



**THREE RIVERS DISTRICT COUNCIL HACKNEY CARRIAGE AND PRIVATE HIRE
DRIVER AND PRIVATE HIRE OPERATOR SUITABILITY POLICY**

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1. INTRODUCTION

1.1 Three Rivers District Council (TRDC) is responsible for licensing within its district:

- (a) hackney carriages and private hire vehicles
- (b) hackney carriage drivers and private hire vehicle drivers
- (d) private hire operators.

1.2 In doing so we use powers within the Town Police Clauses Act 1847 (which is referred to as the 1847 Act) and the Local Government (Miscellaneous Provisions) Act 1976 (as amended) (the 1976 Act), and other associated legislation including the Rehabilitation of Offenders Act 1974 (as amended) (the 1974 Act), Immigration Act 2016 and the Data Protection Act 1998, as amended.

1.3 Before granting or renewing a licence we must be satisfied that the applicant is a “fit and proper person” to hold a licence, as set out in sections 51, 55 and 59 of the 1976 Act. This policy sets out how we decide not only whether an applicant is fit and proper when applying for a licence, but to assess whether they remain so once a licence has been issued.

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

- Applicants for a driver’s licence
- Existing licensed drivers whose licences are being reviewed / renewed
- Licensing officers
- Members of the Regulatory Services committee/sub-committee
- Magistrates and Judges hearing appeals against local authority decisions

1.5 This policy provides guidance to all parties on the criteria that will be taken into account when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a Hackney Carriage and/or Private Hire Driver or Operator Licence. Whilst criminal convictions play a significant part in the Licensing Authority’s determination on whether an individual is fit and proper or not, the Council will also take into account other factors such as demeanour, general character, non-criminal behaviour, driving abilities, and police information etc.

1.6 The term “Fit and Proper” for the purposes of taxi and private hire licensing is not legally defined but it has also been described as “safe and suitable” in a number of court cases.

1.7 The test we would ask when considering an applicant’s fitness and suitability to hold a driver’s licence is:

““Would you 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?”

1.8 The test we would ask when considering an applicant’s fitness and suitability to hold an operator’s licence is:

“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 criminal or unacceptable purposes?”

1.9 If the answer to the question is an unqualified “yes”, then the person can be considered to be fit and proper. If there are any doubts in the minds of those who

make the decision, then further consideration should be given as to whether a licence should be granted to that person.

2. GENERAL POLICY

2.1 Our key objectives behind this policy are the protection of the public from applicants who may pose a physical threat to any passengers or who may be dishonest. The reasons for this are to ensure that:

- The driver does not pose any threat to the public
- The public are safeguarded from dishonest persons
- The safety of children, young persons and vulnerable adults is protected
- The prevention of risk of crime or harm

2.2 We shall consider any conviction or circumstances as particularly serious where they have involved:

- alcohol or illegal drugs as an aggravating factor
- children, young people or vulnerable adults
- motivations due to age, race, sex, sexual orientation or religion/belief
- offences arising from work as a licensed driver or any similar occupation
- circumstances deliberately withheld from the Council
- a course of action sustained over a period of time
- allegations of violent crime.

2.3 We do not automatically consider an applicant with a conviction to be automatically barred from holding a licence, provided that they are free from conviction during the additional periods set out in this policy and can otherwise show (if applying for the grant of a licence) that they are a fit and proper person.

2.4 In order to assess the suitability of an applicant (and to inform decision makers when answering the question above), the Council will undertake whatever checks and apply whatever processes it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. When making decisions using this policy we will consider each application on its own merits. In assessing the suitability of an applicant or licence holder, the Council will take into consideration the following factors:

- criminal convictions as set out in this policy
- any comments made by a sentencing tribunal or other relevant information before it
- any pending criminal prosecution or similar proceedings
- previous character including character references
- previous conduct as a licence-holder where applicable
- community ties
- general demeanour
- period of holding a driver's licence
- driving ability and DVLA record
- right to work in the UK subject to the provisions of the Immigration Act 2016
- any lengthy periods of time spent outside the UK without adequate good reason eg work or study
- medical fitness
- whether the applicant deliberately or recklessly made a misleading statement about their fitness and propriety to the council or any other authority
- information from other reliable, credible sources including other council departments and statutory agencies or authorities including Police (including abduction notices) and Children and Adult Safeguarding Boards.

- 2.5** Whilst the Council may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:
- a) Remain free of conviction for an appropriate period as detailed below; and
 - b) Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the applicant to produce such evidence).
- 2.6** 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.
- 2.7** The standards and criteria set out in sections 6 to 17 below are those that would normally be applied to applications and licences. The Council may depart from these criteria; however it must only do so in wholly exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.
- 2.8** We will not consider the following by themselves to be exceptional circumstances to depart from the policy:
- that the applicant depends on a licence for his livelihood
 - that the applicant has held licences previously, either from another licensing authority or ourselves
 - that the applicant has previously held a position of trust or public office
 - that a court has either acquitted an applicant or chosen not to disqualify them from driving
 - that the applicant has had no previous convictions.
- 2.9** We will take into account multiple convictions even if for very different offences (and even if some are for offences outside of those listed in this policy). In those circumstances we will consider each conviction in order of seriousness (not necessarily in order of conviction) to assess the applicant's fitness and propriety.
- 2.10** We exercise this duty alongside our duties under the Human Rights Act 1998; the Crime and Disorder Act 1998 to reduce crime and disorder in the district; and to promote equalities under the Equality Act 2010. We have taken into account the Disclosure and Barring Service's code of practise and undertake to treat all applicants fairly. This document should be read in conjunction with our other policies on licensing drivers and vehicles and our Enforcement policy; this policy takes precedence in the event of any conflict.

3. POWERS

3.1 In addition to those powers in paragraph 1.3, we have powers in sections 61 and 62 of the 1976 Act to:

- suspend
- revoke
- refuse to renew

licences of an applicant who has:

- lost their right to work in the UK
- been convicted of an offence involving dishonesty, indecency or violence
- failed to comply with the provisions of part II of the 1976 Act
- failed to comply with the provisions of the Town Police Clauses Act 1847 or
- for any other reasonable cause.

3.2 We may, under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) take account of all convictions recorded against an applicant, whether or not they are considered as spent under the 1974 Act. Applicants should be aware that in accordance with the 1974 Act all convictions, cautions, warnings and reprimands must be declared. Failure to do so may constitute an offence under section 73 of the 1976 Act or under the Fraud Act 2006.

3.3 We obtain enhanced disclosures from the Disclosure and Barring Service (DBS) for applicants for drivers' licences. Applicants for operator licences are required to submit a basic disclosure unless they are also licensed as a driver. Disclosures are obtained at the applicants' own expense and must not be older than three months' old at the time of applying. We will not accept disclosures obtained on behalf of another authority other than those obtained whilst making another licence for a private hire or taxi driver application and which are less than three months' old on the date the licence is granted. We accept applicants who have signed up to the DBS Update Service in order to renew their licence provided that the original DBS was for another licence for a private hire or taxi driver and that the original DBS is for the appropriate workforce as defined by DBS guidelines.

3.4 Under the provisions of Sections 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the Council is required to ensure that an applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire Vehicle driver's licence and/or Private Hire Vehicle Operator's licence is a "fit and proper" person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the Council will look into:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of the conviction, warning, caution etc.
- The number of offences i.e. lots of minor offences
- Circumstances of the individual concerned
- Any sentence imposed by the court
- Any comments made by the court or other information laid before the court
- The applicant's age at the time of offence / incident leading to the conviction, warning, caution etc.
- 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, for example:
 - The previous conduct of an existing or former licence holder,

- Whether the applicant has intentionally misled the Council or lied or omitted as part of the application process,
 - Information provided by other agencies/Council departments.
- 3.5** Existing holders of driver's licences are required to notify the Council in writing within five working days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the Council in writing, or by email within 3 working days of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.
- 3.6** Applicants can discuss further what effect a caution/conviction may have on any application by contacting the Licensing Team for advice. It is in the applicant's best interest to bring any relevant detail to the attention of the authority at an early stage. The costs involved in applying for a licence may be wasted if details come to light later which mean the application should be refused.
- 3.7** The Council 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 Council or other licensing authorities, and the Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered or new information has come to light. This includes information disclosed by the police. Examples of such information sources that may be used include social care information, benefits payments etc.
- 3.8** It is an offence for any person knowingly or recklessly to make a false statement or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration or omission on their application for the grant or renewal of a licence, the licence will normally be refused. Further applications for licences will be refused for a period of five years from the date of the refusal decision is made.
- 3.9** The lists of offences within this Policy are not exhaustive. The Council can consider any offences not detailed in this Policy when examining the fitness and propriety of an applicant.

4. APPEALS

- 4.1** Applicants may appeal under section 77(1) of the 1976 Act to the Magistrates' Court within 21 days of being notified of our decision. The provisions of sections 300–302 of the Public Health Act 1936 allow applicants who already hold a licence to continue working as licensed drivers until their appeal is either determined or abandoned, unless we have certified as a matter of public safety that a decision to suspend or revoke a licence immediately is in the public interest (section 61(2A) of the 1976 Act). Applicants will be given written details of their right of appeal at the time a licensing decision is made.

5. DECISIONS/OPTIONS WHEN DETERMINING AN APPLICATION/LICENCE

5.1 After considering all the relevant information and any representations put forward by the applicant, we may decide to:

- grant a licence
- suspend or revoke a licence
- grant a licence subject to a strict warning as to future conduct
- grant a licence for less than three years (for driver licences) or less than five years (for operator licences) with reasons for the decision
- refuse the licence.
- issue a warning.
- prosecute if the applicant has made any false declarations or omitted material

For existing drivers who have accumulated 9 or more points on their DVLA driving licence, their driver licence will normally be suspended until the driver has successfully undertaken a driving test to DVSA standards. Such a test will be at the licence holder's expense.

5.2 The Authority recognises the different roles of drivers and operators and its responsibility to ensure that they are "fit and proper" to hold such licences. For applicants for driver's licences all of the following sections apply but sections 12 and 14 do not apply to applicants for private hire operators licences.

5.3 Applicants can discuss the effect of a conviction with our officers. It is in the applicant's best interests to bring any relevant detail to our attention at the earliest opportunity as a failure to disclose material information may in itself be an offence and the costs involved in applying for a licence may be wasted if the application is subsequently refused.

5.4 Applicants will have a right to put forward evidence and make representations to us before we make any decision affecting their application or licence. We will generally make decisions about licences as quickly as possible following receipt of all the relevant information needed by us to make a decision.

5.5 Decision-makers should ask themselves one of the two tests below when considering an application. Licences may be granted if there is no reason to the contrary; if there are any doubts further considerations as set out in this policy must be applied.

5.6 When considering whether to grant a licence, the onus is on the applicant to prove that they are fit and proper. When considering whether to renew a licence, an applicant has a legitimate expectation that the licence will be granted unless contrary evidence as set out in this policy is revealed or there is a change in council policy. If we revoke an existing licence under this policy the onus is on us to prove the applicant is no longer fit and proper.

6. SERIOUS OFFENCES INVOLVING VIOLENCE

- 6.1** Licensed drivers, and potentially private hire operators, have close regular contact with the public. A firm line is to be taken with those who have any convictions for offences involving violence. An application will be refused if the applicant has a conviction for an offence that involved the loss of life.
- 6.2** A licence will not be granted where the applicant has a conviction for an offence such as:
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Grievous bodily harm
 - Violent disorder
 - Riot
 - Malicious wounding or grievous bodily harm which is racially aggravated
 - Aggravated burglary
 - Terrorism offences
 - Any related offences (including attempted or conspiracy to commit offences) that are similar to those above.
- 6.3** Consideration may only be given to the granting/issuing of a licence if at least 10 years have passed since (the longest period will apply):
- conviction; or
 - the end of any prison sentence; and/or
 - period released 'on licence'¹,

¹ Most prison sentences are for a fixed period and prisoners will generally be released at the half way point of the sentence and will spend the remaining period of their sentence "on licence". Time spent "on licence" in the community is supervised by probation.

for an offence shown below:

- Arson
 - Actual bodily harm
 - Robbery
 - Possession of firearm
 - Assault Police
 - Resisting arrest
 - Any racially-aggravated offence against a person or property
 - Affray
 - Any offence that may be categorised as domestic violence
 - Any other Public Order Act offence (harassment, alarm or distress, intentional harassment or fear of provocation of violence)
 - Threats to kill
 - Any related offences (including aiding abetting, attempting or conspiring to commit offences) that are similar to those above.
- 6.4** Consideration may only be given to the granting/issuing of a licence if at least 5 years have passed since (the longest period will apply):
- conviction; or
 - the end of any prison sentence; and/or
 - period released "on licence",

for an offence shown below:

- Obstruction
- Criminal damage
- Common assault
- Any related offences (including attempted or conspiracy to commit offences) that are similar in gravity to those above.

6.5 A licence will not be granted if an applicant has two or more (separate) convictions for an offence of a violent nature.

7. POSSESSION OF A WEAPON

7.1 An applicant with a conviction of possessing an offensive weapon or any other weapon related offences will give serious concern as to the applicants' fitness to hold a private hire/hackney carriage driver licence and to carry members the public around.

7.2 The Council considers this to be an unacceptable risk to members of the public and the application will normally be refused.

7.3 In the case of an existing driver, the hackney carriage/private hire driver licence will normally be revoked and will then not be considered fit and proper to hold a further licence with the Council.

8. SEXUAL AND INDECENCY OFFENCES

8.1 As licensed drivers often carry unaccompanied and vulnerable passengers; the Council will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. Similarly, licensed private hire operators will have access to information regarding the location and movements of these vulnerable groups of people. All sexual and indecency offences should be considered as serious. Applicants with convictions for sexual or indecency offences will be refused a licence.

Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
- Making or distributing obscene material
- Possession of indecent photographs depicting child pornography.
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Soliciting (kerb crawling)
- Making obscene / indecent telephone calls
- Indecent exposure
- Any similar or related offences (including aiding abetting, attempting or conspiring to commit) offences which replace the above

8.2 In addition to the above the council will not grant a licence to any applicant who is currently on the Sex Offenders Register or any other similar register.

9. OFFENCES INVOLVING CHILDREN AND VULNERABLE PERSONS

- 9.1** Any Offences against Children (under 14), Young Persons (14 to 17) and Vulnerable persons will raise serious concerns as to an applicant's fitness to hold a hackney carriage/private hire driver licence. Drivers of hackney carriage and private hire vehicles are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.
- 9.2** The Council will normally refuse applicants who have any convictions for rape, assault, any sex offence with a child or any other sex offence with a vulnerable person as defined by the Sexual Offences Act 2003 unless there are exceptional circumstances.

10. DISHONESTY

- 10.1** A licensed driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. Both drivers and operators may be privy to information regarding empty homes as taxis are often used as transport to airports etc. For these reasons, a serious view is taken of any conviction involving dishonesty.
- 10.2** A minimum period of 5 years free of conviction will be required before an application for the grant/issue of a licence will be considered. 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
 - fare overcharging
 - driving whilst disqualified
 - any similar or related offences (including aiding abetting attempting or conspiring to commit) offences which replace the above
- 10.3** A licence will not normally be granted if an applicant has more than 1 conviction in the last 10 years for a dishonesty offence.
- 10.4** Applicants or existing licence holders that are found to have intentionally misled the Council, by way of omission or lie as part of the application process, will not be issued with a licence or will be revoked if the matter comes to light after the grant of a licence.

11. ALCOHOL AND DRUGS

- 11.1** A serious view is taken of any drug related offence. Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered carefully.
- 11.2** It is recognised nationally that taxis can travel to any location at any time without raising suspicion so they are the ideal mode of transport for moving illegal items. An applicant for an operator's licence with any conviction relating to the supply of illegal substances will be refused.
- 11.3** As licence holders are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while exceeding the legal limit or under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 5 years, after the restoration of the driving licence, following a drink drive conviction, should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed. Such a report will be at the applicant's expense.
- 11.4** Because of the nature of a driver's involvement with the public, a licence will not be granted where the applicant has a conviction for an offence related to the supply of drugs regardless of the disposal.
- 11.5** A licence will not be granted where the applicant has a conviction for an offence or offences related to the possession of illegal/controlled drugs until at least 10 years have passed since conviction if the disposal is non-custodial or the completion of any sentence and/or licence period, and only then after full consideration of the nature of the offence/s and the quantity/type of drugs involved.
- 11.6** If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would be required to show evidence of 5 years free from drug taking after detoxification treatment.

12 DRIVING OFFENCES INVOLVING THE LOSS OF LIFE OR SERIOUS INJURY

- 12.1** A very serious view is to be taken of any applicant for a driver's licence who has been convicted of a driving offence that resulted in the loss of life or serious injury. A licence will not be granted if an applicant has a conviction for:
- Causing death by dangerous driving
 - Causing death by careless driving
 - Causing death by careless driving whilst under the influence of drink or drugs
 - Causing death by driving: unlicensed, disqualified or uninsured drivers
 - Causing serious injury by dangerous driving
 - Causing serious injury by driving while disqualified
 - Or any similar offences (including aiding abetting, attempting or conspiring to commit) offences which replace the above.

13 INSURANCE OFFENCES

- 13.1** A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 5 years. However, strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.
- 13.2** At least five years should elapse (after the restoration of the DVLA driving licence following disqualification) before a licence would be granted for a Hackney Carriage or Private Hire drivers licence.
- 13.3** An operator found guilty of aiding and abetting, or otherwise assisting the driving of passengers for hire and reward whilst without insurance will have his Operator's Licence revoked immediately and will not be permitted to hold a licence for a period of at least three years.

14 OTHER TRAFFIC OFFENCES

- 14.1** Minor traffic offences come under the following categories: Construction and use offences, Miscellaneous offences, Motorway offences, Pedestrian crossings, Speed limits and Traffic direction and signs. These offences may not ordinarily merit refusal unless exceptional circumstances justify a refusal. However, the number, type and frequency of this type of offence will be taken into account and if there are several offences of this nature, the applicant will normally be expected to show a period free of conviction of at least 6 months.
- 14.2** For existing drivers who have accumulated 9 or more points on their DVLA driving licence, their driver licence will normally be suspended until the driver has successfully undertaken a driving test to DVSA standards. Such a test will be at the licence holder's expense.
- 14.3** A serious view will also be taken of any applicant who has been convicted of a major traffic offence even if it has not involved the loss of life, as it raises questions as to the applicant's ability to protect the public.
- 14.4** Before an application is entertained, an applicant should be free of conviction for 10 years' from the date of completion of any sentence, such offences include:
- Dangerous driving;
 - Reckless Driving;
 - Similar or replacement offences to those listed above
(including attempted or conspiracy to commit).
- 14.5** A conviction for a serious traffic offence will normally merit refusal to issue a licence. No further application will be considered until a period of 5 years' free of conviction since completion of any sentence, has elapsed.

Other serious traffic offences include:

- Accident offences;
- Driving without due care and attention;
- Careless driving;
- Licence offences;

- Similar or replacement offences to those listed above (including attempted or conspiracy to commit).

- 14.6** In cases where the courts have imposed a disqualification in respect of the ordinary driving licence, the periods stated above should normally commence from the date of the restoration of the licence.
- 14.7** No driver will be allowed to hold a Hackney Carriage and/or Private Hire Driver or Operator Licence if they have 12 or more current points on their DVLA licence.
- 14.8** New applicants with 6 or more points on their DVLA drivers licence will be refused until endorsement(s) expire and the number of penalty points drops below this threshold.
- 14.9** If an applicant has been disqualified from driving on more than one occasion they may not be considered fit and proper to hold a licence unless extenuating circumstances exist.

15 IMMIGRATION OFFENCES AND IMMIGRATION PENALTIES

- 15.1** The Immigration Act 2016 has been in force since 1 December 2016. The provisions of this Act add immigration offences and penalties to the list of grounds on which an operator and private hire and Hackney Carriage driver licences may be suspended or revoked by licensing authorities

16 OUTSTANDING CHARGES OR SUMMONSES

- 16.1** If the individual is the subject of an outstanding charge or summons, their application should be suspended until the matter is resolved.
- 16.2** Applicants will not be granted an initial licence if they are currently charged, been bailed or are awaiting trial for any offence covered within this policy.
- 16.3** The decision whether to suspend or revoke an applicant's licence whilst an applicant is on bail or after they have been charged with an offence covered within this policy will be decided on the merits of the case by the Head of Regulatory Services where it appears the applicant may be a danger to the public by applying the test in paragraph 1.7, 1.8 and 5.5.

17 NON-CONVICTION INFORMATION

- 17.1** The Council will also take into account situations and circumstances that have not led to a conviction. This will include cannabis resolutions and local community resolutions as well as acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints / allegations from the public. In considering the most appropriate action to take in relation to non-conviction information (or a complaint), the credibility of the witness/complainant and the licence holder will be taken into account.
- 17.2** If an applicant has been arrested for, or is on bail for or is charged with, but not convicted, with a serious offence in circumstances which suggest they could be a

danger to the public, consideration should be given to refusing the application or revoking a licence. Such offences would include violent and/or sexual offences.

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

18 LICENSING / EQUALITY ACT 2010 OFFENCES

- 18.1** Certain offences under licensing legislation and equality offences such as plying for hire, overcharging, refusing to carry disabled persons, refusing to carry an assistance dog will prevent a licence being granted or renewed until a period of 5 years has passed since conviction.
- 18.2** An applicant with more than 1 conviction for offences committed under licensing or equality legislation will not be considered fit and proper to hold a private hire / hackney carriage driver licence, unless exceptional circumstances exist.

19. APPLICANTS WITH PERIODS OF RESIDENCY OUTSIDE THE UNITED KINGDOM

- 19.1** If at any time an applicant has spent six continuous months or more overseas the council will expect to see evidence of a criminal record check from the country/countries visited covering the whole period spent overseas.
- 19.2** Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU nationals suitable checks should be available, for those countries for which checks are not available, one option is to require a certificate of good conduct authenticated by the relevant embassy.
- 19.3** Applicants who have lived continuously outside of the UK for six months or more will be required to produce a certificate of good conduct or other sufficient evidence at their own expense. They may be required to swear a statutory declaration before a solicitor as to their good character.

20. TERRORISM AND HATE RELATED INCIDENTS / CRIMES

- 20.1** Licensed drivers, and potentially private hire operators, have close regular contact with the public. A firm line is to be taken with those who have any convictions for offences classed as a Terrorism crime or terrorist-related offences. An application will be refused if the applicant has a conviction for an offence of this type.
- 20.2** For any offence that can be classed as a Hate Crime an application will be refused if the applicant has a conviction for an offence of this type.
- 20.3** In line with Section 17 of this policy, following complaints or police information the Council will also take into account situations and circumstances that have not led to a conviction when determining an application or assessing an applicant's fitness.

21. SUMMARY

- 21.1** Whilst a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. If there is doubt about the suitability of an individual to be licensed, the Council needs to be mindful of the need to protect the public and caution should be exercised.
- 21.2** While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction.
- 21.3** Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection and safeguarding of the public.
- 21.4** A suspension or revocation of the licence of a driver normally takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that this is so and an explanation of why, the suspension or revocation takes effect when the notice is given to the driver. [s61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.]
- 21.5** We reserve the right to take into account convictions that might not be listed in this policy where they appear to be relevant to the work of a licensed driver or operator.
- 21.6** We will not take into account anonymous, unsubstantiated or uncorroborated evidence against an applicant. We will not take account of evidence that appears on the face of it to be malicious. Nor will we seek to go behind a conviction and look to reinvestigate an offence for which an applicant has been convicted but will take the conviction as being undisputed fact. Unless there are exceptional circumstances we will not take account of an applicant's convictions before the age of eighteen. We will not take account of proved complaints against existing licensed drivers arising from their work as drivers that are more than five years old from the date the complaint was resolved. We will not take account of offences that have been decriminalised since the end of the additional period, unless an equivalent offence has been enacted in its place.
- 21.7** We will ensure that only those individuals who are involved in the decision-making process are given access to an applicant's personal confidential information, which will be kept securely and only kept for as long as is necessary to make a licensing decision (and for any subsequent appeal period). We will discuss all relevant information known to us with the applicant, unless we are prohibited by law from disclosing it. We will ensure all those involved are suitably trained to identify and assess the relevance and circumstances of offences. We will also ensure they have received appropriate guidance (of which this policy is part) and training in the relevant legislation.
- 21.8** Applicants are required to notify us of any conditional discharge or absolute discharge and these will be considered on a case by case basis. As the court can use these options in a variety of cases it is not possible to give any guidelines regarding the likely outcome of their consideration by us.

- 21.9** If an offence is committed during the period of a conditional discharge the Courts may re-sentence an offender for the offence for which the conditional discharge was given. At this point we may consider both the original offence and the subsequent offence under this policy, particularly where it may disclose a pattern of re-offending.

22. DEFINITIONS

- 22.1** In this policy the word “Applicant” refers to, **either new applicants, existing licence holders who are seeking renewal and existing licence holders** who are being considered by the Council by virtue of offending activity having recently come to light.

- 22.2** In this policy the word “Conviction” is to be defined as including **convictions, formal or informal cautions or warnings, reprimands, fixed penalty and other relevant information.**

This includes a bind-over, conditional discharge and any form of restrictive order such as a Criminal Behaviour Order. It also includes any form of anti-social behaviour order concerning premises that the applicant has been associated with. Offences include equivalent offences committed outside of the jurisdiction where there is evidence to that effect.

- 22.3** “Offence” includes conspiracy, attempts, aiding, abetting, counselling or procuring the commission of those offences.

- 22.4** Where we refer in this policy to the length of a criminal sentence, we mean the penalty set by a court regardless of the time actually served by the applicant.

- 22.5** Where an applicant has been disqualified by a court from driving, we calculate time from the date the disqualification ends and not the date the sentence was imposed.

- 22.6** In this policy we also refer to “additional periods”. This is an amount of time *after the length of a criminal sentence* that needs to expire before we would consider making a licensing decision about an applicant. For example, someone’s length of sentence for robbery may be two years, but they only serve six months’ imprisonment. We would not consider that person fit and proper for those two years *and* for an additional period of three years (that is, five years in total from the date of conviction). The additional periods are set out in 24. of the policy below.

23. POLICY REVIEW

- 23.1** This policy was adopted by our Regulatory Services Committee on 6th December 2017 and will be reviewed no later than December 2022, unless legislative or other reasons require an earlier review.

- 23.2** The Head of Regulatory Services has the power to make minor amendments to this policy after consultation with the Chair of the Regulatory Services Committee and any other representative of licensed drivers they think fit.

24. TABLE OF OFFENCES SUMMARY (PLEASE READ SPECIFIC PARAGRAPH FOR MORE INFORMATION).

Offence category	Offences	Additional period if relevant	Comment
Serious violence	Aggravated burglary	Applications will not be granted for convictions in these categories	
	Any homicide offence		
	Grievous bodily harm		
	Malicious wounding		
	Rape		
	Riot		
	Sexual assault		
	Terrorism		
	Violent disorder		
Violence	Actual bodily harm	10 years	Applications will not be granted if an applicant has two or more convictions involving violence or serious violence
	Affray		
	Arson		
	Assault on a police officer or other public servant		
	Possession of a firearm		
	Resisting arrest		
	Robbery		
	Slavery, abduction, false imprisonment etc		
	Threats to kill		
	Any offence that can be categorised as domestic violence		Applicants will be assessed according to the actual offence
Public Order Act offences (eg causing harassment, alarm or distress)	5 years	Unless Classified as a 'hate crime'	
Serious criminal offences	Common assault	5 years	Applications will not be granted if an applicant has two or more convictions involving violence or serious criminal offences.
	Criminal damage		
	Obstruction of police or other statutory officers		
	Theft by an employee		
	Possession of a weapon	Applications will not be granted for convictions in this category	

Sexual offences	Assault by penetration	Applications will not be granted for convictions in this category	
	Indecent assault		
	Child Sexual Exploitation		
	Indecent assault		
	Trafficking including preparatory offences as defined within the Sexual Offences Act 2003		
Making or distributing obscene material	10 years	Applications will not be granted for anyone on the Sexual Offenders Register or where the offence involved Children, Young Adults or Vulnerable Adults	
Possession of indecent photographs			

Dishonesty	Theft	5 years	Applications will not be granted if an applicant has two or more convictions involving dishonesty
	Burglary		
	Fraud (including benefit fraud)		
	Handling or receiving stolen goods		
	Forgery		
	Obtaining money etc by deception		
	Taking a vehicle without consent		
	Evasion of taxes or duties		
	Deception		
	Attempting to pervert the course of justice or perjury		

Substance abuse offences	Driving under the influence of drink or drugs (including prescription drugs)	5 years	Applications will not be granted if an applicant has two or more convictions involving driving under the influence
	Possession of drugs with intent to supply	Applications will not be granted for convictions in this category	
	Possession of drugs	10 Years	
Serious driving offences	Causing death by dangerous driving	Applications will not be granted for convictions in these categories	
	Causing death by dangerous driving whilst under the influence of alcohol or drugs		
	Causing death by careless driving		
	Dangerous driving	10 years	Applications will not be granted if an applicant has two or more convictions in this category
	Driving without due care and attention	5 years	
	Inconsiderate driving	5 years	
	Driving when disqualified	5 years	
	Failing to identify driver of vehicle when required	5 years	

Other driving offences	Construction and Use Regulation Offences	Will not normally merit a refusal except for: existing applicants with 9 or more points endorsed on their DVLA licence new applicants with 6 or more points endorsed on their DVLA licence	
	Traffic directions and signs		
	Pedestrian Crossing offences		
	Speed limits		
	Motorway Offences		
	Insurance offences	5 years	Applications will not be granted if more than one conviction
	Driving or having control of a vehicle without a valid MOT certificate	5 years	
	Driving or being in control of a vehicle without adequate insurance	5 years	Applications will not be granted if more than one conviction
	Vehicle being used in anti-social manner	1 year	
	Vehicle being used in connection with commission of any criminal offence		
	Driving otherwise than in accordance with a licence	5 years	
	Failing to stop after or to report an accident		
Licensing / Equality Act offences	Conviction under byelaws for hackney carriages	5 years	Applications will not be granted if more than one conviction
	Plying for hire		
	Failing to carry an assistance dog		
	Charging more than the metered fare		
	Deliberately or recklessly providing false information		
	Refusing to convey a passenger within a controlled district	1 year	
	Offences under any other licensing regime		
	Failing to notify licensing authority of change of vehicle address etc		
	Failing to notify licensing authority of accident to licensed vehicle		
	Waiting on a hackney carriage rank as a private hire vehicle		
	Unlawfully prolonging journey		
	Obstruction of authorised officers or constables		
	Failing to wear identification badge	3 months	May be up to 12 months for persistent failures to comply
	Failing to display vehicle licence plate on vehicle		
	Failing to comply with vehicle licence conditions		
Deliberately or recklessly providing false information			

Regulatory offences	Health and Safety at Work etc Act 1974 and associated regulations	3 years	Offences relevant to private hire vehicle operators in addition to any of the above
	Offences under Companies Acts	1 years	1 years
	Tax evasion offences	3 years	3 years
	Immigration Act offences relating to employment of illegal workers		
	Employing unlicensed drivers	5 years	An additional 5 years if more than conviction/more than one driver or vehicle
	Operating unlicensed vehicles		
	Breach of operator's licence		