

Taxi and Private Hire Licensing

Legal, Licensing & Registration

Standard Conditions attached to an
Executive Private Hire Operator Licence

POLICY IN RESPECT OF CONDITIONS ATTACHED TO THE GRANT OF A PRIVATE HIRE EXECUTIVE OPERATOR LICENCE

Background

The Local Government (Miscellaneous Provisions) Act, 1976 (LGMP), was created to enable Conditions of safety to be placed upon drivers, vehicles and Operators making private contracts for vehicle with driver hire services. Private Hire at that time was concentrated on saloon vehicles offering, in the main, local journeys.

The Private Hire sector has grown and extended significantly and there are now a much wider range of vehicles and services.

The Road Safety Act, 2006, along with best practice guidance issued by the Department for Transport (DfT) has caused Leeds City Council to consider licensing a wide range of vehicles and services.

Policy Statement

The issues around the operating of a business involving Executive vehicles has the same business, legal and public safety principles as other areas of transport licensed by the Local Authority.

Public safety is paramount. It is very important to Leeds City Council that Operators also fit comfortably into their environment and are not the cause of residential nuisance.

Operators are a major factor in contributing to public safety by ensuring that they and their drivers adhere to this policy and the Conditions upon the various licences.

The Council recognises the very distinct role of Executive vehicles in the 'special event' arena of public transport and can accommodate some variations to its existing standard Private Hire Conditions.

The distinction between an Operator of standard Private Hire vehicles and the Operator of Executive vehicles is significant in terms of the type of client catered for and the type of service offered. The aim of the Council's policies and Conditions is to ensure that there are no overlaps in policy and Conditions with the standards of safety already existing in the licensed Private Hire sector.

The administrative and operating practices and procedures of a standard Executive vehicle must at all times, in every way, be distinct from the business conducted by a licensed Operator of standard Private Hire vehicles including advertising and call handling. Enquiries or bookings should be handled within a different business environment to any other business conducted by that Operator or on those premises. This includes a dedicated telephone line and stand alone internet site and email address. Any stationery or correspondence should refer only to the licensed business of the Private Hire Executive Operator.

Set out in this booklet are the pre-conditions to the consideration of the grant of a Private Hire Executive Operator licence. Additionally, once licensed, a Private Hire Executive Hire Operator must continue to meet these standard pre-conditions.

PRE-CONDITIONS ATTACHED TO THE GRANT OF A PRIVATE HIRE EXECUTIVE HIRE OPERATOR LICENCE

1. Any person wishing to acquire a licence to operate a Private Hire Executive vehicle shall be a fit and proper person and make the application to the Council solely in their name on the prescribed form and pay such fee as prescribed by the Council. Such fee shall not be returnable under any circumstance, save at the sole discretion of the Council.
2. Every applicant for an Operators licence shall be required to undertake: -
 - (i) Complete the appropriate application form and a CRB Disclosure form
 - (ii) Undertake English language, literacy and numeracy testing
 - (iii) Attend a Private Hire Executive Operator Seminar
3. Every applicant shall in addition to the information specified in the application process provide the name, date of birth and address of any person the applicant proposes to operate the business in partnership with at any time.
4. Each Operator licence issued by the Licensing Authority shall be issued only in the name of the applicant and that person shall be deemed solely responsible as the Operator upon the licence being granted and the licence is not transferable from the first mentioned person to another person.
5. Each Operator licence issued by the Licensing Authority shall be valid for such a period as the Licensing Authority may decide.
6. Every applicant for an Operators licence shall demonstrate compliance with the policy.

CONDITIONS ATTACHED TO A LICENCE TO OPERATE A PRIVATE HIRE EXECUTIVE VEHICLE

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT, 1976 PART 2

All licences issued by the Council in connection with the driving and operation of Private Hire Executive vehicles are in accordance with the provisions of the 1976 Act. Drivers, Operators and Proprietors should be familiar with this Act, the provisions of the Town Police Clauses Act and the Disability Discrimination Act effecting Private Hire licences.

The following Conditions apply to all Operators of Executive vehicles, licensed or seeking to be licensed, and in whole to the vehicle Proprietor and in whole or part to licensed Operators and drivers. In certain circumstances additional appropriate Conditions may be attached to an individual licence which could be set out as an addendum to Section 1, by way of a formal notice served upon the licensed Operator.

The Council informs of changes to its Conditions by publicising them in a variety of ways. It is the responsibility of the licence holder to be familiar with those changes and seek appropriate advice and guidance if in doubt.

Additional copies of these Conditions can be obtained, free of charge, by visiting the Taxi and Private Hire Licensing office, downloading from the Council's website or requesting a copy be sent by post. It is also a Condition of the Operator's licence that a copy is available for viewing.

Councillors have considered carefully the following Conditions and emphasise that they are essential requirements. Failure to observe may lead to immediate suspension of the vehicle licence and consideration of licence revocation and prosecution¹ (there are explanatory notes at the end of these Conditions).

1. Operator Licence

Every applicant shall in addition to the information specified in the application process provide the name, date of birth and address of any person the applicant proposes to operate the business in partnership with at any time, who shall also be the subject of CRB vetting.

Each Operator licence issued by the Licensing Authority is issued only in the name of the applicant and that person shall be deemed solely responsible as the Operator upon the licence being granted and the licence is not transferable from the first mentioned person to another person.

Each Operator licence issued by the Licensing Authority shall be valid for such a period as the Licensing Authority may decide.

The current Operator licence must be displayed at the business premises to which the licence relates in a prominent position at all times in view of the general public with the exception of such times as the licence is presented to the Licensing Authority for amendment or it is required to be produced for inspection by an Authorised Officer of the Licensing Authority or a Police Constable.

Each Operator, when disposing of any business interest, shall within 14 days give notice, in writing, to the Licensing Authority that the business registered in his/her name has terminated².

The Operator shall notify the Council in writing of any change of address during the period of the licence within seven days of such change taking place.

The Operator will, if there is public access, have on display a copy of the Operator's, driver's and vehicle Conditions to be viewed by any person.

The Operator will supply, free of charge, a copy of those Conditions to any person requiring them.

2. Place of Business

A licensed Operator will only conduct the business from the booking office address specified on the licence, each booking office address requires a separate licence.

NB: Any licensed Operator wishing to conduct a business from any address other than that specified on the Operator licence shall make application to the Licensing Authority on the prescribed forms which will be regarded by the Licensing Authority as a new application for an Operator licence and the applicant shall satisfy the requirements of the Licensing Authority accordingly.

An application on or within the grounds of liquor licensed premises will not be accepted.

Where there is public access the licensed Operator shall provide, at the address from which the business is conducted as specified on the Operator licence, an enclosed area to which the public have right of access for the purposes of making a booking for the services of a licensed vehicle or awaiting the arrival of a licensed vehicle subsequent to any booking. No Operator shall cause or permit any such area to be used by them or other persons for any other purpose than that outlined above.

The premises shall be kept clean, adequately illuminated, heated and ventilated and shall conform to any other relevant legal requirements.

All licensed Operators shall have in force a Public Liability Insurance policy in the name of the Company providing a minimum of £2,000,000 indemnity in respect of any one incident. The cover will not be limited to the business premises and must provide insurance cover in the event of a customer or member of the public suffering damage, loss or injury as a result of its business activities.

All licensed Operators shall have in force an Employers Liability Insurance policy complying with the Employers Liability (Compulsory Insurance) Act 1969 covering death or personal injury arising out of any incident during the course of a person's employment.

3. Advertising

No Operator may use the word **TAXI** or **CAB** or **HACKNEY CARRIAGE** or any combination or derivation thereof in any advertising manner in any media, and any such advertising shall include the words Licensed Private Hire Executive Vehicle – Advance Bookings Only.

Where any Operator in the course of business uses the trading name or business address specified on the Operator licence to offer the services of a Hackney Carriage to the general public, the Operator shall not use the words **TAXI** or **CAB** or **HACKNEY CARRIAGE** or any combination or derivation thereof in any advertising manner unless the number of Hackney Carriages that the Operator can offer (without engaging the services of any other company or trading concern) is not less than 51% of the number of licensed private hire vehicles specified on the form OPVS.

4. Acceptance of Bookings

Every contract for the hire of a Private Hire Executive vehicle shall be deemed to be made with the licensed Operator who accepted the booking, whether or not that licensed Operator subsequently provides the vehicle(s).

The booking is exclusive to an Executive vehicle and may not be transferred to a standard Private Hire vehicle or other category of licence.

A booking with a licensed Operator may not be transferred to any Operator not licensed by this Authority.

5. Record of Bookings

Each licensed Operator shall keep a full and accurate record of every booking of a Private Hire Executive vehicle in a register, details to include:-

- (i) Time and date of booking
- (ii) Time required
- (iii) Customer's name
- (iv) Particulars of the journey (from and to)
- (v) The nature of the 'special event' and the vehicle used

These records must be maintained in a bound book with consecutively numbered pages. Operators must be able to identify from their records which Private Hire Executive vehicle has undertaken any particular job, e.g. call sign, plate number.

All bookings are for exceptional events and must take place in a formal manner including the exchange of a written contract and acceptance prior to the commencement of a journey

The register must be maintained up to date at all times, and shall be retained at the address from which the business is conducted as specified in the Operator licence for a period of not less than 12 months from the date of the last entry in the register.

The register(s) shall be available at any time without notice by an Authorised Officer of the Licensing Authority or a Police Constable who shall be empowered to take away the register(s) from the premises if required.

Licensed Operators who wish to operate a computer booking record system must have the approval in writing of the Licensing Authority, and **must** adhere to all other relevant conditions.

6. Specified Vehicles

No licensed Operator shall operate any Private Hire Executive vehicle other than those which have been listed by an Authorised Officer of the Licensing Authority on the Operator Vehicle Schedule (form OPVS). Any alteration to the form OPVS shall only be made by an Authorised Officer of the Licensing Authority.

When a licensed Operator ceases to operate any vehicle specified on the OPVS, the Operator shall forthwith, and in any event not later than 72 hours, notify the Licensing Authority, in writing, for amendment by an Authorised Officer.

7. Off Street Parking

During the currency of the licence, the Operator shall ensure designated off-street parking provision at all times for the number of vehicles being operated.

No licensed Operator shall use any land or premises for the said purpose where that Operator does not have lawful right of use of that land or premises. The Operator, if required to do so by an Authorised Officer of the Licensing Authority or Police Constable, shall produce such documentary evidence as may be reasonably required to establish the Operator's lawful right to use such land or premises for the purposes of providing off-street parking provision for Private Hire Executive vehicles.

8. Specified Drivers

The Operator shall notify the Licensing Authority of each and every Private Hire Executive driver employed or used by the Operator in his Operator Driver Schedule (Form OPDS). Where an Operator ceases to employ or use any licensed Private Hire Executive driver, the Operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing and present the form OPDS to the Licensing Authority for amendment by an Authorised Officer. The Private Hire Executive driver licence must be returned to the driver.

Each Operator will retain at the address from which the business is conducted, the Private Hire Executive driver licence of every licensed Private Hire Executive driver employed or used by that Operator.

The Private Hire Executive driver licences shall be available at all times for inspection by any Authorised Officer of the Licensing Authority or Police Constable who may take the licence(s) away from the premises if so required.

Every Private Hire Executive driver licence retained by the Operator must display the trade name and Operator licence number relating to his licence.

Once licensed as a Private Hire Executive vehicle a vehicle can only be driven by a driver who has a Private Hire Executive driver licence for this type of vehicle and the Operator may only use such a driver.

9. Standard of Service

The Operator shall provide a prompt, efficient and reliable service to members of the public which at all times complies with all the Conditions associated to Private Hire Executive Operators, drivers and vehicles and shall ensure that when a Private Hire Executive vehicle has been hired to be in attendance at an appropriate time and place, that vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that time and place.

10. Disability Discrimination³

Every licensed Operator must conform to the requirements of the Disability Discrimination Act, 2005, and associated legislation.

11. Complaints

Operators, on receiving any complaint of a serious nature, particularly including dishonesty, indecency, violence, disability discrimination or drugs, regarding any person licensed by the Authority, must immediately inform the Taxi and Private Hire Licensing Section as to the identity of the person involved and the nature of the complaint. All accompanying information, documentation and records must be supplied. This should be done immediately but no later than 72 hours.

12. Lost Property

Any property or articles of any description left in a Private Hire Executive vehicle by a passenger shall forthwith, and in any event not later than 72 hours, be delivered to the Police Station for the area which the licensed Operator is based. Appropriate enquiries should be made by the driver to return the property to the owner but nevertheless must be lodged with the Police, in line with the stated time scales in this Condition. A record of the property receipt should be retained for a period of 6 months by the driver whose responsibility it was to take care of the property when found.

13. Radio Equipment

Radio or other data communication equipment for use in the communication of bookings from the Private Hire Executive Operators base station cannot be fitted.

14. Requirements to Report Convictions & Associated Incidents⁴

- (a) Any of the following events in respect of the Operator, Manager, business partner or any one holding office if it is a limited company, must be reported in writing to the Taxi & Private Licensing Section within 72 hours during the currency of a licence giving full details:-
- (i) Any conviction (criminal or driving matter)
 - (ii) Any caution (issued by the Police or any other agency)
 - (iii) Issue of any Magistrate's Court summons against them
 - (iv) Issue of any fixed penalty notice for any matter;
 - (v) Any harassment or other form of warning or order within the criminal law, including Anti-Social Behaviour Orders or similar
 - (vi) Their arrest for any offence (whether or not charged)
- (b) When required a licensed Operator will undertake enhanced Criminal Records Bureau (CRB) vetting at his/her own expense and within a timescale set by the Council. Such a requirement may be on the basis of the Council's responsibility to ensure continued public safety and monitor licensed drivers.

EXPLANATORY NOTES

1. Health and Safety of Passengers (Duty of Care)

Most people will be aware that employers have a duty of care to their employees, but the Health and Safety at Work Act, 1974, goes further. Part 1, Section 3 (2) states “it shall be the duty of every self-employed person to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not exposed to risks to their health and safety”. Operators, drivers and Proprietors are advised that a failure to safeguard passengers could have serious implications for the licence holder, and the licence.

2. Licences granted to Operators are personal licences and are not transferable. Any new Operator must satisfy all the Council’s pre-conditions to the grant of a licence. Operating businesses cannot be operated by an unlicensed Operator. Prior to the transfer of any business the proposed purchaser should have satisfied the Council that he is a “fit and proper” person and obtained the appropriate Operator licence.

3. Legislation effecting the provision of public transport has undergone significant change, (for example, Disability Discrimination, Health & Safety, road safety bills) and there are increased expectations within society that a service will be delivered professionally and fairly to all. Many of these issues do in fact have serious consequences for drivers within the criminal law, but it is also important to the Council that its values and principles are displayed by licensed drivers. They should conduct themselves in a way that reflects positively on the licensing policy of the Council and benefits those passengers using private hire transport.

4. Meaning of Convictions

How criminal allegations are finalised by law enforcement agencies has significantly changed since the Act setting out the legislation and Conditions for Private Hire licensing was introduced. There are now a variety of disposal methods for sentencing which have been introduced in recent years. Many of these do not necessitate the alleged offender appearing before the courts to be sentenced. Formal ‘Cautions’ within Home Office guide lines are more frequently used in appropriate cases and ‘Fixed Penalty Fines’ can be issued for a range of criminal offences. There are also a variety of constraining orders issued by the Courts (Criminal and Civil) intended to control the behaviour of individuals. All these disposal methods have a common thread to actual convictions and are indicative of an individual’s behaviour. These may be considered by the Council to consider the suitability of a licensed driver to continue to hold a licence. Similarly, the issue of summonses or the arrest and release on bail, with or without charge, can indicate there has been an event which may cause the Council to review the suitability of a licensed driver to continue to hold a licence. Each case will be considered on its own merits. Because of the public safety issues involved in Private Hire work the Council has been exempted from the provisions of the Rehabilitation of Offenders Act, 1976.

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