

# North Somerset Council

## Report to the Licensing Committee

**Date of meeting: 31 October 2023**

**Subject of report: mid-year report for the administration and enforcement of all licensing regimes**

**Town or parish: all areas**

**Officer/member presenting: Director of Public Health**

**Key decision: no**

## Recommendations

Members of the committee are invited to consider revisions to licensing policies following a period of public consultation, and to recommend both policies are adopted by the Council. Members are also invited to note some of the outcomes and challenges to the administration of licensing regimes undertaken by the North Somerset Council Licensing Team in this financial year.

## Summary of report

This report provides presents policy revisions for discussion following public consultation, and a summary of some of the main activities carried out by the Licensing Team within the financial year 2023/2024 to date.

### 1. Policy

Statutory and Local policies have been agreed by the Council as follows:

- Licensing Act 2003 –statement of Licensing Policy (2021-2025)
- Sex Establishment Policy
- Taxi & Private Hire Licensing Policy (2021-2023)
- Gambling Act 2005 – statement of principles (2022-2024)
- Street Café Policy (2020-2024)
- Street Trading Policy (2020-2024)
- Film Classification Policy (2020)

These policies direct the Licensing Authority in the discharge of its responsibilities under the legislation it administers and enforces.

There are two policies which are currently under revision and members are invited to review consultation submissions and decide if any changes are required in response.

Local Authority licensing regimes are based on a statutory legislative framework, which often cannot be altered significantly to accommodate local aspirations. To reflect this, future policies will be referred to as a “Statement of Principles” but will still include elements of the corporate aims, stakeholder input and any local conditions. References in this report may still refer to “policy”.

## 2. Sex Establishment statement of principles

The following responses were received relating to the Sex Establishment draft document:

	Method	Policy section	Comment
1	e-Consult	All	Policy is fit for purpose.
2	e-Consult	All	Policy is fit for purpose, include regular inspections of pricing.
3	e-Consult	All	I was someone who was in the dancing industry severely damaged mentally physically abused mentally abused I've never been the same people standing up for it is because they make money from exporting us very wealthy man in this town come in the club and exploit the girls also lap dancing all of it has to stop one day because no girl that is mentally well walk in that industry they are all exploited in many ways.
4	e-Consult	All	I'm happy that the Council is not adopting some kind of moral stance as an excuse not to allow perfectly legal venues to operate.

2.1 A draft copy of the revised policy is shown at **Appendix 1**.

2.2 The Council recognises that Parliament made it lawful to operate sex establishments, and that such businesses are a legitimate part of the retail and leisure industry. It does not take a moral stand in adopting this policy. It is North Somerset Council's role as the licensing authority to administer the licensing regime in accordance with the law.

Members are invited to note and understand the comments made in the consultation responses, but to accept that these cannot be addressed by this regulatory regime or the policy relating to it.

2.3 Members are asked to agree the content of the final draft of the policy and recommend this to be adopted by the Council for introduction **1 January 2024**.

### 3. Taxi & Private Hire Statement of principles

3.1 The following responses were received in relation to the draft Taxi document:

Policy section	Comment
4.5	<p>Should be altered to at least encourage the use of PHEV and EV vehicles. And there should be a clear statement by when NSC will expect all taxi's to be EV, so operators have time to consider this as they renew their fleets. Taxis are most used in our urban areas, where ICE are at their least efficient and where pollution causing health issues is at its most severe. The sooner we can remove ICE vehicles from this environment the better. Additionally, can there be a requirement that drivers should not have their engines idling when they are stationary by the curb. This may need exceptions in cold or hot weather for heating or air con. But a move to EVs would mean this isn't an issue.</p>
4.5	<p>I don't agree with the policy about the new rules for plating. The new rules would mean that majority of the drivers (mostly executive work) will lose their cars and push them into unmanageable debt as they would not only lose the money, they invested into the vehicle, but they would end up paying for up to 5 years for a vehicle they can't use and most probably can't sell either. This would mean possibly financially crippling businesses and individuals and pushing more people into bankruptcy. My point is that before installing the new rules, businesses should be given appropriate time so they can adjust to the changes. Installing the new rules too fast would also mean that prices for taxis and executive work would dramatically increase, making it unaffordable for many people and business who are already struggling.</p>
4.5	<p><b>The change from 8 to 5 years for 1<sup>st</sup> license</b></p> <p>I think this is quite a big jump, as the price difference between an 8 year and 5-year car is quite substantial. Whether it be a standard family size vehicle or an executive vehicle.  My current vehicle, for me to have to potentially buy a similar vehicle less than 5 years old at some point will cost me in excess of 10-14k more than I had to for a 7/8-year-old one.  My Vehicle was 7 years old when I bought it, but only had 29000 miles on and in immaculate condition. It came with full Jaguar service history and only 2 owners. I appreciate not everyone is in the same boat, so I think it would be unfair to tarnish everyone with the same brush.</p> <p><b>Introduction of terminal licensing age</b></p> <p>I have a similar issue with this change as I did with the last one. Reason being is that my vehicle at the moment is in excellent condition, because I maintain and service it meticulously. So, I am hoping when the 10 years comes round, the vehicle should breeze through any test/inspection you throw at it.</p> <p>With my line of work, the car has to be fully serviced, detailed etc... as it goes to red carpet events. I think it should potentially be on a case-to-case basis, purely because everyone has different circumstances. I absolutely agree and always have that the vehicles should be tested and inspected on a regular basis to ensure their safety. But if a car like (mine) and others, which is in better condition than cars which are younger get turned away because they are "too old" I think is the wrong way of doing things.</p>

	<p>I personally think you and the council will naturally weed out the cars that don't meet the standards, when you introduce the Euro 6 change. If this was to come in the oldest car (generally) that people could buy would be from 2014 – onwards (when euro 6 started rolling out as standard).</p>
<p><b>4.5</b></p>	<p><u>Changes to age of first plating of vehicles</u>  Over the Covid years, the chauffeuring industry was practically closed down due to the lockdowns / restricted travel rules. This meant that financially we were hit incredibly hard. Indeed, we have certainly not recovered in financial terms since then. A lot of our corporate clients have found “the new way of working” thus meaning that they are travelling less.</p> <p>We also were then faced with the cost of living crisis and the fuel crisis. Indeed, these are not any better with fuel prices increasing by 1p each day. Again, this has a major impact on our business.</p> <p>We did obtain the bounce back loan and used it for its intended purpose and upgraded the vehicles. We are, of course, having to pay this back over 10 years and so, again, a financial impact on the company.</p> <p>If we were not able to purchase a vehicle of, say 5 years of age but instead 2 years of age (to at least get some use out of the yearly not twice a year plating) the financial difference is between £15,000 to £30,000 per vehicle. This is a huge difference and again would impact our business greatly.</p> <p>We would then have to decide whether it was financially worthwhile carrying on with the business and ultimately the Council would lose as well as you would not have the revenue from our business. Maybe, just one company would not have much of an impact on the Council and its revenue but if a lot of drivers / businesses were in the same position, surely that is something you should be considering?</p> <p><u>End of Life of a Vehicle at 10 years old</u>  As executive chauffeur vehicles, we maintain and look after our vehicles. We have had 10 year old vehicles which you would not know just by looking at them that they were that age. Again, I would urge you to reconsider this decision to aid and enable businesses to recover / grow after Covid.</p> <p>The system which has been in place for many years is not broken and realistically does not need any “fixing”. I think the procedure in place for checking vehicles over 8 years old for road worthiness is fine especially given the previous paragraph and (for us in any event) how we maintain the vehicles.</p> <p>I would also suggest that you maybe look at executive chauffeur vehicles in a different vein to “town taxis”.</p>
<p><b>4.5</b></p>	<p>I have read through both documents and I don't have any comments as such. The only thing I'd liked to ask is the reasoning behind bringing the age of cars to register for taxi from 8 to 5 years old? Is it in relation to emissions?</p>
<p><b>4.5</b></p>	<p>We have serious concerns that this draft will cause either extreme financial hardship or even force closure of our company and others, due to unrealistic policies, resulting in numerous people becoming unemployed.</p> <p>Point 4.5 states; <i>The licensing Authority will not grant first time vehicles licenses for vehicles older than 5 years from the date of first registration of the vehicle.</i></p> <p>For our line of work which is executive in nature and focuses 95% on TV &amp; Film, we need to have pristine, luxury vehicles such as LWB S Class Mercedes, LWB BMW, LWB Audi A8 etc. To purchase a vehicle of this nature that is less than 5</p>

<p>4.16</p>	<p>years old would cost a minimum of circa £50,000 per vehicle, whereas an 8-year-old vehicle of this nature could be purchased for circa £25,000. We could currently purchase two 8-year-old vehicles for the cost of one 5-year-old vehicle, meaning we could provide two people employment opportunities, rather than one. We currently provide work to around 8 drivers who drive our vehicles. Instilling these proposed rules would mean that as a minimum we would lose at least 4 of those vehicles if we are forced to buy newer, this then results in either numerous people being made unemployed, or us having to take out finance, or loans, to finance more vehicles which we should not be forced to do. The new proposed 10-year age limit also causes detriment to businesses such as ours. This policy does not consider the nature of our vehicles. A ten-year age limit may be acceptable for a normal private hire/hackney vehicle, but not for a top specification executive vehicle. Our vehicles are not the same as a 10-year-old Mondeo that may have 40-50 different passengers in each day, the S class (R20 SWC) for example could have a maximum of 2-4 high profile clients per day, it is almost 10 years old, and still in pristine condition. This vehicle still has the wow factor, yet you are saying it is not good enough (See photos attached to bottom of this letter).</p> <p><b>Section 4.16</b> states “... includes category A &amp; B (actual loss) and categories S &amp; N (constructive loss). Where a licensed vehicle is subject to an accident and classed as S or N by an insurer it will no longer be accepted as a licensed vehicle”.</p> <p>A category S is understandable as this is structural, however, proposing a category N alongside S is unrealistic and unfair. A category N could be something as small as a small dent in a rear wing, or light impact to the front of the vehicle. People cannot afford to replace their vehicle for something minor like this, you would be forcing people out of work and into debt.</p> <p>As a company we do not offer general taxi work, we should therefore not be treated the same. There should be exceptions to our line of work, much like you have excepted other special categories of vehicles.</p> <p>As a council you are also not considering the financial impact that COVID-19 had on our sector and the implications it caused. People and companies are only just starting to recover from the losses incurred, and this draft policy would cause further financial hardship, potentially killing off businesses and many self-employed individuals who simply cannot afford to buy newer! That coupled with the cost of living, it is not appropriate to bring rules and policies such as these into action at this time.</p> <p>These proposed rules will have a hugely negative impact on people’s mental health if they cannot work, earn money and provide for themselves and/or their family. The proposals are already negatively impacting some of the most vulnerable adults, who are already questioning how they will afford to work under these new proposed rules.</p>
<p>4.16</p>	<p>I don't support that if you already have a vehicle plated as a taxi that has been involved in accident and deemed an insurance loss you will no longer be able to re plate. However first grant vehicle plating I understand as you are aware of terms of plating a vehicle.</p>
<p>4.16</p>	<p>After Reading the review of this new policy I do agree with some parts which have been changed. However I do have an issue with Part 4.16 After Investing in a vehicle this year which has been deemed a Category S. It is currently now on the road and is being used as a private hire taxi. All together I have invested over £20,000 in purchasing this vehicle and getting it up to scratch to be able to be used as a private hire vehicle. on the current rules knowing over the next 3/4 years I would be able to claw back the money that has been invested in this purchase. From what I can read if this rule comes in to affect my Vehicle is going</p>

	<p>to be useless to me within the next 6 months and I'm not going to sell the vehicle for the amount of money that has been invested. I think a solution with this rule could be to first time grants. This way when having to purchase a new Vehicle you will know the rules before investing the money.</p>
<p><b>Various</b></p>	<p>The driver of the vehicle should hold a valid PHD licence, or the test will be cancelled with no refund.</p> <p><b>4.23</b> – “will then be incumbent upon the operator to handle relevant data”. It depends who the data controller is – reword as using term operator may be confused with PHO.</p> <p><b>5.11</b> – Five attempts to take the test appears a little excessive</p> <p><b>5.13</b> – There is a school of thought that drivers should hold membership of the Institute of Advanced Drivers or similar, where testing of the driver is performed to a higher level reflecting their profession, miles travelled and transporting the public. Perhaps not a mandatory condition, but might be worth encouraging membership, perhaps by some benefit from NSC for doing so.</p> <p><b>5.15</b> – As the licence is revoked, would it be a new licence which is issued once the driver is eligible ?</p> <p><b>5.39</b> – NSC may wish to be notified of all enforcement actions taken against drivers. You might consider the wording “Receiving a simple or conditional caution or being convicted of any criminal offence 2. Being arrested, interviewed, charged, reported for summons or receiving a postal requisition in connection with any motoring or criminal offence. 3. Receiving any out of court disposal including formal warnings, community resolutions, restorative justice, education and awareness courses, community protection warnings and notices, vehicle defect rectification notices or fixed penalty notices.</p> <p><b>6.18</b> – May be worth considering keeping records for a minimum of 1 year in case complainants delay in coming forward.</p> <p><b>6.30</b> – Covers Uber v Sefton nicely !</p> <p><b>7.8</b> – What is the Notice referred to in bullet point 3 ?</p> <p><b>7.14</b> – Can we clarify that a decision not to renew a licence is a Refusal and will be put on the NR3 ?</p> <p><b>8</b> – Is there published guidance on what matters are Officer delegated decisions ?</p> <p><b>8.14</b> – Is there any prohibition on PHV’s using ranks ? Are all your ranks established by by-law / s63 LG, or are they actually TRO controlled areas ?</p> <p><b>8.20</b> – How is complaint information displayed in all licensed vehicles ?</p> <p><b>12+ 13</b> – Duplicate clauses.</p> <p><b>24 – 28</b> , is there any obligation on the driver to be appropriately trained in loading and restraint of wheelchairs ?</p> <p><b>APP B</b></p> <p><b>4.</b> – Could you include a power for LO’s/ Police to remove plate on suspension/revocation ?</p> <p><b>11.3</b> – To prevent unlicensed drivers, could consider “No person other than a NSC licensed HCD may be named on the Certificate of Insurance. A licence will not be granted if there are unlicensed drivers noted on the policy” or “The Licensed Vehicle shall only be driven by persons who hold the relevant Licence issued by this Council. No other person may drive the vehicle at any time, including for Social, Domestic and Pleasure purposes</p> <p><b>12</b> – The Council may wish to know about incidents involving the vehicle/driver which do not result in damage. For example, if a Hackney Carriage driver were to fail to secure a wheelchair and the wheelchair user were to be seriously injured, the Council may well wish to know about that. The wording could be used : “The Licensee shall inform the Proprietor of the Licensed Vehicle they are using, of</p>

	<p>any incident causing damage to that Licensed Vehicle, or by the use of that Licensed Vehicle any damage caused to another vehicle The Licensee shall inform the Council and the Proprietor of the Licensed Vehicle of any injury caused to a human or domesticated animal by the use of the Licensed Vehicle. “</p> <p><b>18</b> – Are you retaining the requirement for a fire extinguisher ? Many Councils have removed this requirement based on advice from the Fire and Rescue service.</p> <p><b>APP C</b> Please see notes for App B which may also apply.</p> <p><b>6.4</b> – Should we also include an e-mail address ? Customers are less likely to call a number.</p> <p><b>9</b> – See notes for 5.39 above.</p> <p><b>APP H</b> Does the exemption cover just exec journeys or is it 24/7 ?</p> <p><b>APP I</b> What is NSC’s guidance on Dashcams ?</p> <p><b>APP K</b> May be worth a reference to Highway Code Rule 57.</p> <p><b>11. See 5.39 above</b></p> <p><b>APP L</b> <b>13</b> . Does the phrase conviction include Fixed Penalties for this offence ? If not, why are they treated differently ? Other matters : To enable more uniformed colleagues to deal with licensees, please could we change references to Police Officer to : “A constable of any rank, and a Police Community Support Officer in Uniform” Is it worth considering a clause making it clear that the requirements of the Policy apply throughout the term of the licence regardless of the use of the vehicle at any particular time ? Benson v Boyce and Yates v Gates. My apologies if I missed it – but I can’t see any reference to what items would be tested/inspected on a Fitness test. Would it include items not checked on the MOT such as VRM and window tints ? To harmonize with s67 (s) Road Traffic Act 1988 a clause could include “ For the purpose of testing a vehicle an Authorised Officer or Police Officer may require the driver to comply with their reasonable instructions, and may <u>drive</u> the vehicle. Display of badges : Wearing of the badge is problematic. Whilst driving the vehicle, drivers may risk the lanyard being snagged, injury caused if the airbag deploys and the customer on the back seat being unable to see the badge anyway. The wording could be adjusted to “The Licensee shall whilst working for Hire and Reward display the badge in such a position to be plainly and distinctly visible by any passengers in the vehicle. When not engaged in Hire and Reward work, the badge must always be carried by the Licensee and immediate produced for inspection of request of an Authorised Officer or Police Officer or any other person reasonably requiring it.</p>
<b>Various</b>	<p>My primary work is executive in nature, in the film industry travelling actors or as a unit driver on set. From this perspective I agree with some of the changes but others would impact business in a negative way or even make business unviable.</p> <p>The change to licensing vehicles that requires euro 6 standards is a change that I fully agree with, all chauffeur vehicles have been using this standard for a while now, also not licensing accident damaged categorised vehicles makes sense from a safety perspective.</p>

	<p>The changes to the first grant age (from 8 to 5 years) also the change to how long a vehicle can be licensed (10 year maximum) would negatively impact business as exec cars are much more expensive than a regular taxi, if upgrading to a 5 year old Mercedes S-Class the price tag is in excess of £55000 and a new model is around £120000 then having to sell them after they reach 10 years old and buy a newer model would accrue huge losses every cycle.</p> <p>Factory fitted window tinting is also a problem as all TV/Film cars usually have limo tint on rear windows to protect the privacy of actors and TV/Film execs on board, the tint complies with all MOT standards.</p> <p>Could I suggest maybe there could be a separate section for exec cars as there is for stretched limousines where the rules are targeted at Exec/Film unit cars?</p>
ALL	Policy is fit for purpose.
ALL	Policy is fit for purpose.

- 3.2 A draft copy of the revised policy is shown at **Appendix 2**.
- 3.3 A number of comments received regarding the age of first licence, relate to vehicles which are already licensed by the Authority. To allay concerns, the revised draft includes an additional point at **1.17** indicating that current licences will continue under their original terms of issue.
- 3.4 Whilst the Authority continues to address the climate emergency, insisting that all taxi vehicles are electric may prove too restrictive until such time as there is sufficient infrastructure and reduced purchase costs. Limiting emission levels will support the move to a greener fleet which can evolve through future policy changes.
- 3.3 Some of the amendments suggested within the consultation responses add clarification and detail only, together with suggested wording revisions, and have been changed accordingly within the attached draft.

However, members are asked to note and discuss those areas which have proved more contentious and to determine the final content. The decision points are listed below:

Policy area	Options
<b>4.5</b> Age of vehicle at first licence	Keep initial maximum age at <b>8</b> years
	Reduce initial maximum age to <b>5</b> years
<b>4.7</b> Terminal age of vehicle	Keep open ended age limit
	Introduce terminal age of <b>10</b> years



<b>Appendix A, 7</b> – specialist vehicles	Vehicles with exemption from displaying plates – keep as currently treated, as general “taxis”.
	Consider vehicles with exemption as specialist vehicles on a case-by-case basis.
<b>4.16</b> Insurance categories	Refuse continuation of vehicle licence for category S or N insurance losses.
	Refuse first licence grant to vehicles with category S or N insurance losses.
<b>Appendix A, 11</b> Tinted windows	Only permit factory applied standard tinting.
	Permit additional tinting to rear windows, in line with current MOT standards.

- 3.4 Members are asked to agree the content of the final draft of the policy and recommend this to be adopted by the Council for introduction **1 January 2024**.

#### **4. General Updates**

##### **Licensing Act 2003**

- 4.1 The hospitality trade is still feeling the impact of energy price rises, ability to recruit and retain staff and fewer numbers visiting their venues.
- 4.2 Through the monthly meetings with other responsible authorities and through use of the “Traffic Light” system, problem premises continue to be identified. Agencies are able engage with businesses who are of concern, to support them back to compliance by joint visits, action plans and enforcement actions where necessary.
- 4.3 Regulatory officers continue to foster strong working relationships with officers from the immigration service and have conducted a series of multi-agency visits to identify premises employing workers illegally. This has resulted in them requesting a review of two premises licences which were duly revoked by a licensing committee.
- 4.4 Evidence of increased drug use has become more apparent across the district with more licensed premises testing positive to Police and Licensing drug swab testing. Most venues are being proactive in refusal and prevention and more multi-agency work is planned to support them, alongside identifying potential hot-spots and problem premises.

##### **Taxi & Private Hire**

- 4.5 Numbers of applicants have been steadily increasing over the past few months with a recovery in the number of licensed drivers and vehicles. With high applicant numbers, officers have had to limit new applications to prioritise those already in the process, so they can become part of the workforce as quickly as possible.
- 4.6 Licence holders from out of the district continue to be noted in increasing numbers, particularly from areas such as Wolverhampton. This is legal under current legislation.

Lowering the standard or waiving entry criteria may encourage less suitable drivers to apply and undermine the level of public safety the team strives to ensure.

The introduction earlier this year of a statutory requirement to add revoked, refused, or suspended drivers to a national register; together with a legal requirement to advise other Authority areas when complaints or concerns are noted locally, should provide some reassurance of compliance until national legislation is revised.

#### **4. General service summary**

- 4.1 The replacement case management system for use by all the Regulatory Services should be live and in use by the end of October. This has placed significant resource demands on officers to initially configure and test the system but will allow many application processes to be more easily accessible online and reduce the administration requirements on applicants and officers alike.

It is hoped that this will realise efficiency savings that may offset increases in the cost of running licensing regimes, and minimise the need for fee increases at a time when the cost of living rises are already affecting ability to apply.

- 4.2 The current level of non-compliance noted, particularly in alcohol licensed premises, requires significant support, intervention and ultimately enforcement by officers. Completing this alongside the day-to-day licence administration and advice to other colleagues, agencies and licence holders is a testament to the continued dedication and hard work of all the officers in the team.

#### **5. Consultation**

Members of the committee are asked to consider revisions to the draft policies following a period of public consultation.

#### **6. Financial implications**

The Authority continues to use suspension powers for non-payment of fees. Recovery of outstanding fees is vital to ensuring maximum cost recovery for the provision of the Licensing service.

However, in the current climate, many businesses are acknowledged to be experiencing financial difficulties and arrangements are being made where possible to permit extensions to fee dates and the introduction of payment instalment plans. This has again been welcomed by licence holders but has added a significant level of administration for officers.

#### **7. Costs**

Costs for the administration of licensing regimes, monitoring of compliance of permissions and the policies that accompany them are off-set against the fees charged to applicants. The cost associated with delivering each licence regime is

regularly reviewed to ensure full cost recovery and correct construction of levied fees.

Efficiency savings and process improvement, together with careful procurement of equipment such as taxi plating materials, have enabled the licence fees to remain static despite the inflationary rises nationally. It is hoped that delivery of a balanced budget will be achieved in this financial year.

## **8. Funding**

The team continues to review the costs of each licensing regime to ensure the appropriate fees are levied to maximise cost recovery for the Local Authority.

A review of the rateable values across business premises has been carried out to ensure the correct level of Licensing Act fees is being invoiced. A system of robust recovery and suspension processes ensures the team have little or no unrecovered fees.

## **9. Legal powers and implications**

The Licensing Authority recognises that its licensing function is only one means of securing the delivery of the service. The Licensing Authority will therefore continue to work in partnership with other stakeholders, such as the Police, Crime & Disorder Partnerships and the Driver and Vehicle Standards Agency (DVSA) towards the promotion of any licensing objectives.

In undertaking its licensing function, the Licensing Authority has regard to various primary legislation and statutory guidance issued alongside.

The Licensing Authority also has regard to any other relevant legislation, strategies, policies and guidance in its decision-making.

## **9. Climate change and environmental implications**

There is a strong commitment to addressing climate emergency and proposed changes to admissible vehicle age and emissions standards in the revised taxi & private hire policy are proposed in support of this aim.

It is hoped that grant funding and incentivisation can be sought to assist with this initiative.

Research into more sustainable taxi livery, plating and production methods is being undertaken with a move toward recyclable and reusable livery. This seeks to reduce the carbon footprint of the service whilst minimising cost increases for licence holders.

## **10. Risk management**

Regularly reviewing licensing policies and practices reduces the risk to the Authority.

Using a risk-rated approach to both proactive and reactive enforcement allows the team to focus resources in problem areas, promoting public safety.

Ensuring MoU agreements are in place with external partner agencies also help to strengthen roles and responsibilities surrounding Licensing work.

**11. Equality implications**

There are no equality issues identified as part of this report.

**12. Corporate implications**

No corporate implications noted as part of this report.

**13. Options**

Members are asked to:

- 1) Consider the proposed policy revisions and recommend the draft versions for adoption by full council,
- 2) Note the updates regarding the Licensing Service.

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# **Sex Establishments Licensing Policy (DRAFT V1) 2023-2028**

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## **INTRODUCTION AND GENERAL PRINCIPLES**

### **The Licensing Authority Area**

North Somerset Council (the Council) is a Unitary Authority in Somerset covering approximately 145 square miles with a population of almost 217,000.

The Council area is a mixed urban and rural district with a dispersed population. The main urban areas are Weston-super-Mare, Clevedon, Nailsea and Portishead.

The area adjoins the conurbation of Bristol and includes a major dock at Portbury, an International Airport at Lulsgate and the seaside resorts of Weston-super-Mare and Clevedon. The area has good transportation links that include the M5 motorway and main line railway routes and stations.

### **Background**

North Somerset Council has adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) so that it can licence sex shops, sex cinemas, and sexual entertainment venues in the district. In this policy, these types of premises are referred to as “sex establishments” unless it is said otherwise.

This policy comes into force on ..... and will be kept under constant review.

The Council recognised that Parliament made it lawful to operate sex establishments, and that such businesses are a legitimate part of the retail and leisure industry. It does not take a moral stand in adopting this policy. It is North Somerset Council’s role as the licensing authority to administer the licensing regime in accordance with the law.

The 1982 Act and 2009 Act can be viewed at [www.legislation.gov.uk](http://www.legislation.gov.uk)

In developing this policy, North Somerset Council considered the legal requirements of the 1982 Act and its duties under:

- a) section 17 of the Crime and Disorder Act 1998 - to take all reasonable steps to reduce crime and disorder within North Somerset.
- b) the Regulators’ Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) - obligations not to impede economic progress by the regulations North Somerset Council set out and to particularly consider the impact of regulations on small businesses; and
- c) the Provision of Services Regulations 2009 to ensure requirements are: i) non-discriminatory ii) justified by an overriding reason relating to the public interest iii) proportionate to that public interest objective iv) clear and unambiguous v) objective vi) made public in advance, and vii) transparent and accessible.

This Policy sets out the principles North Somerset Council will generally apply when making decisions on applications. It also sets out information about the application process, what is expected of applicants and how people can make objections about applications. It also sets out the types of controls that are available to the councils, when decisions are made about licence applications and explains what action can be taken if complaints are received.

This document relates to applications in respect of:

- Sex cinemas
- Sex shops
- Sexual entertainment venues

The advice and guidance contained in the appendices attached to this policy is intended only to assist readers in understanding the policy and should not be interpreted as legal advice or as constituent of North Somerset Council statement of Sex Establishment Licensing Policy.

Readers are strongly advised to seek their own legal advice is they are unsure of the requirements of the Local Government (Miscellaneous Provisions) Act 1982 or Schedules under the Act.

DRAFT 2018



## **1. Policy overview and objectives**

- 1.1 North Somerset Council implemented this policy to set out clear and concise guidance, procedures and principles for the benefit of the Licensing Authority, the community, applicants and other relevant organisations.
- 1.2 The policy also contains standard conditions which will be applied to all the different types of sex establishments and will form part of any licence granted.
- 1.3 A copy of this policy will be available on the council's website. In addition, all responsible authorities under the licensing act 2003 will be provided with a copy of this policy document.
- 1.4 The Council will keep this Policy under constant review and make such revisions to it as it considers appropriate. Where revisions are made, the Council will fully consult with any proposed amendments prior to re-adoption by the Council.
- 1.5 The policy will guide the Council when determining applications made in connection with sex establishments. It will assist it in achieving the purpose of the legislation in a manner that is consistent with case law that has developed since the regime was first enacted.
- 1.6 Not all premises will automatically require a licence but this policy applies to every type of sex establishment (as defined in the Act) unless an exemption applies. Reference should be made to the legislation itself for a full understanding of what might fall within the definition and when exemptions may apply, but in summary the types of sex establishments have been detailed in **Appendix A**.
- 1.7 Notwithstanding matters contained within this policy, consideration will be given to the provisions of the Human Rights Act 1998 when considering applications for sex establishment licences.
- 1.8 It is recognised that Sexual Entertainment Venues are also regulated by other legislation due to the nature of those operations, and therefore may require multiple inspections by different agencies. Wherever possible consolidated enforcement inspections will be undertaken to reduce the burdens on businesses.
- 1.9 North Somerset Council recognises the interests of both residents and businesses and will work closely, with partners, to assist licence holders to comply with the law and the conditions attached to the licence.
- 1.10 Proportionate but firm action will be taken against those who commit serious offences or consistently break the law or breach conditions of the licence
- 1.11 Breach of conditions or legislative requirements may result in formal action being taken by the Licensing Authority. Our approach to enforcement is set out in our enforcement policy which is available on request or can be viewed on the Council's website at: [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

- 1.12 The Licensing authority maintains close links with the police and other partners to ensure effective and efficient information sharing procedures and protocols are in place and are being used to fulfil its statutory objective of reducing crime in the area.
- 1.13 Details of applications and objections which are referred to a Licensing Sub-Committee for determination will be published in reports that will be made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.
- 1.14 In accordance with the Local Government (Miscellaneous Provisions) Act 1982 the names and address of objectors will not be disclosed to applicants or published in public reports unless permission is given to do so. Such details will be made available to Councillors on the Licensing Committee.

## **2. SEX ESTABLISHMENT LICENCES**

- 2.1. Licences for sex shops are required where R18 films or where there is a “significant degree” of “sex articles” being sold.
- 2.2 The phrase “sex articles” is defined in the 1982 Act, but the phrase “a significant degree” is not. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, the following will be taken into consideration:
- (i) the ratio of sex articles to other aspects of the business
  - (ii) the absolute quantity of sales
  - (iii) the character of the remainder of the business
  - (iv) the nature of the displays in the business
  - (v) turnover
  - (vi) other factors which appear to be materially relevant.
- 2.3. Licences for sexual entertainment venues are required for “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”. The definition of “relevant entertainment” is shown at **Appendix A**.
- 2.4 In deciding whether entertainment is “relevant entertainment” each case will be judged on its merits, but generally the term will include:
- (i) lap dancing
  - (ii) pole dancing
  - (iii) table dancing
  - (iv) strip shows
  - (v) peep shows
  - (vi) live sex shows
- 2.5 Adult entertainment not classed as “relevant entertainment” may still require licensing under the Licensing Act 2003.
- 2.6 There are some specific grounds for refusing sex establishment licences set out in paragraph 12 of schedule 3 to the 1982 Act. These include where the applicant is unsuitable to hold a licence, due to their age, domiciliary status or previous criminal convictions.

2.7 The Council must refuse to grant or transfer a licence to: -

- (a) A person under the age of 18;
- (b) A person who is for the time being disqualified from holding a licence;
- (c) A person who is not resident in the United Kingdom or was not so resident throughout the period of 6 months immediately preceding the date upon which the application was made;
- (d) A body corporate which is not incorporated in the United Kingdom;
- (e) A person who has, within the period of 12 months immediately preceding the date upon which the application was made, been refused the grant or renewal of a licence for the premises, vehicle or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

2.8 The Council may refuse

- (a) an application for grant or renewal of a licence on one or more of the grounds shown in paragraph 2.8 below;
- (b) an application for transfer of a licence on either or both of the grounds shown in paragraph 2.8 (a) and (b) below.

2.9 The grounds for refusal are: -

- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- (c) that the number of sex establishments in the relevant locality that the application is made is equal to or exceeds the number which North Somerset Council considers is appropriate for that locality;
- (d) that the grant or renewal of the licence would be inappropriate having regard to:
  - (i) the character of the relevant locality;
  - (ii) the use to which any premises in the vicinity are put; or
  - (iii) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

2.10 There is no right of appeal against refusal of an application on the above grounds.

2.11 Nil may be an appropriate number for the purposes of paragraph 2.8 (c) above.

2.12 Licences will usually only be granted in predominately commercial areas and the Council is mindful of its power to be able to determine that no sex establishments should be located in a particular locality. In accordance with case law, the Council will determine locality on a factual basis considering the particular circumstances of each case and not by drawing boundaries on a map.

2.13 In deciding the appropriate number of premises to be licensed in any particular locality, the Committee shall consider the character of the relevant locality and what is the appropriate number of sex establishments for the relevant locality.

- 2.14 In considering the character of a locality the following factors will be taken into consideration:
- (i) Whether the premises are sited in a residential area.
  - (ii) Whether the premises are sited near shops used by or directed to families or children, or on frontages frequently passed by the same.
  - (iii) Whether the premises are sited near properties which are sensitive for religious purposes e.g., churches, mosques, temples.
  - (iv) Whether the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets.
  - (v) Any adverse impact on crime and disorder and public nuisance in the Relevant Locality which the operation of the sex establishment may generate.
- 2.15 The Council would not usually consider it would be appropriate to permit waivers from the requirements to hold a sex shop licence, except in extreme circumstances considered by the full Licensing Committee (for example, to allow a temporary re-location of a business that meets the requirements under this policy following damage to the licensed premises).
- 2.16 Legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12-month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours. Therefore, the Council would not usually consider it would be appropriate to permit waivers from the requirements to hold a sexual entertainment venue licence.
- 2.17 An applicant for a waiver must submit the information prescribed in the legislation and such other information as the council may reasonably require. There are no advertising or publicity provisions governing waivers. If an application for waiver is allowed, a waiver notice is given which can be for a specific period or open ended. When it is open ended, the council, by giving at least 28 days' notice, can bring it to an end. The Council will consider each waiver application received on its own merits
- 2.18 The applicant will be required to demonstrate that he/she is a suitable person to hold a licence. In determining suitability, the Council will normally take into account:
- (i) previous knowledge and experience of the applicant;
  - (ii) any evidence of the operation of any existing/previous licence held by the applicant, including any licence held in any other local authority area;
  - (iii) any report about the applicant and management of the premises received from objectors or the Police and any criminal convictions or cautions of the applicant;
  - (iv) any other relevant reason.

### **3. Guidance for Applicants**

- 3.1 Section 13 of Schedule 3 of the 1982 Act allows the Council to make regulations prescribing Standard Conditions applicable to Sex Establishments. The Standard Conditions applicable to Sex Shops, Sex Cinemas and Sexual Entertainment Venues are shown at **Appendix B and C**.
- 3.2 Where it is reasonable and necessary to do so, the Licensing Sub-Committee may impose additional proportional conditions on a licence in addition to the Standard Conditions. Wherever possible, these will be discussed in advance with operators.
- 3.3 Licence fees are determined each year and details are available from the licensing team and the Council's website at [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk). Separate fees are charged for applying for a licence, renewing a licence, and for making variations to a licence.
- 3.4 Application forms for sex shops and sexual entertainment venues, including public notices are available on the Council's website at [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk).
- 3.5 Due to the nature of sex shops and sexual entertainment venues it is essential that these types of premises are provided with high quality CCTV systems which are operated and maintained to a good standard.
- 3.6 A CCTV system shall be installed to cover all entrances and exits to the premises, and areas where relevant entertainment will take place. This system must be installed and fully operational before the premises opens for the licensable activity applied for. All cameras shall continually record whilst the premises are open to the public and video recordings shall be kept available for a minimum of 31 days with date and time stamping.
- 3.7 CCTV will be provided in the form of a recordable system, capable of providing evidential quality in all lighting conditions particularly facial recognition. To obtain a clear head and shoulders image of every person entering the premises on the CCTV system, persons entering the premises should be asked to remove headwear, unless worn as part of religious observance.
- 3.8 The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of one calendar month. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.
- 3.9 A member of staff who is fully trained in the use of the system shall be on duty at all times when the premises are open until the premises is clear of customers, cleared of staff and closed.
- 3.10 The premises will provide any footage upon request by Avon & Somerset Constabulary or the Licensing Authority within 24 hrs of the request.

- 3.11 The holder of a licence for a sex establishment shall be guilty of an offence if they knowingly permit a person under 18 years of age to enter the establishment or to be employed in the business of the establishment. A person found guilty of such an offence under the Licensing Act 2003 shall be liable on summary conviction to a fine not exceeding £20,000.
- 3.12 To ensure customers are over the age of 18, the premises will be required to operate a "Challenge 25" policy, whereby if a customer appears to be under that age an adequate ID check is carried out. This would require photographic ID to be checked and only current passports and driving licences should be accepted for this purpose. If customers are unable to provide such forms of ID to establish their age, then they should be refused entry.
- 3.13 Only door supervisors who hold a valid Door Supervisors licence issued by the Security Industry Authority (SIA) should be employed at a licensed premise.
- 3.14 Door Supervisors shall be on duty on the premises whilst relevant entertainment takes place. There shall be at least one Door Supervisor on each entrance, in each separate part of the premises and on the door to the dressing room.
- 3.15 The Standard Conditions for sexual entertainment venues require that the Licensee must ensure that a suitable and sufficient number of trained staff are employed to supervise the interior of the Premises ("floor supervisors") to ensure that conditions of the licence are complied with, in particular the no touching conditions, and to ensure the safety of performers.
- 3.16 A suitable and sufficient number should be determined by carrying out a risk assessment of activities, design of the premises including accessibility to all areas, number of performers and should be linked to the capacity of the premises.
- 3.17 The Council's Standard Conditions require that a warning notice be displayed in accordance with the above legislation.

(a) The warning notice must contain the following words, and no others-

<p style="text-align: center;"><b>WARNING</b></p> <p><b>Persons passing beyond this notice will find material on display which they may consider indecent. No admittance to persons under 18 years of age "</b></p>
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(b) The word "WARNING" must appear as a heading.

- (c) No pictures or other matter shall appear on the notice.
- (d) The notice must be so situated that no one could reasonably gain access to the shop or part of the shop in question without being aware of the notice and it must be easily legible by any person gaining such access.

- 3.18 Persons holding a licence under the Licensing Act 2003 which includes the provision of activities such as lap, pole or table dancing or strip shows, may be required to apply separately for a sexual entertainment venue licence under the Local Government (Miscellaneous Provisions) Act 1982.
- 3.19 Where additional licensable activities take place at the premises e.g. the sale of alcohol, separate licences will be required to be held under both the Licensing Act 2003 and the Local Government (Miscellaneous Provisions) Act 1982. If the only activities taking place at the premises are those coming within the meaning of relevant entertainment under the sexual entertainment venue licence, then no licence will be required under the Licensing Act 2003.

## **4. Application Process**

- 4.1 Applications must be submitted to the Licensing Authority together with the application deposit fee. Applications can be submitted by post or online. The application form can be used for the grant, variation, transfer and renewal applications.
- 4.2 To apply for the grant of a sex establishment licence an applicant must:
  - (a) Send the council:
    - (i) A completed application form;
    - (ii) A plan to the scale of 1:100 of the premises to which the application relates showing all means of ingress and egress to and from the premises, parts used in common with any other building, and details of how the premises lie in relation to the street. In the case of sexual entertainment venues, the plan must outline the area that relevant entertainment that will take place.
    - (iii) Drawings showing the front elevation as existing (or as proposed) to a scale of (1:50). Details should be included of how the exterior design of the premises will be such that the interior of the premises are invisible to passers-by.
    - (iv) A copy of the house rules.
    - (v) The fee (a 25% deposit fee of the full fee will be required with the balance of the full fee being due on the grant of a licence).
  - (b) Display a notice setting out the details of the application made on or near the premises;

- (c) Advertise the details of the application made in a local newspaper;
  - (d) Send a copy of the application and plan to the Avon and Somerset Constabulary, Liquor Licensing, Weston-super Mare Police Station, Filers Way Weston-super-Mare BS24 7JP within 7 days of making the application to the council.
- 4.3 Applicants must give public notice of the application by publishing an advertisement in a local newspaper. This must be published within 7 days of making the application. If the application relates to a premise, then there is an additional requirement for notice of the application to be displayed for 21 days on or near the premises where it can be conveniently read by the public. The notice, the form of which is prescribed by the Licensing Authority, must contain certain information.
- 4.4 Applicants for sexual entertainment venues must also submit a copy of their "House Rules". Such House Rules must contain the required conduct of performers which shall include matters contained within conditions of the licence, i.e. no touching, no meeting customers, no sex acts, no giving or taking phone numbers (including exchange of business cards). Such House Rules will form part of the licence (if granted) and may be subject to amendment by the Council prior to approval.
- 4.5 Applicants must make provision for all performers to sign documentation to confirm their knowledge of and acceptance to adhere to the House Rules. Such documentation must be retained for the duration of the performers' employment and for a further 6 months from the date they last worked at the premises, whether they are employed directly or freelance.
- 4.6 With regard to online applications, tacit authorisation does not apply to new grant, transfer or variation applications for sex establishment licences. This means you must wait for the Council to determine your application before you can operate or make changes to a sex establishment.
- 4.7 The holder of a Sex Establishment Licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held. It should be noted that applications for variation of licence are also subject to the site and newspaper notice advertising requirements
- 4.8 The process of applying for a variation is the same as that for applying for an initial grant except that plans of the premises are not required unless the application involves structural alterations to the premises.
- 4.9 In accordance with the Act the Council may determine an application to vary a licence as follows:
- (a) grant the application as applied for, or
  - (b) grant the application with such variations as they think fit, or
  - (c) refuse the application
- 4.10 The holder of a Sex Establishment Licence may apply for renewal of the



licence. In order for the licence to continue to have effect during the renewal process, a valid application form together with the appropriate fee must be submitted before the current licence expires. If this is not done the licence will be deemed to have lapsed and an application for a new grant of a licence will be required. Applicants are therefore advised to make renewal applications at least 28 days before the expiry of a licence to ensure continuity of the licence.

- 4.11 The premises can continue to operate past the licence expiry date provided that the renewal application has been submitted to the Council before the licence expires. The Council will notify an applicant of its decision.
- 4.12 The process of applying for the renewal of a licence is the same as that for applying for an initial grant except that plans of the premises are not required.
- 4.13 When considering a renewal application, the Council will take into account the criteria listed above and:
  - a) past demonstrable adverse impact from the activity
  - b) whether previously agreed measures have put into effect by the applicant to mitigate any adverse impacts.
- 4.14 A persons may apply for the transfer of a licence at any time.
- 4.15 The process of applying for the transfer of a licence is the same as that for applying for an initial grant except that plans of the premises are not required.
- 4.16 There are specific grounds set out below where the transfer of a licence can be refused by the Council.

## **5. Commenting on licence applications**

- 5.1 The Council will consult with relevant bodies and persons to ensure that all relevant information is available when considering an application. For the purposes of this act the Council will consult with the following:
  - a) Avon and Somerset Constabulary (Statutory Consultee)
  - b) North Somerset Council's Children and Young Peoples Service
  - c) Ward Councillors
  - d) Town or Parish Councils relevant to the application being made
  - e) Trade bodies or local partnerships where appropriate
- 5.2 Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the 1982 Act. The relevant grounds are as follows:
  - (a) to the character of the relevant locality; or
  - (b) to the use to which any premises in the vicinity are put; or
  - (c) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

- 5.3 Any objections received by the Council which do not relate to the grounds set out in the Act shall be rejected by the Council. Where objections are rejected, the objector will be given written reasons.
- 5.4 Objectors can include residents'/tenants' associations, community associations and trade associations. Councillors and MPs may also raise objections. Elected North Somerset Councillors may represent interested parties, providing they do not also sit on the Licensing Sub-Committee determining an application.
- 5.5 The Council will not consider objections that are frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the 1982 Act). Decisions on whether objections are frivolous or vexatious will be made objectively by officers and not on the basis of any political judgement. Where objections are rejected, the objector will be given written reasons. A report will be made to the Licensing Sub-Committee determining the application (if appropriate), indicating the general grounds of the representation and the reasons for rejection.
- 5.6 A vexatious objection is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous objection is generally taken to be one that is lacking in seriousness.
- 5.7 Valid objections will be considered by the Licensing Sub-Committee at the hearing to consider the application. Applicants and objectors will be given an equal opportunity to state their case.
- 5.8 Objections must be made in writing (email is acceptable) and should include the following:
- a) the name and address of the person or organisation making the objection
  - b) the premises to which the objection relates
  - c) the proximity of the premises to the person making the objection; a sketch map or plan may be helpful to show this
  - d) the reasons for making the objections, which are clearly set out in relation to the grounds for refusal as stated at paragraph 76 above.

## **6. Determination of applications**

- 6.1 The Council will consider each case upon its merits and will not apply rigid rules to its decision making.
- 6.2 When considering applications, North Somerset Council will have regard to:
- a) the Local Government (Miscellaneous Provisions) Act 1982, as amended,
  - b) any supporting regulations,
  - c) this licensing policy

- 6.3 When determining a licence application, the Council will have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.
- 6.4 Individuals or responsible authorities will only be afforded a hearing if the Chairman can be satisfied that:
- a) a relevant written objection was received before the end of the 28-day statutory consultation period.
  - b) the objector can be confined to putting forward only those points that are relevant to consideration of the grounds of refusal and which have been notified in writing by the applicant.
- 6.5 If none of the above applies to the applicant and no objections have been received and there are no other statutory grounds for refusal, including that the application does not exceed any permitted numbers, the application will be granted by way of delegated authority by officers.
- 6.6 However, if any objections have been received, or if there are officer concerns regarding the characteristics of the locality, the application will be referred to the Council's Licensing Sub-Committee for a hearing of the application.
- 6.7 An application for the transfer of a licence can only be refused on the following grounds:
- a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
  - b) that if the licence were to be granted, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself;
- 6.8 The Council will give clear reasons for its decisions when determining an application.
- 6.9 When issuing a sex establishment licence the Council is permitted to issue it on such terms and conditions and subject to restrictions as specified at the time the licence is issued.
- 6.10 The Council has the power to make standard conditions applicable to all licences for sex establishments and the standard conditions agreed by the Council are shown at **Appendices B and C**.
- 6.11 Should the Council's standard conditions be amended at any time in the future, they would apply to all licences already issued as if the conditions had been in place at the time they were granted.
- 6.12 All standard conditions will be reviewed as part of the full Policy review.

- 6.13 The Council will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of one year to provide certainty to those operating businesses.
- 6.14 If an application is refused, or revoked, following a hearing, then the applicant will be informed of the decision and whether there is any right of appeal.
- 6.15 Appeals must be made to the local magistrates' court within 21 days, starting from the date the applicant is notified of the Council's decision. The local Magistrates' Court to which such an appeal should be submitted is North Somerset Magistrates', Court, The Court House, The Hedges, St Georges, Weston-super-Mare, BS22 7BB. It should be noted that a fee is payable to the Magistrates' Court to lodge such an appeal.
- 6.16 Applicants can appeal against the refusal of a grant, renewal, variation or transfer application, or against the decision to revoke a licence. They can also appeal against conditions or restrictions imposed.
- 6.17 An appeal against the Council's decision if the application was refused cannot be made on the following grounds:
- a) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality; or
  - b) the grant of the licence would be inappropriate considering the character of the area, the nature of other premises in the area, or the premises themselves.
- 6.18 The Magistrates' court will determine the appeal application. If you do not agree with the decision made by the Magistrates' Court, you can appeal to the local Crown Court. The decision made by the Crown Court will be final.
- 6.19 The Council will comply with a decision made by the Magistrates or Crown court.

## **7. Further information**

- 7.1 Further information about the licensing of sex establishments can be obtained from:

North Somerset Council, Licensing Team, Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

Tel: 01934 426 800

email: [licensing@n-somerset.gov.uk](mailto:licensing@n-somerset.gov.uk)

Website: [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

- 7.2 The following can be viewed at [www.legislation.gov.uk](http://www.legislation.gov.uk)

- The Local Government (Miscellaneous Provisions) Act 1982
- The Policing and Crime Act 2009
- Crime and Disorder Act 1998
- Provision of Services Regulations 2009
- Legislative and Regulatory Reform Act 2006
- Human Rights Act 1998

7.3 Electronic applications may be made on-line either through the Council's own website [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

7.4 Large print copies, audio copies and translation into another language of this policy can be arranged on request from the Licensing Team

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## APPENDIX A – GLOSSARY OF TERMS

### The Council

Means North Somerset Council.

### The Act

Means the Local Government (Miscellaneous Provisions) Act 1982.

### Sex Shop

The legislation defines a Sex Shop as:

- (1) Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating –
  - (a) sex articles; or
  - (b) other things intended for use in connection with, or for the purpose of stimulating or encouraging –
    - (i) sexual activity; or
    - (ii) acts of force or restraint which are associated with sexual activity.
- (2) No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

In summary a sex shop is:

- (a) **premises** (which includes traditional premises as well as vehicles, vessels, and stalls etc. – but not private dwellings to which the public are not admitted) **which**
- (b) is used for a business which consists to a **significant degree**
- (c) of **selling, hiring, exchanging, lending, displaying, or demonstrating**
- (d) **sex articles** (anything made for use in connection with, or for the purpose of stimulating or encouraging sexual activity; or acts of force or restraint which are associated with sexual activity, and any article to be read or looked at, and any recording of vision or sound which includes or is intended to encourage sexual activity; or acts of force or restraint which are associated with sexual activity)
- (e) **or other things** intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity; or acts of force or restraint which are associated with sexual activity

### Sex Articles

The legislation defines a Sex Articles as:

- (1) (a) anything made for use in connection with, or for the purpose of stimulating or encouraging –
  - (i) sexual activity; or
  - (ii) acts of force or restraint which are associated with sexual activity; and
- (b) anything to which sub-paragraph (2) below applies.
- (2) This sub-paragraph applies –

- (a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
- (b) to any recording vision or sound, which –
  - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
  - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

## Sex Cinema

The legislation defines a Sex Cinema as:

- (1) Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which:
  - (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage:
    - (i) sexual activity; or
    - (ii) acts of force or restraint which are associated with sexual activity; or
  - (b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,

but does not include a dwelling-house to which the public is not admitted.
- (2) No premises shall be treated as a sex cinema by reason only:
  - (a) if they may be used for an exhibition of a film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of section 136 of that Act), of their use in accordance with that authorisation, or
  - (b) of their use for an exhibition to which Section 6 of the Cinemas Act 1985 (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of Section 6(6) of the Cinemas Act 1985.

In summary a sex cinema is:

- (a) **premises** (which includes traditional premises as well as vehicles, vessels, and stalls etc. – but not private dwellings to which the public are not admitted) **which**
- (b) **are used to a significant degree** for the exhibition of moving pictures
- (c) **which are concerned primarily** with the portrayal of, or primarily deal with or relate to, or are intended to encourage, sexual activity, or acts of force or restraint associated with sexual activity
- (d) **or are concerned primarily** with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions

## Sexual Entertainment Venue

The legislation defines a Sexual Entertainment Venue as:

- (1) In this Schedule “sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
- (2) In this paragraph “relevant entertainment” means:
  - (a) any live performance; or
  - (b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

**The following are not sexual entertainment venues for the purposes of this Schedule:**

- (a) sex cinemas and sex shops;
- (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—
  - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
  - (ii) no such occasion has lasted for more than 24 hours; and
  - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether that previous occasion falls within the 12-month period mentioned in sub-paragraph (i));
- (c) premises specified or described in an order made by the relevant national authority.
- (4) – (12) omitted as they refer to other matters

In summary a Sexual Entertainment Venue is:

- (a) **premises** (which includes traditional premises as well as vehicles, vessels, and stalls etc. – but not private dwellings to which the public are not admitted) **at which**
- (b) **relevant entertainment** (i.e. either:
  - (i) a live performance of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purposes of sexually stimulating any member of the audience whether by verbal or other means; or
  - (ii) a live display of nudity of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purposes of sexually stimulating any member of the audience whether by verbal or other means.
- (c) **Is provided** (i.e., provided or permitted to be provided by or on behalf of the organiser)
- (d) **before a live audience**
- (e) **for the financial gain of the organiser or entertainer** (this can be direct or indirect)
- (f) **unless an exemption applies**

## Audience



Includes an audience of one.

### **Display of nudity**

Means:

- (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
- (b) in the case of a man, exposure of his pubic area, genitals or anus;

### **The organiser**

In relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of:

- (a) the relevant entertainment; or
- (b) the premises;

### **Premises**

Includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.

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## **APPENDIX B - STANDARD LICENCE CONDITIONS APPLICABLE FOR SEX SHOPS AND SEX CINEMAS**

### **Introduction**

1. In these Conditions “The Council” shall mean the North Somerset Council and all enquiries concerning this licence shall be directed to the Licensing Team, North Somerset Council.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982 as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to “Sex Shop and Sex Cinema” premises.

### **Management of the Premises**

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”) shall have personal responsibility for and be present on the premises at all times when the premises are open to the public.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and any special conditions attached shall always be displayed in a conspicuous position on the premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the premises.
8. The Licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the premises is affected by the termination of a lease or other event affecting the Licensee’s control of the premises.
9. The Licensee shall ensure that the public is not admitted to any part of the premises that has not been licensed, other than toilet facilities where provided for customers.

10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality of the premises.
11. The Licensee shall ensure that during the hours that the premises are open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee.
12. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.
13. The Licensee shall take all reasonable precautions for the safety of the public and employees.
14. No person under the age of 18 shall be admitted to the premises.
15. The Licensee shall adopt a procedure to check the age of customers entering the shop who appear to be younger than 25 in order to ensure that they are not under the age of 18.
16. All persons working in the premises shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of employees including adequate identity checks to confirm the status of information supplied by individuals.
17. The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Police and Council. Appropriate notices must be displayed in accordance with General Data Protection Regulation (GDPR), advising that CCTV is in operation. In addition, the Licensee must ensure that the requirement under that Act regarding registration with the Information Commissioner is complied with.
18. The CCTV system shall be operated continuously whilst the premises are open to members of the public, CCTV recordings shall be retained for a minimum of 31 days and made available for viewing by authorised officers of the licensing authority or the police. Copies of such recordings shall be provided upon request.
19. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.
20. The premises shall be a member of the Radiolink scheme or its equivalent.
21. The Licensee shall inform the Council if he is convicted under the Obscene Publications Act, 1959, the Protection of Children Act, 1978, or the Customs and Excise Management Act, 1979 or if an order for forfeiture is made under the Obscene Publications Act, 1959 following the service of a summons on the

Licensee. The Council will take into consideration any such conviction or orders for possible revocation or non-renewal of the licence.

### **Opening of the Premises**

22. The premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted except during the following hours:

Monday – Sunday 9:30 am – 6:00 pm

### **Operation of the Premises**

23. No change from a sex shop (including a mail-order shop) to either a sex cinema or sex entertainment venue shall be made without the approval of the Council. This will require consideration of an appropriate application.
24. The primary use of a sex shop must be for the purpose of the sale of goods by retail.

### **External Appearance**

25. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that proof of age may be requested.
26. The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.
27. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.
28. No items should be stored on the premises so that they can be viewed from any external window or door.
29. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
- (a) The licensed name of the premises (as explained in paragraph 43 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
  - (b) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
  - (c) A notice stating the opening hours of the establishment.
  - (d) The wording “PRIVATE SHOP” or “ADULT SHOP” but no other indication as to the nature of the business carried on at the licensed premises.

30. The lettering used in respect of such permitted items: -

In the case of the permitted items at paragraph 29 (a), (b) and (d) the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.

31. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the premises or in the vicinity of the premises, except those mentioned in conditions 25 and 29 or otherwise approved by the Council in writing;

(b) No external loudspeakers may be installed.

### **State, Condition and Layout of the Premises**

32. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the premises in good repair and condition.

33. External doors shall be closed at all times other than when persons are entering or leaving the premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

34. The premises shall be fitted with an inner entrance door or screen so that no part of the interior of the premises or any of the contents of the premises shall be visible when persons are entering or leaving the premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

35. No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.

36. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.

37. Alterations or additions, either internal or external, shall not be made to the premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

38. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.

### **Goods Available in Sex Establishments**

39. All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan

within a the shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.

40. All printed matter, DVD, video and other formats capable of storing readable/viewable material offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).
41. No film, DVD, or video recording (or computer game, or other formats capable of storing readable/viewable material) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.

### **Information for Customers**

42. The Licensee shall make available in the Sex Establishment free counselling and advice literature on matters related to sexual health and issues as may be published by the Family Planning Association, the NHS and or other similar organisations. Such literature should be displayed in a prominent position, preferably adjacent to all points of sale in the Sex Establishment.

### **Licensed Name**

43. (a) The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such name shall have been provided on the application form.
- (b) An application in respect of a change of licence name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

# **APPENDIX C - STANDARD LICENCE CONDITIONS APPLICABLE TO SEXUAL ENTERTAINMENT VENUE PREMISES**

## **INTRODUCTION**

1. In these Conditions “The Council” shall mean the North Somerset Council and all enquiries concerning this licence shall be directed to the Licensing Team, North Somerset Council.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to a “Sexual Entertainment Venue” premises.

## **Management of the Premises**

4. The Licensee or a responsible person, over the age of 18, nominated by them and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”) with the authority to direct activities within the premises, shall have personal responsibility for and be present on the premises at all times when the premises are open to the public.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the Premises.
8. The Licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the premises is affected by the termination of a lease or other event affecting the Licensee’s control of the premises.
9. The Licensee shall ensure that the public is not admitted to any part of the premises that has not been licensed, other than toilet facilities where provided for customers.
10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality of the premises.

11. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.
12. The Licensee shall maintain a register kept solely for this purpose showing the full name, full SIA badge number, time on duty and time off duty of each Door Personnel member employed at the premises. This register shall be retained for 12 months and made available for inspection by the Police or Licensing Authority.
13. The Licensee shall take all reasonable precautions for the safety of the public and employees.
14. The Licensee must ensure that a suitable and sufficient number of trained staff are employed to supervise the interior of the premises ("floor supervisors") to ensure that conditions of licence are complied with, in particular the no touching conditions, and to ensure the safety of performers.
15. No person under the age of 18 shall be admitted to the Premises.
16. The Licensee shall adopt a procedure to check the age of customers entering the premises who appear to be younger than 25 in order to ensure that they are not under the age of 18.
17. All persons working in the premises, including performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses, dates of birth of performers, photographs of performers and passport details (Country of issue and passport number). Identity checks on performers should be based on production of a current passport.
18. The Licensee must submit a set of "House Rules" to the Licensing Authority as part of the application process; these rules will form part of the licence and must be complied with. Furthermore, they must ensure that all performers are fully conversant with and sign an agreement to adhere to such House Rules.
19. In the event that an authorisation under the Licensing Act 2003 does not require the provision of a CCTV system, then the Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Police and Council. Appropriate notices must be displayed in accordance with General Data Protection Regulation (GDPR), advising that CCTV is in operation. In addition, the Licensee must ensure that the requirement under that Act regarding registration with the Information Commissioner is complied with.
20. The CCTV system shall be operated continuously whilst the premises are open to members of the public, CCTV recordings shall be retained for a minimum of 31 days and made available for viewing by authorised officers of the licensing authority or the police. Copies of such recordings shall be provided upon request.
21. The CCTV system must be capable of monitoring the whole of the premises, in particular any private booths or rooms to ensure the safety and security of performers and other persons within the premises. The CCTV system must be monitored by a dedicated member of staff or security personnel at all times that the premises are in operation.



22. The Licensee shall become members of the radio system currently in operation between licensees and North Somerset Council and shall agree to abide by any contractual agreements made in connection with this facility.
23. The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the premises in any unlawful manner.
24. Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.
25. The Licensee shall ensure that no more members of the public shall be present on the premises at any time whilst relevant entertainment takes place to which this licence relates where the Council has specified a number in writing on the grounds of public safety, public nuisance or crime and disorder.
26. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.
27. The Licensee shall inform the Council if he is convicted under the Obscene Publications Act, 1959, the Protection of Children Act, 1978, or the Customs and Excise Management Act, 1979 or if an order for forfeiture is made under the Obscene Publications Act, 1959 following the service of a summons on the Licensee. The Council will take into consideration any such conviction or orders for possible revocation or non-renewal of the licence.

### **Opening of the Premises**

28. Relevant entertainment may only be provided during the hours permitted by this Licence.

### **Operation of the Premises**

29. No change from a sex entertainment venue to either a sex cinema or a sex shop (including a mail-order shop), shall be made without the approval of the Council. This will require consideration of an appropriate application.
30. No sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sexual entertainment venue.

### **External Appearance**

31. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the premises. The notice must also include a statement that proof of age may be requested.
32. The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.
33. The windows and openings of the premises shall be of a material or covered with a material, which will render the interior of the premises invisible to passers-by. At no time

shall performers or persons working in the premises be visible from outside of the premises, with the exclusion of door supervisors.

34. The Licensee shall not permit the display outside of the premises of photographs or other images which indicate or suggest that relevant entertainment takes place on the premises.
35. External advertising of relevant entertainment shall not include any of the following:
  - a) any depiction of full nudity
  - b) any depiction of partial nudity (including the display of breasts, buttocks or genitalia)
  - c) any depiction of overtly sexual or violent images or any other images which may give rise to concerns in respect of public decency or protection of children or vulnerable persons from harm.
36. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
  - (a) The licensed name of the premises (as explained in paragraph 57 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
  - (b) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
  - (c) A notice stating the opening hours of the establishment.
37. The lettering used in respect of such permitted items: -

In the case of the permitted items at paragraph 35 (a), (b) and (c) the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.
38.
  - (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 30 and 35 or otherwise approved by the Council in writing;
  - (b) No external loudspeakers may be installed.

### **State, Condition and Layout of the Premises**

39. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the premises, he shall maintain the premises in good repair and condition.
40. External doors shall be closed at all times other than when persons are entering or leaving the premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
41. The premises shall be fitted with an inner entrance door or screen so that no part of the interior of the premises or any of the contents of the premises shall be visible when persons are entering or leaving the premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
42. No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.

43. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
44. Alterations or additions, either internal or external, shall not be made to the premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

### **Provision of Relevant Entertainment**

45. Performers shall only perform in specified designated areas, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council.
46. The Licensee shall implement a policy to ensure the safety of the performers when they leave the premises after a period of work.
47. Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where relevant entertainment may be provided.
48. At the conclusion of performances all articles of clothing removed during that performance must be put back on. This does not prevent performers going to their non-public changing area to change their attire.
49. Performers may not give any telephone number, email address, address, contact information or business card to any customer or in any way solicit themselves.
50. Performers must not perform a nude table dance unless in a supervised area or within five metres of a floor supervisor.
51. Performers are never to be in the company of a customer except in an area open to the public within the premises (excluding the toilets).
52. The Licensee must ensure that during the performance of a table or lap dance:
  - (a) customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance;
  - (b) customers must remain seated during the entire performance of the dance;
  - (c) for the purpose of restraint only, performers may only touch a customer above the customer's chest with their hands only;
  - (d) Performers must not sit or straddle the customer;
  - (e) Performers must not place their feet on the seats.
53. The Licensee must ensure that during performances of relevant entertainment:
  - (a) Performers may not perform any act that clearly simulates any sexual act;
  - (b) Performers must never intentionally touch the genitals, anus or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals, anus or breasts;
  - (c) Performers may not intentionally touch a customer any time during the performance unless accidentally or due to a third party;
  - (d) Performers may not use inappropriate, suggestive or sexually graphic language at any time;

- (e) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the performer has no intention of carrying out the act;
  - (f) Performers must only perform nude or semi-nude dancing (of any description) within areas specified by the Council.
54. The Licensee must ensure that during performances of relevant entertainment:
- (a) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
  - (b) Customers must remain appropriately clothed at all times.
55. At all times there must be no physical contact between customers and employees, or other persons working within the premises, in any part of the premises save for the following: -
- (i) The payment of an entry fee by customers to authorised members of staff.
  - (ii) The payment of a fee for relevant entertainment.
  - (iii) The purchasing of drinks by customers from authorised members of staff.
  - (iv) The placing of bank notes by the customer in a garter worn by females or an armband worn by males.
  - (v) SIA door staff in the execution of their duties.
56. Relevant entertainment will only take place in specified designated areas within the premises, as identified on the plan attached to the licence.
57. Performers shall stop immediately and move away from any customer who is offensive or attempts to touch them and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management. If after receiving a warning a customer continues behave inappropriately, the customer shall be requested to leave the premises and should be escorted from the premises by appropriately authorised staff (i.e. SIA registered door supervisors).

### **Licensed Name**

58. (a) The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such name shall have been provided on the application form.
- (b) An application in respect of a change of licence name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

## APPENDIX 2

# HACKNEY CARRIAGE AND PRIVATE HIRE

## Statement of Principles (DRAFT V2 – Oct 2023)

### 2024 - 2027

<b>Consultation responses and amendments</b>
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4.7 Terminal age of vehicle
4.16 Licensing of vehicles after insurance loss
4.19 Status of driver
4.23 Terminology
4.26 New paragraph – policy application regardless of vehicle use
5.15 Terminology
5.39 Terminology and wider explanation
6.18 Extension of retention period
7.14 Clarification of addition to NR3
<b>Appendix B</b> – Clarification around plate removal Clarification of insurance and usage Addition of reporting requirements Fire Extinguisher requirement
<b>Appendix C</b> - Clarification around plate removal Clarification of insurance and usage Addition of reporting requirements Fire Extinguisher requirement
<b>Appendix I</b> – addition of wording re dash cam use
<b>Appendix K</b> – additional wording added from Highway Code - Terminology and wider explanation
<b>Appendix L</b> – addition of reference to fixed penalty notices
<b>Appendix M</b> – wearing of driver badge
<b>Appendix R</b> – New – compliance test criteria

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### **2. Consultation**

### **3. Departure from Policy**

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- B** – Hackney Carriage Vehicle Licence Conditions (DBS update)
- C** - Private Hire Vehicle Licence Conditions (DBS update)
- D** – Conditions for Horse Drawn Vehicles
- E** – Additional Conditions for Stretched Limousines
- F** – Vehicle advertising Policy
- G** – Hackney Carriage Byelaws
- H** – Dispensation from displaying plates
- I** - Use of CCTV in vehicles
- J** - Non-Motorised vehicles
- K** – Private Hire Vehicle Drivers Licence Conditions
- L** – Criminal Convictions Policy
- M**– Licensed Driver’s Code of Good Conduct
- N** – Private Hire Operators Licence Conditions
- O** – DBS Storage etc. Policy
- P** – North Somerset Taxi Ranks
- Q** – Right to work Guidance
- R** - Vehicle compliance test standards

## **INTRODUCTION AND GENERAL PRINCIPLES**

### **The Licensing Authority Area**

North Somerset Council (the Council) is a Unitary Authority in Somerset covering approximately 145 square miles with a population of almost 217,000.

The Council area is a mixed urban and rural district with a dispersed population. The main urban areas are Weston-super-Mare, Clevedon, Nailsea and Portishead.

The area adjoins the conurbation of Bristol and includes a major dock at Portbury, an International Airport at Lulsgate and the seaside resorts of Weston-super-Mare and Clevedon. The area has good transportation links that include the M5 motorway and main line railway routes and stations.

Hackney Carriages and Private Hire vehicles are an important mode of local transport and as such have a specific role to play in an integrated transport system. They can provide safe, secure and comfortable transport, providing an on-request door-to-door service in various circumstances, including where public transport may not be available (e.g. in more rural areas), or for older or disabled people.

The area is served by around 450 Private Hire drivers and 400 Private Hire vehicles, working for around 70 Operators. There are also around 120 Hackney drivers and 95 Hackney vehicles.

### **Aim of the Policy**

The aim of the Policy is to regulate the provision of a robust Hackney and Private Hire licensing regime, which ensures that the public travel safely, receive a good level of service but where Operators and drivers are not overly burdened by unnecessary conditions.

In setting out its Policy, the Licensing Authority seeks to promote the following:

- The safety and health of both the drivers and the public;
- Vehicle safety, access and comfort;
- To protect the public;
- To prevent crime and disorder.

Public safety is paramount, and North Somerset Licensing Authority seeks to make sure that all Hackney and Private Hire vehicles are safe and fit for purpose, and that their drivers and operators are fit and proper persons.

This Policy will aim to provide information and guidance to licence applicants, clarity for owners of licensed vehicles and operators, and to inform the public as to the way the Authority will undertake its licensing functions.

In addition, this Policy document seeks to assist the Licensing Authority in reaching decisions on applications or regarding an enforcement issue, setting out those matters that will normally be taken into account.



All individuals that determine whether a licence is issued will be required to undertake sufficient training in such matters as licensing procedures, natural justice, equalities, safeguarding and making difficult and potentially controversial decisions. All training will be formally recorded by the Licensing Authority with acknowledgment recorded from participants.

The Policy will be formally revised every 3 years, but kept under review to consider any changes in legislation and best practice, information collated over a period of time, together with the outcomes of any updates in legislation or associated government guidance.

There is also a strong commitment to addressing climate emergency and reviews of admissible vehicle type and age will form part of future reviews. There is an aspiration to move to lower emission vehicles and to ensure compliance with accessibility requirements.

The Policy and any supporting appendices to the Policy may be updated from time to time between full Policy reviews and applicants and other interested parties are advised to contact the Licensing Authority for the most up-to-date information.

In preparing and publication of this Policy the Licensing Authority has had regard to:

- Guidance issued by [Department for Transport - Taxi & Private Hire vehicle Licensing best practice \(2010\)](#)
- Department For Transport - [Statutory taxi & private hire vehicle standards](#)
- Relevant Legislation;
- Consultation and discussions with other Local Authorities and Partner Agencies;
- Consultation with the taxi trade;
- Consultation with Equalities & diversity representatives.
- Consultation with sustainable transport and climate emergency colleagues.

**Nothing in this Policy document should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden.**

## **1. Policy overview and objectives**

- 1.1 North Somerset Council is the Licensing Authority under the Local Government Miscellaneous Provisions Act 1976 (as amended) and the Town and Police Clauses Act 1847. It has the duty to carry out its licensing functions in respect of:
  - Hackney Carriage Vehicle Licences
  - Hackney Carriage Drivers Licences
  - Private Hire Vehicle Licences
  - Private Hire Drivers Licences
  - Private Hire Operator Licences
- 1.2 It is recognised that other legislation exists which may impact on taxi licensing, such as the Equalities Act 2010, and therefore aspects of the Policy pay regard to these legislative requirements.
- 1.3 This Policy takes effect from **1 January 2024**.

- 1.4 The Council will keep this Policy under constant review and make such revisions to it as it considers appropriate. The Policy will be formally reviewed every three years and informally re-evaluated from time to time. Where revisions are made the Council will publish a statement of such revisions or a revised Policy document.
- 1.5 Any changes in legislation will supersede this Policy.
- 1.6 The Licensing Authority is committed to ensuring the provision of a professional Hackney Carriage and Private Hire service, by continued monitoring and improvement of standards and procedures. The Licensing Authority also seeks to promote the following objectives when considering applications, or when assessing the continuance of an existing licence:
- To ensure the safety and health of both the drivers and the public;
  - To ensure vehicle safety, access and comfort;
  - To protect the public;
  - To prevent crime and disorder.
- 1.7 In promoting these objectives, considerations such as those set out below at Paragraphs **1.8** to **1.11** of the Policy will be taken into account by the Licensing Authority, and applicants and licence holders will be expected to continuously demonstrate that they can meet or exceed specifications set by the Licensing Authority.
- 1.8 **Safety and Health of Drivers and the Public:**
- Consideration of any convictions and/or cautions;
  - Driver training, qualification and performance;
  - Health and fitness of applicant for driver licence, or existing licence holder;
  - Regular driver health checks;
  - Vehicle specifications;
  - Knowledge of the geographical area of North Somerset.
- 1.9 **Vehicle Safety, Comfort and Access:**
- Standards of vehicle appearance and comfort;
  - Use and location of ranks;
  - Provision of accessible facilities;
  - Provision for all age groups;
  - Provision of safe, comfortable and accessible premises for customers to use, if applicable.
- 1.10 **To Protect the Public:**
- Vetting, qualification,
  - Training and monitoring of licence holders;
  - Measures to prevent noise and light nuisance from taxi activities;
- 1.11 **To Prevent Crime and Disorder:**
- Operating rules and disciplinary processes;
  - Commitment to work with Licensing Authority, Police and other statutory authorities.

- 1.12 The Licensing Authority is aware that applying licensing requirements which are unduly stringent may unreasonably restrict the supply of taxi and Private Hire services, and can lead to negative safety implications. Therefore, the Licensing Authority has considered each of its licensing requirements in relation to the proportion of risk it aims to address.
- 1.13 The Licensing Authority recognises that its licensing function is only one means of securing the delivery of the Policy. The Licensing Authority will therefore continue to work in partnership with other stakeholders, such as the Police, Crime & Disorder Partnerships and the Vehicle and Vehicle Standards Agency (DVSA) towards the promotion of the objectives of this Policy.
- 1.14 In undertaking its licensing function, the Licensing Authority will have regard to the following legislation:
- Town and Police Clauses Act 1847
  - Transport Act 1980 & 1985
  - Road Traffic Acts The Local Government (Miscellaneous Provisions) Act 1976, as amended
  - Environmental Protection Act 1990
  - Health Act 2006
  - The Smoke-free (Premises and Enforcement) Regulations
  - The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007
  - The Equality Act 2010
  - The European Convention on Human Rights, which is applied by the Human Rights Act 1998
  - The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002
- 1.15 The Licensing Authority will also have regard to any other relevant legislation, strategies, policies and guidance in its decision-making.
- 1.16 The following principles will be adhered to when carrying out enforcement activities:
- **Openness**  
The Council will be open about how it enforces the legislation in relation to Hackney & Private Hire licensing. It will consult with interested parties and ensure that officers discuss compliance failures or problems with persons experiencing difficulties.
  - **Helpfulness**  
The Council will work with people to advise on and assist with compliance of the relevant legislation. It will also strive to provide a courteous and efficient service to its customers.
  - **Proportionality**  
The Council will minimise the cost of compliance for businesses and individuals by ensuring that any action taken is proportionate to the risk or wider public benefit. Officers shall have regard to the human rights of all parties involved in its enforcement activities.

- **Consistency**

The Council will carry out its duties in a fair, equitable and consistent manner. Officers will have regard to national legislation and guidance; local byelaws; corporate policies and procedures: the contents of this document.

- 1.17 Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. The Licensing authority will have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.

The Local authority will ensure there is an effective 'whistleblowing' policy and that all staff are aware of it.

- 1.18 Any licences currently in issue at the time of this policy coming into force will be permitted to continue under the terms under which they were originally granted until either suspended, revoked or lapsed/expired.

## **2. Consultation**

- 2.1 Before determining this Policy, the Licensing Authority will consult with the following:

- Representatives of the Hackney Carriage and Private Hire trade within the North Somerset area;
- Taxi trade representatives;
- Department for Transport (including DVSA)
- Avon and Somerset Constabulary;
- North Somerset Council Highways & Transport services, Community Safety Team, Schools transport Team, Safeguarding Team and Equality and Diversity Officer.

- 2.2 Consultees are permitted to make representations in writing or via electronic means e.g. email response, so long as their identity and capacity in which they are making representation can be understood. Proper weight will be given to the views of all consulted prior to this Policy taking effect.

## **3. Departure from Policy**

- 3.1 In exercising its discretion in carrying out its functions, the Licensing Authority will have regard to this Policy and the objectives set out therein.
- 3.2 Where it is necessary for the Licensing Authority to depart significantly from this Policy, clear and substantive reasons for doing so will be given.
- 3.3 Any changes in licensing requirements should be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, a pragmatic approach should be taken to changes and where possible a reasonable time should be allowed for these to be accommodated. The implementation schedule of any changes that affect

current licence holders must be transparent and communicated promptly and clearly.

- 3.4 Where a more subjective change has been introduced, for example an amended policy on previous convictions, the licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

#### **4. Hackney Carriage and Private Hire Vehicles**

- 4.1. The Licensing Authority has no limitation Policy for the number of Hackney Carriages which may be licensed within the North Somerset Council area. This does not imply that there is to be no regulation of Hackney Carriages, as the Licensing Authority intends that quality controls shall be rigorously maintained in relation to both vehicles and drivers.
- 4.2 This Licensing authority will require applicants for vehicle licences to undertake a basic disclosure from the DBS and ensure that a check is undertaken annually. Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC).

Consideration will be given to whether an applicant or licence holder with a conviction for offences provided in Appendix L to this document, other than those relating to driving, meet the 'fit and proper' threshold.

If an individual holds a valid Taxi or Private Hire driver licence with North Somerset Council and the DBS twice-yearly checks are up to date and acceptable then no additional check will need to be provided should they apply for a vehicle licence.

- 4.3 A refusal to licence an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle licence; these decisions will be made independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check.
- 4.4 Before North Somerset Council will consider licensing a vehicle for the first time it must meet the vehicle specification set out in **Appendix A**.

- 4.5 *The Licensing Authority will not grant first time vehicle licences for vehicles older than 5 years from the date of first registration of the vehicle. This provision will not apply to non-motorised vehicles and special categories of vehicles detailed at Appendix A.***

***Vehicles will not be granted first time licences unless they meet the Euro 6 emissions standards:***

***Euro 6 standards for petrol engines:***

- ***Carbon monoxide – 1.0g/km***
- ***Total hydrocarbon emissions: 0.10g/km***

- **Non-methane hydrocarbon emissions: 0.068g/km**
- **Nitrogen oxides: 0.06g/km**
- **Particulate matter: 0.005g/km (direct injection only)**

**Euro 6 standards for diesel engines:**

- **Carbon monoxide: 0.50g/km**
- **Hydrocarbons and Nitrogen oxides: 0.17g/km**
- **Nitrogen oxides: 0.08g/km**
- **Particulate matter: 0.005g/km**

- 4.6 Conditions will be applied to vehicle licences granted by North Somerset Council. The agreed standard conditions are shown at the following appendices:

**Appendix B** – Hackney Carriages

**Appendix C** – Private Hire vehicles

**Appendix D** – Conditions applicable to horse drawn vehicles

**Appendix E** – Additional conditions for stretched limousines

**Appendix J** – Conditions applicable to Non-Motorised Vehicles

- 4.7 A licensed vehicle shall be tested once per year until it is **8** years old. This will consist of a full MOT and a compliance check at the Council's nominated testing facility. **Details of the matters checked at a compliance test are shown at Appendix R.**

**A vehicle older than 8 years of age shall be licensed for six months. The testing will consist of a full MOT test and a vehicle compliance check at the Council's nominated testing facility.**

**Six-monthly licences will continue to be issued until the vehicle reaches the end of 10 years from first registration.**

- 4.8 All annual vehicle compliance tests will take place at a facility approved by North Somerset Council, and will be conducted against the vehicle inspection manual as shown at Appendix R.
- 4.9 All vehicles must have a current MOT at the time of licensing, undertaken within **1 month** of application.
- 4.10 Applications will be accepted with a bill of sale and "new keeper" slip from a V5 document. A copy of the updated V5 detailing the new registered keeper must be supplied to the Licensing authority within one month of application.
- 4.11 Applications for the continuation of a vehicle licence must be accompanied by a full V5 document. The registered keeper name must reflect the name of the licence applicant.
- 4.12 Detailed provisions as to permitted vehicle markings which relate to the proprietor's business and commercial advertising on licensed vehicles is shown at **Appendix F.**
- 4.13 The Council has made byelaws in relation to Hackney Carriages and these are shown at **Appendix G.**
- 4.14 In relation to Hackney Carriages the Council requires all vehicles to be fitted with calendar controlled taximeters. These meters must be calendar clocked,

accurate and displaying the correct time and capable of displaying the various tariffs, as approved by the Licensing Authority. This will include any extra charges which are payable under the approved Table of Fares.

4.15 Dual plating of North Somerset licensed vehicles with other council areas will not be allowed. If a North Somerset licensed vehicle is found to be licensed by another Authority, the North Somerset licence will be revoked.

4.16 No vehicle will be licensed as either a Hackney Carriage or a Private Hire vehicle where a condition report indicates that the vehicle has been previously classified as an insurance loss. This includes category A & B (actual loss) and categories S & N (constructive loss). **Where a licensed vehicle is subject to an accident and classed as S or N by an insurer it will no longer be accepted as a licensed vehicle.**

4.17 Hackney Carriage and Private Hire Vehicle Licences will be issued for a period of one year.

4.18 Applications for the continuation of a vehicle licence must be accompanied by a full V5 document. The registered keeper name must reflect the name of the licence applicant.

4.19 Vehicles must be presented at the Council's appointed testing facility for the required compliance test within one month of submitting the application for the grant or continuation of a vehicle licence. Failure to do so may prevent the vehicle from being licensed.

**The driver presenting the vehicle for testing should hold a valid Private Hire/Combined driver licence with North Somerset Council, or the test will be cancelled with no refund.**

4.20 Vehicles used solely for Weddings and Funerals are exempt from these Licensing regimes; as are volunteer drivers who receive no financial gain. Ambulances and medical transport vehicles are also currently exempt.

4.21 The Licensing Authority takes the view that vehicles which are used as "courtesy cars", i.e. for transporting customers to and from garages, airports, hotels and night-clubs without charge, but with an obvious business benefit, are likely to need to be licensed under the Private Hire licensing scheme as should their 'operator'. Whilst there may not be a separate charge for using the vehicles, they are being supplied with a driver for a specific purpose which is likely to result in a 'business benefit', for example a customer using that business as opposed to one that doesn't offer the same transport service.

4.22 Application will be considered for the dispensation from the requirement to display plates on a Private Hire vehicle. These will not be issued as a matter of course and each application will be considered on its own merits. The overriding consideration is for public safety – the clear identification of a licensed vehicle is considered a safety aspect, particularly when visiting such places as Airports and the centres of large towns.

In determining such an application, the status of the passenger and the executive nature of the work is likely to indicate whether a dispensation will be granted or not.

The Licensing Authority requirements in relation to dispensation from displaying plates are shown at **APPENDIX H**.

- 4.23 CCTV and Dash Cams in Hackney Carriage and Private Hire Vehicles may be of benefit. In addition to passenger safety, the safety of vehicle drivers is a key issue for both the Hackney Carriage and Private Hire trade. Lone female passengers can be vulnerable especially late at night. Female drivers may be more likely to seek employment with proprietors who have CCTV installed in their vehicles.

Installation of CCTV cameras may have a positive impact on reducing crime and anti-social behaviour. It provides an additional tool for the identification of persons travelling in a Private Hire / Hackney Carriage vehicle. This would be beneficial to passengers, drivers and the police.

***Outward facing dashboard mounted cameras are relatively affordable and offer many benefits, improving road safety and protecting both drivers and passengers.***

It is not proposed to make the provision of CCTV or Dash cameras in vehicles a requirement of the licensing scheme, as it is considered that it is a matter best left to the judgement of the owners and drivers themselves. The Hackney Carriage and Private Hire vehicle trades are however encouraged to consider the installation of CCTV cameras in their vehicles on a voluntary basis and it will then be incumbent upon the camera user to handle relevant data gathered in an appropriate and secure manner. Systems having an encrypted recorder that only the police can access are recommended.

Should a CCTV or Dash cam system be installed in a licensed Hackney or Private Hire vehicle, the Licensing Authority requirements are shown at **Appendix I**.

- 4.24 North Somerset Licensing Authority will not entertain applications for those wishing to operate Tuk-Tuks or similar vehicles.
- 4.25 The Licensing Authority will accept applications from any person wishing to operate a non-motorised vehicle (for example a pedicab or rickshaw) for Hire and reward. Persons wishing to operate such a vehicle will be required to apply for a Hackney Carriage drivers licence. Non-motorised vehicles may not be licensed as Private Hire vehicles as the legislation defines Private Hire as a "motor vehicle".

The requirements for licensing such vehicles are shown at **Appendix J**.

***4.26 The requirements of this policy will apply throughout the term of any licence, regardless of the use of the vehicle at any particular time.***

## **5. Hackney Carriage and Private Hire Drivers Licences**

- 5.1 It is a legal requirement that drivers of either Hackney Carriages or Private Hire vehicles obtain from the Licensing Authority a licence to drive such vehicles.
- 5.2 North Somerset Council Licensing Authority issues both Private Hire Driver Licences and Combined Hackney & Private Hire Driver Licences. These are



issued for a period of 3 years but can be issued for one year where the applicant is aged 65 years or more and may consider retirement in less than the 3 years of issue.

- 5.3 The Licensing Authority will issue a licence to an applicant provided that the applicant has held a European Union (EU) or European Economic Area (EEA) full driving licence for at least 12 months, and is a “fit and proper” person to hold such a licence.

a) Driving licences issued by a “designated country or territory” may apply and use their licence for 12 months after becoming resident in the UK, after which time they must legally exchange their licence for a UK version.

b) All other driving licences are valid for use for 12 months in the UK after which both theory and practical DVLA tests will be required to obtain a UK licence.

Applicants with licences described in paragraphs (a) or ((b) above will only be issued a driver licence to the end of that permission and will need to produce a full UK replacement licence in order for the licence to be extended.

#### 5.4 **Fit and proper test**

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver’s licence is a ‘fit and proper’ person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

**“Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?”**

If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence.

The safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability.

This means that an applicant or licensee should not be ‘given the benefit of doubt’. If the committee or delegated officer is only “50/50” as to whether the applicant or licensee is ‘fit and proper’, they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

- 5.5 Conditions will be applied to Private Hire driver licences granted by North Somerset Council. Where a driver is issued a “combined licence” to drive both private hire and hackney vehicles, these conditions will be applied when the driver is operating as a private hire driver.

The agreed standard conditions are shown at **Appendix K**.

- 5.6 Hackney Carriage and Private Hire licence holders will be required to adhere to the Code of Good Conduct which is shown at **Appendix M**

## **Age and Experience**

- 5.7 The Licensing Authority will not have regard to the age of an applicant when determining their suitability where it can be shown that:
- The applicant holds a valid full driving licence and that this licence must have been held for no less than 12 months at the time of application.
  - The applicant has reached the required medical standards entitling them to drive in the United Kingdom.
- 5.8 Drivers reaching the age of 65 will be required to undertake a full Group 2 standard medical examination (as detailed in paragraphs 5.13 – 5.23) on an annual basis for the remainder of time they are licensed with the Authority. They will then be permitted to apply for one-year licences until the point of retirement.

## **Driver Knowledge and proficiency**

- 5.9 All new applicants will be required to undertake a suitability test before being permitted to apply for a licence. There may be a published fee for this test which will consist of basic numeracy, literacy and map reading assessments. These may be written, oral or computer based and will be individual tests although the test may be in a group examination setting with an invigilator.

Applicants will normally be permitted to repeat the test on up to three occasions. If the accepted pass mark is not reached on a third attempt an application will not normally be progressed. Requests to sit further test attempts will be dealt with on a case by case basis by appeal to the Licensing Authority.

- 5.10 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

North Somerset Council will test a driver's proficiency in both oral and written English language skills to achieve the objectives stated above.

- 5.11 Licensed drivers require a good working knowledge of the geographical area in which they operate to meet reasonable customer expectations.

Applicants will be required to undertake a knowledge test which examines their knowledge of both local geography and knowledge of the Highway Code, By-laws, Driver Code of Conduct and the conditions attached to their licence. This test is carried out at a place and time determined by the Licensing Authority and pre-test learning guidance will be provided.

Applicants will normally be permitted to repeat the test on up to five occasions. If the accepted pass mark is not reached on a fifth attempt, an application will

not normally be progressed. Requests to sit further test attempts will be dealt with on a case by case basis by appeal to the Licensing Authority.

The Licensing Authority acknowledges that advances in technology have seen the development of both hand-held and in-car satellite navigation systems but still require all drivers to be able to navigate around the district in case of their failure.

The district includes significant rural and semi-rural areas with noted signal weaknesses and the Authority feels that to promote public safety and to ensure service standards, drivers should have a familiarity with main roads, public facilities and places of interest.

5.12 Licensed drivers, as a profession, have a responsibility for the safe transportation of fare-paying passengers. Therefore, the Licensing Authority as part of its application procedure requires a Driving Standard Assessment of the drivers' ability to be obtained by all new applicants.

5.13 The driving assessment is achieved by successful completion of the appropriate Driver Vehicle Standards Agency (DVSA) Practical Driving Test. The test is reflective of modern driving practices; the standard is set at a level suitable for the full driving licence holder, which is therefore of a higher level than the learner driver test.

The test must be carried out by the Licensing Authority's nominated test provider. Details of the current provider will be provided to applicants who will then be responsible for arranging and attending a test; providing a copy of their certificate as part of the application process. A fee is payable to the provider and the Licensing Authority does not set or influence this fee level.

### **Safeguarding children and vulnerable persons**

5.14 All drivers will be required to attend a training session on safeguarding children and vulnerable persons. The training session will cover the conduct and responsibilities of those licensed. It will provide guidance in identifying when vulnerable people need protection and how to ensure they are taken to a place of safety. The training deals with the identification of County Lines activities and the signs of child exploitation associated with it. It also details the need to report immediately any such incident or occurrence to the police and/or social services, and provides the necessary contacts and procedures to be followed.

The training provider must be approved by the Licensing Authority and may be an internal or external provider.

Both new and renewing applicants will be required to attend safeguarding training prior to applying. Failure to complete a session within a month of renewal may result in the licence being suspended.

5.15 North Somerset Council has a Designated Officer for Allegations (DOFA). All complaints and safeguarding concerns raised against licensed taxi or Private Hire drivers will be referred to this officer. An allegations meeting may be held with representatives of relevant Authorities such as (but not limited to) the Police, Adult/Child protection and social care teams, school transport etc.

In the interest of public safety and to safeguard vulnerable persons, any driver subject to such an enquiry should expect his/her taxi or Private Hire driver licence revoked during any period of investigation.

If there are found to be no allegations to answer then a replacement application will be accepted and consideration given to a new licence.

### **Medical Examination and Exemptions**

- 5.16 The Licensing Authority requires that all drivers complete a medical examination at the application stage; and for existing drivers during the term of the licence, as set out in Para 5.14 below. The medical examination will ensure that the applicant/licensed driver satisfy all the requirements of the DVLA Group II Medical Standards of fitness to drive.
- 5.17 The requirement for applicants/licensed drivers to undertake a medical examination is as follows:
- Upon application Every 5 years between the ages of 45 and 65
  - Every year at renewal where the driver is aged 65 years or over
  - Or anytime as required by the Council or the medical practitioner.
- 5.18 Where there is any doubt as to the medical fitness of the applicant/licensed driver, the Licensing Authority may require the applicant/licensed driver to undergo a further medical examination by a Doctor appointed by the Licensing Authority at the applicant's/licensed driver's own expense.
- 5.19 Where there remains any doubt about the medical fitness of the applicant/licensed driver, following the additional assessment described at Para 5.15 above, the Licensing Authority will not issue a licence to drive a Hackney Carriage or Private Hire vehicle. Existing licences will not be renewed and may be revoked.
- 5.20 All licensed drivers are required to inform the Licensing Authority immediately of any illness, condition or any other matter that affects their ability to drive.
- 5.21 The Licensing Authority recognises that applicants who have HGV/PSV entitlements on their DVLA driving licences already undergo Group 2 standard medicals with the same regularity required by this Policy. To avoid unnecessary cost and inconvenience, a separate medical examination will not be requested.
- 5.22 Exemption from carrying guide, hearing and certain other assistance dogs which accompany disabled persons, can only be sought on medical grounds. Therefore, applicants will need to demonstrate the grounds for applying this exemption by providing medical evidence to the Licensing Authority.
- 5.23 An application for the exemption described in Para 5.18 above must be made prior to undertaking a medical examination.
- 5.24 If an application for exemption notice is successful, the Licensing Authority will issue to the driver a Notice of Exemption. This Exemption must be exhibited in

the vehicle at all times, by fixing it in a prominent position on the vehicle dashboard.

- 5.25 Section 165 of the Equality Act 2010 places duties on a licensed driver if driving a designated wheelchair accessible Hackney or Private Hire vehicle. These duties may include conveying a passenger in their own wheelchair, transferring a passenger into a seat and transporting their wheelchair; and providing mobility assistance as required. Some drivers may have a medical condition or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require.

An application for exemption from the duties required under Section 165 will require medical evidence from an applicant's own GP and will require an exemption notice to be exhibited in the vehicle at all times, by fixing it in a prominent position on the vehicle dashboard. Should the passenger be visually impaired the driver must provide suitable contact details for the passenger to be able to independently verify this information.

North Somerset Council publishes a list of wheelchair accessible vehicles, their drivers and Operator if known, and licensed Taxi and Private Hire drivers should expect their details to be published (including confirmation of any exemptions) accordingly.

- 5.26 Any applicant for the grant of licence that is unable to satisfy the Licensing Authority that they meet the required medical standard will not have a licence granted to them.

Any licence holder failing to provide a medical report within one month of a request made by the Licensing Authority will have their licence suspended until such time the Authority can be satisfied of their medical fitness.

### **Disclosure & Barring Service (DBS)**

- 5.27 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults.

The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. This enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.

- 5.28 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults.

Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted

in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate.

As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the statutory guidance issued by the Home Office when considering disclosure.

5.29 Applicants will be required to produce at their own expense a current Enhanced Disclosure Barring Service (DBS) check when submitting a first time driver licence application.

The Licensing Authority will accept previous Enhanced DBS disclosure certificates on the following basis:

- the check was applied for under the “other Workforce – Taxi driver” category only,
- the check included children and adults barring lists
- the applicant is registered with the DBS update service and can provide a re-check code.
- A copy of the original disclosure is provided for inspection.

5.30 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual’s consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.

5.31 Driver applicants will be required to subscribe to; or demonstrate registration with the DBS update service at first licensing.

For renewing drivers, subscription is required from the next DBS check date.

Failure to provide proof of subscription to the update service , or failure to provide an update check code on request will result in the licence being suspended until such time a valid check is provided and assessed.

5.32 All Hackney Carriage or Private Hire vehicle driver’s licence holders will be required to provide a DBS Enhanced Disclosure every 6 months. This will be carried out by North Somerset Council via the DBS update service.

Should the DBS advise that new information is available the original DBS certificate should no longer be relied upon and a new DBS certificate will be requested. This will again result in the licence being suspended until such time a valid check is provided and assessed.

5.33 Since March 2002, Hackney Carriage and Private Hire drivers have been listed as Regulated Occupations in the Rehabilitation Act 1974. The effect of this in relation to Hackney Carriage and Private Hire drivers is to render the Rehabilitation of Offenders Act 1974 inapplicable. Therefore, any caution and/or conviction, regardless of their age, will be taken into consideration by the Licensing Authority when assessing the suitability of a new or renewal application.

5.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed.

Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK.

It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more .

5.35 This Authority will require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process

For information on applying for overseas criminal record information or 'Certificates of Good Character' please visit:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

#### **Common Law Police Disclosure**

5.36 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.

5.37 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.

5.38 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. The Licensing authority maintains close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.

#### **Licensee self-reporting**

**5.39 Licence holders are required to notify North Somerset Council within 48 hours, or as soon as practicable, of any enforcement action taken against them including:**

- **Receiving a simple or conditional caution or being convicted of any criminal offence**
- **Being arrested, interviewed, charged, reported for summons or receiving a postal requisition in connection with any motoring or criminal offence**

- **Receiving any out of court disposal including formal warnings, community resolutions, restorative justice, education and awareness courses, community protection warnings and notices, vehicle defect rectification notices or fixed penalty notices**

**5.40 Any offence for which a licence holder is interviewed by Voluntary Attender arrangement must also be notified to the licensing Authority within 48 hours of the interview.**

5.41 This will not however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. **A report may however result in a review by the issuing authority as to whether the licence holder is fit to continue to hold a licence.**

5.42 A failure by a licence holder to disclose an arrest; or formal interview, that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

5.43 The Licensing Authority may, where it considers it necessary, undertake a further DBS check via the update service.

#### **Referrals to the Disclosure and Barring Service and the Police**

5.44 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for the licensing authority to make referrals to the DBS.

A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, will be referred to the DBS.

5.45 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made.

#### **Relevance of Convictions, Cautions, Fixed Penalties and other relevant information**

5.46 The Licensing Authority when considering convictions and cautions recorded against an applicant or an existing licensed driver will have regard to the "Criminal Convictions Policy" set out in **Appendix L**.

5.47 In assessing whether an applicant or licensed driver is a "fit and proper" person to hold a licence, the Licensing Authority will consider each case on its own merit.

5.48 Upon receipt of the enhanced DBS check, the Licensing Authority will assess whether any or all of the convictions and/or cautions can have real relevance to the issue of if the applicant or licensed driver is a fit and proper person to hold a licence. The Licensing Authority will also take into account any fixed penalty notices and other information, but only in so far as they are relevant to an application for a licence or impact on the continuance of an existing driver licence. In certain cases, the matter may be referred to the Council's Licensing Committee for determination.



5.49 The Licensing Authority will have regard to fixed penalties when considering if an applicant is a fit and proper person. Failure to inform the Licensing Authority of any fixed penalty notices obtained during the application or licence period may result in possible rejection of the application or suspension or revocation of the licence.

5.50 In relation to cautions, the Licensing Authority will have regard to the nature of the infraction when considering their relevance to an application or continuance of an existing driver licence.

5.51 In relation to previous convictions, the Licensing Authority will have regard to the following:

- The nature of the offence/s;
- The age of the offence/s;
- The apparent seriousness, as gauged by the penalty applied.

5.52 In general terms, the more recent, serious and relevant the offence is, the less likely that an application will be granted or that an existing licence will be permitted to remain in effect.

5.53 The presence of past or acquired criminal convictions by a person will not automatically prevent a person holding a licence and will be assessed against the Licensing Authority's Criminal Convictions Policy shown at **Appendix L**.

#### **Driving licence (DVLA) checks**

5.54 The Licensing Authority will, where considered necessary, check the DVLA database to establish a driver's complete driving history.

5.55 Where this course of action is deemed necessary, the Licensing Authority will request that the driver either completes a consent form, or provides a DVLA generated code in order that the check can be carried out. The cost of any check is borne by the applicant/licensed driver.

5.56 Should the necessary consent, as required in Para 5.61 above not be given by the applicant/licensed driver, this will result in the application being refused or the existing drivers licence being immediately suspended or revoked.

5.57 Hackney Carriage drivers are required to comply with the requirements of the Hackney Carriage Byelaws as shown at **Appendix G**.

#### **Right to work checks**

5.58 Since the introduction of the Immigration Act 2016, all applicants for a Hackney Carriage or Private Hire driver's licence or renewal will need to demonstrate that they have the right to work in the UK before they can be issued with a licence. Further information can be found at **Appendix Q**

#### **5.59 Tax Checks (NEW)**

Applicants will be required to provide a [tax check code](#) where they are:

- Renewing a combined or private hire driver licence
- Applying for a licence of the same type which has ceased within the last year

- Applying for the same type of licence held with another licensing authority

Check codes must be generated within 120 days of application and no applications requiring a check will be accepted without the necessary code.

### **Smoking**

5.60 Smoking has been prohibited in all Hackney Carriage and Private Hire vehicles since 1st July 2007. A driver found smoking or permitting smoking to take place in a licensed vehicle, will be subject to enforcement action by North Somerset Council. This will be by way of fixed penalty notice (Health Act 2006). On the third such notice issue the Licensing Authority will consider the suspension or revocation of the Hackney or Private Hire Driver licence.

In line with the North Somerset Council Smoke-free Policy, 'smoking' means the use of all tobacco products e.g. cigarettes, pipes, cigars, (with the exception of those products that have been designated as nicotine replacement therapy by the Medicines and Healthcare Products Regulatory Agency.)

Alternative smoking devices, such as electronic cigarettes, Vapour devices and any other form of such inhalation device (with or without nicotine) will also be treated as smoking tobacco for the purposes of this policy.

### **Mobile phones and other handheld devices**

5.61 The use of any handheld devices whilst driving is prohibited. Licence holders who are found to do so may have their licence suspended or revoked.

### **National Register of Taxi Licence Refusals and Revocations (NR3)**

5.62 The licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or Private Hire Vehicle (PHV) licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

Therefore:

- Where a hackney carriage/ PHV licence is revoked, or an application for one refused, the authority will automatically record this decision on NR3.
- All applications for a new licence or licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific license application and will not be retained beyond the determination of that application.

The information recorded on NR3 itself will be limited to:

- name
- date of birth

- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective

Information will be retained on NR3 for a period of 25 years.

This is a mandatory part of applying for or renewing, a hackney carriage PHV driver licence. The authority may receive requests by other authorities for further information about entries on NR3, and will inform an applicant about the use it will make of any further information provided to it.

Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision or receipt of information of or under NR3 are necessary to the authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about handling of data can be found on the ICO's website: <https://ico.org.uk/make-a-complaint/>

## **6. Private Hire Operators Licences**

### **Requirements and Obligations**

- 6.1 Any person who operates a Private Hire service utilising one or more Private Hire vehicles must apply to the Council for a Private Hire Operator's Licence.
- 6.2 The primary objective in licensing Private Hire operators is the safety of the public, both in the vehicles and at the operator's premises.
- 6.3 This Licensing authority will require applicants to undertake a basic disclosure from the DBS and ensure that a check is undertaken annually. Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC).

Consideration will be given to whether an applicant or licence holder with a conviction for offences provided in **Appendix L** to this document, other than those relating to driving, meet the 'fit and proper' threshold.

If an individual holds a valid Taxi or Private Hire licence with North Somerset Council and the DBS biannual checks are up to date and acceptable then no additional check will need to be provided should they apply for an additional Operator licence.

If an application is made in a Company name then the DBS checks will be carried out for all named directors and partners of the Company. A Company holding an Operator's licence will be expected to advise the Licensing Authority of any changes in Director or partner.

- 6.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold an Operator's licence; these decisions will be made independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check.
- 6.5 Conditions will be applied to Private Hire Operator licences granted by North Somerset Council. The agreed standard conditions are shown at **Appendix N**.
- 6.6 A Private Hire vehicle may only be dispatched to a customer by a Private Hire operator who holds a Private Hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a Private Hire vehicle.
- 6.7 A Private Hire operator must ensure that every Private Hire vehicle is driven by a person who holds a Private Hire driver's licence.
- 6.8 All three licences:
- Private Hire operator's licence;
  - Private Hire driver's licence; and
  - Private Hire vehicle licence;
- must be issued by the same Licensing Authority.
- 6.9 A Private Hire operation must be within the district of North Somerset in order to apply for a licence. If a premise falls outside of North Somerset administrative boundaries this Licensing Authority **do not** have the authorisation to grant an operator licence.
- 6.10 Where the need arises, Licensing Authorities may jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. This enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. Such an agreement will enable those authorities to take action against those that are licensed by the other authority when they cross over boundaries. This will also mitigate the opportunities for drivers to evade regulation
- 6.11 The Council will not grant a licence to an operator whose premises are located outside the district. This is to ensure that proper regulation and enforcement measures may be taken by the Council and is in no way intended to be a restraint of trade.

### **Booking and Dispatch Staff**

- 6.12 It is noted that staff employed by an Operator to take bookings or as a vehicle dispatcher deciding which driver to send to a user, are in a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the

dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.

Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public.

The Licensing authority, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles to be kept. This should be a working document and will be subject to inspection on request and on an annual basis.

- 6.13** Operators will be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a 'responsible organisation' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 6.14** The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 6.15** Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these function
- 6.16** Operators or applicants for a licence will be required to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (**Appendix L**), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

### **Record Keeping**

- 6.16** Section 56 of the Local Government (Miscellaneous Provisions) Act 1976 requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator.
- 6.17** This Licensing Authority, as a minimum, requires private hire vehicle operators to record the following information for each booking:
- the name of the passenger;
  - the time of the request;
  - the pick-up point;

- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

6.18 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for **a minimum of a year**.

6.19 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations

### **Gaming Machines**

6.20 Operators that provide a waiting facility for members of the public and/or drivers should be aware that they cannot make gaming machines available for use. This action would be a criminal offence under the Gambling Act 2005.

6.21 It is the responsibility of the operator to ensure that appropriate planning consent exists for the operational address to be used for that purpose.

6.22 The Licensing Authority will decide whether the applicant is a 'fit and proper' person to hold an operator's licence.

### **Sub-contracting**

6.23 Section 55A of the 1976 Act, inserted by the Deregulation Act 2015 permits Operators licensed by the Council to sub-contract a Private Hire booking to another operator licensed by the Council or to any other licensed Private Hire operator holding a Private Hire licence granted by another local Authority.

6.24 However, regardless of which operator fulfils a booking, the operator can only despatch a vehicle licensed by the same Council that licences the operator and driven by a driver licensed by that same Council.

6.25 For example, if an Operator licensed by Council X choses to sub-contract a booking to an operator licensed by Council B, that operator must despatch a vehicle with a driver licensed by Council B. Or in, reverse, if a Council B licensed Operator sub- contracts a booking to a Council X licensed operator, the vehicle despatched, and its driver, must both be licensed by Council X.

6.26 Operators that accept a booking remain legally responsible for that booking even if they sub-contract the booking to another Operator and should record the booking as normal and the fact that it was sub-contracted.

6.27 Customers who book through a licensed operator expect a vehicle to be provided that is directly controlled by that operator and not one that is licensed in another district. The Council aims to have the highest standards possible as appropriate for its district. Other local authorities have different standards appropriate for their district and the vehicles and standards of drivers may differ.

- 6.28 For this reason the Council does not believe that sub-contracting bookings should be common place amongst its licensed Operators. It may be appropriate for Operators to sub contract in order to provide a certain type of vehicle that is not on its fleet such as WAV (Wheelchair Accessible Vehicle).
- 6.29 The Council does not have the ability to take enforcement action against those licensed by other authorities but may, upon the investigation of a complaint, take action against an Operator where they have sub-contracted to another Operator and failed to exercise all due diligence to ensure that the person making the booking was transported in compliance with the standards imposed by the Council.

### **Cross Border Hiring**

- 6.30 In relation to Private Hire vehicles, the 1976 Act permits members of the public to contact and book a Private Hire vehicle through any licensed Private Hire operator regardless of in which district they are licensed. Private Hire bookings are Private contracts between the Hirer and the operator and are not a matter for the Council to regulate. In this regard, the Act leaves the selection of an operator entirely to market forces and the freedom of choice to the customer.
- 6.31 The Licensing Authority intends for its Private Hire operators and their vehicles to aspire to the highest standards of service so that they are the operator of choice for its residents.
- 6.32 The Licensing Authority does however recognise that members of the public may be confused by the appearance of vehicles licensed by other authorities working in North Somerset. The Council therefore encourages its residents to understand the difference between Private Hire vehicles and Hackney Carriages and the requirement that Private Hire vehicles, regardless of which Authority licences them, must be booked in advance.

### **Insurance**

- 6.33 It is considered appropriate for a Private Hire operator; and the Licensing Authority may check, that appropriate public liability insurance has been taken out for premises that are open to the public.

### **Public Safeguarding and Exploitation**

- 6.34 On both application and at renewal, all Operators will be required to attend a training session on safeguarding children and vulnerable persons. The training session will cover the conduct and responsibilities of those licensed. It will provide guidance in identifying when vulnerable people need protection and how to ensure they are taken to a place of safety. It also details the need to report immediately any such incident or occurrence to the police and/or social services, and provides the necessary contacts and procedures to be followed.

The training provider must be approved by the Licensing Authority and may be an internal or external provider.

- 6.35 Failure to attend the training ahead of licence renewal will result in the Operator licence being refused until such time they have undertaken the training.

6.36 Child Sexual Exploitation (CSE) is a form of child abuse. It can involve sexual abuse, physical abuse and emotional abuse of children by adults. Licensed Operators provide a public service and have a duty of care to all passengers. They also have a moral and social responsibility to report concerns about someone who is vulnerable.

Should an Operator have any concern about the vulnerability of a child or public safeguarding they must report this immediately or pass on information or intelligence to either the Police or Licensing Authority.

Should a licence holder fail to report a concern then they will be investigated and may have their licence revoked or suspended.

### **Use of passenger carrying vehicles (PCV) licensed drivers**

6.37 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver.

The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check

## **7. Enforcement Policies**

### **Criminal Records Disclosures**

7.1 The Council is an approved Disclosure Barring Service (DBS) Umbrella Body and applicants can obtain criminal record disclosures from the DBS through the Council. Applicants will be charged an appropriate fee determined by the Disclosure Barring Service.

7.2 The Council is bound by rules of confidentiality, and will not divulge information obtained to any third parties. The applicant for a DBS disclosure will be sent a disclosure report to their home address, the onus is on the licence applicant to show this to the Council prior to the issue or continuation of a licence.

7.3 The Council will operate policies and procedures in accordance with guidance and codes of practice issued by The Disclosure Barring Service. The Council's Policy statement on secure storage, handling, use, retention and disposal of disclosures and disclosure information is shown at **Appendix O**.

### **Enforcement Measures**



- 7.4 The Licensing Authority recognises that well-directed enforcement activity not only benefits the public but also responsible members of the Hackney Carriage and Private Hire trades.
- 7.5 The Licensing Authority will take enforcement action where it considers it necessary and proportionate to do so. In doing so, it will have regard to the Licensing objectives stated within this Policy. Enforcement will be risk-based, intelligence-led and targeted and managed in line with the Licensing Authority's Enforcement Policy.
- 7.6 A record of any enforcement and/or disciplinary action taken by the Licensing Authority or Local Authority, whether formal or informal, will be recorded on the licence holder's file. Such evidence of this, may be brought to the attention of the Licensing Committee, Sub-Committee or the Court, if further action is deemed necessary.
- 7.7 The Council will though; to discharge its role as the Licensing Authority, carry out routine and unannounced inspections of individuals, vehicles and businesses to ensure compliance with the relevant legislation.
- 7.8 The Licensing Authority may take any of the steps below upon receipt of evidence that an offence has been committed in relation to legislation or byelaws enforced by the Council:
- Informal verbal or written advice
  - Suspension of the Licence;
  - Revocation of the Licence;
  - Refusal to Renew;
  - Issue of a Formal Caution
  - Prosecution of an individual or company
- 7.9 Minor or first-time transgressions are likely to attract either an oral or written warning.
- 7.10 Where public safety is deemed to be in imminent danger the further use of a licensed vehicle will be suspended by notice until the defects have been remedied. The suspension notice will not be lifted until the vehicle has undergone a further inspection and passed fit for use as a Hackney Carriage or Private Hire vehicle.
- 7.11 The Licensing Authority may exercise its discretion to suspend the operation of a driver's licence for a specified period. This may include occasions where the licence holder does not provide the necessary DBS/Medical checks required or following a review of the licence by a licensing committee.
- 7.12 Any allegations or serious complaints made against a licensed Hackney or Private Hire driver will be referred to the Designated Officer for Allegations (DOFA) for North Somerset Council. The driver can expect to have their licence revoked for the duration of any investigation and through to any formal outcome. There will be a reduced application process where the allegation is not upheld.

- 7.13 A licence holder will be referred to the appropriate Licensing Committee when either he/she has been found to be in breach of a licence issued, or convicted of a serious criminal offence. The Committee will consider the evidence and may either take no action, issue a warning or suspend or revoke a licence.
- 7.14 As an alternative to revocation, the Licensing Authority may decide that the appropriate action, in a situation where the licence is shortly to expire, not to renew the licence. ***In this instance, details of the refusal to renew will be added to the NR3 register.***
- 7.15 As an alternative to instigating a prosecution the Council will consider the issuing of a formal caution where:
- There is sufficient evidence to justify a prosecution;
  - The licence holder admits his/her guilt;
  - The licence holder agrees to be cautioned
- 7.16 The Licensing Authority will consider prosecuting licence holders for relevant offences in the following circumstances:
- Where the allegation is of a serious or repeated offence, or
  - Where the Licensing Authority proposes to issue a formal caution to the licence holder, but the offence is not admitted, or the caution accepted

## **8. General Arrangements**

### **Licensing Committee and Hearings**

- 8.1 The Licensing Committee of North Somerset Council has responsibility for the Hackney Carriage and Private Hire Licensing regime in the district, along with the formulation and review of Policy.
- 8.2 The Committee has delegated its functions in the following way:
- A Licensing sub-committee shall deal with applications and disciplinary matters referred to it by Licensing Officers.
  - Licensing Officers have delegated powers to grant or refuse licences; to suspend or revoke licences in situations requiring immediate action; to issue oral and written warnings, notices, formal cautions; to instigate prosecutions where appropriate.
- 8.3 Licensing Hearings in relation to applicants and licensees will be carried out to an agreed procedure that allows an individual the ability to present his/her case to the Committee, be represented and ask questions. In certain circumstances the Committee will hold Licensing hearings without the public being present, where it is legally allowed to do so, for cases where personal matters are to be considered.
- 8.4 All individuals that determine whether a licence is issued will be required to undertake sufficient training. As a minimum, training for a member of a licensing committee will include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions.

All training will be formally recorded by the licensing authority and will require a signature from the person that has received the training.

### **Licence Applications**

- 8.5 An application for a vehicle, driver or operator's licence will be made on the specified application form issued by the Licensing Authority. This may include paper, email or online application methods with a move to online automation as systems allow.
- 8.6 Applications will not be processed unless all the required documentation is produced and the licence fees have been paid.
- 8.7 It is the responsibility of the individual licensee to renew an existing licence and the absence of a reminder letter will not discharge the licensee of his/her individual responsibility as set out in paragraph 8.8 below.
- 8.8 Application forms, appropriate fees, and supporting documentation should be submitted in sufficient time to allow processing of the application. It is recommended that applications are made at least at least 10 days prior to the expiry of the previous licence. Applications submitted less than 10 days prior may not be processed within less than those 10 days.
- 8.9 A licence that is not renewed by its expiry date will be deemed to have not been renewed and a fresh application for a new licence will be required, unless exceptional circumstances can be demonstrated to the Licensing Authority.
- 8.10 Applications will not normally be entertained from persons who have had any licence revoked either by North Somerset Council or another Local Authority previously. The NR3 register will be consulted for revocations in other Local Authority areas (see 5.60).

### **Table of Tariffs and Licence Fees**

- 8.11 The Licensing Authority will review the prescribed Hackney Carriage fares each year between January and March and any change shall be implemented on 1<sup>st</sup> April following. The Licensing Authority shall also consider any requests in the interim for fare increases which dictate that a variation would be appropriate.
- 8.12 The Licensing Authority will annually review its licence fees and charges and implement any changes on the 1<sup>st</sup> April each year.

### **Taxi Ranks**

- 8.13 North Somerset Council has established a number of public taxi ranks in the district and these are shown at **Appendix P**.
- 8.14 Where a genuine demand can be demonstrated for the establishment of additional public taxi ranks the Council will consider establishing new ranks subject to them being approved by the local Highway Authority.

There have been considerable alterations to road layouts and traffic flow since the adoption of the current ranks and the Licensing authority will look to review and consult on their size and positioning in the period of this policy.

### **Service Standards**

- 8.15 The Council has published standards for the delivery of services and wherever possible these will be maintained in relation to the processing licence applications, dealing with service requests and complaints made to the Licensing Team.

### **Complaints**

- 8.16 The Council will investigate complaints against licensed or unlicensed vehicles, persons or businesses and take action proportionate to the matter being investigated. Complainants shall though be encouraged in the first instance to raise their concerns directly with the licensee to seek a local resolution.
- 8.17 If a person making a complaint is not satisfied with the investigation of a complaint, the North Somerset Council's formal complaint procedure will be followed.
- 8.18 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence.

The Licensing authority will record complaints, and will analyse trends across all licensees as well as complaints against individual licensees.

- 8.19 Licensees with a high number of complaints made against them will be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder will be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.
- 8.20 To ensure that passengers know who to complain to, guidance will be provided for passengers on making complaints directly to the licensing authority which will be available on the website. Ways to make complaint to the authority will be displayed in all licensed vehicles.

Drivers will be made aware of the requirement to display information on how to complain and appropriate sanctions will be brought against those that do not comply with this requirement.

### **Appeals**

- 8.21 Any notifications of enforcement actions will include information on how to appeal, where that right of appeal exists. This will include where and within what period an appeal may be brought.

## 9. Accessibility

- 9.1 Drivers are under a duty to transport a disabled person's guide, hearing or other prescribed assistance dog and allow it to stay with the passenger without additional charge.

Drivers who have a medical condition that is aggravated by exposure to dogs may apply to the Licensing Authority for an exemption from the duty on medical grounds.

The exemption certificate must be clearly displayed within the vehicle. Any other driver who fails to comply with this duty is guilty of an offence and liable to prosecution. If a driver is refused an exemption from the requirements to carry an assistance dog they have the right of appeal to the Magistrates Court within 28 days of being refused.

- 9.2 The Disability Discrimination (Transport Vehicles) Regulations 2005 came into force on 4th December 2006. The result of these regulations is to lift the previous exemption for transport vehicles. The effect of the regulations is to prevent any discrimination against providing transport services to disabled people.
- 9.3 The Council will encourage the Licensing of vehicles for the Carriage of disabled persons and has included within the vehicle specification at **Appendix A** guidelines for suitably adapted and accessible vehicles.
- 9.4 The Council will also work with local groups and forums to promote accessibility issues in relation to licensed vehicles.
- 9.5 The Council will encourage the improvement of driver's awareness of the needs of disabled people, encourage them to overcome any reluctance or bad practice, and to improve their abilities and confidence. The Licensing Authority will encourage drivers to undertake mobility training.
- 9.6 The Licensing Authority will maintain a list of designated wheelchair accessible taxis and Private Hire vehicles operating in its area.
- 9.7 The Licensing Authority will ensure that the designated wheelchair accessible vehicle list is made easily available to passengers, and that vehicle owners and drivers are made aware.  
Lists will set out the make and model of the vehicle, together with specifying whether the vehicle is a Hackney Carriage or Private Hire vehicle. Where possible the Operator of a Private Hire vehicle will also be specified for ease of contact.
- 9.8 Drivers of designated wheelchair accessible vehicles will be provided with clear guidance on their duties with respect to the Carriage of passengers both with and in wheelchairs.

- 9.9 An exemption from carrying out duties to assist passengers in wheelchairs may be granted to drivers if the Licensing Authority is satisfied that it is appropriate to do so on medical or physical grounds.
- 9.10 If a driver is granted exemption then an exemption certificate will be issued and must be displayed by the driver in a prominent position within the vehicle to ensure that passengers in wheelchairs are able to clearly discern if a driver has been exempted from the duties to provide assistance. Should the passenger be visually impaired the driver must provide suitable contact details for the passenger to be able to independently verify this information.
- 9.11 Drivers who discriminate against disabled passengers will be held personally accountable. If a driver receives a conviction for breaching their duties the Licensing Authority will review if they remain a fit and proper person to hold a drivers licence. The Council will investigate cases of alleged discrimination and take appropriate action, even where prosecution did not proceed. If a driver is employed by a company then under the Equality Act 2010 the company will be responsible for employee's actions.

DRAFT

## VEHICLE SPECIFICATION POLICY

### Introduction

A vehicle must meet the following standards to be considered for licensing either as a Hackney Carriage or a Private Hire Vehicle. These standards define the type of vehicle that is suitable for licensing. A more detailed specification regarding equipment, maintenance, documentation, markings and other requirements is contained in the Council's Vehicle Inspection Manual.

### VEHICLE APPROVAL AND CERTIFICATION

1. The Licensed vehicle must comply in all respects with:
  - (a) Road Vehicles (Construction and Use) Regulations 1986
  - (a) The requirements of the Motor Vehicle (Type Approval) Regulations 1980;
  - (b) Motor Vehicle (Type Approval) (Great Britain) Regulations 1984
2. In addition, the licensed vehicle must comply in all respects with British and European vehicle regulations and be "type approved" to the requirements of the M1 or M1 (low volume) category of the European Whole Type Approval Directive 70/156/EEC, as amended.
3. Imported vehicles that cannot meet the requirements of 2 above will need to have been approved under the Individual Vehicle Approval Scheme (IVA) verifying that the vehicle is built to certain safety and environmental standards and has the appropriate documentation confirming this.
4. If the vehicle has been converted to run on liquefied petroleum gas (LPG) then a certificate issued by a member of the LPG Association will be required by the Licensing Authority to confirm satisfactory installation, examination and testing of the vehicle has been carried out in accordance with the LPG Associations Code of Practice.

### Vehicle specification

5. A vehicle must be less than 8 5 years of age (taken from the date of the first registration in the Vehicle Registration Document) at the date of the first application for licence in respect of that vehicle.
6. ***A vehicle must meet the Euro 6 emissions standards for vehicle emissions .***
7. ***The maximum age for accepting a vehicle for first time licensing by the Council may be extended for vintage or specialist built vehicles. The vehicle shall though be in good condition and capable of passing the Council's vehicle compliance test.***
8. The vehicle must have a passenger seating capacity of not less than 4 persons as determined by the method of assessing vehicle capacity described in section 3 below.
9. For each passenger carried in the licensed vehicle there shall be available a properly fitted and maintained seat belt.
10. All saloons, estates or purpose-built taxi vehicles shall have at least 4 side-opening doors, which may be opened from the inside and the outside. Minibuses, transits and people carrier type vehicles shall have at least 3 doors not including any tailgate or rear doors.

11. Highly tinted and blacked out windows are not permitted. The vehicle must be able to comply with the relevant MOT standards and those contained within the vehicle testing manual. **Only tinting applied as factory standard will be accepted.**
12. The vehicle must be right hand drive, but left-hand drive will be permitted where the vehicle is only exclusively manufactured as a left-hand drive vehicle e.g. imported limousine.

## **Vehicle dimensions and seating capacity**

### **Vehicles licensed to carry up to 4 passengers (saloons, estates)**

13. Operators should bear in mind that the manufacturers claimed seating capacity may not always be the same as the Council's licensed seating capacity scheme as detailed below.
14. **Height:** From the top of the seat cushions to the roof at the lowest part (inside) must not be less than 865 mm (34 inches approx.)
  14. **Knee Space: Front Seat** - there must be not less than 750 mm (29 ½ inches approx.) unobstructed space between the leading edge of the dash board and the back of the seat being measured. Consideration will be given to reduced space in vehicles with dash-mounted gear sticks. Each case taken on individual merit.  
**Rear seats** - there must be not less than 750 mm (29 ½ inches approx.) unobstructed space between the front surface of all rear seat backs and the back of the seat in front, measured with the front seat located as specified above.
15. **Seat Depth:** fixed passenger seats (measured from the back of the seat to the front edge of the seat cushion) must be no less than 406 mm (16 inches approx.)
16. **Seat Width:** fixed passenger seats (measured along the front edge of the seat) must allow at least 406 mm (16 inches approx.) per person.

### **Vehicles licensed to carry between 5 and 8 passengers**

17. **Height:** From the top of the seat cushions to the roof at the lowest part (inside) must not be less than 865 mm (34 inches approx.)
18. **Knee Space: Front Seat** - there must be not less than 750 mm (29 ½ inches approx.) unobstructed space between the leading edge of the dash board and the back of the seat being measured.
19. **Rear/middle seats** - there must be not less than 650 mm (25 ½ inches approx.) unobstructed space between the front surface of seat backs and the back of the seat in front, measured with the front seat located as specified above.
20. **Seat Depth:** fixed passenger seats (measured from the back of the seat to the front edge of the seat cushion) must be no less than 406 mm (16 inches approx.)
21. **Seat Width:** fixed passenger seats (measured along the front edge of the seat) must allow at least 406 mm (16 inches approx.) per person.
22. **Facing seats:** the distance between the seat backs measured in a horizontal plane along the top surface of the seating cushion must be not less than 1300 mm (51 inches approx.). The distance between the front edges of the seat cushions must be not less than 425 mm (16 ¾ inches approx.).



## ACCESSIBILITY

23. In the case of all Hackney vehicles, which are built or adapted for disabled passengers, the design of the vehicle should ensure that any wheelchair is loaded from the side or rear of the vehicle.
24. Where a vehicle is utilised for the Carriage of passengers in a wheelchair, the following conditions shall apply:
- (a) Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus.
  - (b) Wheelchair internal anchorage must be of the manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit.
  - (c) A suitable restraint must be available for the occupant of a wheelchair.
  - (d) Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper.
  - (e) Ramps and lifts must be securely stored in the vehicle before it may move off.
25. Any equipment fitted to the vehicle for lifting a wheelchair into the vehicle must comply with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I.1998/2307). Any such equipment must be maintained in good working order, tested at the required intervals and be available for use at all times.
26. The Equality Act 2010 seeks to place duties on drivers of wheelchair accessible vehicles. The duties will apply to the driver of any wheelchair accessible vehicle which is on the Authority's list of "Designated Vehicles".  
The duties are as follows:
- to carry the passenger whilst in a wheelchair not to make any additional charge for doing so
  - if the passenger chooses to sit in a passenger seat, to have capacity to carry the wheelchair also to take such steps as are necessary to ensure that the passenger is carried in safe and reasonable comfort;
  - and to give the passenger such mobility assistance, as is reasonably required. the driver must also offer to load the passenger's luggage into and out of the vehicle.
27. A vehicle should only be included in the Council's list if it would be possible for the user of a wheelchair to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.

***The Council on an individual basis, prior to licensing, will assess the overall suitability of a vehicle for the Carriage of disabled passengers. Applicants therefore should discuss the purchase of a vehicle adapted to carry disabled passengers with the Council, prior to purchase.***

## TRAILERS

28. Trailers may only be used with the prior approval of the Authority and subject to the following requirements:
- (a) Trailers can only be used in connection with Private Hire bookings and cannot be used for plying for Hire on a rank;
  - (b) The trailer must at all times comply with all requirements of Road Traffic legislation in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986;

- (c) The vehicle insurance must include cover for towing a trailer;
- (d) Trailers must not be left unattended anywhere on the highway;
- (e) The speed restrictions applicable to trailers must be observed at all times;
- (f) A suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use.

### **Applicant criminal record checks**

- 29. This Licensing authority will require applicants for vehicle licences to undertake a basic disclosure from the DBS and ensure that a check is undertaken annually. Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC).
- 30. Consideration will be given to whether an applicant or licence holder with a conviction for offences provided in Appendix L to this document, other than those relating to driving, meet the 'fit and proper' threshold.
- 31. If an individual holds a valid Taxi or Private Hire driver licence with North Somerset Council and the DBS twice-yearly checks are up to date and acceptable then no additional check will need to be provided should they apply for a vehicle licence.

### HACKNEY CARRIAGES CONDITIONS OF LICENCE

The holder of the licence shall comply with the provisions of The Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, The North Somerset Council Hackney Carriage Byelaws and the conditions detailed below: -

References to the "Council" in these conditions mean North Somerset Council.

#### 1. Single Licensing of Vehicle

This Licence is issued on the condition that the Hackney Carriage to which it relates is not licensed as either a Hackney Carriage or Private Hire vehicle by another Authority. If North Somerset Council becomes aware of other vehicle licences (Hackney Carriage or Private Hire) running concurrently with this licence, then this licence shall be revoked.

#### 2. Alterations of Vehicle

No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made at any time while the licence is in force, without the prior approval of the Council.

#### 3. Maintenance of Vehicle

The vehicle and all its fittings and equipment shall at all times, when the vehicle is in use or available for Hire, be kept in an efficient, safe, tidy and clean condition. All relevant statutory requirements including those contained in the Road Vehicles (Construction and Use) Regulations 1986, as amended by the Road Traffic Acts 1988 and 1991, or any statutory modification or re-enactment thereof shall be fully complied with.

#### 4. Roof Signs and Licence Plates

- 4.1 A roof sign bearing the word "TAXI" shall be carried on the roof of the vehicle in such a manner as to be easily visible and capable of being removed by an authorised officer of the Council, or a constable of any rank, and a Police Community Support Officer in Uniform.
- 4.2 The roof sign must be connected to the vehicles electrical system and should be illuminated when the vehicle is standing or plying for Hire within the North Somerset District.
- 4.3 A rear licence plate identifying the vehicle as a Hackney Carriage shall be securely fixed by screws, bolts or other approved means externally to the rear of the vehicle in a conspicuous position and in such a manner as to be easily removed by an authorised officer of the Council or a Police Officer.
- 4.4 The licence plates shall remain the property of the Council and must be returned within 7 days of a vehicle ceasing to be licensed or used as a Hackney Carriage.

#### 5. Passengers

The licence holder shall not convey or permit to be conveyed in the licensed vehicle any greater number of persons than that prescribed in the Licence and on the Plate issued by the Council and affixed to the vehicle.

#### 6. Vehicle Markings

- 6.1 Subject to the approval of the Council the details of the name, address, telephone number and company logo (or any combination thereof) of the proprietor of the Hackney Carriage may be displayed on front doors, of the vehicle. Words, numbers

and graphics used in connection with this requirement shall comply with the specification in paragraph 6.2 below

6.2 All words, numbers and graphics placed on the vehicle shall comply with the following specification: -

- Only one set of details of the vehicle's proprietor may be displayed per door on the vehicle.
- Lettering should not be more than 6 inches high

6.3 The licence holder shall display inside the vehicle in such a position as to be visible at all times to persons conveyed therein the number of this licence and the maximum number of persons who may be carried by the vehicle.

6.4 There shall be displayed within the vehicle for the information of passengers, a table of fares provided by the Council and a notice stating the office to which any complaints respecting the vehicle and the driver should be addressed, and any other notice reasonably required by the Council.

6.5 No signs, notices, advertisements, plates, marks, numbers, letter figures, symbols, emblems or devices whatsoever shall be displayed on, or in or from the vehicles except as may be required by statutory provision or required or permitted by these conditions.

6.6 The licence holder may display on suitably adapted vehicles a form of words or a symbol indicating that the vehicle has been adapted for use by disabled persons. The Council will however require evidence of the acceptability of such adaptation and shall approve the form of words or symbols.

## **7. Commercial Advertising on Vehicles**

Advertising will be allowed on the licensed vehicle subject to it being in accordance with the Council's Vehicle Advertising Policy.

## **8. Change of Address**

The licence holder shall notify the Council in writing of any change of address, within 7 days of such a change taking place.

## **9. Convictions**

Licence holders will be required to provide a basic DBS disclosure prior to and at renewal of any licence.

Within 48 hours of having been arrested, cautioned or convicted of a criminal offence the licence holder shall notify the Licensing Authority of that event and if the Licensing Authority is not notified within the requisite period the licence may be automatically revoked.

## **10. Deposit of Driver's Licences**

Where the licence holder permits or employs any other person to drive the vehicle as a Hackney carriage, that driver shall provide the licence holder with a copy of their Hackney Carriage Driver licence before commencing to drive and for the duration of permission to drive.

## **11. Vehicle Insurance**

11.1 At all times during the currency of the licence, the licence holder shall keep in force in relation to the use of the vehicle as a Hackney Carriage a Policy of insurance covering the vehicle for use for Hire or reward, and complying with the requirements of the relevant legislation. The Licence Holder shall produce vehicle insurance documents on

demand to the Council at any time during the period of the licence, and allow retention of a copy of the insurance on file.

11.2 Before permitting any licensed Hackney Carriage driver to drive the vehicle, the licence holder shall ensure that the driver is adequately insured to do so.

**11.3 *The Licensed Vehicle shall only be driven by persons who hold the relevant Licence issued by this Council. No other person may drive the vehicle at any time, including for Social, Domestic and Pleasure purposes.***

## **12. Accidents**

12.1 Any accident or damage involving the licensed vehicle must be reported to the Council during the next working day or within 72 hours, whichever is the sooner. This may be an oral report in the first instance but must be followed up in writing. Electronic notifications are acceptable.

**12.2 *The Licensee shall inform the Proprietor of the Licensed Vehicle they are using, of any incident causing damage to that Licensed Vehicle, or by the use of that Licensed Vehicle any damage caused to another vehicle***

**12.3 *The Licensee shall inform the Council and the Proprietor of the Licensed Vehicle of any injury caused to a human or domesticated animal by the use of the Licensed Vehicle.***

## **13. Certificates of Compliance and MOT**

13.1 All vehicles shall have a current MOT certificate issued under the National MOT scheme and have had an annual compliance test carried out by a Council Approved Testing Station.

13.2 All vehicles over 8 years old shall have an MOT test under the National MOT scheme and a compliance test carried out by a Council Approved Testing Station every 6 months. A licence shall then be issued for 6 months until the vehicle reaches the end of the 10<sup>th</sup> year after first registration

## **14. Vehicle Road Fund Licence**

The Licence Holder must ensure that at all times the vehicle is covered by a current vehicle road fund licence.

## **15. Taximeters**

All Hackney Carriages shall be fitted with a taximeter, which conforms to the following specification: -

15.1 The taximeter shall be an automatic date controlled meter of a type approved by the Council.

15.2 The meter shall be capable of displaying the various tariffs as approved by the Council, including extra charges recoverable under the approved Table of Fares.

15.3 The meter shall be located within the vehicle in such a position that any fares and charges displayed are visible to persons travelling in the vehicle. Taxi fares are a maximum and in principle are open to downward negotiation between passenger and driver.

15.4 The taximeter shall be calibrated and set to the Council agreed charging distances and tariffs currently in force. The taximeter must be sealed with an official Council seal by a person authorised by the Council to seal taximeters. The taximeter must also be sealed in such a way that the fares and tariffs set into the meter cannot be tampered with.

15.5 The proprietor of the vehicle shall present to the Council upon grant of a licence, a change in the table of fares, or any other re-calibration, adjustment, repair or replacement of a taximeter, a signed certificate stating that the taximeter fitted to the

licensed vehicle has been set and calibrated to the Council agreed charging distances and tariffs currently in force.

- 15.6 Any Council seal, which is tampered with without good reason, will render this licence liable to suspension or revocation.

#### **16. Radio Communications Equipment**

All radio transceiving equipment, except mobile telephones, fitted to the vehicle shall be type approved mobile radio equipment as licensed by the Radio Communications Agency under the Wireless Telegraphy Act 1949.

#### **17. Assistance Dogs**

No driver shall refuse (unless specifically exempted by the Council) to convey an assistance dog with its owner or keeper. The assistance dog shall be carried in the rear of the vehicle, free of charge.

#### **18. Safety Equipment**

***There shall be provided and maintained in the vehicle at all times when it is in use or available for Hire a suitable and efficient fire extinguisher that complies with the current national standards specification.***

#### **19. Seat Belts**

For each passenger carried in the licensed vehicle there shall be available a properly fitted and maintained seat belt.

#### **20. Licence Documents**

The Licence and attached conditions must be kept at a place from where the vehicle is operated. and must be readily available for inspection by an authorised officer or a constable of any rank, and a Police Community Support Officer in Uniform.

This licence must be returned to the Council upon its revocation, suspension, discontinuance or for annual renewal.

#### **21. Vehicle Inspections**

The licensed vehicle shall be examined at a Council appointed garage on an annual or 6 monthly basis, as determined by the vehicle age.

#### **22. Smokefree Vehicle**

The whole of the vehicle shall be kept smokefree at all times and no smoking signs of a type required by the legislation currently in force shall be prominently displayed within each passenger compartment of the vehicle.

#### **23. Suspension or Revocation of Licences**

The Council reserves its right to take such action, which it is entitled to take, including (without limitation) suspension or revocation of the licence, where it deems it necessary.

***This includes the confiscation of plates (internal and external) by Authorised officers or a constable of any rank, and a Police Community Support Officer in Uniform.***

#### **24. Revocation and Modification of Conditions**

The Council reserves the right, (at its own behest and at any time), to revoke, vary, or modify any of these conditions and/or to make such additional conditions as it may deem requisite, either generally or in respect of any licence or occasion.

## **25. Grievances**

By virtue of Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 any person who is aggrieved by any condition attached to the licence may appeal to the Magistrates' Court within 21 days of receipt of the licence.

# **Appendix C**

## **PRIVATE HIRE VEHICLES CONDITIONS OF LICENCE**

The holder of the licence shall comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 and the conditions detailed below: -

References to the "Council" in these conditions mean North Somerset Council.

### **1. Single Licensing of Vehicle**

This Licence is issued on the condition that the Private Hire vehicle to which it relates is not licensed as either a Hackney Carriage or Private Hire Vehicle by another Authority. If North Somerset Council becomes aware of other vehicle licences (Hackney Carriage or Private Hire) running concurrently with this licence, then this licence shall be revoked.

### **2. Alterations of Vehicle**

No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made at any time while the licence is in force, without the prior approval of the Council.

### **3. Maintenance of Vehicle**

The vehicle and all its fittings and equipment shall at all times, when the vehicle is in use or available for Hire, be kept in an efficient, safe, tidy and clean condition. All relevant statutory requirements including those contained in the Road Vehicles (Construction and Use) Regulations 1986, as amended by the Road Traffic Acts 1988 and 1991, or any statutory modification or re-enactment thereof shall be fully complied with.

### **4. Licence Plates**

4.1 Front and rear licence plates identifying the vehicle as a Private Hire vehicle shall be securely fixed by screws, bolts or other approved means externally to the front and rear of the vehicle in a conspicuous position and in such a manner as to be easily removed by an authorised officer of the Council or a Police Officer.

4.2 The plates shall remain the property of the Council and must be returned within 7 days of a vehicle ceasing to be licensed.

### **5. Passengers**

The licence holder shall not convey or permit to be conveyed in the licensed vehicle any greater number of persons than that prescribed in the Licence and on the Plate issued by the Council and affixed to the vehicle.

### **6. Vehicle Markings**

6.1 Vehicle proprietors shall display on both front doors the name of the company or the name of the licence holder, together with the appropriate telephone number. The lettering must be between 50mm (2 inches approx.) and 150mm (6 inches approx.) high. Before a display is applied to a vehicle the Council shall approve it.  
The word "taxi" or "cab(s)" shall not be used.

- 6.2 No signs, notices, advertisements, plates, marks, numbers, letter figures, symbols, emblems or devices whatsoever shall be displayed on, or in or from the vehicles except as may be required by statutory provision or required or permitted by these conditions.
- 6.3 The licence holder may display on suitably adapted vehicles a form of words or a symbol indicating that the vehicle has been adapted for use by disabled persons. The Council will however require evidence of the acceptability of such adaptation and shall approve the form of words or symbols.
- 6.4 There shall be displayed in all Private Hire vehicles a sign supplied by the Council, comprising a Council logo **and telephone number** for customer complaints. This sign shall be affixed to the rear near or offside passenger door windows or quarter lights.
- 6.5 There shall be displayed inside the inside the vehicle a licence plate supplied by the Council. The licence plate shall be visible to passengers in the vehicle.

## **7. Commercial Advertising on Vehicles**

Advertising will be allowed on the licensed vehicle subject to it being in accordance with the Council's Vehicle Advertising Policy.

## **8. Change of Address**

The licence holder shall notify the Council in writing of any change of address, including the name and address of any Company from whom bookings are taken, within 7 days of such a change taking place.

## **9. Convictions**

Licence holders will be required to provide a basic DBS disclosure prior to and at renewal of any licence.

***Licence holders are required to notify North Somerset Council within 48 hours, or as soon as practicable, of any enforcement action taken against them including:***

- ***Receiving a simple or conditional caution or being convicted of any criminal offence***
- ***Being arrested, interviewed, charged, reported for summons or receiving a postal requisition in connection with any motoring or criminal offence***
- ***Receiving any out of court disposal including formal warnings, community resolutions, restorative justice, education and awareness courses, community protection warnings and notices, vehicle defect rectification notices or fixed penalty notices***

***Any offence for which a licence holder is interviewed by Voluntary Attender arrangement must also be notified to the licensing Authority within 48 hours of the interview.***

## **10. Deposit of Driver's Licences**

Where the licence holder permits or employs any other person to drive the vehicle as a Private Hire Vehicle, that driver shall provide the licence holder with a copy of their Private Hire Driver licence before commencing to drive and for the duration of permission to drive.



## **11. Vehicle Insurance**

- 11.1 At all times during the currency of the licence, the licence holder shall keep in force in relation to the use of the vehicle as a Private Hire Vehicle a Policy of insurance covering the vehicle for use for Hire or reward, and complying with the requirements of the relevant legislation. The Licence Holder shall produce vehicle insurance documents on demand to the Council at any time during the period of the licence, and allow retention of a copy of the insurance on file.
- 11.2 Before permitting any licensed Private Hire Vehicle driver to drive the vehicle, the licence holder shall ensure that the driver is adequately insured to do so.

## **12. Accidents**

Any accident or damage involving the licensed vehicle must be reported to the Council during the next working day or within 72 hours, whichever is the sooner. This may be an oral report in the first instance but must be followed up in writing

## **13. Certificates of Compliance and MOT**

- 13.1 All vehicles shall have a current MOT certificate issued under the National MOT scheme and have had an annual suitability test carried out by a Council Approved Testing Station.

**13.2 *All vehicles over 8 years old shall have an MOT test under the National MOT scheme and have a compliance test carried out by a Council Approved Testing Station every 6 months. A licence shall then be issued for 6 months until the vehicle reaches the end of the 10<sup>th</sup> year after first registration.***

## **14. Vehicle Road Fund Licence**

The Licence Holder must ensure that at all times the vehicle is covered by a current vehicle road fund licence.

## **15. Radio Communications Equipment**

All radio transceiving equipment, except mobile telephones, fitted to the vehicle shall be type approved mobile radio equipment as licensed by the Radio Communications Agency under the Wireless Telegraphy Act 2006

## **16. Assistance Dogs**

No driver shall refuse (unless specifically exempted by the Council) to convey an assistance dog with its owner or keeper. The assistance dog shall be carried in the rear of the vehicle, free of charge.

## **17. Safety Equipment**

***There shall be provided and maintained in the vehicle at all times when it is in use or available for Hire a suitable and efficient fire extinguisher that complies with the current national standards specification.***

## **18. Seat Belts**

For each passenger carried in the licensed vehicle there shall be available a properly fitted and maintained seat belt.

## **19. Licence Documents**

The Licence and attached conditions must be kept at a place from where the vehicle is operated and must be readily available for inspection by a duly authorised Council Officer, a constable of any rank, and a Police Community Support Officer in Uniform.

The licence must be returned to the Council upon its revocation, suspension, discontinuance or for annual renewal.

**20. Vehicle Inspections**

The licensed vehicle shall be examined at a Council appointed garage on an annual or 6 monthly basis, dependent on the age of the vehicle

**21. Smokefree Vehicle**

The whole of the vehicle shall be kept smokefree at all times and no smoking signs of a type required by the legislation currently in force shall be prominently displayed within each passenger compartment of the vehicle.

**22. Suspension or Revocation of Licences**

The Council reserves its right to take such action, which it is entitled to take, including (without limitation) suspension or revocation of the licence, where it deems it necessary.

**23. Revocation and Modification of Conditions**

The Council reserves the right, to revoke, vary, or modify any of these conditions and/or to make such additional conditions as it may deem requisite, either generally or in respect of any licence or occasion.

**24. Grievances**

By virtue of Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 any person who is aggrieved by any condition attached to the licence may appeal to the Magistrates' Court within 21 days of receipt of the licence.

## Appendix D

### CONDITIONS APPLICABLE TO HORSE-DRAWN VEHICLES

- 1 The Licence holder shall be responsible for the safe handling and proper care of the horses employed in the operation of the licensed vehicle.
- 2 The Licence holder must satisfy the Licensing Authority that he is competent to drive horses. The Licence holder must produce satisfactory proof of his driving ability and any expense incurred in producing such proof shall be met by the Licence holder.
- 3 The Licence holder shall be responsible, when in charge of the vehicle, for the collection and satisfactory hygienic disposal of horse excrement.
- 4 The Licence holder shall, at all times when acting in accordance with the driver's licence, wear the official badge issued by the Licensing Authority in such a position as to be plainly and distinctly visible.
- 5 The Licence holder shall notify the Licensing Authority of any change of address and, if not self-employed any change of employer.
- 6 The Licence holder shall, at the request of any authorised Officer of the Licensing Authority or a constable of any rank, and a Police Community Support Officer in Uniform, produce his licence for inspection.
- 7 On the surrender, revocation or suspension of the licence the official driver's badge must be returned to the North Somerset Council Licensing Office.
- 8 Any change in the medical condition of the Licence holder, which could impair his driving ability, shall be notified immediately to the Licensing Authority.
- 9 Any change in the physical condition of the horse must be notified to the Licensing Authority.
10. The licensee shall ensure the feet of the horse are properly trimmed and if shod, the shoes must be properly fitted and in good condition.
- 11 Details of any offence of which the Licence holder has been convicted shall be notified to the Licensing Authority.
- 12 The proprietor of a Hackney Carriage shall not, when standing or plying for Hire, wash such Carriage in any street or public place.
- 13 The proprietor or driver of a Hackney Carriage shall not while standing, plying or driving for Hire, drive or allow to be driven, or harness or allow to be harnessed to the Carriage any animal in such condition to expose any person conveyed or being in such Carriage, or any person traversing any street, to risk or injury.
- 14 The driver of a Hackney Carriage drawn by an animal or animals shall, while standing, plying or driving for Hire, cause every part of the harness of the animal or animals drawing the Carriage to be kept in order, so that the animal or animals shall be properly and securely attached to the Carriage and under due control.
- 15 A proprietor or driver of a horse drawn Hackney Carriage shall not, in any street, feed or allow to be fed any horse harnessed or otherwise attached to such Carriage, except with food contained in a proper bag or other receptacle suspended from the head of such horse or from the centre pole of the Carriage or which is held in and delivered with the hand of the person feeding such horse.

- 16 The official licence plate, issued by the Licensing Authority, must be affixed to the rear of the vehicle. Such licence plate shall be returned to the Licensing Authority if the vehicle licence is surrendered, revoked or suspended.
- 17 The official fare card must be displayed inside the vehicle to be clearly visible to passengers in the vehicle at all times subject to any specific exemption granted by the Licensing Authority.
- 18 When the vehicle is being used for Hire, no person shall be authorised to drive the vehicle other than a person currently licensed as a horse-drawn Hackney Carriage driver and wearing the official badge.
- 19 No horse shall be harnessed to, or used in connection with the vehicle hereby licensed unless, within the preceding twelve months, a veterinary surgeon has examined the horse and issued a certificate of fitness. Such certificate shall be delivered to the Licensing Authority immediately.
- 20 No horse shall be in harness for more than seven hours in any one day and if in harness for seven consecutive hours, shall during that period have a break of not less than one hour and shall be fed and watered.
- 21 A horse in which in any one day is harnessed to, or used in connection with a licensed Hackney Carriage shall not be used at any time during that day for any other purpose.
- 22 In any other respects, the provisions and conditions relating to Hackney Carriages, as set out in the attached conditions, apply to horse-drawn Carriages except in so far as the context of the provisions or conditions clearly dictates that reference is being made to motor vehicles or the driving of such motor vehicles.

## Appendix E

### Additional conditions attached to Licences for Stretched Limousines

1. The Private Hire vehicle must be fitted with tyres that meet both the size and weight specification for the vehicle at all times for the duration of the licence.
2. Before accepting a booking, the operator must make it clear to the Hirer that the vehicle is licensed for no more than 8 passengers.
3. If passengers are under the age of 18, there should be no alcohol in the vehicle for consumption or otherwise.
4. The licence holder shall not supply any media that, given its age classification or content, is unsuitable for the age of the passengers in the vehicle.
5. The operator of the vehicle shall ensure that a performing rights licence is held where recorded music is played for the entertainment of the passengers being carried in the licensed vehicle.
6. The vehicle must contain two fully functional portable multipurpose powder type fire extinguishers approved to BS EN 3. Separate extinguishers shall be provided in the driver and passenger compartments. A sign indicating the presence of the fire extinguisher in the passenger compartment shall be prominently displayed.
7. Use of fog machines, lasers, fibre optics, disco balls and other equipment should comply with relevant Health and Safety regulations and should not be used in a manner which is likely to distract the Private Hire vehicle driver or other road users.
8. The use of strobe lighting is prohibited.
9. The Proprietor of the Private Hire vehicle shall:
  - 9.1 Provide sufficient means by which any person in the Private Hire vehicle may communicate with the driver during the hiring.
  - 9.2 Provide any necessary windows and means of opening and closing with not less than one window on each side of the passenger compartment.
  - 9.3 Provide at least two doors for the use of persons conveyed in the Private Hire vehicle and separate means of ingress and egress for the driver.

## Appendix F

### Licensed Vehicle Advertising Policy

1. Subject to the approval of the Council, the following advertising is allowed on a licensed vehicle: -
  - 1.1 Details of the name, address, telephone number, website and company logo (or any combination thereof) of the proprietor of the licensed vehicle may be displayed on a bonnet, front door, rear facing door, hatch or boot of the vehicle. Words, numbers and graphics used in connection with this requirement shall comply with the specification in paragraph 2 below.
  - 1.2 An advertisement affixed to the rear doors only of the vehicle and not to exceed 600mm x 450 mm (24 inches x 18 inches approx.)
  - 1.3 Full vehicle advertising is permitted on licensed vehicles if it forms part of a full vehicle livery scheme advertising a single product, service or company.
2. All words, numbers and graphics placed on the vehicle in relation to the vehicle proprietors' details shall comply with the following specification:-
  - 2.1 No words, letters or graphics may be displayed on the front or rear windows of the vehicle.
  - 2.2 Only one set of details of the vehicle's proprietor may be displayed per location on the vehicle. Location on the vehicle is defined as the front, side (left and right) and rear of the vehicle.
  - 2.3 Lettering should not be more than 6 inches high unless a dispensation has been granted by the Council based on a proven need from the applicant.
  - 2.4 Graphics may be displayed on the outside of the vehicle as follows:-
    - a) On bonnets, front or rear facing doors, hatch or boot, maximum size to be not greater than 150 mm high by 150 mm wide (6 inches by 6 inches approx.)
    - b) On front passenger doors and sides of the vehicle, no size restriction.
3. No reflective materials shall be used in the lettering or graphics of any advertising placed on the vehicle
4. The content of any advertising on the vehicle shall be legal, decent and truthful.

## Appendix G

### **Hackney Carriage Byelaws (as amended and adopted by North Somerset Council)**

Byelaws made under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875 by Woodspring District Council with respect to Hackney Carriages in the district of Woodspring.

#### **INTERPRETATION**

1. Throughout these byelaws 'the Council' means the District Council of Woodspring and 'the District' means the District of Woodspring.

#### **Provisions regulating the way the number of each Hackney Carriage corresponding with the number of its licence, shall be displayed.**

2. (a) The proprietor of a Hackney Carriage shall cause the number of the licence granted to him in respect of the Carriage to be legibly painted or marked on the outside and inside of the Carriage or on plates affixed thereto.
- (b) A proprietor or driver of a Hackney Carriage shall:
  - (i) Not wilfully or negligently cause or suffer any such number plate to be concealed from public view while the Carriage is standing or plying for Hire;
  - (ii) Not cause or permit the Carriage to stand or ply for Hire with any such painting, marking or plate so defaced that any figure or materials is illegible.

#### **Provisions regulating how Hackney Carriages are to be furnished or provided.**

3. The proprietor of a Hackney Carriage shall:
  - (a) provide sufficient means by which any person in the Carriage may communicate with the driver;
  - (b) cause the roof or covering to be kept water-tight;
  - (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
  - (d) cause the seats to be properly cushioned or covered;
  - (e) cause the floor to be provided with a proper carpet, mat or other suitable covering;
  - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
  - (g) provide means for securing luggage if the Carriage is so constructed as to carry luggage;
  - (h) provide an efficient fire extinguisher which shall at all times be carried in such a position as to be readily available for use;

- (i) provide at least two doors for the use of persons conveyed in such Carriage and a separate means of ingress and egress for the driver;
  - (j) provide and maintain an electric light in the interior of the Carriage for the use of any person hiring or being driven therein.
  - (k) not to cause or permit any signs, advertising material or printed matter to be displayed on the exterior of the Carriage without the approval of the Council unless required by these byelaws.
4. The proprietor of a Hackney Carriage shall cause the same to be provided with a taximeter so constructed, attached and maintained as to comply with the following requirements, that's is to say.
- a) the taximeter shall be fitted with a key, flag or other device the turning of which will bring the machinery of the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter;
  - b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter if not in action and that no fare is recorded on the face of the taximeter;
  - c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the Hire of the Carriage by distance in pursuance of the fare scale approved by the Council and in force for the district;
  - d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
  - e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the Carriage and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring;
  - f) the taximeter and all the fittings thereof shall be so affixed to the Carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking damaging or permanently displacing the seals or other appliances.

**Provisions regulating the conduct of the proprietors and drivers of Hackney Carriages plying within the district in their several employments and determining whether such drivers shall wear any and what badges.**

5. The driver of a Hackney Carriage provided with a taximeter shall: -
- a) when standing or plying for Hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
  - b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word 'HIRED' is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring;



- c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is during the period beginning one hour before sunset and ending at sunrise and at any other time requested by the Hirer.
6. A proprietor or driver of a Hackney Carriage shall not tamper with or permit any person to tamper with any taximeter with which the Carriage is provided with the fittings thereof, or with the seals affixed thereto.
7. The driver of a Hackney Carriage shall, when plying for Hire in any street and not actually Hired;
  - a) proceed with reasonable speed to one of the stands appointed by the Council;
  - b) if a stand, at the time of his arrival, is occupied by the full number of Carriages authorised to occupy it, proceed to another stand;
  - c) on arriving at a stand not already occupied by the full number of Carriages authorised to occupy it, station the Carriage immediately behind the Carriage or Carriages on the stand and to face in the same direction;
  - d) from time to time when any other Carriage immediately in front has driven off or moved forward cause his Carriage to be moved forward to fill the place previously occupied by the Carriage driven off or moved forward.
8. A proprietor or driver of a Hackney Carriage, when standing or plying for Hire, shall not, by calling out or otherwise, importune any person to Hire such Carriage and shall not make use of the services of any other person for the purpose.
9. The driver of a Hackney Carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
10. The proprietor or driver of a Hackney Carriage who has agreed or has been Hired to be in attendance with the Carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such Carriage at such appointed time and place.
11. The driver of a Hackney Carriage when Hired to drive to any destination shall, subject to any directions given by the Hirer, proceed to that destination by the shortest available route.
12. A proprietor or driver of a Hackney Carriage shall not convey or permit to be conveyed in such Carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the Carriage.
13. If a badge has been provided by the Council and delivered to the driver of a Hackney Carriage he shall, when standing or plying for Hire, and when Hired, wear that badge in such position and manner as to be plainly visible.
14. The driver of a Hackney Carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to Hire the Carriage;
  - a) convey a reasonable quantity of luggage;
  - b) afford reasonable assistance in loading and unloading;
  - c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such a person.

15. a) the proprietor of a Hackney Carriage shall cause a statement of the fares fixed by the Council to be exhibited inside the Carriage, in clearly distinguishable letters and figures.
- b) the proprietor or driver of a Hackney Carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the Carriage is playing for Hire or being used for Hire.

**Provisions securing the safe custody and re-delivery of any property accidentally left in Hackney Carriages and fixing the charges to be made in respect thereof.**

16. The proprietor or driver of a Hackney Carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the Carriage for any property which may have been accidentally left therein.
17. The proprietor or driver of a Hackney Carriage shall, if any property accidentally left therein by any person who may have conveyed in the Carriage be found by or handed to him;
  - a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner to the office of the Council, and leave it in the custody of the officer in charge of the office on his giving a receipt for it;
  - b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

**Penalties**

18. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding one hundred pounds and in case of a continuing offence to a further fine not exceeding five pounds for each day during which the offence continues after conviction therefore.

<p>THE COMMON SEAL of the ) WOODSPRING DISTRICT ) L.S. ) COUNCIL was hereunto affixed ) the 14<sup>th</sup> day of November 1979 ) In the presence of:- )</p> <p>TW Cox Chairman of the Council ) RH Moon Chief Executive and Clerk )</p> <p>The forgoing byelaws are hereby confirmed ) by the Secretary of State and shall come into ) operation on the 2<sup>nd</sup> day of January 1980. )</p> <p>R. F. D. Shuffrey ) An assistant Under Secretary of State )</p> <p>28 December 1979 )</p>	<p>The COMMON SEAL of ) WOODSPRING DISTRICT COUNCIL ) L.S. ) was hereunto affixed on the ) 18<sup>th</sup> day of September 1985 ) in the presence of:- )</p> <p>RL Harrison – Chairman ) RH Moon – Chief Executive and Clerk )</p> <p>The forgoing byelaw is hereby confirmed by the ) Secretary of State and shall come into operation ) on the 16<sup>th</sup> day of January 1986. )</p> <p>P. E. Pickering ) An assistant Secretary in the Department of ) Transport on behalf of the Secretary of State for ) Transport. )</p>
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4 December 1985

DRAFT V1

## **Exemption from requirement to display Vehicle Identification.**

1. The aim is to ensure public safety whilst taking a balanced approach to licensing requirements. The objective is the provision of an exemption to allow 'executive vehicles' to operate without displaying external identification plates.

2. **Introduction**

- 2.1 The displaying of the external identification plate on a licensed vehicle and a driver's badge is important in terms of public safety and reassurance. They indicate to the travelling public that prior to being licensed both the vehicle and the driver have been subjected to checks to ensure their (the public's) safety. The visible licence number of the vehicle and driver affords members of the public and other persons such as the Police traceability via the local Licensing Authority.

- 2.2 The Local Government (Miscellaneous Provisions) Act 1976 requires that Private Hire vehicles display an identification plate and drivers of those vehicles wear a driver's badge. The same legislation also allows North Somerset Council to exempt vehicles from the need to display an identification plate and, where that exemption applies, the requirement to wear a Private Hire Driver badge.

3. **Details**

- 3.1 Exemptions from displaying identification plates may be in respect of individual vehicles only and based upon evidence based need. Applications for exemptions relating to a fleet of vehicles will not be allowed.
- 3.2 Each application will be assessed on its own merit.
- 3.3 Applications for exemption from the requirement to display identification plates may be considered where the following requirements are met;

- a) Vehicles must be of a standard of comfort and equipped to a level higher than that of a 'standard' Private Hire Vehicle. It is not intended to form a prescriptive list of acceptable vehicles because this may be subjective and require frequent update.

Relevant considerations as to whether a vehicle meets this standard include but are not limited to cost, reputation, specification, appearance, perception, superior comfort levels and seating specification i.e. whether the vehicle offers additional space per passenger opposed to standard vehicles.

- b) The vehicle will be in pristine condition with no visible defects dents or blemishes to the external bodywork or internal trim and seating. Interior seating will usually be leather or other suitable robust materials and the cabin air conditioned to maintain passenger comfort.

c) The type of work undertaken is 'executive' in nature. There must be demonstrable need for an exemption to apply rather than a one-off contract. The type of work that may be considered 'executive' may include:

- Corporate bookings to transport employees and clients on business related journeys
- Other journeys where the client specifically requires a vehicle without any Private Hire plates or signage on it at the time of booking
- Bookings for clients (for example politicians and celebrities) who for security or personal safety reasons would not want the vehicle to be identifiable as a Private Hire vehicle.
- The percentage of 'executive' work undertaken by the vehicle must constitute at least 75% of the total work carried out by the vehicle.
- An application to renew an exemption from the display of identity plates must be accompanied by a copy (preferable electronic) of the relevant Private Hire Operator records to evidence the nature of the work carried out over the previous licence period.
- Operator records must also detail evidence of contracts with clients which require vehicles supplied to be exempt from the display of identity plates.
- A dress code commensurate with executive work is required. Applicants to provide details of the dress code (suit/jacket or equivalent) which the operator(s) for whom they work require them to adhere to. Dress code must be followed at all times the vehicle is being used to undertake a booking relating to executive work.

3.4 Where a proprietor wishes to make an application for a vehicle to be exempt from displaying identification plates they will be required to complete the appropriate application form. The application form will be accompanied by documentation that supports the application and the appropriate fee shown in the published tariff.

3.5 A notice of exemption from displaying identification plates will be granted at the Council's discretion. The applicant must provide sufficient documentary evidence to support their application. Such evidence may include:

- a) A letter from each customer indicating:
  - i) Why they require a vehicle which does not display an identity plate,
  - ii) Whether they require privacy glass, and why privacy glass is required.
  - iii) The type of vehicle they require.
- b) A letter from the Private Hire Operator for who work is undertaken stating the vehicle registration number of the vehicle to which this application relates and detailing the work that will be carried out and the percentage of the work to be carried out.
- c) Copies of written contracts with customers.
- d) Copies of invoices

- 3.6 The Council may require applicants to provide any additional documentation as reasonably necessary to allow the Council to make an informed decision. Where such documentation is not provided to the satisfaction of the Council the application will be refused.
- 3.7 Where an application is granted and a vehicle is exempted from displaying its external identification plate an exemption notice will issued as soon as practical after the decision is made.
- 3.8 Where a vehicle is exempted from the requirement to display an external identification plate the vehicle will NOT be exempted from the need to display the internal plate.
- 3.9 Irrespective of when an exemption notice is granted the initial exemption notice will expire on the same day as the expiration of the vehicles current Private Hire licence, unless it is otherwise surrendered or revoked. Thereafter any renewed exemption notice will last for a period that is the same as that vehicle's Private Hire licence unless either the licence or notice is otherwise surrendered or revoked.
- 3.10 Exemption notices may be renewed annually. An application to renew the exemption must be accompany the vehicle renewal application form.
- 3.11 The Authority to determine any application for an exemption notice is by virtue of this Policy delegated to the Licensing Manager.
- 3.12 Other than where to do so would conflict with the requirements of this Policy, all vehicles granted an exemption notice must, in addition to the requirements of this Policy, comply with the requirements for Private Hire vehicles contained within the Private Hire Vehicle licence conditions.
- 3.13 The below conditions apply to all Private Hire Vehicles granted an exemption from displaying identification plates and are in addition to the criteria and general conditions applicable to all Private Hire Vehicles;
- a) The valid Private Hire Vehicle plates issued to the licence holder shall be kept within the vehicle at all times and shall be produced for inspection by an authorised officer of North Somerset Council, a constable of any rank, and a Police Community Support Officer in Uniform upon request.
  - b) The exemption notice shall be retained within the vehicle at all times and shall be produced for inspection by an authorised officer of North Somerset Council, a constable of any rank, and a Police Community Support Officer in Uniform upon request.
  - c) In the event of loss or damage rendering such plate or notice unserviceable the proprietor shall make immediate application for a replacement for which a fee is payable.
  - d) 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.

- e) During the period of the exemption notice, the driver shall not be required to wear a Private Hire Driver's identification badge but will have it available for immediate inspection by an authorised officer of North Somerset Council or a constable of any rank, and a Police Community Support Officer in Uniform on request.
- g) Failure to comply with the above terms will invalidate the exemption granted with immediate effect.
- h) These terms shall remain valid for the term of the notification unless replaced by a different scheme or system of identification.
- i) The exemption will cease to have effect on selling or transferring the vehicle to another party. The exemption notice must be returned to the Council along with the Private Hire vehicle identification plates unless being sold to for use as a Private Hire Vehicle in North Somerset; in which case, only the exemption notice must be returned.
- j) A taximeter will not be installed in the vehicle.
- k) During the period of exemption, the driver is required to comply with the dress code previously supplied to the Council.
- l) The proprietor shall notify the Council of any change in the use of the vehicle by the end of the following working day.

3.14 The below conditions apply to all Private Hire Operators who operate vehicles to which an exemption from display of plates has been granted. These conditions are in addition to the general conditions applicable to all Private Hire Operators;

- a) Bookings taken in respect of clients who require vehicles exempt from the display of plates must be paid for on account. No payment can be made to the driver of the vehicle at time of hiring.
- b) Bookings in respect of clients who on occasion require vehicles exempt from the display of plates must be subdivided into to those which;
  - i) Require vehicle to be exempt from display of plates
  - ii) Do not require vehicles exempt from the display of platesCopies of records detailing the division of work to be kept for 12 months from period of Hire and must be provided to the Council on request.
- c) Copies of contracts with clients who require vehicles exempt from the display of plates must be kept for 12 months from date of commencement and provided to the Council on request.
- d) Dress code commensurate with executive work (suit/jacket or equivalent) to be in place in relation to bookings taken for vehicles exempt from the display of plates. Drivers of such vehicles to be required by the operator to comply with the dress code during the Hire period.

## **Closed Circuit Television Systems (CCTV) - Appendix I**

1. No CCTV system shall be installed in a vehicle unless it has been approved by the Licensing Authority.
2. Where fitted, the CCTV system must comply with the minimum specification set out below.
3. Any vehicle in which a CCTV system is installed must display prominently in each compartment of the vehicle where it can be easily read by all passengers a notice stating that a CCTV system is operating in the vehicle. The driver must make visually impaired passengers aware that CCTV is in operation.
4. CCTV cameras, where fitted, must be located in positions where they do not interfere with the driver's field of vision or can be tampered with by a passenger.
5. The proprietor of the vehicle shall ensure that the CCTV system, where fitted, is regularly maintained and serviced by a suitably qualified person in accordance with the manufacturer's instructions. Written records of all maintenance and servicing shall be retained by the proprietor for a minimum of 12 months and shall be made available for inspection at the request of an authorised officer, a constable of any rank, and a Police Community Support Officer in Uniform.
6. Upon request for image retrieval by an authorised officer, a constable of any rank, and a Police Community Support Officer in Uniform, the proprietor of the vehicle shall ensure that the CCTV system and any recorded images are made available as soon as is reasonably practicable and no later than five days of the request.
7. The proprietor of the vehicle shall ensure that any driver of the vehicle is given proper instruction in the use of the CCTV system and the need to comply with the relevant conditions of licence.
8. The proprietor of the vehicle shall ensure that notification is made to the Information Commissioner to cover the purposes for which the CCTV system is used.
9. The proprietor of the vehicle shall ensure that the CCTV system is operated in accordance with the current CCTV Code of Practice issued by the Information Commissioner's Office.
10. The system shall, as a minimum:
  - be capable of date and time system identification stamping
  - be capable of recording and storing images for a minimum period of seven days
  - be capable of capturing images that, in low light conditions, must be of sufficient quality to enable identification of any person travelling in the vehicle and be of such quality that they can be used for the purposes of prosecution,
  - be capable of storing images in a manner which prevents them being removed, downloaded or viewed by the driver of the vehicle, a passenger in the vehicle or by any other unauthorised person
  - Provide that images are only capable of being downloaded by the system administrator



- provide that the data unit is stored separately from the camera(s) and out of sight of the person travelling in the vehicle
- provide that, where the system uses a DVD recorder, the system is protected from shock and vibration.
- ensure that any area recorded by the camera does not extend outside the vehicle
- be marked with the EMC (Electro Magnetic Certification) which signifies that it meets the European Industry Standard.

## **11. Use of dashboard camera systems**

**Outward facing dashboard mounted cameras are relatively affordable and offer many benefits, improving road safety and protecting both drivers and passengers. As a result they are already in fairly wide use across the industry**

**With fraudulent claims, such as 'crash for cash' scams, video footage will support the driver's defence. The increased normalisation and visibility of cameras might even help prevent fraudulent claims in the first place.**

**Dash cams help with driver training and monitoring compliance with company policy. For example, if drivers are prohibited from making personal calls whilst carrying passengers, dash cams will not only record non-compliance but actively deter it.**

**Systems with built in GPS can be used to evidence and deter drivers from speeding. Some dash cams include real-time vehicle position tracking, helping businesses to operate more efficiently.**

**Cameras can help a driver prove what happened in the event of an accident.**

**Dash cams can resolve payment disputes, and the visible presence of a dash cam has been shown to deter abuse and assaults on drivers. In the event that a passenger accuses the driver of abuse or misconduct, video footage can be invaluable in establishing the facts.**

**Businesses can legally use dash cams in the UK, but they must adhere to strict privacy rules. As with CCTV, or any other surveillance system, images and audio recordings of an individual captured by dash cam constitute personal data. Number plates of privately-owned vehicles are also considered personal data.**

**General Data Protection Regulation (Regulation (EU) 2016/679) ('GDPR') is the primary legislation regulating how companies obtain, store, and use the personal data of others.**

**In accordance with GDPR, businesses must have a 'clearly defined and specific purpose' for the use of dash cams. Taxi firms cannot simply rollout dash cams unless they can demonstrate that camera usage is both necessary and proportionate to the problem it addresses.**

***If, as a business, you control the processing of people's personal data, the law considers you to be a 'data controller'. In cases where a council has mandated system installation, the council will most likely be the data controller.***

***Businesses should familiarise themselves with the GDPR and the ICO – CCTV code of practice.***

***Drivers who are not the owner of the vehicle must be informed that cameras will be installed and the company's motives for doing so.***

***Some cameras can record audio but this can be seen as too intrusive. Cameras that record audio may not be used unless the audio functionality can be permanently disabled. If the camera has a visible panic button that activates audio recording, this may be allowed.***



## Appendix J

### NON-MOTORISED TAXIS

1. In order to determine if a non-motorised vehicle is suitable for licensing, the Council will require the following documentation:
  - a) Every non-motorised vehicle must comply, where practicable, with:
    - The Pedal Cycle (Construction and Use) Regulations 1983
    - The Pedal Bicycle (Safety Regulations) 2003.
    - Non-motorised vehicles must comply with the Road Vehicle Lighting Regulations 1989 and in addition,
  - b) Applicants must provide a valid certificate of public liability insurance with minimum of £5 million to meet any potential insurance claims.
2. Because of the unusual design and construction of non-motorised vehicles, some of the Council's standard regulations and conditions attached to a vehicle licence may not be applicable or appropriate. The Authority may, at its discretion, exempt applicants from such requirements. The Authority may attach such conditions to the licence as it considers appropriate for the health, safety and welfare of the public. Each application will be considered on its individual merits.
3. The Council will not permit any licence granted to a non-motorised vehicle to be transferred to a motorised vehicle.
4. Any person wishing to drive a licensed non-motorised vehicle must apply to the Council for a Taxi driver Licence.
5. Because of the unusual design and construction of non-motorised vehicles, some of the Authority's standard regulations and conditions attached to a Taxi Driver's Licence may not be applicable or appropriate. The Authority may, at its discretion, exempt applicants from such requirements. The Authority may attach such conditions to the licence as it considers appropriate for the health, safety and welfare of the public. Each application will be considered on its individual merits.
6. The pedicab should be of such a design that has the rider in a forward position and the passengers to the rear. This is to ensure that the rider has a clear view of the road ahead and does not place passengers in a more vulnerable position.
7. Non-motorised vehicles with four or more wheels, must have two front light
8. A minimum of two rear position lights (as Schedule 10 of the Regulations)
9. Any other electrical equipment fitted must be maintained in good condition and be fully functional
10. Tyres must have a clearly visible tread pattern over the entire circumference

- and over the full breadth of the tyre with no exposed chord. Tyres must also be suitable for the proposed load being carried.
11. Wheels in the vicinity of the passenger compartment must be covered for the protection of the passengers and their clothing.
  12. Non-motorised vehicles will not require a meter to be fitted but must agree a fare before the start of each journey.
  13. The vehicle may only be driven by a driver holding a non-motorised vehicle licence issued by this council.
  14. The vehicle licence plate issued by the council is to be affixed to the outside at the rear of the vehicle.
  15. Any advertising on the vehicle is to conform to the Advertising Standards Agency code.
  16. All accidents involving the non-motorised vehicles are to be notified to the council, by the proprietor, within 72 hours.
  17. An appropriate first aid kit shall be carried with the non-motorised vehicle whenever it is for Hire.
  18. All fixtures and fittings on the non-motorised vehicles are to be well maintained at all times.
  19. A certificate from a competent independent cycle mechanic will be required to confirm that the above conditions have been met.
  20. The driver should hold either a full DVLA licence for a car or motorcycle or hold CTC (National Standard for Cycle Training) Level 3 and be able to demonstrate competence on the non-motorised vehicle.
  21. The driver must also hold an enhanced Disclosure Barring Service (DBS) disclosure applied for through the Licensing Authority at the time of application. A conviction will not automatically disqualify an applicant but consideration will be given to types of offence and the dates they occurred.
  22. Non-motorised vehicles will not be permitted to use the recognised Hackney Carriage ranks provided for motor vehicles.

## Appendix K

# PRIVATE HIRE DRIVER'S LICENCE CONDITIONS OF LICENCE

The holder of this licence shall comply with the Provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976

### 1. Conduct of Driver

The driver shall comply with North Somerset Council's licensed driver's code of conduct.

### 2. Passengers

- 2.1 The driver shall not convey or permit to be conveyed in a Private Hire vehicle a greater number of persons than that prescribed in the licence for the vehicle

### 3. Driver badges

*The Licensee shall, whilst working for Hire and Reward, display the badge in such a position to be plainly and distinctly visible by any passengers in the vehicle. When not engaged in Hire and Reward work, the badge must always be carried by the Licensee and immediately produced for inspection of request of an Authorised Officer, a constable of any rank, a Police Community Support Officer in Uniform or any other person reasonably requiring it.*

### 4. Lost Property

- 4.1 The proprietor or driver of a Private Hire vehicle shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the vehicle for any property which may have been accidentally left therein.
- 4.2 The proprietor or driver of a Private Hire vehicle shall, if any property is accidentally left therein by a person who may have been conveyed in the Carriage be found by or handled by him.
- 4.3 Carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner to the office of the Operator they are engaged with.

### 5. Written Receipts

The driver shall if requested by the Hirer of a Private Hire vehicle provide him with a written receipt for the fare paid.

### 6. Animals

- 6.1 The driver shall not convey in the front of a Private Hire vehicle any animal belonging to or in the custody of himself or the proprietor or operator of the vehicle and he/she will ensure that any animal belonging to or in the custody of any passenger is conveyed in the rear of the vehicle. The driver shall accept guide, hearing and other prescribed assistance dogs at no extra charge.

**6.2** *When in a vehicle make sure dogs or other animals are suitably restrained so they cannot distract you while you are driving or injure you, or themselves, if you stop quickly. A seat belt harness, pet carrier, dog cage or dog guard are ways of restraining animals in cars.*

## **6. Prompt Attendance**

The driver of a Private Hire vehicle shall, if he is aware that the vehicle has been Hired to attend an appointed time and place, punctually attend at that appointed time and place, unless delayed or prevented by sufficient cause.

## **7. Deposit of Licence**

Where the licence holder permits or employs any other person to drive the vehicle as a Private Hire Vehicle, that driver shall provide the licence holder with a copy of their Private Hire Driver licence before commencing to drive and for the duration of permission to drive.

## **8. Taximeter**

If a Private Hire vehicle is fitted with a taximeter, the fare shall be clearly visible to the hirer to allow reasonable time for examination. It shall not be cancelled or cleared until the hirer has paid the fee.

## **9. Fare to be demanded**

The driver shall not demand from any hirer a fare that is higher than previously agreed for that hiring. If a taximeter is fitted the driver shall not demand a fee higher than that shown on the meter but may demand less if that fare has already been agreed.

## **10. Change of Address**

The driver shall notify the Council in writing of any change of address, including the name and address of any Company from whom bookings are taken, within 7 days of such a change taking place.

## **11. Convictions**

Licence holders are required to notify North Somerset Council within 48 hours, or as soon as practicable, of any enforcement action taken against them including:

- *Receiving a simple or conditional caution or being convicted of any criminal offence*
- *Being arrested, interviewed, charged, reported for summons or receiving a postal requisition in connection with any motoring or criminal offence*
- *Receiving any out of court disposal including formal warnings, community resolutions, restorative justice, education and awareness courses, community protection warnings and notices, vehicle defect rectification notices or fixed penalty notices*

***Any offence for which a licence holder is interviewed by Voluntary Attender arrangement must also be notified to the licensing Authority within 48 hours of the interview.***

## **12. Change of Medical Circumstances**

If the licence holder experiences an adverse change of medical circumstances that will affect his/her ability to perform as a licensed driver, the licence holder shall forthwith notify the Licensing Authority. Failure to notify the Licensing Authority of an adverse change of medical circumstances will render this licence subject to suspension or revocation.

## **13. Assistance with Passengers Luggage**

The driver of a Private Hire vehicle so constructed as to carry luggage shall, when requested by any person hiring or seeking to Hire the vehicle:

- (a) convey a reasonable quantity of luggage;
- (b) afford reasonable assistance in loading and unloading;
- (c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such a person

## **14. Return of Badge**

The driver shall upon the expiry (without further renewal), revocation or suspension of this licence forthwith return to the Council the driver's badge and licence document issued to him by the council when granting this licence.

## **15. Insurance**

The driver shall produce for inspection, upon request by an authorised Council Officer, a current certificate of insurance or cover note.

## **16. Revocation and Modification of Conditions**

The Council reserves the right, (at its own behest and at any time), to revoke, vary, or modify any of these conditions and/or make such additional conditions as it may deem requisite, either generally or in respect of any licence or occasion.

## **17. Grievances**

By virtue of Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 any person who is aggrieved by a condition attached to a licence may appeal to a Magistrates' Court within 21 days of receipt of the licence.

## General Principles

1. Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence.

The Licensing Authority will consider each case on its own merits, and applicants/licenseses are entitled to a fair and impartial consideration of their application.

Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. This places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

2. In relation to cautions, the Licensing Authority shall have regard to the type and age of the offence and the age of the applicant when the offence occurred, when considering their relevance to an application. Cautions given more than 5 years before the date of application shall be treated as irrelevant.
3. Where low-level offences have been dealt with by means of restorative justice, each case will be considered on its own merits given the nature of the offence and previous convictions and cautions.
4. In relation to previous convictions, the Licensing Authority shall have regard to the following:
  1. Whether the convictions are spent or unspent;
  2. The type and relevancy of the offences;
  3. The age of the offences;
  4. The apparent seriousness, as gauged by the penalty.
5. The Licensing Manager or Group Service Manager may deal directly with less serious first offences without referring the matter to the relevant Licensing sub-committee. They may choose to take no action or may issue warnings as to future conduct in accordance with this Policy.
6. Applicants and current licensees shall be referred to the Licensing Sub-Committee where one or more of the following apply:
  1. Any term of imprisonment or custody;
  2. Any conviction for a sexual offence;
  3. Any conviction for violence or dishonesty which is of a serious nature;
  4. Any serious motoring offence, such as dangerous driving, driving whilst disqualified, or more than one conviction for drink driving;
7. Each case shall be decided on its own merits.
8. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for a period of time according to the circumstances before an application is entertained. Some discretion may be appropriate if the offence



is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.

9. The following examples afford a general guide on the action to be taken where convictions are admitted.

### **Traffic offences**

10. Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

### **Minor motoring offences**

11. Convictions for minor offences e.g. obstruction, waiting in a restricted street, speeding etc., should not prevent a person from proceeding with an application.

If sufficient points have been accrued to require a period of disqualification of the applicants DVLA driving licence then a Hackney Carriage/Private Hire drivers licence will not be granted until five years have elapsed since the restoration of the DVLA driving licence. Offences in the five years since restoration will then be taken into consideration.

Holders of council issued drivers licences convicted during the period of licence of such offences may be warned as to future conduct, and any disqualification from driving will lead to an automatic revocation of any Hackney Carriage/ Private Hire drivers licence issued by the council.

No applications will be entertained from anyone who has previously had a licence revoked by North Somerset Council or any other Local Authority.

### **Major motoring offences**

12. An isolated conviction for reckless driving or driving without due care and attention etc. may not prevent someone from applying to hold a driver licence with the Authority, provided more than five years have elapsed since the offence.

More than one conviction for this type of offence within the last 5 years should merit refusal and no further application should be considered until a period of 5 years free from conviction has elapsed.

Similarly, any conviction during the period of a council issued licence will lead to a formal review of the licence and repeated offences shall merit consideration of the revocation of that licence.

No applications will be entertained from anyone who has previously had a licence revoked by North Somerset Council or any other Local Authority.

## Using a hand-held device whilst driving

13. Where an applicant has a conviction (***including fixed penalty notices***) for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

## Drink driving/driving under the influence of drugs

### With a motor vehicle

14. Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed.

In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

A licensed driver found guilty of driving whilst under the influence of alcohol or drugs shall have their council issued drivers licence revoked.

No applications will be entertained from anyone who has previously had a licence revoked by North Somerset Council or any other Local Authority.

### Not in motor vehicle

15. An isolated conviction for drunkenness may not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination.

In some cases, a warning would be sufficient. A conviction of this type of offence during the period of a council issued licence could warrant a warning as to future conduct, with subsequent convictions possibly leading to suspension and/or revocation of any licence held.

### Drugs

16. Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

## **Sexual offences**

17. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

A licence holder found guilty of sexual offences during the period of the council issued licence shall have their licence revoked.

No applications will be entertained from anyone who has previously had a licence revoked by North Somerset Council or any other Local Authority.

## **Violence**

### **18. Crimes resulting in death**

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

### **19. Offences involving violence against the person**

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

### **20. Possession of a weapon**

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

A licensed driver found guilty of violence related offences shall have their council issued drivers licence formally reviewed.

No applications will be entertained from anyone who has previously had a licence revoked by North Somerset Council or any other Local Authority.

## **Dishonesty**

21. Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Any existing driver convicted of offences of dishonesty shall have their licence formally reviewed.

No applications will be entertained from anyone who has previously had a licence revoked by North Somerset Council or any other Local Authority.

## **Insurance Offences**

22. An isolated incident in the past will not necessarily debar an applicant provided he/she 5 years have elapsed since the completion of any sentence imposed.

A driver found guilty of driving passengers for Hire and reward without the appropriate insurance will have their licence formally reviewed.

No applications will be entertained from anyone who has previously had a licence revoked by North Somerset Council or any other Local Authority.

## **Exploitation**

23. Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list

## **Discrimination**

24. Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

# LICENSED DRIVER CODE OF GOOD CONDUCT

To promote its licensing objectives as regards Hackney Carriage and Private Hire licensing, North Somerset Council has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and Policy requirements produced by the Council.

## 1. Responsibility to the Trade

Licence holders shall endeavor to promote the image of the Hackney Carriage and Private Hire trade by:

- (a) complying with this Code of Good Conduct;
- (b) complying with all the Conditions of their Licence, Hackney Carriage Byelaws and the Councils Hackney Carriage and Private Hire Licensing Policy;
- (c) behaving in a civil, orderly, non-discriminatory and responsible manner at all times

## 2. Responsibility to Clients

Licence holders shall:

- (a) maintain their vehicles in a safe and satisfactory condition at all times;
- (b) keep their vehicles clean and suitable for Hire to the public at all times;
- (c) attend punctually when undertaking pre-booked hiring;
- (d) assist, where necessary, passengers into and out of vehicles;
- (e) offer passengers reasonable assistance with luggage and other personal effects
- (f) when requested provide receipts to passengers

## 3. Responsibility to Residents

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

- (a) not sound the vehicle's horn illegally;
- (b) keep the volume of in vehicle entertainment/music systems to a minimum;
- (c) switch off the engine if required to wait;
- (d) take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood

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

- (a) rank in an orderly manner and proceed along the rank in order and promptly;
- (b) remain in the vehicle.

3.3 At Private Hire offices a licence holder shall:

- (a) not undertake servicing or repairs of vehicles;
- (b) not allow their in-vehicle entertainment/music systems radios to cause disturbance to residents of the neighbourhood;
- (c) take whatever additional action is necessary to avoid disturbance to residents of the neighbourhood which might arise from the conduct of their business

#### 4. General

Drivers shall:

- (a) pay attention to personal hygiene and dress to present a professional image to the public;
- (b) ***The Licensee shall whilst working for Hire and Reward display the badge in such a position to be plainly and distinctly visible by any passengers in the vehicle. When not engaged in Hire and Reward work, the badge must always be carried by the Licensee and immediate produced for inspection of request of an Authorised Officer or Police Officer or any other person reasonably requiring it.***
- (c) be polite, helpful and fair to passengers;
- (d) unless otherwise directed by the Hirer the driver shall proceed to the destination by the shortest possible route;
- (e) not without the express consent of the Hirer drink or eat in the vehicle;
- (f) not without the express consent of the Hirer play any radio or sound producing instrument or equipment in the vehicle other than for sending or receiving messages in connection with the operation of the vehicle
- (g) drive with care and due consideration for other road users and pedestrians and in shall not use a hand held mobile phone whilst driving;
- (h) obey all Traffic Regulation Orders and directions at all time;
- (i) not to smoke in the vehicle or to allow fare paying passengers to smoke in the vehicle;
- (k) not to carry more passengers in a vehicle than it is licensed to carry.
- (l) not to consume alcohol immediately before or at any time whilst driving or being in charge of a Hackney Carriage or Private Hire vehicle;
- (m) not drive while having misused legal or illegal drugs;
- (n) not to behave in an aggressive, abusive or otherwise inappropriate manner toward Council staff or members of other enforcement agencies.

#### 5. Responsibility of passengers

The Department of Transport (Taxi & Private Hire vehicle licensing: Best practice Guidance 2010), suggests a "Passenger Code of Conduct".

This indicates that the passenger should:

- (a) Treat the vehicle and driver with respect and obey any notices (e.g. in relation eating/smoking within the vehicle),
- (b) Ensure they have enough money to pay the fare before travelling. If wishing to pay by credit card or to stop on route to use a cash machine, check with the driver before setting off.
- (c) Be aware of the fare on the meter and make the driver aware of the limit of their financial resources.
- (d) Be aware that the driver is likely to be restricted by traffic regulations in relation to where he/she can legally and safely stop the vehicle.

# PRIVATE HIRE OPERATORS LICENCE CONDITIONS

## 1. STANDARD OF SERVICE

- 1.1 The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times.
- 1.2 Ensure that office staff, employed by operator, act in a civil and orderly manner at all times.
- 1.3 The operator must ensure, when a vehicle has been Hired, that it arrives punctually at the appointed place, unless delayed by unforeseen circumstances.
- 1.4 The operator must ensure that premises provided for booking or waiting are kept clean, and are adequately lit, heated and ventilated.
- 1.5 The operator shall also ensure that any waiting area provided has adequate seating facilities, and telephone facilities are in good working order.

## 2. RECORDS

- 2.1 The records which must be kept by operators under the Local Government (Miscellaneous Provisions) Act 1976 shall be kept in a suitable log or book, the pages of which are numbered consecutively. The records alternatively may be kept on a computer system in a form that can be easily accessed and interrogated by an authorised officer of the Council a constable of any rank, and a Police Community Support Officer in Uniform.
- 2.2 Prior to each journey, the operator shall record the following particulars of each Private Hire booking:
  1. The date of the booking and time of request
  2. The name of the Hirer and/or passenger
  3. The time of the pick-up
  4. The location of the pick-up
  5. The destination
  6. The time at which the driver was allocated to the booking and the name of the person allocating the booking
  7. The name and licence number of the driver assigned to the booking
  8. The plate number (or other identification) of the vehicle allocated
  9. The name of the person dispatching the vehicle
- 2.3 The operator shall keep a record of the following details in respect of each Private Hire vehicle operated by them:
  1. The vehicles make, model, colour and engine size
  2. The registration number
  3. The vehicle licence number
  4. The number of seats for passengers
  5. Whether a meter is fitted

2.4 The operator shall keep a record of the following details in respect of each Private Hire driver employed by them:

1. Name and current address
2. Private Hire Vehicle Driver's Licence Number
3. Date of commencement of employment
4. Date of termination of employment

2.5 All records required to be maintained by the operator by these conditions shall be kept for at least 12 months after entry and shall be made available for inspection when requested by an authorised officer of the Council, a constable of any rank, and a Police Community Support Officer in Uniform”

2.6 The Operator shall keep a register of all staff that will take bookings or dispatch vehicles.

2.7 The Operator shall keep a record evidencing sight of a basic DBS disclosure check for all booking/dispatch staff. Steps shall be taken by the Operator to confirm that similar and suitable protections are applied by any Company taking a sub-contracted booking.

2.8 The Operator shall make both the register of booking/dispatch staff and details of their DBS status available for inspection by an authorised officer on request.

### **3. COMPLAINTS**

The operator shall notify the Licensing Office in writing of any complaints concerning a contract for Hire arising from his/her business. The notification should be made within 24 hours (or 72 hours if the complaint is received on a weekend) and shall include the action taken or proposed as a result of the complaint made.

### **4. CHANGE OF ADDRESS**

The operator shall notify the Licensing Office in writing of any change of address (including any address from which he operates or otherwise conducts his business) which takes place during the currency of the licence. Such notice shall be given within 7 days of the change of address.

### **5. DISCLOSURE OF CONVICTIONS**

Within 48 hours of having been cautioned or convicted of a criminal offence the licence holder shall notify the Licensing Authority of that event and if the Licensing Authority is not notified within the requisite period the licence may be automatically revoked.

### **6. INSURANCE**

6.1 The operator shall ensure that a certificate of motor insurance covers every Private Hire vehicle operated by him under the licence, which is compliant with the Road Traffic Act 1988 as regards the Carriage of passengers for Hire or reward.

6.2 Where an operator provides a public office for customers, all areas to which the public are allowed access shall be covered by public liability insurance.



**7. PRIVATE HIRE DRIVER'S LICENCES**

The operator shall satisfy himself that every driver engaged by him has a valid Private Hire driver's licence issued by North Somerset Council. The operator shall retain a copy of the driver licence for the duration of their engagement.

**8. RETENTION OF TERMS AND CONDITIONS**

The operator shall, at all times, keep a copy of these conditions at any premises used by him/her for a Private Hire business, and shall make the same available for inspection by fare paying passengers or an authorised officer of the Council.

**9. Revocation and Modification of Conditions**

The Council reserves the right, (at its own behest and at any time), to revoke, vary, or modify any of these conditions and/or make such additional conditions as it may deem requisite, either generally or in respect of any licence or occasion.

**10. Grievances**

By virtue of Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 any person who is aggrieved by a condition attached to a licence may appeal to a Magistrates' Court within 21 days of receipt of the licence.

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### **POLICY STATEMENT ON SECURE STORAGE, HANDLING, USE, RETENTION AND DISPOSAL OF DISCLOSURES AND DISCLOSURE INFORMATION.**

As an organisation using the Disclosure Barring Service (DBS – formerly CRB)) disclosure service to help assess the suitability of applicants for positions of trust, **North Somerset Council – Community & Consumer Services** complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. It also complies fully with its obligations under the Data Protection Act and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information.

#### **Storage & Access**

Disclosure information is never kept on an applicant's personal file and is always kept separately and securely, in a lockable, non- portable, storage container with access strictly controlled and limited to those who are entitled to see it as part of their duties.

#### **Handling**

In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom Disclosures or Disclosure information has been revealed and we recognise that it is a **criminal offence** to pass this information to anyone who is not entitled to receive it.

#### **Usage**

Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

#### **Retention**

Once a decision has been made to grant the relevant licence, we do not keep disclosure information any longer than is necessary. It is considered necessary to keep Disclosure information for longer, we will consult the DBS about this and will give full consideration to the Data Protection and Human Rights individual subject before doing so. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will prevail.

#### **Disposal**

Once the retention period has elapsed, we will ensure that any Disclosure information is suitably destroyed by secure means, i.e. by shredding. We will not keep any photocopy or other image of the Disclosure or any copy or representation of the contents of a Disclosure. However, notwithstanding the above, we may keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the reason for which the Disclosure was requested, the unique reference number of the Disclosure and the details of any licensing decision taken.

#### **Acting as an Umbrella Body**

Before acting as an Umbrella Body (one which countersigns applications and receives Disclosure information on behalf of other employers), we will take all reasonable steps to ensure that they comply fully with the DBS Code of Practice. We will also take all reasonable steps to satisfy ourselves that they will handle, store, retain and dispose of Disclosure information in full compliance with the DBS Code and in full accordance with this Policy.

# **Taxi Ranks**

## **(Update to follow through policy period)**

	<b>Vehicle Capacity</b>
<b>Clevedon</b>	
Lower Queens Road	3
<b>Portishead</b>	
High Street (opposite precinct)	2
<b>Nailsea</b>	
High Street	1
<b>Weston-super-Mare</b>	
Locking Road (outside Tesco)	14
High Street (Outside TJ Hughes)	3
High Street (Outside TJ Hughes) 10pm-5am Fri & Sat only	6
Princess Royal Square (outside Grand Central)	6
Waterloo Street	7
Total	42

### PROOF OF IDENTITY

1. North Somerset District Council may not grant a Hackney Carriage and/or Private Hire Licence to any person who is not able to provide proof of their right to work.
2. **Authorisation to Work in the United Kingdom**
  - 2.1 All applicants will need to demonstrate that they have the right to work in the UK before an application for the grant of a licence may be considered. The Licensing Authority will operate its application procedures in line with guidance issued by UK Home Office.
  - 2.2 Further information can be obtained from this Council and from the Home Office website. Identification documents may be copied and forwarded to the Home Office for verification.
3. **Right to live and work in the United Kingdom**
  - 3.1 All applicants for a Hackney Carriage or Private Hire driver's licence must provide documentary evidence confirming their right to live and work in the United Kingdom.
  - 3.2 All applicants who are not permanent UK residents will be required to provide a [right to work check code](#) . Applicants unable to provide a check code may be able to prove their right to work using [supporting documentation](#). This will be assessed on a case by case basis by the Licensing authority.
  - 3.3 The provision of a National Insurance number in isolation is not sufficient for the purposes of establishing the right to live and work in the UK. The National Insurance number can only be used for this purpose when presented in combination with one of the documents listed below.
  - 3.4 Licences granted to drivers whose leave to remain in the UK is time-limited will only be granted for up to the period for which they are entitled to work in the UK. Driver licences can only be issued for either 1 or 3 years and each case will be considered individually. For the licence to be extended (up to the maximum three years) drivers must produce further evidence to prove that they have the right to work in the UK.
  - 3.5 In the event of an existing driver who is wishing to renew their licence, the proof of right to work in the UK must be provided before the licence can be renewed. If it is not provided, the licence will not be renewed and the driver will not be licensed. However, if the licence holder is then able to submit the proof of right to work within three months of the initial expiry of the licence, subject to there being no other concerns, the licence will be reinstated and treated as a renewal application. However, any driver submitting this evidence more than three months after the expiry of the initial licence will not be afforded this privilege. In such cases the driver will be treated as a new application, requiring a new medical

examination and all other documentation and checks that would be required when applying for a new licence. The applicant will be required to wait until all necessary checks have been completed before a licence can be issued.

- 3.6 If a driver does not have his licence extended, he will, on request, be entitled to a refund of a pro-rata proportion of the grant of licence fee.

DRAFT V1

Items Checked	Reason for Failure
<b>1. EXTERIOR OF VEHICLE</b>	
1.1 External body work	<ol style="list-style-type: none"> <li>1. Visibly poor or poor quality repairs</li> <li>2. Dent more than 40mm in diameter and more than 2mm deep</li> </ol>
1.2 External paint work	<ol style="list-style-type: none"> <li>1. Paint colour mismatch</li> <li>2. Dull paintwork</li> <li>3. Scratch over 40mm long</li> <li>4. Single rust scab or blemish over 10mm wide</li> </ol>
1.3 Front and rear bumpers	<ol style="list-style-type: none"> <li>1. Damaged or inadequately secured</li> </ol>
1.4 Rear window washer.	<ol style="list-style-type: none"> <li>1. Insufficient liquid produced to clear rear window in conjunction with the wiper</li> </ol>
1.5 Private Hire Vehicle Signage <i>(Not for first time licence grant)</i>	<ol style="list-style-type: none"> <li>1. Failure to display company name and or tel. number on both front doors</li> </ol>
1.6 Licence Plate(s) <i>(Not for first time licence grant)</i>	<ol style="list-style-type: none"> <li>1. Not present on vehicle</li> <li>2. Not permanently fixed to vehicle</li> <li>3. Plate damaged or illegible</li> </ol>
<b>2. BOOT AND SPARE WHEEL</b>	
2.1 Spare Wheel	<ol style="list-style-type: none"> <li>1. Absent where one is required</li> <li>2. Incorrect tyre for vehicle type</li> <li>3. Worn, damaged or substandard tyre</li> <li>4. Incorrectly inflated tyre</li> <li>5. Failure to secure the spare wheel</li> </ol>
2.2 Wheel brace	<ol style="list-style-type: none"> <li>1. Absent where required</li> </ol>
2.3 Puncture repair kit (no spare wheel fitted to vehicle)	<ol style="list-style-type: none"> <li>1. Absent</li> <li>2. Not of type supplied by vehicle manufacturer</li> <li>3. Incapable of inflating a deflated tyre</li> </ol>
2.4 Boot	<ol style="list-style-type: none"> <li>1. Inadequate floor covering</li> <li>2. Unclean condition</li> <li>3. Flammable/corrosive materials present</li> <li>4. Tools not adequately secured</li> <li>5. Defective opening mechanism/boot supports</li> </ol>
2.5 Fire Extinguisher	<ol style="list-style-type: none"> <li>1. Absent/incorrect type</li> <li>2. Not properly secured or accessible</li> <li>3. Leaking, empty, damaged</li> <li>4. No permanent marking</li> </ol>

Items Checked	Reason for Failure
<b>3. TYRES</b>	
3.1 Tyre Tread	1. Primary grooves of tread below 1.6mm within central $\frac{3}{4}$ of tread breadth around entire circumference of tyre.
3.2 Tyre condition	2. Ply or cord visible without touching tyre.
3.3 Tyre Cuts	3. Cuts of more than 25mm or 10% of section width.
<b>4. INTERIOR OF VEHICLE</b>	
4.1 Interior official badge/sticker <i>(Not for first time licence grant)</i>	1. Interior front licence badge missing 2. Interior rear sticker missing (Private Hire Vehicles only)
4.2 General cleanliness of the interior	1. Poor standard of internal cleanliness
4.3 Seats	1. Passenger seats in poor condition 2. Seat base insecure
4.4 Internal Light	1. Faulty interior light fitting. 2. Faulty interior light switch. 3. Faulty interior light door switches
4.5 No smoking signs	1. No signage displayed 2. Incorrect no smoking signs displayed
4.6 Windows	1. Window winder mechanism defective (manual or electric)
4.7 Heater	1. Defective heater
4.8 Unpleasant odours including tobacco smoke	1. Unpleasant odours present 2. Evidence of smoking within the vehicle
4.9 Vehicle fitted with means to carry wheelchairs	1. No apparatus for securing wheelchair 2. Wheelchair ramps missing 3. Ramps not suitably marked
<b>5. GENERAL</b>	
5.1 Hackney Carriage Roof Sign	1. No roof sign is present. 2. Words "TAXI" not displayed on sign. 3. The roof sign does not illuminate when taximeter is put into the for hire mode. 4. Sign is damaged/in poor condition. 5. Wiring to the roof sign is in unsafe
5.2 Taxi Meter (Hackneys only) Type: Make:	1. Seals to the taximeter are absent or broken/damaged. 2. The taximeter is not working.
5.3 Fare Card (Hackneys only) <i>(Not for first time licence grant)</i>	1. Fare Card missing 2. Fare Card damaged 3. Incorrect Fare Card displayed