



CAERPHILLY COUNTY BOROUGH COUNCIL's

Draft Hackney Carriage and Private Hire Vehicle Policy and Conditions 2017

Adopted on:

Implemented:

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1. PART 1

1.1 INTRODUCTION

1.1.1 This document has been produced pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976 as amended, which places on Caerphilly County Borough Council as the Licensing Authority the duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles.

1.1.2 In this Policy, the following abbreviations have been used:

DfT	-	Department of Transport
DBS	-	Disclosure and Barring Service (formerly CRB)
Driver's Licence	-	Dual Driver's Licence
DVLA	-	Driver and Vehicle Licensing Agency
EA	-	Equality Act 2010
LA	-	Licensing Authority of Caerphilly County Borough Council
LG (MP) A	-	Local Government (Miscellaneous Provisions) Act 1976
CCBC	-	Caerphilly County Borough Council
The Policy	-	Caerphilly Council's Taxi and Private Hire Policy
TPCA	-	Town Police Clauses Act 1847

1.2 Purpose of Licensing

1.2.1 The purpose of hackney carriage and private hire licensing is to protect the public whilst ensuring that they have reasonable access to suitable hackney carriages and private hire vehicles because of the part they play in local transport provision.

1.2.1 There are many instances where it would be inappropriate to grant a licence. Notwithstanding this, it is important that the nature of these instances, and possible threat that they may pose to the public, is balanced against the potential loss of livelihood if an application were to be refused, or a licence revoked or suspended.

1.2.2 When considering the suitability of vehicles to be licensed as hackney carriages or private hire vehicles the Council will take into account a number of factors, which include:

- Suitable in type, size and design for use as a licensed vehicle
- Vehicle manufactured or adapted to carry up to 8 passengers (excluding driver)
- Mechanical safety
- Cosmetic factors such as appearance, cleanliness and comfort
- Suitable and sufficient accommodation for passengers and luggage
- Compliance with statutory standards and Council policies

1.3 Objectives

1.3.1 The LA's objectives are:

- To ensure the safety of the public affected by the operation of hackney carriage and private hire services.
- To ensure the safety and comfort of users of hackney carriages and private hire vehicles.
- To encourage the provision of high quality and accessible hackney carriages and private hire vehicles.

1.4 About the Policy

1.4.1 This Policy aims to:

- Set out the Licensing Authority's approach to regulation, enforcement and sanction of vehicles;
- Define and offer guidance on the legislation in relation to the provision of hackney carriage and private hire vehicles; and
- Set out the licensing conditions applicable to vehicles.

1.4.2 In exercising its discretion in carrying out its regulatory functions, the LA will have regard to this Policy document and the aims and objectives set out above. The LA will also take into account the DfT's Best Practice Guidance.

1.4.3 Notwithstanding the existence of this Policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the LA to depart substantially from the Policy, clear and compelling reasons will be given.

1.4.4 This Policy has been prepared in consultation with the licensed taxi trade and other stakeholders. The Policy will be formally reviewed as and when required; however the Policy and its appendices may also be changed in the interim period to accommodate changes in law, corrections of errors and other triggers to policy change. The LA reserves the right to alter this Policy to ensure compliance with the law as a minor policy change without further consultation.

1.4.5 Previously approved policies on the Exemption from Display of Licence Plates in Respect of Private Hire Vehicles and Intended Use are included within this policy.

1.4.6 This Policy was approved by the Taxi and General Licensing Committee on 'DATE'.

PART 2

2.1 LICENCE TYPES

2.1.1 Hackney Carriages

- 2.1.2 Hackney carriages are licensed to 'ply for hire', i.e. to pick up passengers in the street or whilst waiting at authorised taxi ranks and may also accept pre-booked fares. There are a combination of taxi rank, 'no stopping except taxis' and taxi bays in the Authority, namely:

Caerphilly – Castle Street
Caerphilly – Station Terrace
Blackwood - High Street
Risca – Tredegar Street
Bargoed – Bus Station

2.2 Limitation on numbers of Hackney Carriage

- 2.2.1 The present legal provisions on restricting the numbers of hackney carriage are set out in Section 16 of the Transport Act 1985. This provides that the grant of hackney carriage licences may be refused, for the purpose of limiting the number of licensed hackney carriages if the Local Authority is satisfied that there is no significant unmet demand for the services of hackney carriages (within the area to which the licence would apply).
- 2.2.1 Caerphilly Council doesn't impose any quantitative restrictions for hackney carriages and the Department for Transport (DfT) regards this as best practice. Establishing that there is no significant unmet demand may only be evidenced by a comprehensive survey of the area and potential demand. Should a request for a restriction on numbers be requested the cost of such a survey should be borne by the taxi trade.

2.3 Private Hire Vehicles

- 2.3.1 Private hire vehicles may only be used to carry out journeys that have been pre-booked with a private hire operator, licensed by the same authority that licensed the vehicle and its driver. A private hire operator who has accepted a booking for a private hire vehicle may arrange for another operator to provide a vehicle to carry out the booking. The booking therefore may be sub contracted to a vehicle from another controlled district (implemented by section 55A Deregulation Act 2015).

2.4 Limitation on numbers of Private Hire Vehicles

- 2.4.1 No powers exist for Licensing Authorities to limit the numbers of Private Hire Vehicles.

2.5 Licence Conditions

- 2.5.1 Hackney Carriage and Private Hire Vehicle licences are issued subject to compliance with conditions attached to the licence and in respect of Hackney Carriages compliance with Byelaws. Conditions (proposed) applicable to both categories of licensed vehicle are attached at Appendix A. Current conditions and the Hackney Carriage Byelaws are attached at Appendix B for information.

3. PART 3

3.1 VEHICLE CRITERIA

- 3.1.2 Detailed information regarding vehicle criteria and mechanical requirements are contained in the Inspection Standard at Appendix I (CCBC Vehicle Inspection Standard). The general criteria set out below apply to both hackney carriages and private hire vehicles unless the vehicle category is specified.

- 3.1.3 In order to be licensed a vehicle must meet the technical standard of either:

A European Whole Vehicle Type approval
A British National Type Approval or
A British Single Vehicle Approval pre 31st December 2009
A British Individual Vehicle Approval from 1st January 2010

- 3.1.4 Only vehicles in category M1 or M2 (passenger carrying vehicles), will be licensed by the Council. Vehicles in category N1 or N2 (goods vehicles) that have been converted will not be licensed unless an Individual Vehicle Approval to M1 or M2 has been issued by VOSA. More information on vehicle categories can be found at www.dft.gov.uk

- 3.1.5 The engine capacity of the vehicle shall not be less than as recorded on the original registration document (V5), other than in cases approved by the relevant Licensing Committee.

- 3.1.6 The vehicle shall be right hand driver and have at least four doors. Each passenger (not to exceed eight) must have a dedicated seat belt.

3.2 Windows – Light Transmission Levels

- 3.2.1 Safety of the travelling public and the driver is a priority for the Council, as such consideration is given to the percentage of light transmission through rear windows. The intention of the policy is that any activity within the vehicle is clearly visible from outside such as attacks on the driver by passengers in the rear. Determining the visibility may be subject to an objective and / or subjective assessment.

- 3.2.2 The addition of dark films or other material which obscures the vehicle windows will not be permitted at any time.

OPTIONS – Specific details to be determined after consultation with stakeholders.

The front windscreen, front passenger and drivers shall comply with the Construction and Use Regulations in that a minimum of 70% light transmission is required.

Rear Window light transmission levels:

OPTION A

A minimum of 70% light transmission is required in respect of all rear passenger windows, as required by the Construction and Use Regulations for front windscreen, front passenger and drivers windows.

OPTION B

Not less than 35% light transmission is permitted in respect of all rear passenger windows to ensure the visibility of all passengers in the rear of the vehicle from outside.

OPTION C

No restriction on the percentage of light transmission to rear windows.

There may be exceptions to these requirements in respect of Options A and B for executive, stretched limousines and novelty vehicles.

3.3 Vehicle Age Restriction

- 3.3.1 The age of the vehicle will be determined primarily by its date of registration, or if imported the date of manufacture.

- 3.3.2 New vehicle licences will only be granted on vehicles that are less than 5 years old. A new licence will not be granted in respect of vehicles over 5 years old. A vehicle over 5 years of age may be licensed for the first time in exceptional circumstances e.g. if they are specialist, stretched limousines and historic vehicles at the committee's discretion. Please see the section on Non Standard Vehicles.

3.4 Compliance with Disability Discrimination Act

- 3.4.1 This Council considers that access to transport is fundamental for all residents in promoting full and independent participation in society as a whole. People are living longer and there are likely to be higher levels of disability and as such the council must consider how the transport industry, including the provision of hackney carriages and private hire vehicles can assist in meeting these challenges.

3.4.2 The Disability Rights Commission (DRC) has issued guidance on 'Avoiding Disability Discrimination in Transport - A Practical Guide for Taxi and Private Hire Services' which is primarily aimed at the taxi trade. It is important to note that not all people with impairments require the use of wheel chair accessible vehicles, there are a wide range of other impairments which can affect accessibility as such it is important that a taxi fleet has a diverse range of vehicles.

3.5 Wheelchair Accessible Vehicles

3.5.6 The Council does not specify the type of vehicle that can be licensed for carrying wheelchair bound passengers. However, the vehicles must be either purpose built or have the required safety certificates for any mechanical equipment or conversion, which includes a VOSA M1/2 approval.

OPTIONS – Specific details to be determined after consultation with stakeholders.

OPTION A

No requirement that licensed vehicles shall be wheelchair accessible

OPTION B

Any application for a hackney carriage (not to replace an existing licensed vehicle) after a given date to be wheelchair accessible.

OPTION C

All hackney carriages to be wheelchair accessible by a given date.

OPTION D

A percentage of a proprietor's taxi fleet must be wheelchair accessible.

3.6 Diesel Vehicles and Emissions

3.6.1 The DfT Best Practice Guidance acknowledges that vehicle licensing policies should support local environmental policies and that this is significant in designated Air Quality Management Areas. A number of strategies may be employed to improve air quality in designated areas, as diesel vehicles contribute to poor air quality the Licensing Authorities must consider the impact of the licensed taxi trade.

3.6.2 Approximately 90% (365) of all licensed vehicles (408) in Caerphilly are diesel with 10% (43) being petrol operated. It is widely acknowledged that diesel cars produce more toxic emissions than new generation vehicles and the older the diesel vehicle the higher the toxic emissions.

OPTIONS – Specific details to be determined after consultation with stakeholders. Strategies to address this issue could include one or more of the following

OPTION A

The vehicle must pass the emissions test relevant for that particular vehicle.

OPTION B

Refusal to issue new licences for diesel vehicles from a particular date.

OPTION C

Refusal to renew licences for older diesel vehicles with higher emissions.

OPTION D

Existing licensed diesel vehicles not to be renewed after a lead in period after which no new diesel vehicles licensed by this authority.

OPTION E

Licence fees in respect of hybrid and ultra-low emissions vehicles be reduced or waived (Trial / Pilot period only).

OPTION F

Licensed vehicles shall display stickers (such as on rear bumper or along the bottom of rear windscreens) which advise motorists not to leave engines idling.

OPTION G

Conditions attached to hackney carriages waiting at authorised taxi ranks shall switch off engines and not leave engines idling.

OPTION H

Conditions shall be attached to hackney carriages and private hire vehicle licences that if waiting outside of schools, education establishments, hospitals or any other establishment as identified by the Council, shall switch off engines and not leave engines idling.

3.7 Taxi Meters

3.7.1 Hackney Carriages are required to have a taxi meter calibrated to the Local Authority's table of fares in compliance with the Byelaws requirements regarding the use and display of meters are set out in Appendix B (Current Hackney Carriage and Private Hire Vehicle Conditions and Hackney Carriage Byelaws). A list of approved taximeter dealers is attached at Appendix D.

3.7.2 Type of meter to be installed:

OPTIONS – Specific details to be determined after consultation with stakeholders.

OPTION A

No restrictions on the type of meter to be installed in Hackney Carriages.

OPTION B

Calendar controlled meters be phased in subject to any future table of fares or clarification of tariffs on the existing table.

3.7.3 Private Hire vehicles are not required to install or use a taxi meter as journeys are pre-booked and the fare may be agreed at the time of booking. There is no restriction on the type of meters installed in private hire vehicles but where they are installed they should be calibrated to the table of fares adopted by the operator. Many will adopt the Council's table of fares but they are not obliged to do so. Any table of fares utilised by the operator must be notified to the Council.

3.8 Advertising

3.8.1 Advertising is permitted on licensed vehicles subject to the following:

OPTIONS – Specific details to be determined after consultation with stakeholders. Strategies to address this issue could include one or more of the following

OPTION A

Hackney Carriage and private hire vehicle company details may be displayed on windows of the vehicle (This excludes the front windscreen, driver and front passenger windows)

OPTION B:

B1. Private hire vehicle company details cannot be displayed on any window of the licensed vehicle. Advertising such details shall be restricted to any area of the vehicle below the window level.

Or

B2. Private hire vehicle company details cannot be displayed on any window of the licensed vehicle. Advertising material shall be restricted to any area of the vehicle below the window level but shall exclude the driver and front passenger door where signage advising 'pre-booked journeys only' may be required.

OPTION C

Hackney Carriage company or proprietor details cannot be displayed on any window of the licensed vehicle. Advertising such details shall be restricted to any area of the vehicle below the window level.

3.8.2 Proprietors may use their vehicle as an advertising medium on behalf of third party goods or services as a means of generating additional income.

OPTIONS – Specific details to be determined after consultation with stakeholders. Strategies to address this issue could include one or more of the following

OPTION A

Third party advertising shall only be permitted subject to the prior approval of the Council

OPTION B

(i) Advertising shall be permitted on the whole or any part of the exterior of a hackney carriage excluding all windows, without the prior approval of the Licensing committee provided that it complies with the Council's advertising criteria regarding content. The proprietor shall notify the Licensing office in advance of the advertisement content prior to it being displayed on the vehicle.

(ii) Advertising shall be permitted on the whole or any part of the exterior of a private hire vehicle excluding all windows, driver and front passenger doors, without the prior approval of the Licensing committee provided that it complies with the Council's advertising criteria regarding content. The proprietor shall notify the Licensing office in advance of the advertisement content prior to it being displayed on the vehicle.

3.8.3 A screen displaying scrolling or moving advertisements may be securely fitted within the vehicle, provided that the screen shall not be within the vision of the driver of the vehicle, nor shall the screen be distracting to other road users. The Council shall approve in writing the content of any material to be so displayed. A notice must be fitted within view of the rear seat passengers stating that the screen will be switched off at the request of the passenger.

3.9 Advertising Criteria

3.9.1 Advertising is vehicle specific and is not transferable between vehicles. Taxi business or third party advertising on hackney carriages or private hire vehicles shall not include any material relating to or promoting any of the following:

- Alcohol, sale or consumption
- Tobacco, sale or use of
- Illegal substances - drugs
- Any sexual content (which includes nudity and venues offering sales of adult items adult sexual entertainment)
- Gambling (which includes, gaming machines, lotteries, gambling premises, etc.)
- New psychoactive substance – NPS (commonly referred to as legal highs)

- Nicotine inhaling devices – NIDs (commonly referred to as e-cigarettes)
- Recruitment of new drivers
- Vehicle for sale
- Credit services
- Any other material as notified by the Council in writing.

3.9.2 Additional wheelchair accessible signs may be displayed on wheelchair accessible vehicles without any prior authorisation but must not exceed 300mm x 210 mm in size.

3.9.3 Any advertising must comply with the Advertising Standards Authority (ASA) codes of practice. Any request for deviation from the policy would be subject to the express permission of the licensing committee.

3.10 Accidents

3.10.1 The driver shall report all accidents to the LA as soon as is reasonably practicable but in any event within 72 hours of the occurrence of any such accident that may have caused damage materially affecting the safety, performance or appearance of the vehicle or comfort or convenience of persons carried therein. Any driver reporting an accident will normally be required to present the vehicle for inspection at the Licensing Office upon request.

3.10.2 Where the damage materially affects the safety or performance of the vehicle and where the vehicle is not roadworthy, the driver shall before carrying fare paying passengers, arrange for the vehicle to be re-inspected at the Council's approved testing facility. Where the vehicle is deemed to be unsafe for conveying fare paying passengers the vehicle licence will be suspended immediately. Following its repair, the vehicle shall be re-inspected at the Council's approved testing facility and a new vehicle test certificate produced prior to the suspension being lifted.

3.10.3 Where a vehicle has been involved in an accident and only sustained minor damage not affecting mechanical safety, the vehicle may be inspected by an authorised officer of the Council.

3.11 Temporary Replacement Vehicles

3.11.1 A proprietor is required to notify the Licensing Authority of any incident causing damage to the vehicle or any repairs requiring the vehicle to be removed from the road. In circumstances where a licensed vehicle has been damaged and the proprietor's insurance company provide a replacement vehicle, the temporary replacement must be compliant with all licensing conditions required by this Council. Notification will be required from the hire company of the date the person has use of the vehicle and when the use terminates.

3.11.2 Where vehicles are 'off' the road at the time of the expiry of the licence it may have a detrimental effect on any licence renewal. Applications for renewal should be submitted prior to the expiry date of the vehicle with an accompanying letter setting out substantiating evidence that the vehicle is off the road and is either awaiting insurance assessment or repairs. Documentary evidence will be required of insurers involvement i.e. the name of relevant insurance companies involved, the circumstances of how the damage occurred (if not previously supplied), the potential timescale for repairs, where the vehicle is being repaired, receipts for works completed or any other relevant material.

3.12 Defective vehicles

3.12.1 If a defect is identified on a vehicle that could affect the safety of that vehicle, a stop/suspension notice will be issued with immediate effect. This will stop the vehicle from being used until the defect is remedied and the repair appropriately certified.

3.13 Use of Insurance 'write offs' as licensed vehicles.

3.13.1 The Council expects that proprietors would consider very carefully whether or not to purchase vehicles that have been subject to insurance claims. Such vehicles are often offered for sale as Cat C or Cat D. Category D vehicles may be accepted for licensing provided that they comply with all other requirements.

3.13.2 According to the ABI Salvage Code:

3.13.3 Cat A – so badly damaged that they should be crushed and even salvageable parts must be destroyed.

Cat B – signifies extensive damage, the body shell should be crushed although reclaimed parts may be used in road worthy vehicles.

Cat C – The vehicle is repairable but the repair cost exceeds the vehicles value and can re-appear on the road. Notification must be made to the DVLA as soon as a categorisation decision is made.

Cat D – The vehicle is repairable but the repair costs are significant compared to the vehicle value. These vehicles can re-appear on the road. No notification is required in respect of this category to either DVLA or VOSA.

3.14 CCTV In Vehicles

3.14.1 The Council recognises that an in-vehicle CCTV system may provide a safer environment for the benefit of the drivers and passengers by deterring and preventing the occurrence of crime; reducing the fear of crime; assisting the Police in investigating incidents of crime. As such the use of CCTV is permitted in private hire / hackney carriage vehicles subject to conditions which are set out in Appendix A (Proposed Conditions re Hackney Carriages

and Private Hire Vehicles), guidance on the installation of CCTV is set out in Appendix E (Guidance on CCTV in licensed vehicles).

3.15 Non-standard Vehicles

- 3.15.1 Stretched limousines, executive, novelty or other unique vehicles may be licensed subject to compliance with mechanical safety standards and any guidance issued by the Council. Reasonable and proportionate conditions will be attached to the licences for such vehicles as necessary to ensure that they are suitable and safe to convey members of the travelling public.

3.16. Stretched Limousines and Novelty Vehicles

- 3.16.1 Stretched limousines are elongated saloon cars that have been increasingly used for mainstream private hire work, along with novelty vehicles, such as fire engines and ambulances. These vehicles are considered private hire vehicles by the work they perform and as such this Council will licence them in line with criteria set out in this Policy. Please see the policy at Appendix C (Stretched Limousines and Novelty Vehicles) relating to these vehicles.
- 3.16.2 The application process shall be exactly the same as for standard vehicles except where specialist equipment is required to test the vehicle. Each application will be considered on its own merit and public safety will be of prime importance.

3.17 Horse Drawn Carriages and Non-Motorised Vehicles

- 3.17.1 Any hackney carriage licence granted for use with a horse drawn carriage or a non-motorised vehicle (e.g. Pedicabs, Rickshaws etc) will be subject to consideration by the relevant licensing committee and if approved would be subject to specialist conditions as determined by the committee.

3.18 Executive, Prestige Vehicles

- 3.18.1 It is recognised that there is a demand for categories of vehicles which offer exceptional features not normally found in standard licensed vehicles such as leather upholstery, conference seating, DVD facilities, privacy glass, uniformed drivers, etc. Such vehicles may be referred to as executive or prestige vehicles and are primarily used for carrying passengers on business contracts and special events. Guidance in respect of the criteria that the Council may consider in respect of 'executive' type vehicles is set out in Appendix F (Guidance – Exceptional Circumstances). Proprietors must note that there is no automatic exemption from any licensing requirement in respect of such vehicles and the obligation rests on the proprietor to put forward the grounds that the relevant committee may consider if members are to go behind their policy.

3.19 Trailers

- 3.19.1 Trailers can be used in connection with private hire bookings by either private hire vehicles or hackney carriages but cannot be used by hackney carriages when plying for hire (i.e. when waiting on a rank or being 'flagged down'). Conditions concerning the use of trailers are set out in Appendix A (Proposed Conditions re Hackney Carriages and Private Hire Vehicles).

3.19.2 Hackney carriage fare table

- 3.19.3 The Council fixes the rates or fares for time and distance and all other charges in connection with the hire of a hackney carriage by means of a fare table, which must be prominently displayed within the vehicle to enable passengers to clearly view it at all times.
- 3.19.4 Requests for any change to the table of fares shall be submitted to the Council. Clear reasons must be provided for any proposed increase, provision of financial evidence of overheads would be of assistance. The procedure for determining a new table of fares is set out in legislation. There is a requirement to publish a notice on one occasion setting out the proposed table of fares together with a date for the fares to take effect in a newspaper that circulates within Caerphilly County Borough. At the end of the period, the LA will consider the application and any objections received. Where there are relevant and valid objections the fare increase will be postponed and will be returned to the LA to determine. Where there are no objections at the end of the consultation period, the LA shall distribute new fare cards to the hackney vehicle proprietors as soon as reasonably practicable.

3.20 Licence Fees

- 3.20.1 All licence fees are reviewed on an annual basis, the underlying principle in setting fees is that a Council must not use fees to make a profit or act as an economic deterrent to businesses operating in their area. Charges must be reasonable and proportionate to the cost of the processes associated with the licensing regime. There is a legislative requirement that fees in respect of vehicles must be advertised and are subject to a consultation period. Licence fees shall be published on the Council's web site.

PART 4

4.1 LICENSING REQUIREMENTS

- 4.2 Hackney carriage and private hire vehicle licences will remain in force for a period of one year unless the Council specifies a lesser period, revokes or suspends the licence.

4.3 Proprietors

- 4.3.1 In accordance with Section 40 of the TPCA (relating to hackney carriages) and Section 48(1) of the LG(MP)A (relating to private hire vehicles) the applicant for the vehicle licence must be the proprietor or part proprietor of the vehicle.
- 4.3.2 As part of the application process the Council will require proof of proprietorship by way of a bill of sale, a hire/purchase/lease agreement together with the registration document. The registration document in relation to those proprietors who have a fleet of 50 or more licensed vehicles may be substituted by a V5 online confirmation. In these instances sight of the letter confirming the V5 registration will be required prior to licensing.

4.4 Transfer of ownership

- 4.4.1 If a proprietor transfers his interest in a licensed vehicle to another person they must within 14 days after the transfer notify the Council in writing of the name and address of the person to whom the hackney carriage or private hire vehicle has been transferred. Any benefits accrued by the original owner in respect of grandfather rights etc, are not transferable and on renewal of the vehicle licence the proprietor will be subject to any licensing requirements in place at that time.

4.5 Converting vehicle to different licence type

- 4.5.1 If a proprietor wishes to convert an existing licensed vehicle from one category to another, i.e. private hire to hackney carriage or vice versa, they will be obliged to surrender the original licence and make a new application for the licence which they wish to convert the vehicle to. There is no refund of any portion of the licence fees paid in respect of the original licence and no discount on the fees due in respect of the new licence. Applications for the new licence will be treated as a new grant and the vehicle will be required to comply with the criteria for the initial grant of a licence. In the event that the vehicle cannot comply with any licensing criteria such as the age rule, the matter will be referred to the relevant committee for determination. The proprietor will be expected to set out their reasons as to why the committee should go behind its policy and the new licence granted.

4.6 Intended Use Policy

- 4.6.1 Applicants for the grant or renewal of hackney carriage licences will be expected to demonstrate a bona fide intention to operate predominantly within the administrative area of Caerphilly County Borough Council under the terms of the licence for which application is being made.

- 4.6.2 There will be a presumption that applicants who do not intend to predominantly operate within this area will not be granted a hackney carriage licence authorising them to do so. Even where the applicant intends to operate predominantly in this area, if the intention is to also trade in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular application, there will be a presumption that the application will be refused. The Intended Use Policy is attached as Appendix G (Policy – Intended Use) .

4.7 Vehicles

- 4.7.1 Vehicles must be suitable in type, size and design for use as a licensed vehicle. The Council will licence any vehicle up to a maximum of eight seats (excluding the driver) provided it complies with the Council's criteria.
- 4.7.2 Due to the different standards and requirements adopted by other Licensing Authorities, Caerphilly Council may not permit vehicles licensed with another Authority to be licensed with this authority.

4.8 Pre-assessments.

- 4.8.1 All vehicles to be licensed for the first time will be subject to a pre-assessment conducted by licensing officers. The pre-assessment will consist of checking the vehicle against the Council's policy and vehicle specification. This may include passenger facilities, accessibility, assessing the percentage of light transmission through rear windows, etc. Officers will not conduct any mechanical examination of the vehicle, but may note any issues of concern to be referred to the Council's approved testing facility for assessment.

4.9 Vehicle Inspection

- 4.9.1 All vehicles will be inspected by the Council's approved testing facility to ascertain if the vehicle complies with the vehicle inspection standard adopted by the Council. The compliance check reflects the vehicle inspection standard adopted by the Council as attached as Appendix I. The compliance check incorporates the requirements of an MOT and a number of other additional elements, as such satisfactory vehicles will be issued with a compliance and MOT certificate. Compliance certificates are only valid for licensing purposes for 14 days between the date of test and the application for licence.
- 4.9.2 The driver and/or proprietor may be subject to enforcement action where there are found to be defects to a vehicle that may compromise the safety of the public.

- 4.9.3 In accordance with Section 68 of the LG (MP) a 1976 where a vehicle that is suspended or revoked is not produced for re-examination with two months from the date of the suspension notice the vehicle licence will be deemed to be revoked.
- 4.9.4 Alternative inspection arrangements are necessary in respect of those vehicles with a wheel base in excess of 3.9 metres (measured between front and rear axles). The alternative arrangements are subject to discussion with the licensing office.
- 4.9.5 The testing frequency is dependent on age of the vehicle which is determined primarily by its date of registration, or if imported the date of manufacture. A compliance check pass certificate is required on the following occasions:
- New applications
 - Renewal of a licence
 - Vehicles under 10 year from date of registration – annual tests
 - Vehicles over 10 years from date of registration – bi annual tests
 - And, at the request of the LA where deemed necessary

4.10 Hydraulic Lifts

- 4.10.1 Where a vehicle has been fitted with a purpose designed wheelchair lift it shall conform to the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER), a report must be supplied confirming that the lifting equipment is safe to use. The report must be submitted to the Licensing Section before a vehicle licence can be issued. Satisfactory LOLER reports are required every six (6) months, or until such time as the vehicle is no longer licensed as a Hackney Carriage/Private Hire vehicle.
- 4.10.2 Failure to produce satisfactory LOLER reports in a timely fashion will result in the vehicle being subject to a suspension notice under Section 60 of the Local Government (Miscellaneous Provisions) Act 1976 and suspended until such time as a valid certificate is produced.

4.11 Exemption from any restriction or requirements

- 4.11.1 Vehicle proprietors may seek exemption from limitations as set out in the policy. Any request for exception or exemption from such limitations will be subject to the decision of a licensing committee. It is not possible to predict every exception or exemption which may be applied for, however in the main requests are made regarding the age of the vehicle on first licensing, depth of window tinting and display of plates. In order to assist a committee in its deliberations proprietors are advised to provide as much information as possible in support of their case, guidance as to the type of supporting information is available at Appendix F (Guidance - Exceptional Circumstances)

4.12 Display of Licence Plates

- 4.12.1 In accordance with Section 48(6)(a) relating to Private Hire Vehicles and Section 47(1) of the LG (MP) A relating to Hackney Carriages, the vehicles will carry licence plates approved by the LA. A licence plate shall be affixed to the rear of the vehicle directly above, below, or to the left or right hand side of the vehicle registration number plate. The plates shall be maintained in a good condition and clear and visible. The plates must be securely fixed onto the vehicle by nuts and bolts, self-tapping screws or rivets, or indirectly by means of a bracket supplied by the Council. Interior plates shall be fixed to the interior of the vehicle as prescribed by the Council and shall be easily observed by the passengers.
- 4.12.2 From time to time the Council may require additional licence indicators to be displayed on the vehicle. Directions will be provided as to how such materials are to be displayed and non-compliance will be considered to be a breach of the terms and conditions of the licence.
- 4.12.3 The loss or damage of a vehicle licence plate shall immediately be reported to the Council so that a replacement can be obtained. Proprietors must contact the police and advise that one or more of their plates have been lost or stolen and obtain a crime reference number. Replacements will not be issued unless a crime reference number is provided. Until a new licence plate is issued the vehicle should not be used for the carriage of fare paying passengers.
- 4.12.4 On revocation, suspension or expiry of the vehicle licence, the plates must be returned to the Council within 7 days (Section 58 LG (MP) A). It would not be necessary to return the plates where a suspension was in place simply to allow the remedy of any minor fault. If plates are not returned to the Licensing Authority, the proprietor could be liable to prosecution. Any authorised officer of the Council or the Police is entitled to remove and retain the said plate.
- 4.12.5 The vehicle licence plates remain the property of the Council at all times and shall not be copied or used in a fraudulent manner.

4.13 Exemption from Display of Plates

- 4.13.1 The Council recognises that because of the nature of their business, some private hire vehicle proprietors may wish to apply for exemption from displaying the Council's licence plates. Details of vehicles, make, model and registration numbers must be provided to the licensing section together with clear reasons for this exemption request whereupon the matter will be referred to the committee for determination. Guidance on Exceptional Circumstances which may be taken into account is set out in Appendix F (Guidance Exceptional Circumstances). The policy is attached as Appendix H (Policy – Exemption from the requirement to display licence plates).

4.13.2 Where the relevant committee determines that an exemption may be granted the authorisation may specify times and occasions when the exemption will apply. Each application shall be treated on its own merit, however the following conditions shall always apply to any vehicle granted an exemption:

- (a) The private hire licence plate must be kept within the vehicle at all times and be made available for inspection;
- (b) The licence plate shall be affixed to the vehicle at all times than that specified in the authorisation letter;
- (c) The authorisation letter must be kept in the vehicle at all times and available for inspection; and
- (d) The internal plate or exemption notice issued by the LA must be displayed on the front window in such a position as to be easily observed by passengers.

4.14 Conditions and Byelaws

4.14.1 The fare paying public expect that licensed vehicles will be suitable for their needs, be maintained in a clean and safe condition. In order to be satisfied that vehicles comply with all expectations licences are issued subject to relevant conditions, hackney carriages are also subject to compliance with the Council's byelaws. The proposed conditions are set out in the attached Appendix A.

5. PART 5

5.1 COMPLAINTS AND ENFORCEMENT

5.1.2 Where evidence is obtained that proprietors or drivers have failed to comply with the terms of their licence, regulations or legislation, or act in a manner contrary to the behaviour expected of licence holders, formal action may be taken. Penalties include verbal and written warnings, suspension of licence, review of licence, revocation of licence and prosecution. Determination of the action to be taken will depend on the seriousness and potential impact on public safety of the offence. First offences may be treated more leniently where there are substantiated mitigating circumstances but a more serious view will be taken of subsequent or persistent contraventions.

5.2 OFFENCES OR BREACH OF CONDITIONS

5.2.1 Unauthorised Advertising on Vehicles

5.2.1.1 The proprietor will be required to remove unauthorised advertising immediately upon notification to do so and may be subject to further action.

5.3 Failure to produce vehicle insurance

- 5.3.1 Where a proprietor fails, for whatever reason, to produce valid insurance to the Council, a notice suspending the licence shall be issued. Suspensions will only be lifted upon receipt of proof of valid insurance.

5.4 Licence plates

- 5.4.1 External and internal licence plates are incorrectly affixed to the vehicle.
- 5.4.2 Licence plates are concealed from public view or are so damaged or defaced as to render them illegible.
- 5.4.3 Removal of licence plates from the vehicle at any time unless an authorisation of exemption has been granted.

5.5 Failure to attend (or co-operate during) a vehicle licensing inspection

- 5.5.1 Where a proprietor fails to attend a vehicle inspection or is un-cooperative during an inspection, this demonstrates a disregard for the enforcement authority, as such the proprietor may be subject to further action.

5.6 Smoking in vehicle

- 5.6.1 Proprietors shall take all steps to ensure that the driver does not smoke in a licensed vehicle or permits smoking in a licensed vehicle. Where a driver contravenes this legislation the proprietor/driver may be subject to further action.

6. PART 6

6.1 DETERMINATION OF APPLICATIONS AND REVIEWS

- 6.1.1 Non contentious applications will be determined by officers without recourse to the relevant licensing committee. The following matters will be referred to the relevant licensing committee for determination:
- Contentious applications
 - Requests for exemption from specific elements of this policy
 - Non-compliance with the terms and conditions attached to the vehicle licence
 - Any other issues as appear appropriate to senior licensing officers.
- 6.1.2 Matters referred to the relevant licensing committee will be considered at a specifically convened hearing.

6.2 Hearings

6.2.1 Hearings of the relevant committee will take place in public save where the Committee considers, that the hearing, or part thereof, be heard in private having regard to:

- (a) Any unfairness to a party that is likely to result from a hearing in public;
and
- (b) The need to protect as far as possible, the commercial or other legitimate interests of a party.

6.2.2 The committee are at liberty to reconsider at any point within the hearing whether the public interest requires that a part of the hearing take place in the absence of relevant parties or the public, or whether documents which are being considered by the committee should be excluded from publication and make a ruling accordingly.

6.2.3 The procedure to be followed at a hearing will be notified to attendees in advance of the hearing.

6.3 Right of Appeal

6.3.1 The following rights of appeal are provided by the LG (MP) A 1976:

- Appeal against conditions imposed on a hackney carriage proprietor's licence: Section 47
- Appeal against the refusal to grant a private hire vehicle licence or conditions imposed on such a licence: Section 48

6.3.2 An appeal against the refusal to grant a Hackney Carriage Proprietor's Licence (the Public Health Act 1875) however lies directly to the Crown Court but an appeal against a failure to renew or suspend or revoke a Hackney Carriage Proprietor's Licence is to the Magistrates' Court.

6.3.3 The statutory rights of appeal in connection with Private Hire Vehicle Licences are to the Magistrates' Court. These appeals can be both against a refusal to grant or renew a licence and in respect of a decision to suspend or revoke a licence that is in existence, as well as a right of appeal against the conditions that may be imposed on any such licence by the Licensing Authority.

6.3.4 Where an appeal is the Magistrates' Court applicants must lodge an appeal within a period of 21 days from the day on which the applicant is served with the decision of the Council in writing. This will normally occur at the same time as the verbal delivery of the decision however if the written determination is to be provided at a later date the Interpretation Act 1978 gives that service is deemed to be effected at the time that a letter would be delivered in the

ordinary course of the post. Therefore the 21 day period does not commence until service is deemed to be effected.