

# Taxi Newsletter 2018

## Welcome to our taxi and private hire newsletter

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### Tell us what you think...

Please take a few minutes to read through and keep up to date with taxi and private hire matters.

We welcome your feedback so please email the Licensing team at [licence@hart.gov.uk](mailto:licence@hart.gov.uk) if you would like to make any comments.

### Smoking in vehicles

The Licensing team may soon be obtaining the delegated powers to issue Fixed Penalty Notices for licensed drivers who are seen smoking in their licensed vehicles. It is an offence under the Health Act 2006, section 5, which designated all hackney carriage and private hire vehicles as smoke free vehicles. As such, neither the driver nor passenger should smoke in the vehicle. Please ensure your vehicles are fitted with 'No Smoking' signs.

### Fares for taxis used for private hire and journeys ending outside of district

It was reported to us that some hackney carriage drivers were not aware of rules regarding taxi fares for journeys pre-booked by a private hire operator, or for journeys starting within the district but ending outside it.

Under section 67 of the Local Government (Miscellaneous Provisions) Act 1976 hackney carriage cannot be used under a contract or purported contract of private hire except at a fare which is no greater than the fare set by the Council. When a hackney carriage is used as a private hire vehicle the fare must be calculated from the point at which the hirer is collected and cannot be calculated by reference to the distance from the last journey to the pick up point or from the office to the hirer.

A hackney carriage can be used effectively as a private hire vehicle when a booking is made with a private hire operator. Hackney carriages can be used as private hire vehicles however unless a fare is agreed in advance, the fare would be subject to the meter rate. Any agreed fare cannot be more than the metered rate. If you are an operator and you propose to provide a hackney carriage vehicle, we recommend you inform the customer at the time of the booking to ensure they are aware of the fare being charged.

Section 66 of the Act prohibits any demand of a fare greater than that shown on the meter for hirings which end outside the area of the Council in which the hackney carriage is licensed, unless such

agreement has been made in advance. In practice, when the hirer says the destination to the driver, the driver is likely to realise if this is outside the district and should explain to the hirer that this will be for an agreed fee, as opposed to a meter fee. If this is not the case, the driver is bound to charge no more than the meter.

If this provision is not complied with, an offence is committed under section 66(2). We recommend meters are used for all journeys to ensure transparency to customers and to prevent the taxi roof light from being illuminated showing the vehicle to be available for hire when passengers are being transported.

## Enforcement update

During the recent enforcement evening in Hart, it was observed that proper rank etiquette was not being followed. The Licensing team have also received a number of complaints about this situation. Rank etiquette is noted in the by-laws adopted in Hart, and can be found at [www.hart.gov.uk/taxis](http://www.hart.gov.uk/taxis)

1. If a rank is full, move to another available rank (by-law 7b). Do not park on double yellow lines to wait for a free space on the rank. Double yellow lines are a safety measure to ensure safe passage of vehicles and pedestrians. Parking or waiting on double yellow lines is a contravention of the Highway Code (rule 238) and of the Road Traffic Regulation Act 1984.
2. Move to the head of the rank when space becomes available (by-laws 7c and 7d).
3. Ensure passengers approach the taxi at the head of the rank. Should a passenger approach you, and you are not the start of the rank, please ask them to approach the first taxi on the rank.
4. It is an offence to refuse a fare under section 53 of the Town Police Clauses Act 1847. The only time a fare can be refused is for 'reasonable cause', which can include if the driver believes their safety is at risk, the passenger is overly drunk or abusive or the passenger refuses to stop eating or drinking or smoking. A fare cannot be refused on the grounds the journey is too short, or if they only wish to pay by card (and you have the facilities to accept payment by card).
5. It is an offence under section 62 of the Town Police Clauses Act 1847 to leave a hackney carriage unattended on the rank, and an offence under section 64 of the Local Government (Miscellaneous Provisions) Act 1976 for a private hire vehicle to stop or park on a rank.
6. It is an offence under section 58 of the Town Police Clauses Act 1847 to charge more than the legal fare.

During the recent Hart enforcement evening, it was noted that 40% of the drivers spoken to were not wearing their drivers badge. Paragraph 13 of the Hackney Carriage by-laws states that "If a badge has been provided by the council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such a position and manner to be plainly visible". In order to comply with this by-law of your licence, your driver badge must be worn at all times whilst you are working. If you do not wish to wear the lanyard issued with your badge, the badge can be clipped to your top.

Private Hire drivers have a condition on their licence which states "I, the licensed driver shall, at all times when driving a private hire vehicle, wear in a conspicuous position, the drivers badge issued to the licensee by the council". Failure to wear a private hire badge is also an offence under section 76 of the Local Government (Miscellaneous Provisions) Act 1976. The Council have also received complaints about drivers touting for work.

### Making a complaint to the Licensing team

If you or your passenger find yourself in the unfortunate position of having to make a complaint to the Licensing team, this must be made in writing. Complaints can be sent by email to [licence@hart.gov.uk](mailto:licence@hart.gov.uk) or by post to Hart District Council, Harlington Way, Fleet, GU51 4AE.

Officers investigate complaints in a fair manner and have to consider the evidence provided and assess that complaints are justified. During the investigation, Officers have regard to the seriousness of the issue and our enforcement policy to determine what action is required. Actions are based on evidence established through the complaint and this is why complaints and evidence must be submitted in writing. Complaints are anonymous, however should the complaint lead to a prosecution it is likely the complainant will be asked to make an official statement and may have to make an appearance in court.

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## Lost property

In the first instance drivers and operators are expected to take all reasonable steps to ensure property is returned within 48 hours of discovery. Drivers must check their vehicle after each hiring to identify lost property.

Where drivers working for companies can't return items directly to the passenger they must present the item to the booking company within 48 hours. Small items must be placed in a clear, sealed bag. Larger items may have a separate label tied to them. Care must be taken to ensure items are kept in the same condition they were found.

Every item must be labelled with the following information:

- Date and time found
- Where in the vehicle it was found
- Driver's name and badge number
- Vehicle plate number

The company shall maintain a record sheet with the above information plus a description of the item. This sheet must be available to contact handling staff to deal with customer enquiries. Lost property must be retained for at least 28 days from the date of discovery. Items must be kept in a secure location to which only named staff have access.

This space must be large enough to accommodate larger items such as luggage and pushchairs. There cannot be a lost property 'bin' in a public space or driver rest area.

After 28 days all items can be disposed of via a suitable route (not given to staff or drivers). This may be to charity for items in a good condition and with resale value. Electronic items must be disposed of in accordance with the WEE directive. The disposal route of items must be shown against the original entry on the record sheet.

## CCTV in licensed vehicles

It is not currently the intention of the Licensing team to introduce a policy which mandates CCTV in licensed vehicles. However, should you decide you would like to install CCTV in your licensed vehicle, there are some general guidelines you will have to follow:

- There must be signs alerting members of the public to the use of CCTV in the vehicle.
- Conversations between members of the public should not be recorded. CCTV can have an audio capacity, however this must only be activated in certain situations via a panic button or similar device.
- Anyone can make a request to obtain CCTV of themselves (Subject Access Request or Freedom of Information).
- CCTV operators are not allowed to disclose images of identifiable people to the media or on the internet. Police have specific

- procedures to do this in the pursuit of investigating a crime.
- CCTV footage can only be retained for a specific amount of time.
  - Installation and operation of CCTV must comply with the Information Commissioners Office (ICO) CCTV code of practice.
  - Installed equipment must not obscure vision or intrude into the passenger, driver or luggage area.
  - If you install CCTV into your vehicle, you must register with the ICO as a data controller. There is a fee to pay to register with the ICO.

Anybody registered with the ICO as a data controller must ensure they are aware of the new provisions under the General Data Protection Regulation (GDPR). GDPR and CCTV means you, as a data controller, must have a record of any data processing activities, a specific purpose for collecting/processing data and adequate signage.

Anyone who is captured by your CCTV becomes a data subject, and any identifiable imagery is considered to be personal data under GDPR.

The signage in your vehicle relating to CCTV acts as informed consent from your passenger that they agree to their personal data being collected, so you must ensure your signage reflects this. There is guidance to CCTV and signage available on the ICO website [www.ico.org.uk](http://www.ico.org.uk)

The GDPR legislation acknowledges that CCTV in taxis is important for securing driver and passenger safety, however it does look to ensure that the data is dealt with in an appropriate way.

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## Safeguarding and county lines

The Home Office (HO) has started a campaign to improve awareness of exploitation of vulnerable children and adults in relation to county lines activity. County lines is the Police term for urban gangs supplying drugs to suburban areas. It is heavily focussed on exploiting vulnerable children to move drugs and money.

Taxis are a popular form of transport for children being exploited by gangs, and to help safeguard vulnerable children the HO have produced posters and are working with licensing authorities to increase awareness within the licensed trade. Posters can be found at [www.gov.uk/government/publications/county-lines-protecting-vulnerable-people-from-exploitation](http://www.gov.uk/government/publications/county-lines-protecting-vulnerable-people-from-exploitation)

Signs to look out for in regards to possible exploitation are:

- Child (aged 14/15) travelling a long journey alone.

- May not be from the area, look lost and have a distinct urban accent.
- May be travelling during school hours or at unusual hours.
- May have an obvious relationship with controlling, older individuals.
- Suspicion of self-harm, physical assault or unexplained injuries.
- Excessive receipt of texts or calls.

If you have concerns about county lines activity you can report it to Crimestoppers or call 101. If there is immediate danger to yourself or your passengers call 999.

If you have concerns about a homeless person, you can report it to Hart District Council. You can also make a safeguarding report to adult or child services at Hampshire County Council. Information you have could lead to a vulnerable adult or child getting the help they need.

Adult services - **0300 555 1386**  
Child services - **0300 555 4384**

## Pushchairs in taxis

There has been some confusion over whether or not children can travel in licensed vehicles in pushchairs. The previous guidance still stands, it is not considered safe for a child to travel in a pushchair in a vehicle. The safest way is for the child to be secured in a booster seat until they are 12 years old or 135cm tall.

Drivers of licensed vehicles are NOT required to provide such seats. Many pushchairs allow the seat to be removed from the frame and strapped into a seat using the seatbelt. If a booster seat is not available, the child should be removed from the pushchair and:

- Use a rear seat
- Children over three must use an adult seat belt
- Children under three must be secured with an adult

Further guidance can be found at [www.childcarseats.org.uk/the-law/cars-taxis-private-hire-vehicles-vans-and-goods-vehicles](http://www.childcarseats.org.uk/the-law/cars-taxis-private-hire-vehicles-vans-and-goods-vehicles)

## Hackney carriages used for private hire in other areas

There have been many articles highlighting the issues of taxi drivers and vehicles licensed by local licensing authorities but then working on a private hire basis in other local authority areas.

Bradford Council tried to clamp down on drivers getting licenses from other authorities after a councillor expressed safety fears about using a vehicle licensed by a different authority and not subject to the same licensing requirements. The councillor urged people using taxis in the area to specifically ask for locally licensed vehicles and drivers, to ensure they had been through the local vetting services. During an enforcement check, four vehicles

licensed by Rossendale Council had problems, two of which were serious enough for the vehicles to be taken off the road immediately.

Nationwide many councils face the same problem with an influx of other council licensed vehicles being operated outside of their own areas. We support drivers and vehicles working where they are intended, to enable high local regulation to protect users of locally licensed services. There is provision to apply intended use to hackney carriage vehicles which forms part of our revised taxi policy. Sadly a similar restriction does not exist within current law regarding private hire vehicles.

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## Guide dogs and wheelchairs in vehicles

Following the results of a survey by Guide Dogs in 2016, it was found that 42% of assistance dogs have been refused access to a hackney carriage or private hire vehicle. Under the Equality Act 2010 section 168, it is an offence to refuse an assistance dog unless the driver has a medical exemption. No additional charge can be made for transporting the assistance dog, and the dog must remain with the passenger at all times. If you require a medical exemption from carrying dogs, you need to get a certificate from your Doctor and apply for an exemption certificate from the Licensing team.

A reminder for our wheelchair accessible vehicles - meters must not be brought into action until the journey has started. This excludes the time taken to load a wheelchair user or secure them. If the meter is started before loading or continues after a passenger is being unloaded, this could be considered direct discrimination under section 13 of the Equality Act 2010.

Any journey should not be started until a passenger is securely seated, so please avoid pulling away from a rank until your passenger has fastened their seatbelt.

## Keep us informed

To enable us to maintain communications with you, it is important you keep us informed of your correspondence details. You are required to notify us of the below matters if they change during the term of your licence:

- Change of address
- Change of contact details
- Change to the operator you work for
- Change to medical conditions which may affect your fitness to drive - If you are unsure as to the DVLA group two medical standards, they can be found at [www.gov.uk/guidance/general-information-assessing-fitness-to-drive](http://www.gov.uk/guidance/general-information-assessing-fitness-to-drive)
- Any convictions relating to criminal matters or motoring offences/endorsements
- If you receive a warning or caution or are subject to any Police investigation

Failure to notify the licensing authority of the above is an offence under the Acts governing hackney carriage and private hire licensing. Please note you are also required to report any accidents involving your licensed vehicles within 72 hours or as soon as reasonably practicable. If your vehicle is involved in an accident, it will need to be cosmetically inspected to assess if it remains 'fit for purpose'.

## Top lights on hackney carriage vehicles

The Hart policy states that a hackney carriage vehicle must carry a roof sign, capable of illumination, which must conform to a specification approved and adopted by the council. The sign shall display "TAXI" to the front. An exemption to this is purpose built vehicles fitted with permanently mounted signs.

A hackney carriage is always a hackney carriage whilst it is licensed as such. If it is licensed then it must comply with the conditions of the licence and the council policy at all times. There is no

such thing as a 'pre booked or executive journey' for a hackney carriage that allows drivers to remove the roof light.

Further, drivers using a hackney carriage without a roof light, including with the roof light unplugged or disconnected, may be uninsured as most hackney carriage insurance has a clause that states the vehicle must comply with the conditions of the licensing authority. If drivers wish to remove the roof light because they are going on holiday or are not using the

vehicle for a while, then they need to contact the Licensing team who will suspend the vehicle licence for a set period.

The plate and roof light must be removed during the suspension, and the plate returned to the Licensing team as it is property of the council. When the vehicle is required to be used as the hackney carriage again, then it will need to be unsuspended and the plate and roof light reattached. There is no refund available for the unlicensed time.