

<b>REPORT TO:</b>	<b>Environmental and Development Service Committee</b>	<b>AGENDA ITEM: 9</b>
<b>DATE OF MEETING:</b>	<b>12<sup>th</sup> April 2012</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>Mark Alflat – Director of Community Services</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>Peter Barrow – Temporary Licensing Manager, Ext 5976, peter.barrow@south-derbys.gov.uk</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>Amendments to Private Hire Licensing Conditions &amp; Adoption of Statement of Policy</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>All</b>	<b>TERMS OF REFERENCE: EDS13</b>

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## **1 Recommendations**

- 1.1 That Members approve the amended private hire licence conditions for operators, vehicles and drivers set out in Appendix 1, to be effective from the 1<sup>st</sup> June 2012.
- 1.2 That Members approve the Statement of Policy concerning the relevance of offences (including convictions & simple cautions) in relation to Private Hire Drivers & Operators Licences set out in Appendix 2.

## **2. Purpose of Report**

- 2.1 To seek approval for amendments to the Private Hire Conditions within South Derbyshire District Council, so as to secure a greater degree of public safety and align the Council's policy with nationally accepted best practice.

## **3. Detail of Proposed Amendments**

- 3.1 The Council has not amended its Private Hire Licence conditions since 1<sup>st</sup> April 2009.
- 3.2 The proposed amendments are designed to comply with nationally accepted best practice and/or recommendations of the Department of Transport.
- 3.3 The amended proposed Private Hire conditions are included at Appendix 1 and all changes are indicated in bold so that the proposed amendments can be readily identified.
- 3.4 The proposed conditions have been circulated to all the Private Hire Operators (approx 50 within the District) and where possible their comments have been included within the new proposed conditions. Two written comments were received together with several telephone enquiries.

3.5 Below are the major proposed changes to the Private Hire Licence conditions

### **Private Hire Driver:**

#### **Change 1:**

The driver shall:-

**Not eat or drink in the vehicle whilst it is being let for hire and it is an offence for the driver or passengers to smoke in the vehicle at any time. Under the Smokefree regulations, all vehicles used for public transport are required to be smokefree at all times. This includes when the driver is off duty or using the vehicle for private use.**

This is to clarify that a Private Hire Vehicle is always a Private Hire Vehicle and therefore it is illegal; for anyone to smoke in the vehicle at any time.

#### **Change2:**

**Confirm with passengers the pre-arranged fees given by the Private Hire Operator before setting off on the journey. Should the journey deviate in any way, communication between the passenger and operator should determine any extra charges.**

There is no power that enables a Local Authority to set the fares charged by Private Hire companies/vehicles.

This condition is designed to prevent overcharging by the driver, where the operator quotes the fare for the journey.

#### **Change 3:**

**The driver should not sound the vehicle horn or make unnecessary noise to alert the hirer of the driver's presence.**

This condition is to prevent noise nuisance particularly in residential areas late at night or in the early hours of the morning.

#### **Change 4:**

**Where a driver pays any fee by cheque and the cheque is not honoured the Council will communicate this (by telephone / e-mail or letter based on details given) to the driver to rectify. The licence in question will be suspended until such time as the requisite fee is received.**

#### **Change 5:**

**The driver/proprietor of the vehicle must provide the Licensing Section of the Council with a continuous current certificate of insurance for the period of the licence, and it must comply with the requirements of the Road Traffic legislation. The insurance must cover the vehicle for use as a Private Hire vehicle and must insure all drivers of the vehicle for that purpose. Failure to comply will result in the Private Hire Vehicle Licence being suspended. Private hire vehicles must be**

**insured for private hire drivers only. Any persons without a Private Hire Driver's Licence are not authorised to drive a private hire vehicle in any circumstance.**

**MOT**

**The driver/proprietor of the vehicle shall ensure that there is a current certificate of MOT, where applicable, provided to the Licensing Section of the Council for the period of the licence. Failure to comply will result in the Private Hire Vehicle Licence being suspended.**

This condition clarifies that only licensed Private Hire Drivers are able to drive a Private Hire Vehicle and that the driver/proprietor of the vehicle must provide the Licensing Section of the Council with a continuous certificate of insurance for the period of the licence. It also provides for a current MOT certificate (where appropriate) throughout the duration of the licence.

**Change 6:**

**As the Private Hire knowledge test must be passed, this is considered sufficient test of candidate's ability to understand and communicate effectively.**

A basic command of the English language is required of all Private Hire Drivers.

**Change 7:**

**Contracts for Derbyshire County Council**

**Please be advised that all drivers employed to transport passengers on behalf of Derbyshire County Council will be required to hold either a MiDAS (Minibus Driver Awareness Scheme) certificate, an NVQ Level 2 in Road Passengers Transport or a BTEC Level 2 Award in Transporting Passengers by Taxi and Private Hire (or equivalent qualification). Passenger Assistants will be required to hold a relevant PATS (Passenger Assistants Training Scheme) Certificate (or equivalent qualification).**

**In addition any driver who is responsible for transporting passengers who travel in wheelchairs must have received training in The Safe Use of Passengers Lifts and Ramps and the Correct Use of Wheelchair Tie-Downs and Passenger Safety Belts.**

This condition demands certain qualifications in order to seek County Council contracts, particularly where the passengers have a disability, are vulnerable or are wheelchair users.

**Private Hire Operators**

**Change 1:**

**Driver's hours: There are no direct controls over the hours that a private hire driver can work. However, the Working Time (Amendment) Regulations 2003 apply to private hire drivers with effect from 1<sup>st</sup> August 2003 and limits a driver's working week to 48 hours, averaged over a 17 week period.**

This condition aims to protect drivers from 'fatigue' and therefore increase safety for members of the public. A number of drivers are 'part time' and may have other occupations often involving long hours, before commencing their part time private hire duties.

### **Private Hire Vehicles:**

#### **Change 1:**

**Age Restriction of Vehicles – (C) Following a request in writing a special dispensation of the 8 year rule will be allowed for vehicles adapted for wheelchair accessibility, proved to be in good condition. This will be reviewed each successive year after the vehicle is 8 years old, however an MOT test will be required every 6 months. The dispensation may also apply to 'other' vintage vehicles of exceptional condition.**

All Local Authorities have been asked to look at increasing wheelchair accessibility of Hackney Carriages. South Derbyshire District Council do not, at present, licence Hackney Carriages however, this proposal will assist in the provision of wheelchair accessibility within the private hire fleet licensed within the district.

#### **Change 2:**

**Children – Regulations came into force in September 2006, the following is an extract from guidance issued by Department of Transport.**

**It is impracticable to expect the right child seat or booster to be available in a vehicle for hire, unless parents have brought one with them. Therefore, there is an exception so that if child seats or boosters are not available in a vehicle for hire:**

- **Under 3's – children upto the age of 3 years may travel in the rear of the vehicle, if no appropriate restraint is available.**
- **Those 3 years and above must use an adult belt in the rear seat only.**
- **Remember that a child up to 135cm's in a front seat of any vehicle must use the correct child seat or booster.**

This condition gives guidance upon the use of seat belts, child seats and booster seats for children.

#### **Change 3:**

**The special additional conditions that Private Hire Vehicles must carry a fire extinguisher and first aid kit to be deleted.**

On advice of the Fire Service and Medical Officers it is proposed to delete this requirement.

The Fire Service recommends that drivers and passengers stand well clear in case of fire and no longer open the bonnet. The Fire Service should be called in the event of an emergency. With regard to first aid kits, due to allergy reactions and possible negligence claims, it is advised to call a qualified medic in the case of an emergency.

## **The Statement of Policy**

The Statement of Policy (Appendix 2) is to give guidance to both applicants and officers in order to make clear the standards that the Local Authority expects when applications are received for Private Hire Licences. The policy is based on the Rehabilitation of Offenders Guidance.

The Statement of Policy sets out guidelines relating to the relevance of current or spent convictions, simple cautions, and any other relevant information to assist officers and the Licensing & Appeals Sub Committee in the determination of the applications for grant or renewal of a Private Hire Driver's Licence or Private Hire Operators Licence

### **Change 1:**

**The policy has been amended regarding the guidelines relating to the relevance of current or spent convictions, simple cautions and any other relevant information. All convictions will be considered on merit and will be weighed against the need to protect the public. Wherever possible the appointed proper officer for Licensing will determine the grant for the licence application. However, an interview will be offered to an applicant with any offences involving indecency, violence or dishonesty. Serious offences connected with the driving of a motor vehicle or any drug or alcohol related offence.**

### **Change 2:**

**The policy has been amended to clarify that any applicant submitting an application for the grant or renewal of a Private Hire Drivers Licence with 9 unspent penalty points or more on his/her DVLA licence will be required to attend a hearing of the Licensing & Appeals Sub Committee to determine whether he/she is a fit and proper person for the purposes of that licence.**

#### **4. Financial Implications**

4.1 There are no major financial implications in respect of this.

#### **5. Corporate Implications**

5.1 None

#### **6. Community Implications**

6.1 The proposed conditions and Statement of Policy will bring about increased safety for members of the public using private hire vehicles and should increase confidence in respect of this form of public transport.

#### **7. Background Papers**

7.1 None