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| HERTSMERE PRIVATE HIRE OPERATOR:  *INSERT NAME OF OPERATOR* |
| LICENCE NUMBER: *INSERT LICENCE NUMBER* |
| POLICY ON THE EMPLOYMENT OF BOOKING AND DESPATCH STAFF |

**Purpose of this Policy**

The Transport Secretary issued statutory guidance to all licensing authorities in July 2020 under the Policing and Crime Act 2017. This guidance, known as the Statutory Taxi and Private Hire Vehicle Standards recommended that all Private Hire Operators are conditioned to have a criminal record policy in place and applicable to

their ‘booking and despatch’ staff. This is to protect members of the public from the possibility that the staff of an operator could gain and use their knowledge of an operator’s customers or drivers to facilitate crime.

Customers of a private hire operator expect to feel safe when using that operators service. Employing individuals with some unspent convictions will cause concern to our customers who will expect that the operator to promote a safe and responsible service. Private hire operators must ensure that customers feel safe and that knowledge of their data and whereabouts will not be used to harm them in any way.

Hertsmere Borough Council has conditioned us to maintain a register of all staff employed or engaged in a ‘relevant role’, and to have their criminal record checked and assessed in line with this policy.

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| **Staff Register** |
| A register of all staff employed or engaged in a relevant role, whether paid or unpaid shall be kept and no person shall undertake a relevant role before being entered into the register. |
| An example of the register is at annex 2 to this Policy. |
| The staff register is kept securely at: (state location) |
| It can be viewed upon request by an authorised officer of Hertsmere Borough Council or Hertfordshire Constabulary. |

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| **Relevant Role** |
| Hertsmere Borough Council’s operator licensing conditions define a **“Relevant Role**” to be any activity undertaken by an individual that involves them receiving bookings for private hire vehicles, despatching private hire vehicles or otherwise having access to the personal data of customers or drivers. |
| A person will be defined as falling into a relevant role, and within the confines of this Policy, if they are allowed by the operator to undertake any part of a function that involves receiving bookings for, or despatching, private hire vehicles, or having access to the personal data of customers or drivers of the Operator, in any way, shape or form. |
| The following Job roles, persons or functions carried out on behalf of the Operator are considered to be a relevant role:  (Enter the details of the roles, people or functions you permit to engage in a relevant role on your behalf to run your business). |

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| **Employment status and relation with employment law** |
| When determining if a person is fulfilling a relevant role, it does not matter whether an individual is employed or considered to be employed by the Operator or whether the individual is paid or unpaid. The overriding factor as to whether an individual is in a relevant role shall be based on the acts, activities, functions and responsibilities that the individual is asked, encouraged or permitted to undertake by the Operator. |
| The application of this policy is a requirement of a licensing condition and should not, in itself, be considered as evidence of an employee/employer relationship between the Operator and an individual. The existence of such a relationship is governed by separate law. Where the relevant role individual is an employee compliance with this policy shall be a term of the employment contract. |
| A relevant role may be carried out by a person who is employed by the Operator, as well as by, for example, the operator themselves (if an individual or partner), by a director of the operator, family member, friend or person undertaking work experience. |
| A relevant role falls within the Rehabilitation of Offenders Act 1976. Any person wishing to undertake a relevant role shall not be asked to provide information in relation to any offence that is spent and nor will any decision be made on the suitability of an individual based on a spent offence. |

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| **The Operators duties:** |
| As a licensed operator, Hertsmere Council must be satisfied that an operator is fit and proper to be allowed to operate private hire vehicles. The council will not only consider the compliance of an operator with its licence conditions but, in respect to this policy, the suitability of it to achieve the intended aims of protecting the public. |
| As a licensed Private Hire Operator I/We undertake to comply with the requirements of Hertsmere Borough Council by: |
| * Having this Policy in place; * Complying with this Policy and making it available to staff. * Requiring all individuals that will undertake or engage in a relevant role to provide a Basic Criminal Record Check before being allowed to do so. * Assessing the criminal record of all individuals in line with this Policy before allowing any person to undertake or engage in a relevant role. * Keeping a list of all individuals that undertake or engage in a relevant role with confirmation that their criminal record has been checked and considered suitable. * Once an individual has been assessed, to not keep the original or any copy, of the criminal record provided to them. The top of the DBS displaying the individuals name, address, Date of Birth and certificate number should be kept. |

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| **When a criminal record check will take place** |
| All persons engaged in a relevant role will be required to provide a Basic criminal record disclosure upon starting to work in the relevant role. This can be obtained by the individual from: <https://www.gov.uk/guidance/basic-dbs-checks-guidance> |
| A further basic criminal record check will be required every 3 years. |
| Any individual in a relevant role must inform the operator if they are convicted of any offence and will be required to undertake a further basic DBS at that time. |

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| **Evidence of check to be retained.** |
| The operator shall take a photocopy of the top portion of the criminal record disclosure displaying the name, address and certificate number as proof that the record has been checked. This information will be provided to the Council or Police on inspection. |

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| **Steps to be taken if conviction is revealed** |
| If the proposed individual has a conviction revealed on their DBS the Operators will assess their suitability for working in a relevant role by applying the considerations set out in Annex 1 of this Policy.  Should the Operator be satisfied that an individual is suitable to work in a relevant role despite a conviction falling within the policy outlined at annex 1 to this policy. the operator shall record their reasons clearly and keep it with the staff register. |

**Annex 1 - Policy on convictions**

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| HERTSMERE PRIVATE HIRE OPERATOR:  *INSERT NAME OF OPERATOR* |

Convictions will be split into the following broad categories;

* Road traffic offences
* Violence offences;
* Sexual or indecency offences;
* Dishonesty offences’
* Offences involving harassment or discrimination;
* Licensing offences;
* Property offences;

**Road Traffic Offences**

As a private hire operator our customers expect us to promote safe and responsible driving and some offences are incompatible with this and employing such individuals would harm the reputation of the Operator.

Minor traffic offences on their own shall not ordinarily be a barrier to a person working in a relevant role for the Operator.

Offences such as reckless or careless driving or driving whilst under the influence of drink or drugs will not normally be considered suitable. However, where the offence is an isolated incident, the individual has no other convictions and the offence did not result in any injury, the operator may exercise discretion if satisfied that the offence did not call into question the honesty or motivation of the individual.

Offences that involve the death or injury of another person or that result in death or injury will not be considered suitable and considered in line with the principles stated un respect to violent offences below.

Traffic offences that involve dishonesty, or elements of dishonesty, such as the theft of a vehicle, driving without insurance, failure to submit a specimen when requested, failure to give the identity of a driver or failure to stop after an accident will be considered seriously using the principles outlined in respect to dishonesty offences below.

**Offences involving Violence**

Offences that involve violence or result in any physical harm, injury or death to a person indicate that a person is not suitable. The employment of such a person would cause concern to members of the public using the operators service, particularly if that conviction is motivated by or involves any form of, discrimination (sexual, race, sexual orientation etc.) or as a result of trying to gain advantage over another.

GBH, murder, attempted murder and other offences that involve violence will cause concern to the public and the reputation of the operator and any person convicted of such offences will not be suitable to work in a relevant role.

Assault, battery and similar offences are not considered acceptable but an individual who has committed an isolated offence may be shown some discretion.

**Offences of a sexual nature**

The use of individuals with a conviction for a sexual offence would cause concern to members of the public and harm the reputation of the Operator. The past commission of such an offence creates a risk that customers, particularly those who are vulnerable, may be targeted by an individual or that information gained during working in a relevant role may provide an opportunity for an offence to be committed.

Any sexual assault or other offence motivated by sexual gratification presents a risk that is too great to be taken by the Operator.

**Dishonesty Offences**

Any conviction for an offence of dishonesty, such as theft, burglary, fraud etc. will cause concern. A conviction for such an offence will raise concerns that an individual is not trustworthy and may use any information gained in a role for their own benefit. It is unlikely that anyone convicted of such an offence will be allowed to work in a relevant role until the offence is spent.

**Offences involving harassment or discrimination;**

Operators are required to provide a public transport service that does not discriminate in anyway shape or form against a person with a protected characteristic under the Equality Act 2010.

Individuals that have convictions for previously showing a bias against person with a particular protected characteristic must be able to satisfy the operator that they no longer hold this prejudice and will not treat any customer differently. The operator should expect a reasonable time to have passed since the commission of such an offence in order to be confident the individual poses no risk.

An individual guilty of offences involving harassment will not normally be considered suitable, but the operator will take into account the specifics of the offence. Harassment motivated by a protected characteristic or involving violence, abuse or acts over a sustained period of time will not be acceptable.

**Licensing Offences**

Individuals who have committed a licensing offence, or have had a licence revoked or suspended will not automatically be prevented from working in a relevant role. If the individual has had a licence suspended or revoked due to a conviction the consideration of this Policy will apply in respect to that conviction.

However, an Operator is expected to lead by example and individuals who have fallen foul of the licensing regime due to conduct which has resulted in a customer being mistreated, injured or taken advantage of will not ordinarily be allowed.

**Property offences**

Individuals convicted of offences such as graffiti, or damage to property may be suitable to work in a relevant role depending on the nature of the offence. An individual will not be suitable if the conviction resulted from an act motivated by discrimination or a desire to cause financial or physical harm to another.

**Application of the Policy**

The above considerations are a guide and the operator may depart from them if satisfied that an individual poses no harm to their customers. Where an operator decides to employ someone with a conviction, in a relevant role, and this policy indicates that individual should not be permitted to undertake that role, the Operator shall record clearly their reasons for being satisfied that the individual will not cause any risk of harm to the public.

For instance the operator may consider that the circumstances applicable to the offence are so unique and isolated that they are not likely to re-occur and do not raise concerns about the individuals motivations or choices. Alternatively, an operator may take into account how long ago the offence occurred and the individuals age at the time. Finally, the operator may consider how satisfied they are that the individual is rehabilitated.

**Example Staff Register**

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| **Name** | **Role** | **Date started work** | **Date Basic DBS checked** | **Date of next check** | **Evidence of check recorded** | **Comments** |
| ***Eg. Joe Bloggs*** | ***Call handler*** | ***1.1.2019*** | ***1.1.22*** | ***1.1.25*** | ***YES*** | ***None*** |
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