

1. I have some remarks regarding the regulatory guidelines that you are finally issuing several years after promising to issue them soon after the other conditions books were issued.
2. **Page 5 re: Ability.** The driver must have a clear grasp of English in order to perform his/her duties. I have concerns that the current test fails to adequately test that ability.
Response: The current Private hire knowledge test tests 5 elements, the ability to read a map, ability to determine the quickest route, understanding the highway code, understanding the council's rulebooks and conditions within and the ability to correctly count out change.
3. **Page 10 (i) Hybrid Traffic Offences** is a confusing section, with the exception of the speeding matters, the offences do not carry more than 3 points; the only way that someone would get more than 3 points is for multiple offences on different occasions and therefore mechanisms are already in place for such offending.
Response: The reason for including these is to help members understand the difference in severity of these offences compared to major motoring offences to help decide how to approach them, agreed to clarify that Hybrid Offences are borderline of being considered major offences depending on how many points are obtained.

Licensing & Enforcement Committee and Sub-Committee

4. **Item 4.1** states that non-legal representatives may only give character references and not actually speak for the applicant/defendant; this is a significant departure from current practice and places undue strain upon the defendant. Many arrive at the hearing in a state of heightened anxiety and often get tongue-tied or find words fail them. This would also impinge on the legal principle of the "McKenzie Friend" and Articles 6 and 14 of the European Convention on Human Rights (Right to a fair trial and Prohibition of discrimination, respectively).
Response: It does not say that they cannot speak on behalf of the defendant but I can see that it may give this impression so I can split the paragraphs to describe character references and legal representation separately.
Unclear why the final sentence is repeated. *Response: This is a typing error.*
5. **Item 4.7 ii.** I would not expect the defendant to be paying any costs for representation where the complaint is false and/or malicious. This point also applies in relation to **4.8 v.**
Response: As Committee hearings are not court cases, there is no legal aid provision and no compensation provisions. A complaint is unlikely to be referred to committee unless there was some evidence to substantiate it.

Complaints Investigation Procedure

6. **Item 6.1** refers to a signed written statement being sought from the complainant. I would expect that to then mean that in the absence of such a statement, there will be no complaint.
Response: No, whilst a written complaint will be sought to gather as much detail as possible, 6.1 also says that minor complaints may be taken by phone or visit and all complaints of a serious nature will be investigated regardless of how the complaint is received.

7. **Item 6.4** mentions interviews with the parties involved in the complaint. I would expect that the respondent would have received a copy of the complaint in writing several days before being interviewed.

Response: The respondent will always be given details of the complaint and where this is in writing, a copy will normally be given.

Penalty Points

8. There is no mention of what appeal procedures exist for when the driver disputes the points awarded.

Response: Yes there is 7.1, drivers can appeal to the Service manager if they want to appeal the points issued.

9. **Page 22, item 9:** failure to carry adequate first aid kit; despite many previous requests over the years, to this date there has been no actual definition as to what constitutes an adequate first aid kit, so any points awarded for this “offence” are likely to be contested until a suitable definition is provided.

Response: I can provide a definition.

10. **Page 23, item 25:** there is no requirement to produce any vehicle for a 6-monthly MOT check; there is a requirement to have a 6-monthly inspection for any vehicle over 8 years old.

Response: Correct, this should reflect 6-monthly vehicle inspection not MOT and will be changed.

I also have some issues regarding the rulebook review:

Driver Licences

11. **1.1** Removing the word “immediately” will mean that the paragraph is no longer precise and can be argued to mean that someone who has held a full licence for up to 24 months but also had the licence revoked by DVLA under the new driver rules, successfully re-taken all the relevant driving tests can still apply as soon as he/she receives the new full licence. There are some conditions where imprecise wording may be necessary but this is not one of them.

Response: We need to remove it for this reason, the law states that the driver must have held a full driving licence for at least 12 months before making an application, but this does not mean that if he has had his licence revoked in the past another 12 months needs to elapse before they are allowed to apply for a HC/PH licence. Provided that at least one year has elapsed since he passed his driving test and was originally authorised to drive, then the statutory test is satisfied.

Zeya would like Members to require new applicants to have a clean drivers licence and that 12 months should elapse before a licence is entertained, to demonstrate that they are no longer a risk by driving for 12 months immediately prior.

12. **1.4 & 1.9 part e** “agents” are mentioned. Details of such agents are to be listed and described.

Response: Agents could change mid licence period, due to the Council seeking a better service or the company identity itself could change constitutions etc. so we do not intend to describe these as it could mean that our rule books are incorrect.

13. **1.6 c** I do not see why an EEA licence has to be exchanged for a UK licence. They are in a standard format clearly listing entitlements. DVLA still maintains a database of drivers who accrue endorsements on their driving record regardless of their age, fitness to drive or whether they have ever had a UK licence.
Response: As we require the drivers licence to reflect the GB address for criminal record checks, this usually leads to the applicant obtaining a UK driving licence, but recognise that the address can be changed on a EU/EEA licence so this will be amended to state non-EU/EEA drivers.
14. Private Hire Driver's Licence should not be mentioned in the section for Hackney Carriage Drivers. *Response: This error will be changed.*
15. **1.6 e** Student Visa holders are barred from being self-employed and must work no more than 20 hours per week as employees. Passing their details on to the Border Agency is all very well, but they should not be given a licence unless they can show they are to work as employees. A better solution would be to refuse to licence any holder of a student visa as it would be too difficult to ensure legal behaviour.
Response: We can consider this for Operators and Hackney Carriage drivers where they are self employed/running their own business.
16. **1.7** There should a process in place to take the money 2 working days prior to the expiry date. It is unreasonable to expect drivers to pay so far in advance of the expiry date; it is widely perceived as profiteering. I doubt the extra interest earned on such early income is reported as a separate figure on any of the accounts.
Response: We aim to issue the licence a week in advance to ensure it arrives in the post before the expiry date, and we cannot grant the licence until we have received the fee. The Council is not making any interest here by taking the payment in advance.

Vehicle Licences

17. **2.1** It is odd that this condition is being added when many other places allow dual licensed vehicles as long as the vehicle satisfies the requirements of both authorities. I do not agree with this condition being added, especially as no supporting information is provided.
Response: Many of our conditions affect identity; a taxi licensed in 2 districts may appear very different and may not be able to comply with both policies at the same time. The reason for this condition was to help enforcement. A vehicle licensed in two districts would need to ensure they change the licence plates each time they took a booking the other district and this does make it more difficult for enforcement officers to identify which journeys have been taken through Gloucester operators and which through another district's operator when we receive complaints. Nevertheless, there is always scope to apply to Members to reconsider this on individual applications where the applicant can show that they can comply with both district policies and metered fares. Agreed to not to amend this, as the rule books state that applicants can always apply to Members to depart from policy.
18. **2.2 c** For various reasons not all applicants can provide the documents listed to prove ownership. It would be more practical for a paragraph and tick box to be added on the application form asking driver to confirm that he/she is the owner and if not, then to provide the details. A signed application form would constitute a legal agreement that

the facts are correct and a warning about the consequences of a false statement can be added.

Response: This is a reasonable suggestion, the licence Team have considered this and are happy to change to this, we would still ask for documentation where the driver is not the proprietor, as these application must be made by the owner.

19. **2.2 f** Advisory notices for MOT tests are now included on the MOT certificate. The advisory points are just that, to inform the owner, they do not constitute a reason for the Licensing Department to refuse to licence a vehicle.

Response: We would not refuse a licence due to an advisory note, but we do want to ensure any serious defects e.g. worn brakes are attended to within a reasonable timescale. MOTs have recently changed to include advisory notes within the Certificate so agreed that drivers no longer need to supply this separately.

20. **2.3** Currently, reminders are supposed to be sent around 3 weeks prior to expiry; it is not always happening. How can the Licensing Department guarantee that it will happen with a longer timescale?

Response: We have already changed this from April 1st 2013, reminders are now sent 6 weeks in advance.

As with **1.7** above, money should not be taken more than 2 working days prior to renewal date. There were vague promises of being able to pay through the online payment system eventually, but years have passed and nothing has happened, which is par for the course with the department.

Response: Online payments have not been set up because we do require the driver to attend in person so that they can take their photograph, and their CRB can be properly verified. However, efforts are being made to allow applicants to pay online under the new Council's website.

21. **2.5** Like **1.6 c**, this again highlights the perils of Cut & Paste. A Hackney Carriage must be insured for Hackney Carriage purposes (public hire), **not** "Private Hire Purposes".

Response: Apologies for this error, it will be amended.

General Conditions

22. **3.2 & 3.3** these conditions are fine as long as procedures remain in place for the licensee to appeal any such decision and that the licensee may claim for trading losses for any decision later found to be incorrect and/or unjust.

23. **3.6** There is a power to immediately suspend or revoke a licence on the grounds of public safety under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976. This ability should be included in the paragraph.

Response: Agreed, and happy to include a suitable paragraph.

24. **3.9** The Town Police Clauses Act is from 1847 not 1987 Response: error will be amended.

25. **3.21** The correct phrase would be "All new additional Hackney Carriage Vehicles". I dispute the need for so many wheelchair vehicles as no actual data have been provided with a breakdown of disabled taxi users and how many of those users were in a wheelchair. Such a condition also discriminates against people with other kinds of

disabilities and have problems getting in and out of wheelchair vehicles or people carriers.

Response: This will be referred to members for consideration.

26. **3.23** Add the following: “The vehicle may be changed to a larger/different class of vehicle and revert back to a saloon type at owner’s discretion.”

Response: Agreed, as this is current practice

27. **3.34b** There is no justification for a fixed upper age limit of 10 years when you have blurred the lower age limit even though there was justification to retain that. You did not even mention the reasoning for a fixed lower age limit when the first applications were made for over-age vehicles.

Response: The justification for a lower age limit was for the driver to demonstrate that they were prepared to invest in working in the trade, and not purchase an old vehicle to carry out a work for a short period. The upper age limit gives a guideline to officers that no automatic grant of the vehicle licence will take place unless they are referred to Committee for consideration. The trade would like greater Officer discretion in assessing whether a vehicle over 10 years old is suitable based on vehicle inspection tests and general condition, with scope to appeal to committee where the Licensing officer refuses to renew the licence after it reaches 10 years old. This will be referred to members for consideration.

28. **3.34c** This refers to **3.23(a)**; no such subsection exists. *Response: Typing Error, this should say 3.34(a)*

29. **3.34d** This needs clarifying. Current practice is to have a 6 monthly inspection for any vehicle over 8 years old, which means that there is one inspection around the time of licence renewal and one inspection at the midpoint of the licence period. This is more practicable than potentially having to do three inspections: one at the anniversary of first registration, one at time of licensing and one at six months from the anniversary of registration.

Response: In practice this is what this means, six monthly intervals since its last vehicle check. E.g. one at renewal of licence, one mid way and third on renewal of licence.

30. **3.36 b & d** Substituting the word “shall” with “must” is another way to confuse the issue; “must” means it is mandatory, “shall” merely makes it advisory. It would be more effective to add a statement into **3.36 e** stating that **b & d** apply unless the Licensing Officer approves a combined measurement.

Response: Shall allows Officer discretion which is why this has been changed.

31. **3.38** This would be a good time to define the expected contents of the first aid kit if you wish to impose points for “inadequate first aid kit.”

Response: Agreed, a definition will be provided.

32. **3.55** What is the need to change the text 2ft² into 2sq.ft? They both mean the same thing but the suggested new term is the idiot version.

Response: Agreed, the original minutes were incorrect by calling it 2 foot square, which has a different surface area. The 2sq.ft is understandable by most people e.g. used for carpets/rugs but we could include (e.g. 2ft x 1ft).

Horse-Drawn Hackney Carriages

33. It is fascinating that you see fit to spend time and money on devising conditions for horse-drawn carriages when you have yet to finish making a mess of the existing licensed trades. There is no mention of rules for pedi-cab type vehicles even though you have previously received enquiries about them and by your own admission, have not yet had any enquiries about horse drawn vehicles.

Response: No time has been spent on this, it was already approved in 1998.

34. You mention landau, so that means that you expect all horse drawn taxis to be convertibles with four wheels and 2-4 horses. *Response: Yes*

35. There are taximeters available for horse-drawn vehicles as that where they originated, so there would be no need for "An authorised Officer of the Council must agree with the applicant a method of fixing a suitable tariff without the use of an electronic taxi meter."

Response: Although electronic taximeters can be available for horse drawn carriage, where a non-electronic meter is fitted it is expected to have approval from an authorised Officer; this will be amended to state 'where an electronic meter is not used'

36. My feedback is the same for the corresponding parts of the private hire rule book, substituting private hire wherever hackney carriage is mentioned.

Private Hire Operators Rules

37. 1.2d This section needs to be clarified, it currently mentions private hire drivers while it is meant to be about operators. Operators are self-employed, which student visa holders are not permitted to be.

Response: Agreed

38. In-house booking systems should also be abolished as the council have consistently failed to adequately monitor their operation. *Response: This will be referred to members for consideration.* The Licensing & Enforcement Committee granted permission in 2006 for in-house booking systems after being assured that the system would be properly monitored and enforced; the enforcement has not happened so the council is party to the illegal behaviour of the abusers. All of the current operators of the in-house systems have been known to act illegally but the licensing department falls back on the stock answer of "we need evidence". This is more than enough justification for scrapping the system.

39. I do not see the need for a conditions review and resent the time and expense committed to such an effort when the Law Commission will shortly release its own definitive report and we will potentially be looking at new laws relating to the licensed driving trade, which will require another review and /or complete re-write of the rules. If the licensing department is so intent on justifying its existence, it should concentrate on fulfilling its statutory duties in a transparent and competent manner. An example of this is that two years ago, the department arbitrarily decided to include the names of licensed drivers on their badges; previously driver badges had a unique badge number and expiry date. This step was taken with no consultation and imposed as "policy";

another name for conditions by the back door. The GHCA objected and no notice was taken. The reason given was that drivers need to be readily identifiable by the police and members of the public. There was already a mechanism in place for that: people with an interest would approach the licensing department with the badge number and just cause for the enquiry and the department can then give the legal information. The department's excuse that council staff have names on their badges is not a suitable analogy. Taxi and private hire drivers do have the benefit of the kind of backup and security that council staff have in their somewhat sheltered existence. We are frequently on our own dealing with a wide variety of people and giving them such easy access to our names makes it very easy for us to be targeted. Magistrates are also provided with ID badges and they do not have names on them either. I therefore request that the committee also resolve this issue by ordering the names of drivers to be withheld from their badges, the drivers numbers are still on there so drivers can still be identified. If the department has a problem with that then I must conclude that they are unable to keep proper records and are therefore unfit for purpose. *Response: This will be referred to members for consideration.*

40. This feedback response has been rather long but I cannot apologise for that as there is now a limit of 3 minutes per person for petitions and deputations in Licensing & Enforcement Committee meetings so it would be impossible to cover all the points. I also needed to ensure that I covered every possible issue as I would not be able to correct any misapprehension that may arise during the rest of the meeting as the rules do not allow for the more open style of meetings that were once the norm; I am sure I must have missed something but after all, I am only human.

I do apologise for any errors in grammar and syntax, English is not my first language, so I hope you can forgive me.

I thank you for considering my words.
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