

# West Devon Licensing Sub-Committee



West Devon  
Borough  
Council

<b>Title:</b>	<b>Agenda</b>
<b>Date:</b>	<b>Tuesday, 6th February, 2024</b>
<b>Time:</b>	<b>10.00 am</b>
<b>Venue:</b>	<b>Chamber - Kilworthy Park</b>
<b>Full Members:</b>	<p style="text-align: center;"><b>Chairman</b></p> <p style="text-align: center;"><b>Vice Chairman</b></p> <p><i>Members:</i>            Cllr Cheadle            Cllr Mott                                  Cllr Cunningham    Cllr Southcott                                  Cllr Jory</p>
<b>Interests – Declaration and Restriction on Participation:</b>	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.
<b>Committee administrator:</b>	Democratic.Services@swdevon.gov.uk

**1. Appointment of Chairman**

**2. Division of Agenda**

to consider whether the discussion of any item of business is likely to lead to the disclosure of exempt information;

**3. Declarations of Interest**

In accordance with the Code of Conduct, Members are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests and Non-Registerable Interests including the nature and extent of such interests they may have in any items to be considered at this meeting;

**4. Exclusion of Public and Press**

To consider the following resolution to exclude the public and press:-

“That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following items of business in order to avoid the likely disclosure to them of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act”;

- |  |                |
|--|----------------|
| <b>5. Consideration of whether a driver remains a fit and proper person to hold a Hackney Carriage &amp; Private Hire Driver Licence</b> | <b>1 - 40</b>  |
| <b>6. Consideration of whether a driver remains a fit and proper person to hold a Hackney Carriage &amp; Private Hire Driver Licence</b> | <b>41 - 80</b> |

# Agenda Item 5

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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# APPENDIX D – West Devon Borough Council Hackney Carriage and Private Hire Criminal Convictions Policy

## Hackney Carriage and Private Hire Licensing Criminal Convictions Policy

### 1. Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the Licensing Authority when deciding 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.
- 1.2 The prime 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 a dishonest person
  - The safeguarding of children, young persons and vulnerable adults
- 1.3 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
- Applicants for drivers' licences
  - Existing licensed drivers whose licences are being reviewed
  - Licensing Officers
  - Members of the licensing committee/ panel (or other relevant decision making body)
  - Magistrates hearing appeals against local authority decisions
- 1.4 Where officers under the Council's Scheme of Delegation, have powers to grant licences, they will use these guidelines when making a decision to grant a licence. In all other cases, applications for licences will be referred to the licensing committee/panel (or other relevant decision-making body). While officers and the committee/panel 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.
- 1.5 The guidelines are developed from the 'Institute of licensing – Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades' and the 'Department for Transport Statutory Taxi & Private Hire Vehicle Standards - assessment of previous convictions'. In assessing the various information collected in relation to the 'fit and proper' status of an applicant or licence holder, the Licensing Authority will apply the following test:
- “Would the decision maker(s) charged with the ability to grant a licence, 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?”*
- 1.6 If on the balance of probabilities, the answer to the question is 'no' the individual should not hold a licence.

1.7 The wording of this test originates from paragraphs 5.12 & 5.13 (fit and proper test) of the Department for Transport Statutory Taxi and Private Hire Vehicle Standards.

## **2. General policy**

2.1 The Licensing Authority will consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application/licence.

2.2 A caution is regarded in exactly the same way as a conviction.

2.3 Fixed penalties and community resolutions will also be considered in the same way as a conviction.

2.4 Matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered and matters that amount to criminal behaviour but which have not resulted in conviction will also be taken into account.

2.5 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. The Licensing Authority may, at its discretion, revoke an existing driver's licence where it considers it necessary to do so while awaiting an investigation by either the Licensing Authority or the police. This decision will only be taken where it is thought necessary in the interest of public safety.

2.6 In all cases, the Licensing Authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.

2.6 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.

2.7 As the Licensing Authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined solely by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.

2.8 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.

2.9 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

- 2.10 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The Licensing Authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 2.11 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 2.12 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 2.13 Generally where a person has more than one conviction showing a pattern or tendency irrespective of time since the convictions, this will raise serious questions about their safety and suitability. The Licensing Authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 2.14 Where an applicant/licensee is convicted of an offence or displays inappropriate behaviour which is not detailed in this guidance, the Licensing Authority will take that conviction and behaviour into account and use these guidelines as an indication of the approach that should be taken.
- 2.15 These guidelines do not replace the duty of the Licensing Authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the Licensing Authority will consider the matter from first principles and determine the fitness and propriety of the individual.
- 2.16 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.
- 2.18 Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction.

### **3. Appeals**

- 3.1 Any applicant refused a driver's licence on the grounds that the Licensing Authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].
- 3.2 Any applicant refused an operator licence on the grounds that the Licensing Authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.

3.3 Any licence holder 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.

#### **4. Powers**

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

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

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

#### **5. Consideration of disclosed criminal history**

5.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the Licensing Authority is required to make sure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operator's licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the Licensing Authority will look into:

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

5.2 Existing holders of drivers' licences are required to tell the licensing authority in writing within 48 hours of any arrest and release, charge or conviction or caution for an offence, any anti-social behaviour order, driving disqualification for any period or any receipt of a fixed penalty, imposed whilst their licence is in force.

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

5.4 The Licensing Authority conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any applicant for a driver licence. The Licensing Authority

follows the DBS's Code of Practice on the fair use and storage of disclosure information. A copy is available on request.

- 5.5 Applicants applying for the grant or a renewal of a drivers' licence will be required to get an enhanced disclosure at their own expense. The Licensing Authority follows the DBS's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.
- 5.6 So that the Licensing Authority receives relevant information as quickly as possible in order to take appropriate and proportionate action to protect public safety, it is the Licensing Authority's policy to require applicants to register for the DBS's update service and to nominate the Licensing Authority to receive the updates. Registration lasts for 1 year and costs £13 per year. Licence holders are expected to provide evidence of continuous registration and nomination throughout the duration of their licence.
- 5.6 More information about the DBS can be found on their website.
- 5.7 The Licensing Authority is also entitled to use other records and information that may be available to it in deciding applications or an entitlement to continue holding a licence. This may include information held by the Licensing Authority or other Licensing Authorities, and information provided by the police.
- 5.8 It is an offence for any person, knowingly or recklessly, to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

### **Guidance on the rehabilitation period to be considered following conviction**

#### **6. Offences of a violent nature**

- 6.1 In relation to single convictions, the following **minimum** time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted or renewed. This places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.
- 6.2 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
  - Manslaughter or culpable homicide while driving
  - Terrorism offences
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.3 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 10 years prior to the date of application:
- Arson
  - Malicious wounding or grievous bodily harm which is racially aggravated

- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault with racially aggravated
- Violent disorder
- Resisting arrest
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 7 years prior to the date of application:

- Racially-aggravated criminal damage
- Racially-aggravated offence
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S4 Public Order Act 1986 offence (fear or provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.5 Where an applicant has a conviction for an offence of violence against the person, or connected with any offence or similar of violence, which replace the offences below, a licence will not normally be granted until at least 10 years have elapsed since the completion of any sentence imposed:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.6 A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

6.7 In the event of a licence being granted, not revoked or suspended, a strict warning both verbally and in writing should be administered.

## **7. Possession of a weapon**

7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to transport the public.

7.2 A licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.



## **8. Sex and indecency offences**

- 8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, the Licensing Authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences will be considered as serious.
- 8.2 Accordingly, an application will not be granted where the applicant has a conviction for an offence such as:
- Rape
  - Assault by penetration
  - Offences involving children or vulnerable adults
  - Sexual assault
  - Indecent assault
  - Exploitation of prostitution
  - Trafficking for sexual exploitation
  - Possession of indecent photographs, child pornography etc
  - Indecent exposure
  - Soliciting (kerb crawling)
  - Or **any** sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 8.3 In addition to the above the Licensing Authority will not grant a licence to any applicant who is currently on the Sex Offenders Register.

## **9. Dishonesty**

- 9.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deal with such property in accordance with the standards set out in Appendix B in relation to lost property. Taxi drivers are required to deposit such property with the police as soon as possible, or to make alternative arrangements as appropriate. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is telling of the trust that business people place in licensed drivers. Furthermore, it is fairly easy for a dishonest driver to deceive the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to a dishonest driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.
- 9.2 In general, a minimum period of 7 years since the completion of sentence 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
- any similar offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

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

9.4 Applicants or existing licence holders that are found to have intentionally misled the council, or lied as part of the application process, will not be issued with a licence.

## **10. Drugs**

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

10.2 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

10.3 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

10.4 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 the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

10.5 A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.

## **11. Driving offences involving the loss of life**

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

11.2 Unless there are exceptional circumstances 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 while under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

## **12. Drink driving/driving under the influence of drugs/using a mobile phone while driving**

12.1 As licence holders are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink

or drugs. A single incident would not necessarily exclude an applicant from continuing on the regaining of their DVLA driving licence but s/he should be warned as to the significant risk to his/her licence status in the event of re-offending. Normally at least 7 years, after the regaining of the driving licence following a drink driving conviction should pass before an application may 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.

12.2 Applicants should also be aware of the serious risk posed by driving while using a mobile phone. There is a large body of research 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

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

12.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or while using a mobile phone.

### **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 convictions for 7 years, however strict warning should be given as to future behaviour.

13.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.

13.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward without insurance will normally have their operator licence revoked immediately and be prevented from holding a licence for at least 3 years.

### **14. Other motoring offences**

14.1 As licence holders are professional vocational drivers a serious view is taken of all endorsements on the DVLA driving licence due to motoring offences. All unspent DVLA driving licence endorsements must be declared at the time of application and the Licensing Authority must be notified of any new offences while licensed as a hackney carriage or private hire driver.

14.2 Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

14.3 Further information on motoring offences and penalty points can be found at Annex A.

## **15. Licensing offences**

15.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 7 years have elapsed since the completion of any sentence imposed.

15.2 A licence will not normally be granted if an applicant has more than one conviction of a licensing related offence.

## **16. Non-conviction information**

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

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

## **17. Once a licence has been granted**

17.1 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.

17.2 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver [Road Safety Act 2006, s 52, 2A&2B].

17.3 A suspension or revocation of the licence of an operator takes effect at the end of the period of 21 days beginning with the day on which notice is given to the operator.

## **18. Overseas residents**

18.1 If an applicant has spent six continuous months or more overseas the licensing authority will expect to see evidence of a criminal record check from the country/countries covering the period.

## **19. Licences issued by other Licensing Authorities**

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

19.2 Licence holders who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

## **20. Summary**

- 20.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not stop an applicant permanently from becoming licensed. As the preceding paragraphs show, in most cases, an applicant would be expected to remain free from conviction for 5 to 10 years, depending on circumstances, before an application can be considered.
- 20.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.
- 20.3 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 a single minor conviction. Some discretion can be given if a single offence is declared with relevant information to explain the circumstances, but the prime concern is the protection of the public.

## **Annex A**

### **1 Principles of the Rehabilitation of Offenders Act 1974 (as amended by the Legal Aid, Sentencing and Punishment of Offenders Act 2012)**

- 1.1 Under The Rehabilitation of Offenders Act 1974, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be ignored completely.
- 1.2 The possibility of rehabilitation and the length of time before rehabilitation occurs depends on the sentence imposed, and not the offence committed.
- 1.3 Despite the above, the principles of the Act do not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of taxis is listed as a "Regulated Occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.
- 1.4 Although the Act does not prevent judicial authorities (inclusive of the Licensing Authority) from taking spent convictions into account; such convictions are only taken into consideration if they are relevant to the issue of whether the applicant is a fit and proper person to hold a licence.
- 1.5 The determination as to whether certain convictions are spent, therefore may be a relevant exercise.
- 1.6 The rehabilitation periods are set out below. For a detailed commentary on the periods of rehabilitation applicable to all sentencing options, reference will need to be made to a specialist textbook on the Act.

### **2. Sentence Rehabilitation Period**

- 2.1 The rehabilitation periods for sentences with additional 'buffer periods' which run from the end date of the sentence are shown in the table below:

<b>Sentence/disposal</b>	<b>Buffer period for adults, this applies from the end date of the sentence.</b>
Custodial sentence over 4 years	Never spent
Custodial sentence over 30 up to 48 months	7 years
Custodial sentence over 6 up to 30 months	4 years
Custodial sentence less than 6 months	2 years
Community Order	1 year

2.2 The following are the rehabilitation periods for sentences that do not have a buffer period and runs from the date of conviction:

<b>Sentence/disposal</b>	<b>Rehabilitation period for adults, this applies from the date of conviction.</b>
Fine	1 year
Conditional discharge	Period of order
Absolute discharge	None
Conditional caution	3 months or when caution ceases to have effect if earlier
Simple caution	Spent immediately
Compensation order	On the discharge of the order
Binding over order	Period of the order
Attendance centre order	Period of the order
Hospital order	Period of the order

2.3 Once a conviction becomes spent it remains spent even if a person is convicted of other offences.

## **Annex B**

### **1. Motoring offences and penalty points**

1.1 The following is a guide to the number of penalty points a court may impose, it does not reflect the fact that some offences may lead to a disqualification. These codes are recorded from information supplied by the courts.

1.2

<b>Code</b>	<b>Offence</b>	<b>Penalty Points</b>
<b>Accident Offences</b>		
AC10	Failing to stop after an accident	5-10
AC20	Failing to give particulars or to report an accident within 24 hours	5-10
AC30	Undefined accident offences	4-9
<b>Disqualified Driver</b>		
BA10	Driving while disqualified by order of court	6
BA30	Attempting to drive while disqualified by order of court	6
BA40	Causing death by driving while disqualified	3-11

BA60	Causing serious injury by driving while disqualified	3-11
<b>Careless Driving</b>		
CD10	Driving without due care and attention	3-9
CD20	Driving without reasonable consideration for other road users	3-9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3-9
CD40*	Causing death through careless driving when unfit through drink	3-11
CD50*	Causing death by careless driving when unfit through drugs	3-11
CD60*	Causing death by careless driving with alcohol level above the limit	3-11
CD70*	Causing death by careless driving then failing to supply a specimen for analysis	3-11
CD80*	Causing death by careless or inconsiderate driving	3-11
CD90*	Causing death by driving: unlicensed disqualified or uninsured drivers	3-11
<b>Construction and use of offences</b>		
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	3-6
<b>Dangerous driving</b>		
DD10	Causing serious injury by dangerous driving	3-11
DD40	Dangerous driving	3-11
DD60	Manslaughter or culpable homicide while driving a vehicle	3-11
DD80	Causing death by dangerous driving	3-11
DD90	Furious driving	3-9
<b>Drink</b>		
DR10*	Driving or attempting to drive with alcohol level above limit	3-11
DR20*	Driving or attempting to drive while unfit through drink	3-11
DR30*	Driving or attempting to drive then failing to supply a specimen for analysis	3-11
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	3-11
DR61*	Refusing to give permission for analysis of a blood sample that was taking without consent due to incapacity in circumstances other than driving or attempting to drive	10

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 provide specimen for breath test	4
<b>Drugs</b>		
DG10*	Driving or attempting to drive with drug level above the specified limit	3-11
DG60*	Causing death by careless driving with drug level above the limit	3-11
DG80*	Driving or attempting to drive when unfit through drugs	3-11
DG40	In charge of a vehicle while drug level above specified limit	10
DG90	In charge of a vehicle when unfit through drugs	10
<b>Insurance offences</b>		
IN10	Using a vehicle uninsured against third party risks	6-8
<b>Licence offences</b>		
LC20	Driving otherwise than in accordance with a licence	3-6
LC30	Driving after making a false declaration about fitness when applying for a licence	3-6
LC40	Driving a vehicle having failed to notify a disability	3-6
LC50	Driving after a licence has been cancelled (revoked) or refused on medical grounds	3-6
<b>Miscellaneous offences</b>		
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	3-11
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	6
<b>Motorway offences</b>		
MW10	Contravention of special roads regulations (excluding speed limits)	3
<b>Pedestrian crossings</b>		
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
<b>Speed limits</b>		
SP10	Exceeding goods vehicle speed limits	3-6



SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3-6
SP30	Exceeding statutory speed limit on a public road	3-6
SP40	Exceeding passenger vehicle speed limit	3-6
SP50	Exceeding speed limit on a motorway	3-6
<b>Traffic direction and signs</b>		
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with a '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
<b>Special Code</b>		
TT99	To signify a disqualification under totting-up procedure. If the total of penalty points reaches 12 or more within 3 years, the driver is liable to be disqualified	
<b>Theft or unauthorised taking</b>		
UT50	Aggravated taking of a vehicle 3-11	
<b>'Mutual recognition' codes</b>		
An 'MR' code is included where a driver is disqualified while driving in Northern Ireland or the Isle of Man. The disqualification period will also be valid in Great Britain.		
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 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 while disqualified	
MR59	Other conduct constituting an offence for which a driving disqualification has been imposed by the State of Offence	

All of the above must stay on the driving record for 4 years from the date of conviction.

Those offences marked with an asterisk (\*) for 11 years from the date of the conviction.

### **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 the driving record if they have helped 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 DD on the driving record if they have encouraged someone to do this.

### **Causing or permitting**

For these offences, the codes are similar, but with the number 0 changed to 4. For example LC10 becomes LC14.

### **Non-endorsable offences**

Some offences are non-endorsable. No penalty points are attributed to these offences but they carry a period of disqualification. At the end of the disqualification (over 56 days) the driver will have to apply for a renewal licence together with the appropriate fee. Any queries about offences and endorsements should be directed to the convicting court.

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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of the Local Government Act 1972.

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# APPENDIX B – West Devon Borough Council Hackney Carriage and Private Hire Criminal Convictions Policy

## Hackney Carriage and Private Hire Licensing Criminal Convictions Policy

### 1. Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the Licensing Authority when deciding 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.
- 1.2 The prime 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 a dishonest person
  - The safeguarding of children, young persons and vulnerable adults
- 1.3 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
- Applicants for drivers' licences
  - Existing licensed drivers whose licences are being reviewed
  - Licensing Officers
  - Members of the licensing committee/ panel (or other relevant decision making body)
  - Magistrates hearing appeals against local authority decisions
- 1.4 Where officers under the Council's Scheme of Delegation, have powers to grant licences, they will use these guidelines when making a decision to grant a licence. In all other cases, applications for licences will be referred to the licensing committee/panel (or other relevant decision-making body). While officers and the committee/panel 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.
- 1.5 The guidelines are developed from the 'Institute of licensing – Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades' and the 'Department for Transport Statutory Taxi & Private Hire Vehicle Standards - assessment of previous convictions'. In assessing the various information collected in relation to the 'fit and proper' status of an applicant or licence holder, the Licensing Authority will apply the following test:
- “Would the decision maker(s) charged with the ability to grant a licence, 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?”*
- 1.6 If on the balance of probabilities, the answer to the question is 'no' the individual should not hold a licence.

1.7 The wording of this test originates from paragraphs 5.12 & 5.13 (fit and proper test) of the Department for Transport Statutory Taxi and Private Hire Vehicle Standards.

## **2. General policy**

2.1 The Licensing Authority will consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application/licence.

2.2 A caution is regarded in exactly the same way as a conviction.

2.3 Fixed penalties and community resolutions will also be considered in the same way as a conviction.

2.4 Matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered and matters that amount to criminal behaviour but which have not resulted in conviction will also be taken into account.

2.5 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. The Licensing Authority may, at its discretion, revoke an existing driver's licence where it considers it necessary to do so while awaiting an investigation by either the Licensing Authority or the police. This decision will only be taken where it is thought necessary in the interest of public safety.

2.6 In all cases, the Licensing Authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.

2.6 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.

2.7 As the Licensing Authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined solely by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.

2.8 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.

2.9 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.



- 2.10 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The Licensing Authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 2.11 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 2.12 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 2.13 Generally where a person has more than one conviction showing a pattern or tendency irrespective of time since the convictions, this will raise serious questions about their safety and suitability. The Licensing Authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 2.14 Where an applicant/licensee is convicted of an offence or displays inappropriate behaviour which is not detailed in this guidance, the Licensing Authority will take that conviction and behaviour into account and use these guidelines as an indication of the approach that should be taken.
- 2.15 These guidelines do not replace the duty of the Licensing Authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the Licensing Authority will consider the matter from first principles and determine the fitness and propriety of the individual.
- 2.16 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.
- 2.18 Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction.

### **3. Appeals**

- 3.1 Any applicant refused a driver's licence on the grounds that the Licensing Authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].
- 3.2 Any applicant refused an operator licence on the grounds that the Licensing Authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.

3.3 Any licence holder 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.

#### **4. Powers**

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

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

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

#### **5. Consideration of disclosed criminal history**

5.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the Licensing Authority is required to make sure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operator's licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the Licensing Authority will look into:

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

5.2 Existing holders of drivers' licences are required to tell the licensing authority in writing within 48 hours of any arrest and release, charge or conviction or caution for an offence, any anti-social behaviour order, driving disqualification for any period or any receipt of a fixed penalty, imposed whilst their licence is in force.

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

5.4 The Licensing Authority conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any applicant for a driver licence. The Licensing Authority

follows the DBS's Code of Practice on the fair use and storage of disclosure information. A copy is available on request.

- 5.5 Applicants applying for the grant or a renewal of a drivers' licence will be required to get an enhanced disclosure at their own expense. The Licensing Authority follows the DBS's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.
- 5.6 So that the Licensing Authority receives relevant information as quickly as possible in order to take appropriate and proportionate action to protect public safety, it is the Licensing Authority's policy to require applicants to register for the DBS's update service and to nominate the Licensing Authority to receive the updates. Registration lasts for 1 year and costs £13 per year. Licence holders are expected to provide evidence of continuous registration and nomination throughout the duration of their licence.
- 5.6 More information about the DBS can be found on their website.
- 5.7 The Licensing Authority is also entitled to use other records and information that may be available to it in deciding applications or an entitlement to continue holding a licence. This may include information held by the Licensing Authority or other Licensing Authorities, and information provided by the police.
- 5.8 It is an offence for any person, knowingly or recklessly, to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

### **Guidance on the rehabilitation period to be considered following conviction**

#### **6. Offences of a violent nature**

- 6.1 In relation to single convictions, the following **minimum** time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted or renewed. This places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.
- 6.2 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
  - Manslaughter or culpable homicide while driving
  - Terrorism offences
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.3 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 10 years prior to the date of application:
- Arson
  - Malicious wounding or grievous bodily harm which is racially aggravated

- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault with racially aggravated
- Violent disorder
- Resisting arrest
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 7 years prior to the date of application:

- Racially-aggravated criminal damage
- Racially-aggravated offence
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S4 Public Order Act 1986 offence (fear or provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.5 Where an applicant has a conviction for an offence of violence against the person, or connected with any offence or similar of violence, which replace the offences below, a licence will not normally be granted until at least 10 years have elapsed since the completion of any sentence imposed:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.6 A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

6.7 In the event of a licence being granted, not revoked or suspended, a strict warning both verbally and in writing should be administered.

## **7. Possession of a weapon**

7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to transport the public.

7.2 A licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## **8. Sex and indecency offences**

8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, the Licensing Authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences will be considered as serious.

8.2 Accordingly, an application will not be granted where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography etc
- Indecent exposure
- Soliciting (kerb crawling)
- Or **any** sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

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

## **9. Dishonesty**

9.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deal with such property in accordance with the standards set out in Appendix B in relation to lost property. Taxi drivers are required to deposit such property with the police as soon as possible, or to make alternative arrangements as appropriate. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is telling of the trust that business people place in licensed drivers. Furthermore, it is fairly easy for a dishonest driver to deceive the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to a dishonest driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

9.2 In general, a minimum period of 7 years since the completion of sentence 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
- any similar offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

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

9.4 Applicants or existing licence holders that are found to have intentionally misled the council, or lied as part of the application process, will not be issued with a licence.

## **10. Drugs**

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

10.2 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

10.3 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

10.4 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 the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

10.5 A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.

## **11. Driving offences involving the loss of life**

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

11.2 Unless there are exceptional circumstances 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 while under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

## **12. Drink driving/driving under the influence of drugs/using a mobile phone while driving**

12.1 As licence holders are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink

or drugs. A single incident would not necessarily exclude an applicant from continuing on the regaining of their DVLA driving licence but s/he should be warned as to the significant risk to his/her licence status in the event of re-offending. Normally at least 7 years, after the regaining of the driving licence following a drink driving conviction should pass before an application may 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.

12.2 Applicants should also be aware of the serious risk posed by driving while using a mobile phone. There is a large body of research 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

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

12.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or while using a mobile phone.

### **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 convictions for 7 years, however strict warning should be given as to future behaviour.

13.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.

13.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward without insurance will normally have their operator licence revoked immediately and be prevented from holding a licence for at least 3 years.

### **14. Other motoring offences**

14.1 As licence holders are professional vocational drivers a serious view is taken of all endorsements on the DVLA driving licence due to motoring offences. All unspent DVLA driving licence endorsements must be declared at the time of application and the Licensing Authority must be notified of any new offences while licensed as a hackney carriage or private hire driver.

14.2 Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

14.3 Further information on motoring offences and penalty points can be found at Annex A.

## **15. Licensing offences**

15.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 7 years have elapsed since the completion of any sentence imposed.

15.2 A licence will not normally be granted if an applicant has more than one conviction of a licensing related offence.

## **16. Non-conviction information**

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

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

## **17. Once a licence has been granted**

17.1 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.

17.2 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver [Road Safety Act 2006, s 52, 2A&2B].

17.3 A suspension or revocation of the licence of an operator takes effect at the end of the period of 21 days beginning with the day on which notice is given to the operator.

## **18. Overseas residents**

18.1 If an applicant has spent six continuous months or more overseas the licensing authority will expect to see evidence of a criminal record check from the country/countries covering the period.

## **19. Licences issued by other Licensing Authorities**

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

19.2 Licence holders who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.



## **20. Summary**

- 20.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not stop an applicant permanently from becoming licensed. As the preceding paragraphs show, in most cases, an applicant would be expected to remain free from conviction for 5 to 10 years, depending on circumstances, before an application can be considered.
- 20.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.
- 20.3 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 a single minor conviction. Some discretion can be given if a single offence is declared with relevant information to explain the circumstances, but the prime concern is the protection of the public.

## **Annex A**

### **1 Principles of the Rehabilitation of Offenders Act 1974 (as amended by the Legal Aid, Sentencing and Punishment of Offenders Act 2012)**

- 1.1 Under The Rehabilitation of Offenders Act 1974, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be ignored completely.
- 1.2 The possibility of rehabilitation and the length of time before rehabilitation occurs depends on the sentence imposed, and not the offence committed.
- 1.3 Despite the above, the principles of the Act do not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of taxis is listed as a "Regulated Occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.
- 1.4 Although the Act does not prevent judicial authorities (inclusive of the Licensing Authority) from taking spent convictions into account; such convictions are only taken into consideration if they are relevant to the issue of whether the applicant is a fit and proper person to hold a licence.
- 1.5 The determination as to whether certain convictions are spent, therefore may be a relevant exercise.
- 1.6 The rehabilitation periods are set out below. For a detailed commentary on the periods of rehabilitation applicable to all sentencing options, reference will need to be made to a specialist textbook on the Act.

### **2. Sentence Rehabilitation Period**

- 2.1 The rehabilitation periods for sentences with additional 'buffer periods' which run from the end date of the sentence are shown in the table below:

<b>Sentence/disposal</b>	<b>Buffer period for adults, this applies from the end date of the sentence.</b>
Custodial sentence over 4 years	Never spent
Custodial sentence over 30 up to 48 months	7 years
Custodial sentence over 6 up to 30 months	4 years
Custodial sentence less than 6 months	2 years
Community Order	1 year

2.2 The following are the rehabilitation periods for sentences that do not have a buffer period and runs from the date of conviction:

<b>Sentence/disposal</b>	<b>Rehabilitation period for adults, this applies from the date of conviction.</b>
Fine	1 year
Conditional discharge	Period of order
Absolute discharge	None
Conditional caution	3 months or when caution ceases to have effect if earlier
Simple caution	Spent immediately
Compensation order	On the discharge of the order
Binding over order	Period of the order
Attendance centre order	Period of the order
Hospital order	Period of the order

2.3 Once a conviction becomes spent it remains spent even if a person is convicted of other offences.

## **Annex B**

### **1. Motoring offences and penalty points**

1.1 The following is a guide to the number of penalty points a court may impose, it does not reflect the fact that some offences may lead to a disqualification. These codes are recorded from information supplied by the courts.

1.2

<b>Code</b>	<b>Offence</b>	<b>Penalty Points</b>
<b>Accident Offences</b>		
AC10	Failing to stop after an accident	5-10
AC20	Failing to give particulars or to report an accident within 24 hours	5-10
AC30	Undefined accident offences	4-9
<b>Disqualified Driver</b>		
BA10	Driving while disqualified by order of court	6
BA30	Attempting to drive while disqualified by order of court	6
BA40	Causing death by driving while disqualified	3-11

BA60	Causing serious injury by driving while disqualified	3-11
<b>Careless Driving</b>		
CD10	Driving without due care and attention	3-9
CD20	Driving without reasonable consideration for other road users	3-9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3-9
CD40*	Causing death through careless driving when unfit through drink	3-11
CD50*	Causing death by careless driving when unfit through drugs	3-11
CD60*	Causing death by careless driving with alcohol level above the limit	3-11
CD70*	Causing death by careless driving then failing to supply a specimen for analysis	3-11
CD80*	Causing death by careless or inconsiderate driving	3-11
CD90*	Causing death by driving: unlicensed disqualified or uninsured drivers	3-11
<b>Construction and use of offences</b>		
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	3-6
<b>Dangerous driving</b>		
DD10	Causing serious injury by dangerous driving	3-11
DD40	Dangerous driving	3-11
DD60	Manslaughter or culpable homicide while driving a vehicle	3-11
DD80	Causing death by dangerous driving	3-11
DD90	Furious driving	3-9
<b>Drink</b>		
DR10*	Driving or attempting to drive with alcohol level above limit	3-11
DR20*	Driving or attempting to drive while unfit through drink	3-11
DR30*	Driving or attempting to drive then failing to supply a specimen for analysis	3-11
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	3-11
DR61*	Refusing to give permission for analysis of a blood sample that was taking without consent due to incapacity in circumstances other than driving or attempting to drive	10

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 provide specimen for breath test	4
<b>Drugs</b>		
DG10*	Driving or attempting to drive with drug level above the specified limit	3-11
DG60*	Causing death by careless driving with drug level above the limit	3-11
DG80*	Driving or attempting to drive when unfit through drugs	3-11
DG40	In charge of a vehicle while drug level above specified limit	10
DG90	In charge of a vehicle when unfit through drugs	10
<b>Insurance offences</b>		
IN10	Using a vehicle uninsured against third party risks	6-8
<b>Licence offences</b>		
LC20	Driving otherwise than in accordance with a licence	3-6
LC30	Driving after making a false declaration about fitness when applying for a licence	3-6
LC40	Driving a vehicle having failed to notify a disability	3-6
LC50	Driving after a licence has been cancelled (revoked) or refused on medical grounds	3-6
<b>Miscellaneous offences</b>		
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	3-11
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	6
<b>Motorway offences</b>		
MW10	Contravention of special roads regulations (excluding speed limits)	3
<b>Pedestrian crossings</b>		
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
<b>Speed limits</b>		
SP10	Exceeding goods vehicle speed limits	3-6

SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3-6
SP30	Exceeding statutory speed limit on a public road	3-6
SP40	Exceeding passenger vehicle speed limit	3-6
SP50	Exceeding speed limit on a motorway	3-6
<b>Traffic direction and signs</b>		
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with a '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
<b>Special Code</b>		
TT99	To signify a disqualification under totting-up procedure. If the total of penalty points reaches 12 or more within 3 years, the driver is liable to be disqualified	
<b>Theft or unauthorised taking</b>		
UT50	Aggravated taking of a vehicle 3-11	
<b>'Mutual recognition' codes</b>		
An 'MR' code is included where a driver is disqualified while driving in Northern Ireland or the Isle of Man. The disqualification period will also be valid in Great Britain.		
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 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 while disqualified	
MR59	Other conduct constituting an offence for which a driving disqualification has been imposed by the State of Offence	

All of the above must stay on the driving record for 4 years from the date of conviction.

Those offences marked with an asterisk (\*) for 11 years from the date of the conviction.

### **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 the driving record if they have helped 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 DD on the driving record if they have encouraged someone to do this.

### **Causing or permitting**

For these offences, the codes are similar, but with the number 0 changed to 4. For example LC10 becomes LC14.

### **Non-endorsable offences**

Some offences are non-endorsable. No penalty points are attributed to these offences but they carry a period of disqualification. At the end of the disqualification (over 56 days) the driver will have to apply for a renewal licence together with the appropriate fee. Any queries about offences and endorsements should be directed to the convicting court.

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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