



Taxi (Hackney Carriage) and Private Hire Licensing Policy for Determining the Suitability of a Person to hold a Licence

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Introduction

This policy provides guidance on the criteria to be used in determining whether an applicant or an existing licence holder is suitable to hold a Hackney Carriage and/or Private Hire Vehicle, Driver and/or Operator Licence. The policy should be read in conjunction with the Council's Hackney Carriage and Private Hire Licensing Policy.

The aim of the guidance is not to punish the applicant twice for a conviction or caution but to ensure that public safety is not compromised. The Council cannot review the merits of any conviction.

The overriding consideration when having regard to this policy is to protect the safety of the public.

The policy is designed to ensure:

- That a person is a fit and proper person.
- That the person does not pose a threat to the public.
- That the public are safeguarded from dishonest persons.
- The safeguarding of children, young persons and vulnerable adults.

Where Licensing Officers have delegated powers to grant, refuse, suspend, or revoke Licences they will use the guidance in making decisions. However all decisions will be made on the merits of the individual case.

Whilst officers and the committee will have regard to the policy and in some cases this policy says "never", each case will be considered on its individual merits and, where it considers appropriate to do so.

Safe & Suitable Person

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/private hire vehicle, driver and/or private hire vehicle operator licence is a 'fit and proper person' to hold such a licence. The term safe & suitable is a modern version of 'fit & proper' and will be better understood. There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.

The Council's view of a safe & suitable person is:

- Honest and trustworthy
- Not abusive, violent or threatening
- A competent and safe driver fully conversant with relevant - road traffic legislation and licence conditions
- Conversant with the area that they are working in to ensure passengers are carried economically
- Able to communicate effectively with passengers and can read, speak, write and understand English.
- In good physical and mental health

Disclosed Criminal History

Applicants applying for the grant or renewal of a driver, vehicle or operator will be required to obtain a disclosure from the Disclosure and Barring Service (DBS) to establish that they are a safe & suitable person. The Council will ONLY share personal data in accordance with legal requirements.

Any applicant who has, spent six continuous months or more living outside the United Kingdom from the age of 10 will have to provide evidence of a criminal record check from the relevant country for that period. The DBS website provides guidance at <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

The Council will consider all cautions, convictions, spent or unspent having regard to but not restricted to the following: -

- How relevant the offence(s) are to the licence being applied for.
- How serious the offence(s) were.
- When the offence(s) were committed and the date of conviction.
- Sentence imposed by the court.
- The applicant's age at the time of conviction
- Whether they form part of a pattern of offending or indicate a pattern of unacceptable behaviour.
- Any other factors that might be relevant and the extent of any mitigating factors

If the applicant has notified the Council of a conviction but is appealing against it to a higher court, the application will be determined in accordance with this policy.

Outstanding Charges or Summonses

If the individual is the subject of an outstanding charge or summons their application can be processed, but the application will be determined at conclusion of the proceedings.

Non-conviction Information

The Council is entitled to use other records and information in determining applications. Including information held by other licensing authorities, or disclosed by the Police under Protection of Freedoms Act.

If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests the applicant could be a danger to the public, consideration should be given to refusing the application. Such offences would include violent offences and sex offences.

Licences issued by other Licensing Authorities

Where an applicant already holds a licence granted by another licensing authority, the provisions of this policy shall take precedence over any decision of another Licensing Authority.

Drivers

An applicant for a new or renewal driver's licence will be required to provide an Enhanced Disclosure from the Disclosure and Barring Service (DBS), and to complete a statutory declaration listing any previous convictions

The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 allows the Council to take into account all convictions recorded against an applicant or the holder of a Private Hire 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.

Private Hire Operators

The applicant will be required to provide a Basic Disclosure from the Disclosure and Barring Service, and to complete a statutory declaration listing any previous convictions. All Staff employed by Operators (including contractors) who have access to customer's personal data must also obtain a Basic Disclosure.

Private Hire Operators will be in receipt of sensitive information such as holiday plans, movement of customers and their families, and details about vulnerable individuals. Therefore public trust and confidence in the overall safety and integrity of the private hire system is vital. The same standards relating to criminal history will be applied to operators as those applied to drivers.

Vehicle Proprietors

The Applicant for Hackney Carriages or Private Hire Vehicles will be required to provide a Basic Disclosure from the Disclosure and Barring Service, and to complete a statutory declaration listing any/all previous convictions.

Vehicle proprietors (both hackney carriage and private hire) have two principal Responsibilities to:

- Ensure that the vehicle is maintained to an acceptable standard at all times.
- Ensure that the vehicle is not used for illegal or illicit purposes.

Criminal History

Convictions that will prevent a licence being issued:

- **Crimes resulting in death**
- **Exploitation**

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, criminal exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

- **Sex and indecency offences**

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted. This will apply to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

Other convictions

In relation to single convictions, the following 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.

Offences involving violence

Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Dishonesty

Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or 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.

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. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held telephone or hand held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). 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.

A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes, but is not restricted to, driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Vehicle use offences

Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Right of Appeal

Any Applicant refused a Vehicle, Driver or Operator Licence on the grounds that the Council is not satisfied that they are not a Safe & Suitable person to hold such a licence, or who has had their licence suspended or revoked has a right to appeal to the relevant Court within 21 days of the notice of decision.