

Agenda Item No:

Report To: CABINET

Date of Meeting: 13 July 2017

Report Title: Taxi Licensing Policy

Report Author & Job Title: Trevor Ford
Environmental Protection & Licensing Team Leader

Portfolio Holder Cllr. G.J. Bradford
Portfolio Holder for: Highways, Wellbeing and Safety



Summary:

The purpose of this report is to present to cabinet an updated version of Ashford Borough Council's 'Taxi Licensing Policy' following the 'expiry' of the current policy in April 2017.

The new policy reflects changes in legislation and good practice.

Key Decision: NO

Significantly Affected Wards: All

Recommendations: The Cabinet is recommended to:-

- i. Review the draft policy and make any necessary changes to be incorporated into the draft policy (where commensurate with the appropriate legislation).
- ii. Agree to the publishing of the draft Taxi Licensing Policy for the purposes of consultation with the public and trade. Following a suitable consultation process a final version will be submitted to cabinet for adoption.

Policy Overview: The determination of taxi and private hire driver, operator, and vehicle licence applications is a statutory duty and provides protection to the public ensuring vehicles, operators and drivers are fit and proper for the purposes of providing such services.

Our policy with respects to this subject area guides members of the public, applicants, elected members, and officers on such matters.

Financial Implications: None

Legal Implications	Adjustment to the policy on the relevance of prior convictions has the potential to increase the number of applications refused on grounds that the applicant is not considered 'fit and proper'. This may lead to additional appeals against determinations by the licensing authority.
Equalities Impact Assessment	See attached
Other Material Implications:	None
Exempt from Publication:	NO
Background Papers:	Taxi Licensing Policy 2012-2017 (available via http://www.ashford.gov.uk/taxi-licensing-policy)
Contact:	trevor.ford@ashford.gov.uk – Tel: (01233) 330 397

Report Title:

Taxi Licensing Policy

Introduction and Background

1. The purpose of this report is to present to Cabinet an updated draft version of Ashford Borough Council's 'Taxi Licensing Policy' following the 'expiry' of the current policy in April 2017. The new policy reflects legislative changes and good practice.
2. The determination of taxi and private hire driver, operator, and vehicle licence applications is a statutory duty and provides protection to the public ensuring vehicles, operators and drivers are fit and proper for the purposes of providing such services.
3. Our policy with respects to this subject area guides members of the public, applicants, elected members, and officers on such matters.
4. The current policy 'expired' in April 2017, and the planned update acts to clarify the application process and interaction with associated legislation
5. Although there is no specific statutory requirement for a policy with respects to this subject area, such a policy guides members of the public, applicants, elected members and officers on matters relating to taxi licensing. Failure to have a policy goes against good practice and can lead to weaknesses in the application of the legislation.
6. The policy sets out how the Council will approach the making of such decisions, indicating what the council considers to be important, what control measures it will be looking for, and so forth.
7. It is vital that the policy does not turn into a rule that is applied inflexibly and fetters the exercise of discretion. There must be a willingness to consider individual applications on their particular merits.
8. A policy relating to the determination of applications not only guides the decision-maker but also services to inform an applicant about what they should consider in preparing their application.

Proposal/Current Position

9. The Cabinet is asked to agree to the publishing of the draft Taxi Licensing Policy for the purposes of consultation with the public and trade, prior to resubmission to Cabinet incorporating any relevant aspects for final adoption
10. Cabinet are also asked to suggest any policy change that they may wish to see incorporated into the draft policy prior to consultation, where such change is commensurate with the appropriate legislation.

11. The updates to the policy include:

- Amendments relevant to the Equalities Act 2010 with respect to disabled access vehicles placing duties on drivers of such vehicles to provide assistance and not to charge extra for carriage of passengers in wheelchairs.
- Clarification on wheelchair accessible rear-only loading vehicle applications to confirm that whilst we would not normally licence such vehicles, such applications would be considered where substantial evidence is provided to justify deviation from the normal policy of side-loading vehicles.
- Replacement of references to the Driver and Vehicle Licensing Agency (DVSA) practical test following withdrawal of this service in late 2016. An equivalent test to ensure that drivers are capable of driving to a professional standard is now provided by a private sector offering.
- Clarification to ensure medical check periods do not extend past three years to ensure that drivers remain 'fit and proper'.
- Clarification and update on Disclosure and Barring Service (DBS) checks formerly known as Criminal Records Bureau (CRB) checks.
- Private hire operator's licence period updated as per the Deregulation Act 2015 changes to Local Government (Miscellaneous Provisions) Act 1976.
- Update on the current provision of taxi ranks within Ashford to better reflect location(s) and size. Since the previous policy was written there has been the addition of a new rank in Drum Lane, and some listed sizes have been revised.
- Removal of engine size requirement and replacement with a suitable BHP requirement to account for increased presence of electric and hybrid vehicles.
- Requirement that new vehicles applications have a full year to run prior to reaching age limit as per the existing policy in order to maintain their suitability for use.
- Inclusion of right to work checks and requirements in accordance with the Immigration Act 2016 requirements.
- Complete update of the convictions policy in line with Local Government Association (LGA) example policy, which places a greater emphasis on the relevance of prior convictions.
- Clarification on record keeping requirements for private hire operators to ensure that licence policy and licence conditions are clear and enforceable.

- Enforcement option clarification if a licensee does not accept penalty points for minor enforcement issues.

A detailed list of the proposed changes, and Local Government Association Example Policy of the Relevance of Prior Convictions, are contained as *Appendices B and C*

12. In addition to the formal updates to the policy, the Licensing team have also conducted a number of proactive projects including;
 - Providing child sexual exploitation awareness training to drivers and operators, including how to recognise potential signs of abuse and how to report such concerns. This training was kindly provided across four one-hour sessions with assistance of Kent Police and Operation Willow.
 - Mystery shopper exercise with the Guide Dogs Association and their volunteers to test for potential refusals to carry assistance dogs. As part of this ten short journeys were conducted, with no refusals. Feedback was provided to those tested, and Guide Dog: Top tips for Taxi Drivers leaflets are now provided as part of all new or renewal driver application packs.
 - Random taxi checks at the South Eastern Railway Station (domestic side) and town centre locations during night-time economy enforcement visits/inspections.
 - Ongoing development of guidance for operators and drivers to submit evidence relating to costs as part of the annual hackney fares review.

Implications and Risk Assessment

13. The update to this policy is not anticipated to have any significant implications.
14. The greatest implication perceived is the potential for more applicants to be refused a license based on the greater emphasis on the relevance of prior convictions. Such refusals or enforcement relating to relevant convictions are subject to the usual rights of appeal through the council or the Magistrates Court. As such it is important to ensure that conviction policies must be justifiable, and the adoption of the LGA example policy assists in ensuring that the requirements are balanced with the need for taxi provision and the need to protect the travelling public from drivers who may not be considered 'fit and proper'
15. Judicial review is a risk if the policy strays beyond the requirements of the act, or restricts legal activities without due and appropriate cause

Equalities Impact Assessment

16. The policy will affect all persons involved or affected in a relevant licensable activity in the Borough, irrespective of gender, race, disability, sexuality or age. Recipients of the policy include holders of licences, members of licensing

sub-committee, authorities e.g. Kent Police, KCC Trading Standards, Kent Fire & Rescue Service, etc. and all of the Borough's businesses, residents of the borough and those who visit and use local taxi services.

17. An equalities impact assessment is attached as *Appendix A*

Consultation Planned or Undertaken

18. It is proposed that if the draft policy is accepted, then the draft Taxi Licensing Policy will be published on the ashford.gov.uk website for a period of 28 days to invite comments and representations to be made.
19. The following organisations and groups will be proactively invited directly to review and comment on the draft policy.
 - Kent Police
 - Kent County Council Schools Transport
 - Local access group(s)
 - Trade representatives (through the Taxi Forum)
 - Taxi trade (through the Taxi Forum distribution group)
 - Licensing Authorities within the County of Kent
20. Any amendments as deemed appropriate will be incorporated, and the draft policy returned to cabinet to seek adoption of a final policy document

Other Options Considered

21. Whilst it is recognised by the Department for Transport that it is for local authorities to reach their own decisions on overall policies and on individual licensing matters, the current policy and this draft is based upon good practice.
22. There are as always a number of options available to councils with respects to taxi licensing, for example requiring specific liveries for hackney carriages, it is felt that the such other options will not further to objectives of the Council with respects to taxi licensing at the current time.

Reasons for Supporting Option Recommended

23. The revisions to the policy mainly relate to the inclusion of the updated relevance of criminal convictions. Other updates reflect legislative changes and seek to clarify some aspects of the original policy.
24. This approach is recommended to ensure that the policy remains up to date, and effectively can be usefully applied by the council, officers, applicants, and the general public.

Next Steps in Process

25. Once the draft has been agreed for publishing, it will be made available on the licensing pages of the www.ashford.gov.uk webpage for consultation. Any

comments will then be considered and where appropriate incorporated into a final draft which will be submitted to cabinet for adoption.

26. The final policy will be subject to review after five years, along with any periodic review brought about by changes in the Council's approach, or change to relevant legislation

Conclusion

27. In summary a licensing policy would be unlawful if it gave the impression that it could dictate the contents of an application and give the impression that the Council would assess and exercise substantive discretionary powers in relation to all applications, unless there are relevant representations and the decision taking function is permitted under the authority of the Act. Ashford Borough Council's policy was originally reviewed by Counsel on this basis and has been updated to reflect changes in legislation.
28. Revisions have been made to sections of the policy based on associated legislation updates, need to protect the general public, and need to provide clarity on ambiguous points in the prior policy,

Portfolio Holder's Views

29. "I support the revised policy, which adds clarity, and provides protection to the most vulnerable members of society by providing greater emphasis on relevance of prior convictions" - Councillor G.J. Bradford

Contact and Email

30. Trevor Ford
Environmental Protection and Licensing Team Leader
(01233) 330 397
trevor.ford@ashford.gov.uk

Appendix A: Equalities Impact Assessment

Appendix B: Proposed changes

Appendix C: LGA Example Policy of the Relevant of Prior Convictions.

Please note

A copy of the current Taxi Licensing Policy is available via <http://www.ashford.gov.uk/taxi-licensing-policy>

A copy of the proposed Taxi Licensing Policy 2017-2022 is available to members within the Members Room, Civic Centre.

Equality Impact Assessment

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
 - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
 - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is 'due' will depend on the circumstances. The greater the

potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

8. In terms of timing:

- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

Case law principles

9. A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a

policy, for example, is being developed and agreed but also when it is implemented.

- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

Equality Impact Assessment

Lead officer:	Trevor Ford
Decision maker:	Cabinet
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	Revision of the Taxi Licensing Policy
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	13 July 2017
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	<p>The report seeks to approve an updated version of the policy for public consultation with the following changes:</p> <ol style="list-style-type: none"> i. Update of Equalities Act 2010 requirements ii. Clarification on rear-only wheelchair loading vehicle applications iii. Replacement of references to DVSA practical test following withdrawal of this service. iv. Clarification to ensure medical check periods do not extend past 3 years v. Clarification and update on DBS checks (former CRB). vi. Private hire operator's licence period updated as per the Deregulation Act 2015 vii. Update on the current provision of taxi ranks within Ashford viii. Removal of engine size requirement and replacement with a suitable BHP requirement ix. Requirement that new vehicles applications have a full year prior to reaching age limit. x. Inclusion of right to work requirements in accordance with the Immigration Act xi. Complete update of the convictions policy in line with LGA example policy xii. Clarification on record keeping requirements for private hire operators xiii. Enforcement option clarification where a licensee does not accept penalty points <p>The aim of the update this to provide a current policy with modifications to ensure that the guidance within remains up to date and effective for the purposes of the policy.</p> <p>It is expected that members of the general public may be affected by the policy by means of access local taxi services. Businesses providing such services will also be affected as to our general approach and amendments to the relevance of prior convictions.</p>

<p>Information and research:</p> <ul style="list-style-type: none"> Outline the information and research that has informed the decision. Include sources and key findings. 	<p>Research conducted as part of the revision of the policy includes;</p> <ul style="list-style-type: none"> Updated case law Best practice guidance General taxi licensing research Liaison with taxi and private hire drivers and operators via the Ashford Taxi Forum Mystery shopper activity regarding guide dogs being allowed in vehicles
<p>Consultation:</p> <ul style="list-style-type: none"> What specific consultation has occurred on this decision? What were the results of the consultation? Did the consultation analysis reveal any difference in views across the protected characteristics? What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	<p>Consultation on these changes have occurred amongst colleagues within health, parking and community services, the portfolio holder and legal services.</p> <p>Consultation provided some minor comments, mainly regarding layout and structure, which were incorporated during the development of the draft policy.</p> <p>The basis of the report is to agree the draft policy for public and trade consultation. A further equalities assessment will accompany the final draft of the policy prior to adoption by cabinet.</p>

Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
<u>AGE</u> Elderly	Low	Positive - minor
Middle age	Low	Positive – minor
Young adult	Low	Positive – minor
Children	Medium	Positive - minor
<u>DISABILITY</u> Physical	Medium	Positive - minor
Mental	Medium	Positive - minor

Sensory	Medium	Positive - minor
<u>GENDER RE-ASSIGNMENT</u>	Low	Neutral
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	Low	Neutral
<u>PREGNANCY/MATERNITY</u>	Low	Neutral
<u>RACE</u>	Low	Neutral
<u>RELIGION OR BELIEF</u>	Low	Neutral
<u>SEX</u>		Neutral
Men	Low	
Women	Low	Neutral
<u>SEXUAL ORIENTATION</u>	Low	Neutral

Mitigating negative impact: Where any negative impact has been identified, outline the measures taken to mitigate against it.	N/A
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Is the decision relevant to the aims of the equality duty?	
Guidance on the aims can be found in the EHRC's Essential Guide , alongside fuller PSED Technical Guidance .	
Aim	Yes/No
1) Eliminate discrimination, harassment and victimisation	Yes
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	Yes
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	Yes

Conclusion:	
<ul style="list-style-type: none"> Consider how due regard has been had to the equality duty, from start to finish. There should be no unlawful discrimination 	<p>The legislative provisions relevant to this policy provides for the protection of children, and suitability of the drivers/operators to operate.</p> <p>The changes as part of the updated policy are not considered to have any negative impacts on equality, however further consultation is planned.</p>

<p>arising from the decision (see guidance above).</p> <ul style="list-style-type: none"> • Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified. • How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported? 	<p>Monitoring of the policy will be undertaken formally after five years, but will be subject to informal review as and when relevant applications are received and the policy is applied. Review may also be required should there be any change in legislation or a particular urge to change Council policy during the lifetime of the document. In addition the council's revised policy register will assist the service to meet this</p>
<p>EIA completion date:</p>	<p>2 June 2017</p>

Revised Taxi Policy 2017-2022

Summary of proposed changes

The following is a summary of the changes from the Taxi Licensing Policy 2012 to form the proposed Taxi Licensing Policy 2017. This excludes format changes, grammatical corrections, provider name changes, and current statistics.

#	POLICY - PROPOSED CHANGE
1	<p>3.5.5 – Addition of;</p> <p><i>In addition other guidance has been used in formulating this policy including; Local Government Association: Example Taxi and PHV Licensing Criminal Convictions Policy, Guide Dogs: Taxi and Private Hire Policy for Assistance Dogs, Local Government Association: Taxi and PHV licensing Councillors Handbook</i></p> <p>In order to background details of other guidance used in formulating the updated policy</p>
2	<p>5.3.2 – Amendment of;</p> <p><i>Section 36 of the DDA was partially commenced by enactment of the Local Transport Act 2008 and it places certain duties on licensed drivers to provide assistance to people in wheelchairs, to carry them safely and not to charge extra for doing so. Failure to abide by these duties could lead to prosecution and a maximum fine of £1,000.</i></p> <p>to;</p> <p><i>The Disability Discrimination Act and Equalities Act places certain duties on licensed drivers to provide assistance to people in wheelchairs, to carry them safely and not to charge extra for doing so. Failure to abide by these duties could lead to prosecution and a maximum fine of £1,000.</i></p> <p>In order to acknowledge the impact and role of the Equalities Act in taxi licensing.</p>
3	<p>5.3.3 – Addition of;</p> <p><i>A list of all wheelchair accessible vehicles will be maintained in accordance with section 167 of the Equalities Act 2010 on the licensing team webpage. This will place a duty on the drivers of the listed vehicles to comply with the requirements under section 165 of said Act. This list will be periodically updated based on the details given at the time of vehicle licensing.</i></p> <p>In order to comply with requirements of the Equalities Act and to ensure that duties to carry wheelchairs are suitably passed onto the drivers of accessible vehicles.</p>
4	<p>5.3.7 – Edited to include;</p> <p><i>Applications for vehicles with rear loading will be considered where there is substantial and significant justification for their need.</i></p> <p>This has been included as there has been occasion where a vehicle proprietor has</p>

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	<p>demonstrated that the additional room provided by rear only access has allowed transport of customers who would otherwise not have had access to transport due to the size of their wheelchair.</p>
5	<p>6.3.2 – Deletion of;</p> <p><i>Any applicant under 21 years will be expected to produce proof of having passed the Government’s Driving Standard Agency’s Taxi/Private Hire Driving Assessment Test.</i></p> <p>This has been removed as all new applicants are expected to have undertaken this test regardless of driving experience or age.</p>
6	<p>6.5.1 – Replacement of;</p> <p><i>The Driving Standards Agency (DSA) provides a driving assessment specifically designed for hackney carriage and private hire drivers, the Taxi Test and new applicants will be expected to have passed the test</i></p> <p>with;</p> <p><i>New applicants will be expected to have passed a suitable driving assessment specifically designed for hackney carriage and private hire drivers and carried out in accordance with the DVSA DT1 guidance on driving tests.</i></p> <p>In late 2016 the DVSA ceased to provide the national Taxi Test with almost immediate effect. The requirement to complete an equivalent test has been maintained throughout, and we will accept certificates from providers who can demonstrate equivalency with the former DVSA test. This includes meeting standard test requirements as per the DT1 guidance and also using DVSA accredited fleet assessors (at minimum).</p>
7	<p>6.6.5 – Amendment of;</p> <p><i>Holders of current passenger service vehicle and/or heavy goods vehicle licences, where the holder is able to produce proof of current medical examination, will not be required to undergo a further medical examination.</i></p> <p>to;</p> <p><i>Holders of current passenger carrying vehicle and/or large goods vehicle licences will not be exempt from the Council’s medical requirements in 6.6.4.</i></p> <p>This is because the failure to ensure a current medical is supplied will mean that drivers who are potentially unfit to drive may go for periods longer than the standard 3 years between medical checks and therefore increases the risk of an unfit driver continuing to be licensed.</p>
8	<p>6.7.1 – Removal of;</p> <p><i>Recently the CRB has released guidance that such checks should not be at the level of an Enhanced Disclosure, due to revaluation by the CRB on who is entitled to apply for an Enhanced Disclosure.</i></p> <p>As the information is now out of date.</p>

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9	<p>6.7.2 – Removal of;</p> <p><i>Enhanced Disclosures can only be applied for if the person is involved in “regulated activity” and this activity does not include picking up children and vulnerable adults as a normal part of a licensed driver’s activities. The CRB acknowledge that there are certain circumstances where some drivers will be carrying out regulated activity. This may include when they transport children or vulnerable adults to or from a regulated activity and it is organised by the providers of the regulated activity or an organisation working on their behalf, e.g. a Local Authority school contract. Those carrying out regulated activity would qualify for an enhanced CRB check.</i></p> <p>As the information is now out of date.</p>												
10	<p>6.7.7 – Amendment of;</p> <p><i>The Council is bound by rules of confidentiality, and will not divulge information obtained to any third parties. The applicant for an Enhanced CRB disclosure will be sent a separate disclosure report to their home address. Information arising from disclosures will be kept only for as long as is necessary and then destroyed.</i></p> <p>to;</p> <p><i>The Council is bound by rules of confidentiality, and will not divulge information obtained to any third parties, except in accordance with the Data Protection Act. The applicant for an Enhanced CRB disclosure will be sent a separate disclosure report to their home address. Information arising from disclosures will be kept only for as long as is necessary and then destroyed.</i></p> <p>This is because of relevant grounds for disclosure to law enforcement agencies as per the Data Protection Act provisions, and therefore we cannot commit to withholding the information in relevant cases.</p>												
11	<p>7.6.1 – Amendment of;</p> <p><i>three-year period</i></p> <p>to;</p> <p><i>five-year period</i></p> <p>As the private hire operator’s licence duration has been amended by Deregulation Act 2015</p>												
12	<p>11.1.1 – Amendment of taxi rank details to;</p> <table data-bbox="268 1711 997 2020"> <tr> <td><i>Park Street (Upper)</i></td> <td><i>Rank for 9 cars</i></td> </tr> <tr> <td><i>Park Street (Lower)</i></td> <td><i>Rank for 8</i></td> </tr> <tr> <td><i>International Station</i></td> <td><i>Rank for 7 cars</i></td> </tr> <tr> <td><i>Domestic Station</i></td> <td><i>Rank for 2 cars plus feeder rank</i></td> </tr> <tr> <td><i>Tufton Street</i></td> <td><i>Rank for 2 cars</i></td> </tr> <tr> <td><i>Bank Street</i></td> <td><i>Rank for 4/5 cars</i></td> </tr> </table>	<i>Park Street (Upper)</i>	<i>Rank for 9 cars</i>	<i>Park Street (Lower)</i>	<i>Rank for 8</i>	<i>International Station</i>	<i>Rank for 7 cars</i>	<i>Domestic Station</i>	<i>Rank for 2 cars plus feeder rank</i>	<i>Tufton Street</i>	<i>Rank for 2 cars</i>	<i>Bank Street</i>	<i>Rank for 4/5 cars</i>
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	<p><i>High Street (Lower)</i> <i>Rank for 5/6 cars – only in operation when area in evenings & Sundays</i></p> <p><i>High Street (Upper)</i> <i>Rank for 3 cars – subject to Traffic Regulation Order</i></p> <p><i>Drum Lane</i> <i>Rank for 2/3 cars – subject to Traffic Regulation Order</i></p> <p>As some spaces are more conservatively estimated in terms of size, and a couple await a traffic regulation order being completed (during 2017) before being fully enforceable.</p>
#	APPENDIX A – PROPOSED CHANGE
13	1.3.1 – Specific EC directive number removed in order to prevent the need for policy amendments should the directive number change.
14	<p>1.6.1 – Replacement of;</p> <p><i>With an engine having a capacity of at least 1600 cc. including vehicles badged by the manufacturer as “1.6” models</i></p> <p>with;</p> <p><i>With an minimum power of 90 BHP</i></p> <p>Advancement in engine technology has shown that previously smaller engine cars are able to produce much more power than at the time of the prior policy. For example, a 2017 1000CC three cylinder Ford Mondeo produces 123BHP whereas a 2012 1.6 petrol engine car can produce power as low as 88BHP. Also with electric use, a petrol size may prove irrelevant in the coming years, and as such BHP seems a more relevant standard to apply.</p>
15	<p>1.11.1 – Addition of;</p> <p><i>Applications for new vehicles should have at minimum one year before they reach the respective 7 or 10 year limit.</i></p> <p>In order to ensure that new vehicles being added to the taxi fleet, do not almost instantly reach the seven year limit, and to maintain current vehicular standards.</p>
16	<p>1.21.1 - Removal of ‘<i>hackney</i>’ in order to cover all vehicles, and the addition of;</p> <p><i>Except in very limited circumstances where substantial justification and need dictates otherwise.</i></p> <p>which has been included as there has been occasion where a driver has demonstrated that the additional room has allowed transport of a customer who would otherwise not have had access to transport due to the size of their wheelchair (see link to 5.3.7)</p>
17	<p>1.21.5 – Addition of;</p> <p><i>Under the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. To ensure that the Equality Act 2010 is upheld, the licensing authority will have a zero tolerance policy to access refusals investigating all reported violations of the Act with a view to pursuing a conviction.</i></p>

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	<p><i>When carrying such passengers, drivers have a duty to:</i></p> <p><i>a) Convey the disabled passenger’s dog and allow it to remain under the physical control of the owner; and</i></p> <p><i>b) Not to make any additional charge for doing so.</i></p> <p><i>It is best practice for drivers to ask the passenger where they want themselves and their dog to sit in the vehicle.</i></p> <p><i>Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the council for exemption from the duty on medical grounds. If no exemption has been applied for and subsequently granted, then drivers are still required to carry assistance dogs.</i></p> <p><i>The Licensing Authority will only issue an exemption certificate when it is authorised by the driver’s GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history.</i></p> <p>Which has been included to work with best practice guidance and following joint working with the Guide Dogs Association.</p>
#	APPENDIX D – PROPOSED CHANGES
18	<p>1.5 - Amendments as follows;</p> <p>Replacement of;</p> <p><i>A certificate issued from the Driving Standards Agency (DSA) that they have taken and passed the Agency’s Taxi/Private Hire Driving Assessment Test. (Details can be found at www.dsa.gov.uk)</i></p> <p>with;</p> <p><i>A certificate issued to demonstrate that they have taken and passed a recognised Taxi/Private Hire Driving Assessment Test. (Details can be found at www.ashford.gov.uk)</i></p> <p>Due to withdrawal of the DVSA national test for taxi’s in latter part of 2016.</p> <p>Replacement of;</p> <p><i>A medical certificate indicating they physically fit and able to fulfil the role to DVLA Vocational Group 2 Standards</i></p> <p>with;</p> <p><i>A medical certificate, dated within 3 months of application, indicating they physically fit and able to fulfil the role to DVLA Vocational Group 2 Standards</i></p> <p>Because of the need to ensure that drivers are not driving for periods exceeding three years without medical test/certificate, as such a ‘current’ medical is required.</p> <p>Addition of;</p> <p><i>Suitable identify documents as required by the Immigration Act to demonstrate the right</i></p>

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	<p><i>to work.</i></p> <p>Due to statutory requirements bought in under the Immigration Act</p> <p>Amendment of;</p> <p><i>A completed application form for an Enhanced Criminal Records Bureau Check accompanied with the requisite fee and documentation to confirm identity and address</i></p> <p>To;</p> <p><i>A completed application form for an Enhanced Disclosure Barring Service check accompanied with the requisite fee and documentation to confirm identity and address, or alternatively a DBS certificate dated within the last month.</i></p> <p>To ensure that DBS certificates are current, and to minimise the chance of an unfit and unsuitable driver being issued with a licence, or too long a gap before their DBS record is checked again</p>
19	<p>2.2 – Addition of;</p> <p><i>Hackney drivers returning to the trade within two years of licence expiry will not need to re-sit the knowledge test. Those returning after this time will need to undertake the test to demonstrate sufficient knowledge.</i></p> <p>This is in order to confirm that hackney drivers are expected to re-sit their test after a period away from the trade in which it could reasonably be assumed that the knowledge of the borough may have reduced.</p>
20	<p>3.1 - Addition of;</p> <p><i>Suitable identify documents as required by the Immigration Act to demonstrate the right to work.</i></p> <p>Due to statutory requirements bought in under the Immigration Act</p>
#	APPENDIX E – PROPOSED CHANGES
21	<p>It is proposed that this section is significantly changed to incorporate the Local Government Association (LGA) draft policy on guidance on the relevant of convictions for taxi and private hire drivers.</p> <p>This example policy provides increased relevance on prior convictions, and raises the standards with reference to who would be considered to be a ‘fit and proper person’. It also provides greater clarity to those with a propensity to offend.</p> <p>Overall, the incorporation of the LGA example policy provides greater protection to the public (including vulnerable user groups).</p> <p>See appendix C for a copy of the LGA example policy.</p>
#	Appendix H – PROPOSED CHANGES
22	2.1 a) – Replacement of;

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	<p><i>Where the driver has been convicted, since the grant of the licence, of an offence involving dishonesty, indecency or violence</i></p> <p>with;</p> <p><i>Where the driver has been convicted, since the grant of the licence, of a relevant offence.</i></p> <p>To be consistent with the convictions policy.</p>
#	APPENDIX I – PROPOSED CHANGES
23	<p>3 a) – Replacement of;</p> <p><i>The time and date of the booking</i> <i>The time and date of the pickup point</i> <i>Details of the destination</i> <i>The name and contact details of the hirer</i> <i>The registration number of the vehicle and driver allocated for the journey</i></p> <p>With</p> <p><i>The time and date of the booking</i> <i>The time and date of the pickup</i> <i>Details of the pickup point</i> <i>Details of the destination</i> <i>The name and contact details (minimum tel. number) of the hirer</i> <i>The registration number of the vehicle and driver allocated for the journey</i></p> <p>To ensure the minimum requirement for operator record keeping are clear and to ensure records are properly maintained.</p>
#	APPENDIX K – PROPOSED CHANGES
24	<p>1.1 – Replacement of;</p> <p><i>Penalty points will only be imposed where the licensee agrees the breach or offence has taken place. Where the licensee does not agree that the breach or offence has taken place the only option available to the Council will be to prosecute</i></p> <p>with;</p> <p><i>Penalty points will only be imposed where the licensee agrees the breach or offence has taken place. Where the licensee does not agree that the breach or offence has taken place the only option available to the Council will be to prosecute, or review their fitness to hold the relevant licence.</i></p> <p>As the prior policy effectively missed the option to call the licence itself into question.</p>

Note to licensing practitioners:

This document provides an example of a taxi and private hire vehicle (PHV) licensing convictions policy and has been developed to assist licensing authorities in developing their own policies. Each licensing authorities should give proper consideration to the development of its own policy and satisfy themselves that the policy they adopt meets the requirements of the law and of their local areas, rather than simply replicating the approach in this document.

Unless indicated the timescales suggested within this template are intended as **guidelines only** for licensing authorities and are not statutory.

LGA example Taxi and PHV 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 council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire vehicle licence.
- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
 - That a person is a fit and proper person.
 - That the person does not pose a threat to the public.
 - That the public are safeguarded from dishonest person.
 - The safeguarding of children and young persons.
- 1.3 This policy provides guidance to any person with an interest in public and private hire licensing. In particular, but not exclusively:
 - Applicants for drivers' licences
 - Existing licensed drivers whose licences are being reviewed or renewed
 - Licensing officers
 - Members of the licensing committee/ panel (or other relevant decision making body)
 - Magistrates hearing appeals against local authority decisions
- 1.4 Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision 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). Whilst 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.**

2. General policy

- 2.1 Whilst the committee / panel may consider that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, it would normally be expected that the applicant would be required to:
 - a. Remain free of conviction for an appropriate period as detailed below; and

- b. Show adequate evidence that her or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).

(Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence).

2.3 The standards and criteria set out in paragraphs 7-15 below are those that would normally be applied to applications and licences. Each case will be considered on its own merits, and the licensing authority may depart from these criteria, however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

2.3 **Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction** [Nottingham City Council v. Mohammed Farooq (1998)].

3. Pre-requisites to making an application

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

- That the applicant has the right to live and work in the country
- An enhanced criminal record check and evidence that they are not on a child and/or vulnerable adult barring list
- A certificate of their current medical fitness [to Group 2 standard]
- That the applicant is authorised to drive a vehicle of the same classification as that which the licence will allow them to drive
- That the applicant has a minimum of three years post-qualification driving experience (or if not, successful completion of an advanced driving assessment)
- That the applicant has adequate literacy and numeracy skills to provide the service that they wish to be licensed for
- That the applicant has sufficient ability to speak English and to understand spoken English to provide the service that they wish to be licensed for
- That the applicant has completed safeguarding awareness training specific to the service that they wish to be licensed to provide (including in respect of sexual exploitation and disability)
- (For persons who seek to be authorised to drive a wheelchair accessible vehicle) that the applicant has the ability to safely load and secure wheelchair users in a wheelchair accessible vehicle whilst in their chair

- 3.2 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 before a licence application can be made.

4. Appeals

- 4.1 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 \(1\)](#)].
- 4.2 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.
- 4.3 Any licensee whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.

5. Powers

- 5.1 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.
- 5.2 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.
- 5.3 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.

6. Consideration of disclosed criminal history

- 6.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operators 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
- 6.2 Existing holders of drivers' licences are required to notify the licensing authority in writing within seven days of being arrested, receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).
- 6.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing officer [insert details here] in confidence for advice.
- 6.4 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 of disclosure information. A copy is available on request.
- 6.5 Applicants applying for the grant or a renewal of a drivers' licence licence will be required to obtain an enhanced disclosure at their expense. The licensing authority abides by the DBS's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.
- 6.6 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 updates. Registration lasts for 1 year and costs £13 per year. Licensees are expected to provide evidence of continuous registration and nomination throughout the duration of their licence.
- 6.7 More information about the DBS can be found on their website at <https://www.gov.uk/government/organisations/disclosure-and-barring-service>.
- 6.8 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police.
- 6.9 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.

7 Serious offences involving violence

- 7.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.
- 7.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Terrorism offences
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 7.4 A licence will not normally be granted where the applicant has a conviction for an offence of similar offence(s) which replace the below offences 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
- 7.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 5 years prior to the date of application:
- Racially-aggravated criminal damage
 - Racially-aggravated offence
 - Common assault
 - Assault occasioning actual bodily harm
 - Affray
 - S5 Public Order Act 1986 offence (harassment, alarm or distress)
 - S.4 Public Order Act 1986 offence (fear of provocation of violence)
 - S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
 - Obstruction
 - Criminal damage
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 7.7 A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

7.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

8. Possession of a weapon

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

8.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

9. Sex and indecency offences

9.1 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. Applicants with convictions for sexual or indecency offences that involve a third party will normally be refused a licence. Such offences include:

9.2 (a) An application will normally be refused 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.

9.4 In addition to the above the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register.

10. Dishonesty

10.1 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 deposit such property with police within 24 hours. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud 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 an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

10.2 In general, a minimum period of 5 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- and any similar offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

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

10.4 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.

11. Drugs

11.1 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.

11.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 years.

11.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.

11.4 An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.

11.5 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.

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

12 Driving offences involving the loss of life

- 12.1 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.

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

13 Drink driving/driving under the influence of drugs/using a mobile phone whilst driving

- 13.1 As licensees 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. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. Normally at least 3 years after the restoration of the driving licence following a drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

- 13.2 Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research (see for instance <http://www.rospa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>) 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.

- 13.3 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 whilst using a mobile phone as for driving under the influence of drink or drugs.

- 13.4 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 whilst using a mobile phone.

14 Licensing offences

- 14.1 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 3 years has passed since .
- 14.2 A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence.

15 Insurance offences

- 15.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour.
- 15.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.
- 15.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have his operators' licence revoked immediately and be prevented from holding a licence for at least three years.

16 Outstanding charges or summonses

- 16.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.
- 16.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

17 Non-conviction information

- 17.1 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.
- 17.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

18 Cautions

- 18.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

19 Once a licence has been granted

- 19.1 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.

19.2 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]

19.3 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.

20 Licences issued by other licensing authorities

20.1 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.

20.2 Licensees 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

22.1 To summarise, a criminal history in itself will not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.

22.2 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.

22.3 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 an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

Annex A – Motoring offences and penalty points

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 incur a disqualification. These codes are recorded from information supplied by the courts.

Code	Offence	Penalty Points
Accident Offences		

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
Disqualified Driver		
BA10	Driving whilst disqualified by order of court	6
BA30	Attempting to driver while disqualified by order of court	6
Careless Driving		
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
CD71	Causing death by careless driving then failing to supply A specimen for drug 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
Construction & Use Of Offences		
CU10	Using a vehicle with defective brakes	3
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicles 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
C80	Using a mobile phone while driving a vehicle	3
Dangerous Driving		
DD40	Dangerous Driving	3-11
DD60	Manslaughter or culpable homicide while driving a vehicle	3-11
DD90	Furious Driving	3-9
Drink or Drugs		
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
DR40	In charge of a vehicle while alcohol level above limit	10

DR50	In charge of vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR61	Failure to supply a specimen for drug analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to provide specimen for breath test	4
DR80	Driving or attempting to drive when unfit through drugs	3-11
DR90	In charge of a vehicle when unfit through drugs	3-11
Insurance Offences		
IN10	Using a vehicle uninsured against third party risks	6-8
Licence Offences		
LC20	Driving otherwise than in accordance with the 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 revoked or refused on medical ground	3-6
Miscellaneous Offences		
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	As Appropriate
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc.	3
Motorway Offences		
MW10	Contravention of Special Roads Regulations (excluding speed limits)	3
Pedestrian Crossings		
PC10	Undefined Contravention of Pedestrian Crossing Regulation	3
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle	3
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle	3
Speed Limits		
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
Traffic Directions And Signs		
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with 'Stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with a traffic sign (excluding stop)	3

	signs, traffic signs or double white lines)	
TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3
Special Code		
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	
Theft or Unauthorised Taking		
UT50	Aggravated taking of a vehicle	3-11

Aiding, abetting, counseling or procuring

Offences as coded, but with 0 changed to 2 e.g. LC10 becomes LC12.

Causing or permitting

Offences as coded, but with 0 changed to 4 e.g. LC10 becomes LC14.

Inciting

Offences as coded, but with the end 0 changed to 6 e.g. DD40 becomes DD46.

Non-endorsable offences

Some offences are non-endorsable. A non-endorsable offence is an offence which courts do not endorse onto paper counterpart. 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.

Period of time

Periods of time are signified as follows: D=Days, M=Months, Y=Years

Endorsements remain on a counterpart licence for the following periods of time:

Endorsements must remain on a licence for 11 years from date of conviction if the offence is:

- Drinking/drugs and driving (shown on the licence as DR10, DR20, DR20 and DR80).
- Causing death by careless driving whilst under the influence of drink/drugs (shown on the licence as CD40, CD50 and CD 60).
- Causing death by careless driving, then failing to provide a specimen for analysis (shown on the licence as CD70).

Or 4 years from the date of conviction if the offence is as listed below:

- Reckless/dangerous driving (shown on the licence as DD40, DD60 and DD80).
- Offences resulting in disqualification.

- Disqualified from holding a full licence until a driving test has been passed.
Or 4 years from the date of offence in all other cases.

Source www.direct.gov.uk

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