
BERNIE MASKELL DRIVING INSTRUCTOR TERMS AND CONDITIONS

BACKGROUND:

These Terms and Conditions are the standard terms which apply:

- A. to the provision of driving tuition by Bernie Maskell of Church Cottage North, Kilve, TA5 1EG to pupils that require such tuition; and
- B. where the Pupil is a “Consumer” as defined by the Consumer Rights Act 2015.

1. Definitions and Interpretation

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“ Business ”	means any business, trade, craft, or profession carried on by You or any other person/organisation;
“ Consumer ”	means a “consumer” as defined by the Consumer Rights Act 2015, and in relation to these Terms and Conditions means an individual customer of the Instructor who receives tuition from the Instructor for the customer’s personal use and for purposes wholly or mainly outside the purposes of any Business;
“ DVSA ”	means the Driving & Vehicle Standards Agency;
“ Instructor/I/Me/My ”	means Bernie Maskell whose place of business and contact address is the same address as above;
“ Price List ”	means Instructor’s standard price list for driving tuition. The list is available from www.berniemaskell-drivingschool.co.uk or on request by email or phone;
“ Pupil/You/Your ”	means the individual recipient of driving instruction; and
“ Regulations ”	means The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

1.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

1.2.1 “these Terms and Conditions” is a reference to these Terms and Conditions as amended or supplemented at the relevant time; and

1.2.2 a Clause or sub-Clause is a reference to a Clause of these Terms and Conditions;

1.3 The headings used in these Terms and Conditions are for convenience only and shall not affect the interpretation of these Terms and Conditions;

1.4 Words signifying the singular number shall include the plural and vice versa;

1.5 References to any gender shall include the other gender;

2. Driving Instructor

- 2.1 I am a self-employed independent driving instructor and am not employed by a driving school and
- 2.2 I am registered with the DVSA as an Approved Driving Instructor (ADI) and My ADI registration is up to date. I shall display My current DVSA ADI registration certificate in any vehicle that I use for a lesson, and I will ensure that that ADI certificate is kept up to date at all times.

3. Driving Lessons – Booking, cancellation, delays

- 3.1 A lesson will only be made available to You if You have a pre-booked appointment for it. You should book a lesson with Me in person or by phone, email or social media. It shall be Your and My responsibility to agree all matters relating to each lesson including, but not limited to, date, time, location and duration;
- 3.2 Your request to book a lesson will be an offer, but whether I accept any request will be for Me to decide in My discretion. Only if and when I tell You that I accept Your request for any particular lesson(s) will there be a binding contract between You and Me for that/those lesson(s);
- 3.3 If You wish to make a booking for two or more lessons by means of a single booking, and in My discretion I accept that booking, My contract with You will be for all of the lessons concerned;
- 3.4 I will not reserve any lesson slots or guarantee regularity of lessons over any period of time or on any particular date and/or time except that I will reserve a particular lesson slot for You if and when I accept a booking for it from You. Nevertheless, I shall use reasonable endeavours to make available regular lesson slots for You;
- 3.5 If You know You are going to be late for a lesson, You should contact Me to tell Me. If You arrive (or are not ready) later than 15 minutes after the scheduled start time for Your booked lesson, I will try to provide that lesson but if I decide that I cannot do so, the lesson will be treated as cancelled without notice by You and, if I then decide to make a charge for that lesson cancelled without notice, sub-Clause 3.7 below will apply;
- 3.6 You may cancel a lesson without charge if You give Me at least 48 hours prior notice of the cancellation and if You do so I will refund to You any sum You paid Me in advance;
- 3.7 If You do not give Me at least 48 hours prior notice of cancellation of a lesson, I will be entitled to charge You for any net financial loss that I suffer due to Your cancellation but not more than the full price of the lesson. I will be entitled to deduct that charge from any sum You paid Me in advance, and I shall refund the balance to You;
- 3.8 If, due to exceptional circumstances including, but not limited to, illness, accidents and bereavement, You cancel a lesson without giving Me at least 48 hours prior notice, I will consider the circumstances and in My discretion decide whether to waive any charge for late cancellation that I am entitled to make under sub-Clauses 3.5 and 3.7;
- 3.9 If I wish to cancel a lesson, I may do so without incurring any liability to You (and You will not have to pay for that lesson) if I give You at least 12 hours prior notice, but if I do not give You at least that minimum notice, I shall be liable for and shall credit You with an additional lesson at no charge;

- 3.10 Notwithstanding sub-Clause 3.9, I may, without incurring any liability to You, cancel a booked lesson at any time before the start time of that lesson, where either:
- 3.10.1 due to my illness, unavailability of a suitable vehicle, or other reason beyond My reasonable control, I am not available or able to provide the lesson fully or properly. If I cancel a lesson in such circumstances, I will refund to You in full any advance payment that You have made to Me for that lesson; or
 - 3.10.2 I have reason to believe that You are not fit to drive at the time of the lesson due to any factors including, but not limited to, alcohol, drugs (whether prescribed or otherwise), illness or other medical condition. If I cancel the lesson for such reason, I shall be entitled, at My discretion, either to charge You for that lesson or not to do so but in deciding whether to charge You I shall act reasonably;
- 3.11 I will use all reasonable endeavours to start a lesson at the time which You have booked but the start may be delayed by overrun of a previous lesson or by other circumstances. If a delay to the start is at least 15 minutes, or if at any time before or after You or I arrive for a lesson I notify You that there will be a delay of at least that time, You may cancel and will not have to pay for that lesson and I will refund to You in full any advance payment that You have made to Me for that lesson. If, however, in those circumstances You do not cancel the lesson, I shall add on to the lesson the time by which the start is delayed at no charge to You or, if that does not suit You, I shall add it on to a subsequent lesson, or if You do not book a further lesson I will refund a part of the fee for that lesson in proportion to the part of the lesson not added on; and
- 3.12 Where the contract I make with You is not made on My premises, the Regulations give You the rights set out in this sub-Clause 3.12, and they will be in addition to the rights given to You by the above provisions of this Clause 3. You may for any reason cancel any lesson(s) during the 14 day period after I accept the booking for it/them, but if the booking includes any lesson(s) on a date which is before the end of that period and if You have expressly requested Me to provide any such lesson(s) and I do so, You may not cancel that or those requested lesson(s) and You must pay for them in accordance with Clause 5, and You may then only cancel any other lesson(s) covered by that booking. If You request that any lesson be cancelled, You must confirm this in any way convenient to You. If You cancel any lesson(s) as allowed by this Sub-clause 3.12, and You have already made any payment(s) to Me for the lesson(s), I will refund the payment(s) to You within 14 days of receiving Your cancellation less the amount due for the lesson(s) that You have received.

4. Lessons – Location, length

- 4.1 I will agree the location for each lesson with You at the time of booking. I may choose a location which requires additional travel in the interests of road safety. In such cases, if You wish to be picked up and taken to that location by Me, travel time will form part of the lesson time;
- 4.2 The minimum length of a lesson will be 1 hour or 1 hour 30 minutes (dependent on Your location) and, if You and I agree, it may be increased by increments of 30 minutes up to a maximum length of 3 hours.

5. Fees and Payment

- 5.1 You must pay My fees for all lessons, and I will charge for lessons on an hourly basis. You can obtain information on current lesson fees from www.berniemaskell-drivingschool.co.uk or on request by email or phone;
- 5.2 I may change My fees without prior notice but if I increase or reduce the fees between the time You book a lesson and the date of the lesson and You pay for it in advance of the lesson, the price increase or reduction will not apply to that lesson but where there is a decrease I may in my discretion decide to refund You the amount of the decrease;
- 5.3 You shall make payment to Me of My fees in advance by bank transfer, cash or another agreed method. I shall give You a receipt for all sums that I receive from You.

6. My Obligations

I shall, at all times:

- 5.1 use My reasonable endeavours to provide driving instruction at the agreed lesson times;
- 5.2 use My reasonable endeavours to train You to a high standard, but shall not be responsible for any errors made by You;
- 5.3 be professional and courteous towards You and other road users;
- 5.4 act in accordance with the DVSA Code of Practice for Approved Driving Instructors (a copy of which You can obtain from Me on request); and
- 5.5 act in accordance with the law.

7. Your Obligations

- 7.1 You confirm that, in connection with your request(s) to receive driving tuition from Me, You are and will be a “consumer” as defined in Clause 1 above;
- 7.2 You must hold a valid UK driving licence (either provisional or full);
- 7.3 You must always have both parts of Your driving licence (photo card and paper counterpart) with You during lessons;
- 7.4 If You have been banned from driving and are training for a retest, You must be legally entitled to take tuition and must present proof to Me of that entitlement;
- 7.5 You must demonstrate Your ability to read a number plate from the distance specified in the Highway Code;
- 7.6 You must always wear any relevant prescribed glasses or contact lenses;
- 7.7 You must inform Me of any medical conditions or prescribed medication which may affect Your driving ability; and
- 7.8 If You fail to comply with one or more of sub-Clauses 7.2 to 7.7 above, or I find that you are not a “consumer” (as defined in Clause 1 above), I may immediately cancel one or more lessons. If I do so, I may in My discretion still charge for the cancelled lessons.

8. Vehicles and Insurance

- 8.1 I shall ensure that all vehicles that I provide are fitted with dual controls, are fully roadworthy, taxed, have a valid MOT (where relevant), and are fully insured for the purposes of driving instruction; and

8.2 You may request to use Your own vehicle. Whether You use Your own vehicle is for Me to decide at My sole discretion. You must provide proof to Me of Your vehicle's roadworthiness, tax, valid MOT (where relevant) and suitable insurance for the purposes of driving instruction.

9. Driving Tests

- 9.1 I shall discuss driving tests with You and inform You when I feel that You are ready to take a test;
- 9.2 You OR I shall be responsible for booking theory and practical tests. It shall be Your responsibility to check the details of the test on Your DSA confirmation letter;
- 9.3 If You book a test, You must check with Me before booking to ensure that I consider that You are ready for a test;
- 9.4 You must inform Me of all details of Your test including, but not limited to, its date and location at least 10 working days before Your test date;
- 9.5 When You attend a test, You must take all required documentation with You. If You do not, Your test may be cancelled and You would then lose Your test fees;
- 9.6 Unless I feel that My vehicle is unsuitable for a Pupil to use for their practical test or Clause 9.9 applies, I generally permit Pupils to use My vehicle for their test, but whether I permit You to do so for Your test will be in my discretion;
- 9.7 If I have given You permission to use My vehicle for Your test but it breaks down or is otherwise unavailable or unusable on the date of the test, I shall use My reasonable endeavours to arrange an alternative vehicle. If this is not possible, I shall not pay for the replacement test;
- 9.8 If Your test is cancelled by the DVSA giving You insufficient time to provide Me with the required cancellation notice of a booking, You must still pay My fees for My time and/or the use of My vehicle. In that case, I shall advise You on claiming compensation from the DVSA for the cost of those fees; and
- 9.9 If You have a test booked and, in My opinion, You do not make the expected progress in Your lessons between the date of booking and the test date, I may decide not to permit You to use My vehicle for Your test and I will not be responsible for any fees that You pay for the test which are lost.

10. Cancellation and Termination

- 10.1 I may, in my discretion, terminate Your tuition if Your conduct, progress or commitment consistently falls below the standards that I reasonably expect;
- 10.2 You may, at any time, subject to Your meeting the requirements of Clause 3 as to giving notice of Your cancellation of lessons, terminate Your tuition by Me; and
- 10.3 Where sub-clause 10.1 or 10.2 applies, I shall refund to You any fees for lessons that You have paid me in advance.

11. Liability

- 11.1 I will be responsible for any foreseeable loss or damage that You may suffer as a result of My breach of these Terms and Conditions or as a result of My negligence. Loss or damage is foreseeable if it is an obvious consequence of My breach or negligence or if it is contemplated by You and Me when My contract with You is created. I will not be responsible for any loss or damage that is not foreseeable;

- 11.2 I provide tuition only for Your personal and private use/purposes. I will not be liable to You for any loss of profit, loss of business, interruption to business or for any loss of business opportunity;
- 11.3 Nothing in these Terms and Conditions is intended to or will exclude or limit My liability for death or personal injury caused by My negligence or for fraud or fraudulent misrepresentation;
- 11.4 Furthermore, if you are a “consumer” as defined by the Consumer Rights Act 2015, or a consumer for the purposes of any other consumer protection legislation, nothing in these Terms and Conditions is intended to or will exclude, limit, prejudice, or otherwise affect any of Our duties or obligations to You, or Your rights or remedies, or My liability to You, under:
- 11.4.1 the Consumer Rights Act 2015;
 - 11.4.2 the Regulations;
 - 11.4.3 the Consumer Protection Act 1987; or
 - 11.4.4 any other consumer protection legislation;
- as that legislation is amended from time to time.
- For more details of Your legal rights, please refer to Your local Citizens’ Advice Bureau or Trading Standards Office.

12. Changes to Terms and Conditions

I may from time to time change these Terms and Conditions without giving You notice, but I will use My reasonable endeavours to inform You as soon as is reasonably possible of any such changes.

13. How We Use Your Personal Information (Data Protection)

I will only use Your personal information as set out in My Data protection Policy 21 available from website or my request.

14. Regulations

I am required by the Regulations to ensure that certain information is given or made available to You as a Consumer before I make My contract with You (i.e. before I accept Your request to book any lesson) except where that information is already apparent from the context of the transaction. I have included the information itself either in these Terms and Conditions for You to see now, or I will make it available to You before I accept Your request to book a lesson. All of that information will, as required by the Regulations, be part of the terms of My contract with You as a Consumer.

15. Information

As required by the Regulations:

- 15.1 all of the information described in Clause 14; and
- 15.2 any other information which I give to You about tuition or other services or Me which You take into account when deciding to book a lesson or when making any other decision about My tuition or other services;

will be part of the terms of My contract with You as a Consumer.

16. Complaints

I always welcome feedback from My Pupils and, whilst I always use all reasonable

endeavours to ensure that I provide a high standard of tuition and service to Pupils, I nevertheless want to hear from You if You have any cause for complaint. If You have any complaint about My tuition or other services or any other complaint about Me, please raise the matter with Me in person or by phone email or post.

17. No Waiver

No failure or delay by Me or You in exercising any rights under these Terms and Conditions means that I or You have waived that right, and no waiver by Me or You of a breach of any provision of these Terms and Conditions means that I or You will waive any subsequent breach of the same or any other provision.

18. Severance

If any provision of these Terms and Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms and Conditions and the remainder of the provision in question shall not be affected.

19. Law and Jurisdiction

19.1 These Terms and Conditions, the Contract, and the relationship between you and Us (whether contractual or otherwise) shall be governed by, and construed in accordance with the law of England & Wales.

19.2 As a consumer, you will benefit from any mandatory provisions of the law in your country of residence. Nothing in Sub-Clause 19.1 above takes away or reduces your rights as a consumer to rely on those provisions.

19.3 Any dispute, controversy, proceedings or claim between you and Us relating to these Terms and Conditions, the Contract, or the relationship between you and Us (whether contractual or otherwise) shall be subject to the jurisdiction of the courts of England, Wales, Scotland, or Northern Ireland, as determined by your residency.