



DRAFT

SAFEGUARDING, SUITABILITY AND CONVICTIONS STATEMENT OF POLICY FOR TAXI LICENSING

INTRODUCTION

The Council is responsible for licensing Hackney Carriage Drivers and Vehicles, Private Hire Drivers and Vehicles and Private Hire Operators. For the purposes of this document this provision will be referred to as Taxi Licensing.

This policy covers new and renewal applications as well as any existing licences for drivers and operators.

Licences may only be granted where the Council is satisfied that the individual is a “fit and proper person” to hold such a licence.

This Policy is intended to give guidance on one aspect of whether an individual is or is not a “fit and proper” person; specifically, the situation where an individual has previous convictions, cautions, complaints, reprimands and/or other relevant matters.

In carrying out its Taxi Licensing functions the Council’s primary objective is to protect public safety and therefore must ensure:

- That an individual is a “fit and proper” person
- That the public are not exposed to individuals with a history of dishonesty, indecency and/or violence
- The safeguarding of children, young persons and vulnerable adults

The drivers, proprietors and operators of licenced vehicles are in a unique position of trust in relation to the personal safety of their passengers and the information they have about their journeys, regular activities and routines.

Few people would get into a car with a stranger, but that is the situation when you get into a taxi. In these circumstances passengers may also be at their most vulnerable, such as being alone or under the influence of alcohol.

Few people would allow their disabled child to be taken to school by a stranger, but this happens regularly with school contracts.

Few people would give their holiday plans to a stranger, identifying their property as being empty for a determined period of time, but that is the situation when you book your taxi to and from the airport or train station.

For these reasons it is imperative that the Council has a robust policy for ensuring that all those associated with the taxi industry are suitable and safe to be trusted with the safety of passengers and the personal information they hold on individuals.

Assessment of Suitability

The most important questions that the Members of any Committee that decides on whether to grant, renew, suspend, revoke or refuse a licence to a driver, vehicle or operator, are:

1. Would I trust this person to be responsible for driving or operating a vehicle that any member of my family would use (children, parents, grandparents, grandchildren, husband or wife), with particular regard to whether they might be alone &/or vulnerable at the time?
2. And would I trust this person with sensitive personal information about my routines and holiday plans?

If the answer to those questions is 'No', 'don't know' or 'not sure' then a licence should not be granted or renewed and should be refused or where an existing licence is in place revoked, on the grounds that Members are not convinced that the applicant is safe and suitable.

Safeguarding Considerations

Particular regard must be had for the safeguarding of children and vulnerable adults. Vulnerable persons not only includes those with learning or physical disability or impairment, but also includes those under the influence of drugs or alcohol, or in any other circumstances which render them less capable of making decisions; this might include suffering from shock after an incident or traumatic experience.

Following the review of Rotherham's Licensing Services serious failings were identified and consequently the Council did not take sufficient steps to protect the public. Chorley Council must learn from the mistakes of Rotherham and Rochdale and ensure that the appropriate policies and safeguards are in place to ensure that only those persons that meet the fit and proper test are permitted to hold any form of Taxi licence.

Therefore, it is important to not only consider convictions but also take steps to give sufficient weight to relevant personal relationships and associations with known or suspected criminals, complaints, allegations, investigations, arrests and charges, even where convictions are not secured, when making any decisions that can impact on the safety of the public.

The Licensing Committee is not a jury in a criminal court and does not have to be convinced beyond reasonable doubt of guilt. The precautionary principle should be applied in all cases.

Child Sexual Exploitation is not a remote problem that only affects other areas of the country, statistically there is evidence to support the claim that it happens everywhere, and that the people responsible for perpetrating and organising these crimes live and work in our communities. There is evidence of an association between taxi drivers, proprietors and operators and also other licenced premises, such as takeaways, pubs and off licences. As such the Licensing and Public Safety Committee and sub-committees have a clear responsibility to the public when making their decision, the consequences of failure in this

respect are far reaching, not only personally for the victims, but also for the reputation of the Council.

Convictions

Although convictions are not the only consideration for the Council, they are important and clear guidelines are crucial.

The Rehabilitation of Offenders Act 1974 does not apply to individuals wishing to be or currently licensed to drive a taxi, although it does apply to operator licences. It is acknowledged that employment plays a vital role in reducing reoffending and changing behaviour, however, the Council's primary role when carrying out the licensing function is to protect public safety and ensure all those persons licensed by the Council are fit and proper to hold such a licence.

When submitting an application for a licence to drive a Hackney Carriage or Private Hire vehicle, individuals are required to declare any and all previous convictions. Individuals are also required to declare any and all:

- Formal/simple cautions
- Matters of restorative justice
- Fixed penalties and endorsable fixed penalties
- Details of matters of which they are currently the subject of criminal investigation and/or prosecution.

In relation to operator licences applicants are only required to disclose convictions which are not spent for the purposes of the Rehabilitation of Offenders Act 1974.

The Council requires that all Taxi Driver applicants provide an enhanced DBS (Disclosure and Barring Service) certificate, which will include details of all convictions and also may include details of charges and arrests which were not upheld and convicted in court. This information is just as pertinent as any convictions, as there are a number of technical reasons that a case may be withdrawn or lost and the detail of the case should be examined closely.

The Council's Policy also includes the requirement for Private Hire Operators (PHO) (including all business partners and directors of the company) that are not already subject to a Chorley enhanced DBS as a licensed driver, to provide a basic DBS on application and renewal of the PHO licence. Although spent convictions will not be visible because the PHO is not exempt from the provisions of the Rehabilitation of Offenders Act, like a driver, this policy still provides an additional safeguard, as the PHO has a strong influence on the use and potential misuse of a vehicle under their control.

The information will be treated in confidence and will only be taken into account in relation to the relevant application in order to assist the Council in determining whether the applicant is a "fit and proper" person to hold a driver's licence for the purposes of Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, or "fit and proper" to hold an operator's licence and / or whether the Council should exercise any of its powers under Section 61 and 62 of this Act (i.e. suspension, revocation or refusal to renew a existing licence).

We will consider all convictions based upon the Council's guidelines. When considering convictions, complaints, allegations, investigations, arrests and charges the Council will be mindful of the severity of, the relevance to the licence applied for and the time elapsed since the offence or alleged offence. The age of the applicant at the time of the offences/ alleged offences will also be taken into account.

Complaints include those made directly to the Council, police, private hire operators or any other agency. Intelligence received from other agencies, which includes circumstances that have not resulted in a criminal conviction, caution or other disposal may be taken into account. By way of example, this would also include incidents that have resulted in a police investigation, but there has been no further action due to the criminal burden of proof, if the Council is satisfied that the incident occurred based on the balance of probabilities.

The disclosure of a criminal conviction, caution or other relevant information relating to an individual's conduct will not debar that individual from being granted, retaining or renewing a licence. It will depend on whether or not an individual can satisfy the Council that they are a "fit and proper" person to hold such a licence.

The Council may not be satisfied that an individual is a "fit and proper" person to hold a licence for any good reason. If adequate evidence that an individual is a fit and proper person is not presented or if there is good reason to question or doubt the evidence provided, then that could amount to good reason to refuse a licence or make any decision adverse to the licence holder.

In considering evidence of an individual's good character and fitness to hold a driver / operator licence and where previous convictions / cautions or other information relating to criminal matters or character are disclosed, the Council will consider:

- The nature of the offence / issue and penalty
- When it was committed / took place
- The date of conviction / issue and the length of time elapsed
- The age of the individual when the offence / incident took place
- Whether or not it is part of a pattern of behaviour
- The intent the harm could or did cause
- Any other factors which may be relevant

Greater weight will be given to recent convictions, complaints, allegations, investigations, arrests and charges and in particular those criminal offences involving dishonesty, violence, drugs, alcohol, criminal damage and sexual offences, together with serious offences connected with the driving of a motor vehicle.

The Council will, where appropriate, contact other agencies for any other information (e.g. other local authorities, the Police, Children's Services) which they may hold in order to determine the application or existing licence. Any checks made with the police will be in accordance with the guidelines in the Department of Transport Circular 2/92 and the Home Office Circular 13/92. This information will be kept in strict confidence and will be retained no longer than is necessary and in any event will be destroyed in accordance with the requirements of the Data Protection Act 1998 and good practice after the application is determined or any appeal against such determination is decided.

Whilst a licence is in force, we should receive updates from the Police, of new convictions and cautions for licence holders. This will allow us to decide whether action needs to be

taken on the continuation of the licence. It is the responsibility of each licence holder to inform the Council promptly in writing of any conviction, caution or fixed penalty arising during the currency of the licence. A criminal record check is required on application, and thereafter every three years.

GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

The Council has adopted the following guidelines relating to the relevance of convictions to which it refers in determining applications for drivers' licences.

The guidelines cannot deal with every possible offence and the Council will take into account offences not specifically referred to, or any other conduct which may be relevant to an application. If an applicant has a conviction for an offence not covered by the guidelines a judgement will be made based on the factors outlined at paragraph 3 when determining the application.

Offences are given a general description in the guidelines and offences of a similar nature created in any statutory provision, modification or re-enactment, will be taken into account and interpreted in accordance with the spirit of the guidelines

The guidelines are not an attempt to provide a definition of what constitutes a "fit and proper person".

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

The guidance will be used for the determination of all new applications, the renewal of existing licences and the continuous review of current licences where any offences are committed during their period of validity.

General Policy

1. Each case will be decided on its own merits.
2. The Council has a duty to ensure that applicants are 'fit and proper' persons to hold private hire or hackney carriage driver licences. One aspect of this is the extent to which previous convictions indicate that an individual is not a "fit and proper" person and / or may take advantage of passengers, abuse or assault them or otherwise take advantage of the role that the licence provides. This includes, but is not limited to, convictions for:
 - Offences against children, young people or vulnerable adults
 - Dishonesty
 - Sexual offences
 - Violence and drugs
 - Traffic offences
3. Whether an applicant has any recorded criminal activity is a critical factor in making this judgement.
4. Convictions or cautions which are recorded for any offences may be considered by the Council in determining an application. This guidance refers to the most common groups of relevant offences, namely, offences against children and young persons, dishonesty, sexual offences, traffic offences, violence and drugs.

5. An offence when committed in relation to driving or operating a taxi (or complaint about behaviour) will be viewed in a more serious light and a longer period of rehabilitation will be required.

A person with a conviction for a single serious offence or a number of separate offences is not barred from applying for a private hire or hackney carriage driver licence, but would normally be expected to remain free from conviction for an appropriate period (which will depend on the nature of the offence) and be able to provide supporting evidence to show that they are a 'fit and proper' person to be granted or to continue to hold a licence (the onus is on the individual to produce such evidence).

Simply remaining free of conviction will not generally be regarded as sufficient evidence that a person is a "fit and proper" person to hold a licence.

Consideration will be given to any patterns of offending, intent and the harm which was or could have been caused.

Multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account. Any case which involves a sexual offence, murder or manslaughter the application / licence will normally be refused / revoked.

Specific Guidance on the Relevance of Offences and Convictions

This section of the guidelines lists offence types and details the impact which these or similar offences will have on an application for a licence to drive a private hire or hackney carriage where convictions or cautions are disclosed:

a) Offences of Dishonesty

The Council takes a serious view of any convictions involving dishonesty. In general, an applicant with convictions for dishonesty which is less than **5 years** of the conviction date, is unlikely to be granted a licence, but in all cases would be referred to a hearing for determination.

In particular, an application will normally be refused where the applicant has a conviction for an offence listed below and the conviction is less than 3-5 years prior to the date of the application. Between 3 and 5 years after conviction, or release from prison (whichever is the most recent), regard will be made to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a licence.

- Burglary
- Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- Blackmail
- Bribery
- Conspiracy to defraud
- Forgery (e.g. producing false insurance policy)
- Fraud
- Handling or receiving stolen goods
- Obtaining money or property by deception
- Theft
- Offence of possession of goods with false trade mark for sale or hire-Trade Marks Act 1994

- Other deception
- Similar offences
- Offences which replace any of the above offences.

Justification

Drivers of private hire and hackney carriage vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.

Passengers may include especially vulnerable people and children.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. In certain situations drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station.

The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into drivers.

b) Violence

Convictions for violence are amongst the most serious of all criminal offences.

Offences of violence against children and young people

Drivers of private hire and hackney carriage vehicle are often entrusted with the transportation of children and young persons who are particularly vulnerable whilst in the care of the driver.

An extremely serious view will be taken where an applicant has been convicted of any offence of violence involving a child (under 14 years of age) or a young person (aged 14 to 17 years) and, in order to afford an appropriate degree of protection to children and young people, an applicant will be required to provide substantial evidence of rehabilitation before the Council will be satisfied that the applicant passes the 'fit and proper' test.

All applicants with such convictions will be referred to a hearing for determination of the application. A conviction less than **5 years** old will generally be refused. Between 5 and 10 years after conviction, or release from prison (whichever is the most recent), regard will be made to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a licence.

Where the commission of an offence involved the loss of life, a licence will normally be refused.

Offences against adults

Private hire and hackney carriage vehicle drivers maintain close contact with the people from all parts of the community and the Council takes the view that law abiding citizens should not be exposed to a risk of violence by placing them in a vehicle driven by a person with a history of criminal violence. The elderly and infirm, the vulnerable, lone females and people who are the worse for wear through drink are all at particular risk from a driver with a tendency to resort to violence.

Where the commission of an offence involved the loss of life, a licence will normally be refused.

All applicants with such convictions will be referred to a hearing for determination of the application. A conviction less than **3 years** old will generally be refused.

Offence types

Convictions falling into the most serious group offences of violence involving the loss of life is likely to result in **outright refusal** of an application; e.g.

- (i) murder
- (ii) manslaughter
- (iii) culpable homicide
- (iv) Similar offences
- (v) Offences which replace the above offences

Applicants with one or more convictions for very serious violence should expect the application to be refused until a period of at least **10 years** has elapsed from the date of the last offence or their release from prison (whichever is most recent); e.g.

- Arson
- Malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861)
- Actual bodily harm (s.47 Offences Against the Person Act 1861)
- Which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
- Grievous bodily harm with intent (s.18 Offences Against the Person Act 1861)
- Grievous bodily harm with intent (s.20 Offences Against the Person Act 1861)
- Robbery
- Possession of firearm
- Riot
- Kidnap
- Assault Police
- Common assault which is racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
- Violent disorder
- Resisting arrest
- Similar offences
- Offences which replace the above offences

Applicants with one or more convictions for serious violence should expect the application to be refused until a period of at least **5 years** has elapsed from the date of conviction or their release from prison (whichever is most recent), including:

- Racially-aggravated criminal damage (s.30 Crime and Disorder Act 1998)
- Fear of provocation of violence which is racially-aggravated (s.4 Public Order Act 1986) or (s.31(1)(a) Crime and Disorder Act 1998)
- Intentional harassment, alarm or distress which is racially-aggravated (s.4A Public Order Act 1986 offence) or (s.31(1)(b) Crime and Disorder Act 1998)
- Harassment which is racially-aggravated (s.2 Protection from Harassment Act 1997) or (s.32(1)(a) Crime and Disorder Act 1998)
- Putting people in fear of violence which is racially-aggravated (s.4 Protection from Harassment Act 1997) or (s.32(1)(b) Crime and Disorder Act 1998)
- Harassment, alarm or distress which is racially-aggravated (s.5 Public Order Act 1986) (s.31(1)(c) Crime and Disorder Act 1998)
- Similar offences
- Offences which replace the above offences

Applicants with one or more convictions for other offences of violence should expect the application to be refused until a period of at least **3 years** has elapsed from the date of conviction or their release from prison (whichever is most recent), including:

- Common assault
- Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
- Affray
- Battery
- Harassment, alarm or distress (S5 Public Order Act 1986 offence)
- Fear of provocation of violence (s.4 Public Order Act 1986 offence)
- Intentional harassment, alarm or distress (s4A Public Order Act 1986 offence)
- Obstruction
- Possession of offensive weapon
- Criminal damage
- Similar offences
- Offences which replace the above offences

Justification

Members of the public and in particular, the elderly, infirm and children or vulnerable adults entrust their personal safety to private hire and hackney carriage drivers whenever they take a journey.

Passengers often travel alone and are vulnerable to physical attack etc.

Users of private hire and hackney carriage vehicles have a right to expect that drivers are not individuals with a predisposition towards or a propensity for violent behaviour at any level.

c) Drugs

Supply of drugs - An application will normally be refused where the applicant has a conviction for an offence related to the supply of drugs and the conviction is less than **5 -10 years** prior to the date of application or their release from prison (whichever is most recent). Between 5 and 10 years, consideration will be given to the circumstances of the offence and any evidence demonstrating that the individual is now a fit and proper person to hold a licence.

Possession of drugs - An application will normally be refused where the applicant has more than one conviction for offences related to the possession of drugs and the convictions are less than **5 years** prior to the date of the application.

An application from an individual who has an isolated conviction for an offence related to the possession of drugs within the last **3 to 5 years** will require careful consideration of the facts.

Addiction - If any applicant has been classified as an 'addict' they will be required to show evidence of at least **5 years** free from drug taking following rehabilitation/detoxification treatment supported by their doctor.

Justification

The use of drugs has a tendency to make people unpredictable, unreliable and sometimes violent. Driving whilst under the influence of drugs is illegal and dangerous not only to the driver, but also to passengers and other road users.

In addition, private hire and hackney carriage drivers are in a position where they could quite easily become involved in the transportation and/or supply of drugs by the very nature of the activity. This would clearly be undesirable.

Members of the public have a right to expect that those persons who are granted licences to transport them are not drug users or involved in the supply of drugs.

d) Sexual and indecency offences

Sex Offenders' Register - Any applicant currently on the sex offenders' register should expect an application to be refused.

Offences against Children and Young Persons - Where an applicant has been convicted of a sexual offence involving a child or young person they should expect the application to be refused.

Other Offences - Applicants with a conviction for rape, indecent assault, or other similar offences or similar offences under the Sexual Offences Act 2003, will normally be refused a licence.

Applicants will normally be refused a licence if they have a conviction relating to sexual offences until they can show a substantial period (normally 10 years) free from any such conviction or their release from prison (whichever is most recent). Between 5 and 10 years following conviction or their release from prison (whichever is most recent), regard will be had to the circumstances of the offence and any evidence demonstrating that such an individual is now a fit and proper person to hold a licence, including:

- Importuning
- Indecent exposure
- Soliciting
- Other similar offences or offences under the Sexual Offences Act 2003 when the provisions of that Act come into force

The Council may also consider such circumstances that, if they occurred at the time of the consideration of the application, would not be a criminal offence.

Intelligence and other information which has not resulted in a criminal conviction- The Council will sometimes be made aware of other intelligence or low level information about an individual which has not resulted in the conviction of that person but is relevant in relation to their character. The Council will give appropriate consideration to this information and will seek to consult with other appropriate agencies in order to ensure that they have a comprehensive understanding. Where appropriate, the Council will investigate such information/ intelligence. Any additional information gathered through the investigation process may then be taken into account at any subsequent hearing.

Justification

Drivers of private hire and hackney carriage vehicles are in a position of trust and frequently transport children, young people, vulnerable adults or lone female passengers (who are sometimes drunk etc.). They are often alone with the passenger and are in complete control of the vehicle and the journey and any risk that the driver may sexually assault, attack or interfere with a passenger must be eliminated by refusing a licence.

e) DRUNKENNESS

With a motor vehicle (no disqualification) - An application will normally be refused where the applicant has a conviction, which has not resulted in disqualification by the courts, for an offence which has occurred within **2 years** of the date of the application.

Where there is more than one conviction for this type of offence within the last five years, the application is unlikely to be successful

With a motor vehicle (disqualification) - Where a disqualification has occurred as a result of a drink-driving conviction, at least **5 years** free from conviction should normally elapse from the date of the restoration of the DVLA licence before an applicant is considered for a licence.

Where there is more than one conviction for this type of offence within the last ten years, the application is unlikely to be successful

Not in a motor vehicle - An isolated conviction associated with drunkenness need not automatically prevent an applicant from gaining a licence. In some cases, a warning may be appropriate.

More than one conviction associated with drunkenness could indicate a behavioural problem or 'dependency' necessitating critical examination and refusal of a licence.

Dependency & Alcoholism – Where there is any possibility of dependency or alcoholism a recent medical report from the applicant's Doctor will be required and an applicant will normally be required to show a that period of at least **5 years** has elapsed after completion of rehabilitation/detoxification treatment where they were alcoholic.

Justification

A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink.

Driving whilst under the influence of drink is unacceptable under any circumstances and puts not only the driver, but passengers and other road users at risk. Such irresponsible behaviour is not conducive to properly observing the responsibilities of a private hire or hackney carriage driver.

Other criminal behaviour involving drunkenness, such as being 'drunk and disorderly' also tends to suggest that an applicant does not have the appropriate temperament for the role.

MOTORING OFFENCES

Major Traffic Offences

Any of the offences listed in the Table A, or any offence listed in Table B which resulted in a licence being endorsed with 6 or more penalty points is deemed to be a Major Traffic Offence

An application will normally be refused where an applicant has been convicted of a serious traffic offence less than **2 years** prior to the date of the application.

Where an applicant has more than one conviction for a serious traffic offence in the **5 years** prior to the date of application, it will normally be refused.

If any conviction for a major traffic offence has resulted in a disqualification by the courts, applicants should refer to the “disqualification” section below.

TABLE A

MAJOR TRAFFIC OFFENCES

AC10:	Failing to stop after an accident
AC20:	Failing to give particulars or to report an accident within 24 hours
AC30:	Undefined accident offences
BA10:	Driving while disqualified by order of Court
BA30:	Attempting to drive while disqualified by order of Court
CD10	Driving without due care and attention
CD20:	Driving without reasonable consideration for other road users
CD30:	Driving without due care and attention or without reasonable consideration for other road Users
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death by careless driving when unfit through drugs
CD60	Causing death by careless driving with alcohol level above the limit
CD70	Causing death by careless driving then failing to supply a specimen for
CD80	Causing death by careless, or inconsiderate, driving
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers
DD40:	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DD90	Furious driving
DR10:	Driving or attempting to drive with alcohol level above limit
DR20:	Driving or attempting to drive while unfit through drink
DR30:	Driving or attempting to drive then failing to supply a specimen for analysis
DR40:	In charge of a vehicle while alcohol level above limit
DR50:	In charge of a vehicle while unfit through drink
DR60:	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
DR70:	Failing to provide specimen for breath test
DR80:	Driving or attempting to drive when unfit through drugs
DR90:	In charge of a vehicle when unfit through drugs
IN10:	Using a vehicle uninsured against third party risks
LC20:	Driving otherwise than in accordance with a licence
LC30:	Driving after making a false declaration about fitness when applying for a licence
LC40:	Driving a vehicle having failed to notify a disability
LC50:	Driving after a licence has been revoked or refused on medical grounds

MS50:	Motor racing on the highway
MS60:	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)
TT99	To signify a disqualification under 'totting-up' procedure. If the total of penalty points reaches 12 or more within three years, the driver is liable to be disqualified
UT50:	Aggravated taking of a vehicle
<i>Aiding, abetting, counselling or procuring</i>	
Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)	
<i>Causing or permitting</i>	
Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)	
<i>Inciting</i>	
Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16)	
Or similar offences or offences which replace the above offences	

Minor Traffic Offences

Any single offence in Table B has attracted 6 or more penalty points will be treated as though it were a Major Traffic Offence.

Single conviction

Where an applicant has a single Minor Traffic Offence in the **12 months** immediately preceding the date of application, the application will normally be granted using officer delegation subject to a warning as to future conduct.

Two or more Convictions

Where an applicant has two or more convictions for Minor Traffic Offences in the 12 months immediately preceding the date of application an applicant will normally be expected to show a period of at least six months free from conviction before an application is considered.

Renewal Applications

For an existing licence holder, where there is a single conviction resulting in 3 penalty points, notification of such is sufficient, however, where there are a number of convictions during the course of the licence resulting in more than 6 penalty points the matter may need to be brought to the attention of the Sub-Committee for consideration.

Failure to notify the Council in accordance with the licence conditions may result in delays at renewal of the licence.

The Council may use its officer delegation, in consultation with the Chair/Vice Chair of the Licensing Committee, to renew the licence where minor offences have been committed, or the renewal application may be presented to the Sub-Committee for determination. This will

depend on the number of minor offences committed over the course of the licence and will be considered on a case by case basis.

Where the licence holder has failed to notify the Council a warning will be issued and this will be taken into consideration in relation any other matters in relation to the licence holder.

TABLE B

MINOR TRAFFIC OFFENCES

CU10:	Using vehicle with defective brakes
CU20:	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30:	Using a vehicle with defective tyres
CU40:	Using a vehicle with defective steering
CU50:	Causing or likely to cause danger by reason of load or passengers
CU80	Using a mobile phone while driving a motor vehicle
MS10:	Leaving a vehicle in a dangerous position
MS20:	Unlawful pillion riding
MS30:	Play street offences
MS40:	Driving with uncorrected defective eyesight or refusing to submit to a test
MS70:	Driving with uncorrected defective eyesight
MS80:	Refusing to submit to an eyesight test
MS90:	Failure to give information as to identity of driver, etc.
MW10:	Contravention of Special Road Regulations (excluding speed limits)
PC10:	Undefined contravention of Pedestrian Crossing Regulations
PC20:	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30:	Contravention of Pedestrian Crossing Regulations with stationary vehicle
SP10:	Exceeding goods vehicle speed limit
SP20:	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30:	Exceeding statutory speed limit on a public road
SP40:	Exceeding passenger vehicle speed limit
SP50:	Exceeding speed limit on a motorway
SP60:	Exceeding speed limit offence
TS10:	Failing to comply with traffic light signals
TS20:	Failing to comply with double white lines
TS30:	Failing to comply with a "Stop" sign
TS40:	Failing to comply with direction of a constable or traffic warden
TS50:	Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
TS60:	Failing to comply with school crossing patrol sign

TS70:	Undefined failure to comply with a traffic direction sign
<i>Aiding, abetting, counselling or procuring</i>	
Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)	
<i>Causing or permitting</i>	
Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)	
<i>Inciting</i>	
Offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16)	
Or similar offences or offences which replace the above offences	

For all traffic offences convictions for aiding, abetting, counselling, procuring, causing, permitting or inciting the offence will be treated as though the offender had committed the primary offence.

Note: Where new offences are created or existing offences are consolidated or re-enacted etc they will be treated in a manner appropriate to their severity whether or not this guidance has been updated to reflect the changes.

Plying for Hire

In the case of a private hire driver found guilty of an offence of plying for hire, the General Licensing Sub-Committee will normally suspend or revoke the licence for a period which the Committee will determine.

Breach of Conditions, Bye-laws and complaints

Any breach of conditions by a private hire driver or operator or any breach of bye-laws by a hackney carriage driver may be referred to the General Licensing Sub-Committee

Any repeated breach of licence conditions by a private hire driver or operator or any repeated breach of bye-laws by a hackney carriage driver will be referred to the General Licensing Sub-Committee.

A driver brought before the Licensing Sub-Committee for a single breach of licence conditions or bye-laws should expect a formal written warning or period of suspension of up to 3 months.

A driver brought before the Licensing Sub-Committee for a repeated breach of licence conditions or bye-laws should expect a period of suspension or for the licence to be revoked.

Reapplication

Applicants are advised that where an application has been refused or a licence revoked, the General Licensing Sub-Committee will not entertain a further application within 12 months of the date of the previous refusal or revocation unless there are substantial material changes in the applicant's circumstances which can be supported by evidence.

DISQUALIFICATION

Disqualification – Serious Traffic Offence

An application will generally be refused unless a period of at least **3 years** free from conviction has elapsed from the restoration of the UK driving licence by DVLA. This period will be extended to at least 5 years where the disqualification relates to driving whilst unfit through drink or drugs.

Disqualification – Intermediate Traffic Offence

An application will generally be refused unless a period free from conviction has elapsed from the restoration of the UK driving licence by DVLA which is twice the period of disqualification imposed by the court. i.e. 3 month disqualification = 6 month period free from conviction before an application will be considered.

Disqualification – Minor Traffic Offence

An application will generally be refused unless a period free from conviction has elapsed from the restoration of the UK driving licence by DVLA which is equal to the period of disqualification imposed by the court i.e. 3 month disqualification = 3 month period free from conviction.

TOTTING UP

TT99 'totting up' – if the total number of penalty points reaches 12 or more within a 3 year period the driver is liable to disqualification by the Court.

Totting up With Disqualification

An application will be refused unless a period free from conviction has elapsed from the restoration of the DVLA licence, which is equal to the period of disqualification imposed by the court.

Where any of the offences which contribute to a 'totting up' disqualification are included in the list of Serious Traffic Offence in Table A above, the Council will consider the application under the "Disqualification" criteria for serious traffic offences.

Totting up without Disqualification

An application from any person who has accrued sufficient points under the 'totting up' procedure to be disqualified but, where the court has accepted a plea of 'exceptional hardship' and has not imposed a disqualification will be consider by the Council as though a disqualification for the most serious of the offences which contributed to the 'totting up', had been imposed, for the purposes of determining when a licence application should be considered. (e.g. where the offences contributing to the totting up are SP30, SP80 and IN10 the Council would consider IN10 under 'Disqualification – Serious Traffic Offence' above).

SPENT CONVICTIONS

Private hire and hackney carriage drivers are exempted occupations for the purposes of the Rehabilitation of Offenders Act 1974, by virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002, and convictions are, therefore, never spent.

The Council will consider spent convictions if they appear to be relevant in deciding whether the applicant is a 'fit and proper person', taking into account the nature of the offence(s), the history or pattern of offending, the lapse of time and whether all the convictions have previously been considered.

CAUTIONS AND ENDORSABLE FIXED PENALTIES

For the purpose of these guidelines formal cautions and endorsable fixed penalties shall be treated as though they were convictions.

MULTIPLE CONVICTIONS FROM SINGLE INCIDENT

Where an applicant has multiple convictions arising from a single incident, the convictions will generally be treated as one conviction for the purposes of these guidelines

In these circumstances the period for which the applicant would normally be expected to show free from conviction will be that which applies to the most serious offence in the group.

OTHER RELEVANT OFFENCES

The Council takes a serious view of any convictions involving the law and practice concerning bail conditions. In general if an application is received with a conviction which is less than **3-5 years** of the conviction date or their release from prison (whichever is most recent), it is unlikely to be considered favourably.

In particular, an application will normally be refused where the applicant has a conviction for offences committed under the:

- Bail Act 1976
- Bail (Amendment) Act 1993
- Magistrates' Court Act 1980
- Magistrates' Court Rules 1981
- Criminal Justice Act 2003
- Powers of Criminal Courts (sentencing) Act 2000

or similar offences or offences which replace the above offences and the conviction(s) are less than **3 years** prior to the date of application. Between 3 and 5 years, regard will be had to the circumstances of the offence and any evidence demonstrating that such an individual is now a fit and proper person to hold a licence.

OFFENCES INVOLVING PRIVATE HIRE VEHICLES & HACKNEY CARRIAGES

(Offences under Part II of the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Acts, Hackney Carriage Byelaws or Section 167 Criminal Justice and Public Order Act 1994 - touting)

The principal purpose of the licensing regime set out in the above legislation is to ensure the protection of the public.

Breaches of any of this legislation is considered to be a serious matter and convictions for offences under these Acts (including illegally plying for hire and/or touting) are likely to lead to an application being refused or, where a licence is held, to it being suspended or revoked or not renewed.

An applicant will normally be refused a licence if there has been conviction for an offence under any of the Acts at any time during the **2 years** preceding the application or where there is more than one conviction, within the **5 years** preceding the date of the application.