

Licensing Policy

Taxi and Private Hire Policy on the Fitness and Suitability of Applicants and Licence Holders



Oldham
Council

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1. Introduction

The purpose of taxi and private hire vehicle licensing is to protect the public. The licensing regime seeks to ensure so far as possible that licence-holders are suitable persons to provide taxi and private hire vehicle services, who can be trusted not to take advantage of their position of responsibility in respect of passengers. As a licensing authority, the Council takes its regulatory role very seriously. It is concerned to only licence individuals who are safe and suitable to hold a position of trust, having taken into account all relevant factors and guidance.

In formulating this Policy of Fitness and Suitability (“the Policy”) the Council has had the opportunity of reviewing non-statutory “Taxi and Private Hire Vehicle Licensing: Best Practice Guidance” issued by the Department for Transport in 2010, and guidance on determining the suitability of applicants and licensees published in 2018 by the Institute of Licensing and endorsed by the Local Government Association.

As it is required to by s.177(4) of the Policing and Crime Act 2017, the Council has also had regard to the Statutory Taxi & Private Hire Vehicle Standards issued by the Department for Transport in July 2020.

This Policy applies to new applicants and existing licence holders: both are encouraged to read its contents. The expressions ‘Council’, ‘Local Authority’ and ‘Licensing Authority’ are used interchangeably.

In this Policy, the term ‘licence’ has the following meaning:

- a) A licence to drive a private hire vehicle
- b) A licence to drive a hackney carriage vehicle
- c) A licence to operate private hire vehicles
- d) A private hire vehicle licence
- e) A hackney carriage vehicle licence

The term ‘person’ includes:

- a) A person applying for a licence to drive a private hire or hackney carriage vehicle (both new and renewal)
- b) A person who holds a licence to drive a private hire or hackney carriage vehicle
- c) A person applying for a licence to operate private hire vehicles (both new and renewal)
- d) A person who holds a licence to operate private hire vehicles
- e) A person applying for a private hire or hackney carriage vehicle licence (both new and renewal)
- f) A person who holds a private hire or hackney carriage vehicle licence
- g) Providers of social needs transport under a contract

The Policy aims to provide guidance to anyone with an interest in private hire, hackney carriage or the provision of social needs transport. These may include:

- a) A person applying for a licence to drive a private hire or hackney carriage vehicle
- b) A person who currently holds a licence to drive a private hire or hackney carriage vehicle and whose licence is being reviewed
- c) A person applying for a licence to operate private hire vehicles
- d) A person who currently holds a licence to operate private hire vehicles and whose licence is being reviewed
- e) Providers of social needs transport
- f) Officers of the Council
- g) Members of the Licensing Committee, Subcommittees or other relevant decision making body
- h) The Magistrates Court and Crown Court hearing appeals against Council decisions
- i) Greater Manchester Police and any other partner agencies or service

In exercising its regulatory functions in respect of the taxi and private hire vehicle licensing regime, the Council will have regard to the principles of good regulation, namely that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent, and that regulatory activities should be targeted only at cases in which action is needed. In drafting this Policy, the Council has had regard to the Regulators’ Code.

In undertaking its functions generally:

- (1) by virtue of s.17(1)(a) of the Crime and Disorder Act 1998, the Council must have due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area;
- (2) by virtue of s.149 of the Equality Act 2010, the Council must comply with the public sector equality duty by having due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under that Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The Council has also had regard to the report of the Independent Inquiry into Child Sexual Exploitation in Rotherham 1997-2013 by Professor Alexis Jay OBE (August 2014), the Report of Inspection of Rotherham Metropolitan Borough Council by Dame Louis Casey CB (February 2015), and the report of Malcome Newsam CBA and Gary Ridgway of their review of safeguarding practices in the Council's area (June 2022).

In the Council's view the Policy is compatible with the rights and freedoms provided for by the European Convention on Human Rights.

This Policy was approved by the Licensing Committee on the 1st November 2022 and came into force the following day on **2nd November 2022**.

2. The Council's Responsibility & Commitment

2.1 The Council is responsible for issuing a licence:

- To drive a private hire or hackney carriage vehicle
- To operate private hire vehicles
- For private hire or hackney carriage vehicles

2.2 A person's character, behaviour and history of criminal activity are of particular importance when judging their suitability to hold a licence. This Policy outlines the Council's criteria in relation to the 'fit and proper' test contained within the legislation.

2.3 When considering whether an applicant or licence holder is a 'fit and proper' person to hold a licence it may be helpful to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night? If, on the balance of probabilities the answer to the question is 'no', the individual should not hold a licence.

2.4 All decisions on the suitability of an applicant or licence holder should be made on the balance of probability. This means that an applicant or licence holder should not be given the benefit of the doubt and if the decision maker is only 50/50 as to whether the applicant or licence holder is 'fit and proper' they should not permit the applicant or licence-holder to hold a licence. The threshold used is lower than for a criminal conviction (that being beyond reasonable doubt) and can therefore include information that goes beyond criminal convictions.

2.5 Licence holders are in a unique position of trust and are often in one to one contact with children, young persons and vulnerable adults. They often have custody of property belonging to others, or

have knowledge which might facilitate crime. The Council is committed to ensuring insofar as is possible that:

- All persons that hold a licence are 'fit and proper persons' or in simpler terms they are both 'safe and suitable'
- The public are not exposed to persons with a history of dishonesty, indecency or violence or any other offence or inappropriate behaviour which may question the person's 'fit and proper' status
- The safety of children, young persons and vulnerable adults is protected

2.6 This Policy relating to Fitness and Suitability enables the Council to ensure a robust licensing regime that protects safety and commands the confidence of members of the public. The Council will always put the protection of the public first when considering any information recorded against a person applying for a licence, renewing a licence, or having a licence reviewed.

2.7 Power to issue a licence

A licence is issued pursuant to the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act") and the Town Police Clauses Act 1847 (copies of the Acts are available at www.legislation.gov.uk). The 1976 Act prohibits the Council granting a licence to a person unless they are satisfied that the person is 'a fit and proper person'.

Officers in the Council's Licensing Unit have delegated authority to grant a licence where the person meets the Council's criteria. Where Officers have delegated authority to grant a licence, they will consider the Policy to determine whether or not a person meets the 'fit and proper' criteria.

2.8 Section 57 - Power to request information

Section 57 of the 1976 Act gives the Council power to require a person to submit information about themselves. This is so the Council can be satisfied the person is 'a fit and proper person'. Section 57 (3) creates an offence if a person makes a false statement.

2.9 Sections 61 & 62 - Suspension and revocation of driver and operator licences

The 1976 Act creates an ongoing responsibility for the Council to ensure that licence holders meet the 'fit and proper' test for the duration of the licence period. Sections 61 & 62 of the 1976 Act, give the Council the power to suspend, revoke or to refuse to renew a driver or operator licence.

3. The Council's Scheme of Delegation

3.1 The authority to consider a licence is contained in the Council's Scheme of Delegation which is made under the authority of the Council's Constitution.

Where the authority deals with a case which is not delegated to Officers in the Licensing Team, it will be considered at a hearing before Councillors.

The Policy outlines minimum periods to be applied to a range of convictions, other formal action, intelligence and 'non conviction' and it explains in very general terms a 'fit and proper person' test. Officers, Committee, or any other relevant decision-making body must consider each case on its own individual merits but will have regard to the Policy and any relevant guidance.

In some circumstances it may be appropriate for an Officer, Committee, or other relevant decision-making body to depart from the Policy or relevant guidance. In these circumstances a record of the reason for departing from the Policy or guidance will be made in the formal decision.

3.2 Officer and Committee hearing procedure

The Committee hearing procedure is standardised and explained to those appearing. The right to a fair hearing underpins committee procedure. On occasions Officers may determine applications under delegated powers using this guidance rather than referring them to a Panel hearing.

Where a hearing is convened to consider if a person meets the 'fit and proper' test, the person will be provided with a date, time and location of the hearing and a copy of the report to be considered. This will allow the person time to seek independent legal advice and to attend and be represented.

There may be a need to urgently make a decision on a licence based on public safety concerns. The licence holder will be notified, where possible, that a decision is to be made and will be invited to make representations prior to that decision. Often such decisions are made by Officers under delegated powers. A record of any representations made, and the outcome will be made and kept.

3.4 Members of the public

Members of the public (this excludes an individual supporting a person who is applying for a licence, or having a licence reviewed and a member of the public providing evidence following a complaint or incident etc.) are not normally permitted to attend a hearing in relation to a taxi or hackney carriage licence matter. Applications to attend will be considered on their merits. In all cases, in determining whether to grant or take action against a licence holder, an Officer, Committee or other relevant decision-making body, will take into account the human rights of the wider public and balance these against the human rights of the licence holder.

4. Fit & Proper Standard

In this section of the Policy the term 'non conviction' can include:

- a) Any breaches of licensing condition or byelaw
- b) Any complaint
- c) Any allegation
- d) Any intelligence made available to the Council by the Police, private hire operator or any other local authority, partner agency or service
- e) Anything considered by a Court that has not resulted in a conviction e.g., acquittal or failure to reach a verdict
- f) Speed awareness and other similar awareness courses
- g) Any other matter which questions the person's ability to meet the 'fit and proper' test

4.1 This Policy sets out the Council's minimum standard when applying the 'fit and proper' test to a person convicted, cautioned, or who receives any other formal action or a 'non conviction'. It is not however an attempt to define what 'a fit and proper person' is.

4.2 There is no judicially approved test of fitness and propriety and accordingly, a number of local tests have developed – suggested tests:

- a) Drivers – would you (as a member of the licensing committee or other person charged with the ability to grant a private hire or hackney carriage driver's licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?
- b) Private hire operators – would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person and feel safe in the

knowledge that such information will not be used or passed on for a criminal or unacceptable purpose?

- c) Vehicle proprietors – would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion and be satisfied that he/she would not allow it to be used for a criminal or other unacceptable purpose?

If the answer to the question (or a similar test) is an unqualified 'Yes', then the test is probably satisfied. If there are any doubts in the minds of the Officer, Committee, or other relevant decision-making bodies, then further consideration should be given as to whether the person is a 'fit and proper person' to hold a licence.

4.3 When submitting an application for a licence a person is required to declare all:

- a) Convictions – including fixed penalties
- b) Cautions – all forms of caution
- c) Other formal action – any matter of restorative justice
- d) 'Non convictions' – see the definition above for guidance on '*the term 'non conviction'*'
- e) Matters currently the subject of criminal investigation or prosecution

NB: The applicant must also pass other tests, assessments and a medical as outlined in Council Policy.

This is so the Council can apply the 'fit and proper' test and ensure insofar as is possible:

- a) That a person is 'a fit and proper person'
- b) The public are not exposed to persons with a history of dishonesty, indecency or violence or any other offence or inappropriate behaviour which may question the person's 'fit and proper' status
- c) The safety of all members of the public and in particular children, young persons and vulnerable adults

4.4 A person applying for a licence should be aware that the Council is empowered by law to carry out verification with the Disclosure & Barring Service to confirm the existence and content of any criminal record and any other intelligence held in the person's name.

4.5 The Council may also contact other agencies and services for information held about a person. Other agencies may include other Local Authorities, Housing Services, Children's Services, Greater Manchester Police, UKBA, DWP, DVLA etc.

4.6 The 'fit and proper' test is not solely based on convictions, Officers, Committee and other relevant decision-making bodies are able to take into account 'non convictions' provided by the Police, other agencies and services, etc. The standard of proof is the balance of probabilities, and not the 'beyond reasonable doubt' standard which applies in criminal trials.

Where a 'non conviction' did not result in a criminal conviction or other formal action, it may still be considered by Officers, Committee, or other relevant decision-making body. For example - a 'non conviction' which resulted in a Police investigation, but where no further action was taken due to the criminal burden of proof, may still be considered, if the 'non conviction' is relevant to a person's ability to meet the 'fit and proper' test. The Officer, Committee or other relevant decision-making body must satisfy themselves that the 'non conviction' occurred based on the balance of probabilities.

4.7 Where the Council is made aware of a 'non conviction' and the information is relevant in relation to the 'fit and proper' test, to ensure there is a comprehensive understanding of the case Officers may consult with other agencies and services.

- 4.8 Where appropriate the 'non conviction' may be referred to a hearing with an Officer, Committee, or other relevant decision-making body for consideration. There may be a need to urgently convene a hearing where there are serious public safety concerns. Any additional information gathered during this process may then be taken into account at any hearing convened.
- 4.9 Information submitted will be used to assist the Council in determining whether a person is 'a fit and proper person', for the purposes of sections 51, 55 and 59 of the 1976 Act, or whether the Council should exercise any of its powers under sections 61 and 62 of the 1976 Act.
- 4.10 Information received from the Disclosure & Barring Service, or any other agency or service is treated in confidence and in accordance with the requirements of the Data Protection Act 2018 and UK GDPR, and good practice guidelines and will be used to support the safeguarding agenda. Information is retained no longer than is necessary to determining if a person is 'a fit and proper person' and to assist the Council in fulfilling its ongoing responsibilities.
- 4.11 The disclosure of convictions, cautions, other formal action or 'non conviction', may not automatically bar a person from being granted a licence, renewing a licence, or retaining a licence. This will depend on whether the person can satisfy the Council that they are 'a fit and proper person' to hold a licence.
- 4.12 The Council may be satisfied that a person is not 'a fit and proper person' to hold a licence for any good reason. If a person fails to provide satisfactory evidence that they are 'a fit and proper person', or if there is good reason to question or doubt the evidence provided, then this can amount to good reason to refuse, revoke, or suspend a licence.
- 4.13 Where there is evidence of a conviction, caution, other formal action or 'non conviction' which questions the person's suitability to hold a licence the Council will consider:
- a) The nature of the offence or 'non conviction'
 - b) Any penalty imposed
 - c) When it was committed (took place)
 - d) The date of conviction or 'non conviction'
 - e) The length of time which has elapsed since the offence or 'non conviction'
 - f) The individual's age when the offence or 'non conviction' was committed
 - g) Whether or not it is part of a pattern of behaviour (criminal or otherwise)
 - h) The intent and harm which was or could have been caused
 - i) Any other factors which might be relevant
- 4.14 Where a person has been convicted of a criminal offence, the Council cannot review the merits of the conviction (see Nottingham City Council v. Farooq [1998] 10 WLUK 328).
- 4.15 The Policy will be considered when reviewing the 'fit and proper' status of an applicant for a licence, the renewal of a licence and when reviewing an existing licence.
- 4.16 The Policy outlines a range of offences; however, it is not possible to deal with every type of offence. This does not however prevent the Council from taking into account any offences not specifically addressed, or any other conduct which may be relevant. If a person has a conviction, caution, any other formal action or 'non conviction' which is not covered in the guidance, then the factors outlined above will be considered.
- 4.17 Where an offence is described in the Policy and it may have a different title/name, or a different title/name in a statutory provision, modification, or re-enactment it will be considered in accordance with the guidance and the information provided above.
- 4.18 Where a licence is refused, suspended, or revoked the person has a right of appeal to the Magistrates' Court or (in the case of a taxi vehicle licence to the Crown Court). An appeal must be lodged with the court within 21 days' of the notice of refusal, suspension, or revocation and the Magistrates' Court has no jurisdiction to extend this period. Decisions of the Magistrates'

Court may be further appealed to the Crown Court. There is no right of appeal against the suspension of a vehicle licence under s.68 of the 1976 Act.

- 4.19 It is common practice for a person to submit simultaneous applications for licences. Officers, Committee, or other relevant decision-making body are asked to apply the 'fit and proper' test to each application. Similarly, when reviewing an existing licence, Officers, Committee or other relevant decision-making body will apply the 'fit and proper test' to each licence held.
- 4.20 Where a person is subject to further convictions, cautions, other formal action or 'non conviction' whilst an application is being considered by the Council, then the person must notify the Council of all additional matters immediately.
- 4.21 Licence holders are required to notify the Council of all convictions by virtue of the conditions attached to their licence. All licence holders are now required to notify the Council of all matters, immediately, if it impacts on their ability to meet the 'fit and proper' test and this will be for the Council to determine.

5. Safeguarding Vulnerable Adults & Children inc. Child Sexual Exploitation (CSE)

Licence holders are in a position of trust and it is vital that any information concerning safeguarding or CSE is reported to the Council immediately by calling 0161 770 7777 during office hours or 770 6936 outside office hours.

Safeguarding Children

In carrying out its duties under the safeguarding agenda the Council has a duty to take action when matters concerning safeguarding including CSE are brought to its attention. Safeguarding and CSE relating to children includes:

Physical Abuse

Physical abuse may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating or otherwise causing physical harm to a child.

Physical harm may also be caused when a parent or carer fabricates the symptoms of, or deliberately induces illness in a child. Further information about this form of abuse is set out in the

Emotional Abuse

Emotional abuse is a form of significant harm which involves the persistent emotional maltreatment of a child such as to cause severe and persistent adverse effects on the child's emotional development.

It may involve conveying to children that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person. It may include not giving the child opportunities to express their views, deliberately silencing them or 'making fun' of what they say or how they communicate. It may feature age or developmentally inappropriate expectations being imposed on children.

These may include interactions that are beyond the child's developmental capability, as well as overprotection and limitation of exploration and learning, or preventing the child participating in normal social interaction. It may involve seeing or hearing the ill treatment of another. It may involve serious bullying (including cyber-bullying) causing children frequently to feel frightened or in danger, or the exploitation or corruption of children.

Some level of emotional abuse is involved in all types of maltreatment of a child, though it may occur alone.

Sexual Abuse

Sexual abuse is a form of significant harm which involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetration (for example rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing, and touching outside of clothing. They may also include non-contact activities, such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse (including via online means). Sexual abuse is not solely perpetrated by adult men. Women can also commit acts of sexual abuse, as can other children.

Neglect

Neglect is the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health and development. Neglect may occur during pregnancy as a result of maternal substance misuse.

Once a child is born, neglect may involve a parent or carer failing to:

- Provide adequate food and clothing, shelter (including exclusion from home or abandonment);
- Protect a child from physical and emotional harm or danger;
- Ensure adequate supervision (including the use of inadequate care-givers);
- Ensure access to appropriate medical care or treatment.

It may also include neglect of, or unresponsiveness to, a child's basic emotional needs.

Safeguarding Vulnerable Adults

What is a vulnerable adult?

A vulnerable adult is someone who is over 18 who may be unable to care for themselves or protect themselves from harm or from being exploited. This may be because of their age, or because they have a mental health condition or a physical or learning disability.

They may have needs for care and support (whether or not the Local Authority is meeting any of those needs) and experience or be at risk of abuse or neglect and as a result of those care and support needs be unable to protect themselves from either the risk or the experience of the abuse or neglect.

They may be at risk of abuse from people they know such as a relative, friend, neighbour, or paid carer. Sometimes people can be abused by a stranger.

What is abuse?

Abuse can vary from treating someone disrespectfully, in a way that significantly affects their quality of life, to causing actual physical suffering.

Abuse can occur anywhere, but it is likely to happen in the person's own home, in care homes, day care centres or hospitals. Types of abuse can include:

- Physical - Hitting, slapping or pushing
- Psychological - Shouting or swearing which makes the person afraid
- Sexual - Unwanted touching, kissing or sexual intercourse
- Financial - Money or property taken without consent or under pressure
- Neglect - Not being cared for properly or denied privacy, choice or social contact

- Discrimination - Being treated unfairly because of your gender, age, sexual orientation, a disability, your race, culture, background, or an illness.
- Institutional - Neglect or poor standards of care in, for example, a hospital or care home
- Domestic violence
- Modern slavery – encompassing slavery, human trafficking, forced labour, domestic servitude.
- Self-neglect – covers a range of behaviours neglecting to care for one’s personal hygiene, health or behaviour such as hoarding.

6. Previous (spent) Convictions

By virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (as amended) taxi and private hire vehicle drivers are exempted occupations for the purposes of the 1974 Act and convictions are therefore never spent.

The Council can take into account a previous conviction but must do so in a fair and proportionate way. The Council will consider a previous conviction if it appears to be relevant when deciding if a person meets the ‘fit and proper’ test and that justice cannot be done in the case except by admitting or requiring evidence relating to the previous conviction. The Council will consider the nature of the offence, the history or pattern of offending, the lapse of time and whether the conviction has previously been considered and any of the other relevant matters.

7. Verbal & Written Warnings

A person will be brought before the Committee or other relevant decision-making body where it is clear that the person’s behaviour is not influenced by verbal or written warnings administered by Licensing Unit.

8. All Cautions and Endorseable Fixed Penalties

For the purpose of these guidelines all cautions - formal/simple/conditional etc. and endorseable fixed penalties shall be treated as though they were convictions. In addition, speed awareness courses and similar such courses for other offences may be taken into account.

Where the Council administers a caution to a person this does not preclude a referral to the Committee or other relevant decision-making body for the matter to be considered.

9. Multiple Convictions from a Single Incident

Where a person has multiple convictions arising from a single incident, the convictions will generally be treated as one conviction for the purposes of the guidance.

In these circumstances the minimum period applied will be the longest applicable period calculated by reference to each offence.

10. ‘Non-Conviction’ - Breach of Conditions, Byelaws and Complaints

Any breach of condition, breach of byelaw, complaint or ‘non conviction’ relating to a person’s conduct may be referred to an Officer, Committee or other relevant decision-making body for consideration.

The options available in these circumstances are:

- a) no further action
- b) a formal warning
- c) period of suspension or revocation
- d) refusal to grant or renew the licence
- e) any other sanction e.g., retraining

Decisions taken by Council Officers and Committees will be taken in accordance with the Council's Scheme of Delegation and with reference to all current policy guidance.

The Local Authority may also contact other agencies and services for information held about a person. Other agencies may include other Local Authorities, Housing Services, Children's Services, Multi Agency Safeguarding Hubs, Greater Manchester Police, UK Border Agency, DWP, DVSA etc.

The 'fit and proper' test is not solely based on convictions, Officers, Committee and other relevant decision-making bodies are able to take into account 'non convictions' provided by the Police, other agencies and services, etc. The evidential threshold / standard of proof is the balance of probabilities.

Where a 'non conviction' did not result in a criminal conviction or other formal action, it may still be considered by Officers, Committee or other relevant decision-making body. For example - a 'non conviction' which resulted in a Police investigation, but where no further action was taken due to the criminal standard of proof, may still be considered, if the 'non conviction' questions a person's ability to meet the 'fit and proper' test. The Officer, Committee or other relevant decision-making body must satisfy themselves that on the balance of probabilities the 'non conviction' occurred.

Where the Local Authority is made aware of a 'non conviction' and the information is relevant in relation to the 'fit and proper' test, to ensure there is a comprehensive understanding of the case, Officers may consult with other agencies and services.

Where appropriate the 'non conviction' may be referred to a hearing with an Officer, Committee or other relevant decision-making body for consideration. There may be a need to urgently convene a hearing where there are serious public safety concerns. Any additional information gathered during this process may then be taken into account at any hearing convened.

Information submitted will be used to assist the Council in determining whether a person is 'a fit and proper person', for the purposes of sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, or whether the Council should exercise any of its powers under sections 61 and 62 of the 1976 Act.

Information received from the Disclosure and Barring Service, or any other agency or service is treated in confidence and in accordance with the requirements of the Data Protection legislation and good practice guidelines and will be used to support the safeguarding agenda. Information is retained no longer than is necessary to determining if a person is 'a fit and proper person' and to assist the Council in fulfilling its ongoing responsibilities.

11. Renewal of licence

All licences expire on the date outlined on the licence.

The following will not be permitted under any circumstances:

- 'Over-runs' (if a licence is not applied for and granted before the expiry of the old licence it cannot be used until the renewal is determined and the new licence granted)
- Informal acceptance of the old licence 'continuing' until the determination of a renewal provided, and the new licence granted
- 'Turning a blind eye' to use of an expired licence

The Council may consider issuing a short term 'without prejudice' licence, until the determination of a renewal, but only where certain criteria is triggered and provided an application to renew is made before expiry. This would usually be when a hearing for a renewal application is being arranged which would not be heard until after the licence expiry date.

12. Reapplication

Where a person's licence application is refused or a licence is revoked, any subsequent application would normally be refused, if it is made within 12 months of the date of the previous decision, unless there are substantial material changes in the circumstances. In more serious circumstances the reapplication period may be longer.

13. Human Rights

A decision to revoke, suspend or refuse a licence will engage the person's rights under the Human Rights Act 1998 by providing a right to a fair hearing and a right to an independent and impartial appeal tribunal by the Magistrates' or Crown Court.

14. Schedules A to F:

In this guidance where the term conviction or offence is used it can include:

- a) Any breaches of licensing condition
- b) Any complaint
- c) Any allegation
- d) Any intelligence made available to the Council by the Police, private hire operator or any other partner agency or service
- e) Anything considered by a Court that has not resulted in a conviction e.g. acquittal or failure to reach a verdict
- f) Any other matter which questions the person's ability to meet the 'fit and proper' test.

Offences of dishonesty - schedule A

- 1. Guidance**
- 2. Custodial sentence**
- 3. Dishonesty offences**
- 4. Justification**

1. Guidance:

A serious view is taken of any conviction involving dishonesty. Where a person has a conviction for an offence related to dishonesty and the date of conviction is less than **7 years**, then a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed will have the application refused, or the licence revoked.

Where the person has more than one conviction related to dishonesty the period above will be extended to 10 years. After 10 years, consideration may be given to the circumstances of the offences and any evidence demonstrating that the person is now 'a fit and proper person' to hold a licence. In the case of serious or multiple offences, a longer period of rehabilitation may be required.

2. Custodial sentence

Where the penalty applied to a dishonesty offence was a custodial sentence, the periods specified above commences at the end of the custodial period. This includes any period on licence or under the supervision of the Probation Service or equivalent service provider.

3. Dishonesty offences include:

i.	Theft
ii.	Burglary
iii.	Fraud
iv.	Benefit fraud (including offences under S.111A and 112 of the Social Security Administration Act 1992)
v.	Handling or receiving stolen goods
vi.	Forgery (e.g. producing false insurance policy)
vii.	Conspiracy to defraud
viii.	Obtaining money or property by deception
ix.	Blackmail
x.	Illegal money lending
xi.	Other deception

4. Justification:

A driver of a private hire or hackney carriage vehicle is expected to be a person 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 children, young persons, and vulnerable people. Members of the public entrust themselves to the care of a driver both for their own safety and for fair dealing.

In certain situations, a driver 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 a driver.

Offences of Violence - schedule B

1. Guidance
2. Offences against children
3. Custodial sentence
4. Violent offences
5. Justification

1. Guidance:

An extremely serious view will be taken where a person has been convicted of any offence of violence. Where the offence involves the loss of life, a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed will have the application refused, or the licence revoked.. In the case of serious or multiple offences of violence, a longer period of rehabilitation may be required.

2. Offences against children (under 14 years) and young persons (aged 14 to 17 years)

Where the commission of a violent offence involves a child or young person, then a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed will have the application refused, or the licence revoked.

3. Custodial sentence:

Where the penalty applied to a violent offence was a custodial sentence, the periods specified below commences at the end of the custodial period. This includes any period on licence or under the supervision of the Probation Service or equivalent service provider.

4. Violent offences:

Table A

A person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed will have the application refused, or the licence revoked. where the person has been convicted of the following offence(s) (or a similar offence, or an offence which replaces those listed below):

Murder
Manslaughter
Arson
Malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially or religiously aggravated (s.29(1)(a) Crime and Disorder Act 1998)
Grievous bodily harm with intent (s.18 Offences Against the Person Act)
Grievous bodily harm with intent (s.20 Offences Against the Person Act)
Robbery
Possession of a firearm
Riot

Table B:

A person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed will have the application refused, or the licence revoked. where the person has been convicted of the following offence(s) (or similar offence, or for an offence which replace those listed below) and the conviction date is less than

10 years, subject to 3 above:

Assault Police
Common assault racially or religiously aggravated (s.29(1)(c) Crime and Disorder Act 1998)

Violent disorder
Resisting arrest
Racially or religiously aggravated criminal damage (s.30 Crime and Disorder Act 1998)
Racially or religiously aggravated s.4 Public Order Act 1986 offence (fear of provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
Racially or religiously aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress (s.31(1)(b) Crime and Disorder Act 1998)
Racially or religiously aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
Racially or religiously aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32(1)(b) Crime and Disorder Act 1998)
Racially or religiously aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)
Common assault
Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
Affray
S5 Public Order Act 1986 offence (harassment, alarm or distress)
S.4 Public Order Act 1986 offence (fear of provocation of violence)
S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
Harassment, breach of restraining order (Protection from Harassment Act 1997 S.5(5) and S.5(6))
Obstruction
Possession of an offensive weapon
Criminal damage
Battery

5. Justification

Members of the public, particularly the elderly, infirm, children, young persons or vulnerable adults entrust their personal safety to a private hire or hackney carriage driver 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 a driver is not an individual with a predisposition towards or a propensity for violent behaviour at any level.

Offences involving drugs - schedule C

1. Guidance
2. Supply of drugs
3. Possession of drugs
4. Driving whilst under the influence of drugs
5. Custodial sentence
6. Addiction
7. Justification

1. Guidance:

An extremely serious view will be taken where a person has been convicted of any offence involving drugs. In the case of serious or multiple offences, a longer period of rehabilitation may be required. For the offences possession of drugs or driving whilst under the influence of drugs outlined at sections 3 & 4 below please also refer to section 5 for evidence to demonstrate rehabilitation. When reference is made to drugs this includes prescription drugs and solvents.

2. Supply or possess with intent to supply drugs:

Where a person has a conviction for an offence related to the supply or possession with intent to supply drugs and the date of conviction is less than **10 years**, then a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed, will have the application refused, or the licence revoked.

3. Possession of drugs:

Where a person has an isolated conviction for an offence related to the possession of drugs and the date of conviction is less than **5 years**, then a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed, will have the application refused, or the licence revoked.

Where the person has more than one conviction related to the possession of drugs the period above will be extended to **10 years**. After 10 years, consideration may be given to the circumstances of the offences and any evidence demonstrating that the person is now 'a fit and proper person' to hold a licence.

Consideration should also be given as to whether it is appropriate for the applicant/licence holder to show evidence they have undergone drug testing, at their own expense, to show they are not using controlled drugs.

4. Driving whilst under the influence of drugs:

Where a person has an isolated conviction for an offence related to driving whilst under the influence of drugs (see the table below) and the date of conviction is less than **7 years**, then a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed, will have the application refused, or the licence revoked.

Where the person has more than one conviction related to driving whilst under the influence of drugs (see table below) the period above will be extended to **10 years**. After 10 years, consideration may be given to the circumstances of the offences and any evidence demonstrating that the person is now 'a fit and proper person' to hold a licence.

Consideration should also be given as to whether it is appropriate for the applicant/licence holder to show evidence they have undergone drug testing, at their own expense, to show they are not using controlled drugs.

Table:

DG10	Driving or attempting to drive with drug level above the specified limit
DG40	In charge of a vehicle while drug level above specified limit
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs

5. Custodial sentence:

Where the penalty applied to a drugs offence was a custodial sentence, the periods specified above commence at the end of the custodial period. This includes any period on licence or under the supervision of the Probation Service or equivalent service provider.

6. Addiction

If a person has been classified as an 'addict' they will be required to show evidence of at least five years free from drug taking following rehabilitation/detoxification treatment. This evidence must be supported by their doctor and the Council may require further assessment.

7. Justification

The use of drugs tends 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, licence holders 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

Sexual Offences and indecency - schedule D

- 1. Sex offenders register**
- 2. Offences against children/young person**
- 3. Child sexual exploitation (CSE)**
- 4. Sexual or indecency offences against another individual other than children/young persons**
- 5. Custodial sentence**
- 6. Justification**

1. Sex offenders register

Where a person is currently on the sex offenders register, then a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed, will have the application refused, or the licence revoked.

2. Offences against children (under 14 years) and young persons (aged 14 to 17 years)

Where the commission of a sexual offence involves a child or young person, then a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed will have the application refused, or the licence revoked.

3. Child Sexual Exploitation (CSE)

Evidence indicating a licence holder is involved in CSE will result in immediate consideration of the 'fit and proper' status of the licence holder and may result in the licence being revoked with immediate effect. A person applying or renewing a licence where evidence indicates the person is involved in CSE would have their application refused.

An example of CSE may include inappropriate contact - both physically and by use of any forms of communication e.g., text messaging, Facebook messaging, telephone call, allegation of sexual contact or sexual assault on a child or young person.

This section includes any form of abuse, exploitation, use or treatment of another individual irrespective of whether the victim(s) were adults or children, slavery, grooming, psychological, emotional, sexual, or financial abuse, but this is not an exhaustive list.

4. Sexual or indecency offences against another individual other than children/young persons

Where an applicant or licence holder has been convicted of rape, indecent assault, or any other similar offences or similar offences under the Sexual Offences Act 2003 then a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed, will have the application refused, or the licence revoked.

Where a person has a conviction for an offence related to sexual offences such as soliciting, importuning, indecent exposure or other similar offences or similar offences under the Sexual Offences Act 2003 then a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed, will have the application refused, or the licence revoked.

4. Justification:

A driver of a private hire or hackney carriage vehicle is often entrusted with the care of children and young persons and they are in a position of trust, frequently transporting children, young people, vulnerable adults, or lone 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 revoking/refusing a licence. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.

Offences involving drunkenness - schedule E

1. Guidance
2. Drunkenness with a motor vehicle (no disqualification)
3. Drunkenness with a motor vehicle (disqualification)
4. Table of offences
5. Drunkenness not with a motor vehicle
6. Custodial sentence
7. Dependency & Alcoholism
8. Justification

1. Guidance:

Driving whilst under the influence of alcohol 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 with the responsibilities of a private hire or hackney carriage driver.

For offences involving drunkenness, evidence to demonstrate rehabilitation will be required see section 7 below. In the case of serious or multiple offences, a longer period of rehabilitation may be required.

2. Drunkenness with a motor vehicle (no disqualification):

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

Where a person has a conviction for an offence related to drunkenness with a motor vehicle and there has been no disqualification from driving and the date of conviction is less than **7 years**, then a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed, will normally have the application refused, or the licence revoked.

Where the person has more than one conviction related to drunkenness with a motor vehicle and there has been no disqualification the period above will be extended to **10 years**. After 10 years, consideration may be given to the circumstances of the offences and any evidence demonstrating that the person is now 'a fit and proper person' to hold a licence.

See the table of offences at section 4 below.

3. Drunkenness with a motor vehicle (disqualification):

Where a person has a conviction for an offence related to drunkenness with a motor vehicle and they have been disqualified from driving and the date from the restoration of the driving licence is less than **7 years**, then a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed, will normally have the application refused, or the licence revoked.

Where the person has more than one conviction related to drunkenness with a motor vehicle and they have been disqualified from driving, the period above will be extended to **10 years**, from the date of the restoration of the driving licence. After 10 years, consideration may be given to the circumstances of the offences and any evidence demonstrating that the person is now 'a fit and proper person' to hold a licence.

See the table of offences at section 4 below.

4. Table of offences:

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
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity
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 specimen for analysis in circumstances other than driving / attempting to drive
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive
DR70	Failing to provide specimen for breath test

5. Not in a motor vehicle:

An isolated conviction for drunkenness need not debar an individual from gaining or retaining a licence. In some cases, a warning maybe appropriate.

Where the person has more than one conviction related to drunkenness, this could indicate a medical problem necessitating critical examination and refusal or revocation of the licence – see section 7 below.

Consideration may be given to the circumstances of the offences and any evidence demonstrating that the person is now 'a fit and proper person' to hold a licence.

6. Custodial sentence:

Where the penalty applied to an offence involving drunkenness was a custodial sentence, the periods specified above commences at the end of the custodial period. This includes any period on licence or under the supervision of the Probation Service or equivalent service provider.

7. Dependency & Alcoholism

Where there is any possibility of dependency or alcoholism a medical report from the person's doctor will be required and the person will normally be required to show evidence that a period of at least 5 years has elapsed after completion of rehabilitation/detoxification treatment if they were an alcoholic. This evidence must be supported by their doctor and the Council maybe require further assessment.

8. Justification

A serious view will be taken on a conviction for driving or being in charge of a vehicle while under the influence of alcohol.

Driving whilst under the influence of alcohol 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 with 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 a person does not have the appropriate temperament for the role.

Motoring Offences - schedule F

1. Causing death whilst driving
2. Serious motoring offences (Table A - highlighted red)
3. Other motoring offences
4. Disqualification
5. Custodial sentence
6. Justification

1. Offences causing death whilst driving

An extremely serious view will be taken where a person has been convicted for an offence of causing death whilst driving. An offence involving the loss of life will result in a person applying for a licence, renewing a licence or an existing licence holder, whose licence is being reviewed, having the application refused, or the licence revoked (see the table below).

Table:

BA40	Causing death by driving while disqualified
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death through careless driving when unfit through drugs
CD60	Causing death through careless driving with alcohol level above the limit
CD70	Causing death through careless driving then failing to supply a specimen for alcohol analysis
CD71	Causing death through careless driving the failing to supply a specimen for drug analysis
CD80	Causing death by careless or inconsiderate, driving
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DG60	Causing death by careless driving with drug level above the limit

2. Serious motoring offences

This section of the policy describes offences that the licensing authority have classed as 'serious' and has listed below in Table A.

In relation to offences in this section, where the conviction is within five years an application for a licence would be refused or an existing licence revoked with immediate effect.

Where there is more than one offence, consideration should be given to extending the post-conviction period to ten years.

If a conviction resulted in a period of disqualification, please refer to the relevant section in this policy.

Table A - for the purposes of these guidelines the following motoring offences are classed as 'Serious 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
BA60	Causing serious injury while driving while disqualified
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.
CD33	Causing serious injury by careless or inconsiderate driving
DD10	Causing serious injury by dangerous driving
DD90	Furious driving
DD40	Dangerous driving
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
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)
UT50	Aggravated taking of a vehicle

- Aiding, abetting, counselling, or procuring - offences as coded above, but with 0 changed to 2 (e.g., IN10 becomes IN12)
- Causing or permitting - offences as coded above, but with 0 changed to 4 (e.g., IN10 becomes IN14)
- Inciting - offences as coded above, but with 0 changed to 6 (e.g., IN10 becomes IN16)
- Or a similar offence which replaces any of the offences above.

3. All other motoring offences

In relation to any other motoring offence(s) not outlined in the above 'serious motoring offences' section the following will apply:

Where an applicant/existing licence holder accrues six or more penalty points in a three-year period consideration will be given to the need for a hearing to determine whether the person is fit and proper to hold a licence.

An assessment of the offence and circumstances will be made by an Officer and a recommendation made to the decision maker as to a way forward.

4. Disqualification:

a) 'Serious Traffic Offence'

Where the conviction resulted in a period of disqualification, the person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed will normally have the application refused, or the licence revoked until a period of **7 years** free from conviction has lapsed from the restoration of the DVLA licence.

b) 'Other Motoring Offences'

Where the conviction resulted in a period of disqualification, the person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed, will have the application refused, or the licence revoked until a period of **5 years** free from conviction has lapsed from the restoration of the DVLA licence.

5. Totting up:

Offence code TT99 where the total number of penalty points reaches 12 or more within 3 years the driver is liable to disqualification by the Court.

a) Totting up With Disqualification

Where any convictions resulted in a period of disqualification due to totting up procedures, the person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed, will have the application refused, or the licence revoked until a period of 5 years free from conviction has lapsed from the restoration of the DVLA licence.

b) Totting up without Disqualification

Where any convictions resulted in totting up procedures, but a person has not been disqualified then the person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed, will have the application refused, or the licence revoked until a period of 5 years free from conviction has lapsed following the last conviction date.

Mutual Recognition Offences

A 'MR' code on a driving record is recorded if a driver is disqualified while driving in Northern Ireland or the Isle of Man. The disqualification period will also be valid on any GB licence.

The following codes will be considered as if it was an offence committed on the mainland and the relevant guidelines will be referred to in this document when determining any application.

MR09	Reckless or dangerous driving (whether or not resulting in death, injury or serious risk)
MR19	Wilful failure to carry out obligation placed on driver after being involved in a road accident (hit and run)
MR29	Driving a vehicle while under the influence of alcohol or other substance affecting or diminishing the mental and physical abilities of a driver
MR39	Driving a vehicle faster than the permitted speed
MR49	Driving a vehicle whilst disqualified
MR59	Other conduct constituting an offence for which a driving disqualification has been imposed by the State of Offence.

Owners of Private Hire / Hackney Carriage Vehicles

Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are, they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.

Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.

In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence¹ and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.

Whilst this is not an exempt occupation for the purposes of the Rehabilitation of Offender Act 1974, exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and private hire operators.

A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”²

¹ S37 of the 1847 Act in relation to hackney carriages; section 48 of the 1976 Act to private hire vehicles.

² Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 8.98

Private Hire Operators

A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same authority³. A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person⁴.

As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.

A basic DBS will be required by all applicants for a Private Hire Operators licence, including company directors.

As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers taking into account the individual circumstances of the information considered.

³ See *Dittah v Birmingham City Council, Choudhry v Birmingham City Council* [1993] RTR 356 QBD

⁴ Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

Supplementary guidance:

i. Offences under the Town Police Clauses Act 1847 & Local Government (Miscellaneous Provisions) Act 1976

- 1. Guidance**
- 2. Penalties**
- 3. Town Police Clauses Act 1847 offences**
- 4. Local Government (Miscellaneous Provisions) Act 1976 offences**

1. Guidance

One of the main purposes of the licensing regime which is set out in the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976 is to ensure the protection of the public.

A serious view is taken when considering if a person is 'a fit and proper person' to hold a licence, where they have been conviction of an offence under either of these Acts.

A person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed will normally have the application refused, or the licence suspended or revoked following the date of conviction for the following periods:

- Level 1 offence up to 6 months
- Level 2 offence up to 1 year
- Level 3 & 4 offences up to 2 years

2. Penalties

The maximum penalties and fine levels:

- a) Level 1 - £200
- b) Level 2 - £500
- c) Level 3 - £1,000
- d) Level 4 - £2,500

3. Town Police Clauses Act 1847

Section	Offence	Maximum Penalty
40	Giving false information on application for hackney carriage licence.	Level 1
44	Failure to notify change of address of hackney carriage proprietor.	Level 1
45	Plying for hire without hackney carriage proprietor's licence.	Level 4
47	Driving a hackney carriage without hackney carriage driver's licence.	Level 3
47	Lending or parting with hackney carriage driver's licence.	Level 3
47	Hackney carriage proprietor employing unlicensed driver.	Level 3
48	Failure by hackney carriage proprietor to hold hackney carriage drivers licence.	Level 1
48	Failure by hackney carriage proprietor to produce hackney carriage driver's licence.	Level 1
52	Failure to display hackney carriage plate.	Level 1
53	Refusal to take a fare.	Level 2

54	Charging more than the agreed fare.	Level 1
55	Obtaining more than the legal fare.	Level 3
	(and 1 month's imprisonment)	
56	Travelling less than the lawful distance for an agreed fare.	Level 1
57	Failing to wait after a deposit to wait has been paid.	Level 1
58	Charging more than the legal fare.	Level 3
59	Carrying other person than the hirer without consent.	Level 1
60	Driving hackney carriage without proprietor's consent.	Level 1
60	Allowing another to drive hackney carriage without proprietor's consent.	Level 1
61	Drunken driving of hackney carriage.	Level 1
61	Wanton or furious driving leading to injury or danger.	Level 1
62	Driver leaving hackney carriage unattended.	Level 1
64	Hackney carriage driver obstructing other hackney carriages.	Level 1

4. Local Government (Miscellaneous Provision) Act 1976

Section	Offence	Maximum Penalty
46(1)(a)	Using an unlicensed private hire vehicle.	Level 3
46(1)(b)	Driving a private hire vehicle without a private hire driver's licence.	Level 3
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver.	Level 3
46(1)(d)	Operating a private hire vehicle without a private hire operator's licence.	Level 3
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle.	Level 3
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire driver.	Level 3
48(6)	Failure to display a private hire vehicle plate.	Level 3
49	Failure to notify transfer of a hackney carriage proprietors, or private hire vehicle, licence.	Level 3
50(1)	Failure to present hackney carriage or private hire vehicle for inspection as required.	Level 3
50(2)	Failure to inform the Authority where the hackney carriage or private hire vehicle is stored, if requested.	Level 3
50(3)	Failure to report an accident to the Authority.	Level 3
50(4)	Failure to produce the hackney carriage proprietor's, or private hire vehicle, licence and insurance certificate.	Level 3
53(3)	Failure to produce the hackney carriage or private hire driver's licence.	Level 3
54(2)	Failure to wear a private hire driver's badge.	Level 3
56(2)	Failure by a private hire operator to keep records of bookings.	Level 3
56(3)	Failure by a private hire operator to keep records of private hire vehicles operated by him.	Level 3

56(4)	Failure to produce a private hire operator's licence on request.	Level 3
57	Making a false statement or withholding information to obtain a hackney carriage, private hire driver or private hire operator licence.	Level 3
58(2)	Failure to return a plate after notice given following expiry, revocation or suspension of a hackney carriage proprietor's, or private hire vehicle,	Level 3 + fine £10/day
61(2)	Failure to surrender a driver's licence after suspension, revocation or refusal to renew.	Level 3
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage stand.	Level 3
66	Charging more than the meter fare for a journey ending outside the district, without prior agreement.	Level 3
67	Charging more than the meter fare when hackney carriage used as private hire vehicle.	Level 3
69	Unnecessarily prolonging a journey.	Level 3
71	Interfering with a taximeter.	Level 3
73(1)(a)	Obstruction of an authorised Officer or Constable.	Level 3
73(1)(b)	Failure to comply with a requirement of an authorised Officer or Constable.	Level 3
73(1)(c)	Failure to give information or assistance to an authorised Officer or Constable.	Level 3

Endorsement Codes and Penalty Points (as at November 2022)

Each endorsement has a special code and is given 'penalty points' on a scale from 1 to 11. You get more points for more serious offences.

The table shows the offence codes that can be put on your driving record. It also shows how many penalty points you can get for them. Some offences may also involve a disqualification.

Offence codes and penalty points must stay on your driving record for 4 or 11 years depending on the offence.

Accident offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
AC10	Failing to stop after an accident	5 to 10
AC20	Failing to give particulars or report an accident within 24 hours	5 to 10
AC30	Undefined accident offences	4 to 9

Disqualified Driver

Codes BA10 and BA30 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
BA10	Driving while disqualified by order of court	6
BA30	Attempting to drive while disqualified by order of court	6

Codes BA40 and BA60 must stay on a driving record for 4 years from the date of the conviction.

Code	Offence	Penalty points
BA40	Causing death by driving while disqualified	3 to 11
BA60	Causing serious injury by driving while disqualified	3 to 11

Careless Driving

Codes CD10 to CD33 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
CD10	Driving without due care and attention	3 to 9
CD20	Driving without reasonable consideration for other road users	3 to 9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3 to 9
CD33	Causing serious injury by careless or inconsiderate driving	3 to 9

Codes CD40 to CD70 must stay on a driving record for 11 years from the date of the conviction.

Code	Offence	Penalty points
CD40	Causing death through careless driving when unfit through drink	3 to 11
CD50	Causing death by careless driving when unfit through drugs	3 to 11
CD60	Causing death by careless driving with alcohol level above the limit	3 to 11
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis	3 to 11

Codes CD80 and CD90 must stay on a driving record for 4 years from the date of the conviction.

Code	Offence	Penalty points
CD80	Causing death by careless, or inconsiderate, driving	3 to 11
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	3 to 11

Construction Uses & Offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
CU10	Using a vehicle with defective brakes	3
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	3
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers	3
CU80	Breach of requirements as to control of the vehicle, such as using a mobile phone	3 to 6

Reckless/dangerous driving

These codes must stay on a driving record for 4 years from the date of the conviction.

Code	Offence	Penalty points
DD10	Causing serious injury by dangerous driving	3 to 11
DD40	Dangerous driving	3 to 11
DD60	Manslaughter or culpable homicide while driving a vehicle	3 to 11
DD80	Causing death by dangerous driving	3 to 11
DD90	Furious driving	3 to 9

Drink

Codes DR10 to DR61 must stay on a driving record for 11 years from the date of the conviction.

Code	Offence	Penalty points
DR10	Driving or attempting to drive with alcohol level above limit	3 to 11
DR20	Driving or attempting to drive while unfit through drink	3 to 11
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3 to 11
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity	3 to 11
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive	10

Codes DR40 to DR70 must stay on a driving record for 4 years from the date of the offence or 4 years from date of conviction where a disqualification is imposed.

Code	Offence	Penalty points
DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of a vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to co-operate with a preliminary test	4

Drugs

These codes must stay on a driving record for 11 years from the date of the conviction.

Code	Offence	Penalty points
DG10	Driving or attempting to drive with drug level above the specified limit	3 to 11
DG60	Causing death by careless driving with drug level above the limit	3 to 11
DR80	Driving or attempting to drive when unfit through drugs	3 to 11

These codes must stay on a driving record for 4 years from the date of the offence or 4 years from date of conviction where a disqualification is imposed.

Code	Offence	Penalty points
DG40	In charge of a vehicle while drug level above specified limit	10
DR70	Failing to co-operate with a preliminary test	4
DR90	In charge of a vehicle when unfit through drugs	10

Insurance Offences

Code IN10 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
IN10	Using a vehicle uninsured against third party risks	6 to 8

Licence Offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
LC20	Driving otherwise than in accordance with a licence	3 to 6
LC30	Driving after making a false declaration about fitness when applying for a licence	3 to 6
LC40	Driving a vehicle having failed to notify a disability	3 to 6
LC50	Driving after a licence has been cancelled (revoked) or refused on medical grounds	3 to 6

Miscellaneous Offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3
MS30	Play street offences	2
MS50	Motor racing on the highway	3 to 11
MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)	3
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc	6

Motorway Offences

Code MW10 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
MW10	Contravention of special roads regulations (excluding speed limits)	3

Pedestrian Crossings

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
PC10	Undefined contravention of pedestrian crossing regulations	3
PC20	Contravention of pedestrian crossing regulations with moving vehicle	3
PC30	Contravention of pedestrian crossing regulations with stationary vehicle	3

Speeding Offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
SP10	Exceeding goods vehicle speed limits	3 to 6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3 to 6
SP30	Exceeding statutory speed limit on a public road	3 to 6
SP40	Exceeding passenger vehicle speed limit	3 to 6
SP50	Exceeding speed limit on a motorway	3 to 6

Traffic Direction & Signs

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with 'stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with traffic sign (excluding 'stop' signs, traffic lights or double white lines)	3
TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3

Special Codes

Code TT99 must stay on a driving record for 4 years from the date of conviction.

It shows disqualification under 'totting-up' - if the total of penalty points reaches 12 or more within 3 years, the driver can be disqualified.

Theft or Unauthorised Taking

Code UT50 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
UT50	Aggravated taking of a vehicle	3 to 11

'Mutual Recognition' Codes

You'll get an 'MR' code on your driving record if you're disqualified while driving in Northern Ireland or the Isle of Man. Your disqualification period will also be valid in GB and will stay on your record for 4 years from the date of conviction.

Code	Offence
MR09	Reckless or dangerous driving (whether or not resulting in death, injury or serious risk)
MR19	Wilful failure to carry out the obligation placed on driver after being involved in a road accident (hit or run)
MR29	Driving a vehicle while under the influence of alcohol or other substance affecting or diminishing the mental and physical abilities of a driver
MR39	Driving a vehicle faster than the permitted speed
MR49	Driving a vehicle whilst disqualified
MR59	Other conduct constituting an offence for which a driving disqualification has been imposed by the State of Offence

Aiding, Abetting, Counselling or Procuring Offences

For these offences, the codes are similar, but with the number 0 on the code changed to 2.

For example, code LC20 (driving otherwise than in accordance with a licence) becomes code LC22 on your driving record if you have helped someone to do this.

Causing or Permitting Offences

For these offences, the codes are similar, but with the number 0 on the code changed to 4.

For example, LC20 (driving otherwise than in accordance with a licence) becomes LC24 on your licence if you've caused or permitted someone to do this.

Inciting Offences

For these offences, the codes are similar, but with the number 0 on the code changed to 6.

For example, DD40 (dangerous driving) becomes DD46 on your driving record if you've incited someone to do this.

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