

AGENDA ITEM: 6

SUMMARY

Report for:	Licensing Health & Safety Enforcement Committee			
Date of meeting:	f meeting: 12 th February 2013			
PART:	1			
If Part II, reason:				

Title of report:	Review of Hackney Carriage and Private Hire licensing procedures and policies
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To propose a number of amendments to the Council's procedures and policies in respect of taxi licensing.
Recommendations	As set out throughout the report, at paragraphs 2.1.7, 2.2.5, 2.4.6, 2.5.8 and 4.7
Corporate objectives:	 Safe and Clean Environment Public safety is a key aim of taxi licensing, and it is envisaged that the proposals will strengthen the Council's powers to respond to concerns in this area. Dacorum Delivers This report proposes the consolidation of a number of existing policies, making it simpler for officers to advise and members of the public to enquire as to general expectations of applicants and licence-holders.
Implications:	Financial / Value for Money / Risk / Equalities / Health & Safety None
Consultees:	Consultation has been carried out on the proposals, and the results are set out within this report.
Background papers:	
Glossary of acronyms and any other abbreviations used in this report:	

1. INTRODUCTION

- 1.1. The Council is responsible for the regulation of hackney carriage (taxi) and private hire services within the Borough of Dacorum, through the issue and enforcement of a series of licence for drivers, vehicle proprietors, and operators. The framework for this licensing system is contained within numerous pieces of legislation, but primarily the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2. Since adopting the relevant parts of these pieces of legislation, a number of policies and procedures have been adopted by the Council governing its expectations of applicants and licence-holders, and the way in which it will process and consider applications for licences.
- 1.3. The Committee considered proposals on the 18th September 2012 for a number of alterations to the current policies and procedures, prior to consultation. The aim of these alterations was simplification and consolidation, and to ensure that our policies and procedures correctly reflect current Government guidance and statutory requirements.
- 1.4. Consultation on the four proposals considered at the September meeting, as well as a further proposal considered by the Committee on the 1st March 2012 in respect of the joint ownership of 'golden' hackney carriage plates, was carried out with the licensed taxi trade between the 1st October 2012 and the 23rd December 2012, with details being published on the Council's website, and referred to within the printed newsletter sent to the taxi trade in October 2012. Responses were received from the Dacorum Hackney Carriage Driver's Association, which are reproduced in section 3 of the report.
- 1.5. This report continues an ongoing review program of applicable taxi licensing procedures and policies, commenced by the Committee on the 4th October 2011 and continued on the 1st November 2011, 31st January 2012, 1st March 2012, and 27th November 2012.
- 1.6. The review also incorporates operational procedures, affecting the manner in which officers receive and administer applications. An update on these issues is provided in section 4 of this report.
- 1.7. Further outstanding areas of the review, which will require the Committee's consideration at future meetings, include:
 - Accessibility to licensed vehicles by disability groups
 - Types of Hackney Carriage vehicles to be licensed by the Authority;
 - Hackney Carriage/Private Hire Vehicle Age Policy;
 - Stretched Limousines/"Special" Vehicles;
 - Knowledge Testing (including literacy and numeracy testing);
 - Conditions in respect of Hackney Carriage and Private Hire Drivers;
 - Private Hire Operator licence procedures and conditions
 - Information regarding the expected conduct of licensed drivers.

2. PROPOSED ALTERATIONS TO CURRENT POLICIES

2.1. Age limits for driver licence applicants

- 2.1.1. The Council currently has a minimum age policy of 21 years for new driver licence applicants, for both hackney carriage and private hire. It is currently expected that applications from any person aged under 21 years would be refused.
- 2.1.2. With the advent of the Equality Act 2010, it is questionable whether this policy would comply with the prohibition on age discrimination.
- 2.1.3. Applicants are also required under sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 to have been authorised to drive motor vehicles for a minimum of 12 months, and no licence may be granted if this is not the case.
- 2.1.4. Given the vocational nature of the work for which licences are sought, it is now considered more appropriate to require applicants for licences to have held a full driving licence (issued either in the UK or by another EEA member state) for a minimum period of three years. This will have the effect of ensuring that licence applicants have greater driving experience, as would be appropriate for persons driving in a professional capacity, and to ensure the safety of the public, rather than an arbitrary age limit during which time driving experience may or may not have been accrued.
- 2.1.5. There is currently no maximum age policy, although drivers aged 65 years or over are required to obtain medical clearance on an annual basis, as opposed to the 3-yearly interval prior to that age. This is in accordance with Government guidance, and it is not proposed to amend this aspect of the policy.
- 2.1.6. In one change from the initial proposal, it is now proposed that an applicant relying upon an EEA member state driving licence to make their application must first obtain a British licence counterpart from DVLA. This will ensure that they are recorded on UK driving licence databases, and if offences are committed in Great Britain, that penalty points and licence endorsements can be correctly recorded. EEA licence holders may apply to DVLA for a British counterpart free of charge, by completing and returning form D9.

Recommendation

- 2.1.7. That Committee amend the Council's policy in respect of the licensing of hackney carriage and private hire drivers, with effect from the 1st April 2013, by repealing the previous policy requiring applicants to be over the age of 21 years, and adopting the following policy provisions:
 - The Council shall require applicants for hackney carriage or private hire driver licences to demonstrate that they have been authorised to drive motor vehicles in Great Britain or an EEA member state for at least 36 continuous months immediately prior to the date of application, and continue to be so authorised. No licence shall be issued in any circumstances to an applicant who has been authorised to

drive motor vehicles for less than 12 continuous months or who is not so authorised at the time of consideration of the application. Applicants with between 12 and 36 continuous months authorisation will be refused unless exceptional circumstances can be demonstrated.

• Where an application is made in reliance upon a driving licence issued by an EEA member state, the applicant must obtain a British licence counterpart from DVLA. Both the British counterpart and the original EEA state licence must be produced for examination upon the making of an application.

2.2. Dual driver licence applications

- 2.2.1. Hackney carriage and private hire driver licences are created by separate statutes, and as such applications for licences have traditionally been treated separately. A substantial number of drivers now hold licences to drive both hackney carriages and private hire vehicles. Because of the way in which these are currently administered, both licences have separate expiry dates, and must be renewed individually, increasing the administrative burden both on drivers and the Council.
- 2.2.2. A number of councils operate 'dual driver licence' application systems, allowing applications for both licence types to be considered simultaneously. Both licences would then be issued with the same expiry date, and a single application process would be followed to renew both licences, significantly reducing the administrative burden. The reduced administrative work is also reflected in a reduced application fee. Where the second licence is obtained part way through the first licence's validity, this would be issued with the same expiry date, and a reduced or pro rata fee would be charged to reflect the shorter licence period.
- 2.2.3. Consultation on the proposed introduction of such a system in Dacorum has seen positive responses, with the Dacorum Hackney Carriage Drivers Association supporting the proposal. Anecdotally, a number of drivers have already contacted officers to enquire when they will be able to make such applications. It is therefore proposed to move forward with this proposal.
- 2.2.4. Officers are still working out the details on the precise implementation of such a scheme, including revisions to knowledge test formats, procedures for interim 'conversion applications', application form formats, etc. For this reason, it is proposed that final adoption of this measure is deferred until the next meeting of the Committee, to allow these proposals to be finalised.

Recommendation

2.2.5. That Committee provisionally endorse the adoption of a dual driver licensing system, subject to ratification of precise details of implementation of such a scheme at the next meeting of the Committee.

2.3. Signage on licensed vehicles

- 2.3.1. A proposal was considered for the amendment of vehicle licence conditions, so as to require the display on rear doors of additional, council-issued signage. The aim of this proposal was to make clear which vehicles have been inspected and licensed by Dacorum Borough Council, in response to recent concerns expressed by the trade about cross-border hiring.
- 2.3.2. This proposal has not received support from the trade, with the Association highlighting that such signage would likely have a detrimental effect on executive hire work. An alternate proposal has now been put forward by the trade for enhanced roof signs on hackney carriage vehicles, carrying a greater volume of information.
- 2.3.3. This alternate proposal is currently being evaluated in terms of practicality and cost by officers. It is therefore proposed to defer consideration of this matter until a future meeting of the Committee, when full details of both proposals will be made available.

2.4. Revised guidelines on fitness of applicants for drivers licences

- 2.4.1. When considering applications for hackney carriage and private hire driver's licences, the Council must be satisfied that applicants are "fit and proper" to hold such licences. No statutory definition of this term exists, and it is open to the Council to apply such considerations as it deems relevant.
- 2.4.2. In 2008 the Council adopted a set of guidelines on the relevance of criminal convictions and motoring endorsements for driver's licence applications. It is believed that those guidelines have not been reviewed since that date.
- 2.4.3. A single document on the fitness of applicants, which includes revised, updated and consolidated information on matters typically taken into account on applications, has been produced and is appended to this report as Appendix B. The revised document covers (but makes clear that the Council's considerations will not be limited to) driving entitlement, character, licensing history, entitlement to work in the UK, medical fitness, criminal convictions and cautions, and motoring endorsements.
- 2.4.4. It must be noted that any such document can form guidelines only, and an inflexible policy would not be lawful. The Council must consider every application on its merits, and may depart from any published policy or guidance if the circumstances warrant. Failure to give adequate consideration to individual circumstances may give rise to judicial review, as may departing from guidelines or policy without sufficient reason.
- 2.4.5. By publishing a wider ranging document, it is thought that it will be clearer to both applicants and the general public what will be expected of applicants for (and holders of) driver's licence, and to make the Council's decision-making process in this area more transparent and consistent, in accordance with the Better Regulation Principles.

Recommendation

2.4.6. That Committee adopt the attached document, "Guidelines on Fitness of Applicants for Hackney Carriage / Private Hire Driver's Licences" as non-binding and non-exhaustive guidelines for the determination of applications and reviews of hackney carriage and private hire drivers licences in respect of applications received and similar processes commenced on or after the 1st March 2013, superseding the 2008 document "Guidelines to be used by the Licensing and Health and Safety Enforcement Sub Committee when considering the relevance of convictions".

2.5. Joint ownership of 'golden plate' hackney carriages

- 2.5.1. The Committee considered a report on the transfer of ownership of 'golden' hackney carriage plates on the 1st March 2012, and expressed various concerns about the practice of transferring a pre-2004 plate (and the attached entitlement to operate non-accessible vehicles) among the trade, by placing the vehicle into joint ownership, switching the plate to the new joint owner's own vehicle, and then reverting the vehicle to single ownership.
- 2.5.2. At that meeting, the Committee resolved, subject to the outcome of consultation with the trade, to:
 - Permit those persons who have continued to license their saloon vehicles as a hackney carriage since 2004 and have continued to use their vehicle or upgraded to a new/newer saloon vehicle to be able to license a saloon vehicle as a hackney carriage under 'grandfather rights'.
 - Permit those persons who have continued to license their saloon vehicle as a Hackney Carriage since 2004 to be able to transfer the plate and vehicle to a third party.
 - Not to approve any new joint ownership in respect of existing Hackney Carriage saloon vehicles. The Licensing Authority will consider applications for transfer of the vehicle and plate to a third party.
 - Where a license holder becomes incapacitated or in the event of death, the vehicle and plate will become the property of the next of kin.
- 2.5.3. While no adverse comments were received in respect of the proposal, officers are now minded to recommend against proceeding with this measure.
- 2.5.4. Section 49 of the Local Government (Miscellaneous Provisions) Act 1976 requires the proprietor of a hackney carriage or private hire vehicle, upon transferring his interest in that vehicle to another person, to notify the relevant Council, so that the licence may also be transferred. It is an offence to fail to comply with this requirement.
- 2.5.5. Under the provisions of the Interpretation Act 1978, the term 'person', when used in legislation, is to be taken to include any body of persons corporate or unincorporate. When read in conjunction with s.49, this

effectively means that a vehicle proprietor may legitimately sell a partial stake in a licensed vehicle, thus forming an unincorporated partnership. As the interest in that vehicle has moved from one 'person' (a sole trader) to another 'person' (a partnership), there is a legal obligation on the proprietor to give notice to the Council. Were we to subsequently refuse to transfer the vehicle's licence for any reason other than the grounds specified in the Act for refusal of vehicle licences (which relate to the condition of the vehicle, rather than the owner), it is likely to result in a legal challenge.

- 2.5.6. Requests of this type have diminished in recent months, which may be attributed to a number of reasons, including the new position being taken on vacant plates (as detailed in section 4). It is now believed that more stringent standards on the type of vehicle that may be licensed as a hackney carriage or private hire vehicle will have more of an effect to discourage this conduct than adoption of the policy previously proposed. To this end, a review of vehicle standards for both categories of licence is now underway, with a view to reporting proposals to Committee later this year.
- 2.5.7. With respect to the proposal relating to death or incapacity of a licence-holder, there is no statutory provision for the automatic transmission of a licence to the next of kin or other personal representatives, and it is believed that the provisions of section 49 would still apply in such circumstances, requiring a formal notification of transfer to be given. Clearly in such circumstances, officers will act with sensitivity, and the notification will be accepted from the next of kin or representative rather than the deceased or incapacitated person.

Recommendation

2.5.8. That no further action is taken in respect of the proposal to prohibit new joint ownership of 'golden' hackney carriage plates, as considered by the Committee on the 1st March 2012.

3. RESPONSES TO CONSULTATION

3.1. The following responses were received to the consultation undertaken on all of the above proposals:

From: T.K., Chair, Dacorum Hackney Carriage Drivers Association Ross Hill / Richard mebitt,

We looked at The amendments proposed by you and all agree on point about the age limit and to have passed driving test 3year,

All agree on point about people with private hire &hackney licensees to be applied on one application.

We didn't agree on a sign on back doors of taxis with dacroum logo we fill that u allready have hackney taxi plate on back and front wind screen and a top taxi sign and there for we do not agree with this, also this will effect all vip work clints which in this difficult climate we can't afford to loose.

Thanks

From: L.M., Vice-Chair, Dacorum Hackney Carriage Drivers Association Dear licensing committee

As a member of the Dacorum Taxi Committee, I would like to raise concerns expressed by drivers in relation to the proposed permanent signage on doors of licensed taxis.

Having spoken with most of the taxi drivers within the Berkhamsted area where I work, I can confirm a unanimous opinion against the idea of permanent signage.

The main issue raised surrounds drivers investment in expensive vehicles to gain access to the executive end of the market. They express concern that permanent signage detracts from the image of the vehicle and will affect their earning potential.

A solution put forward, that has been met more favourably, is for new more comprehensive top signs to be commissioned which display all the relevant licensing data (registration, district, plate No etc).

I ask on behalf of the drivers I represent that these concerns are considered and this policy could be adjusted. I would also add that I have had no issues raised with any of the other proposed changes.

4. REVIEW OF OPERATIONAL PROCEDURES

4.1. A specialist card printer for the production of driver's badges has now been procured and is in use for hackney carriage badges (stocks of the old-style private hire badges are still being used up prior to switching production of these as well). It is proposed to issue taxi badges in one of three formats dependent upon the type, as shown below. All of the badges have built in security features, including a watermark on the surface bearing the Council's logo. The material costs of these cards are around 70p each, as opposed to £2.00 for the older self-laminating format used previously. Officer time to produce each card is also substantially lower, leading to further savings.



- 4.2. A revised application form for vehicle licence applications has now been released for use by applicants. The form allows applications for both types of licences in a single format, and has eliminated a number of questions which were no longer required. The revised vehicle form is attached at Annex A. Revised forms for driver and operator licences are also underway, and are expected to be released in the near future.
- 4.3. For a number of years, officers agreed to 'hold' taxi plates for vehicle proprietors; for example, following an accident in which the vehicle has been written off, to allow the proprietor time to purchase a new vehicle. This was particularly relevant in the case of 'golden plates' for hackney carriages, where the proprietor wished to preserve their entitlement to licence a non-wheelchair accessible vehicle. In some cases, these plates were left essentially vacant for a period of years. Officers have now stopped this practice, which ran contrary to a decision of the Administrative Court¹. Proprietors must now specify the vehicle to which an application relates in every application. Where a vehicle has been irreparably damaged or is otherwise unfit for use, consideration will be given to the use of the power of suspension under section 68 of the Local Government (Miscellaneous Provisions) Act 1976, which carries a two month limit for rectification or replacement of the vehicle, with provision for automatic revocation of the licence after this time if the issue has not been resolved.
- 4.4. Officers have periodically issued printed newsletters on two or three occasions per year for several years. These have been sent to all licence-holders in the taxi trade. Rising printing and postage costs, and the growing size of the trade in Dacorum, brought the financial viability of this newsletter into question, and officers made the decision in October 2012 to issue one final issue of the printed newsletter before switching to a new email format. This is delivered by way of an opt-in mailing list (EU legislation on electronic communications prohibits the use of existing databases of email addresses

for unsolicited correspondence), and enables more frequent and timely updates to be sent to all subscribers as required. All drivers have been sent a QR code which can be used to subscribe to the newsletter, or it is also possible to sign up via the Council's website. at www.dacorum.gov.uk/d efault.aspx?page=8007 . An example of a recent update is shown to the right.



fares - any drivers who leave their vehicles unattended while they visit the bank or shops may find that they have been given a parking ticket, as may any other type of vehicle parking up there. We will be looking to do some publicity work to make the public aware of the new location shortly.

Snow days

We hope that you are all keeping safe and well in the current adverse weather conditions. Please remember that if you do not feel comfortable driving in these conditions, we strongly advise that you do not - ultimately missing a couple of fares is likely to cost far less than being involved in a serious accident.

by the Council's Licensing

Committee in the next couple of months. If the proposals are

adopted, we will publicise the

start date as soon as this is

confirmed.

¹ R. (on application of Key Cabs, t/a Taxifast) v Plymouth Crown Court, [2007] EWHC 2800 (Admin)

- 4.5. The Criminal Records Bureau (CRB) has now been merged with the Independent Safeguarding Authority (ISA) to form the Disclosure and Barring Service (DBS), as part of the Government's efficiency program. While this change has to date had little effect on the disclosure service used by the Council in respect of taxi driver applications, it has been necessary to update the material and information issued by the Licensing Section to correctly reflect the new name of the service. Future committee reports in respect of taxi drivers will refer to criminal record certificates as DBS disclosures. There are expected to be a number of significant changes to the DBS service later this year which may adversely affect the Council's usage these will be evaluated and disseminated as information becomes available.
- 4.6. All changes to operational procedures are being considered in light of the impending redevelopment of the Civic Centre site. It is anticipated that significant changes to the current working practices will be brought about by this, including a move to a 'paperless office' environment and increased usage of remote working.

Recommendation

4.7. That Committee note the contents of this section of the report.

ANNEX A REVISED VEHICLE LICENCE APPLICATION FORM

DATE NO.
BOROUGH
COUNCIL

Licensing, Dacorum Borough Council, Civic Centre, Mariowes, Hernel Hempstead, HP1 1HH

Town Police Clauses Act 1847 & Local Government (Miscellaneous Provisions) Act 1976

Application for Hackney Carriage / Private Hire Vehicle Licence

Type of licence sought: (tick one)	Hackney Carrlage	Private Hire		
I am applying for a: (Bick one)	New licence Change of vehicle Revision of vehicle details	Renewal of licence Change of owner(s) Revision of owner(s) details		

Please write legibly in block capitals, and ensure that your answers are inside the boxes and written in black ink. All questions must be answered. Incomplete applications will not be processed.

You may wish to keep a copy of the completed form for your records.

Section 1: Licence details	3		This section should	i be left blank on new	Icence applications
Plate number:			Expiry date of current licence:	1 1	
Section 2: Vehicle details					
Registration number:					
Chassis number (VIN):					
Manufacturer:					
Model:					
Body style: Saloon, estate, etc					
Colour:					
Date of first registration:	I I				
Engine capacity (cc):			00		
	Petrol	Dies	el LPG	Electric	Other
Engine type:	(For hybrids, pleas	se tick all th	hat apply)	—	
Current odometer reading:			mi	es	
Number of passengers that the vehicle is constructed to safely carry: Do not include the driver in this number					
is the vehicle constructed to safely carry passengers in wheelchairs?					

	Section 3: Proprie	tor(s) detail	8							
	The application is made by: (tick one)		A sir	A single individual Multiple individuals		P	Please give details in part A			
			Mutt			Please give details in Parts A		5 A & B		
	(non one)			A lin	A limited company		Please give details in Part C			с
Part A: First Individual proprietor					🗆 Mr	Mrs	Ms	Other_		
	Full name:									
	Home address:									
	Date of birth:	I	1							

Date of birth.	1 1		
Daytime phone number:		Mobile phone number:	
Email address:		•	

Part B: Second In	dividual proprietor (# any)	Mr Mrs Ms Other
Full name:		
Home address:		
Date of birth:	I I	
Daytime phone number:		Mobile phone number:
Email address:		
If there are more that	n two individual proprietors, please giv	ve the details of further individuals on a separate sheet.

Part C:Limited company proprietor						
Registered name:						
Registered office address:						
Registration number:	UK: Companies House					
Daytime phone number:						
Email address:						

Section 4: Usage details								
PH only	Name of private hire operator:							
HC only	If licensed, will the vehicle be used v hackney carriage within the Borough	Yes No						
vehicle is k	dress where licle is kept en not in use:							
Please give	e details of any persons who may drive	the vehicle: Use a	n additional sheet if necessary					
Name:		Driver's badge number:						
Name:	Driver's badge number:							
Name:								

Section 5: Insurance details				A copy of your insurance certificate must accompany the application				
Name of Insurer:								
Policy cover dates:	From:	1	1	1	TO:	1	1	

Section 6: Further questions	
Has the vehicle been modified in any way from the manufacturer's original specification, and the relevant European Whole Vehicle Type Approval?	Yes No
Has the vehicle been damaged in any accident during the past 12 months?	Yes No
Have any of the proprietors ever had a Hackney Carriage or Private Hire Vehicle Licence suspended or revoked, by this or any other authority?	Yes No
Have any of the proprietors ever been refused a Hackney Carriage or Private Hire Vehicle Licence, by this or any other authority?	Yes No
Is the vehicle currently licensed as a hackney carriage or private hire vehicle by any authority other than Dacorum?	Yes No
If any of the above have been answered 'Yes', please give further details below:	

Section 7: Application fee(s)	Please tick one of the following options
I enclose a cheque for £, payable to Dacorum Borough Cou	incil.
I wish to pay the application fee(s) by credit or debit card - please	e contact me to arrange payment.

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Se	ction	8: Declaration and signatures		Even	y proprieto	or must sign the form	
•	I/We declare that the motor vehicle subject to this application is owned by the proprietor(s) and that to the best of my/our knowledge and belief, the above particulars are true in every respect.						
•	I/We understand that it is an offence for any person knowingly or recklessly to make a faise statement or to omit any material particular in giving information required in this form.						
•	I/We have read the Licence Conditions and undertake in the event of a licence being granted to observe and adhere to such Conditions.						
Sig	ined:	P	Print name:		Date:		
SIg	ined:	P	Print name:		Date:		
If there are more than two proprietors, a copy of this page should be taken to allow all proprietors to sign. Where the application is made by a limited company, the form should be signed by an officer of the company.							

Completed forms should be submitted, along with:

- the vehicle's registration certificate, with the proprietor listed as registered keeper
- · evidence of an insurance policy which includes public or private hire usage (as applicable), and
- payment of the appropriate fee(s).

to:

Licensing, Dacorum Borough Council, Civic Centre, Marlowes, Hemel Hempstead, HP1 1HH

Data Protection - PLEASE READ THIS NOTICE CAREFULLY

We will use the information you provide in this form and in any supporting documents to process and determine your application for a licence. The information will be held on file and on an internal database, and such public registers as the Council may be required to maintain.

The information supplied may be passed to other bodies, including law enforcement agencies and government departments, as allowed by law. We may check information you have provided, or information about that that another person has provided, with other information we hold. We may also obtain information about you from, or provide information to, organisations such as government departments, law enforcement agencies, other local authorities, and private sector organisations such as banks, insurance companies or legal firms, to:

- Verify the accuracy of information,
- Prevent or detect crime, or
- Protect public funds.

We will not give information about you to anyone else, or use information about you for other purposes, unless the law allows us to.

Dacorum Borough Council is the data controller for the purposes of the Data Protection Act. If you would like to know more about what information we hold about you, or the way we use it, please contact us.

Office use only

Fee received:	
	Chq Card
Result	
Result	
Lic. approved:	
Licence expires:	
	Result: Result: Lic. approved:

Revised September 2012

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