

# **THE ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD**

## **Private Hire Operator**

### **Policy & Conditions**

This is a general guide that has been prepared for the assistance and guidance of Private Hire Operators. It does not stand on its own and The Royal Borough of Windsor and Maidenhead, its Officers and its agents do not accept any responsibility for any loss occasioned by any person acting as a result of the material contained herein.

The law relating to Private Hire Operators is contained within the Local Government (Miscellaneous Provisions) Act 1976.

Any previous policies and conditions are hereby revoked from the date this document is approved by the Licensing Panel.

In these Conditions “Licensing Officers” means the Trading Standards & Licensing Manager, the Licensing Enforcement Officers and the Assistant Licensing Enforcement Officers of the Royal Borough of Windsor and Maidenhead. “Council” means the Royal Borough of Windsor and Maidenhead. “Authorised Officer” has the same meaning as section 80 Local Government (Miscellaneous Provisions) Act 1976.)

Applications for licences will only be accepted from applicants who intend to operate within the Royal Borough’s area.

## **1. GENERAL CONDITIONS**

New applicants and existing operators are required to provide a basic disclosure from the DBS upon first application and then annually.

All operators are required to provide evidence, upon request, that they have had sight of a basic DBS check on all individuals listed on their register of booking and dispatch staff; to ensure that basic DBS checks are conducted on any individuals added to the register; and that this is compatible with their policy on employing ex-offenders

New applicants and existing operators are required to provide their policy on employing ex-offenders in roles that would be on the register as above. New applicants must provide this upon application, existing operators upon request.

The Operator shall renew his Operators licence annually, prior to the expiry date of the licence.

From 1 October 2018 existing Operators, and all staff working for them who have direct contact with the public, must undertake mandatory classroom based safeguarding training as prescribed by the Head of Communities, Enforcement & Partnerships and achieve a satisfactory score in the test included in the training.

Full details of the training and how to arrange to attend will be provided by the Licensing Officers. Operators and their staff attending the training and achieving a satisfactory score in the test will be issued with a certificate.

This training must be completed by 31 December 2019 and the original of the certificate provided to the Licensing Officers by that date.

Should an existing Operator or Operator’s staff fail to attend the training they will not be regarded as fit and proper to hold an Operator’s Licence. As a result their licence will be suspended until the training is completed.

There is a right of appeal against any such suspension to the Council’s Appeals Panel.

The cost of the training is to be met by the person attending the training. This will be on a cost recovery only basis.

Existing Operators and their staff who can provide evidence that they have attended equivalent safeguarding training will be exempt from the requirement to attend this mandatory safeguarding training. “Equivalent” in this case means:

- training in a classroom or group environment
- with a test requiring a minimum pass mark
- with a certificate of attendance or completion

Operators and their staff will then be required to undergo refresher training every three years as prescribed by the Head of Communities, Enforcement & Partnerships. Full details of this refresher training and how to complete it will be provided by the Licensing Officers.

## **2. RADIO EQUIPMENT**

The Operator shall be (if applicable) in possession of a licence to transmit issued by the Radio Communications Agency/Department of Trade and Industry. The licence will be displayed on the company premises and a copy submitted annually to the Licensing Authority at the time of application/renewal.

## **3. INSURANCE**

The Operator will have in force a current public and employees liability insurance policy. This will be displayed on the premises. A copy of the certificate will be submitted to the Licensing Authority at the time of application/renewal. This will not apply to single vehicle operators.

## **4. TOUTING SOLICITING & TRAINING**

- (a) An Operator shall not cause or permit any person to tout or solicit any person to hire or be carried for hire in any Private Hire vehicle.
- (b) The Operator shall not cause or permit the words ‘taxi’ or ‘cab’ on any Private Hire vehicle operated by him or operating under his operators licence, nor to be displayed on any premises used by him for the purpose of the licensed business.
- (c) The Operators licence must be displayed on the business premises and the Operator will, on the request of an authorised officer or any police constable, produce his operator’s licence for inspection.
- (d) The Operator must keep a legible manual or computerised record detailing the name, address and contact telephone number of every controller working for the Operator and keep a log of who is controlling every shift and the time periods they are working. The Operator shall be totally responsible for the conduct, appearance and actions of controllers operating under his licence.
- (e) All applicants and new members of staff who deal with the public must have attended mandatory classroom based safeguarding training as prescribed by the Head of Communities, Enforcement & Partnerships and achieved a satisfactory score in the test included in the training.

- f) Applicants and members of staff who can provide evidence that they have attended equivalent safeguarding training will be exempt from the requirement to attend this mandatory safeguarding training. "Equivalent" in this case means:
- training in a classroom or group environment
  - with a test requiring a minimum pass mark
  - with a certificate of attendance or completion
- (g) Applicants will then be required to undergo refresher training every three years as prescribed by the Head of Communities, Enforcement & Partnerships.

## 5. CHANGES AND AMENDMENTS

- (a) The Operator must notify The Royal Borough of Windsor and Maidenhead, in writing, details of any convictions, cautions or motoring offences imposed on him (or if the Operator is a company or partnership, on any of the directors or partners) during the period of the licence within 7 days of the date of conviction or caution.
- (b) The licence holder must notify The Royal Borough of Windsor and Maidenhead, in writing, of any transfers in ownership/additional partners or changes in company name within 7 days of such change taking place.

**Note:** Please note that new owners or additional partners will be required to have an enhanced DBS disclosure. The transfer of the operator's licence will not be completed until the Licensing Officers have received a copy of the disclosure.

- (c) The licence holder shall notify The Royal Borough of Windsor and Maidenhead Borough Council, in writing, of any change to his home address, business address or operating base within 7 days of such change taking place - a fee will be charged for the production of an amended Operator's licence.

## 6. BUSINESS PREMISES

On 19<sup>th</sup> October 2009 Members resolved that the Council's Policy in relation to Private Hire Operators' Licences be amended so that no new Private Hire Operator Licence should be issued for those based outside the Borough and that Private Hire Operators based outside the Borough who are licensed at present should be informed that the Policy will take effect from 19<sup>th</sup> October 2011.

- (a) Any premises used by the Operator for the purpose(s) authorised by his Operator's licence shall have the appropriate planning permission for that use and the Operator shall comply with any conditions attached to such permission. If planning permission is not required, proof of exemption must be obtained before an Operator's licence can be issued.
- (b) **The Health Act 2006:** from 1st July 2007 smoking is banned in all premises where an operator's licence is held. More information regarding this can be found on [www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk).
- (c) Any customer waiting area must have sufficient seating and be adequately heated and ventilated in addition to being kept clean and tidy.

## 7. OPERATORS SIGNS AND LOGOS (VEHICLE SIGN)

- (a) The Operator's name and logo shall contain no words or numbers other than the Operator's name (company name), business address, telephone number (which may include an email or website address) and **advanced bookings only**.
- (b) A copy of all signage must be deposited (by the Operator) with The Royal Borough of Windsor and Maidenhead prior to its use in or on a vehicle and must NOT be changed in any way thereafter without the written approval of The Royal Borough of Windsor and Maidenhead.

## 8. RECORD KEEPING

### 8.1 Bookings

The Operator must keep a **legible** manual or computerised record, of every booking accepted whether accepting the same from the hirer or undertaking it at the request of another licensed operator. The record shall be completed before the commencement of each journey and shall show the following particulars for each booking:-

- (a) The date and time the booking was received
- (b) The address at which the hiring is to commence
- (c) The date and time the hiring is to be commenced
- (d) The name of the person making the hiring
- (e) The address at which the hiring is to end
- (f) The licence number or call sign of the vehicle allocated
- (g) The name or the licence number of the driver of the vehicle allocated

The records shall be kept for a period of 6 months. These records must be accessible at all reasonable times for inspection by any authorised officer or Police Constable. Any computer program used must be able to reproduce a printed record.

### 8.2 Vehicle Records

The Operator must keep a legible manual or computerised record of all current Private Hire and Hackney Carriage vehicles used by them or operating under their Operator's licence.

- (a) The Private Hire or Hackney Carriage vehicle licence number
- (b) The name, address and telephone number of the person to whom the vehicle licence was issued
- (c) The make and registration of the vehicle
- (d) The date the vehicle was accepted under the Operator's licence
- (e) The date the vehicle ceased to accept work under that Operator's licence

The Operator must ensure that every vehicle working under the Operator's licence is covered by a valid certificate of insurance and a valid Compliance Certificate / MOT Certification which must be no older than 28 days on issue of the Licence. A legible manual or computerised record of the following must be maintained:-

- (a) Current insurance certificate/cover note for all vehicles accepting work under the Operator's licence, including expiry dates
- (b) Certificate of Compliance / MOT including expiry date.

Should the insurance cover for any vehicle working under the Operator's licence be cancelled, suspended or lapse, or the Certificate of Compliance expire, without a new valid one being provided, then the vehicle must be immediately withdrawn from service as a private hire vehicle. The Council should be notified immediately of this action.

The records shall be kept for a period of 6 months. These records must be accessible at all reasonable times for inspection by any authorised officer or Police Constable. Any computer program used must be able to reproduce a printed record.

### **8.3 Driver Records**

The Operator will maintain a list of all drivers currently working under the Operator's licence. The list must include:-

- (a) The full name, address and telephone number of the driver
- (b) Details of the vehicle that the driver uses including licence number and registration.
- (c) The date the driver commenced working under the Operator's licence
- (d) The date the driver ceased working under that Operator's licence
- (e) The call sign of all drivers

This list must be sent to the Licensing Officers every six months.

The records shall be kept for a period of 6 months. These records must be accessible at all reasonable times for inspection by any authorised officer or Police Constable. Any computer program used must be able to reproduce a printed record.

When an Operator is in the possession of an operator's licence from more than one licensing authority, then the records of the drivers, vehicles and bookings must be kept separately.

The Council reserves the right to vary these Conditions or impose further Conditions at any time.

## **9. PENALTY POINTS**

The Operators Licence is subject to the penalty points system in force in relation to the licence and the Operator is required to read and comply with the provisions of the system at all times.

## **10. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

Special attention should be taken of the following provisions laid down in the Local Government (Miscellaneous Provisions) Act 1976. Copies of the Act can be obtained from H.M.S.O. P.O. Box 569, London, SE1 9NH.

### **10.1 Section 46 – Licences**

- (a) No person shall in a controlled district operate any vehicle as a Private Hire vehicle without having a current operator's licence.
- (b) No person holding a current operator's licence shall in a controlled district operate any Private Hire vehicle:-
  - . if the vehicle has not been licensed by the district council; or
  - . if the driver has not been licensed by the district council.
- (c) If any person knowingly contravenes the provisions of this section he shall be guilty of an offence.

### **10.2 Section 56 – Procedure/Contract and Records**

- (a) Every contract for hire of a licensed Private Hire vehicle shall be deemed to be made with the Operator who accepted the booking for that vehicle whether or not they provide the vehicle.
- (b) Every Operator shall keep a record and shall enter therein before the commencement of each journey such particulars of every booking of a Private Hire vehicle invited or accepted by him/her, whether by accepting the same from the hirer or by undertaking it at the request of another Operator and shall produce such record on request to any authorised officer of the Council or to any constable for inspection. Every licensed Operator shall keep such records as the Council may, by conditions attached to the grant of the licence, prescribe of the particulars of any Private Hire vehicle operated by him/her and shall produce the same on request to any authorised officer of the Council or to any constable for inspection.
- (c) If any person without reasonable excuse contravenes the provisions of this section he shall be guilty of an offence.

### **10.3 Section 62 - Suspension, Revocation and Refusal of an Operator's Licence**

The Council may suspend or revoke or refuse to renew an operator's licence on any of the following grounds:-

- (a) Any offence under non-compliance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976;
- (b) any conduct on the part of the operator which appears to the district Council to render him unfit to hold an operator's licence;

- (c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or
- (d) any other reasonable cause.

The powers set out in 10.3.1 above may be exercised by the Licensing Officers subject to a right of appeal to the Council's Appeals Panel.

#### **10.4 Section 73 – Obstruction of Authorised Officers**

Any person who:-

- (a) wilfully obstructs an authorised officer or constable acting in pursuance of this Act;- or
- (b) without reasonable excuse fails to comply with any requirement properly made to him by such officer or constable; or
- (c) without reasonable cause fails to give such an officer or constable so acting any other assistance or information which he may reasonably require of such person for the purposes of the performance of his functions under this part of the Act or the Act of 1847;

**shall be guilty of an offence.**

#### **PLEASE NOTE:**

Section 77 of the Local Government (Miscellaneous Provisions) Act 1976 provides a right of appeal to a Magistrates Court in respect of any requirement, refusal or any other decision of a Borough Council against which a right of appeal is conferred by the Act. A person wishing to exercise their right under this provision should make representation with 21 days of the date of the licence to the Magistrates Court.



**THE ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD**

**STATEMENT OF POLICY ABOUT RELEVANT**

**CONVICTIONS OPERATORS' LICENCES**

**GENERAL**

This policy is relevant to the consideration of whether a person is “fit and proper” to hold a private hire operator licence.

NB – any reference to “convictions” in this policy will include cautions, endorsable fixed penalties and/convictions.

**RELEVANCE OF CONVICTIONS**

Where the applicant has a conviction which has not been rehabilitated in the terms of the Rehabilitation of Offenders Act 1974, the conviction will be taken into consideration before a licence is granted. Particular attention will be paid to any relevant convictions. A relevant conviction, for the purposes of this policy, is a conviction which would mean the operator is a risk to members of the public. This would include a conviction in any of the following (although the list is not exhaustive):

- (a) Violence
- (b) Indecency offences
- (c) Drug related offences
- (d) Dishonesty offences

Although each case will be assessed on its own merits, having regard to this policy there is an overriding issue of public safety. The Royal Borough of Windsor and Maidenhead will take this into consideration when deciding whether or not an individual is a “fit and proper” person to hold a licence. An unspent conviction will not automatically bar an applicant from obtaining a licence. When deciding whether to grant a licence the Royal Borough will consider the following:-

- i) The nature of the offence, for example whether it is a relevant conviction
- ii) The sentence given by the Court
- iii) The age of the conviction.

Some discretion may be appropriate if the conviction is isolated and there are mitigating circumstances. Similarly, multiple convictions or a series of convictions over a period of time are likely to give greater cause for concern and may indicate a pattern of inappropriate behaviour, which will be taken into account. Any applicant refused a licence on the grounds that they are not a “fit and proper” person to hold such a licence has a right of appeal to the Council’s Appeal Panel.

## DISCLOSURE GUIDANCE / REQUIREMENTS

**Applicants should note that to make a false statutory declaration is a serious criminal offence, punishable upon conviction by imprisonment for a term not exceeding two years or to a fine to be decided by the court or both. This statutory declaration may in certain circumstances be forwarded to the police for examination.**

Applicants for operator's licences are required to declare **ANY** convictions or cautions including those regarded as "Spent" under the Rehabilitation of Offenders Act 1974.

The information you give will be treated in confidence and will only be taken into account in relation to your application.

You should be aware that the Licensing Authority is empowered in law to check with the Disclosure & Barring Service for the existence and content of ANY criminal record held in the name of the applicant. Information received from the Disclosure & Barring Service will be kept in strict confidence while the licensing process takes its course and will be retained for no longer than is necessary.

The disclosure of a criminal record or other information does not debar applicants from obtaining a licence unless the Council considers that the applicant is not a 'fit and proper person' to hold that licence. In making this decision the Council will consider the nature of the offence(s), the period since conviction(s) at what age the offences were committed and any other relevant factors.

The Council will not be considering whether a person is guilty of the offence for which they have been convicted or cautioned for an offence but whether he or she is a 'fit and proper person'.

***This document can be revised at any time to reflect Acts of Parliament, new legislation, associated revisions to existing legislation and/or policy changes as approved by the Licensing Panel.***

## REHABILITATION OF OFFENDERS ACT 1974 SENTENCE BECOMES SPENT AFTER

- For a sentence of Imprisonment or youth custody exceeding 6 months but not exceeding 30 months 10 years
- For a sentence of imprisonment or youth custody not exceeding 6 months 7 years
- For a sentence of borstal training 7 years 7 years
- For a fine or other sentence not otherwise covered in this table. 5 years 5 years
- For an absolute discharge 6 months 6 months
- For a probation order, conditional discharge or bind over; and for fit person orders, supervision orders or care orders under the Children and Young Persons Act (and their equivalents in Scotland) 5 years or 2 1/2 years, if under 18 years of age at the time of conviction, or until the order expires (whichever is the longer)
- For cashiering, discharge with ignominy or dismissal from the Armed Forces 10 years
- For simple dismissal from the Armed Forces 7 years
- For detention by the Armed Forces 5 years

For detention by direction of the Home Secretary:-

- For a period exceeding 6 months but not exceeding 30 months 5 years
- For a period not exceeding 6 months 3 years 3 years
- For a remand home order, an approved school order, or an attendance centre order The period of the order plus a further year after the order expires. The period of the order plus a further year after the order expires
- For a hospital order under the Mental Health Acts The period of the order plus a further 2 years after the order expires (with a minimum of 5 years from the date of conviction).

### NOTES

- (i) A sentence of more than 30 months imprisonment or youth custody can never become spent.
- (ii) If you were under 17 years of age on the date of conviction for any of the sentences except those under the heading "For detention by direction of the Home Secretary" please halve the period shown in the right-hand column.
- (iii) It is immaterial for the purposes of calculating for a spent conviction whether a sentence is suspended or not.