

Report to Licensing committee

10 March 2016

Report of Head of citywide services

Hackney carriage and private hire licences:

Subject

Consideration of criminal conduct, improper behaviour and complaints relating to existing licence holders and new applicants

Item

6

Purpose

To consider the introduction of an updated policy with regard to the councils consideration of criminal convictions and allegations, improper behaviour and complaints relating to licensed hackney carriage and private hire drivers.

Recommendation

- 1) To consider the introduction of the proposed policy, noting recommendation 2 below.
- 2) To consider the 2 options provided in paragraph 15 with regard to the handling of licensed drivers DVLA licence penalty points.
- 3) To delegate to the licensing manager the authority to revoke hackney carriage and private hire drivers licences in the circumstances laid out in paragraph 21.
- 4) To delegate to senior managers, of at least head of service level, the authority to suspend hackney carriage and private hire drivers licences in the circumstances laid out in paragraph 21.

Corporate and service priorities

The report helps to meet the corporate priority of a safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function.

Financial implications: None

Ward/s: All wards

Cabinet member: Councillor Driver – Neighbourhoods and community safety

Contact officers: Tony Shearman, licensing manager 01603 212761

Background documents: None

Report

1. Hackney carriage and private hire driver's licences are administered by local authorities under the Town Police Clauses Act 1847 and Local Government Miscellaneous Provisions Act 1976.
2. In making decisions regarding existing licence holders and new applicants, consideration is given to whether the applicant/licence holder is a 'fit and proper person'
3. The 'fit and proper' test can take into account convictions as well as cautions, arrests, other police data and complaints.
4. Where officers are alerted to concerns regarding the fitness or propriety of an applicant or licence holder, unless there are serious immediate concerns, the matter would normally be heard at the next available regulatory subcommittee hearing.
5. The current Statement of Policy about relevant convictions is attached at appendix A.
6. With regard to convictions, the current criteria for officers to require an applicant or licence holder to appear before the sub-committee would be as follows:-
 - Any unspent criminal conviction
 - For new applicants – 6 or more penalty points on their DVLA licence
 - For existing licence holder - 6 or more penalty points in the last 18 months on their DVLA licence
7. This current policy is bringing many drivers before the sub-committee, the vast majority are keeping (or acquiring) their licences with no further sanction other than a warning that if further convictions are obtained, then the matter would be reviewed again. This is not only creating an unnecessary burden on the subcommittee, but can also trivialise to an extent, many drivers experience of having to attend.
8. In order to address this, a new policy is proposed, which is attached at appendix B. This policy provides greater detail with regard to the types of offence likely to be considered and their relevance. It may be used to act as guidance to inform not only to the sub-committee but also licensing staff issuing licences under delegated authority and applicants/existing licence holders.
9. The proposed policy includes 2 different approaches to dealing with penalty points on driver's licences, both options are included in paragraph 15. Members are asked to consider both alternatives and direct officers accordingly.
10. Also included in the policy is a formalised approach to the immediate suspension and revocation of existing driver's licences under certain circumstances.

11. Recent cases in Rotherham and Aylesbury have highlighted the prominent role of taxi drivers in child sexual exploitation cases. Work at central government level is promoting local authorities to tackle child sexual exploitation, and at local level has led to the adoption of the 'taxi and licensing safeguarding action plan'. This has been expanded to include all vulnerable persons, not just children.
12. One of the issues highlighted has been the decision making process and management level of intervention, where serious safeguarding issues are alleged relating to a licensed driver
13. One of the actions of the action plan requires 'All decisions of temporary suspension sit with relevant director / executive head of service, rather than a less senior member of staff'.
14. In accordance with this, members are asked to delegate to senior managers, of at least head of service level, the authority to suspend immediately hackney carriage and private hire drivers licences, in the interests of public safety.
15. This responsibility would normally fall to the head of service responsible for the licensing department, however has been expanded to anyone at head of service level in case the matter is considered to be urgent and the relevant head of service is unavailable.
16. Also included in the proposed policy is the ability for the licensing manager to revoke a driver's hackney carriage/private hire licence where a DVLA licence has been suspended/revoked/disqualified. This has previously been the policy and is included here for completeness.
17. Information on the immediate suspension or revocation of licences has been included in the proposed policy in paragraph 21, and also the document highlights the ability for the authority to take into consideration information falling short of a conviction.

Conclusion

18. The proposed policy is considered necessary to properly inform officers making decisions under delegated authority and offer guidance to the regulatory subcommittee.
19. Introduction of the proposed policy should alleviate some of the unnecessary burden on the regulatory subcommittee.
20. Delegation to officers of the suspension/revocation of hackney and private hire licences, under certain circumstances, is considered necessary to tackle public safety issues, particularly in relation to vulnerable persons and is an outstanding action in taxi and licensing safeguarding action plan.



NORWICH
City Council

APPLICATIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES DRIVERS' LICENCES

STATEMENT OF POLICY ABOUT RELEVANT CONVICTIONS

When submitting an application for a licence to drive a hackney carriage or private hire vehicle you are requested to declare any convictions or cautions you may have, unless they are regarded as 'spent' under the Rehabilitation of Offenders Act 1974. The information you give will be treated in confidence and will only be taken into account in relation to your application. You are requested to produce your DVLA Licence when submitting your application.

You should be aware that the licensing authority is empowered in law to check with the Criminal Records Bureau for the existence and content of ANY criminal record held in the name of the applicant. Information received from the Criminal Records Bureau (which will include 'spent' as well as 'unspent' convictions) will be kept in strict confidence while the licensing process takes its course and will be retained for no longer than is necessary.

The Licensing Authority may take into consideration when considering your application any 'spent' convictions which are considered to be relevant to the determination of your application.

The disclosure of a criminal record or other information will not debar you from gaining a licence unless the City Council considers that the conviction(s) renders you unsuitable. In making this decision the City Council will consider the nature of the offence(s), how long ago and at what age you were when it was/they were committed and any other factors which may be relevant. The City Council has adopted the attached Guidelines Relating to the Relevance of Convictions.

Any applicant refused a drivers' licence on the ground that he/she is not a fit and proper person to hold such a licence has a right of appeal to a Magistrates' Court.

If you would like to discuss what effect a conviction may have on your application you may telephone the Licensing and Enforcement Officer on (01603) 212032 in confidence for advice

Handling of DBS certificate information

Secure storage, handling, use, retention and disposal of certificates and certificate information.

General principles

As an organisation using the Disclosure Barring Service (DBS) service to help assess the suitability of applicants for positions of trust, Norwich city council complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information. It also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificate information and has a written policy on these matters, which is available to those who wish to see it on request.

Storage and access

Certificate information will be kept secure in a lockable office with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

In accordance with section 124 of the Police Act 1997, certificate information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom certificates or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

Usage

Certificate information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

Retention

Once a decision on an application has been made, we do not keep certificate information for any longer than is necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep certificate information for longer than six months, we will consult the DBS about this and will give full consideration to the Data Protection and Human Rights of the individual before doing so. Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

Disposal

Once the retention period has elapsed, we will ensure that any certificate information is immediately destroyed by secure means, i.e. by shredding, pulping or burning. While awaiting destruction, certificate information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). We will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. However, notwithstanding the above, we may keep a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificates and the details of the application decision taken.



APPLICATIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER'S LICENCES

GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

GENERAL POLICY

1. Each case will be decided on its own merits.
2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for three to five years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.
3. The following examples afford a general guide on the action to be taken where convictions are admitted.

(a) Minor Traffic Offences

Convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding etc., should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a disqualification of the applicant's driving then a hackney carriage or PHV licence may be granted after it's restoration but a warning should be issued as to future conduct.

(b) Major Traffic Offences

An isolated conviction for reckless driving or driving without due care and attention etc., should normally merit a warning as to future driving and advice given on the standard expected of hackney carriage and PHV drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further applications should be considered until a period of one to three years free from convictions has elapsed.

(c) Drunkenness

(i) With motor vehicle.

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least three years should elapse (after restoration of the driving licence) before an applicant is considered for a licence. If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic, a period of 5 years should elapse after treatment is complete before a further licence application is considered.

(ii) Not in a motor vehicle

An isolated conviction for drunkenness need not deter an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (i) above). In some cases, a warning may be sufficient.

(d) Drugs

An applicant with a conviction for a drug related offence should be required to show a period of at least three years free of convictions before an application is entertained, or five years after detoxification treatment if he/she were an addict.

(e) Indecency offences

As hackney carriage and PHV drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period (at least three to five years) free of such offences. More than one conviction of this kind should preclude consideration for at least five years. In either case if a licence is granted a strict warning as to future conduct should be issued.

(f) Violence

As hackney carriage and PHV drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least three years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

(g) Dishonesty

Hackney carriage and PHV drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of three to five years free of conviction should be required before entertaining an application.

(h) Racially Aggravated and Racial Offences

An offence such as assault or criminal damage may be racially aggravated. An offence is racially aggravated if, at the time of committing the offence or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based upon the victim's membership (or presumed membership) of a racial group or if the offence is motivated (wholly or partly) by hostility towards members of a racial group based on their membership of that group.

A serious view should be taken of racially aggravated offences. An applicant with a conviction for a racially aggravated offence should be required to show a period of at least three years free of conviction before an application is entertained. A similar view should be taken of racial offences such as possession of racially inflammatory material. Racial offences and racially aggravated offences should be taken seriously because of the significant social damage done by offences and remarks of a racist nature.



NORWICH
City Council

HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES

**Consideration of criminal conduct, improper
behaviour and complaints relating to existing
licence holders and new applicants**

DRAFT

Taxi and PHV Licensing Criminal Convictions' Policy

1. Introduction

The public are entitled to have the utmost confidence in drivers of taxis and private hire vehicles: therefore, the Council must ensure that only fit and proper persons obtain drivers' and operator licences.

The purpose of this policy is to provide guidance on the criteria taken into account by the Licensing Authority when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver or operator licence.

The overriding aim of the Licensing Authority is to protect the safety of the public.

The Licensing Authority is concerned to ensure:

- That a person is a fit and proper person
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest persons
- The safeguarding of children, young people and vulnerable adults.

In this scheme "safeguarding" means the protection of children or vulnerable adults from harm to their health, safety, well-being or development and "safeguarding concern" means grounds to believe that the individual applicant or driver may not be a fit and proper person because grant, retention or renewal of a licence may risk such harm occurring. Vulnerable adult has the meaning as in section 59 of the Safeguarding Vulnerable Groups Act 2006.

This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:

- Applicants for drivers' licences
- Existing licensed drivers whose licences are being reviewed
- Councillors
- Licensing officers
- Legal officers
- Magistrates hearing appeals against local authority decisions

For renewal applications and current licence holders the policy will not be applied retrospectively.

However, the Policy will be applied to renewal and current licence holders if any additional convictions, cautions or complaints are incurred or brought to the attention of the Council that along with the historical information would call into question a person's suitability to hold a licence.

Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. Whilst officers will have regard to the guidelines contained in the policy, **each case will be considered on**

its individual merits and where the circumstances demand, the officer may pass the matter to the Councils Regulatory Sub-Committee.

All licences are issued with a set of Conditions which the licence holder must comply with. By-laws are also in place in relation to Hackney Carriage Drivers and proprietors. Copies are attached to every licence and are available on request. A repeated breach of licensed driver and or licensed vehicle conditions and or by-laws may also lead to a person having his hackney carriage/private hire driver licence suspended or revoked.

2. General policy

There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are exceptional mitigating circumstances or alternatively where there are many or continuous offences or complaints which may show a pattern of offending and unfitness.

A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:

- Remain free of conviction for an appropriate period; AND show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

Where an applicant has been convicted of a criminal offence, the Licensing Authority cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)].

It is the responsibility of the applicant/licence holder to satisfy the Licensing Authority that they are a 'fit and proper person' to hold a licence. The applicant/licence holder must ensure that all convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses are disclosed to the Council.

3. Appeals

Any applicant refused a driver's licence on the grounds that the Licensing Authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.

4. Powers

Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the Licensing Authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the Licensing Authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

5. Consideration of disclosed criminal history

Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the Licensing Authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operator's licence is a '**fit and proper**' person to hold such a licence.

However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the Licensing Authority will look into:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of conviction
- Circumstances of the individual concerned
- Sentence imposed by the court
- The applicant's age at the time of conviction
- Whether they form part of a pattern of offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant

Existing holders of drivers' licenses are required to notify the Licensing Authority in writing **within seven days** of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).

Applicants can discuss further what effect a caution/conviction may have on any application by contacting a licensing officer in confidence for advice.

The Licensing Authority conducts enhanced disclosures from the Disclosure & Barring Service (DBS) formerly the Criminal Records Bureau (CRB) of any applicant for a drivers' licence.

Applicants applying for the grant or a renewal of a drivers' licence will be required to obtain an enhanced disclosure at their expense.

The licensing authority encourages applicants and licence holders to register for the DBS's update service and to nominate the licensing authority to receive updates. Registration lasts for 1 year and costs £13 per year.

The Licensing Authority is also entitled to use other records and information including any complaints history that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Licensing Authority or other Licensing Authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.

DBS disclosures will not include details of any foreign convictions or cautions unless they have been recorded on the UK National Computer. Any applicant who has resided outside the UK for any period longer than 3 months within the preceding 10 years, or since the age of eighteen, whichever is the lesser, will be required to produce a "Certificate of Good Conduct" from the relevant countries which details any cautions or convictions arising against the applicant while resident in that country. It shall be the applicant's responsibility to obtain this documentary evidence and to bear the costs of such. The requirement is in addition to the DBS disclosure.

Where an applicant is unable to obtain the above, a discussion will take place with the licensing manager to ascertain what alternative evidence should be provided. This may include character references from appropriate individuals or other bodies as to the applicants conduct whilst resident in the other country.

If character references are supplied the referee must have known the person applying for at least 5 years if they are a friend, neighbour or colleague. If the referee is a professional, i.e. teacher, solicitor etc then they must have known the person for at least 2 years.

The referee cannot be closely related to the applicant, in a relationship or live at the same address as the person applying.

Non-conviction information

If an applicant has, on one or more occasions, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include but is not limited to serious violent offences, offences involving child sexual exploitation and sex offences.

The Licensing Authority considers cases to the civil burden of proof i.e. a "balance of probabilities" and is able to make a decision on the alleged offences regardless of whether a criminal conviction followed the offence.

In assessing the action to take, the safety of the travelling public must be the paramount concern.

It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

The following lists are **not exhaustive** and any offences not covered by this Policy will not prevent the Licensing Authority from taking into account those offences. The seriousness of the offence and sentence imposed will be considered in making a determination of the application.

6. Sex and indecency offences

As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Those with convictions for the more serious sexual offences will normally be refused.

- Rape
- Assault by penetration
- Offences involving children, young persons or vulnerable adults
- Sexual Assault
- Indecent assault
- Abuse of position of trust
- Familial child sex offences
- Female circumcision
- Female genital mutilation
- Possession of indecent photographs, child pornography etc.
- Any offence involving child sexual exploitation and/or sexual exploitation of vulnerable adults
- Trafficking for sexual exploitation
- Preparatory offences
- Any sexual or indecency offence committed in the course of taxi or private hire work
- Exploitation of prostitution
- Indecent exposure
- Soliciting (kerb crawling)
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

In addition to the above the Licensing Authority will not grant a licence to any applicant who is currently on the Sex Offenders Register.

7. Offences against Children

No period is thought appropriate to have elapsed and an application will normally be refused where the applicant has a conviction for an offence such as:

- Sexual activity with a child
- Causing or inciting a child to engage in sexual activity
- Causing a child to watch a sexual act
- Sexual activity in the presence of a child
- Arranging or facilitating child prostitution or pornography
- Arranging or facilitating commission of a child sexual offence
- Meeting a child following sexual grooming etc.
- Possession of indecent photographs of children

- Grooming of children for sexual exploitation
- Trafficking of children for sexual exploitation
- Supplying or offering to supply Class A drugs to a child
- Voyeurism

A licence will not normally be granted where the applicant has a conviction for an offence of similar offence(s) which replace the offences below and the conviction is less than 10 years prior to the date of application:

- Neglect of a child
- Child cruelty
- Abandonment of a child
- Drunk in charge of a child
- Under the influence of drugs in charge of a child
- Exposing a child to risk

8. Serious offences involving violence

Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.

In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.

Unless there are truly exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Murder
- Manslaughter
- Infanticide
- Child destruction
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Kidnapping or abduction
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

A licence will not normally be granted where the applicant has a conviction for an offence of similar offence(s) which replace the offences below and the conviction is less than 10 years prior to the date of application:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent (s18 Offences Against the Person Act 1861)

- Grievous bodily harm (s20 Offences Against the Person Act 1861)
- Robbery (armed or otherwise)
- Possession or distribution of prohibited weapon or firearm
- Riot
- Common assault with racially aggravated features
- Violent disorder
- Threats to kill
- Any HATE motivated crime
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

A licence will not normally be granted where the applicant has a conviction for one of the offences listed below or for an offence which replaces or is broadly equivalent to the offences listed below and the conviction is less than 5 years prior to the date of application:

- Racially-aggravated criminal damage
- Racially-aggravated offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

A licence will not normally be granted where the applicant has a conviction for one of the offences listed below or for an offence which replaces or is broadly equivalent to the offences listed below and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm
- Assaulting a Police Officer
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Harassment
- Obstruction
- Criminal damage
- Resisting arrest
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

10. Possession of a weapon

If an applicant has been convicted of possession of a weapon or possession of a firearm or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public. Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

11. Dishonesty

A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. All drivers are required to deposit such property with either the Licensing Authority or the police within 24 hours. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc.

Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

In general, a minimum period of 5 years free of conviction or at least 5 years from completion of sentence (whichever is longer) should be required before granting a licence. The more serious the offence the longer the period free of conviction should be. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- deception designed to obtain a pecuniary advantage
- other deception
- taking a vehicle without consent
- or any similar offences (including attempted or conspiracy to commit) offences which replace the above.
- perverting the course of justice

12. Drugs

A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of or cultivation of drugs and has not been free of conviction for 10 years.

A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.

An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.

If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

13. Driving offences involving the loss of life

A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

A licence will not normally be granted where the applicant has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving while unlicensed, disqualified or uninsured
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

Before a licence is granted, an applicant should be free of conviction for 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he has a conviction for:

- Causing death by careless driving

14. Drink driving/driving under the influence of drugs

As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. Provided that a period of 3 years has elapsed since conviction an isolated incident would not necessarily debar an applicant from proceeding with an application but he should be warned as to the significant risk to his licence status in the event of re-offending.

More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 7 years, after the restoration of the driving licence following a second conviction for driving or being in charge of a vehicle whilst under the influence of drink or drugs should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

15. General Traffic Offences

An isolated conviction for reckless driving or driving without due care and attention etc, should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and PHV drivers. More than one conviction for this type of offence within the last 5 years should merit refusal and no further application should be considered until a period of 3 years free from convictions has elapsed.

Similarly, a first conviction during the period of a hackney carriage or PHV drivers licence will lead to a warning as to future conduct, and may lead to revocation of that licence for subsequent convictions. At least 3 years should elapse (after the restoration of the DVLA licence) before the individual is considered for a licence.

Insurance offences

A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years; however strict warning should be given as to future behaviour. More than one conviction for these offences would normally prevent a licence being granted or renewed.

At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would normally be granted for a hackney carriage or private hire drivers licence. An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will have his operators' licence revoked immediately and prevented from holding a licence for three years.

Using a mobile phone whilst driving

Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research (see for instance <http://www.rospa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>) which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:

- are much less aware of what's happening on the road around them
- fail to see road signs
- fail to maintain proper lane position and steady speed
- are more likely to 'tailgate' the vehicle in front
- react more slowly, take longer to brake and longer to stop
- are more likely to enter unsafe gaps in traffic
- feel more stressed and frustrated.

There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.

A licence will not normally be granted if an applicant has more than one conviction for an offence of using a mobile phone.

Penalty points – option 1

Existing drivers who have accumulated 9 or more points on their DVLA driving licence will have their private hire/hackney carriage driver licence suspended, until the driver has successfully undertaken a private hire or hackney carriage DSA driving test, at their own expense.

New applicants are required, as part of the application process, to undertake a DSA driving test and therefore will be able to satisfy the Council of their driving ability.

Penalty points – option 2

Convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding etc. may prevent a person from being granted a hackney carriage or private hire drivers licence if they have received more than 2 motoring convictions within the last 2 years.

The accumulation of 9 or more penalty points will cast grave doubts on the suitability of the applicant and could lead to the refusal of the application.

16. Outstanding charges or summonses

If the individual is the subject of an outstanding charge or summons their application may in some circumstances continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.

Where information is received through the Notifiable Occupations Scheme on existing licence holders, consideration will be given to the information in accordance with this policy.

If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused. Existing drivers may have their licence suspended or revoked.

A suspension or revocation of the licence of a driver normally takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

This section includes applicants or licensees who may be subject to police bail having been arrested for an offence and who is currently under investigation.

17. Cautions

Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

If an applicant has received a caution for a traffic offence, given the nature of the offence and the profession of a taxi driver, the applicant may be given a warning as to his/her future conduct.

Cautions for more serious offences could lead to refusal of an application or the suspension or revocation of a licence.

18. Licensing offences

Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons or assistance dogs would normally prevent a licence being granted or renewed until a period of 3 years has passed since conviction.

19. Complaints

We can take action up to and including suspension and revocation of a drivers licence if a complaint is made which suggests a driver's fitness & propriety is undermined This may be for a number of reasons including but not limited to the following:

- misconduct
- any behaviour, action or negligence impacting on customer safety
- driving standards
- physical or mental ill-health
- lack of the necessary knowledge of English language to be able to perform the role of a licensed driver safely.
- Mischarging
- Inappropriate or aggressive behaviour

The number and type of complaint(s) will be given consideration to and a driver's history will be examined to ascertain whether there have been previous complaints. Except in the most serious of cases, a driver will be given an opportunity to respond to the complaint before any action is taken.

20. Licenses issued by other Licensing Authorities

Applicants who hold a licence with one Licensing Authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

21. Suspensions / Revocations

A licence may be suspended by an Officer of the Council, with immediate effect, in the interest of public safety, in the following circumstances:

- a person is charged with a serious offence

- a person is under investigation for serious offences
- a person is deemed by a qualified general practitioner that the individual is unfit to drive taxi or private hire vehicles
- a person after experiencing a change in medical condition fails to provide proof of his/her fitness to drive taxi or private hire vehicles
- a person fails to provide proof of his/her fitness to drive taxi or private hire vehicles when reasonably required to do so, by an officer of the council
- a person fails to provide a valid photo card DVLA driving licence, when reasonably required to do so, by an officer of the council
- a person fails to provide a valid DBS application form when reasonably required to do so, by an officer of the council.

A licence will be revoked by an Officer of the Council with immediate effect in the interest of public safety in the following circumstances:

- a person's ordinary Road Traffic Act Driving licence is revoked or suspended
- a person is disqualified from driving for any period of time

22. Summary

To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered.

However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.

Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.

While it is possible that an applicant may have a number of convictions that, individually, do not meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

Before a decision is made to refuse or revoke a licence, with exception of the circumstances in para. 21 above, a meeting will be held in order to afford an applicant or existing driver an opportunity to put their case.

In the Council's view this statement and the guidelines that follow are compatible with the rights and freedoms under the European Convention on Human Rights. This policy will be continuously monitored and, if necessary, a review will be undertaken.