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Date: 15 May 2017

Notice of meeting

Licensing Committee

Date: Tuesday, 23 May 2017

Time: 7.30 pm

Place: Council Chamber, Council Offices, Knowle Green, Staines-upon-Thames TW18 1XB

To the members of the Licensing Committee

Councillors: (Members of the Committee will be confirmed at the Annual Council meeting being held on 18 May 2017)

R.W. Sider BEM (Chairman)
R.O. Barratt (Vice-Chairman)
M.M. Attewell
J.R. Boughtflower
S.J. Burkmar

R. Chandler
S.M. Doran
S.A. Dunn
Q.R. Edgington
K. Flurry

N.J. Gething
A.T. Jones
A. Sapunovas

Spelthorne Borough Council, Council Offices, Knowle Green

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AGENDA

Page nos.

1. Apologies

To receive any apologies for non-attendance.

2. Minutes

To agree the minutes of the meeting held on 18 May 2017 as a correct record.

**To Be
Tabled**

3. Disclosures of Interest

To receive any disclosures of interest from Councillors in accordance with the Council's Code of Conduct for Members.

4. Taxi Licensing Policy

To consider the adoption of a Draft Policy for Private Hire and Hackney Carriage Licensing.

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Licensing Committee

23 May 2017



Title	Taxi Licensing Policy		
Purpose of the report	To make a decision		
Report Author	Rob Thomas		
Cabinet Member	Councillor Nick Gething	Confidential	No
Corporate Priority	Delivering quality of life services		
Cabinet Values	Community and Accountability		
Recommendations	<p>To approve the adoption of:</p> <p>1. a Draft Policy for Private Hire and Hackney Carriage Licensing and</p> <p>2. the Surrey Boroughs and Districts Convictions Policy.</p> <p>subject to there being no objections during a six-week consultation</p>		

1. Key issues

- 1.1 This report provides for consideration a Draft Private Hire and Hackney Carriage (Taxi) Licensing Policy (attached as **Appendix A**).
- 1.2 Spelthorne BC first became responsible for licensing the taxi and private hire trade in 2000. The original policy was therefore adopted in 2000 with a number of changes approved by the Licensing Committee incrementally since then. Therefore one of the purposes of updating the policy is to make sure it is available as one document.
- 1.3 Spelthorne is part of a Surrey-wide forum for licensing matters. One of the proposals from the forum is that the 11 boroughs adopt a Surrey-wide convictions policy (attached as **Annex A**) so that applicants with relevant convictions cannot obtain a licence in one Surrey authority whilst being refused in another.
- 1.4 The draft policy also seeks to provide clearer guidelines within which members of the trade are expected to work. It will also provide clarity and consistency for staff as well as giving guidance to members who may be called upon to determine an applicant's suitability.
- 1.5 The Council's Penalty Points Scheme is annexed to the policy.
- 1.6 Key proposed changes and new implementations include: -
 - a) Applicants are now able to provide a Disclosure and Barring Service (DBS) enhanced certificate they have obtained themselves or via another organisation as long as it is dated within the last six months.

- b) The requirement for new applicants to sit the Driver and Vehicle Standards Association (DVSA) enhanced driving test for taxi and private hire drivers (which has recently been discontinued) has been replaced by the Blue Lamp Trust's (or equivalent) driving test.
- c) Applicants will no longer complete a data protection mandate with Intelligent Data Systems (IDS) to permit the Council to check their DVLA driving licence record. Instead, they will be required to provide a code enabling the Licensing department to check their record online via the Government's portal. This will eliminate the need to pay for a subscription with IDS, and provide a more up-to-date version of a driver's record at any given time since the Government website is updated more regularly.
- d) New applicants are now limited to sitting each of the Council's knowledge tests three times in any 12-month period. This is to make sure they have the required level of knowledge to pass.
- e) The age requirement for annual medicals has been increased, from 60 to 65 years of age. This is in line with other authorities.
- f) Operators are now required to submit a standard DBS disclosure or Police National Computer (PNC) check before the issue of a licence. This must be repeated every five years.
- g) Medical forms will only be accepted from an applicant's own GP or doctor registered at their usual medical practice where access to their medical history is available.
- h) Renewal applications will not normally be accepted more than six weeks in advance of a licence's expiry.
- i) Drivers who have a legitimate reason which precludes them from carrying assistance dogs (i.e. an allergy) must obtain proof from their GP and provide it to the Council's Licensing department.
- j) There is no longer a requirement for vehicles to carry a spare wheel, as new cars are not manufactured to do.
- k) At the time of a vehicle inspection, Licensing Officers can consider MoT advisories and require they be rectified, particularly in respect of worn or defective tyres.
- l) There is now specific criteria regarding which vehicles can be considered for plate display exemption certificates.
- m) It is proposed that a six-week consultation with the trade and other interested parties should take place in order to ensure the process is fair and transparent, and to allow the Council's Licensing Committee to consider any relevant concerns before the policy is adopted.

2. Options analysis and proposal

- a) to agree, subject to there being no objections at consultation, to adopt the policy
- b) to propose modifications to the policy.

The preferred option is for the Licensing Committee to approve the draft Taxi Licensing Policy to go out for consultation. If there are any objections, then it is proposed that these be considered by a further Licensing Committee.

3. Financial implications

- 3.1 Modifications to the policy and consultation will be met within existing budgets.
- 3.2 There is a small saving from the change to online checking of DVLA records.

4. Other considerations

- 4.1 Decision-making and operational matters will also be informed by other guidance and legislation such as Department of Transport best practice, Home Office guidance on the right to work, and the Equalities Act 2010.

5. Timetable for implementation

- 5.1 A consultation with the trade and other interested parties will take place for six weeks. If there are no objections, then it is proposed that the policy will come into force the day after the last day for objections. Any objections will be referred to a further Licensing Committee at the appropriate time.

Background papers:

Licence condition forms C, K, N and P(HC)
Hackney carriage byelaws

Appendices:

Appendix A – Licensing Policy annotated with comments and highlighting key changes
Annex A – Surrey-wide convictions policy
Annex B – Spelthorne Borough Council’s Penalty Points Scheme

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**HACKNEY CARRIAGE
AND
PRIVATE HIRE
LICENSING POLICY
2017**

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1 Introduction

Spelthorne Borough Council ('the Council') is the Local Licensing Authority for Hackney Carriage (HC) drivers and vehicles (taxis), in accordance with the Town and Police Clauses Act 1847 and for Private Hire (PH) drivers, operators and vehicles (minicabs), in accordance with the Local Government (Miscellaneous Provisions) Act 1976.

This policy was adopted on ** ***** 2017 and came into force on ** ***** 2017.

This policy aims to protect the safety of the public, whether they are fare paying passengers or other road users, by ensuring that only fit and proper persons hold licences to work as HC drivers and/ or PH drivers, or PH operators and that HC and PH vehicles are safe, roadworthy and fit for purpose, thereby upholding the high standards expected of the trade.

This policy will be reviewed at regular intervals to ensure that it remains current. However, when and where necessary, minor amendments may be made by agreement, by the Deputy Chief Executive and the Chairman of the Licensing Committee, in accordance with the Council's Constitution.

<https://spelthorne.gov.uk/CHttpHandler.ashx?id=10765&p=0>

1.1 Shared Information

The Council reserves the right to consider information from internal and external sources as part of its licensing activities and to share information supplied by applicants with other enforcement bodies, e.g. the Audit Commission, the Police etc, in accordance with the Data Protection Act 1998 and any statutory code or guidance made under that Act.

1.2 Decision making

Day to day decisions on the grant or renewal of licences are delegated to the Deputy Chief Executive. In cases of doubt, such as where an individual's criminal or medical history casts doubt on their suitability to be licensed, a report will be presented to a licensing sub-committee who will take the decision as to whether a person is "fit and proper" to be licensed.

2 Applying for a New HC Driver Licence or a PH Driver Licence

All applicants must submit the following documents when applying for a new licence:

2.1 Application form

Failure to complete the appropriate form could result in an application being delayed or declined.

Knowingly or recklessly making a false declaration or omitting any material information required when applying for a licence is an offence. Where an applicant

has knowingly made a false statement or declaration the application will normally be rejected or refused.

2.2 Fee

Failure to pay the full fee could result in an application being delayed or declined.

A list of current fees and charges is published on the Council's website www.spelthorne.gov.uk or can be requested from the Licensing department.

2.3 Disclosure and Barring Service (DBS) Disclosure (Formerly Criminal Records Bureau (CRB) Disclosure)

Applicants must submit an enhanced DBS disclosure, obtained within the last six months. The disclosure must show that applicants have been checked against both adult and child workforce lists.

2.4 Overseas Criminal History (OCH) Checks (where applicable)

Applicants who have continuously lived outside the UK for at least one year as an adult (aged 18 or over), must produce a "Certificate of Good Conduct" by a competent judicial or administrative authority, for every country of prior domicile. The Certificate must comprise an extract from the judicial record (or equivalent) and either record all the applicant's prior convictions, or confirm their "good conduct".

Applicants for a Driver Licence must also submit the following:

2.5 Driving Licence

Applicants must produce a current, valid UK driving licence or equivalent issued by a member state of the European Union, European Economic Area, or Switzerland, that they have held for at least three years prior to the date of application (excluding any periods of suspension/ revocation) and showing the applicant's current address.

In order to allow the Council to monitor what endorsements have been made on a licence, applicants must provide a licence "check code" obtained via the DVLA's Shared Driving Licence Service (c/o gov.uk) - which will allow the Licensing Officer to obtain a printout of their DVLA record.

2.6 Enhanced Driving Tests for Taxi and Private Hire Drivers

Applicants must produce a certificate confirming that they have passed a Blue Lamp Trust Enhanced Driving Test for Taxi and Private Hire Drivers, or equivalent. At the discretion of the Licensing Manager, where an applicant is to be employed by a company exclusively using specially-adapted minibus vehicles for the sole purpose of Blue Badge school runs, a certificate for an alternative, equivalent test for competence to drive minibuses may be supplied.

2.7 Spelthorne Borough Council Knowledge Tests

All applicants must pass the Council's: -

- English Speaking & Numeracy test
- Licence Conditions test

- Geographical test

There are two versions of both the Licence Conditions and Geographical tests. The HC Driver tests require more detailed topographical knowledge, as applicants are required to describe specific routes between specified places.

Applicants who fail a test must wait for a minimum of a two week period before re-sitting the test and may only sit the test three times in any 12 month period. There is a charge for re-sitting tests which is reviewed annually.

2.8 Medical Assessment Form

Applicants must submit a “Group 2” Medical Examiner Report, **completed by their GP (or a Doctor working at their registered GP’s practice)** who has access to their full medical records. Reports completed by other Doctors will not be accepted.

Applicants must satisfy the Council that they are medically fit to drive and will be expected to meet DVLA Group 2 standards, except those with insulin treated diabetes, who must meet DVLA category C1 standards.

Medical reports which may indicate that an applicant may not meet the Group 2 Standard will be referred to the Council’s independent medical advisor.

Where a Licensing Officer or the Council’s independent medical advisor has reason to believe that an applicant’s ability to drive may be impaired by a specific medical condition, the applicant or their GP may be asked to provide further information at any time in the 12 months following the date of submission of the medical assessment form.

The Council reserves the right to require a new medical assessment, at the licensee’s expense, if a licensing officer has reason to believe that a licensee’s medical status may have changed.

Licensees must resubmit medical assessment forms every five years until they are aged **65**. When a licensee reaches the age of **65**, annual medical assessment forms must be submitted. More frequent medicals may also be required if recommended by the Council’s independent medical advisor.

2.9 HC applications from existing PH licence holders

Existing PH drivers who wish to hold a HC Driver licence can apply to do so at any time. Applicants must pay the relevant fee and pass both the licence conditions and topographical tests.

Points imposed under the Council’s Penalty Points Policy will transfer to the new licence.

2.10 Applications for PH Operator Licences

To be eligible for a PH Operator licence, applicants must operate from premises located within the Borough.

Applicants will need to submit a standard DBS disclosure or a Police National Computer (PNC) check obtained within the last month. This will need to be done every five years.

If an applicant for a PH Operator licence holds a current HC Driver licence, a PH Driver licence, or has submitted a DBS enhanced disclosure, obtained through the Council, within the last six months, they need not submit a further DBS check.

Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Normally the guidance in this policy will take precedence over the decision of another authority and each case will be decided on its own merits.

2.11 Immigration checks

Checks will be undertaken in accordance with guidance issued by the Home Office in December 2016 (**please see attached as Appendix 1**), to ensure that an applicant for a driver or operator licence has the right to live and work in the UK before the issue of the licence. Where an applicant has time-limited permission to work in the UK, the duration of the licence will not exceed the length of time the applicant has permission to work in the UK.

The Council will not license an individual on a Tier 4 (Student) visa unless they are directly employed by the Operator. Proof of employment and compliance with restrictions must be provided before a licence is issued. This is because students on a Tier 4 visa cannot be self-employed.

The Immigration Act 2016 has introduced immigration requirements into licensing regimes, including taxi and private hire licensing. For all applications after the commencement date, the Council must be satisfied that an applicant is not disqualified by their immigration status from holding a licence before being issued a licence. A licence will lapse if the holder's lawful leave or permission to work ends. Immigration offences will be added to the list of grounds on which licences can be suspended or revoked. It will also be an offence not to return a licence where revoked on immigration grounds.

3 Renewing your HC Driver Licence, PH Driver Licence or PH Operator Licence

Whilst the Council will endeavour to send reminder letters, licensees remain solely responsible for the renewal of their licence(s).

Applications to renew licences should be lodged at least ten working days before expiry but will not normally be accepted more than six weeks before expiry.

The Council would normally require a new application where a licence has expired.

All applicants must submit the following documents when applying to renew their licence: -

- Application form
- Fee

- Driving licence (see above)
- Passport confirming British citizenship, or documentation to prove they have the right to remain (and work)
- DBS enhanced disclosure conducted within the last six months (required every three years) for drivers; or a standard DBS disclosure / Police National Computer (PNC) check (required every five years) for operators
- Medical assessment completed within six months of the date of application (required every five years up to the age of **65**, and annually thereafter)
- Data protection mandate, permitting the Council to check the DVLA's records (if none current – required every three years)

4 Problems with your application?

4.1 Previous Convictions

When assessing the suitability of an applicant to hold a licence the Council will consider any previous conviction, caution, court order or similar, from any reliable source, regardless of whether this is 'spent' under the Rehabilitation of Offenders Act 1974. Prior convictions / cautions do not necessarily permanently disbar an applicant. Each application is considered on its individual merits according to:

- the relevance of the offence(s)
- the seriousness of the offence(s)
- how long ago the offence(s) were committed
- the date of conviction
- the circumstances
- the sentence imposed by the court
- the applicant's age at the time of conviction
- whether they show a pattern of offending
- character checks (e.g. personal references)
- any other factors that might be relevant

Spelthorne Borough Council has adopted Surrey-wide guidance in relation to the consideration of previous convictions. This is attached at Appendix 2.

A criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. In most cases, an applicant would be expected to remain free from conviction the time specified in Appendix 2 before an application can be considered. However, there may be occasions when an application can be allowed before the minimum period free from conviction have elapsed.

The overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Some discretion can be afforded if an offence is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

4.2 Appeals

Any person aggrieved by the refusal of the Council to grant (or renew) any licence under this policy may appeal to a magistrates' court.

5 Responsibilities of Combined HC & PH Drivers, PH Drivers and PH Operators

5.1 Equality Act 2010

The Equality Act 2010 (**attached as Appendix 3**) places certain duties on HC and PH Drivers with regards to the transport of wheelchair users and guide dogs. The Act creates offences for failure to comply unless licensees have obtained an Exemption Certificate and yellow Exemption Notice to display on their vehicle from the Council.

5.2 Combined HC and PH Drivers

HC Driver licences issued by the Council automatically carry a dual entitlement, allowing licensees to work as HC and PH drivers.

Holders of HC and PH Driver licences must comply with:

- The Council's Hackney Carriage Byelaws (**see Appendix 4**) and
- The PH Driver Licensing Conditions (see section 5.3).

5.3 PH Driver – Standard Licensing Conditions

PH drivers must not:

1. Display signs, solicit fares, stand with a vehicle at a HC rank or do anything that is likely to give the impression that a vehicle is available for hire as if it were a HC vehicle.
2. Carry more passengers than the number specified on the vehicle licence.
3. Carry any other person during a hiring, without the express permission of the hirer.
4. Carry a child (below the age of ten years) in the front passenger seat of the vehicle.
5. Demand from the hirer a fare in excess of the fare agreed prior to the commencement of the journey (or as shown on the taximeter where fitted).
6. Smoke in their vehicle, at all, at any time.
7. Eat or drink in the vehicle whilst undertaking a hiring.
8. Play any radio or other sound without the express permission of the hirer.
9. Refuse to carry an assistance dog, unless exempted under Section 37 of the Disability Discrimination Act 1995 and the vehicle is clearly displaying the statutory exemption certificate and yellow Exemption Notice from the Council.

PH drivers must:

1. Notify the Council in writing as soon as possible and in any event within 14 days, of any of the following:
 - a) change of name and/ or address;
 - b) any illness or injury affecting fitness to drive;
 - c) any conviction, caution, court order or fixed penalty notices received (including motoring offences).
2. Conduct themselves in a civil and orderly manner and comply with the reasonable requests of the passengers.
3. Take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
4. Dress respectably and neatly.
5. Convey a reasonable quantity of luggage if so required by the person hiring the vehicle.
6. Give reasonable assistance in loading and unloading the luggage.
7. Give reasonable assistance in removing luggage to or from the entrance of any place at which he/ she may take up or set down a passenger.
8. Punctually attend with the vehicle at the time and place agreed with the hirer when the booking was made, unless delayed by some sufficient cause.
9. Provide to a customer on request a written receipt of the cost of the journey undertaken.
10. On termination of a hiring, or as soon as is practicable thereafter, search the vehicle for any lost property left therein and hand anything found to the Operator.
11. Allow disabled passengers to be accompanied by their registered assistance dogs **at no extra charge**, in accordance with the Disability Discrimination Act 1995.

Assistance dogs are trained to sit in the front of a vehicle with their owner. Any other animal can be conveyed at the discretion of the driver, but must be carried in the rear of the vehicle.
12. Comply with the requirements of the Council's licensing policy at all times.
13. If requested to do so for any reason, return their driver badge issued by the Council forthwith.

The holder of a Spelthorne PH driver licence can only work in a PH vehicle licensed by Spelthorne Borough Council, for a person or company holding a Spelthorne PH operator's licence.

5.4 PH Operator – Standard Licensing Conditions

PH Operators must not:

1. Use the words 'Taxi' or 'Cab', whether in the singular or plural and whether they form part of another word or not, in connection with their PH business.

PH Operators must:

Keep (in permanent and easily legible form) a record of the following:

1. Particulars of every booking taken, regardless of whether it was made with the hirer or undertaken at the request of another operator, including:
 - a) date and time of the booking;
 - b) date and time of commencement of the journey;
 - c) name of the hirer;
 - d) place(s) at which the passenger(s) was/ were collected;
 - e) place(s) at which the passenger(s) was/ were set down;
 - f) PH vehicle licence number;
 - g) full name and licence number of the PH driver;
 - h) fare charged and whether or not calculated by a meter.
2. Particulars of any vehicle operated by the licensee:
 - a) make and model;
 - b) registration mark;
 - c) PH vehicle licence number;
 - d) PH vehicle licence expiry date;
 - e) proprietor of the vehicle;
 - f) date and brief description of all works of modification and major works of maintenance or repair carried out to the vehicle.
3. Miscellaneous:
 - a) lost property;
 - b) date and time found;
 - c) vehicle in which it was found;
 - d) name of hirer.

Records may be kept as part of a computerised record keeping system and shall be retained and kept available for inspection by an authorised officer for a minimum period of 12 months.

PH Operators must also:

4. Notify the Council in writing as soon as possible and in any event within 14 days, of any material change in their operational circumstances, including:
 - a) change of name and/ or address;
 - b) change of the nature of the business carried on by him/ her;
 - c) change of the composition of the firm, if a partnership;
 - d) any convictions recorded against the PH Operator or their business partner;
 - e) the address of any secondary office(s) opened by the PH Operator;
 - f) details of any licensed driver whose services are dispensed with by the operator, where the circumstances of the driver's dismissal relate to his/her unsatisfactory conduct;
 - f) any other change in the information given by the Operator to the Council at the time of granting the current licence.
5. Take all reasonable steps to fulfil each and every booking accepted, punctually at the agreed time.
6. Ensure that any part of the premises provided for the use of the public to make bookings is:
 - a) kept clean;
 - b) adequately heated and ventilated;
 - c) provided with adequate seating facilities;
 - d) provided with a notice indicating that the service provided is in respect of pre-booked journeys only.
7. Ensure that a copy of their licence is prominently displayed where members of the public can read it.
8. Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition, and that any defects are repaired promptly.
9. Notify the Council in writing within seven days of details of any conviction or fixed penalty notice or formal caution imposed on him/ her.
9. At all times, comply with the requirements of the Council's policy on the licensing of PH Operators.

The holder of a Spelthorne PH operator licence can only supply private hire work to an individual who holds a current Spelthorne PH driver licence and uses a PH vehicle licensed by Spelthorne Borough Council, except as allowed by sub-contract rules introduced by the Deregulation Act 2015*.

* In section 55A, subsection (1) allows an operator who accepts a booking for a private hire vehicle to sub-contract it to four types of operator - (a) an operator licensed and located in the same district as the initial operator; (b) an operator licensed and located in a different district from the initial operator (a different district but one which is still governed by the same legislation – in practice this means a district in England or Wales but outside London or Plymouth); (c) an operator licensed and located in London; or (d) a person located in Scotland.

5.5 Bespoke Conditions

Notwithstanding the standard conditions above, the Council reserves the right to impose further conditions on any driver or operator licence where it considers this appropriate.

5.6 Appeals

Any person aggrieved by any conditions attached to the grant of a driver or operator licence may appeal to a magistrates' court.

6 Applications for HC Vehicle and PH Vehicle Licences

Applicants must submit the following documents when applying for a new vehicle licence:

1. Application form;
2. Fee;
3. Valid certificate of insurance for the vehicle, insuring it for use as a HC and/ or PH Vehicle on the day of application;
4. Vehicle Registration Document (log book);
5. MOT certificate, where the period since the date of first registration of a vehicle is 1+ year. The certificate must have been issued in the 6 months prior to the date of application where the period since the date of first registration of a vehicle is 5+ years;
6. Letter from the registered keeper of the vehicle consenting to the vehicle being licensed (if applicable);
7. The following documents, where vehicles have been altered or converted since original manufacture:
 - Wheelchair Accessible Vehicles – VOSA Certificate M1
 - Stretch Limousines – VOSA SVA Certificate
 - Any other relevant conversion document.

Applications not accompanied by the appropriate documentation will usually be declined.

6.1 General

Vehicles that are the subject of licensing applications must:

1. Not be a London LTI, "Fairway", "Metrocab" or similar style of vehicle;
2. Not be licensed with Transport For London (TFL), or any other authority;
3. Not be over ten years old. The latest that a licence can be issued will be when it is nine years old.

Vehicles specially adapted to carry passengers who are wheel chair bound may continue to be licensed up to twelve years of age, subject to full compliance with licence conditions.

4. Have a minimum of 4 passenger doors, excluding any tailgate;
5. Have a minimum engine capacity of 1300cc;
5. Have a solid roof, which may include a solid sunroof.
6. Not have sideways facing seats and all will comply with the current seatbelt regulations;
7. Have three anchorage points for each seatbelt;
8. Have an interior release handle on all passenger exit doors;
9. Have an external mirror on each side of the vehicle which can be used as a functional driving mirror by the driver;
10. Have a suitable and accessible dry powder fire extinguisher of not less than 1kg in capacity;
11. Carry a first aid kit. The must be kept in such a position as to be readily available to passengers for immediate use in as required;
12. Not display or carry any signs (except optional 'No smoking' sign[s]), notices, advertisements, plates, numbers, letters, figures, symbols or emblems whatsoever, on, in or from the vehicle, except for the name and telephone number of an operator – which may be displayed securely on the side doors or bonnet of the vehicle on a plate or sign written, the characters of which must not be more than 4 inches (10cm) in height and such lettering shall not be illuminated. Any signs must not obscure the driver's vision in any direction.
13. Be right hand drive only, except for stretch limousines;
14. Only be altered or converted by an appropriately qualified installer or vehicle manufacturer (where applicable).

6.2 MOT and Vehicle Inspection Test (VIT)

Vehicles are required to pass a standard MOT test and the Council's VIT.

MOT Testing must be done annually for vehicles over the age of one year and six-monthly for vehicles over the age of five years.

VIT tests will be undertaken annually at the Council Offices.

Applicants must include the MOT certificate with their application form. Checks will be undertaken from time to time and penalty points will be awarded for failure to meet the timescales for MOTs to be conducted.

The Licensing Officer will consider MOT advisories and decide a course of action on a case by case basis. Where the MOT indicates that they may be defective, applicants would normally be required to replace tyres or repair to British Standard BS AU 159 (with evidence of this to be provided).

At the discretion of the Licensing Officer, advisories on MOTs will usually be required to be fixed within one month of the MOT - with evidence to this effect to be provided. Failure to comply with this requirement would usually result in the issue of penalty points to a driver's hackney carriage or private hire driver licence.

6.3 Licence Plates

The Council shall determine the wording, size and manner of display of licence plates in accordance with the requirements of current legislation.

6.4 Seating Capacity of Vehicles

The Council will determine the number of persons a vehicle is licensed to carry in the following way:

- a) Where a vehicle provides separate seats for each person, the vehicle shall be licensed to carry one person for each separate seat provided – subject to them meeting the Council's minimum size requirements: -
 - i) 410 mm wide;
 - ii) The distance between the rear of the forward seat or dashboard and the front face of the passenger seat should measure a minimum of 660 mm per passenger.

Consideration will also be given to the amount of headroom available, ingress and egress from a practical point of view (as well in terms of safety), and also the materials from which the seat is made. Applicants should be mindful that it will not always be possible for the Council to issue a licence permitting use of every seat in a vehicle.

A decision as to whether a seat will be licensed is at the discretion of the Licensing Officer inspecting the vehicle. The primary consideration will be the safety and comfort of the travelling public;

- b) Where the vehicle is fitted with continuous seats, the vehicle shall be licensed to carry one person for each complete length of 410 mm measured in a straight line lengthwise across the front of such a seat, to a maximum not exceeding the

number of seatbelts fitted. The distance between the rear of the forward seat or dashboard and the front face of the passenger seat must measure a minimum of 660 mm per passenger;

- c) Where the vehicle is fitted with continuous seats and with arms to separate the seating spaces, the arms shall be ignored in measuring the seat, if the arms can be folded back or otherwise put out of use, to a maximum not exceeding the number of seatbelts fitted.

6.5 Tinted Windows

All vehicles must comply with the Road Vehicles (Construction & Use) Regulations 1986 and in particular the requirements relating to tinted windows, which state that as a minimum:

- The light transmitted through the windscreen must be at least 75% and the front side windows must allow at least 70% of light to be transmitted through them.

Newly licensed vehicles will only be considered suitable where all rear side windows allow at least 22% of light to be transmitted through them. There is no minimum transmission requirement for the rear windscreen.

6.6 CCTV (where fitted)

Where CCTV is fitted to a licensed vehicle, and in use, it must:

- a) comply with the Information Commissioner's data protection requirements and Codes of Practice;
- b) be capable of recording date, time and vehicle identification, such features to be activated at all times when in use;
- c) be capable of having recorded material downloaded to another storage device for reviewing;
- d) be kept in good working order at all times;
- e) enable recordings to be made available to Licensing Officers or the Police on request.

6.7 Cycle carriers and roof racks (where fitted)

Any cycle carriers or roof racks must be fitted and used in accordance with the manufacturer's instructions (including maximum load weight).

6.8 Executive PH Vehicles

Applications to register PH vehicles as Executive PH (EPH) vehicles will be considered if:

- A minimum of 90% of work is undertaken for businesses with an account with the operator, demonstrable by reference to a minimum of three month's work records or, in the case of new applicants, a letter from an employer;

- The vehicle befits executive status – typically being larger in size than a large family car, in excellent condition, usually providing luxurious features beyond what might be considered by most as necessity.

An EPH vehicle will be exempt from the tinted window requirements of this policy.

Applications for Executive Status shall be determined at the Council's discretion.

Drivers of EPH vehicles will be issued a plate display exemption certificate, which they will be required to carry with them at all times.

6.9 Stretch Limousines

Vehicles which have been adapted to carry more passengers than originally intended are referred to as stretch limousines. Where there are eight or fewer passenger seats, or their equivalent where bench seats are provided, then the vehicle must be licensed.

6.10 Period of Licences

HC and PH driver licences can be issued for one or three years. The Government anticipates that most will be issued for three years. In some cases it may be necessary to issue a driver's licence for a shorter period, for example to give the driver an opportunity to have a medical examination or provide other outstanding documentation. In such cases the licence will be extended on production of the outstanding documentation to one or three years as appropriate. This would not normally incur an additional charge but may if the fault lies with the driver and the matter is within the driver's control.

PH operator licences can be issued for one or five years. The Government anticipates that most will be issued for five years.

HC and PH vehicle licences can be issued for a maximum of one year.

7 HC Vehicles and PH Vehicles – Standard Licence Conditions

7.1 The following conditions will normally apply to all licensed vehicles:

1. The vehicle shall at all times be maintained in sound, roadworthy, mechanically sound condition and serviced according to the manufacturer's recommendations.
2. No alteration to the manufacturer's specification for the vehicle shall be carried out except with the written approval of the Council.
3. Interior lighting shall be provided and maintained in working order such that it illuminates the passenger area.
4. The seats are properly cushioned or covered.
5. The floor is provided with proper carpet, mat or other suitable covering.

6. The exterior of the vehicle shall be kept clean at all times. The interior of the vehicle (including luggage spaces) shall be kept clean and free from rubbish at all times.
7. The vehicle must at all times comply with one of the following:
 - a) Carry a spare wheel, capable of immediate use, together with adequate tools to effect changing a wheel; or
 - b) Carry a space saver spare wheel, capable of immediate use, together with adequate tools to effect changing a wheel. When space saver spare wheels are used, a licensee may complete their journey but must not undertake any further hiring until the punctured wheel has been repaired and refitted or else replaced; or
 - c) Carry and maintain in good working order, the manufacturer's standard issue repair and inflation equipment for that vehicle. Where a repair and inflation facility is used, a licensee may complete their journey but must not undertake any further hiring until the punctured wheel has been repaired and refitted or else replaced, and the manufacturer's repair and inflation facility has been replaced; or
 - d) Have runflat tyres fitted. Where a runflat tyre becomes punctured, as soon as this comes to the attention of the licensee, they may complete their journey but must not undertake any further hiring until the punctured wheel has been repaired and refitted or else replaced.
8. Newly licensed vehicles must conform to the requirements of section 6.5 – Tinted Windows. However, vehicles licensed before > insert date policy becomes effective < are exempt from this condition for as long as they remain continuously licensed by the Council.
9. All fuel carried by the vehicle shall be contained within permanently secured fuel tanks. Spare fuel containers must not be carried at any time whether or not they are empty.
10. The driver of a licensed vehicle shall notify the Council in writing as soon as possible, and in any event, within 14 days of any change of name or address.
11. Where CCTV is fitted to a licensed vehicle then the requirements set out at section 6.6 shall apply.

7.2 Additional Standard Conditions – Hackney Carriage Vehicles

1. A licensee shall ensure that any other person permitted to drive the licensed vehicle holds a HC Driver licence issued by the Council.
2. The taximeter fitted to the vehicle shall be adjusted to record fares in accordance with the Council's tariff of fares and must be tested at intervals not exceeding 3 years.

3. Meters must comply with Directive 2004/22/EC of the European Parliament on measuring instruments as implemented into UK law by The Measuring Instruments (Taximeters) Regulations 2006, be programmed to calendar control and be sealed by lead or plastic signs to meet the required minimum standard.
4. The vehicle shall have an internally illuminated roof sign bearing the word "TAXI" on the front in letters which are not less than 50 mm height. This sign shall be kept illuminated when the vehicle is plying for hire.
5. The vehicle shall display an internally illuminated sign saying "For Hire" which shall be located at the front of the vehicle where it can be seen from the outside front of the vehicle. This sign shall remain illuminated at all time whilst the vehicle is available for hire.

6. Vehicle Licence Plates

Licence plates are supplied by the Council and must be securely fixed to the vehicle in the following locations:

- 1 large plate – rear exterior;
- 1 plate – internal, facing inwards displayed so that passengers can easily read it.

Licence plates must be kept clean and clearly displayed on the licensed vehicle at all times, whether or not it is being used as such. Once affixed, a licence plate must not obscure the registration plate.

Licence plates remain the property of the Council and must be returned when the vehicle is no longer licensed or when the vehicle licence has been suspended.

7. Licensees are responsible for ensuring that only holders of the appropriate private hire or hackney carriage driver licence issued by the Council are allowed to drive their licensed vehicle(s) and that the person is insured for public or private hire as appropriate.

7.3 Bespoke Conditions

Notwithstanding the standard conditions above, the Council reserves the right to impose further conditions on any vehicle licence where it considers this appropriate.

7.4 Appeals

Any person aggrieved by any conditions attached to the grant of a vehicle licence may appeal to a magistrates' court.

8 Transfer of Entitlement to a Vehicle Licence

A licence issued in respect of a vehicle can be temporarily or permanently transferred to another vehicle in the event of an accident, mechanical failure or theft.

The Council will issue a new vehicle licence to the licensee on the following terms:

1. Payment of the relevant fee;
2. Submission of a fully completed application form;
3. Surrender of the original HC / PH vehicle licence and (where possible) identification plates to the Council;
4. The new vehicle must comply with all relevant requirements of this Policy;
5. The new HC / PH licence will expire on the same date as the cancelled vehicle licence.
6. If the original vehicle is to be used again, following repair, then a further transfer application needs to be made as it will no longer be licensed.

9 Enforcement

Failure to comply with legislative requirements is an offence. In determining what enforcement action to pursue in respect of offences, regard will be had to the individual circumstances, as well as the Council's enforcement policies and other guidance, such as the Crown Prosecutor's Code of Practice. Enforcement may include prosecution of offenders where appropriate and/ or imposition of penalty points under the Council's Penalty Points Scheme. As part of our enforcement of the legislation, the Council will, when appropriate, carry out test purchases of journeys. We will also make use of public CCTV monitoring in order to detect offences under the legislation.

9.1 Inspections

The Council reserves the right to carry out the following inspections with or without warning to ensure compliance with licence conditions and relevant legislation (including Byelaws).

- Private Hire Operators – records/ premises;
- Hackney Carriage Drivers – HC vehicles;
- Private Hire Drivers – PH vehicles.

Routine inspections will be carried out primarily in accordance with a risk-based system and wherever possible, vehicles and documentation will be inspected at the same time.

9.2 DVLA Penalties and driving standards

Licensees who accumulate nine or more points on their driving licence must notify the Council immediately, after which they will be required to pass the Blue Lamp Trust (or equivalent) test within three months of notification and report the result to the Council within one month of the test date. Failure to do so will result in consideration of further sanctions.

A second accumulation of nine points will normally trigger the referral of a report to a licensing sub-committee, in order for them to consider further sanctions - including possible suspension or revocation.

9.3 Suspension/ Revocation of driver licences

9.3.1 Person not being fit and proper to hold a licence (including medical grounds)

Where a Licensing Officer has a reasonable belief that any HC or PH driver or PH operator is not a “fit and proper” person to hold a licence and/or in the interests of public safety, the Council may suspend or revoke that licence.

Before a decision to suspend or revoke a licence is taken, the Council will usually contact the licensee to invite them to attend a hearing with a Licensing Sub-Committee. The Council will provide the licensee with a full agenda and report in advance of the meeting, so that they are able to respond on the day. However, representations concerning the effect of suspension / revocation on a licensee’s personal circumstances e.g. unemployment, loss of income, hardship etc will not be taken into account.

The Council reserves the right to determine cases in the absence of licensees who cannot be contacted or who do not attend their hearing.

When the hearing is complete, the Licensing Sub-Committee will review the evidence and determine the appropriate sanction. The licensee will then be notified in writing and full reasons given. Suspension / revocation can be immediate and a licence must be surrendered on demand.

Suspension will be for a specified fixed period, or where this is done for medical reasons, until the Council is in receipt of appropriate written confirmation as determined by the Council, whichever is the longer.

In certain circumstances (i.e. where there is an imminent danger in allowing a driver to continue to work), a licence may be immediately suspended or revoked. Such decisions will be made by the Senior Environmental Health Manager, in conjunction with the Chairman of the Licensing Committee.

9.3.2 Resulting from an accumulation of penalty points

See the Council’s Penalty Points Policy.

9.3.3 Re-applying for a licence after suspension / revocation

Licensees can apply for the return of their licence when the suspension period has elapsed. Expired time during the suspension period will not be re-credited.

This will depend on the reasons for revocation and the period which has elapsed since revocation. Usually the Council will not grant a new licence until at least 12 months has elapsed, or at least five years from the date any subsequent revocation. Where an existing licensee has their DVLA driving licence suspended or revoked, their Hackney Carriage or Private Hire Driver licence shall normally also be revoked with immediate effect. Where a licence is revoked there will be no refund of any fee.

Licensees whose licences are revoked in this manner will not normally be permitted to re-apply until 12 months has elapsed from the date of revocation.

9.4 Suspension or revocation of vehicle licences

The following may result in a licence suspension and/ or revocation:

- where a licensing officer is not satisfied that any HC or PH vehicle is fit for use as such;
- where the licensee or operator has committed an offence under Part II of the Local Government (Miscellaneous Provisions) Act 1976 or has not complied with the Act;
- any other reasonable cause as determined by the Council.

9.5 Appeals

Any licensee aggrieved by the suspension or revocation of their licence may appeal to the Magistrates' Court.

Policy relating to the relevance of convictions and other relevant character or behaviour information

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1. Introduction

- 1.1 This policy sets out the criteria to be taken into account by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to be granted, have renewed or continue to hold a Hackney Carriage and/or Private Hire Driver Licence. In addition to criminal convictions the Council will also take into account other factors such as demeanour, attitude, general character, non-criminal behaviour and other police information etc.
- 1.2 Whilst this policy primarily applies to the determination of driver licences, however, where a conviction (as defined below) is considered relevant to the fitness and propriety/suitability of an individual to hold or be granted a Private Hire Operator Licence or vehicle licence, then this policy must be referred to in the determination of that licence/application.
- 1.3 The Council is mindful that each case must be considered on its merits and where the circumstances demand, the Council may depart from this policy.
- 1.4 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
- Applicants for a driver's, vehicle or private hire operator licence
 - Existing licensees whose licences are being reviewed or renewed
 - Licensing officers
 - Members of the licensing committee/sub-committee
 - Magistrates and Judges hearing appeals against local authority decisions
- 1.5 For renewal applications and current licence holders the guidance will not be applied retrospectively. However the policy will be applied if any additional convictions are incurred or brought to the attention of the Council that would call into question a person's suitability to hold a licence.
- 1.6 It is the responsibility of Spelthorne Borough Council (referred to as the Council) to issue Hackney Carriage and Private Hire licences under the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Act 1847 and the Hackney Carriage Byelaws. In exercising this duty the Council must consider the need to ensure the safety of the public its' primary consideration. Licences cannot be issued unless the person is considered to be 'fit and proper'.
- 1.7 In seeking to safeguard the safety of the public. The council will be concerned to ensure:
- That a person is a fit and proper person in accordance with Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II)
 - That the person does not pose a threat to the public
 - That the public are safeguarded from dishonest persons
 - The safety of children, young persons and vulnerable adults

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- 1.8 In determining whether a person is fit and proper to hold a licence and having taken into account all relevant considerations and information, the Council will ask itself the following question:

‘Would you allow your son, daughter, spouse, partner, mother, father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’

If the answer to the above is an unqualified ‘yes’, then the person can be considered to be fit and proper. In all other cases a licence will be refused.

- 1.9 The Council will undertake whatever checks it considers necessary to ensure that licences are not issued to unsuitable people. In assessing the suitability of an applicant or licence holder, the council will take into consideration the following factors:

- Criminality
- Number of endorsed DVSA driving licence penalty points
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process).
- The previous licensing history of existing / former licence holders.

In addition, the Council will also consider further information from sources such as, but not limited to, the Police (including abduction notices), Children and Adult Safeguarding Boards, Multi Agency Safeguarding Hub, Social Services other licensing authorities, other departments within the Council, and statutory agencies.

- 1.10 In this policy, the word “applicant” refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders that are the subject of periodic auditing or having their licence reviewed by the council as part of the policy implementation process. It also includes existing licence holders who are being considered by the Council by virtue of offending activity having recently come to light.
- 1.11 In this policy, the word “conviction” is to be defined as including convictions, cautions, warnings, reprimands and other relevant information.
- 1.12 The Council reserves the right to overturn or annul a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

2 **General Policy**

- 2.1 Whilst the Council may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:

- a. Remain free of conviction for an appropriate period as detailed below; and
- b. Show adequate evidence that they are a fit and proper person to hold a licence

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(the onus will be on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

- 2.2 The standards and criteria set out in paragraphs 4 to 12 below are those that would normally be applied to applications and licences. The Council may depart from these criteria, however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

3 Powers

- 3.1 Section 61 of the Local Government Miscellaneous Provisions Act 1976 allows the council to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 3.2 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the council to take into account all convictions recorded against an applicant or the holder of a Private Hire or Hackney Carriage driver's licence, whether spent or not. Therefore the council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.

4 Consideration of disclosed criminal history

- 4.1 Under the provisions of Sections 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the council is required to ensure that an applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire Vehicle driver's licence is a "fit and proper" person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the council will look at:
- How relevant the offence(s) are to the licence being applied for
 - How serious the offence(s) were
 - When the offence(s) were committed
 - The date of the conviction, warning, caution etc.
 - Circumstances of the individual concerned
 - Any sentence imposed by the court
 - The applicant's age at the time of offence / incident leading to the conviction, warning, caution etc.
 - Whether they form part of a pattern of offending
 - The applicant's attitude
 - Any other character check considered reasonable (e.g. personal references if requested by the Council)
 - Any other factors that might be relevant, for example:

- The previous conduct of an existing or former licence holder,
- Whether the applicant has intentionally misled the council or lied as part of the application process,
- Information provided by other agencies/council departments.

4.2 In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.

4.3 Existing holders of driver's licences are required to notify the council in writing within five working days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the council within 3 working days of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.

4.4 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence (s57 Local Government (Miscellaneous Provisions) Act 1976). Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

4.5 Any offences or behaviour not expressly covered by this Policy may still be taken into account.

5 Options when determining an application/licence

5.1 When determining an application or reviewing an existing licence in relation to convictions or other relevant information the Council have the following options:

- grant the licence or take no further action
- grant the licence with additional conditions
- refuse, revoke, or suspend the licence
- issue a warning which may include the use of enforcement penalty points

5.2 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

6. Offences involving violence

6.1 Licensed drivers have close regular contact with the public. An application will

normally be refused if the applicant has a conviction for an offence that involved the loss of life such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

6.2 Consideration may only be given to the granting / issuing of a licence if at least 10 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm
- Assault occasioning actual bodily harm
- Grievous bodily harm
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Violent disorder
- Resisting arrest
- Any racially-aggravated offence against a person or property
- Common assault
- Affray
- Any offence that may be categorised as domestic violence
- Harassment, alarm or distress, intentional harassment or fear of provocation of violence
- Any offence (including attempted or conspiracy to commit offences) similar to those above.

6.3 Consideration may only be given to the granting / issuing of a licence if at least 5 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Obstruction
- Criminal damage
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

6.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

7. Offences involving a weapon

- 7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.
- 7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted..
- 7.3 2 or more convictions for a violent offence will normally result in an application being refused.

8. Sexual and indecency offences

- 8.1 All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will normally be refused. Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
- Making or distributing obscene material
- Possession of indecent photographs depicting child pornography.
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Soliciting (kerb crawling)
- Any sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Making obscene / indecent telephone calls
- Indecent exposure
- Any similar offences (including attempted or conspiracy to commit) which replace the above

- 8.2 In addition to the above the council will not normally grant a licence to any applicant who is or has ever been on the Sex Offenders Register or similar register.

9. Dishonesty

- 9.1 A serious view is taken of any conviction involving dishonesty.
- 9.2 A minimum period of 5 years free of conviction or at least 5 years since the completion of sentence (whichever is longer) is required to have passed before a licence is granted. Offences involving dishonesty include:

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- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- false representation
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- fare overcharging
- or any similar offences (including attempted or conspiracy to commit) offences which replace the above

9.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

9.4 Applicants or existing licence holders that are found to have intentionally misled the council, or lied as part of the application process, will not be issued with a licence.

10. Alcohol and Drugs

10.1 A serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs.

10.2 At least 5 years, after the restoration of the DVLA driving licence following a drink drive conviction should elapse before an application will be granted.

10.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 10 years or at least 10 years have passed since the completion of any sentence and/or licence period, whichever is the greater. There will then be full consideration of the nature of the offence and the quantity /type of drugs involved.

10.4 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs.

10.5 If there is evidence of persistent drugs or alcohol use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) and a satisfactory medical report may be required before the licence is granted. If the applicant was an addict then they would be required to show evidence of 8 years free from drug taking after detoxification treatment.

11. Driving offences involving the loss of life

11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

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11.2 A licence will not normally be granted if an applicant has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

12 Other traffic offences

12.1 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would be granted for a Hackney Carriage or Private Hire drivers licence.

12.2 Traffic offences such as obstruction, some speeding offences (usually dealt with by means of a fixed penalty), pedestrian crossing offences, traffic light offences waiting in a restricted area, or offences of a similar nature may not ordinarily merit refusal. However, with existing licensees they may be subject to separate consideration as part of the Penalty Points Enforcement Policy.

12.2 Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a court), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least 1 year free of such convictions. For applicants with more than one offence this should normally be increased to 2 years.

12.3 In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above should normally commence from the date of the restoration of the licence.

12.4 In this policy, the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

13 Outstanding Charges or Summonses

13.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.

13.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on

hold until proceedings are concluded or the licence may be refused.

14 People banned from working with children or vulnerable adults

- 14.1 A serious view is to be taken of any applicant or licence holder who has been banned from working with children or vulnerable adults. A licence will not normally be granted if an applicant is on the Protection of Children Act or Protection of Vulnerable Adults List. Further detail can be seen in Appendix 1.

15 Non-conviction information

- 15.1 The Council will take into account intelligence which has not led to a conviction. This may include but not be limited to information regarding acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take following the receipt of information), the credibility of both the witness / complainant and the licence holder will be taken into account.

- 14.2 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration may be given to refusing the application or revoking an existing licence.

- 14.3 In assessing the action to take, public safety will be the paramount concern. Decisions will be taken on balance of probability.

16 Licensing Offences

- 16.1 Offences under taxi and private hire legislation such as plying for hire without a licence, overcharging and refusing to carry disabled persons will prevent a licence being granted or renewed until a period of 5 years has passed since conviction.

17 Insurance Offences

- 17.1 A serious view will be taken of convictions for driving or being in charge of a vehicle without insurance. A previous isolated incident will not necessarily stop a licence being granted provided an individual has been free of conviction for 3 years. However strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.

- 17.2 An operator found guilty of aiding and abetting the driving of passengers for hire and reward without insurance will have his Operator's Licence reviewed with a view to immediate revocation and will not be permitted to hold a licence for a period of at least three years from the date of any revocation.

- 17.3 Where a specific offence is not mentioned, a suitable period will be determined by reference to offences described. The Council reserves the right to refuse a licence

where there are aggravating circumstances, even where these guidelines would otherwise indicate that a licence might be granted.

18 Applicants with periods of residency outside the UK

- 17.1 If an applicant has spent six continuous months or more overseas (since the age of 16) the council will expect to see evidence of a criminal record check from the country / countries visited covering the period.
- 17.2 Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU nationals a disclosure that is similar to the UK DBS will be required, for those countries for which checks are not available, the council will require a certificate of good conduct authenticated by the relevant embassy.

19 Summary

- 18.1 Whilst a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed, in most cases, an applicant would be expected to have remained free from conviction for 3 to 10 years (detailed above), before an application is likely to be successful. If there is any doubt about the suitability of an individual to be licensed, the Council will be mindful of the need to protect the public and caution will be exercised.
- 18.2 While it is possible that an applicant may have a number of convictions that, individually, do not prevent a licence from being granted, the overall offending history will be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Some discretion may be afforded if an offence is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

People banned from working with children or vulnerable adults

Children

The guidance from NACRO¹ provides that people will be banned from working with children if they are considered unsuitable to work with children and are on a list maintained by the Department for Education and Skills and also the Department for Health. People who are banned are those:

- On a list held under Section 142 of the Education Act 2002 (List 99)
- On the Protection of Children Act (PoCA) list
- On the National Assembly of Wales list
- Aged 18 or over convicted of certain specified offences against those aged under 18 (or 16 in some instances) and given a hospital or guardianship order or a custodial sentence of 12 months or more. Suspended sentences of 12 months or more are treated as qualifying sentences.

A person will also be banned if they have been convicted of certain specified offences under Schedule 4 of the Criminal Justice and Court Services Act 2000, examples include:

- Intercourse with a girl under 16
- Offences relating to child pornography
- Gross indecency with a child.
- Abduction and false imprisonment
- Abuse of trust
- Assault occasioning actual bodily harm
- Homicide and threats to kill
- Incest, and cruelty to children
- Offences relating to prostitution
- Rape, and indecent assault
- Supplying a class A drug to a child
- Wounding and causing grievous bodily harm.

It is important to also consider the term 'working with children' as it covers a number of areas. According to the Guide on the Protection of Children, broadly these are:

¹ NACRO – Recruiting ex-offenders: the employer's perspective (www.crb.homeoffice.gov.uk)

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- Employment in certain establishments that provide functions for children such as schools, children's homes and children's hospitals. All staff, whether primary or secondary carers or ancillary staff are deemed to be primary carers;
- Employment in day-care premises, except where the work takes place in a different part of the premises to where day-care activities are situated, or if it occurs during times of the day when children are not being looked after;
- Caring for, training, supervising or being in sole charge of children
- A position where normal duties involve unsupervised contact with children. This would cover, for example, a minicab firm whose drivers are employed to transport unaccompanied children on a regular basis, but not those who do this on an irregular or one-off basis
- Child employment. Where the young person is under the age of 16, those responsible for caring for them in the course of their employment are covered by the definition;
- Positions of influence and control over children, which could place them at risk.

Vulnerable Adults – POVA List

Under the Care Standards Act 2000, a person is banned from working with vulnerable adults if they are included on the Protection of Vulnerable Adults (POVA) list.

Similar to with the POCA list, care staff may be placed on the list if they have been dismissed, resigned, retired, made redundant, transferred or suspended on the grounds of misconduct which harmed or put at risk of harm a vulnerable adult.

It will be an imprisonable offence for anyone banned from such work to obtain it, and for an employer knowingly to employ a banned person.

Schedule 4 of the Safeguarding Vulnerable Groups Act 2006

Part 1 – Regulated Activity relating to Children

- (1) An activity is a regulated activity relating to children if—
 - (a) it is mentioned in paragraph 2(1), and
 - (b) it is carried out frequently by the same person or the period condition is satisfied.

- (2) An activity is a regulated activity relating to children if—
 - (a) it is carried out frequently by the same person or the period condition is satisfied,
 - (b) it is carried out in an establishment mentioned in paragraph 3(1),
 - (c) it is carried out by a person while engaging in any form of work (whether or not for gain),
 - (d) it is carried out for or in connection with the purposes of the establishment, and

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- (e) it gives that person the opportunity, in consequence of anything he is permitted or required to do in connection with the activity, to have contact with children.

Part 2 – Regulated Activity relating to Vulnerable Adults

- (1) Each of the following is a regulated activity relating to vulnerable adults if it is carried out frequently by the same person or the period condition is satisfied—
 - (a) any form of training, teaching or instruction provided wholly or mainly for vulnerable adults;
 - (b) any form of care for or supervision of vulnerable adults;
 - (c) any form of assistance, advice or guidance provided wholly or mainly for vulnerable adults;
 - (d) any form of treatment or therapy provided for a vulnerable adult;
 - (e) moderating a public electronic interactive communication service which is likely to be used wholly or mainly by vulnerable adults;
 - (f) driving a vehicle which is being used only for the purpose of conveying vulnerable adults and any person caring for the vulnerable adults pursuant to arrangements made in prescribed circumstances;
 - (g) anything done on behalf of a vulnerable adult in such circumstances as are prescribed.

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SPELTHORNE BOROUGH COUNCIL

Penalty Points Scheme (updated May 2017)

Introduction

1. Hackney Carriage (taxi) and Private Hire Operators, drivers and vehicles are principally governed by a “regulatory framework” including:-
 - I. Local Government (Miscellaneous Provisions) Act 1976;
 - II. Town Police Clauses Act 1847;
 - III. Council’s Taxi Byelaws;
 - IV. Rules, Regulations and Conditions for taxi and private hire licences and vehicles as approved by Spelthorne’s Licensing Committee.

2. The primary objective of the penalty points scheme is to improve the levels of compliance with the regulatory framework and to help improve standards, safety and the protection of members of the public affected by the actions of taxi, private hire drivers and operators. The scheme also seeks to improve the level of transparency and consistency in which the licensing system is administered and enforced.

3. Council officers (i.e. Licensing Enforcement Officers or the Licensing Manager) will investigate allegations of offences under the regulatory framework, by licensed operators, drivers or vehicles owners. When considering what action to take the Council officers will take into account all available and appropriate evidence, such as eye witness accounts and their reliability, the views of the licensee who may be affected by the outcome of the investigation, etc.. The outcome of investigations may result in:-
 - I. No further action being taken;
 - II. A “Penalty points Notice” being awarded against a driver, operator or owner of a vehicle (see pages 13 and 14). The officer will apply a fixed number of penalty points for each offence as specified in the table below;
 - III. A formal written warning;
 - IV. Immediate suspension of a licence (if the public safety condition is fulfilled);
 - V. Referral to the Council’s Licensing Sub-Committee;
 - VI. Administer of a formal caution or Prosecution.

4. Once these investigations have been concluded, letters will be sent to all persons/organisations involved in the allegation(s) detailing the findings and decision of the Council officer. A record of the decision will be kept on the relevant licensed driver’s, licensed vehicle owner’s, or operator’s file, including copies of any “Penalty Points Notice(s)” issued, where applicable.

5. The aim of a penalty point scheme is to work in conjunction with other enforcement options and does not preclude or prejudice the Council’s ability to take other actions that it is entitled to take under the regulatory framework. It provides a formal and cumulative enforcement approach.



6. The purpose of the scheme is to record confirmed breaches or offences and to act as an ongoing record of a driver's, licensed vehicle owner's or operator's behaviour and conduct, so as to ascertain whether they are a fit and proper person to hold such a licence.
7. Penalty points will remain on a driver's, licensed vehicle owner's or operator's record for twelve months, from the date the penalty points were issued by the officer. Points issued will be confirmed in writing within 10 working days from the completion of an investigation. Any points that were awarded more than twelve months ago will be excluded from the running total recorded against an individual licence holder or operator.
8. The Council officers specified in paragraph 3 above have been given delegated powers by Spelthorne's Licensing Committee to administer penalty points to licensed taxi or private hire drivers, private hire operators or licensed vehicle owners.
9. If a licensee wishes to appeal against the issue of a "penalty points notice" he/she must do so in writing within 10 working days from the date of issue of such a notice, to the Council's Senior Environmental Health Manager who, in consultation with the Deputy Chief Executive will have the discretion to:-
 - I. uphold the Council officer's decision – retain the number of points on the "penalty points notice"; or
 - II. cancel the issue of the "penalty points notice" to the licensee.

There is no appeal beyond the decision made by the Senior Environmental Health Manager in conjunction with the Deputy Chief Executive. However, should a licensee be subsequently reported to the Licensing Sub-Committee for accumulating 12 or more penalty points, he/she has the opportunity to raise the validity of the points issued.
10. Significant breaches of conduct, which are identified through officer observations or through complaints from the public or the trade, will be subject to investigation by Officers and may be reported to the Licensing Sub-Committee for a decision on whether the driver, operator or a licensed vehicle owner is a fit and proper person, whether or not penalty points have been awarded.
11. The Licensing Sub-Committee, when dealing with matters referred to them following the accumulation of penalty points, will consider the circumstances, the seriousness of the breaches of the regulatory framework, the quality of the evidence before it and the compliance history of the individual driver, licensed vehicle owner or operator. The Licensing Sub-Committee may decide to:-
 - I. Suspend a licence; or
 - II. Revoke a licence; or
 - IV. Take no action.



12. If a driver's, licensed vehicle owner or operator's licence is either suspended or revoked they will have the right to appeal against the Licensing Sub-Committee's decision to the Magistrates' Court.



PENALTY POINTS SCHEME

With reference to relevant legislation stated in the table below, the following abbreviations have been used:

Town Police Clauses Act 1847 – TPCA 1847;
 Local Government (Miscellaneous Provisions) Act 1976 – LG(MP)A 1976; and
 Road Traffic Act 1988 – RTA 1988

The trigger point for a licensed driver, vehicle owner or operator to be referred to the Council's Licensing Sub-Committee is a total of 12 penalty points accumulated within a 12 month period. The comprehensive lists of offences/breaches which will attract penalty points are listed in the table below:

	Offence/breach of Condition	Fixed Points Applicable	Driver	Vehicle Owner or Operator	Regulatory framework reference
	Administrative offences				
1	Using unlicensed vehicle or vehicle without the relevant motor insurance cover (i.e. insured for use as a private hire or taxi for hire and reward).	12	✓	✓	<p>Unlicensed hackney carriage TCPA 1847 s45 d(i) drive (ii) stand on the highway (iii) ply for hire. Operating an unlicensed private hire vehicle – LG(MP)A 1976 s46 (1)(e)(i). Use of a vehicle (other than a licensed hackney carriage) as a private hire vehicle LG LG(MP)A 1976 s46(1)(a) No insurance (hackney carriage and/or private hire vehicle) RTA 1988 s143.</p> <p>Spelthorne's Hackney Carriage(HC) Byelaw 9; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a); Spelthorne's HC application form requirement, section 1 p; Spelthorne's Private hire (PH) licence – conditions of licence, part (B), section 1.0 a);</p>



					Spelthorne's PH application form requirement, section 2 p.
2	Driver not holding a current DVLA Licence.	12	✓	✓	RTA 1988 s87; Spelthorne's HC Byelaw 9; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a); Spelthorne's Private hire (PH) licence – conditions of licence, part (B), section 1.0 a);
3	Providing false or misleading information / failing to provide relevant information or the relevant fee (including dishonoured cheques).	6	✓	✓	Providing false or misleading information LG(MP)A 1976 s57; Failing to provide information to an authorised officer LG(MP)A 1976 s73(1)(c); Hackney carriage and private hire driver licence fees LG(MP)A 1976 s53(4) & (5); Declaration section to Spelthorne's HC and PH application form.
4	Failure to submit a licensed vehicle that is 5 years old, or more for a 6 monthly MoT and provide documented proof to the Council that it has passed such a test within 4 weeks of the due date of the MoT test.	4		✓	LG(MP)A 1976 s50 (1); Spelthorne's Hackney Carriage(HC) Byelaw 9; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a); Spelthorne's HC application form requirement, section 1 p; Spelthorne's Private hire (PH) licence – conditions of licence, part (B), section 1.0 a); Spelthorne's PH application form requirement, section 2 p.
5	Continuing failure, after a further 4 weeks has elapsed, to provide documentary evidence that a licensed vehicle has passed a 6 month MoT.	4		✓	LG(MP)A 1976 s50 (1) Spelthorne's Hackney Carriage(HC) Byelaw 9; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a); Spelthorne's HC application form requirement, section 1 p; Spelthorne's Private hire (PH) licence – conditions of licence,



					part (B), section 1.0 a); Spelthorne's PH application form requirement, section 2 p.
6	Failure to provide proof of appropriate motor insurance cover within a specified time when requested by a Council officer.	4	✓		LG(MP)A 1976 s50 (4); Spelthorne's Hackney Carriage(HC) Byelaw 9; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a); Spelthorne's HC application form requirement, section 1 p; Spelthorne's Private hire (PH) licence – conditions of licence, part (B), section 1.0 a); Spelthorne's PH application form requirement, section 2 p.
7	Continuing failure, after a further 4 weeks has elapsed, to provide documentary evidence that a licensed vehicle has the appropriate motor insurance cover.	4	✓		LG(MP)A 1976 s50 (4); Spelthorne's Hackney Carriage(HC) Byelaw 9; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a); Spelthorne's HC application form requirement, section 1 p; Spelthorne's Private hire (PH) licence – conditions of licence, part (B), section 1.0 a); Spelthorne's PH application form requirement, section 2 p.
8	Failure to produce specified documents within a specified timescale when requested by a Council Officer in writing.	4	✓	✓	Depends which documents are requested, because various sections of LG(MP)A 1976 apply.
9	Continuing failure to provide relevant documents to a Council officer, as requested in writing – for every 4 weeks that elapse.	4	✓	✓	LG(MP)A 1976 s73(1)(b) and/or(c).
10	Failure to produce a	4		✓	LG(MP)A 1976 s50(1).



	Hackney Carriage or Private Hire vehicle for inspection/testing when Requested by a licensing officer.				
11	Continuing failure, to provide a hackney carriage or private hire vehicle for inspection/testing within the timescale specified by the Licensing Officer..	4		✓	LG(MP)A 1976 s50(1).
12	Failure to maintain records in a suitable form of the commencement and cessation of work of each driver each day.	6		✓	LG(MP)A 1976 s56(2); Spelthorne's Private hire operators' licence conditions – sections 2.0 and 3.0.
13	Failure to produce on request records of drivers' work activity.	6		✓	LG(MP)A 1976 s56(2); Spelthorne's Private hire operators' licence conditions – sections 2.0 and 3.0.
14	Failure to notify, in writing, a change in medical circumstances	6	✓		LG(MP)A 1976 s57 (1) – for hackney carriage drivers when renewing their licences; or LG(MP)A 1976 s73 (1)(c) – for hackney carriage drivers if an officer has grounds to suspect their medical condition has changed; Spelthorne's Private hire drivers licence conditions – section 7.0 (i.e. within 14 days).
15	Failure by a private hire operator to maintain proper	4		✓	LG(MP)A 1976 s56 (2). Spelthorne's Private hire operators' licence conditions – sections



	records of drivers or vehicles registered with his/her business.				2.0 and 3.0.
16	Failure to keep or produce records of private hire bookings	6		✓	LG(MP)A 1976 s56 (2). Spelthorne's Private hire operators' licence conditions – sections 2.0 and 3.0.
17	Failure to notify the Council, in writing, of any motoring or criminal convictions within 14 day of conviction or cautions during period of current licence.	4	✓	✓	LG(MP)A 1976 s57 (1) – for hackney carriage drivers when renewing their licences; or LG(MP)A 1976 s73 (1)(c) – for hackney carriage drivers if an officer has grounds to suspect they have received convictions or cautions; Spelthorne's Private hire drivers licence conditions – section 7.0 (i.e. within 14 days).
18	Failure to submit a licence renewal application until after the expiry date of an existing one.	6		✓	Vehicle licence – LG(MP)A 1976 s50(1)
19	Misleading use of the words 'Taxi' or 'Cab' on advertising materials.	3		✓	Private hire vehicles - LG(MP)A 1976 s1(a)(ii); Spelthorne's Private hire operators licence conditions – section 6.0. Private hire vehicle application requirement 2:0 (r).
20	Failure to comply with any other licence conditions set by the Council.	3 per licence breach	✓	✓	Spelthorne's private hire operators' conditions of licence, section 8.0; Spelthorne's PH licence – conditions of licence, Part (B), section 8.0; Spelthorne's HC vehicle licence – conditions of licence, section 8.0.
21	Failure to notify the Council	4	✓	✓	LG(MP)A 1976 s50(1).



	when involved in an accident whilst using a licensed vehicle.				
21	Failure to notify the Council , in writing, of a change of address within 14 days (two week).	3	✓	✓	LG(MP)A 1976 s57 (1) – for hackney carriage drivers when renewing their licences; or LG(MP)A 1976 s73 (1)(c) – for hackney carriage drivers if an officer has grounds to suspect they have received convictions or cautions; Spelthorne's Private hire drivers licence conditions – section 7.0.
	Conduct of driver, licensed vehicle owner or Operator offences				
22	Using a vehicle subject to a suspension or revocation order issued by the Council.	12	✓	✓	Unlicensed hackney carriage TCPA 1847 s45 d(i) drive (ii) stand on the highway (iii) ply for hire. Operating an unlicensed private hire vehicle – LG(MP)A 1976 s46 (1)(e)(i). Spelthorne's PH Operators' – conditions of licence, section 8.0; Spelthorne's HC vehicle licence – conditions of licence, section 8.0; Spelthorne's PH licence – conditions of licence, Part (B), section 5.0
23	Obstruction of an authorised officer or police officer wishing to examine a licensed vehicle.	12	✓	✓	LG(MP)A 1976 s73(1)
24	Failure to carry an assistance dog without requisite exemption.	12	✓	✓	Disability Discrimination Act 1995 s37; Spelthorne's PH licence – conditions of licence, Part (A), section 5.0.
25	Serious misconduct or	12	✓	✓	TPCA 1847 s68 – HC drivers;



	behaviour of a licensee				Spelthorne's HC byelaw 9; Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 b) & c).
26	Failure to behave in a civil and orderly manner	6	✓	✓	TPCA 1847 s68 – HC drivers ; Spelthorne's HC byelaw 9; Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 b) & c).
27	Plying for hire by private hire drivers.	12	✓		TPCA 1847 s45 ; Spelthorne's PH licence – conditions of licence, Part (B), section 5.0.
28	Unreasonable prolongation of journey	6	✓		TPCA 1847 s54,58, & LG(MP)A 1976 s66,69 – HC drivers; LG(MP)A 1976 s69 – PH drivers;
29	Failing to activate the meter or charging more than the metered fare for journeys inside the borough	12	✓		TPCA 1847 s54,58, & LG(MP)A 1976 s66,69 – HC drivers; LG(MP)A 1976 s69 – PH drivers; Spelthorne's HC byelaw 4, 5, 6, 14 and 15.
30	Carrying more passengers than the capacity stated on the vehicle licence.	6	✓		TPCA 1847 s45 - HC drivers; LG(MP)A 1976 s46(1)(a) – PH drivers; Spelthorne's HC byelaw 11; Spelthorne's PH licence – conditions of licence, Part (A), section 2.0 a).
31	Failure to carry fire extinguisher.	3		✓	Spelthorne's HC Byelaw 3 (h); Spelthorne's HC licence application requirements, section 1.0 n); Spelthorne's PH licence application requirements, section 2.0 n).
32	Failure to carry a first aid kit.	3		✓	Spelthorne's PH licence application requirements, section 2.0 o); Spelthorne's HC licence application requirements, section 1.0 o).
33	Smoking in vehicle by either the driver or any passenger(s).	4	✓	✓	Health Act 2006 s7(2) and s8(4) Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 g).



34	Eating, using a mobile phone which was not hands free, or drinking while his/her vehicle was in motion.	4	✓	✓	Spelthorne's HC byelaw 9. Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 c) & d).
35	Failure to wear private hire or hackney carriage driver's badge.	4	✓		Spelthorne's HC Byelaw 12; LG(MP)A 1976 s54(2) – PH drivers.
36	Refusal to accept hiring without reasonable cause	4	✓		TPCA1847 s 52 or s53 – HC drivers;
37	Failure to observe rank discipline – taxi drivers (e.g. plying for hire outside the markings of one of the borough's taxi ranks).	4	✓		TPCA 1847 s64; Spelthorne's HC byelaw 7.
38	Failure to issue a receipt on request	4	✓	✓	Spelthorne's PH licence – Conditions of licence, Part (A), section 4.0.
39	Failure to give assistance with loading/unloading luggage to or from any building or place.	4	✓	✓	Spelthorne's HC byelaw 13; Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 a)
40	Failure to attend punctually at appointed time and place without sufficient cause.	4	✓	✓	Spelthorne's PH licence – conditions of licence, Part (A), section 6.0; Spelthorne's HC byelaw 10; Spelthorne's PH Operators' licence – conditions of licence, section 7.0 a).
41	Failure to display the fare card.	3	✓	✓	Spelthorne's HC byelaw 15 (a); Spelthorne's HC vehicle licence – conditions of licence, section 4.0.
42	Waiting or stopping on a double yellow road line, bus stop or private land (without	3	✓		TPCA 1847 s28 .



	the owner's permission) unless requested by a paying customer present in the vehicle.				
43	Failure to comply with any other licence conditions set by the Council	3 per licence breach.	✓	✓	Spelthorne's PH Operators' licence – conditions of licence, section 8.0; Spelthorne's HC vehicle licence – conditions of licence, section 8.0; Spelthorne's PH licence – conditions of licence, Part (B), section 8.0.
44	Any other inappropriate behaviour, as defined by Council Officers in accordance with Spelthorne's licence conditions	Sliding scale: 1-12 points depending on the severity of the issue	✓		Spelthorne's PH licence – conditions of licence, Part (B), section 8.0.
	Condition of vehicle offences				
45	Using a non-approved or non-calibrated taximeter	12	✓	✓	LG(MP)A 1976 s71 ; Spelthorne's HC byelaw 4; Spelthorne's HC licence application requirements, section 1.0 e).
46	Displaying any feature on a private hire vehicle that may suggest that it is a taxi vehicle.	6		✓	LG(MP)A 1976 s48(1)(a)(ii); Spelthorne's PH licence – conditions of licence, Part (B), section 3.0; Spelthorne's PH licence application requirements, section 2.0 r).
47	Displaying any feature on a taxi that may suggest that it is a private hire vehicle.	6		✓	Spelthorne's HC application requirements, section 1.0 e); Spelthorne's HC vehicle licence – conditions of licence, section 5.0 & 6.0.
48	A licensed vehicle with illegal tyres	4 per tyre		✓	Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a);



					Spelthorne's PH licence – conditions of licence, Part (B), section 1.0 a).
49	Failure to use authorised roof light on a hackney carriage vehicle.	4	✓		Spelthorne's HC vehicle licence – conditions of licence, section 5.0.
50	Failure to display the external/internal licence plate or signs as required.	4		✓	TPCA 1847 s52 - HC drivers; LG(MP)A 1976 s48(6) – PH drivers; Spelthorne's PH licence – conditions of licence, section 2.0; Spelthorne's HC vehicle licence – conditions of licence, section 3.0.
51	Failure to report to the Council, in writing, within 72 hours, of an accident or damage to licensed vehicle, which would cause the vehicle to breach a licence condition(s).	4	✓	✓	LG(MP)A 1976 s50(3); Spelthorne's PH licence – conditions of licence, Part (B), section 1.0 a) & 4.0.; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a) & 7.0.
52	Unsatisfactory condition of vehicle, interior or exterior.	4	✓	✓	LG(MP)A 1976 s68; Spelthorne's PH licence – conditions of licence, Part (B), section 1.0 a) & 4.0.; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a) & 7.0.
53	Displaying unsuitable or inappropriate sited signs or advertisements in or on the vehicle.	3		✓	Spelthorne's PH licence – conditions of licence, Part (B), section 3.0; Spelthorne's PH licence application requirements, section 2.0 r); Spelthorne's HC licence application requirements, section 1.0 r).
54	Leaving car unattended on a rank appointed by the Council	3		✓	Town Police Clauses Act 1847
55	Failure to comply with any other licence conditions set	3 per licence condition.	✓	✓	Spelthorne's PH Operators' licence – conditions of licence, section 8.0;



	by the Council.				Spelthorne's HC vehicle licence – conditions of licence, section 8.0; Spelthorne's PH licence – conditions of licence, Part (B), section 8.0.
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Ticks indicate potential recipients of penalty points for infringements.

For certain infringements, points may be issued to one or several persons (drivers, proprietors or operators) depending upon the nature of that infringement.

Certain matters are specific to hackney carriages, private hire drivers or private hire operators.



Penalty Points Notice

To:

Of:

Licence No:

Notice is hereby given that on the date specified below you were found to be in breach of the Council's Penalty Points Scheme in respect of the of the matter(s) detailed below. You should be aware that you may appeal against the award of points as set out overleaf.

Date of breach: Time:

Location of breach:

Penalty Points	Detail of breach(s)	
1)	
2)	
3)	
4)	
Total points imposed		

Officer's signature:

Officer's name:

Date points imposed:



Penalty Points Notice

The penalty points imposed by this notice will be recorded on your personal file and will be taken into account when an application for renewal of a licence is made to the Council, or when considering any other enforcement action against you. If you accrue 12 points in any 12 month period, your licence will be reported to the Council's Licensing Sub-Committee for them to consider whether or not you are a fit and proper person to hold such a licence.

If you want to check how many penalty points have been awarded to you in the past 12 months please contact the Licensing team.

If you think this notice should not have been served, you have the right to have the decision reviewed. A request to have this notice reviewed must be made in writing to the Senior Environmental Health Manager within 10 working days of the date of the award of the penalty points, stating why you think the points should not have been awarded. If you have been unable to appeal within this timescale, for example, because you have been away on holiday, then you should contact the Licensing Team as soon as possible on your return. If you can provide proof that you were away then consideration will be given to allow a reasonable extension to the appeal period.

The award of penalty points under this scheme does not prevent you from facing enforcement action by any other agency, such as the Police.

If you have any questions about this notice, please contact:

Spelthorne Borough Council
Licensing
Council Offices
Knowle Green
Staines-upon-Thames
Middlesex
TW18 1XB

Telephone number: 01784 446432
Email: licensing@spelthorne.gov.uk
Website: www.spelthorne.gov.uk