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HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 20172019

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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 23 May 2017 and came into force on 14 July 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.

In particular, applicants for HC or PH driver licences should be aware that - in the event that the Council opts to refuse an application for or revokes an existing HC or PHD driver licence for any reason - information will be submitted for inclusion on the National Anti-Fraud Network (NAFN)'s National Register of Refusals and Revocations (NR3). Further information about how this information is stored can be found on the relevant privacy notice, available from the NAFN.

Commented [TR1]: Added in accordance with the DFT's best guidance consultation from earlier in the year. Please see subsequent section about this & relevant Privacy Notice drawn up in anticipation of its adoption.

1.2 Decision making

Day to day decisions on the grant or renewal of licences are delegated to the Senior Environmental Health Manager (SEHM). 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~~ the "other" workforce lists.

Subsequent to submitting an application for an enhanced DBS disclosure, applicants will need to subscribe to the DBS' online update service so that snapshots of their criminal history (or lack thereof) can be provided in real-time to the Council's Licensing department.

Any Taxi and Private Hire drivers already licensed by Spelthorne Borough Council will also need to sign up to the DBS' online update service at the time their next DBS application is submitted. It is not anticipated that further paper applications will be submitted on their behalf beyond September 2022, instead applicants will be required to provide a check code which enables LEOs to view their criminal record in real-time via an online system.

Commented [TR2]: Guidance indicates applicants should only be checked against adult & child workforce lists for roles specifically involving working with these groups (i.e. in care roles). The DBS expects that HC/PH drivers are checked against their "other" workforce list.

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

Commented [TR3]: Beyond this date, it is not the my intention for its LEOs to submit applications for these checks – as the administrative burden is too great and the potential for delays in receiving a response from the DBS causes a significant safeguarding issue.

Shared Driving Licence Service (c/o gov.uk) - which will allow ~~the~~ Licensing Enforcement Officers (LEOs) to obtain a printout of ~~their~~ the applicant's 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~~ Principal Licensing Officer (PLO), 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 only~~ be accepted with good reason, and where said-Doctor has access to their applicant's full medical record.

Applicants must satisfy the Council that they are medically fit to drive and will be expected to meet DVLA Group 2 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~~ LEO 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, or in the case of eyesight requirements, an optician, may be asked to provide further information at any time following the submission of the medical assessment form.

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

Commented [TR4]: Have removed the word "speaking" to allow scope for us to amend this in due course to include a basic grasp of reading as well – with a view to ensuring that drivers are able to navigate to an address from slips of paper their customers might hand them.

Commented [TR5]: We had an instance recently where an applicant's GP was refusing to complete medical forms due to his workload. Given that this was out of the control of the applicant, we had to concede that it was reasonable to allow him to go elsewhere in order to have a medical form completed. Addition of this wording allows scope for LEOs to be pragmatic in such instances – though it will generally be expected still that medicals are completed by an applicant's own GP.

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~~ would normally be expected to operate from premises located within the Borough.

Virtual Offices for app-based PH Operations

With the increasing popularity of app-based PH Operations there has been an influx of enquiries from prospective PH Operators who wish to work via "virtual offices". For the avoidance of confusion, a virtual office is one which need not be manned, from which any landline is redirected to a head office based elsewhere (often outside of the borough). In line with legal guidance outlined in Button On Taxis and under these circumstances, the Council is prepared to accept applications for PH Operator licences under the proviso that the applicant agrees to supply digital records from their head office without delay on request from a LEO or other authorised officer working on behalf of the Council. Any failure to subsequently do so would immediately call into question the suitability of the applicant to hold a PH Operator licence and would usually trigger a referral to a Licensing Sub-Committee accordingly in order for members of the Licensing Committee to determine whether they deem it appropriate for the licence to remain in place.

Criminal record checks for PHOs and their controllers

All staff working in a "Controller" capacity for a PH Operator (whether paid or unpaid) will need to be listed on the relevant space on the Council's application form.

Applicants and every Controller working under their employ (paid or unpaid) 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~~ three years. At such a time as a new Controller begins working for the PH Operator, a standard DBS disclosure or PNC check dated within the preceding month will be supplied to the Council accordingly.

If an applicant for a PH Operator licence or one of the Controllers working for them 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.

Commented [TR6]: I see no reason why this number would be different to the requirement for HC & PH driver applications, given what's indicated in my note above?

Commented [TR7]: Standard checks can be obtained by the applicant/controller themselves – it is only enhanced certificates which require a counter signatory & are applied for through the Council.

Where a standard DBS disclosure or PNC check brings to light convictions, cautions, reprimands, warnings, charges which do not necessarily lead to conviction or any other information which may call into question the character of an applicant or his/her Controller(s) – the Council may take this information into account when determining whether to grant or renew a licence.

Controllers are also required to complete an online training module regarding safeguarding, which is further outlined in point 2.12.

Applicants with licences elsewhere

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.

It is expected that a “fit & proper” Private Hire Operator will undertake the necessary checks to ensure that controllers working under his/her employ have permission to work in the UK, failure to do so would call into question whether they are suitable to hold said PHO licence and may trigger a referral to a Licensing Sub-Committee in order for a panel of members to determine whether the licence should remain in place.

The Council will not license a Private Hire driver licence to an individual on a Tier 4 (Student) visa unless they are directly employed by ~~the~~ an 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.

Where the Home Office is unable to categorically and decisively clarify an applicant's right to remain and work in the UK in the long-term due to ongoing appeals, there is scope for the Council to issue licences for a shorter time period accordingly. Under these circumstances, it is not typically expected that a HC or PH driver badge will be issued for longer than six months at a time – with Home Office checks being carried

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Commented [TR8]: Considerable amendments have been made to this section to take into account: -

- provisions for the Council to issue PHO licences to operators based outside its remit (a la Hughes Mini Services in Chertsey, which is & has historically always been licensed by SBC);
- “Virtual Offices” – Uber, Ola, Bla Bla, MyTaxi etc.; &
- the fact that controllers working for PHOs are actually privy to very sensitive information in terms of when a property is vacant, & as such should provide documentation in the way of police checks to clarify that they are indeed trustworthy to work in such a position.

out at the request of LEOs before any further extension. The administrative burden of doing so will be taken into account, and the cost of this will need to be passed on to the applicant to ensure the Council continues to recover its costs.

2.12 **Safeguarding Vulnerable Adults & Child Sexual Exploitation (CSE) Training**

All hackney carriage and private hire drivers will be required to undertake Child Sexual Exploitation (CSE) awareness training, provided by Barnados.

Existing drivers will be required to complete the training and submit evidence to the Council's Licensing department that they have done so, by 1 May 2019.

All new applicants for Hackney Carriage and Private Hire drivers licences will be required to complete a the training Barnardos' Safeguarding Adult & Child Sexual Exploitation (CSE) online training module and submit evidence that they have done so, before a licence is issued.

Additionally, all controllers working under the employ of a Spelthorne-licensed PH Operator (whether paid or not) will be required to undertake this training module before commencing work. PH Operators should produce pass certificates to the Council's Licensing department as soon as they are obtained. LEOs will periodically carry out spot-checks and it is expected that certificates for each employee will be available on site for inspection. Any Operators falling foul of this requirement will be subject to the issue of penalty points, in accordance with Spelthorne Borough Council's Penalty Points Scheme.

Existing PH Operators currently licensed by Spelthorne will be granted a period of six months to enable them to have all current staff undertake and pass the module. For the avoidance of confusion, it is therefore anticipated that PH Operators will be in a position to produce course completion certificates for all controllers working under their employ by February 2020.

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

Whilst the Council will endeavour to send reminders s 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)

Commented [TR9]: We have seen multiple instances of this, & -without provision for these circumstances - it can be a bit of a stumbling block when renewing the licences of long-standing licensees, causing unnecessary delays when we know that said-applicants have outstanding cases which appear likely to continue this way indefinitely.

Commented [TR10]: This was done. Over 99% of Spelthorne-licensed drivers completed the training & submitted proof they had done so accordingly, far above the 60% average across the rest of Surrey. In total it was only necessary to revoke the HC driver badge of **one** driver, who it turns out had ceased working anyway. ☺

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Commented [TR11]: Subsequent to completion of this module by all DRIVERS, it has been identified by the Surrey Licensing Managers Group that consideration should be given to requiring PH controllers complete it – as they are the first port of contact for people utilising Private Hire services, & as such are aware of who is going where, at what times etc. With appropriate awareness-raising training, they will find themselves in the position where they can potentially identify individuals linked to organised crime, subject to county lines trafficking of drugs & stolen materials, & also sexual exploitation/human trafficking (i.e. Rotherham).

Commented [TR12]: Have removed the word "letters" to account for digital reminders being sent. In part of a cost-cutting exercise & to eliminate the potential for lost mail, the department has moved towards sending communications via digital means.

- DBS enhanced disclosure (required every three years) for drivers; or a standard DBS disclosure / Police National Computer (PNC) check (required every ~~five-three~~ years) for operators & their controllers
- Medical assessment (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 (including reprimands, warnings, charges which do not necessarily lead to conviction or any other information), 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 and applicants with convictions are urged to consult this for insight into whether or not their criminal history is likely to preclude them from attaining a licence.

~~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.

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Commented [TR13]: This is addressed within the body of the convictions policy itself. Whilst it is acknowledged that there is scope for each case to be taken on its own merits (& logic would dictate that this is the fairest means of dealing with applicants in any event), it would be beneficial – in terms of consistency across Surrey – not to dwell on the fact that we can licence people who fall foul of the policy nonetheless. What we're effectively attempting to achieve by utilising a shared convictions policy is consistency to prevent applicants shopping around authorities. So if, at a glance, they are dissuaded from applying to SBC due to their criminal history: that is of benefit to the taxi-using public on the whole. Looking at the policy itself will give them a better overview of what it is we're looking at, whilst answering questions applicants may have about timescales for when convictions can be considered spent / irrelevant.

Applicants should note that failure to declare convictions, cautions, court orders, reprimands, warnings or charges which do not necessarily lead to conviction when submitting an application for a licence, renewal of a licence or during the course of a licence tenure will lead the Council to question whether or not the applicant can be considered fit and proper. The Council's SEHM would usually reject an application for a new licence under these circumstances unless there is good reason for the failure, and LEOs will usually refer an existing licensee to a Licensing Sub-Committee for them to consider whether the individual can continue to be considered fit and proper.

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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 or permit passengers to smoke, at all, at any time. This also applies to vaping.
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/contact details (including new postal or e-mail addresses and phone numbers);
 - b) any illness or injury affecting fitness to drive;
2. Notify the Council in writing as soon as possible and in any event within five working days of a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings which do not necessarily lead to conviction (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).
3. Conduct themselves in a civil and orderly manner and comply with the reasonable requests of the passengers.
4. Take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
5. Dress respectably and neatly.
6. Convey a reasonable quantity of luggage if so required by the person hiring the vehicle.
7. Give reasonable assistance in loading and unloading the luggage, unless a medical condition precludes them from being able to do so, and they are able to produce a medical certificate or letter from their GP confirming this to be the case
8. 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, unless a medical condition precludes them from being able to do so, and they are able to produce a medical certificate or letter from their GP confirming this to be the case
9. Attend with the vehicle at the time and place agreed with the hirer when the booking was made, unless delayed by some sufficient cause.

10. Provide to a customer on request a written receipt of the cost of the journey undertaken.
11. 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.
12. 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.
13. Comply with the requirements of the Council's licensing policy at all times.
 - . 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, e-mail address or phone number;
- 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) the address of any secondary office(s) opened by the PH Operator;
- e) 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. Notify the Council in writing as soon as possible and in any event within five working days of **cautions, court orders, reprimands, warnings or charges which do not necessarily lead to conviction** ~~any convictions recorded~~ against the PH Operator or their business partner; and within three days of convictions.

6. Take all reasonable steps to fulfil each and every booking accepted, punctually at the agreed time.
7. 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.
8. Ensure that a copy of their licence is prominently displayed where members of the public can read it.
9. Ensure that they comply with all requirements set out by the Immigration Act 2016, keeping copies of all documentation checked. This paperwork will be kept securely on site and available for inspection at all times if requested by the authorities.
10. Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition, and that any defects are repaired promptly.
11. Notify the Council in writing within seven days of details of any conviction or fixed penalty notice or formal caution imposed on him/ her.
12. 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 14 days prior to the date of application;
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 for a full year is-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.

In exceptional circumstances, there is scope for age limitations to be waived – provided a vehicle: -

- has a lower than average mileage;
- is aesthetically in immaculate condition;

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- can be presented with a full service history; and
- is free of damp or other odours which may cause discomfort.

Applicants wishing to have their vehicle licensed beyond the age limit should request sight of the full guidelines used to determine whether a vehicle meets the “exception circumstances” requirement and prepare a written request for consideration by the PLO accordingly.

It should be noted that a decision will be made based on the condition of the vehicle as presented to Officers, and is down to the discretion of those involved with administering the application. No assumption should be made that a vehicle will be licensed beyond the age limits specified above.

Generally-speaking, whilst the Council acknowledges there is a cost-implication involved in doing so, in order to ensure that emissions remain manageable it encourages licensees to replace vehicles within the age limits specified above.

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4. Normally have a minimum of 4 passenger doors, excluding any tailgate;
5. Have a minimum engine capacity of 1300cc;
6. Have a solid roof, which may include a solid sunroof.
7. Not have sideways facing seats and all will comply with the current seatbelt regulations;
8. Have three anchorage points for each seatbelt;
9. Have an interior release handle on all passenger exit doors;
10. Have an external mirror on each side of the vehicle which can be used as a functional driving mirror by the driver;
11. Have a suitable and accessible dry powder fire extinguisher of not less than 1kg in capacity;
12. Carry a first aid kit. ~~This~~ must be kept in such a position as to be readily available to passengers for immediate use in as required;
13. 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.
14. Be right hand drive only, except for stretch limousines;

15. 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 an MOT certificate with their application form, which is the result of a test carried out in the 14 days prior to the date of application. 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~~LEOs 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~~LEOs, 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 and in some cases in the suspension of the vehicle licence (see section 9.4).

Other issues, including those relating to aesthetics, will be taken on a case-by-case basis and LEOs may at their discretion request that applicants have faults remedied within a reasonable time frame in order to promote a certain standard of vehicle for consumption by the HC and PH using public.

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 LEO 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.

The Council reserves the right to reconsider the number of passengers for which a vehicle is licensed, if on reflection LEOs believe that a vehicle is unsuitable to carry the number of passengers specified on a previously issued licence. Some MPVs may have historically been issued for a certain number of passengers when in actuality they are designed for and more suitable of carrying young children. A seat licensed for use to carry passengers for hire and reward should be suitable to carry an average sized adult. This means that someone older and / or less able should be able to easily access the seat, be provided with a large enough seat (as detailed above) and also have both adequate leg and headroom for an average sized adult.

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. The public generally consider tinted windows in taxis and private hire vehicles to be a negative thing. It is however noted that many multi-purpose vehicles (MPVs) now come with privacy glass as standard. Surrey Police have expressed concerns over the potential for such vehicles to be utilised by gangs to transport goods and passengers undetected. With~~

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Commented [TR14]: A number of vehicles on Spelthorne's fleet have historically been licensed to carry 6 passengers, in spite of the fact they feature seats at the rear of the vehicle which are specifically designed for young family members. Typically these seats will be smaller, made of lightweight materials &/or be incredibly difficult for the less able to access. There is sometimes insufficient leg or headroom, to the extent where passengers will need to lean to accommodate the layout of the vehicle. Whilst it has always been accepted that where "precedent" has been set, it is unfair to backtrack & issue vehicles with licences to carry a lesser number of passengers – as a department we believe this seriously needs addressing. Whilst it may have an impact on the variety of MPVs available to applicants, we have to look at what's best for the taxi-using public; & can say with some certainty that the average person in their 70s (or even 60s) would struggle massively to get in & out of the rear seats of a Seat Alhambra, for example. This is not acceptable – in licensing those seats we are saying they are suitable for any passenger, able or less-able.

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this in mind and considering the consultation held by the Department For Transport (DFT) in early 2019 which flags levels of window tinting for consideration, applicants for Taxi and Private Hire vehicle licences in Spelthorne should be aware that any vehicles presented to the Council will need to have all tinted glass replaced with non-tinted glass, or adhesive tinting removed accordingly.

“Grandfather rights” - meaning applicants do not need to remove tinted glass - will apply to the holders of licences for vehicles obtained before September 2019 (conversely however, for the avoidance of confusion - licensees will not be permitted to install tinted glass in these vehicles). The licence holders of these vehicles will be able to continue to use them until such a time as they would have needed to be replaced, in line with Spelthorne’s age limitations.

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An exemption from this requirement will be in place for those licensees driving Executive Private Hire (EPH) vehicles, as detailed in section 6.8 below.

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 Officer~~LEOs 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** (not schools or other authorities) 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;

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- 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 ([section 6.5 above](#)).

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

Instead of being issued a PH vehicle licence plate, drivers of EPH vehicles will instead be issued a plate display exemption certificate, which they will be required to carry with them at all times. For this reason, it is not anticipated that EPH status will be given to Private Hire drivers carrying out work which falls outside the usual remit of an individual typically referred to as a "Chauffeur". In the case of Private Hire vehicles being used to carry out school runs, it is imperative that children, their parents and schools are able to easily identify a vehicle as being licensed.

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 14 July 2017 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.

Under section 101 of the Local Government Act 1972, a local authority can make arrangements for other local authorities to discharge its functions. Having done so, the Council may continue to discharge and control those functions. If the Council arranges for other authorities within a flexible warranting scheme to carry out its Licensing functions, it may continue to exercise most of those functions itself. What this means is that:

- Spelthorne-licensed HC and PH drivers should be aware that they may be liable to enforcement action by Officers from other Surrey local authorities when working in a capacity outside of Spelthorne Borough Council's geographical area; and
- HC and PH drivers licensed by other authorities in Surrey may also be subject to enforcement work carried out by Spelthorne Borough Council's authorised Licensing Enforcement Officers.

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).

Commented [TR15]: This section has been added reference the proposed joint-warranting scheme across Surrey.

- 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~~LEO 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 / r~~Revocation can be immediate and a licence must be surrendered on demand.

~~Suspensions cannot lawfully be issued as a punitive measure and will typically be for a specified fixed period, or where this is done issued~~ for medical reasons, until the Council is in receipt of appropriate ~~written confirmation documentation~~ as ~~determined requested~~ by the Council's independent medical advisor, ~~whichever is the longer, or in some cases for a specified fixed period in accordance with~~

medical guidance (for example, in accordance with current group 2 guidance: one year following a Stroke or TIA).

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. This will usually be the case for suspensions issued on medical grounds. 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 a suspension period has elapsed. Expired time during the suspension period will not be re-credited.

In terms of revocations, consideration will need to be given to~~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 of any subsequent revocation. Where a revocation is the result of convictions, cautions, reprimands, warnings, charges which do not necessarily lead to conviction or any other information which may call into question the character of an applicant, the Surrey-wide Policy regarding the relevance of convictions and other related information (attached as Appendix 2) will be referenced.

-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~~LEO 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.

10. Acronyms

PH – Private Hire

HC – Hackney Carriage

DBS – Disclosure and Barring Service

OCH – Overseas Criminal History

DVLA – Driver and Vehicle Licensing Agency

PNC – Police National Computer

VOSA – Vehicle and Operator Services Agency

PNC – Police National Computer

VSA – Vehicle and Operator Services Agency

LTI – London Taxi

TFL – Transport for London

VIT – Vehicle Inspection Test

EPH – Executive Private Hire (exempt from displaying a plate) vehicles

[NAFN – National Anti Fraud Network](#)

[NR3 – National Register of Refusals and Revocations](#)

[SEHM – Senior Environmental Health Manager](#)

[PLO – Principal Licensing Officer](#)

[LEO – Licensing Enforcement Officer](#)