

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

## **Private Hire Driver & Vehicle Policy & Conditions**

This is a general guide that has been prepared for the assistance and guidance of Private Hire Drivers. It does not stand on its own and the Royal Borough of Windsor and Maidenhead, its Officers and 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 Drivers and Vehicles is contained within the Local Government (Miscellaneous Provisions) Act 1976.

All previous Policies and Conditions are hereby revoked from the date when this document is approved by the Licensing Panel.

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## 1 PRIVATE HIRE DRIVERS & LICENSING REQUIREMENTS

In this document, any reference to Licensing Officers means the Trading Standards and Licensing Manager, the Licensing Team Leader, the Licensing Enforcement Officers and Assistant Licensing Enforcement Officers of the Royal Borough of Windsor and Maidenhead. "Council" means the Royal Borough of Windsor and Maidenhead.

### 1.1 PRIVATE HIRE DRIVERS – REQUIREMENTS

Each application will be considered on its own merits, taking into account all relevant information and circumstances and having regard to the criteria detailed below.

- a) Private hire driver licences will be issued for three years as standard. Any shorter duration licence will only be issued when the Council thinks it is appropriate in the specific circumstances of the case.
- b) Should any applicant fail to be regarded as a fit and proper person to hold a Private Hire Driver licence, their application will be refused by the Licensing Officers.
- c) Should any licence holder become regarded as not being a fit and proper person to hold a Private Hire Drivers Licence, his or her licence may be suspended or revoked.
- d) If a licence application is refused, or an existing licence is revoked but not with immediate effect, there is a right of appeal to the Council's Licensing and Public Space Protection Order Sub-Committee, and to the magistrates court.
- e) If the licence is suspended there is a right of appeal to the Council's Licensing and Public Space Protection Order Sub-Committee, and to the magistrates court.
- f) If the licence is revoked with immediate effect, there is a right of appeal to the magistrates court within 21 days.

### 1.2 APPLICATION REQUIREMENTS

- a) All applicants must have held a full UK, NI or EU driving licence for a minimum of 2 years before an application for a PHD licence can be made. (This excludes the holding of a provisional licence).
- b) Holders of full EU licences must register their licence with the DVLA and obtain and present a UK DVLA licence to accompany an application for a Hackney Carriage or Private Hire Drivers Licence.
- c) All applicants are required to have the current status of their UK DVLA driving licence verified by a RBWM officer. This is done by accessing your driving licence data via the website [www.gov.uk/view-driving-licence](http://www.gov.uk/view-driving-licence).
- d) Applicants will also be required to authorise access by RBWM licensing officers to their driving licence status for the duration of their Hackney Carriage, Private Hire or Combined Driver Licence.
- e) All new applicants must comply with the DBS requirements set out in paragraph 1.3 (p), below.
- f) The Disclosure & Barring Service Disclosure (DBS) does not check for criminal convictions outside the UK and should an applicant not have been a resident in the UK for the preceding five years, a Certificate of Good Conduct should be obtained from the appropriate Embassy or High Commission. A certified English translation of this document must be produced by the applicant at his own cost. If this cannot be provided, the application shall be refused.
- g) All applicants and licensees are required to disclose if they hold or have previously held:
  - a hackney carriage or private hire drivers' licence with another authority, and
  - if they have ever had an application for a hackney carriage or private hire drivers' licence refused, or a licence revoked or suspended by any other licensing authority.

- h) All applicants must provide proof of the right to work and reside in the UK. This can be done by providing a valid UK, the correct Irish or Channel Islands documentation, or, for other passport holders,
  - i. A passport endorsement, or an Immigration Status Document issued by the Home Office, showing that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK, or
  - ii. Other documentation included in the government's "Employers' right to work checklist" which can be found at the "Foreign nationals working in the UK" section on [www.gov.uk](http://www.gov.uk). In this case, licenses will only be issued for the length of time until the applicant's permission to be in the UK expires
- i) A licence will only be granted until the expiry of the visa and will only be renewed or extended on the production of a valid visa issued by the Home Office. Under no circumstances will letters from any source be accepted as proof of right to work. Applicants without a passport wishing to be able to work must have valid documentation issued by the Home Office such as ARC card, ISD document or Resident Permit.
- j) All applicants must have completed and passed a Driving Standards Agency Hackney and Private Hire Test Assessment within the last 12 months, prior to any PHD licence being issued. (Drivers currently licensed by the Royal Borough of Windsor and Maidenhead are exempt from having to take the DSA Test unless there is a complaint about the standard/quality of their driving).
- k) Applicants are expected to have a good knowledge of the Royal Borough of Windsor and Maidenhead's area and the surrounding area as well as the Highway Code.
- l) Applicants have 12 months from submission of application to complete the application process.
- m) All applicants must submit a Certificate of Fitness which must be signed and stamped by their own General Practitioner or any other appropriate UK registered medical doctor (GMC number to be provided on medical form) Medicals are required at first application, then every five years until the licence holder reaches the age of 65. Thereafter a Certificate of Fitness must be provided every year.
- n) All applicants must have attended, at their own expense, mandatory classroom based safeguarding training as prescribed by the Assistant Director of Housing and Public Protection and achieved a satisfactory score in the test included in the training.
- o) Applicants 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
- p) Applicants will then be required to undergo refresher training every three years as prescribed by the Assistant Director of Housing and Public Protection.
- q) All applicants for a RBWM private hire driver licence are required to take a mandatory test of their English language proficiency, both written and oral, as part of the application process. This will not apply where an applicant can provide evidence of a UK secondary school level qualification taught and examined in English, or equivalent if taught and examined in English and which demonstrates the applicant's ability to read, write, speak and listen in English.

**Please Note:**

Nothing in this policy shall preclude a licence holder from being required to undergo a medical examination at any time as may be directed by the Council's Licensing Officers.

### 1.3 FIT AND PROPER

A licence shall not be granted where an applicant has been convicted of an offence of a type set out in the assessment of previous convictions in the Hackney Carriage and Private Hire Driver Licenses Statement of Policy about Relevant Convictions, below, which:

- has not yet been rehabilitated in terms of the Rehabilitation of Offenders Act 1974 (as amended), or
- does not meet the requirements of the assessment of previous convictions set out in the Driver Licences Statement of Policy about Relevant Convictions
- In addition, where there are relevant spent convictions these may also be considered.

The Council will take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime.

- a) A conviction for any of the offences listed in the assessment of previous convictions in the Hackney Carriage and Private Hire Driver Licences Statement of Policy about Relevant Convictions will result in immediate licence suspension or revocation by the Licensing Officers. Where a RBWM licence holder has been served an immigration penalty or convicted of an immigration offence, the licence will be revoked immediately. Should a Private Hire Drivers licence holder be charged with an offence that is deemed to be of such a nature that it poses a serious risk to the public, the Licence shall be immediately suspended by the Licensing Officers until such time that the issue has been resolved
- b) Where a conviction is not in respect of a relevant offence and is not of a nature which would have any bearing on whether the applicant is a fit and proper person to hold a driver's licence, then such a conviction will be disregarded other than in consideration of an overall adherence to the law.
- c) A licence may be suspended or revoked in accordance with the approved penalty point system (see penalty point system).
- d) If a licence has been revoked, a new application will not be accepted until one (1) year has elapsed from the date of revocation or any time which the Licensing Officers decide.
- e) Where a licence is suspended or revoked, the rights of appeal in paragraph 1.1, above, will apply.
- f) From 01 October 2018 existing private hire drivers must undertake mandatory classroom based safeguarding training as prescribed by the Assistant Director of Housing and Public Protection and achieve a satisfactory score in the test included in the training.
- g) Full details of the training and how to arrange to attend will be provided by the Licensing Officer. Drivers attending the training and achieving a satisfactory score in the test will be issued with a certificate.
- h) This training must be completed by 31 December 2019 and the original of the certificate provided to the Licensing Officer by that date.
- i) Should an existing driver fail to attend the training and attain a certificate by 31 December 2019 they will not be regarded as fit and proper to hold a Private Hire Drivers Licence. As a result, their licence will be suspended until the training is completed and a certificate produced to the Licensing Officer.
- j) Where a licence is suspended, the rights of appeal in paragraph 1.1, above, will apply.
- k) The cost of the training is to be met by the person attending the training. This will be on a cost recovery basis.
- l) Individuals with 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

- m) Drivers will be required to undergo refresher training every three years as prescribed by the Assistant Director of Housing and Public Protection. Full details of this refresher training and how to complete will be provided by the Licensing Officers.
- n) When considering whether an applicant or licensee is fit and proper to hold an RBWM licence the following question will be posed:
  - Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night".
  - If, on the balance of probabilities, the answer to this question is 'no', the individual will not be granted a RBWM licence.
  - If the licensing officer or Licensing Panel Sub Committee is only "50/50" as to whether an applicant or licensee is 'fit and proper', they will not be granted a RBWM licence".
- o) If a licensing officer has reason to believe that the English language proficiency of an existing RBWM private hire driver's licence holder, is insufficient to meet the needs of the job, and in particular;
  - the ability to understand written documents, such as policies and guidance,
  - the ability to understand training and written policies and guidance relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation, and
  - oral proficiency to enable reasonable communication with passengers, and in particular the identification of potential exploitation through communicating with passengers and their interaction with others.

The licensing officer will require that the applicant or licence holder undertakes English language proficiency testing, both written and oral, and provide the results of those tests within 28 days. Failure to comply with this requirement may result in the refusal of the application, or the suspension of an existing licence until the testing is completed. Any refusal or suspension will be subject to the rights of appeal set out in paragraph 1.1, above.

- p) From 01 April 2024, all existing licenced drivers, and new applicants for a licence, must enable the Licensing team to check their DBS for new information every six months by;
  - i. Applying and paying for their DBS via an agreed third-party company,
  - ii. Registering and paying for the Disclosure and Barring Service (DBS) Update Service, and renewing this annually,
  - iii. Authorising access by RBWM licensing officers to perform a status check of their DBS at any time during the duration of their licence using the "DBS Update Service Status Checks" facility provided by the third-party company and meeting the cost of this facility through their drivers' licence from 01/04/2025.

## 2 PRIVATE HIRE DRIVER CONDITIONS

The Council attaches the following conditions to Private Hire Drivers Licences:

In these conditions 'the Council' means the Royal Borough of Windsor and Maidenhead, 'Driver' means a person holding a Private Hire Driver licence issued by the Council and 'Vehicle' means a Private Hire Vehicle licensed by the Council. "Licensing Officers" means the Trading Standards and Licensing Manager, the Licensing Team Leader, the Licensing Enforcement Officers and Assistant Licensing Enforcement Officers of the Royal Borough of Windsor and Maidenhead. "Council" means the Royal Borough of Windsor and Maidenhead.

NOTES: Failure to adhere to the Private Hire Driver Conditions may result in prosecution, suspension or revocation of the licence pursuant to S.61 of the Local Government (Miscellaneous Provisions) Act 1976. Any suspension or revocation will be subject to the rights of the appeal set out in paragraph 1.1, above.

### 2.1 IDENTIFICATION OF DRIVERS

- a) The Driver shall at all times whilst using a Private Hire Vehicle wear or display his Private Hire Drivers badge in such a position and manner that is plainly visible.
- b) The badge must be shown, if requested, to the hirer of the vehicle or to any 'authorised officer' of the Council or Police Officer, as defined in the Local Government (Miscellaneous Provisions) Act 1976.
- c) The driver shall ensure that an internal identification plate is clearly displayed within the vehicle showing the Private Hire Vehicle Licence and registration number matching the design approved by the licensing officers.

### 2.2 PRIVATE HIRE VEHICLE

The Driver shall not use a Private Hire Vehicle unless it complies with the Royal Borough of Windsor and Maidenhead's Private Hire Vehicle policy (see Private Hire Vehicle policy document).

### 2.3 ADVERTISEMENTS

The Driver shall not place, or permit to be placed, any printed written material on the vehicle.

### 2.4 PROMPT ATTENDANCE AND SHORTEST ROUTE

- a) The driver shall, on attendance of a booking from the licensed Private Hire Operator, be in attendance at the appointed time and place unless delayed or prevented by sufficient cause.
- b) The driver when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.

### 2.5 PRIVATE HIRE DRIVERS LICENCE (BADGE)

- a) The Driver shall be issued with a Private Hire Driver Licence and identification badge. These documents remain the property of the Royal Borough of Windsor and Maidenhead.
- b) At the request of a Licensing Officer, the Licence and/or identification badge must be returned to the Council.
- c) The Driver shall upon the expiry date (without prior renewal to that expiry date), revocation or suspension of the Licence return the Licence and driver's identification badge to the Council immediately.

### 2.6 ASSISTANCE WITH LUGGAGE

The Driver shall, when requested by any person hiring or seeking to hire the vehicle:

- a) convey a reasonable amount of luggage,

- b) afford reasonable assistance in loading and unloading,
- c) afford reasonable assistance in removing the luggage to or from the pickup or destination point of any passenger.

## 2.7 LOST PROPERTY

- a) The Driver shall, immediately after the termination of any hiring or as soon as practicable after, carefully search the vehicle for any property which may have accidentally been left behind.
- b) If the Driver has found any property accidentally left in their vehicle, he must notify the Operator. If the passenger contacts the Operator immediately, the driver must arrange for the passenger to collect the goods; if not, as soon as possible (and in any event within 48 hours) the property should be handed in to the nearest Police Station.

## 2.8 CARRIAGE OF OTHER PERSONS

- a) The Driver shall not permit any person to be carried in the vehicle without the consent of the hirer.
- b) The Driver shall not carry, or permit to be carried, a greater number of passengers than that stated on the Private Hire Vehicle Licence plate.

## 2.9 LICENCE PLATE

- a) The Driver shall ensure that the Private Hire Vehicle Licence plate is securely affixed to the outside rear of the vehicle at all times whether working as a Private Hire Vehicle or not.
- b) The Driver shall ensure that the Private Hire Vehicle Licence plate is not concealed or damaged and is kept clean so that it is clearly visible at all times.

## 2.10 NOTIFICATION OF CRIMINAL AND CIVIL PROCEEDINGS

- a) RBWM licenced private hire drivers shall notify RBWM Licensing in writing within 48 hours of an arrest, bailment, charge, caution or conviction, or fixed penalty (including points on a driving licence) for any criminal offence of any nature.
- b) RBWM licenced private hire drivers shall notify RBWM Licensing in writing within 48 hours of any court order or injunction imposed on them in relation to any civil proceedings.
- c) Any such arrest, bailment, charge, caution, conviction or fixed penalty in paragraph (a) shall result in a review by licensing officers as to whether the licence holder is fit and proper to continue to hold the licence.

## 2.11 CHANGE OF ADDRESS

- a) The Driver shall notify the Council in writing of any change of address during the period of the licence within 7 days of such change taking place.
- b) The Driver's DVLA driving licence must be registered at the Drivers current address.

## 2.12 ACCIDENTS

The Driver shall notify the Council in writing of any vehicle accident in which the Driver is involved whilst driving a Private Hire Vehicle. This notification must be received within 72 hours of the accident taking place.

## 2.13 CONDUCT OF DRIVER

- a) The Driver shall at all times be clean and respectable in his dress and person and behave in a civil and orderly manner.

- b) The Driver shall at all times take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the Vehicle.
- c) The Driver shall not drink or eat in the vehicle.
- d) The Driver shall not smoke in the vehicle or allow any passengers to smoke in the vehicle (for further information see policy relating to the Health Act 2006).
- e) The Driver shall not play any audio or sound (other than for the purposes of sending/receiving messages from the Operators base) that is loud, offensive or that causes a nuisance to the hirer.
- f) Drivers may not initiate any dialogue of a sexual nature with a passenger. Licensed drivers are not permitted to become involved sexually, or have sexual contact, even with consent, whilst in a licensed vehicle with any passenger.

## 2.14 PASSENGERS

- a) The Driver shall not convey or permit to be conveyed (in a Private Hire Vehicle) a greater number of persons than that prescribed on the vehicle licence.
- b) The Driver shall not allow any child under the age of twelve years or more than one person above the age of twelve years to be carried in the front of the vehicle.
- c) The Driver shall not at any time by calling out or otherwise importune any person to hire his vehicle.
- d) The Driver must only accept a fare that has been properly booked and passed to the Driver via the licensed Private Hire Operator for whom he works.
- e) The Driver shall not cause or permit a Private Hire Vehicle to stand on any road in such a manner as to suggest that it is plying for hire or that it is a Hackney Carriage Vehicle. The Driver shall not rank unlawfully.

## 2.15 WRITTEN RECEIPTS

The Driver shall, if requested by the hirer, provide them with a written receipt for the fare paid.

## 2.16 CARRYING ANIMALS

- a) The Driver shall not carry any animals that belong to or are in the custody of him in the Vehicle when it is being hired.
- b) The Driver must (unless in possession of an exemption certificate, see below) accept bookings made by or on behalf of a disabled person who is accompanied by a guide, hearing or assistance dog.
- c) The Driver must (unless in possession of an exemption certificate, see below) accept a booking by a person who will be accompanied by such a disabled person.
- d) The Driver must not make an additional charge for carrying the passenger's assistance dog.
- e) A Driver who has a proven medical condition that prevents him from carrying an assistance dog in his vehicle must obtain a Driver Exemption Certificate (from the Council on production of medical evidence of the condition). This Certificate must be clearly displayed at all times when driving the Private Hire Vehicle. The Driver is responsible for informing his Operator and the Council if he has a medical condition affecting his ability to carry assistance dogs during the period of their licence.

## 2.17 HEALTH OF A DRIVER

- a) The Driver must inform the Council without delay about the onset or worsening of any health condition likely to cause him to be a source of danger to the public when driving either now or in the future. Examples are contained in the DVLA Medical Notification Guidance and include:
  - giddiness
  - fainting
  - blackouts

- epilepsy
- strokes
- multiple sclerosis
- Parkinson's disease
- heart disease
- angina
- coronaries
- high blood pressure
- arthritis
- disorder of vision
- mental illness
- alcoholism
- drug taking
- loss of limb or loss of use of limb

b) Drivers who are in doubt about whether or not their health condition is one which should be reported should consult their doctor and refer to the DVLA (Group 2) Medical rules and Standards which are updated every 6 months.

c) A medical certificate signed by the driver's own General Practitioner who knows and has access to his medical history shall be produced at the time of the initial application, and then every five years until the licence holder reaches the age of 65. Thereafter a Certificate of Fitness must be provided every year.

## 2.18 RENEWAL OF LICENCES

- a) Applications to renew a licence can be made 30 days before the expiry of the current licence and must be submitted on the appropriate application forms.
- b) All current PHD licence holders are to have their DVLA/EU drivers licence checked with the DVLA annually. This will be carried out at the time of the renewal application. Where a three-year licence has been issued the check shall be done annually.

**Please Note:**

An application for the renewal of a licence made after the date of expiry of the previously held licence will be dealt with as a new application.

## 2.19 SEAT BELT REGULATIONS

Private Hire Drivers are only exempt from wearing a seat belt if the vehicle is being used to carry passengers for hire.

## 2.20 CHILD RESTRAINTS

- a) If the correct child restraint is not available, then a child under 3 years of age may travel unrestrained in the rear of a Private Hire or Hackney Carriage vehicle.
- b) If the correct child restraint is not available, then a child aged 3 to 11 and less than 1.35 metres (approx. 4ft 5ins) may use an adult belt when travelling in a Private Hire or Hackney Carriage vehicle if the correct child restraint is not available.

## 2.21 CERTIFICATE OF INSURANCE

The Driver will be responsible for ensuring that any vehicle in his charge is insured for use as a Private Hire Vehicle and that he is personally insured to drive the vehicle.

**Please Note:**

The conditions relating to insurance of motor vehicles are contained in part 6 of the Road Traffic Act 1988.

## 2.22 OBSTRUCTION OF AN AUTHORISED OFFICER

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.

## 2.23 PENALTY POINTS

The Private Hire Driver's Licence is subject to the penalty points system and the licence holder is required to read and comply with the provisions of the system at all times. See page 17 for further details.

## 2.24 PENALTIES

- a) The Licensing Officer may suspend, revoke or refuse to renew the Licence if any of the above conditions are not complied with.
- b) The Licensing Officer may suspend, revoke or refuse to renew the Licence for 'Any Other Reasonable Cause' as defined in the Local Government (Miscellaneous Provisions) Act 1976.

## 2.25 APPEAL

Any refusal, suspension or revocation will be subject to the rights of appeal set out in paragraph 1.1, above. There is also the right to appeal to the magistrates court within 21 days.

## 2.26 REVOCATION

Licensing Officers are authorised to automatically revoke the licence of a driver who has been disqualified from driving. A minimum period of 12 months must elapse from the end of disqualification before an application can be accepted.

### **Please Note:**

Section 77 of the Local Government (Miscellaneous Provisions) Act 1976 provides the 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 within 21 days of the date of the decision to the Magistrates Court.

### 3 PRIVATE HIRE VEHICLE CONDITIONS

The Council attaches the following conditions to Private Hire Vehicle Licences:

In these conditions 'the Council' means The Royal Borough of Windsor and Maidenhead, 'Driver' means a person holding a Private Hire Drivers licence issued by the Council and 'Vehicle' means a Private Hire Vehicle licensed by the Council. "Licensing Officers" means the Enforcement Principal, Trading Standards and Licensing Team Leader, the Licensing Enforcement Officers and Assistant Licensing Enforcement Officers of the Royal Borough of Windsor and Maidenhead. "Council" means the Royal Borough of Windsor and Maidenhead.

**NOTES:** Failure to adhere to the Private Hire Vehicle Conditions may result in prosecution, suspension or revocation of the licence pursuant to S.61 of the Local Government (Miscellaneous Provisions) Act 1976. Any suspension or revocation will be subject to the rights of appeal set out in paragraph 1.1, above.

#### 3.1 PRE-LICENSING CONDITIONS

In order that a reliable Private Hire service of an acceptable standard is provided within the Royal Borough of Windsor and Maidenhead, a person to be considered for a Private Hire Vehicle Licence on the first or subsequent occasions shall have a vehicle which is in satisfactory mechanical order and body condition and in operational order in every respect. This vehicle is to be a saloon, hatchback or estate vehicle, a minibus or a multi-passenger vehicle of eight or less passenger seats.

- a) A minimum of 4 doors, each adjacent to and allowing direct access to and from the seats.
- b) Rear seat accommodation for not less than 3 persons (for saloons and estates).
- c) In addition to the Driver up to 2 passenger seats in the front of the vehicle, provided each seat is separate and has its own lap/diagonal seat belt. (For a limousine, a bench seat with an armrest to accommodate 1 person in addition to the Driver).
- d) All private hire vehicles shall be fitted with appropriate seat belts to the front and rear seats. The number of seat belts fitted to the vehicle shall correspond with the number of passengers the vehicle is licensed to carry in forward facing seats, plus a belt for the driver.
- e) Accommodation for not less than four passengers.
- f) Adequate luggage accommodation.
- g) All vehicles must be right hand drive.
- h) The inside and outside of a private hire vehicle shall be clean and free from damage, well maintained and in every way fit for public service. The applicant shall submit the vehicle for such inspection as the Council may require. Vehicles submitted for test/inspection shall be in such a condition as to be suitable for inspection.
  - **Vehicles should be free from excessive oil leaks.**
  - **All vehicles should be thoroughly clean inside and out.**
  - **Vehicles not meeting these conditions will not be inspected.**

#### 3.2 WHEELCHAIR ACCESSIBLE VEHICLES

All RBWM Private Hire Vehicle Licence holders must inform the Licensing Officer if their existing, or any new, vehicle is purpose built as a wheelchair accessible vehicle. All-purpose built wheelchair accessible private hire vehicles will be regarded as "designated" vehicles for the purposes of Section 167 of the Equality Act 2010.

- a) Drivers of these vehicles will have the following duties:
  - to carry the passenger while in the wheelchair.
  - not to make any additional charge for doing so.

- if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- to give the passenger such mobility assistance as is reasonably required.
- to have their name, contact telephone number and vehicle details included in a list of drivers who are available for wheelchair users. This list will appear on the RBWM website.

b) Drivers can be exempted from these requirements under section 166 of the Equality Act if the Licensing Officer is satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties.

c) An exemption can be valid for as short or long a time period as the Licensing Officer thinks appropriate, bearing in mind the nature of the medical issue.

d) Drivers wishing to claim an exemption from the duties set out above must apply in writing using a form which will be provided by the Licensing Officer. On this form the person applying for an exemption must set out:

- why they should be exempted from the duties set out above, and
- the independent evidence that supports this exemption.

e) Independent medical evidence should, as an absolute minimum, be in the form of a letter or report from a general practitioner.

f) Where a long-term exemption is to be issued, medical assessments should be undertaken by professionals who have been specifically trained in the relevant field and who are independent of the applicant. Up to the age of 65 long term exemptions will be reviewed every five years at the same time that a medical certificate is required. From the age of 65 long term exemptions will be reviewed every year at the same time that a medical certificate is required.

g) If the exemption application is unsuccessful the applicant will be informed in writing within a reasonable timescale and with a clear explanation of the reasons for the decision.

h) Drivers granted an exemption will be issued with an exemption certificate.

i) Where the proprietor of a RBWM licenced hackney carriage or private hire vehicle is neither a RBWM licenced driver or operator, they must provide a basic disclosure from the DBS upon application to licence the vehicle and then annually.

j) Drivers granted an exemption will be permitted to display in their vehicle, when being operated by the exempt driver, a notice prescribed by the Equality Act 2010 (Taxis and Private Hire Vehicles) (Passengers in Wheelchairs – Notices of Exemption) Regulations 2017 or by any subsequent legislation that this is replaced by.

k) If a designated vehicle is operated by more than one driver, one or more of whom has been granted an exemption, the Notice of Exemption must only be displayed in the vehicle when being operated by an exempted driver.

l) If a Notice of Exemption is displayed in a designated vehicle being operated by a driver to whom an exemption has not been granted, that driver will be in breach of this Policy and subject to action by the Licensing Officer.

m) If the display of a Notice of Exemption in a designated vehicle being operated by a driver to whom an exemption has not been granted causes the driver to fail to comply with the duties set out above, that driver commits a criminal offence.

### 3.3 PRIVATE HIRE VEHICLE AGE POLICY

- a) Any new vehicle to be licensed as a Private Hire vehicle, either permanently or temporarily to be no older than 5 years from the date of first registration.
- b) That condition (a) above will apply to all new and current licence holders.
- c) The vehicle once licensed can be licensed to a maximum of 12 years from the date of first registration.

- d) That for any vehicle imported into the UK, the date requirements will apply from the date of manufacture.
- e) Exceptions to 2(a), (c) and (d) can be made for some vehicles on written application to the Council. Such vehicles will include prestigious vehicles in excellent condition.
- f) The applicant must pay the relevant fee as set from time to time by the Council's Licensing Panel. If a licence is issued refunds will not be given.

### 3.4 DOCUMENTATION

The applicant shall produce the following documents prior to the issue of the licence which must be current at the time the licence commences:

- a) An insurance certificate or cover note which expressly indicates insurance cover for Private Hire or Hire and Reward.
- b) The vehicle registration document showing the current owner's name and address.
- c) A valid current Certificate of Compliance which must be no older than 28 days on issue of the Licence.
- d) All vehicles over 9 years from the date of first registration require a Certificate of Compliance every 6 months.

No Certificate of Compliance is required within a period of 1 year from date of registration.

- e) All vehicle licence holders must carry the original / photocopy of the original of the following documents in their vehicles at all times:
  - Driving licence (photo card and counterpart)
  - Insurance
  - Certificate of Compliance

### 3.5 SAFETY EQUIPMENT

All vehicles will be required to carry a fire extinguisher conforming to British Standard (BS)

EN3 - this must be readily available for use in case of an emergency and a first aid kit.

### 3.6 LICENCE PLATE

The licence holder/Driver shall ensure that:

- a) The Private Hire licence plate shall be securely affixed to the outside rear of the vehicle at all times, regardless of whether or not the vehicle is being used for Private Hire purposes.
- b) The Private Hire Vehicle Licence plate should not be concealed or damaged and must be kept clean so that it is clearly visible at all times.
- c) An internal identification plate is clearly displayed within the vehicle, showing the Private Hire Vehicle Licence and registration number matching the design approved by the licensing team.

Where a proprietor of a private hire vehicle has been granted dispensation under Section 75(3) of the Act, he is permitted to remove the plate from the vehicle.

Such dispensation will be granted and remain valid where:

- a) The applicant has provided written contracts from businesses that require their service specifying the requirement for the vehicle not to display a plate.
- b) The driver of the vehicle wears uniform with some form of company logo, i.e., suit accompanied with a company tie.
- c) The dispensation certificate and the plate are kept in the vehicle at all times during contract work.

- d) The plate must be displayed at all times when the vehicle is being used in relation to Private Hire which is not subject to a regular business contract in accordance with Condition 3.6(a).

### 3.7 ADVERTISEMENTS

Drivers are not allowed to display any form of advertisement on or in the vehicle.

### 3.8 SIGNAGE FOR PRIVATE HIRE VEHICLES

- a) A Company sticker must be displayed in the middle of the front windscreen displaying the name (logo and colours) of the operator. Information for passengers on how to contact RBWM Licensing must be displayed inside the vehicle.
- b) All signs to be displayed must have been approved by the Licensing Officers.
- c) All Drivers can only display the signs given to them by their Private Hire Operator.
- d) The display of roof signs of any description or the display of the word "TAXI" or "CAB" whether in the singular or plural and whether alone or as part of another word is prohibited.
- e) The words "FOR HIRE" or any form of wording which in any way suggests that the vehicle on which it is displayed is presently available to take up any passengers wishing to hire it, or would be so available if not already hired, is prohibited.

### 3.9 USAGE

- a) Whilst a vehicle is licensed as a Private Hire Vehicle it must not be driven by any other person other than a Driver properly licensed by the Royal Borough of Windsor and Maidenhead.
- b) If the proprietor permits or employs any other person to drive the vehicle, they must inspect the Private Hire Drivers Licence and Badge and record the details of the licence in a proper register for that purpose.

### 3.10 CARRIAGE OF ASSISTANCE DOGS

The proprietor shall ensure the Driver of the vehicle complies with the requirements to carry a Guide Hearing or Assistance Dog when requested, unless the Driver is a holder of an Exemption Certificate (see Private Hire Driver Conditions).

### 3.11 CHANGE OF ADDRESS

If the vehicle licence holder changes address, then he must inform the Council of such change, in writing within 7 working days.

### 3.12 PRODUCTION OF DOCUMENTATION

On request, a Private Hire Vehicle licence holder/proprietor shall produce to an authorised officer of the Council or Police Constable the following document within five working days;

- a) Current Certificate of Compliance
- b) Insurance document for Private Hire/Hire and Reward covering the appropriate period.
- c) Vehicle Registration document or any other evidence of proprietorship of the vehicle.

### 3.13 ACCIDENTS

The licence holder/proprietor must notify the Licensing Officer of any accident in which the vehicle has been involved within 72 hours of the occurrence.

### 3.14 BYELAWS AND REGULATIONS

- a) The proprietor/licence holder shall ensure that any Driver (of his vehicle) complies with the Council's Conditions.
- b) The proprietor should make himself familiar with statutory requirements relating to Private Hire Vehicle Licensing.

### 3.15 SURRENDER OF LICENCE

If the Proprietor/Licence holder cease to use the vehicle for the purpose for which it was licensed he shall surrender the licence and return the plate, which remains the property of the Royal Borough of Windsor and Maidenhead. No refunds are payable on surrender of licences.

### 3.16 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.

### 3.17 PENALTY POINTS

The Private Hire Vehicle licence is subject to the penalty points system in force in relation to the licence and the licence holder is required to read and comply with the provisions of the system at all times.

### 3.18 PENALTIES

- a) The Licensing Officers may suspend, revoke, or refuse to renew the Licence if any of the above conditions are not complied to.
- b) The Licensing Officers may suspend, revoke, or refuse to renew the Licence for 'Any Other Reasonable Cause' as defined in the Local Government (Miscellaneous Provisions) Act 1976.

### 3.19 APPEALS

- a) Where a licence has been revoked or suspended, or where a new application has been refused, the rights of appeal in paragraph 1.1, above, will apply.
- b) An appeal can be made to a magistrates court within 21 days.

### 3.20 REVOCATION

- a) Licensing Officers are authorised to automatically revoke the licence of a driver who has been disqualified from driving. A minimum period of 12 months must elapse from the end of the disqualification before an application can be accepted.
- a) If a licence has been revoked, a new application will not be accepted until 1 year has elapsed from the date of revocation or any time which the Licensing Officers decide.

## 4 Penalty Points System

The introduction of the Penalty Points System is to provide an effective enforcement process for Licensing Officers in respect of Hackney Carriage and Private Hire Driver and Vehicle Licence holders, as well as Private Hire Operators who are found to be in breach of local or national conditions and policies relating to the licensing functions.

The emphasis of the Penalty Point System is to increase and ensure the safety and wellbeing of members of the public as well as compliance with legal requirements.

The system is only intended to ensure compliance by those licence holders who it is proved have breached or are in breach of the rules and regulations that they should be complying with.

The system operates in line with penalty points endorsed on a driving licence and that is where 12 unspent penalty points are accumulated this will result in referral to the Licensing Panel. Penalty points being spent three years from the date of being administered.

Licensing Officers reserve the right to refer cases straight to a Licensing Panel rather than imposing points, where they consider the seriousness of the case merits doing so.

Where a referral is made to the Licensing Panel, it will be that Panel's decision on what further action, if any, should be taken – such action could include the suspension or revocation of the licence.

Where penalty points are administered by a Licensing Officer and the licence holder wishes to dispute the matter, the licence holder may request for the matter to be referred to a Senior Officer of the Royal Borough of Windsor & Maidenhead, being either a Director or Head of Service.

Such an appeal must be submitted to the Council in writing, stating the grounds for the appeal, within 21 days of administration of the penalty points. Any licence holder also has the right of appeal against a Licensing Panel, Appeals Panel or Senior RBWM Officer decision to the Magistrates Court within 21 days of notification of the decision.

Where the issuing of penalty points means that person receiving the points has accrued 12 unspent points in total and would therefore be automatically referred to the Licensing Panel, any appeal in this case should be heard by an Appeals Panel made up of three Members of the Licensing Panel.

Details of misconduct by a RBWM licenced hackney carriage or private hire driver, or private hire operator where applicable	Points
Failing to wear or clearly display a private hire driver or hackney carriage driver badge whilst working	3 Points
Not having a fire extinguisher in a RBWM licenced hackney carriage or private hire vehicle	3 Points
Not having a first aid kit in a RBWM licenced hackney carriage or private hire vehicle	3 Points
For a vehicle issued with a Dispensation, failing to have the plate or the Dispensation Certificate in the vehicle whilst working	3 Points
Failure to notify the RBWM Licensing team within 48 hours, in writing, of details of any convictions or offences, including DVLA penalty points	6 Points
Failure to notify the RBWM Licensing team within 7 days, in writing, of a change of address	3 Points
Using a vehicle as a hackney carriage or private hire vehicle without the appropriate vehicle licence	6 Points
Allowing an individual without a RBWM hackney carriage or private hire driver licence to drive a RBWM licenced hackney carriage or private hire vehicle	6 Points
Failing to renew a Hackney Carriage or Private Hire driver licence or vehicle licence within the correct time (unless extenuating circumstances apply)	3 Points
A RBWM licenced private hire driver unlawfully plying for hire in a RBWM licenced private hire vehicle	Referral to Licensing Panel to consider revocation of licence
Failure to correctly display a hackney carriage or private hire vehicle plate on the rear of the vehicle	3 Points
Failure to notify the RBWM Licensing team within 72 hours, in writing, of being involved in an accident	6 Points
A RBWM licenced private hire operator failing to notify the RBWM Licensing team within 7 days, in writing, of any complaints received about any of their drivers or vehicles	3 Points

A RBWM licenced private hire operator failing to keep and maintain records in accordance with their licence conditions	3 Points
A RBWM licenced hackney carriage or private hire driver failing to attend Maidenhead Town Hall when directed by a Licensing Enforcement Officer	3, 6, 9 or 12 points (based on evidence available and seriousness of infringement)
Allowing more passengers to be carried in the vehicle than authorised by the private hire or hackney carriage vehicle licence	6 Points
Causing or permitting a private hire vehicle or hackney carriage to wait on double yellow lines, other than to allow passengers to board or alight	3 Points
Causing or permitting a Private Hire Vehicle or Hackney Carriage to wait on a single yellow line, in contravention of the notices displayed, other than to allow passengers to board or alight	3 Points
Causing or permitting a private hire or hackney carriage vehicle to wait on a single yellow line in contravention of the notices displayed, other than to allow passengers to board or alight	3 Points
Causing or permitting a private hire or hackney carriage vehicle to wait in a marked disabled bay	6 Points
Causing or permitting a private hire or hackney carriage vehicle to wait in a bus stop	6 Points
Causing or permitting a private hire or hackney carriage vehicle to wait in any other restricted space	3 Points
Causing or permitting a Private Hire or Hackney Carriage Vehicle to block the driveway or entrance of any residence, business, school or any other public building or space	3 Points
Driving erratically and / or without due care and attention to pedestrians or other road users whilst operating in a RBWM licenced hackney carriage or private hire vehicle	6 Points
Private hire driver, without reasonable cause, charging more for a fare than was quoted at or before the outset of the journey.	12 points (Note: 12 points would trigger an immediate referral to the Licensing Panel)
Hackney carriage driver, without a reasonable excuse, refusing to take a fare for a journey wholly within Royal Borough of Windsor and Maidenhead.	12 points (Note: 12 points would trigger an immediate referral to the Licensing Panel)

Hackney carriage driver not using the taximeter for a journey wholly within the Royal Borough of Windsor & Maidenhead	12 points  (Note: 12 points would trigger an immediate referral to the Licensing Panel)
Hackney carriage driver using the incorrect tariff so as to inflate the cost of the journey.	12 points  (Note: 12 points would trigger an immediate referral to the Licensing Panel)
Uncivil, disorderly or in any way inappropriate conduct or behaviour whilst operating as a RBWM licenced hackney carriage or private hire driver, including whilst waiting at a hackney carriage rank or any other place	3, 6, 9 or 12 points (based on evidence available and seriousness of infringement)
Unsatisfactory condition of the interior or exterior of a RBWM licenced hackney carriage or private hire vehicle	6 points
Smoking or evidence of smoking in a RBWM licenced hackney carriage or private hire vehicle	3 points
Failure to display 'no smoking' signage in accordance with the Health Act 2006 in a RBWM licenced hackney carriage or private hire vehicle	3 points
A RBWM licenced hackney carriage or private hire driver failing to carry an assistance dog without a relevant medical exemption certificate	12  (Note: 12 points would trigger an immediate referral to the Licensing Panel)
A RBWM licenced private hire vehicle with Dispensation failing to display the identity plate whilst completing a non-contract job	6 points
Abusive or disrespectful behaviour towards a council officer, member of the public or other licenced driver	3, 6, 9 or 12 points (based on evidence available and seriousness of infringement)
Failing to provide reasonable assistance to a passenger	3, 6, 9 or 12 points (based on evidence available and seriousness of infringement)
Failure to attend punctually, a pre-arranged appointment without reasonable cause, including appointments relating to the grant or renewal of a RBWM hackney carriage or private hire driver or vehicle licence	3 points
A RBWM hackney carriage roof sign not connected or functioning correctly	3 points
Failure to comply with road traffic and vehicle excise legislation (for example illegal driving, illegal parking, vehicle defects, vehicle tax)	3, 6, 9 or 12 points (based on evidence available and seriousness of infringement)
Obstructing or failing to provide information and assistance to an authorised RBWM officer	3, 6, 9 or 12 points (based on evidence available and seriousness of infringement)

A RBWM licenced hackney carriage driver not displaying in a RBWM licenced hackney carriage the required "minimum fare" signage, as approved by the Head of Service for the Licensing team.	6 points
Hackney carriage or private hire driver failing to register and pay for their DBS on-line via an agreed third-party company.	6 points
Hackney carriage or private hire driver failing to register and pay for the Disclosure and Barring Service (DBS) Update Service and renew this annually.	6 points
Hackney carriage or private hire driver failing to authorise access by RBWM licensing officers to perform a status check of their DBS at any time during the duration of their licence using the "DBS Update Service Status Checks" facility provided by a third-party company.	6 points

## **5 THE ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD HACKNEY CARRIAGE & PRIVATE HIRE DRIVER LICENCES STATEMENT OF POLICY ABOUT RELEVANT CONVICTIONS**

When submitting an application for a licence to drive a private hire vehicle, to drive a Hackney Carriage vehicle or to operate a private hire firm, applicants are required to declare all convictions or cautions they may have, and if they are currently being investigated or have been charged or summoned for any offence. The information given will be treated in confidence and will only be taken into account for the specific application.

Applicants should be aware that the Licensing Authority will check the Disclosure & Barring Service for the existence and contents of any criminal record held in the applicant's name. Information received from the Disclosure & Barring Service will be kept in strict confidence whilst the licensing process takes its course and will be retained for no longer than is necessary.

A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but they must meet the requirements of the assessment of previous convictions set out below before an application is entertained. Passenger safety will always be the priority when considering previous convictions of an applicant.

The disclosure of a criminal record for any lesser offences or any other concerning information will not debar an applicant from gaining a licence unless officers consider that the conviction or information renders the applicant not a fit and proper person to hold a licence. In making their decision, officers will consider the nature of the offence(s), when the offence(s) took place, the age of the applicant when the offence(s) were committed and any other factors which may be relevant. Where a licence is refused, the right of appeal in paragraph 1.1, above, will apply.

Should the need arise any applicant who is refused a licence has a right of appeal (within 21 days of the decision) to a Magistrates' Court.

All new applicants who have not resided in the UK for a full five (5) years immediately before submitting the application must also satisfy the Licensing Team/Committee that they are a 'fit and proper person'. This will require:

- a) Obtaining a Certificate of good Conduct via the respective embassy from the country(s) where the applicant has resided for the previous 5 years,
- b) Obtaining a written English translation certificate at the applicant's own expense for the above certificate, where applicable,
- c) Production of National Insurance details and/or documentary evidence that allows an applicant to work in the UK in line with Immigration requirements.

Each case will be decided on its own merits.

The assessment of previous convictions is as follows:

### **5.1 Crimes resulting in death**

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

### **5.2 Exploitation**

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the

victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

### 5.3 Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

### 5.4 Possession of a weapon

Where an applicant has a conviction for possession of a weapon, or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

### 5.5 Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

### 5.6 Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

### 5.7 Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed. Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

### 5.8 Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

### 5.9 Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviors of a safe road user and one that is suitable to drive professionally. Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

### 5.10 Drink driving / driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

### 5.11 Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand- held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

### 5.12 Convictions under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976

Convictions under these Acts are taken very seriously, as the legislation is in place to protect members of the public. In particular, an application will not normally be entertained where the applicant has been convicted of an offence under the Acts at any time during the twelve calendar months prior to the application or has more than one conviction during the last two years prior to the application.

An existing licence holder with any conviction under this legislation will have their licence reviewed immediately.

Nothing in this guidance / policy will remove an applicant's right to appeal to a Magistrates Court against the Council's refusal to grant or renew a licence, or decision to suspend or revoke a licence, or against any conditions which may have been imposed on any such licence by the local authority. Such appeal is to be made in writing within 21 days of the refusal or decision.

## 6 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 driver 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 convictions(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'.

RBWM Licensing will make referrals to the DBS:

- a) when a decision to refuse or revoke a licence is because the individual is thought to present a risk of harm to a child or vulnerable adult:
- b) an individual has harmed or poses a risk of harm to a child or vulnerable adult:
- c) an individual has satisfied the 'harm test'; or received a caution or conviction for a relevant offence and:
- d) the person they are referring is, has or might in future be working in regulated activity.

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.