



APPENDIX A

COVID-19 Response Temporary Statement of Licensing Policy

Hackney Carriages, Private Hire
Vehicles, Drivers and Private Hire
Operators

Date: 8 April 2020

1. Introduction

The current Covid-19 pandemic and necessary social restrictions has presented a fast changing legislative landscape. The Coronavirus Act 2020 and the Health Protection (Business Closure) Regulations 2020 are now in force primarily aimed at the country's health response detailing steps with regard to social distancing. The changes have had significant impact on the hackney carriage (taxi) and private hire trade.

The new legislation and government guidance has required emergency amendments to the Council's hackney carriage and private hire licensing policy that will allow the proper response when considering vehicle MOT's, Compliance tests, Insurance cover, SORN, driver/vehicle licence renewals and procedures for Disclosure and Barring Service (DBS) checks.

The Institute of Licensing has provided updates for Licensing Authorities in relation to 'fit and proper' requirements for licensed drivers. Emergency amendments to current taxi policy detail the response to new legislation in support of the challenges faced by the hackney carriage and private hire trade in East Devon whilst still maintaining public safety.

These amendments will be kept under review in the weeks ahead and further amendments will be considered if necessary. This does not replace the legislation governing hackney and private hire operations, nor does it set out what that legislation is. All licence holders and applicants must comply with the requirements of the Council's existing policy and the emergency amendments will cease when this Council ends the Covid-19 emergency policy.

Despite the existence of this amendment to existing policy, each application or enforcement measure shall be considered on its own merits. Where it is necessary for the Licensing Authority to depart substantially from its policy, clear and compelling reasons shall be given for so doing.

The emergency amendments reinforce existing responsibilities for drivers, proprietors, operators and licence holders to ensure that to the best of their ability, that licensed vehicles are safe and roadworthy and that licenced drivers maintain the 'fit and proper' status for holding a licence. We expect that hackney carriage and private hire operations will always be conducted lawfully.

2. Hackney Carriage and Private Hire Vehicle licences

Hackney carriage and private hire licences are granted for a set period and expire if not renewed. The Licensing Authority must satisfy itself that relevant legal standards are achieved prior to renewing. With a maximum period of one year for vehicle licences there is no statutory extension period for an existing licence. Unless a renewal application is submitted, existing licences will expire as there is no mechanism to extend the duration of any licences.

Issuing a new or renewal licence without checks being undertaken would not discharge the authority's statutory duties. The Licensing Authority cannot grant a private hire vehicle licence unless satisfied that the vehicle itself is "in a suitable mechanical condition and safe" (Section 48(1)(a) 1976 Act).

This authority has adopted its existing taxi policy and must satisfy itself as to the criteria being met before issuing a renewed hackney licence. If any of the following options listed at 2.3, 2.4 or 2.5 are taken by licence holders it will prevent existing work for education and NHS authorities being completed during those periods that the licence holder has requested.

2.1 MOT Testing

The Department for Transport (DofT) has released guidance in relation to vehicle MOT's, link: <https://www.gov.uk/guidance/coronavirus-covid-19-mots-for-cars-vans-and-motorcycles-due-from-30-march-2020>

From 30 March 2020, MOT due dates for cars, motorcycles and light vans will be extended by 6 months.

For any currently licensed vehicle where the MOT is due to expire, the existing MOT will remain in force until such time as a vehicle examination can take place and a new MOT certificate can be issued.

However if any registered MOT testing station is still able to conduct tests for taxi and private hire vehicles, then the advice from government is that these should continue to take place if the testing station is able to continue following the health advice regarding Covid-19.

Licensed vehicles must be in a roadworthy condition for the exemption to be valid. Therefore it is just as important now as it has always been, that drivers ensure that the vehicle they are using is FULLY compliant with the law and that any identifiable defects such as blown bulbs, defective tyres or similar are repaired. If it is not possible to have a hackney carriage or private hire vehicle repaired so that it is in a roadworthy condition, it must be withdrawn from service.

2.2 Vehicle Compliance Inspections

For any currently licensed vehicle where the vehicle Compliance Inspection is due to expire, the existing compliance report will remain in force to a maximum of 6 month until such time as a vehicle examination can take place and a new inspection certificate can be issued.

However if any registered testing station is still able to conduct taxi and private hire vehicle compliance tests, then the advice from government is that these should continue to take place if the testing station is able to continue following the health advice regarding Covid-19.

Vehicles must be in a roadworthy condition for the exemption to be valid. Therefore it is just as important now as it has always been, that drivers ensure that the vehicle they are using is FULLY compliant with the law and that any identifiable defects such as blown bulbs, defective tyres or similar are repaired. If it is not possible to have a hackney carriage or Private Hire vehicle repaired so that it is in a roadworthy condition, it must be withdrawn from service.

2.3 Use of SORN

SORN stands for 'Statutory Off Road Notification' and it's used to tell the DVLA that a car isn't parked or being used on public roads so that road tax is not due. The current social restrictions arising from Covid-19 has greatly reduced the work of the hackney carriage and private hire trade and some licence holders have requested to take their licensed vehicles off the road under SORN arrangements.

The Licensing Authority will consider approving a request to use SORN during the Covid-19 period for a currently licensed vehicle where the licence holder requests use of SORN voluntarily under the following circumstances for up to a maximum period of 6 months:

- a) Confirmation is given in writing that the vehicle will not be returned or used on a road until SORN is lifted, by emailing to licensing@eastdevon.gov.uk
- b) The licence period of a currently licensed vehicle being subject of SORN will not be extended beyond the date the licence was originally due to expire,
- c) The Licensing Authority is unable to make any refunds in respect of licence fees,
- d) Licensing to be notified by email in advance of the licence holder ending SORN and before the licensed vehicle is used again on a road,
- e) SORN will not be approved beyond the date of expiry of the existing licence unless it is also subject to deferring the licence (see 2.5 below),
- f) Where SORN is approved, the vehicle should be maintained and only used on a road again if fully roadworthy and without defects, and when SORN has ended,
- g) If the licence holder sells or transfers the vehicle during SORN, notification must be given to licensing within 14 days of sale as per existing policy.

If it is not possible to have a hackney carriage or private hire vehicle repaired during SORN so that it is in a roadworthy condition, it must be withdrawn from service.

2.4 Cancellation of Insurance

Licence holders have requested to postpone use of licensed vehicles and to cancel insurance cover for use of public or private hire and reward. The Licensing Authority will consider approving cancellation of vehicle insurance during the Covid-19 period for a currently licensed vehicle provided that will not be kept or used on a road under the following circumstances:

- a) Cancelling insurance cover will require the licence holder to confirm cancellation of the Insurance cover
- b) To confirm use of SORN for the licensed vehicle by removing any use on a road (see 2.3 a to g),
- c) As a licensed vehicle can only be driven by the holder of a hackney or private hire driver licence issued by the same authority, no other person will be entitled to drive the licensed vehicle at any time whilst insurance cover is removed,
- d) Any other level of insurance cover (e.g. social, domestic or pleasure) should not be used or in being whilst still licensed as a hackney or private hire vehicle,
- e) The licensing holder to notify the licensing team by email in advance of vehicle insurance cover being reinstated, and
- f) A copy of the new Insurance cover being provided to the licensing team,
- g) The Licensing Authority is unable to make any refunds in respect of licence fees

The Licensing Authority will not consider approving cancellation of vehicle insurance in circumstances where a currently licensed vehicle will remain on a road or public place. The licence holder has the option to surrender the licence and return the plate.

Any subsequent use of a licensed vehicle on a road after approval has been given to cancel insurance cover will be regarded as a serious matter that may call in to question whether the licence holder remains fit and proper to hold a licence. The circumstances may also be referred to the police.

2.5 Deferring Vehicle Licence Renewal Dates

With a maximum period of one year for vehicle licences and with no option for an extension period, licence holders have requested to defer the start date for renewing vehicle licences.

The request to defer the date of renewal must be voluntarily requested in writing by the licence holder before the expiry of the current licence. The Licensing Authority will consider each request to postpone the start date for renewal of a currently licensed vehicle up to a maximum period of 3 months from the expiry date of the existing licence.

In circumstances where approval is granted to defer the date of renewal, the vehicle concerned must also be subject of SORN by removing use on a road (see 2.3 a to h) for the same reason that a currently licensed vehicle cannot be used for general purposes. It will be a matter for the licence holder to consider whether they cancel the insurance cover during the period of deferred renewal (see 2.4).

Once a vehicle is licensed as a hackney carriage or private hire vehicle it is only permissible for that use until such time the licence is surrendered or revoked. Therefore any continued use of a licensed vehicle on a road during the period that renewal is deferred will not be possible.

The Licensing Authority is unable to defer a licence until the existing licence that is already in being has expired and a renewal application has been submitted. If a renewal application is not submitted prior to expiry of the previous licence it will expire without being deferred.

Although it is not possible to make any refunds in respect of licence fees paid, a fee for a deferred renewal application will not be required until the new start date of the new licence.

3. Hackney Carriage and Private Hire Driver licences

A Local Authority cannot grant a licence to a driver or private hire operator unless they are satisfied that they are a fit and proper person (sections 51(1)(a)(i), 59(1)(a)(i), 55(1)(a) Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act”).

In addition, in respect of drivers and operators, they must demonstrate that they have the right to remain and work in the UK (sections 51(1)(a)(ii), 59(1)(a)(ii), 55(1)(b) 1976 Act).

The authority must also satisfy itself as to the criteria being met before they can issue a renewed licence. In order to avoid consequences when a licence will expire and the driver, vehicle or operator will be unable to work, measures have been adapted with regard to DBS checks and medical assessments for currently licensed drivers. It is essential however to continue to balance the risk to the public and drivers.

The revised measures during Covid-19 will not apply to new applicants for a hackney carriage or private hire driver licence (see existing policy for procedures that are required to satisfy the fit and proper person requirement). Because of the face to face nature of various elements of the application process for new hackney carriage and private hire driver’s licence, as well as the pressure on medical services that these applications require, meeting with new applicants and the processing of new applications has been postpone until further notice during the Covid-19 outbreak. This will be reviewed on a regular basis.

3.1 Changes to DBS ID Checking Guidelines

Temporary changes to ID checking guidelines have been made by the government as a result of the Covid-19 outbreak, coming into effect from 24 March 2020. To ensure that the necessary DBS checks can still be carried out, the DBS ID checking guidance will be changed for a temporary period that will enable ID documents to be viewed remotely and not in person

and with scanned images to be used in advance of each DBS check being submitted;
<https://www.gov.uk/government/news/covid-19-changes-to-dbs-id-checking-guidelines>

With regard to issuing renewals, the applicant is known through being an existing licence holder and has been previously seen in person by licensing officers.

3.2 Medicals Assessments

The scale of the NHS response to Covid-19 impacts on licence holders being unable to obtain GP appointments to undertake driver medicals. This Council has adopted the Group 2 medical standards for vocational drivers' licences as set out by the Driver and Vehicle Licensing Agency, with all applicants and those currently licensed as a hackney carriage or private hire driver requiring a medical assessment by their registered medical practitioner or a GP within their usual medical practice.

The DVLA has not amended the Group 2 medical standards and the frequency of medicals as a result of the outbreak of Covid-19 at this time. The Council will adapt its required medical standards accordingly by constantly reviewing its policy in line with national changes.

The current approach has been considered in conjunction with the current NHS 'Advice for Everyone' is to stay at home and to adhere to the government guidance.

https://www.nhs.uk/conditions/coronavirus-covid-19/?gclid=EAlalQobChMI3OqevYDK6AIV1ZTVCh0BGghYEAAYASAAEgKYv_D_BwE

The Department of Transport (DofT) expanded further on government guidance issued on 25 March and updated on 29 March 2020 regarding taxis when it stated,

*"Taxis and private hire vehicles can continue to work. But the advice is absolutely clear - **people should stay at home if possible**. That is the way to save lives and protect our NHS. The public should avoid travel unless absolutely essential. Clearly if absolutely necessary to travel by taxi or private hire vehicle, best efforts should be used to follow the guidance as far as is practically possible, including washing your hands as soon as you get home.*

Taxi and private hire drivers should not generally be considered Critical Workers. Those undertaking Home to School transport or the transport of ['extremely vulnerable'](#) people may be considered Critical Workers on a case-by-case basis. Critical Workers should also whenever possible make suitable arrangements for their children to stay at home; [requests for children to attend school](#) should be discussed with the school."

Until such time that the government revises the Group 2 medical standards, the existing policy of this Council remains in being for currently licensed drivers to obtain a valid medical report from their GP.

The Council understands the impact of Covid-19 may impact on the ability of existing licence holders to obtain GP appointments to undertake driver medicals during this outbreak and will be assessed on a case by case basis.