

BOSTON BOROUGH COUNCIL
APPLICATION POLICY AND GUIDELINES RELATING TO THE RELEVANCE OF
CONVICTIONS
HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS AND PRIVATE HIRE
OPERATORS

1. Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria which are taken into account by the council (Licensing Authority) when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver licence. The policy also relates to applicants for a private hire vehicle operator licence and holders of a current private hire operator licence.
- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
- That a person is a fit and proper person.
 - That the person does not pose a threat to the public.
 - That the public are safeguarded from dishonest persons.
 - The safeguarding of children, young persons and vulnerable adults.
 - That the policy ensures fair access, eliminates unlawful discrimination and promotes equality in line with the Public Sector Equality Duty and the 'protected characteristics' - age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.
- 1.3 This policy provides guidance to any person with an interest in public and private hire licensing. In particular, but not exclusively:
- Applicants for driver and operator licences
 - Existing licensed drivers and operators whose licences are being reviewed or renewed.
 - Licensing officers
 - Members of the Regulatory & Appeals Committee
 - Magistrates hearing appeals against local authority decisions
- 1.4 Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision whether or not to grant a licence. Should there be any doubt, in the Officer's opinion, as to whether the applicant is a "fit and proper" person, then the application will not be granted under delegated power. Such applications will be referred to the Council's Regulatory & Appeals Committee, or a sub-committee of that committee. The Regulatory & Appeals Committee is made up of elected members (councillors). Whilst officers and the committee will have regard to the guidelines contained in the policy, each case

will be considered on its individual merits and, where the circumstances warrant, the committee or officer may depart from the guidelines. The reasons for departing from the guidelines must be recorded in the decision.

2. General policy

- 2.1 There may be occasions where it is appropriate to depart from the guidelines, for example, where the offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness. However, the overriding consideration should always be the protection of the public.
- 2.2 A person with a relevant conviction need not be automatically barred from obtaining a licence, but would be expected to show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
- 2.3 A series of offences over a period of time is more likely to give cause for concern than an isolated, minor conviction. A serious view will be taken when an applicant shows a pattern of offending and/or unfitness.
- 2.4 Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)] or determine that the applicant should never have been convicted.
- 2.5 A person with a conviction(s) for sexual offences or any other very serious crime will not normally be issued with a licence.
- 2.6 The Council generally considers that, on some occasions, offence(s) committed by a licensed hackney carriage/private hire driver may need to be considered more seriously than an offence(s) committed by individuals who are not. This is because current licensees have previously been judged as fit and proper and are aware of the standards required of them and are expected to maintain those high standards of personal conduct.
- 2.7 **Cautions** – Adult cautions are not regarded as convictions, but being admissions of guilt, may be taken into consideration by the Licensing Authority.
- 2.8 **Private Hire Operators** – In view of the significant responsibility held by private hire vehicle operators in terms of setting standards of their company, recruiting drivers and dealing with members of the public, the operator must be a fit and

proper person and an example to those whom he/she employs. Therefore the view of the Licensing Authority is that applicants for a private hire operator's licence (and the holders of a private hire operator's licence) must at least fulfil the same requirements as applicants for private hire driver licences in terms of being free from serious convictions or a pattern of unlawful behaviour.

3. Pre-requisites to making an application

3.1 It is the policy of the licensing authority that every application for a licence, including applications from existing licence holders, to drive a Hackney Carriage and/or Private Hire Vehicle must be accompanied by satisfactory evidence of the following matters (and that applications that are incomplete will not be deemed to have been made until such time as they are completed) -

- That the applicant has the right to live and work in the country. (All applicants).
- An Enhanced Disclosure and Barring Services criminal record check and evidence that they are not on a child and/or vulnerable adult barring list. Applicants who have lived overseas for 6 continuous months or more refer to paragraphs 3.2 & 3.3. (All applicants)
- A certificate of their current medical fitness to DVLA Group 2 standard. (See paragraph 3.4)
- A FULL UK or EU driving licence or legal equivalent (if an EU Licence a paper counterpart issued by DVLA must be obtained and produced with the application). (All applicants)
- That the applicant is authorised to drive a vehicle of the same classification as that which the licence will allow them to drive. (All applicants)
- That the applicant has a minimum of two year's post qualification driving experience. (Not required for licence renewals)
- The applicant must have satisfactorily completed the Licensing Authority's comprehension test. (Not required for licence renewals)
- In the case of applications for hackney carriage drivers, they have passed the Licensing Authority's knowledge test. (Not required for licence renewals).
- That the applicant has completed the Licensing Authority's safeguarding awareness training. (New applicants and existing applicants prior to their next renewal).

- The applicant has signed a declaration to confirm that they understand the Driver Code of Conduct forms part of the Licensing Authority's Policy. (All applicants)

3.2 It is the policy of the Licensing Authority that every applicant for a licence to drive a hackney carriage and/or private hire vehicle must produce evidence of a current and up to date Enhanced Disclosure and Barring Service (DBS) Check and evidence that they are not on a child and/or vulnerable adult barring list. Applicants for a private hire vehicle operator licence, who do not hold a hackney carriage/private hire driver licence with this authority, will be required to present, at their expense, the result of a current and up to date Basic Disclosure Check from Disclosure Scotland. Any enhanced or basic disclosure that is more than 1 month old will not be accepted (except for enhanced disclosures when used in conjunction with the update service and the disclosure was less than 1 month old when first presented for the purpose of obtaining a hackney carriage/private hire vehicle driver licence).

3.3 Before an application can be made, if an applicant has spent six continuous months or more overseas the licensing authority will expect to see evidence of a criminal record check, certificate of good conduct or equivalent, obtained for the purpose of applying for a Hackney Carriage or Private Hire Vehicle Driver or Operator Licence with this council, from the country/countries covering the relevant period.

Such criminal record checks/certificates of good conduct must be provided in accordance with the Home Office Document "*Application processes for Foreign National Criminality Information*". Any criminal record check must be translated into English by a recognised translation service provider that has been agreed by the Licensing Authority.

3.4 All applicants making their first application must lodge a certified medical certificate. A medical certificate will then be required every six years thereafter, unless an applicant's condition warrants examination on a more regular basis.

An applicant aged 65 years or over must undergo the medical examination every year.

As recommended by the Medical Commission on Accident Prevention the authority requires licence holders to attain DVLA Group 2 Vocational Licence Standard.

Any fee charged by the Doctor is payable by the applicant.

A Medical Practitioner who has full knowledge of the applicant's medical

history must carry out the examination.

Where the Medical Practitioner cannot carry out the eye test this part of the medical form must be completed and the form signed by an optician prior to the medical being carried out.

Medical certificate forms and further information can be obtained from the Licensing Section.

Any applicant who does not meet the DVLA Group 2 Vocational Licence Standard can expect to have their application refused.

Licensed drivers who no longer meet the DVLA Group 2 Vocational Licence Standard either temporarily or permanently must notify the Licensing Authority forthwith. In such cases the driver can expect to have their licence either suspended or revoked. Guidance on the DVLA Group 2 Vocational Licence Standards is available from the Licensing Authority.

The Council will not normally accept a certified medical certificate submitted with an application, which is received more than 6 weeks after the Doctor has signed the report.

4. Appeals

- 4.1 Any applicant refused a driver's licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].
- 4.2 Any applicant refused an operator licence on the grounds that the licensing authority is not satisfied he/she is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.
- 4.3 Any licensee whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation. Where suspension or revocation is immediate, on the grounds of public safety, the driver cannot continue to drive a hackney carriage or private hire vehicle during the period of appeal.

5. Powers – Suspension, Revocation or Refusal to Renew a Licence.

- 5.1 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Licensing Authority to suspend, revoke or refuse to renew a hackney carriage /private hire driver licence if the applicant/licence holder has been convicted of:
 - An offence involving dishonesty, indecency or violence; or

- Failure to comply with the provisions of the Town Police Clauses Act 1847; or
- Failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Authority may also suspend, revoke or refuse to renew on the grounds of any other reasonable cause

Where it is in the interests of public safety to suspend or revoke a licence that suspension or revocation can be with immediate effect provided that there are justifiable grounds to do so. The driver will be given a notice of the suspension or revocation which will include a statement that the determination takes immediate effect along with an explanation as to why that is the case.

5.2 Section 62 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Licensing Authority to suspend, revoke or refuse to renew a Private Hire Vehicle Operator Licence if the applicant/licence holder had been convicted of failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976. The Licensing Authority may also act on any of the following grounds:

- Conduct which appears to render him/her unfit to hold a licence;
- Any material change in the circumstances of the operator; or
- Any other reasonable cause.

5.3 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a hackney carriage/private hire vehicle driver licence, whether spent or not. Therefore the licensing authority may have regard to all relevant convictions (as defined in this policy), particularly where there is a long history of offending or a pattern of repeat offending. However, before having regard to such a spent conviction the Licensing Authority will first consider whether the conviction is relevant to the licence application.

5.4 In this policy the term “disqualification” refers to the period served, to take account of the fact that a period of disqualification from driving may be reduced upon the successful completion of a relevant driver rehabilitation course. An applicant must provide the Licensing Authority with sufficient evidence to prove that the period of disqualifications was so reduced.

6. Consideration of disclosed criminal history

6.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a licence to drive a hackney carriage and/or a private hire vehicle and/or a private hire vehicle operator’s licence is a

'fit and proper' person to hold such a licence. The Authority must not grant a licence unless it is satisfied that the applicant is a fit and proper person to hold it.

All conviction(s), criminal findings of guilt (including fixed penalty ticket(s)), caution(s) and warning(s), whether for motoring or other offences and County Court Judgment(s)/Order(s) (where the judgment or order relates to a debt or charge to another Hackney Carriage/Private Hire driver, owner or operator) may potentially be taken into account when deciding whether to grant a licence or on a review after the issue of a licence. During the currency of a licence the licensee must immediately after the date of arrest, convictions, criminal findings of guilt (including fixed penalty notice(s)), caution(s) and/or warnings, advise the Licensing Authority of this information in writing.

The Licensing Authority will consider:

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

6.2 Applicants for a first time licence can discuss what effect a caution/conviction or other sanction may have on any licence application by contacting the licensing office in confidence for advice.

6.3 The licensing authority requires enhanced disclosures from the Disclosure and Barring Service (DBS) from any applicant for a driver licence. The licensing authority follows the DBS's Code of Practice on the fair use of disclosure information and abides by the DBS's Policy on the secure storage, handling, use, retention and disposal of disclosure information. Both of these documents are available on request.

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

6.5 The licensing authority encourages applicants and licence holders to register for the DBS's update service and to nominate the licensing authority to receive updates. DBS certificates obtained for a Hackney Carriage/Private Hire Driver

Licence cannot be used for the purpose of obtaining a Lincolnshire County Council School Transport Badge (“Green Badge”) and vice versa. DBS certificates obtained for any other purpose, including a Hackney Carriage/Private Hire Driver Licence with another Licensing Authority, cannot be used for the purpose of obtaining a licence with this Licensing Authority. A separate check is required for each authorisation. However, applicants can register both/all checks with the DBS update service for a single fee.

- 6.6 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police.
- 6.8 It is an offence for any person knowingly or recklessly to make a false declaration or to deliberately omit any relevant material in submitting information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence may be refused or revoked.

7 Serious offences involving violence

- 7.1 Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life unless the circumstances are exceptional.
- 7.2 Given the wide range of the offences that involve violence, consideration will be given to the nature and type of the conviction.
- 7.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
 - Manslaughter
 - Any culpable homicide while driving
 - Terrorism offences
 - Arson
 - Malicious wounding or grievous bodily harm which is racially aggravated
 - Grievous bodily harm with intent
 - Or any offence of attempting, conspiring to commit, aiding and abetting or procuring any of the above offences or any offence which may replace the above or be considered as serious as the above.

A hackney carriage/private hire driver found guilty of any of the above offences at paragraph 7.3 should expect to have his/her licence revoked immediately.

7.4 A licence will not normally be granted where the applicant has a conviction for an offence below and the conviction is less than 10 years prior to the date of application:

- Actual bodily harm which is racially aggravated.
- Grievous bodily harm
- Robbery.
- Possession of a firearm.
- Riot.
- Assault of a Police Officer
- Common assault which is racially aggravated
- Violent disorder.
- Resisting arrest.
- Or any offence of attempting, conspiring to commit, aiding and abetting or procuring any of the above offences or any offence which may replace the above or be considered as serious as the above.

A hackney carriage/private hire driver found guilty of any of the above offences at paragraph 7.4 should expect to have his/her licence revoked immediately and not be considered for the grant of a licence until a minimum period of 10 years since conviction (or completion of sentence if longer) has elapsed.

7.5 A licence will not normally be granted where the applicant has a conviction for an offence and the conviction is less than 5 years prior to the date of application:

- Racially-aggravated criminal damage.
- Any other racially-aggravated offence.
- Or any offence of attempting, conspiring to commit, aiding and abetting or procuring any of the above offences or any offence which may replace the above or be considered as serious as the above.

A hackney carriage/private hire driver found guilty of any of the above offences at paragraph 7.5 should expect to have his/her licence revoked and not be considered for the grant of a licence until a minimum period of 10 years since conviction (or completion of sentence if longer) has elapsed.

7.6 A licence will not normally be granted where the applicant has a conviction for an offence and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm
- 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)
- Obstruction
- Criminal damage
- Or any offence of attempting, conspiring to commit, aiding and abetting or procuring any of the above offences or any offence which may replace the above or be considered as serious as the above.

A hackney carriage/private hire driver found guilty of any of the above offences at paragraph 7.6 should expect to have his/her licence revoked immediately and not be considered for the grant of a licence until a minimum period of 5 years since conviction (or completion of sentence if longer) has elapsed.

- 7.7 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.
- 7.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.
- 7.9 **Fixed Penalty Notices (Public Order Offence)** – The Licensing Authority recognises that in some instance a Fixed Penalty Notice (FPN) may be issued for a public order offence rather the option of prosecution through the courts or acceptance of a caution. A serious view will be taken of the existence of a FPN for a public order offence. In certain circumstances where a FPN has been issued it may be appropriate for the Licensing Authority to issue a strong warning regarding future conduct rather than the refusal of a licence application or suspension/revocation of a licence. The existence of more than one FPN will raise serious concerns regarding an individual’s suitability to act as a licensed driver.

8. Possession of a weapon

- 8.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give rise to serious concern as to whether the person is fit to carry the public. Depending on the circumstances of the offence, an applicant should be free of conviction for at least 3 years (or since completion of the sentence if longer) before an application for a licence is considered.
- 8.2 A hackney carriage/private hire vehicle driver found guilty of an offence involving a weapon(s) should expect to have his/her licence revoked immediately and not be considered for the grant of a licence until a minimum period of 5 years since conviction (or completion of sentence if longer) has elapsed.

9. Sex and indecency offences

- 9.1 Licensed drivers often carry unaccompanied and vulnerable passengers, therefore applicants with convictions for sexual offences will normally be refused a licence.
- 9.2 In particular, an application will normally be refused where the applicant has a conviction for a sexual or indecency offence(s) such as:
- Rape
 - Assault by penetration
 - Offences involving children or vulnerable adults
 - Sexual assault
 - Indecent assault
 - Exploitation of prostitution
 - Trafficking for sexual exploitation
 - Any offence involving child sexual exploitation and/or sexual exploitation of vulnerable adults
 - Possession of indecent photographs, child pornography etc.
 - Any sex or indecency offence that was committed in the course of employment as a hackney carriage/private hire vehicle driver
 - Indecent exposure
 - Soliciting (kerb crawling)
 - Or any offence of attempting, conspiring to commit, aiding and abetting or procuring any of the above offences or any offence which may replace the above or be considered as serious as the above.
- 9.3 A hackney carriage/private hire vehicle driver found guilty of a sexual or indecency offence during the period of a licence should expect to have his/her licence revoked immediately. It is unlikely that anyone in this situation will ever be licensed again.
- 9.3 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.

10. Dishonesty

- 10.1 Hackney Carriage and Private Hire Vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property, taking children to school and families on holiday, is indicative of the trust that people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become “fair game” for an unscrupulous driver. Similarly, any customer can be defrauded by a driver taking them by any other than the shortest route or by any lost property being kept by an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty.

10.2 Normally, a minimum period of 5 years free of conviction (or from completion of sentence if longer) should be required before granting a licence. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- and any similar offences
- Or any offence of attempting, conspiring to commit, aiding and abetting or procuring any of the above offences or any offence which may replace the above or be considered as serious as the above.

A licensed hackney carriage/private hire vehicle driver found guilty of a dishonesty offence should expect to have his/her licence revoked and not be considered for the grant of a licence until a minimum period of 5 years after conviction (or completion of sentence if longer).

10.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

11. Drugs

11.1 A serious view will be taken of any drug related offence.

11.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for at least 5 years or at least 5 years from the completion of sentence if longer.

11.3 A licence will not normally be granted where the applicant has a conviction for an offence related to the possession of drugs and has not been free of conviction (or completion of sentence if longer) for at least 3 years.

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

- 11.5 A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.
- 11.6 A hackney carriage/private hire vehicle driver found guilty of driving whilst under the influence of drugs, or found guilty of any drug-related offence should expect to have his/her drivers licence revoked immediately and not be considered for the grant of a licence until free of conviction (or completion of sentence if longer) for at least 5 years.

12 Driving offences involving the loss of life

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

A licence will not normally be granted where the applicant has a conviction for an offence such as:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death driving: unlicensed, disqualified or uninsured drivers
- or any similar offences

A hackney carriage/private hire driver found guilty of any of the above offences should expect to have his/her licence revoked immediately.

13 Drink driving or driving under the influence of drugs and/or alcohol

- 13.1 **In a motor vehicle** - A serious view will be taken of convictions for driving or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident may not necessarily permanently bar an applicant but strict warnings should be given as to future behaviour. More than one conviction for such offences should give rise to serious doubts as to the applicant's fitness to hold a licence.
- 13.2 At least 3 years should elapse (after the restoration of the DVLA driving licence) before an applicant is considered for a licence. If there is any suggestion that the applicant is alcohol dependent, a special medical examination should be arranged before the application is considered. If the applicant is found to be alcohol dependent, a period of 5 years should elapse after treatment is complete before an application/further licence application is considered.

A Hackney Carriage/Private Hire Driver found guilty of a drink-driving offence or found guilty of driving whilst under the influence of drugs should expect to have

his/her drivers licence revoked immediately and not be considered for the grant of a licence until at least 5 years after restoration of the DVLA driving licence.

- 13.3 **With a licensed vehicle** - A driver found guilty of a drink-driving offence or driving whilst under the influence of drugs whilst carrying passengers in a licensed vehicle should expect to have his/her driver's licence revoked immediately and not be considered for the grant of a licence until a minimum period of 7 years after the restoration of the DVLA driving licence.

14. MAJOR TRAFFIC OFFENCES

- 14.1 An isolated conviction for dangerous driving or driving without due care and attention or similar offences should normally merit a strong warning as to future driving and advice on the standard expected of hackney carriage/private hire vehicle drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 3 years free from convictions has elapsed.
- 14.2 Similarly, a first conviction during the period of a hackney carriage/private hire vehicle drivers licence will indicate that the driver may have ceased to be a fit and proper person and will lead to either a licence suspension or to a warning as to future conduct. Where there are subsequent convictions revocation of the licence will be considered with no further application being considered until a period of 3 years from conviction has elapsed.
- 14.3 **Applicants/drivers who have been disqualified from driving due to major traffic offences (Not involving the loss of life)** – Existing drivers can expect to have their licence revoked. At least 3 years should elapse (after the restoration of the DVLA Licence) before an individual is considered for a hackney carriage/private hire vehicle driver's licence.

15 Insurance offences (with a motor vehicle)

- 15.1 A serious view will be taken of convictions for using, or causing or permitting the use of a motor vehicle without insurance. An isolated incident in the past will not necessarily prevent a licence being granted provided the applicant has been free of conviction for at least 3 years. However, a strict warning should be given as to future conduct.
- 15.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.
- 15.3 A licensed driver found guilty of driving passengers in a licensed vehicle without insurance should expect to have his/her hackney carriage or private hire vehicle

driver licence revoked and not be considered for another licence for at least 5 years.

- 15.3 An operator found guilty of causing or permitting the driving of passengers for hire and reward whilst without insurance will normally have his operator licence revoked and will not be considered for holding a licence for at least 5 years.

16 Using a mobile phone whilst driving

- 16.1 Applicants (and licence holders) should be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:

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

- 16.2 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed alcohol up to the legal limit. In light of this a serious view should be taken of convictions for driving whilst using a mobile phone.

- 16.3 Any applicant for a new licence who has, within the 3 years preceding the licence application, been convicted for an offence of using a mobile phone whilst driving will be referred to a sub-committee of the Regulatory & Appeals committee for their application to be considered. Their application may be refused and will normally be refused where there is more than one conviction for this offence.

- 16.4 A licensed driver who is convicted for an offence of using a mobile phone whilst driving will be referred to a sub-committee of the Regulatory & Appeals Committee and can expect the suspension or revocation of their licence.

17. OTHER TRAFFIC OFFENCES

New Applicants.

- 17.1 Any conviction for other traffic offences, (e.g. obstruction, waiting in a restricted street, speeding etc) should not normally prevent a person from proceeding with an application. However, the number, type and frequency of this kind of offence will be taken into account. In certain instances it may be appropriate to issue a

licence together with a strong warning as to future driving standards. If a significant history of offences is disclosed, refusal of an application may result.

- 17.2 New applicants who have received 9 or more DVLA penalty points (in respect of minor traffic offences) on their driving licence during the 12 months prior to the date of application may be refused.
- 17.3 Applicants who have been disqualified from driving under the “totting-up” procedure will not normally be granted a licence unless they have held a licence for at least 2 years following the expiry period of the disqualification and can show a significant improvement in history of motoring offences during that period.

Existing Licence Holders

- 17.4 A hackney carriage/private hire vehicle driver receiving 6 or more penalty points during any 3 year period will be issued with a written warning as to future conduct.
- 17.5 Any current driver disqualified from holding a DVLA licence under the “totting-up” procedure should expect to have his/her hackney carriage/private hire vehicle driver licence revoked. At least 3 years should then elapse (after the restoration of the DVLA licence) before he/she is considered for a licence and then a licence should only be granted if he/she can show a significant improvement in a history of motoring offences during that period.
- 17.6 In the case of an existing hackney carriage/private hire vehicle driver where the “totting-up” disqualification of a DVLA licence is considered by the court, even if the court does not disqualify, the Council is likely to revoke the hackney carriage/private hire vehicle driver licence. At least 3 years should elapse either after the date of consideration by the court or restoration of the DVLA licence, whichever is the longer, before the individual is considered for a licence.
- 17.7 In the case of an existing hackney carriage/private hire vehicle driver, who show a pattern of driving endorsements, the Licensing Authority reserves the right to require such a driver to successfully undergo the DSA Taxi and Private Hire Driver Driving Assessment or the Taxi and Private Hire Driving Assessment provided by the Lincolnshire Road Safety Partnership and attain a low risk assessment (or other assessment by a similar body approved by the Licensing Authority).
- 17.8 Any driver who receives a short period disqualification can expect to receive a warning regarding future conduct and may also be required to attend the DSA Taxi and Private Hire Driver Driving Assessment or the Taxi and Private Hire Driving Assessment provided by the Lincolnshire Road Safety Partnership and attain a low risk assessment (or other assessment by a similar body approved by the Licensing Authority). In cases where the drivers licence is already endorsed

with penalty points the driver can expect their licence to be suspended along with a requirement to attend an assessment course. In cases where there is a pattern of offences the driver can expect their licence to be revoked and not be considered for another licence for at least 3 years.

18 Drunkenness (Not in a Motor Vehicle)

- 18.1 A single conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination. In some cases, a warning may be sufficient.
- 18.2 In cases of severe alcohol abuse, a period of 5 years after the last conviction must elapse before an application is considered and then only after examination by a consultant with a special interest in such cases with confirmation being provided of satisfactory liver enzyme tests and mean cell volume (MCV).

19 Licensing offences

- 19.1 One of the main purposes of the licensing regime is to ensure the protection of the public. For this reason a serious view is taken of convictions for offences, or a possible pattern of unlawful behaviour, under the hackney carriage and private hire licensing regime.
- 19.2 Certain offences under hackney carriage legislation such as plying for hire without a hackney carriage licence, overcharging and refusing to carry disabled persons would normally result in refusal to grant or renew a licence until a period of at least 3 years has passed since conviction. A licensed driver with such a conviction can expect their licence to be revoked and not be considered for another licence for at least 3 years.
- 19.3 A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence, or in the case of an existing licence holder, suspension or revocation can be expected.

20 Smokefree – Hackney Carriages and Private Hire Vehicles

- 20.1 Any hackney carriage/private hire vehicle driver who receives a first fixed penalty notice or fine for smoking in a licensed vehicle will be issued with a warning as regards to future conduct.
- 20.2 Any hackney carriage/private hire vehicle driver receiving two or more fixed penalty notices or fines during any three year period for smoking in a licensed vehicle will be reported to a sub-committee of the Regulatory & Appeals

Committee who may consider suspension or revocation of his/her driver licence(s).

21 Perverting or attempting to pervert or conspiring to pervert the Course of Justice

21.1 At least 3 years should elapse since conviction (or completion of sentence if longer) before an applicant is considered for a licence.

21.2 A licence holder found guilty of such an offence should expect to have his/her licence revoked and not be re-considered for a licence until a minimum period of 5 years has elapsed since conviction (or completion of sentence if longer).

22 Outstanding charges or summonses

22.1 If the individual is the subject of an outstanding charge or summons their application can be processed, but the application will be reviewed at the conclusion of any outstanding proceedings. However, if the outstanding charge or summons involves a serious offence then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

23 Non-conviction information

23.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he/she could be a danger to the public, consideration should be given to refusing the application.

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

24 Once a licence has been granted

24.1 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

24.2 Unless otherwise stated, all of the preceding contents of this policy document apply equally to current hackney carriage/private hire vehicle drivers as they do to licence applicants

25 Licences issued by other licensing authorities

25.1 Applicants who already hold a licence with another licensing authority should not assume that a similar application will be granted by this Authority. Each case will be decided on its own merits.

- 25.2 Licensees who are licensed by more than one authority are expected to inform each of those authorities about every licence they hold and to advise each authority of any changes in this respect. Licence holders should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

26 Conclusion

- 26.1 To conclude, a criminal history in itself may not automatically result in refusal of a licence and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant will be expected to remain free from conviction for between 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed. For the most serious crimes, except in exceptional circumstances, a licence will not normally be granted.
- 26.2 While it is possible that an applicant may have a number of convictions that, individually, would not prevent him/her from being licensed, the overall offending history will be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion may be afforded if an offence is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public. This consideration is vital because hackney carriage/private hire licence holders have unprecedented access to the public and are in a position to exercise control over individuals including children and vulnerable adults.
- 26.3 The Council generally considers that offences committed by licensed hackney carriage/private hire vehicle drivers should be considered more seriously than offences committed by individuals who are not licensed. This is because current licensees have previously been judged as fit and proper and are aware of the standards required of them and are expected to maintain those high standards of personal conduct.
- 26.4 Whilst officers and the committee will have regard to the guidelines contained in the policy, each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.