

Appendix Q

Private Hire Operator Licence Conditions

CONDITIONS ATTACHED TO PRIVATE HIRE OPERATORS LICENCES PURSUANT TO SECTION 55 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - PART II

1. OPERATOR LICENCE

- a) The operator is responsible for all persons that they employ, contract or use in the course of their business. To that end, the operator must undertake sufficient checks to satisfy themselves that only suitable drivers and ancillary staff are used (and continue to be used) in the course of their business. The failure of an operator to ensure that appropriate checks are carried out may call into question the operator's fitness and propriety. In addition, a failure to take appropriate action in relation to drivers that persistently breach licence conditions may also be detrimental to the continued fitness and propriety of the operator.
- b) The operator licence is not transferable and the person to whom it is issued must display it in a prominent position at each business premises recorded on the licence at all times during the currency of the licence, so as to be on view to members of the public, except on such occasions as the licence is presented to the Licensing Authority for amendment or if it is required to be produced for inspection by an Authorised Officer of the Council or a Police Officer.
- c) A separate licence will be issued in respect of each approved secondary booking office, if any.
- d) Application must be made in writing in relation to any intended change of business premises and approval obtained before being so used.
- e) The Operator must notify the Council in writing of any change in partnership, directorship, ownership, management or control of the business within 5 working days.
- f) The Operator must notify the Council in writing within 7 days of any other material change affecting the licence during its validity.
- g) The operator must not at any time operate more private hire vehicles than are specified on his/her licence without the prior consent of the council and by applying to increase the number of vehicles allowed to be operated on his/her licence.
- h) A licensed operator must inform the council if they are going to be absent from the day to day running of the business for a period of 2 consecutive months. In doing this, the operator must give the name of the person that will be responsible for the running of the business on their behalf.

- i) Operators must conduct their business in accordance with all relevant statutory provisions. This includes health, safety and welfare legislation, environmental legislation and equalities legislation.

2. BUSINESS PREMISES

- a) The Operator must only conduct business from the Office at the address specified on the Licence. Any operator wishing to conduct business from any additional address(es) (e.g. secondary booking offices) must make application in writing to the Council's Licensing Office, and await approval from the Licensing Office before making use of any additional premises, in addition to any other consents required. The Council reserves the right for an Authorised Officer to inspect all such premises for suitability and compliance with the requirements of these Conditions.
- b) The Operator must not cause or permit the business premises to be used by any other person(s) for any other purpose than that connected with the conduct or operation of the private hire business. This condition will not apply if the business premises is the residential address of the licensed operator.
- c) The Operator must not conduct his business, nor employ or utilise any person to conduct his business in any premises, the use of which have not been approved by the Council.
- d) The Operator must provide at the business premises an area to which the public have access for the purpose of making a booking for the services of a licensed private hire vehicle, and for the purpose of awaiting the arrival of such vehicle subsequent to any booking. This condition will not apply if the business premises is the residential address of the licensed operator.
- e) If the licensed operator employs any other person to work at the business premises, the premises must be kept clean, adequately lit, heated and ventilated and must conform to all other legal requirements including the legal requirement that no smoking be allowed on the premises under the requirements of the Health Act 2006; the requirements of the Regulatory Reform (Fire Safety) Order 2005 which requires that a fire safety risk assessment is in place at the premises and Health and Safety at Work Regulations.

3 RECORD OF BOOKINGS

- a) The operator must keep an accurate record of every booking of a private hire vehicle or hackney carriage accepted by him/her. The loss of records by theft or otherwise must be reported to the Council in writing within 24 hours, and also immediately to the police in the event of theft being suspected. Separate records must be kept at each premises from which the Operator conducts business. The records must be kept at all times at the business premises and not removed.

All such records must be in English, permanent, legible and preserved for a period of not less than 12 months following the date of the last entry.

Records must be kept in one of the following forms:-

- i. a bound book with consecutively numbered pages (loose leaf registers are not acceptable) or
 - ii. on continuous stationery which has been generated in the form of an instantaneous print out by a computerised system. The Operator must ensure that adequate supplies of continuous stationery and ink cartridges are maintained and that the printer is appropriately replenished to ensure that at all times full and legible booking details are printed, or
 - iii. a computerised recording system which automatically generates a permanent entry onto a recordable CD or DVD at the same time the booking is entered onto the system. Satisfactory certification from the program supplier/installers must be produced to the Council before using any such system for the recording of bookings required by law to be maintained. Such certification must confirm that the system stored or recorded is tamper-proof; and once inputted cannot be altered, amended, deleted or added to in any way. Any change to the recording system must only be by way of prior written agreement from the Council.
 - iv. The removable CD/DVD must be changed on the first day of every month and kept in a secure place at the premises for production on demand by the Police or an Authorised Officer.
- b) In respect of whichever system is used the Operator must, at the time the booking is taken, enter therein:-
- i. the date and time the booking was received, any subsequent cancellation, and the signature (or in the case of a computer system, the identity) of the person taking the booking;
 - ii. the name and address of the hirer;
 - iii. the time of the journey, together with the journey date if different from the booking date; the address or name of the premises from which it is to commence (ie the point of pick up of the passenger(s)) and the address or place of destination;
 - iv. the private hire/hackney carriage plate number of the vehicle to be used for the journey (personal code systems are not acceptable);
 - v. the badge number of the driver of the vehicle used;
 - vi. remarks (including details of any sub-contracting to another licensed operator).
- c) Where any bookings are sub contracted either by the operator to another licensed operator or are accepted by the operator from another operator a full record of the booking (in line with 3b above) and notes must be included; including the name of the sub contractor and contact information)
- d) No alterations to records may be made – any amendment must be made to the original record by way of an addition.
- e) Entries in the bound book, or on the digital copy generated by a computerised system, must cover a 24 hour period and must contain information in relation to only one private hire firm and no details in connection with the bookings of other

private hire firms. The Operator must ensure that any booking clerk involved is competent in the recording of bookings and operating the system used.

- f) The records of bookings must be maintained and kept up to date at all times and must be made available for inspection at all reasonable times without notice by any duly Authorised Officer of the Council or any Police Officer. Such Officers must be permitted to photograph and / or remove such records howsoever kept from the premises is so required.
- g) The Operator must ensure that any personal information obtained during the course of their business is stored securely, and only retained for as long as is absolutely necessary. Access to this information must be restricted to only those persons who will use it for the purpose for which it has been collected.

Personal information must not be used for any other purpose other than that for which it was collected without the express permission of the individual to which the information relates.

For example, telephone numbers provided by customers so that they can be alerted / updated by SMS text message with regard to a booking they have made must only be used for this purpose. The information must not be retained by the Operator after the text message has been sent, and / or used for any other purpose (such as unsolicited marketing calls).

- h) The Operator must keep records of the particulars of all private hire vehicles and drivers operated by him/her. Such records must include details of the owners, registration numbers and drivers of such vehicles, together with any radio communications equipment fitted.

The Operator must keep these records for a period of two years from the date on which the driver first commenced driving for the Operator.

4 GENERAL CONDITIONS

- a) The Operator must not operate a private hire vehicle / hackney carriage unless the vehicle and driver are licensed by Rotherham MBC. The Operator must personally examine vehicle licences and insurance certificates to satisfy himself / herself as to their validity.
- b) The Operator must not fail or refuse to accept a booking by or on behalf of a disabled person accompanied by an 'assistance dog' when the reason for failure or refusal is that the disabled person will be accompanied by the 'assistance dog'.
- c) The Operator must not accept any booking for a particular private hire vehicle / hackney carriage which would require that vehicle to carry more passengers that is licensed to carry.
- d) The Operator must not operate a private hire vehicle / hackney carriage without the driver thereof being licensed by Rotherham MBC. The Operator must personally

examine the drivers' licences issued by the Council and satisfy himself / herself as to their validity.

- e) The Operator must bring to the attention of all drivers their legal obligations regarding the use of seat belts by both adults and children under 14 years of age.
- f) The Operator must bring to the attention of all drivers their legal obligation regarding no smoking in vehicles under the Health Act 2006.
- g) The Operator must ensure that all drivers are aware of their obligations under any other legislation relevant to the work of a private hire vehicle.
- h) The Operator must ensure that all licensed drivers who carry out work on behalf of their company act in a civil and orderly manner both towards customers and any other member of the public.
- i) The operator must provide a prompt, efficient and reliable service to members of the public at all reasonable times and, for this purpose, must in particular:-
 - a. Ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle must, unless delayed or prevented by sufficient cause, punctually attend at the appointed time and place.
 - b. Behave in orderly and civil manner and must take all reasonable precautions to ensure the safety of all persons conveyed in licensed vehicles operating from his/her office premises.
- j) Only equipment licensed by the Department for Business Innovation and Skills (BIS)) must be used for the purpose of conducting the business authorised by this licence. The BIS licence must be produced on request to the Police or an Authorised Officer. CB apparatus must not be used in connection with any private hire booking at any operating address or in any private hire vehicle/hackney carriage available from such operating base.
- k) The use of scanner equipment is prohibited.
- l) Any advertising of the Operator's business, no matter in what form, must include the Operator's name and/or trade name as approved by the Council in accordance with the name entered on the Operator's Licence issued by the Council.
- m) The Operator must not trade under any name for private hire purposes unless such trade name has been approved by the Council and has accordingly been entered on the Private Hire Operator's Licence issued by the Council.
- n) The operator must supply a copy of advertising materials to the Council for recording on file.

- o) The operator must ensure that all advertising materials comply with Advertising Standards Authority requirements and do not contain offensive, misleading or potentially inflammatory wording which could be seen as defamatory.
- p) The Operator must ensure that Public Liability Insurance is in force throughout the validity of the licence for each and every operating base open to the public to a minimum cover of £2 million. Certification must be produced on demand to the Licensing Office or any Authorised Officer.
- q) The Operator must affix a properly printed notice in a prominent position inside the business premises, so as to be easily read by any person seeking to hire a private hire vehicle/hackney carriage, stating that any complaints regarding a hiring relating to his/her business should be addressed to:

Rotherham MBC Licensing, Riverside House, Main Street, Rotherham, S60 1AE.

Such notice must also state that the Council does not control the fares for private hire vehicles and that, in the absence of any fare scale published by the Operator, the fare should be agreed before the journey commences. Any fare scale in operation must be on prominent public display and be an accurate reflection of the charge, including any specific additions i.e. Bank Holidays and after midnight loading (including any waiting times) which the customer may be expected to pay.

- r) The operator must notify the Council **in writing within 5 working days (or 3 working days in the case of arrest)** providing full details of any conviction, binding over, caution, warning, reprimand or arrest for any matter (whether or not charged) imposed on him / her (or if the Operator is a Company or Partnership on any of the Directors, Secretary or Partners) during the period of the licence.
- s) The Operator must notify the Council in writing within 7 days of any change of home address whether permanent or temporary.
- t) Where any property is left by a customer in the business premises, or in any vehicle used for any hiring and placed in the Operator's safekeeping by the driver thereof. The Operator must endeavour to arrange to return such property to its rightful owner, failing which it must be dealt with in accordance with legal requirements and handed in as found property to the Police within 24 hours.
- u) The operator must not, by him/herself, his agents, or any other person importune, or cause or permit to be importuned any person by calling out or by any other means whatsoever to hire any of the licensed vehicles under his control.
- v) operator must not cause or permit the private hire vehicle licence plate or any notices that are required to be displayed on the inside or outside of a private hire vehicle to be:-
 - Concealed from public view
 - Defaced
 - Disfigured

The operator must also ensure that the licence plate and notices are always legible and displayed in accordance with the conditions of the private hire vehicle licence.

- w) All licence holders must subscribe to the Disclosure and Barring Service Online Update Service. Any costs associated with maintaining this subscription must be met by the licence holder.

The licence holder must give permission for the council to undertake checks of their DBS status should the council consider it necessary to do so. The council will use the update service to monitor the criminal record of licence holders.

- x) Licence holders are required to provide Basic DBS checks for all ancillary staff that take bookings and dispatch vehicles for the Operator. The operator is responsible for keeping a register of all staff that take bookings or dispatch vehicles and keep an accurate record of DBS checks for all individuals listed. These records are required to be provided to the Council by the relevant private hire Operator for all such individuals.
- y) The operator must notify the Council within five working days if any driver is subject to the operators internal disciplinary processes or any other action that results in the driver being permanently or temporarily removed from the operator's system of allocating work to the driver.
- z) Any passenger that makes a complaint to the operator regarding the conduct of a driver that they operate (or operated at the time of the conduct) must be informed that they should also make the Council, and if appropriate the police, aware of their complaint.
- aa) The Operator must notify the council without delay if the operator receives a complaint about a driver operated by them if the complaint relates to any of the following – allegations of sexual impropriety (including the use of sexualised language), violence (including verbal aggression), theft and any other serious misconduct (including motoring related matters).

ab) Operators must not use, or facilitate the use of, any software, technology or other device that is capable of impeding the lawful activities of enforcement agencies or the regulatory activity of the Council. Such software would include Greyball and similar technologies. In these Conditions:

“Operator” means the person who is the current holder of an Operator's Licence

“Business premises” means the operating premises from which the Operator conducts the business

NOTES

- i These conditions should be read in conjunction with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976.
- ii Any person who commits an offence against any of the provisions of the Act pursuant to Section 76 may be liable on summary conviction to a fine not exceeding Level 3 on the standard scale.
- iii The use of a licensed private hire vehicle to fulfil any private hire booking requires the driver to hold a currently valid private hire driver's licence even if no fare is charged for the journey or irrespective of when, how and to whom any fare is payable. Operators are reminded that the use of free fare cars/courtesy cars which are not licensed as private hire vehicles is not permitted for private hire journeys. Every contract for the hire of a licensed private hire vehicle is deemed to be made with the Operator who accepted the booking for the hire vehicle whether or not the Operator provided the vehicle.
- iv Any failure on the part of the operator to make appropriate enquiries as to the licensing status of drivers and/or vehicles for any purpose could be construed as reasonable cause to suspend or revoke the licence. The onus remains with the Operator to clarify any legal requirements which he or she may be required by law to observe.
- v Any applicant not currently licensed by the Council as an Operator or driver must submit to the Council a Basic Criminal Records Disclosure as to unspent convictions. Such Disclosure to be no more than 1 month old at the time of submission.
- vi Where an operator licence is revoked by the council, the name (or a similar name) of the private hire company associated with that licence cannot be used by another operator until such time as six months has elapsed since the date of revocation or the date on which all appeal processes have been concluded (whichever is the longer).
- v Any infringement of the licensing conditions could lead to suspension or revocation of the licence.
- vi Any request for advice from the council in relation to licensing legislation should be in writing to which a written response will be given so as to avoid any future dispute as to the advice given. This does not preclude you from obtaining your own independent legal advice.
- vii Any person aggrieved by any condition specified in the licence may appeal to a magistrates court within 21 days of issue.