to the date of the application.

Where an applicant has more than one conviction for a serious traffic offence in the **5 years** prior to the date of application, it will normally be refused.

If any conviction for a major traffic offence has resulted in a disqualification by the courts, applicants should refer to the “disqualification” section below.

TABLE A

MAJOR TRAFFIC OFFENCES

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 by order of Court
BA30:	Attempting to drive while disqualified by order of 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 careless driving then failing to supply a specimen for
CD80	Causing death by careless, or inconsiderate, driving
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers
DD40:	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DD90	Furious 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 a 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 licence has been revoked or refused on medical grounds
MS50:	Motor racing on the highway
MS60:	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)
TT99	To signify a disqualification under 'totting-up' procedure. If the total of penalty points reaches 12 or more within three years, the driver is liable to be disqualified
UT50:	Aggravated taking of a vehicle
<i>Aiding, abetting, counselling or procuring</i>	
Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)	
<i>Causing or permitting</i>	
Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)	
<i>Inciting</i>	
Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16)	
Or similar offences or offences which replace the above offences	

Minor Traffic Offences

Any single offence in Table B has attracted 6 or more penalty points will be treated as though it were a Major Traffic Offence.

Single conviction

Where an applicant has a single Minor Traffic Offence in the **12 months** immediately preceding the date of application, the application will normally be granted using officer delegation subject to a warning as to future conduct.

Two or more Convictions

Where an applicant has two or more convictions for Minor Traffic Offences in the 12 months immediately preceding the date of application an applicant will normally be expected to show a period of at least six months free from conviction before an application is considered.

Renewal Applications

For an existing licence holder, where there is a single conviction resulting in 3 penalty points, notification of such is sufficient, however, where there are a number of convictions during the course of the licence resulting in more than 6 penalty points the matter may need to be brought to the attention of the Sub-Committee for consideration.

Failure to notify the Council in accordance with the licence conditions may result in delays at renewal of the licence.

The Council may use its officer delegation, in consultation with the Chair/Vice Chair of the Licensing Committee, to renew the licence where minor offences have been committed, or the renewal application may be presented to the Sub-Committee for determination. This will depend on the number of minor offences committed over the course of the licence and will be considered on a case by case basis.

Where the licence holder has failed to notify the Council a warning will be issued and this will be taken into consideration in relation any other matters in relation to the licence holder.

TABLE B

MINOR TRAFFIC OFFENCES

CU10:	Using vehicle with defective brakes
CU20:	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30:	Using a vehicle with defective tyres
CU40:	Using a vehicle with defective steering
CU50:	Causing or likely to cause danger by reason of load or passengers
CU80	Using a mobile phone while driving a motor vehicle
MS10:	Leaving a vehicle in a dangerous position
MS20:	Unlawful pillion riding
MS30:	Play street offences
MS40:	Driving with uncorrected defective eyesight or refusing to submit to a test
MS70:	Driving with uncorrected defective eyesight
MS80:	Refusing to submit to an eyesight test
MS90:	Failure to give information as to identity of driver, etc.
MW10:	Contravention of Special Road Regulations (excluding speed limits)
PC10:	Undefined contravention of Pedestrian Crossing Regulations
PC20:	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30:	Contravention of Pedestrian Crossing Regulations with stationary vehicle
SP10:	Exceeding goods vehicle speed limit
SP20:	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30:	Exceeding statutory speed limit on a public road
SP40:	Exceeding passenger vehicle speed limit
SP50:	Exceeding speed limit on a motorway
SP60:	Exceeding speed limit offence
TS10:	Failing to comply with traffic light signals
TS20:	Failing to comply with double white lines
TS30:	Failing to comply with a "Stop" sign

TS40:	Failing to comply with direction of a constable or traffic warden
TS50:	Failing to comply with traffic sign (excluding “Stop” sign, traffic lights or double white lines)
TS60:	Failing to comply with school crossing patrol sign
TS70:	Undefined failure to comply with a traffic direction sign
<i>Aiding, abetting, counselling or procuring</i>	
Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)	
<i>Causing or permitting</i>	
Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)	
<i>Inciting</i>	
Offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16)	
Or similar offences or offences which replace the above offences	

For all traffic offences convictions for aiding, abetting, counselling, procuring, causing, permitting or inciting the offence will be treated as though the offender had committed the primary offence.

Note: Where new offences are created or existing offences are consolidated or re-enacted etc they will be treated in a manner appropriate to their severity whether or not this guidance has been updated to reflect the changes.

Plying for Hire

In the case of a private hire driver found guilty of an offence of plying for hire, the General Licensing Sub-Committee will normally suspend or revoke the licence for a period which the Committee will determine.

Breach of Conditions, Bye-laws and complaints

Any breach of conditions by a private hire driver or operator or any breach of bye-laws by a hackney carriage driver may be referred to the General Licensing Sub-Committee

Any repeated breach of licence conditions by a private hire driver or operator or any repeated breach of bye-laws by a hackney carriage driver will be referred to the General Licensing Sub-Committee.

A driver brought before the Licensing Sub-Committee for a single breach of licence conditions or bye-laws should expect a formal written warning or period of suspension of up to 3 months.

A driver brought before the Licensing Sub-Committee for a repeated breach of licence conditions or bye-laws should expect a period of suspension or for the licence to be revoked.

Reapplication

Applicants are advised that where an application has been refused or a licence revoked, the General Licensing Sub-Committee will not entertain a further application within 12 months of

the date of the previous refusal or revocation unless there are substantial material changes in the applicant's circumstances which can be supported by evidence.

DISQUALIFICATION

Disqualification – Serious Traffic Offence

An application will generally be refused unless a period of at least **3 years** free from conviction has elapsed from the restoration of the UK driving licence by DVLA. This period will be extended to at least 5 years where the disqualification relates to driving whilst unfit through drink or drugs.

Disqualification – Intermediate Traffic Offence

An application will generally be refused unless a period free from conviction has elapsed from the restoration of the UK driving licence by DVLA which is twice the period of disqualification imposed by the court. i.e. 3 month disqualification = 6 month period free from conviction before an application will be considered.

Disqualification – Minor Traffic Offence

An application will generally be refused unless a period free from conviction has elapsed from the restoration of the UK driving licence by DVLA which is equal to the period of disqualification imposed by the court i.e. 3 month disqualification = 3 month period free from conviction.

TOTTING UP

TT99 'totting up' – if the total number of penalty points reaches 12 or more within a 3 year period the driver is liable to disqualification by the Court.

Totting up With Disqualification

An application will be refused unless a period free from conviction has elapsed from the restoration of the DVLA licence, which is equal to the period of disqualification imposed by the court.

Where any of the offences which contribute to a 'totting up' disqualification are included in the list of Serious Traffic Offence in Table A above, the Council will consider the application under the "Disqualification" criteria for serious traffic offences.

Totting up without Disqualification

An application from any person who has accrued sufficient points under the 'totting up' procedure to be disqualified but, where the court has accepted a plea of 'exceptional hardship' and has not imposed a disqualification will be consider by the Council as though a disqualification for the most serious of the offences which contributed to the 'totting up', had been imposed, for the purposes of determining when a licence application should be considered. (e.g. where the offences contributing to the totting up are SP30, SP80 and IN10 the Council would consider IN10 under 'Disqualification – Serious Traffic Offence' above).

SPENT CONVICTIONS

Private hire and hackney carriage drivers are exempted occupations for the purposes of the Rehabilitation of Offenders Act 1974, by virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002, and convictions are, therefore, never spent.

The Council will consider spent convictions if they appear to be relevant in deciding whether the applicant is a 'fit and proper person', taking into account the nature of the offence(s), the history or pattern of offending, the lapse of time and whether all the convictions have previously been considered.

CAUTIONS AND ENDORSABLE FIXED PENALTIES

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

MULTIPLE CONVICTIONS FROM SINGLE INCIDENT

Where an applicant has multiple convictions arising from a single incident, the convictions will generally be treated as one conviction for the purposes of these guidelines

In these circumstances the period for which the applicant would normally be expected to show free from conviction will be that which applies to the most serious offence in the group.

OTHER RELEVANT OFFENCES

The Council takes a serious view of any convictions involving the law and practice concerning bail conditions. In general if an application is received with a conviction which is less than **3-5 years** of the conviction date or their release from prison (whichever is most recent), it is unlikely to be considered favourably.

In particular, an application will normally be refused where the applicant has a conviction for offences committed under the:

- Bail Act 1976
- Bail (Amendment) Act 1993
- Magistrates' Court Act 1980
- Magistrates' Court Rules 1981
- Criminal Justice Act 2003
- Powers of Criminal Courts (sentencing) Act 2000

or similar offences or offences which replace the above offences and the conviction(s) are less than **3 years** prior to the date of application. Between 3 and 5 years, regard will be had to the circumstances of the offence and any evidence demonstrating that such an individual is now a fit and proper person to hold a licence.

OFFENCES INVOLVING PRIVATE HIRE VEHICLES & HACKNEY CARRIAGES

(Offences under Part II of the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Acts, Hackney Carriage Byelaws or Section 167 Criminal Justice and Public Order Act 1994 - touting)

The principal purpose of the licensing regime set out in the above legislation is to ensure the protection of the public.

Breaches of any of this legislation is considered to be a serious matter and convictions for offences under these Acts (including illegally plying for hire and/or touting) are likely to lead to an application being refused or, where a licence is held, to it being suspended or revoked or not renewed.

An applicant will normally be refused a licence if there has been conviction for an offence under any of the Acts at any time during the **2 years** preceding the application or where there is more than one conviction, within the **5 years** preceding the date of the application.

EARLY INTERVENTION AND SUPPORT DIRECTORATE

ENFORCEMENT AND PROSECUTION POLICY

1. INTRODUCTION

- 1.1 It is the aim of Chorley Council Early Intervention and Support Directorate to protect and promote health, safety and welfare and enhance the quality of life of all residents, workers and visitors to the Borough. It will achieve much of this through education, by providing advice and by regulating the activities of others. Securing compliance with legal regulatory requirements, using enforcement powers including prosecution, is an important part of achieving this aim.
- 1.2 The Directorates regulatory functions are extensive. They include litter control and other waste enforcement, licensing, food safety, pollution and noise control, health and safety, infectious disease control, housing standards, empty properties, pest control, animal welfare, anti-social behaviour, dangerous dogs, homelessness and welfare rights.
- 1.3 The Early Intervention and Support Directorate Officers work with Central Government and other regulators on matters such as food safety, air pollution, waste management and contaminated land and health and safety to ensure coherent regulation. They may also work with other local authorities, many voluntary groups and non governmental organisations in order to achieve common goals.
- 1.4 The Early Intervention and Support Directorate regards prevention as better than cure. It offers information and advice to those it regulates and seeks to secure co-operation avoiding bureaucracy or excessive cost. It encourages individuals and business to put safety first and to integrate good working practices into normal working methods.
- 1.5 This Policy sets out the general principles which the Directorate intends to follow in relation to enforcement and prosecution. The Policy will be reviewed in line with the Council's overall Enforcement Policy.

2. PURPOSE AND APPROACH TO ENFORCEMENT

- 2.1 The purpose of enforcement is to ensure that preventative or remedial action is taken to protect the public or to secure compliance with a regulatory system. The need for enforcement may stem from a failure to comply with statutory obligations. Enforcement action will not constitute a punitive response to minor technical contraventions of legislation but be based on risk to health, safety or the environment and other factors such as a record of previous compliance. Although the Early Intervention and Support Directorate expects full compliance

with relevant legislative requirements, it will not hesitate to use its enforcement powers where such action is necessary and proportionate in the circumstances.

- 2.2 Chorley Council will have regard to Central Governments Regulators' Compliance Code when developing policies or principles or in setting standards or giving guidance. This Code supports the Government's better regulation agenda and is based on the recommendations in the Hampton Report. Its purpose is to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on business, the Third Sector and other regulated entities.
- 2.3 The powers available include verbal warnings, the issue of written warnings, service of informal notices (where a contravention needs to be remedied), emergency/prohibition notices (where there is an imminent risk of danger), formal notices, fixed penalties, cautions or prosecution, direct action and the carrying out of remedial works. Where the Directorate has carried out remedial works, it will seek to recover the full costs incurred from those responsible.
- 2.4 Where a criminal offence has been committed, in addition to any other enforcement action, the Early Intervention and Support Directorate will consider instituting a prosecution or administering a simple caution. An assessment will be made of the public interest to such actions when instigating a prosecution.

3. PRINCIPLES OF ENFORCEMENT

3.1 We operate a policy of firm but fair regulation with the principles of; **proportionality** in the application of the law and in securing compliance; **consistency** of approach, **transparency** about how the Early Intervention and Support Directorate operates and what those regulated may expect from the Early Intervention and Support Directorate, and **targeting** of enforcement action.

3.2 Proportionality

3.2.1 In general, the concept of proportionality is included in much of the regulatory system through the balance of action to protect the employee or the public against risks and costs.

3.2.2 Some incidents or breaches of regulatory requirements cause or have the potential to cause serious environmental damage or pose risks to the health or safety of the public or other groups or individuals. Other breaches or contraventions may interfere with people's enjoyment or rights, or the Early Intervention and Support Directorate's ability to carry out its enforcement activities. The Early Intervention and Support Directorate's first response is to prevent harm from occurring or continuing. The enforcement action taken by the Early Intervention and Support Directorate will be proportionate to the risks posed and to the seriousness of any breach of the law.

3.3 Consistency

3.3.1 Consistency means taking a similar approach in similar circumstances to achieve similar ends. The Early Intervention and Support Directorate aims to achieve consistency in, advice given, the response to complaints and other

incidents, the use of enforcement powers and decisions on whether to prosecute.

- 3.3.2 However, the Early Intervention and Support Directorate recognises that consistency does not mean simple uniformity. Officers need to take account of many variables; the scale of impact, the attitude and actions of management, individuals and the history of previous incidents or breaches. Decisions on enforcement action are a matter of professional judgement and the Early Intervention and Support Directorate, through its officers, needs to exercise discretion. The Early Intervention and Support Directorate will continue to develop arrangements to promote consistency including effective arrangements for liaison with other enforcing authorities.

3.4 Transparency

- 3.4.1 Transparency is important to maintain public confidence in the Early Intervention and Support Directorate's ability to regulate. It means helping those regulated and others, to understand what is expected of them and what they should expect from Regulatory Services. It also means making clear why an officer intends to, or has taken enforcement action.

- 3.4.2 Transparency is an integral part of the role of the Early Intervention and Support Directorate's Officers and we will continue to train our staff and to develop our procedures to ensure that:

- where remedial action is required, it is clearly explained (in writing, if requested) why the action is necessary and when it must be carried out; a distinction being made between legal requirements and best practice advice;
- opportunity is provided to discuss what is required to comply with the law before formal enforcement action is taken, unless urgent action is required, for example, to protect against an imminent risk to the environment, health or safety or to prevent evidence being destroyed;
- where urgent action is required, a written explanation of the reasons is provided as soon as practicable after the event;
- written explanation is given of any rights of appeal against formal enforcement action at the time the action is taken.

3.5 Targeting

- 3.5.1 Targeting means making sure that regulatory effort is directed primarily towards those whose activities give rise to or risk of serious risk to the environment, health or safety or where the risks are least well controlled. Action will be primarily focused on lawbreakers or those directly responsible for the risk and who are best placed to control it.

- 3.5.2 The Early Intervention and Support Directorate has systems for prioritising regulatory effort. They include guidance contained in Codes of Practice, the response to complaints from the public about regulated activities, the assessment of the risks posed by a person's operations and the gathering and acting on intelligence about illegal activities.

3.5.3 In the case of regulated business, management actions are important. Repeated incidents or breaches of regulatory requirements may be an indication of an unwillingness to change behaviour, or an inability to achieve sufficient control and may require a review of the regulatory requirements, the actions of the business operator and additional investment. A relatively low hazard activity poorly managed has potential for greater risk than a higher hazard activity where proper control measures are in place. There are, however, high hazard activities (for example, some major food industries or other industrial processes with the potential to cause significant harm) which will receive regular visits so that the Early Intervention and Support Directorate can be sure that remote risks continue to be effectively managed.

4. PROSECUTION

4.1 Purpose

4.1.1 The use of the criminal process to institute a prosecution is an important part of enforcement. It aims to punish wrongdoing, to avoid a recurrence and to act as a deterrent to others. It follows that it may be appropriate to use prosecution in conjunction with other available enforcement tools, for example, a prohibition notice requiring the operation to stop until certain requirements are met. Where the circumstances warrant it, prosecution without prior warning or recourse to alternative sanctions will be pursued.

4.1.2 The Early Intervention and Support Directorate recognises that the institution of a prosecution is a serious matter that should only be taken after full consideration of the implications and consequences. Decisions about prosecution will require the completion of an appropriate proforma, which must be submitted to Legal Services following sign off by the Head of Service and the Director of Early Intervention and Support and will also take account of the Code for Crown Prosecutors.

4.2 Sufficiency of Evidence

4.2.1 A prosecution will not be commenced or continued by the Early Intervention and Support Directorate unless it is satisfied that there is sufficient, admissible and reliable evidence that the offence has been committed and that there is a realistic prospect of conviction. If the case does not pass this evidential test, it will not go ahead, no matter how important or serious it may be. Where there is sufficient evidence, a prosecution will not be commenced or continued by the Early Intervention and Support Directorate unless it is in the public interest to do so. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the offender.

4.3 Public Interest Factors

4.3.1 The Early Intervention and Support Directorate will consider the following factors in deciding whether or not to prosecute:

- **flagrant breach of the law;**
- **foreseeability** of the offence or the circumstances leading to it;
- **intent** of the offender, individually and/or corporately;

- **history** of offending;
- **attitude** of the offender;
- **deterrent effect** of a prosecution, on the offender and others;
- **personal circumstances** of the offender.

4.3.2 The factors are not exhaustive and those which apply will depend on the particular circumstances of each case. Deciding on the public interest is not simply a matter of adding up the number of factors on each side. The Early Intervention and Support Directorate will decide how important each factor is in the circumstances of each case and go on to make an overall assessment.

4.4 **Companies and Individuals**

4.4.1 Criminal proceedings will be taken against those persons responsible for the offence. Where a company is involved, it will be usual practice to prosecute the company where the offence resulted from the company's activities. However, the Early Intervention and Support Directorate will also consider any part played in the offence by the officers of the company, including business proprietors, Directors, Managers and the Company Secretary or employees of the company. Action may also be taken against such officers (as well as the company) where it can be shown that the offence was committed with their consent, was due to their neglect or they 'turned a blind eye' to the offence or the circumstances leading to it. In appropriate cases, the Early Intervention and Support Directorate will consider seeking the prohibition of the business proprietor under the specific regulations.

4.5 **Choice of Court**

4.5.1 In cases of sufficient gravity, for example serious breaches of food safety or health and safety, where circumstances allow, consideration will be given to requesting the magistrates to refer the case to the Crown Court. The same factors as listed in paragraph 4.4.1 (above) will be used, but including consideration of the sentencing powers of the Magistrates' Court.

4.6 **Penalties**

4.6.1 The existing law gives the courts considerable scope to punish offenders and to deter others. Unlimited fines and, in some cases, imprisonment may be imposed by the courts. The Early Intervention and Support Directorate will continue to raise the awareness of the courts to the gravity of many offences and will encourage them to make full use of their powers. Examples of penalties presently available to the courts for certain offences are:

- Magistrates' Courts; up to six months imprisonment and/or unlimited fine on summary convictions.
- Crown Court; up to two years imprisonment and/or an unlimited fine.

4.6.2 The Early Intervention and Support Directorate will always seek to recover the costs of investigation and Court proceedings.

4.7 **Presumption of Prosecution**

4.7.1 Where there is sufficient evidence, the Early Intervention and Support Directorate will normally prosecute in any of the following circumstances:

- Where the alleged offence involved **a flagrant breach of the law** such that public health, safety or well being is or has been put at risk;
- Where the alleged offence involves **a failure by the suspected offender to correct an identified serious potential risk** having previously been given a reasonable opportunity to comply with the lawful requirements of an authorised officer;
- Where the offence involves **a failure to comply in full or in part with the requirements of a Statutory Notice**;
- Where there is **a history of similar offences** related to risk to public health.
- **Obstruction of Regulatory Officers** in carrying out their powers. The Council regards the obstruction of, or assaults on, its staff while lawfully carrying out their duties as a serious matter.

5. **ALTERNATIVES TO PROSECUTION**

5.1 In cases where a prosecution is not the most appropriate course of action, the alternatives of a simple caution, fixed penalty notice or seizure will be considered, depending on the factors referred to above.

5.2 A Simple Caution is the written acceptance by an offender that they have committed an offence and may only be used where a prosecution could properly have been brought. It will be brought to the Court's attention if the offender is convicted of a subsequent offence.

5.3 As with a prosecution, additional enforcement mechanisms may also be used in conjunction with a simple caution.

5.4 Fixed penalty notices will be issued in accordance with the relevant legal provision as an alternative to a prosecution in the first instance where:

- The offence is known to be a first offence
- The offence is of a minor nature
- Issue of a fixed penalty notice will have the same deterrent effect as a prosecution.

Fixed penalty notices will only be issued where there is evidence and information to identify an offender sufficient to satisfy the pursuit of any subsequent prosecution.

The issue of fixed penalty notices to children and young people will have regard to any current national government Guidance. Young people age 16 to 17 years inclusive will be treated in the same manner as other adults with regard to the service of fixed penalty notices, although the issue of the fixed penalty notice will be notified to the Youth Offending Team via the Crime Reduction Team.

Young people aged between 10 and 15 years inclusive will be, initially, served with a fixed penalty notice which will be subject to review following a case meeting between the Council, Youth Offending Team and the Police.

Children below the age of 10 years will not be served with a fixed penalty notice but may be subject to parental contact by a case officer if appropriate.

- 5.5 Community Protection Notices where a change in behaviour would benefit the wider community and prevent future offences or anti-social behaviour.

6. **WORKING WITH OTHER REGULATORS**

- 6.1 Where the Early Intervention and Support Directorate and another enforcement body both have the power to prosecute, the Early Intervention and Support Directorate will liaise with that other body, to ensure effective co-ordination, to avoid inconsistencies, and to ensure that any proceedings instituted are for the most appropriate offence. For the purposes of health and safety at work enforcement the Unit will liaise with local authorities in the Lead Authority Partnership Scheme (LAPS) where appropriate.