



MELTON BOROUGH COUNCIL

**HACKNEY CARRIAGE AND PRIVATE HIRE
LICENSING POLICY**

2007

1 INTRODUCTION

1.1 Powers and Duties

This Licensing Policy has been produced pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on Melton Borough Council the duty to carry out its functions in respect of Hackney Carriage and Private Hire vehicles.

This policy has been produced in line with the Department of Transport's Best Practice Guidance.

1.2 Objectives

In setting out its policy Melton Borough Council seeks to promote the following objectives:

- The protection of public safety;
- The establishment of a professional and respected hackney carriage and private hire trade;
- Access to an efficient and effective public transport service;
- The protection of the environment.

In order to meet these policy objectives the Authority aims to:

- Ensure that drivers are trustworthy, physically fit and capable of driving their vehicles;
- Ensure that drivers display good standards of courtesy and behaviour at all times and comply with the authority's standards on equality issues;
- Check that vehicles are suitable for the purpose, safe to operate and maintained to the appropriate standard;
- Ensure that operators maintain adequate records for the benefit of passengers and drivers;

- Ensure that all parts of the trade operate within their legal requirements;
- Provide members of the trade and those wishing to join it with relevant information and advice;
- Ensure confidentiality.

The aim of the licensing process in this context, is to regulate the hackney carriage and private hire trade in order to promote these objectives. It is the Council's wish to facilitate well-run and responsible businesses which display a sensitivity to the needs of the general public.

- 1.3** In exercising its discretion in carrying out its regulatory functions, the Licensing Authority shall have regard to this policy document and the objectives set out above.
- 1.4** Despite the existence of this policy, each application or enforcement measure shall be considered on its own merits, using the policy as a main guideline. Where it is necessary for the Licensing Authority to depart substantially from its policy, clear and compelling reasons shall be given for doing so.
- 1.5** This policy shall take effect from 1 April 2007 and shall be kept under review and revised as appropriate, at intervals of no less than 2 years except where legislation demands change.

2 VEHICLES

2.1 Specifications and Conditions

The Hackney Carriage and Private Hire trades are free to put forward any vehicle of their choice for licensing and the Council does not seek to limit the type of vehicles in so far as they must meet the criteria. In this way there is flexibility for new vehicle types to be readily taken into the trade.

The Council is empowered to impose such conditions, after consultation, as it considers necessary, in relation to the grant of a Hackney Carriage or Private Hire vehicle. It is appropriate for the Council to set criteria for the external and internal condition of the

vehicle, provided that these are not unreasonably onerous. These details are set out in the Conditions Booklet issued by the Council to all licensees.

Vehicles will, in general, be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to and including eight passengers will be accepted, provided that there is compliance with the specifications applicable to such vehicles. Purpose built vehicles are amongst those which this Council will license as Hackney Carriages.

2.2 Maximum age of vehicles

All vehicles, on first registration, will be less than 6 years old on the date of the application for the first licence. Vehicles over 8 years old but less than 10 can continue to be licensed provided that the vehicle passes two tests per year, 6 months apart. No vehicle over ten years old will be licensed except in exceptional circumstances. The age of vehicles will be judged by, so far as can be ascertained, the date of manufacture or first DVLA registration of the vehicle.

2.3 Vehicle Testing

There will be an annual test for all vehicles with the exception of vehicles over eight years old and special vehicles that may from time to time be determined by the Council. It is anticipated that these vehicles will be limousines, executive vehicles and any other vehicles that fall outside the normal range but may be requested from time to time. The Council will have the power to determine the frequency of the tests for such vehicles.

Three taxi testing stations are approved by the Council; no other station may be used except in the case of special vehicles which may from time to time need to be tested elsewhere. This requirement is in addition to the M.O.T. test.

2.4 Trailers

Any trailers used must be inspected by the Council and carry a licence plate. There will be an extra charge for additional licence plates.

All other matters regarding vehicles are found in the Conditions Booklet.

2.5 Vehicle Licence

If a Vehicle Licence expires the full application process must be repeated, unless the Council deems there are exceptional circumstances.

2.6 Environmental Considerations

The Department of Transport Guidance asks licensing authorities to consider how their vehicle licensing policies can and should support any local environmental policies, bearing in mind the need to ensure that the benefits outweigh the costs. Taxis and Private Hire vehicles are an essential form of transport within the Melton Borough area and as such already play their part in helping to improve environmental improvement by achieving higher occupancy rates than many private cars. It is important that emissions from taxis are reduced as far as possible and a reduction will be made to the licensing fee for LPG, petrol/+electric or compressed natural gas. The reduction will be 25% off the current fee. This is to actively encourage the use of these vehicles for Hackney Carriage or Private Hire.

2.7 Accessibility

The Government's Proposals for implementing the taxi provisions of the Disability Discrimination Act 1995 allows them to set standards for wheelchair access and a range of other features to help disabled people use taxis. However, these standards and features will, in the first instance, be directed at Authorities who are in the Government's 'first phase'. Melton Borough Council are not in this first phase and therefore this policy aims to only to anticipate and prepare for when the second phase comes into operation, and to endeavour to assist disabled people in improving access to taxis in this area.

The Council will actively seek to encourage Proprietors and Operators especially those with ten or more vehicles, to provide at least one vehicle which is fully wheelchair accessible, that is, able to take any form of wheelchair, including motorised wheelchairs. Melton Borough Council will publish on its website and in any appropriate publications and a list of firms operating wheelchair accessible vehicles.

A reduction on the vehicle licence fee for a fully wheelchair accessible vehicle will be made. This will be 25% off the current fee.

2.8 Exemptions for Private Hire vehicle to display a plate

In certain circumstances it is accepted that it is inappropriate to have a plate displayed on a Private Hire vehicle and exemptions will be granted where there is good reason. The circumstances where an exception could be given would include:

- When carrying passengers for hire or reward to/from or in connection with any wedding ceremony;
- When under contract for hire of the vehicle for a period of not less than 24 hours;
- Any specific occasion with prior permission from the Council.

Specific occasions would be likely to be those involving a 'Chauffeur Service' in an executive style vehicle.

3 DRIVERS

3.1 Dual Licences

The Council will issue dual licences in respect of both Hackney Carriage and Private Hire drivers. This provides one licence and therefore gives drivers the flexibility to drive either vehicle.

3.2 Age and Experience

In line with the Department of Transport's guidance, there is no maximum age for Drivers provided that regular medical checks are made. Any applicant must have held a full European Driving licence for 3 years. However, in certain circumstances the Council may consider any application, dependant on individual merit.

3.3 Driver Knowledge Tests

There will be a Driver knowledge test for all new drivers. This will consist of three parts:

- Topographical (local road network) test
- Highway Code
- Hackney Carriage and Private Hire Licensing Law and MBC Conditions.

In order to maintain the high standard that the Council expects of its drivers, a licence will not be granted unless the Council is satisfied that the applicant is a fit and proper person. In this context a driver's ability to pass these tests are seen as a fundamental skill in providing a quality service for passengers.

There will be a separate charge for this test.

3.4 Medical Examination

A medical examination by a GP, to assess an applicant's fitness to drive a licensed vehicle, is required before a licence is granted. This will be required every three years thereafter except in the case of drivers over the age of 65 or where the Council deems it necessary.

Where there is any doubt as to the medical fitness of the Applicant, the Council may require the applicant to undergo and pay for a further medical examination by a Doctor appointed by the Council. In certain circumstances Melton Borough Council will pay for this Medical Examination.

3.5 Criminal Records Bureau Disclosures

These will be at the level of Enhanced Disclosures as these include details of spent convictions and police cautions. These will be obtained every three years in line with Department of Transport guidelines. Drivers are obliged to report to the Council any new convictions.

The Rehabilitation of Offenders Act 1974 has been amended to exclude Taxi Drivers therefore applicants are required to disclose all convictions cautions and prosecutions.

In the case of an overseas applicant where it is not possible to obtain an enhanced disclosure from the Criminal Records Bureau a Certificate of Good Conduct must be provided from the relevant embassy or legation.

No Criminal Records Bureau checks from any other Authority will be accepted. This Council is a registered CRB body and has a robust system for checking applicants and their documentation and only checks made by this council will be accepted.

The Council is bound by rules of confidentiality, and will not divulge information obtained by third parties. The Applicant for a CRB Disclosure will be sent a separate report to their home address; the Council will receive another copy of the report.

In line with DOT guidance this Council will consider each case on its own merits but a particularly cautious view will be taken of any convictions relating to dishonesty, violence, racial incidents and especially sexual attack. See the Guidance Relating to Convictions, Cautions and Prosecutions.

3.6 Equalities

Melton Borough Council condemns all incidents of harassment whether racist, religiously motivated, homophobic or due to gender or disability, whether perpetrated by Council Staff, employees agents, third parties or those involved in providing licensed taxi service, whether Hackney Carriage or Private Hire.

A serious view will be taken of all incidents of this nature including the possession of inflammatory material and inappropriate use of language. All offences will be taken seriously because of the significant social damage done by these offences. If incidents are reported to the Council then they will be investigated and where warranted, enforcement action will be taken against the perpetrator. If this matter were to go to court on appeal these allegations can and should be put before the court to help it determine whether the driver or operator is a fit and proper person.

The Authority intends to abide strictly by this policy and comply with not only the legal requirements but also the spirit and intent of the legislation.

The Authority will make available Equalities training for all drivers and may make attendance at this training compulsory for any driver where there is a reasonable suspicion of non-compliance with this policy.

3.7 Accessibility

Melton Borough Council is committed to social inclusion and ensuring that a wide variety of opportunities are available to all residents to enjoy a high quality of life. In December 2006 amendments were made to the Disability Discrimination Act 1995 and the Council seeks to bring this policy in line with general Council Policy and ensure that all services are, as far as it is possible, accessible to all members of the public. Therefore there will be a requirement for all drivers of Hackney Carriage and Private Hire vehicles to have undertaken Disability Awareness training. There will be a licence requirement for either accredited Disability Awareness Training or an assessment by the Council regarding the suitability of whether any other training undertaken would be sufficient to meet this need. Other equalities training may be required from time to time. It is the Council's intention to review this policy regularly as legislation dictates and as the need arises.

3.8 Code of Good Conduct

In order to promote the licensing objectives the Council has adopted a Code of Good Conduct for Drivers which should be read in conjunction with other statutory and policy requirements set out in this document. This Code of Good Conduct will be placed within the Conditions booklet for easy reference.

3.9 Drivers Licence

If the Driver's licence has expired, the full application process must be repeated, unless there are exceptional circumstances.

4 PRIVATE HIRE OPERATORS

4.1 Operators Licences

Any person who operates a private hire service (who is not a hackney carriage proprietor who permits hackney carriages to be used for private hire) must apply to the Council for an Operators Licence. The objective in licensing operators is public safety. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.

A Private Hire Operator must ensure that every private hire vehicle is driven by a person who holds a Driver's licence.

4.2 Record Keeping

Operators are required to keep records of each booking, including the name of the passenger, the start and the destination of the journey, the name of the driver and the number of the vehicle. This would enable checks to be made in the event of the need to investigate an incident or for enforcement.

4.3 Licence Duration

A Private Hire operators Licence will be granted for a period of two years. However the Council have the power to grant a licence for a shorter period, should this be appropriate in the circumstances.

4.4 Address from which an Operator may operate

The Operator must inform the Council in writing of any change of address (whether this is a home address or the address from which he/she operates). The Council will not grant an Operator's Licence for any address outside the are of Melton Borough council. This is to ensure that proper regulation and enforcement measures may be taken by the Council it is in no way intended to be a restraint on the trade.

5 DISCIPLINARY AND ENFORCEMENT MEASURES

5.1 In pursuance of its objective to encourage responsible Hackney Carriage and Private Hire businesses, the Council will operate a firm but fair disciplinary and enforcement regime. With a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference, This Council will only intervene where it is necessary and proportionate to do so, having regard to the licensing objectives. See The Disciplinary and Enforcement Policy.

5.2 Range of Powers

The Council may take any of the steps below, upon receipt of evidence, that an offence has been committed in relation to a Hackney Carriage Licence or a Private Hire Licence. A breach of any condition amounts to an offence in this context.

- Suspension of the licence
- Revocation of the licence
- Refusal to renew the licence.
- Prosecution

The above measures are not exclusive, i.e. more than one form of action could be taken if warranted by the offence.

5.3 Suspension

A vehicle licence may be given a Vehicle Defect Rectification Notice where the vehicle does not comply with the vehicle specifications defined in the Conditions Booklet and the Vehicle Inspection Report. Compliance with these conditions is essential and any defect found following an inspection by an authorised officer of the Council could result in a notice being issued. The suspension will be lifted when the vehicle fault has been rectified to the satisfaction of an authorised officer.

5.4 Revocation of a Licence

The Council may exercise its right to revoke a driver's licence and drivers can appeal this decision in all cases to the Magistrates' Court.

5.5 Refusal to Renew a licence

The Council may also decide that the appropriate action, especially in the circumstances where a licence is shortly to expire, not to renew the licence. Drivers will have the right of appeal to the Council's Appeals Committee and to the Magistrates' Court.

5.6 Prosecution

The Council will prosecute licence holders for relevant offences in the following circumstances:

- Where the allegation is for a serious or repeated offence;
- Where the Council proposes to caution the licence holder, but the offence is not admitted, or the caution accepted.

5.7 In **all** cases, the Council will present the grounds of the offence to the licence holder and offer the opportunity for him/her to be heard before a decision is made. Where enforcement action is taken, the licence holder will be clearly informed of the reason for the action, what it requires and what rights of appeal are available. Contact details will also be available in order that any areas of uncertainty can be addressed.

6 FARES

6.1 General

Licensing Authorities have the power to set taxi fares within their area (there is no power to set PHV fares). The Department of Transport sees it as good practice to review these fares at regular intervals.

6.2 Prescribed Rates

Taxi fares are set as a maximum, and in principle, are open to downward negotiation between passenger and driver. The driver of a Hackney Carriage, whether by agreement or not, must not charge any fare greater than the rate prescribed by the Council. The driver/operator of a private hire vehicle may make their own agreement with the hirer as to the fare for a particular journey.

6.3 Table of Fares

The table of authorised fares will be displayed in each Hackney Carriage so that it is easily visible to all hirers. For current fares see Conditions Booklet.

6.4 Review

Fare rates are only normally reviewed following representations from the trade or from any section of the trade, however care must be taken regarding the D O T guidance and regular reviews. The fares will not normally be reviewed more than once a year unless there are exceptional circumstances which would justify a further increase, for example a particularly sharp increase in petrol/diesel prices.

6.5 Receipts

A Hackney Carriage Driver must, if requested by the passenger, provide him/her with a receipt for the fare paid.

7 COMPLAINTS

Melton Borough Council welcomes comments from the general public on all aspects of Hackney Carriage and Private Hire Vehicles and Drivers, as well as from members of the trade. These are of a positive help to the Council and provide valuable assistance in continuing to provide a high quality service. This is aimed at giving confidence to the general public that their views are valuable. All complaints will be taken seriously and investigations will be made and appropriate action taken. All complaints will be treated in the strictest confidence.

In order to facilitate this, a notice will be exhibited in all taxis giving details of the Council's Licensing Department, where a complaint can be made. This will be a condition of the vehicle licence.



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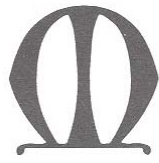
GUIDANCE RELATING TO THE RELEVANCE OF CAUTIONS CONVICTIONS AND PROSECUTIONS

The following guidelines are used to determine the relevance of criminal convictions in relation to applications for Hackney Carriage and Private Hire Driver's licences.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers often comprise especially vulnerable people.

General Policy

- Each case will be decided on its own merits.
- The overriding consideration in all circumstances will be the protection and safety of the public.
- A particularly cautious view will be taken of offences relating to violence, indecency, dishonesty, motoring and drugs.
- A person with convictions, prosecutions or cautions need not be permanently barred from obtaining a licence but may be expected to remain free of them for 3 to 5 years according to the circumstances and dependant upon the seriousness of them, before an application is entertained.
- Applicants will be required to detail, on the application form, any prosecutions, cautions and convictions that have been recorded against them. By the provisions of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendments) Order 2002 applications by prospective Hackney Carriage and Private Hire drivers must detail all convictions as the 'spent' convictions provision do not apply to these occupations. Subsequent checks to the CRB will serve to confirm this information. The applicant must not rely on that check to provide the correct information as any application which does not provide the correct information at the outset may be considered to be incomplete and a view may be taken that a deliberate attempt has been made to conceal convictions.
- The information that is given in respect of any application for a Driver's licence will be treated in confidence and will only be taken into account in relation to the application in question.



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CODE OF GOOD CONDUCT FOR LICENSED DRIVERS

Responsibility to the Trade

Licence Holders shall promote the image of Hackney Carriage and Private Hire Trade by:

- Complying with this Code of Good Conduct;
- Complying with their licence conditions and the Council's Hackney Carriage and Private Hire Licensing Policy;
- Behaving in a civil, orderly and responsible manner at all times.

Responsibility to the public

Licence Holders shall:

- Maintain their vehicles in a safe and satisfactory manner at all times;
- Keep their vehicles clean and suitable for hire to the public at all times;
- Attend punctually when undertaking a pre-booked hiring;
- Assist, where necessary, passengers into and out of vehicles;
- Offer passengers reasonable assistance with luggage or belongings.

Responsibility to Residents

To avoid nuisance when picking up or waiting for a fare, a driver shall:

- Not sound the vehicle's horn illegally;
- Keep the volume of radio or music playing to a minimum;
- Switch off the volume if required to wait;

- Take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.

At taxi ranks and other places where Hackney Carriages ply for hire by forming queues, drivers shall, in addition to the requirements above:

- Rank in an orderly manner and proceed in order along the rank in order and promptly;
- Remain in the vehicle;

At Private Hire Offices a licence holder shall:

- Not undertake servicing or repairs to vehicles;
- Not allow their radios or other music etc to cause disturbance to residents of the neighbourhood;
- Take whatever additional action is necessary to avoid disturbance to the neighbourhood which might arise from the conduct of their business.

General

Drivers shall:

- Pay attention to personal hygiene and dress so as to present a professional image to the public;
- Be polite, helpful and fair to passengers;
- Drive with care and use consideration for other road users and pedestrians and in particular shall not use a hand held mobile phone whilst driving;
- Obey all Traffic Regulation Orders and directions at all times;
- Not smoke in the vehicle;
- Not consume alcohol immediately before, or at any time whilst driving or whilst in charge of a Hackney Carriage or Private Hire vehicle;
- Not drive while having misused legal or illegal drugs;
- Fulfil their responsibility to ensure compliance with legislation regarding the length of working hours.

PLEASE NOTE:

ANY AMOUNT OF ALCOHOL OR DRUGS CAN AFFECT A DRIVER'S JUDGEMENT.

THIS COUNCIL SHALL TAKE A VERY SERIOUS VIEW OF ANY DRIVER BEING FOUND TO HAVE HAD ANY ALCOHOL OR HAVING MISUSED ANY DRUGS WHILST IN CHARGE OF A LICENSED VEHICLE.

Discipline and Enforcement

Drivers should be aware of the powers of the Council to take action, by way of suspension, revocation or refusal to renew a driver's licence where:

- The driver has been convicted, since the grant of the licence, of an offence involving dishonesty, indecency or violence;
- The driver has been convicted of an offence under the legislation or Hackney Carriage and Private Hire Licensing. Policy relating to taxi regulation;
- There is a breach of condition or this code.

See Disciplinary and Enforcement Protocol.

Dress Code for Licensed Drivers

Melton Borough Council is committed to encouraging the professional image of the Hackney Carriage and Private Hire trade, and considers that drivers of licensed vehicles should conform to a minimum standard of dress.

These standards are not imposed by way of conditions on any licence but it will be expected that this standard will be maintained by drivers at all times:

- All drivers are requested to dress smartly and maintain a clean and tidy appearance;
- All clothing and footwear should be clean and not damaged;
- No logos or graphics which might offend;
- It is recommended that female drivers should not wear short skirts for personal safety reasons.



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HACKNEY CARRIAGE AND PRIVATE HIRE DISCIPLINARY AND ENFORCEMENT POLICY

Melton Borough Council has formally adopted the Government's Enforcement Concordat. This means that this Council will be open, helpful, fair and careful to ensure that any action required is proportionate to the risks involved.

It is recognised that most persons want to comply with the law therefore in general; consideration will be given to alternatives to prosecution to ensure that those regulated comply with the law. In general action and enforcement will be carried out by The Licensing Officer and the Licensing Enforcement Officer

Enforcement Checks

Vehicles, Drivers and Operators are subject to enforcement checks, which are carried out regularly. The Council will minimise the need to carry out enforcement by providing timely advice and guidance in all aspects of the trade. Our staff will usually identify themselves, and deal with all enquiries efficiently and courteously. The Council will occasionally work with other agencies, including the Police and VOSA, to ensure compliance with legal requirements.

Proportionality

The Council will minimise the cost of compliance for the trade by ensuring that any action required is necessary and proportionate to the aims of public safety, the protection of the rights of others or the prevention or detection of crime. As far as the law allows, the Council will take into account the circumstances of the case and attitude of the individual when considering action.

Consistency

The Council will carry out its duties in a fair, equitable and consistent manner. While officers are expected to exercise judgement in individual

cases, we will have arrangements in place to ensure consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the National Association of Taxi and Private Hire Licensing Enforcement Officers.

Levels of Enforcement Action

Prevention –. The first step will be to help prevent contravention of the law and conditions by raising awareness and promoting good practice.

Informal Action / Warnings – Breach of Condition or Driver’s Conduct. - The Council will use its best efforts to resolve any situation where the law may have been broken or conditions not conformed with, without taking formal action. This action will be by way of verbal advice, issuing of a vehicle defect rectification notice, written notice or written warnings depending on the seriousness of the breach. Three written notices or warnings within a 12 month period will usually result in formal action.

Formal Action – This includes the suspension, revocation or non renewal of a licence, and the use of formal cautions or prosecutions. These actions may be considered appropriate in the following circumstances;

- A flagrant and serious breach of the law such that public health, safety or well being is or has been put at risk.
- A past history of non-compliance or persistent/multiple offending.
- Where an existing Licensee is convicted of an offence which may have prevented the initial grant of a licence.

Prosecution – In deciding whether to prosecute we follow the guidance set out in the Code for Crown Prosecutors to ensure the case passes both the evidential test and the public interest test. Prosecution may follow if one or more of the following circumstances apply:

- Where there is a serious risk or danger to public or personal safety.
- Where there is failure to follow advice with regard to legal requirements.
- Where there is a history of similar offences.

- Where the offence involves a failure to comply, in full or in part, with a written warning and/or formal caution.

Any formal enforcement action will be taken with regard to general principles of good enforcement, and will only take place following a formal interview with an authorised officer from the council, unless the circumstances are exceptional and warrant more immediate action, especially where the safety of the public are concerned..

There will be a right of appeal to the Magistrates Court and/or in certain circumstances to a Council Appeals Committee.

Any departure from this policy must be exceptional, capable of justification and be fully considered by relevant authorised officers before a decision is taken, unless officers feel that there is a significant risk to the public in delaying the decision.