

Private Hire Operator Policy

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BCP Licensing

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Introduction

All requirements contained within this policy together with conditions on the licence are mandatory requirements for holding a Private Hire Operator Licence issued by BCP Council.

From the first day of adoption of this policy ALL licence holders are required to meet these high standards and it is expected that they will ensure that they are fully aware of this policy and comply with all the requirements set out within it.

The Licensing Committee will not accept the excuse that a licence holder was not aware of these requirements when considering any matters brought before them.

1. Purpose Statement

- 1.1 BCP council has a responsibility to issue private hire operator licences under Part II of the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2 A private hire operator licence is required by anyone who, in the course of business, make provision for the invitation or acceptance of bookings for a private hire vehicles.
- 1.3 In the interest of public safety and to safeguard vulnerable persons BCP council seek to ensure that anyone issued with such a licence is considered to be 'fit and proper'.
- 1.4 This Policy is concerned with the regulation of private hire operators and the council adopts the overall approach to encouraging the responsible activity of all operators.
- 1.5 Notwithstanding the existence of this Policy, each application or enforcement measure will be considered on its own merits.
- 1.6 Where it is appropriate for the Council to depart from its Policy clear reasons will be given for doing so. Nothing in this Policy will prevent an applicant or licence holder requesting that the Council considers the individual merits of their case and give reasonable consideration to departing from its Policy. Such requests may either be in writing via email or orally before the Licensing Committee or Sub Committee.

2. Who the policy applies to

- 2.1 This Policy will assist applicants, licence holders, officers of the Licensing Authority, Members of the Licensing Committee, and persons using public carriages to be aware of the standards of conduct and behaviour required of all prospective or existing licenced operators.
- 2.2 This Policy also affords members of the Licensing Committee and Officers alike, to consider the concerns of the public and other recognised bodies, and to take appropriate measures where the behaviour of operators is called into question at application or after licences have been issued.

3. This policy replaces

- 3.1 This Policy replaces the three previous Taxi and Private Hire Public Carriage Policies that covered Bournemouth Borough Council, Christchurch Borough Council and The Borough of Poole

4. Approval process

- 4.1 BCP Council as the Licensing Authority has delegated the Licensing Committee to oversee the development and review of its Private Hire Operator Policy.
- 4.2 Once drafted the policy is subject to a period of public consultation. Consultation responses are reported to the full licensing committee for consideration.
- 4.3 Once finalised the policy is presented to the Full Council for ratification.

5. Links to council strategies

- 5.1 This policy supports the BCP Council Core Strategy.
- 5.2 During the preparation of this policy document due consideration has been given to the following Key Council Strategies:
 - Corporate Plan
 - Sustainable Transport Plan
 - Workforce Strategy
 - Health & Wellbeing Strategy
 - Safeguarding Strategy
 - Climate Change Strategy
 - Children in Care Strategy
 - Crime & Disorder Reduction Strategy
 - Equality & Diversity

6. The policy

- 6.1 This policy is a working document and the Licensing Authority reserves the right to alter and amend the policy as appropriate to correct errors, inconsistencies, clarify guidance, legislative changes and issue a revised version of the policy at any time. However, any **significant changes** to the Policy will only be implemented after a formal consultation process with the trade and public.
- 6.2 Any **significant amendment** is defined as one that:-
 - Is likely to have a significant financial effect on licence holders or
 - Is likely to have a significant procedural effect on licence holders or
 - Is likely to have a significant adverse effect on the community

7. Requirements for applicants

- 7.1 The objective when licensing Private Hire operators is ensuring the protection of the public who will be using the operator's premises and the vehicles and drivers arranged through them.
- 7.2 A Private Hire vehicle may only be dispatched to a customer by a Private Hire operator who holds an operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a Private Hire vehicle.
- 7.3 A Private Hire operator must ensure that every Private Hire vehicle dispatched by him is licensed and driven by a person who holds a Private Hire driver's licence.

- 7.4 All three licences (operator, vehicle and driver) must be issued by the same licensing authority.
- 7.5 It is a criminal offence to operate a Private Hire vehicle without an operator's licence.
- 7.6 Basic DBS check is required for an initial Private Hire Operator application.
- 7.7 DBS checks will be required on an annual basis for licence holders unless they are already licenced as a driver by BCP Council.

Licence Duration

- 7.8 Operators licences will be issued for a standard 5 year period.
- 7.9 However, the council has the power to grant a licence for a shorter period should this be appropriate in the circumstances.
- 7.10 If an operator changes their name or address they must notify the council immediately.

Address from which an Operator may operate

- 7.11 Applicants must specify the address from which they will operate, and records can be inspected. These premises must be in the BCP council conurbation and where necessary should have planning consent for use as a Private Hire office. PO box addresses will not be accepted.
- 7.12 If an operator wishes to change the base from which they operate they will be required to submit a new application.
- 7.13 Operator's licences are non-transferrable. In the event of control of a licensed business passing to a different person, it will be necessary for the new owner of the business to apply afresh for a licence.

8. Application procedure

- 8.1 Applications must be submitted electronically by email to taxi.privatehire@bcpcouncil.gov.uk
- 8.2 To complete an application an applicant must
 - a) Complete an application form
 - b) For each listed director or individual, complete a standard criminal disclosure (DBS) form and produce at least 3 forms of valid identification as required by the DBS (note: a fee is payable for the DBS check). A DBS check may not be necessary if the applicant has registered for the DBS Update Service and provides evidence to that effect, or where the applicant is already a licenced driver with BCP Council;
 - c) All applicants must produce evidence of his or her right to work and live in the UK in accordance with the requirements of the Immigration Act 2016. Right to work in the UK will be checked as part of your licence application and this could include the checking of your immigration status with the Home Office. You must therefore provide a document or document combination that is stipulated as being suitable for this check. The list of documents found via this link https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/774286/Right_to_Work_Checklist.pdf.

- d) Provide evidence of appropriate public liability insurance, if the premises are open to the public;
 - e) Pay the appropriate fee.
- 8.3 If there are restrictions on the length of time the applicant can work in the UK, the licence will not be issued for any longer than this period.
- 8.4 The application will not be determined until all of the above have been provided and the DBS criminal record disclosure certificate has been produced by the applicant
- 8.5 The application will not be determined until all of the above have been provided and the DBS criminal record disclosure certificate has been produced by the applicant.
- 8.6 Applicants are advised to obtain planning consent for the premises. If the planning consent is time restricted it is the operator's responsibility to ensure that a new permission is applied for prior to the current planning permission expiring.
- 8.7 Officers may require a site visit prior to the determination of the licence. The Council has power to impose such conditions on an operator's licence as it considers reasonably necessary.
- 8.8 Appendix A sets out the conditions to be attached to an operator's licence which cover the standards of service expected.
- 8.9 Any applicant who makes a false or inaccurate statement on their application form will not be deemed to be a fit and proper person to hold a licence and their application will be terminated. This includes not disclosing convictions, cautions, penalty or previous licence revocation.
- 8.10 Anyone whose application is refused for making a false or inaccurate statement on their application form will not be permitted to reapply for a licence for 12 months from the termination of their application. It is an offence to knowingly or recklessly make a false statement or to omit information required by the Council by virtue of s.57 Local Government (Miscellaneous Provisions) Act 1976.

9. Criminal records

- 9.1 The applicant must declare any previous criminal convictions, cautions and fixed penalty notices received, including those awaiting appeal, and any charges pending. The council will make a decision as to the relevance of convictions, cautions, charges and fixed penalty notices in accordance with criminal convictions guidelines Appendix B.
- 9.2 The council may require further information from the Police or Crown Prosecution Service. Applicants who have previous criminal convictions, cautions, fixed penalty notices or charges pending will be interviewed and details of that interview may be included in any report which is referred to the Licensing Committee.
- 9.3 Failure to disclose or declare any previous convictions, cautions, fixed penalty notices or pending charges maybe construed as an attempt to deceive and appropriate and proportionate action will be taken
- 9.4 In considering what might be assessed to ensure that an operator is fit and proper or safe and suitable the Licensing Authority considers the following to be amongst appropriate matters that it will take into account:

- Criminality (see criminal convictions guidelines Appendix B)
 - Period of holding a operators licence
 - Conduct of the operator during the licence period, including relationship and co-operation with officers of the Licensing Authority.
 - Right to work in the UK and any time restrictions
 - Characteristics displayed by a licence holder towards customers and others ie staff in the Licensing Team or other council officers and their overall integrity
- 9.5 BCP Council will have regard to the IOL guidance on determining the suitability of applicants and licensees in the taxi and private hire trade as a minimum standard [https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_\(16_May_2018\).pdf](https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf), however the convictions guidelines in Appendix D will be taken as the base line relating to convictions.
- 9.6 In addition consideration on suitability may include other factors including the conduct of the applicant during the application process or during the term of their existing or previous licence as well as their conduct, co-operation and working relationship with the Authority and its officers.
- 9.7 In essence a 'fit and proper' operator;
- should not be violent, abusive or threatening in their behaviour even if subjected to unpleasant, confrontational or dishonest passenger behaviour or when subject to enforcement action from officers
 - should be honest and trustworthy with integrity as they have access to a large amount of personal information that could be misused and significant opportunity to defraud people
 - should work co-operatively with and be civil and respectful towards officers of the Licensing Authority who are carrying out their duties.
- 9.8 This list is not exclusive and other factors may also be relevant to the fit and proper person definition.
- 9.9 The Licensing Authority will consider all information provided to it from sources such as the Police, Children and Adults Safeguarding Boards, Passenger Services and other statutory agencies. Existing licence holders will also have previous history/outcomes during their time as a licensed driver /operator or previous applicant taken into account and their ability to work constructively and positively with the Licensing Authority.
- 9.10 The Licensing Authority will consider all criminal history, unacceptable behaviour and conduct irrespective of whether the specific history, behaviour or conduct occurred whilst licence holders drivers were directly engaged in their professional capacity at work or whether they occurred during the licence holders own personal time.

10. Renewals

- 10.1 Holders of existing operators licences should apply to renew their licence no more than 2 months prior to the expiry of the previous licence.
- 10.2 The council has no duty to notify operators that their licence is due for renewal as it is the licence holder's responsibility to renew their licence. As a courtesy a reminder via email will be sent to the operator in advance of their renewal date.

10.3 Renewal applications and associated paperwork must be submitted electronically via email to taxi.privatehire@bcpcouncil.gov.uk, before the licence has expired. Payment should be made on line.

11.Operator licence conditions

11.1 The Licensing Authority may attach such conditions to a licence as are considered necessary.

11.2 The standard conditions are available in Appendix A.

11.3 All operators must read and understand the licence conditions which will be available on the Council website.

11.4 Failure to comply with the conditions set out in this document may result in enforcement action (see section 15)

12.How to use this policy

12.1 All BCP licensed operators should ensure that they are fully compliant with the policy and appendices

12.2 At first application and renewal licence holders will be provided with an up to date link to this policy and its appendices.

12.3 It is a requirement that all licence holders adhere to this policy and the conditions set out in it. In the event of enforcement action being necessary, it is not deemed acceptable that a licenced operator uses the excuse they were not aware of the requirements of this policy.

13.Roles and responsibilities

13.1 The Licensing Manager is responsible for overseeing the functions and work of the licensing team who deliver the policy.

13.2 The Licensing Committee or Sub- Committee will be presented with reports in cases where operators do not meet the conditions of their licence, or where complaint investigation has resulted in the need for the licence to be reviewed.

14.Enforcement and sanctions

14.1 Any operator who does not comply with this policy, or any conditions contained in it, which leads to a breach of a condition or any complaint received will be subject to investigation, the result of which may be brought before the Licensing Committee.

14.2 The Licensing Committee can choose to revoke a licence or suspend a licence pending any necessary action by the operators such as attending training or improving systems and record keeping as required.

14.3 Decisions by the Licensing Committee are subject to appeal to the Magistrates court within a statutory appeal period of 21 days from the notification of any committee hearing decision.

15.Complaints, disciplinary and delegation to officers

- 15.1 In cases of complaints, allegations or reports of unacceptable behaviour by a licenced operator, the licensing officer will investigate the matter fully and determine the seriousness of the allegation.
- 15.2 Where there are serious allegations that are deemed to pose an **imminent risk to public safety, they** will need to be investigated and actioned immediately. The Licensing Manager or other Licensing officer will try to contact the driver in question to discuss the allegations. If the officer deems that the complaint is founded, and the evidence is sufficient to support the allegation of an imminent risk to public safety, then the matter will be referred to three members of the Licensing Committee to include the Chair and/or Vice Chair for the to make a decision if any immediate action needs to be taken in respect of a licence.
- 15.3 If members determine that the evidence presented demonstrates there is an imminent risk to public safety, the driver's licence could be immediately revoked and the driver concerned will be notified and required to surrender their badge and paper licence the same day. Members will confirm in writing the decision made and the reasons why the decision was reached.
- 15.4 If members agree there is a risk to public safety, but it is not an imminent risk the matter will be referred to the Licensing Sub-Committee.
- 15.5 Complaints of a less serious matter will be dealt with by the Licensing Manager or another licensing officer, who is permitted to issue/authorise a letter of caution and/or suspend a licence for a period of no more than 2 weeks.
- 15.6 In all cases of complaint, officers will make reference to the driver licence conditions attached to all licences as detailed in Appendix B, the convictions guidelines in Appendix D as well as the Institute of Licensing guidance on the suitability of applicants and licensees in the hackney and private hire trades.
[https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_\(16_May_2018\).pdf](https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)

Appendix A

Private Hire Operator Conditions of Licence

These conditions of licence are made pursuant to of the Local Government (Miscellaneous Provisions) Act 1976 the Town and Police Clauses Act 1847

All operators must comply with the requirements of The Equality Act 2010

1. Record Keeping

The records required to be kept by the operator under s.56 (2) of the Local Government (Miscellaneous Provisions) Act 1976 must be kept in a suitable book, the pages of which are numbered consecutively, a computer record or other durable recording format. The operator shall enter or cause to be entered therein before the commencement of each journey, the following particulars of every booking of a private hire vehicle invited or accepted by him:-

- a) The time and date of the booking
- b) The name of the hirer
- c) The time of the pick-up
- d) The point of pick-up
- e) The destination
- f) The licence number of the vehicle allocated for the booking
- g) The name of any individual who responded to the bookings (where applicable)
- h) The name of any individual that dispatched the vehicle (where applicable)
- i) Remarks (including details of any sub-contract).

When the Operator passes the hiring to another company the record shall include the name, address and Council with which that Operator is licensed.

The operator shall also keep records of the particulars of all vehicles operated by him, which particulars shall include details of the proprietors, registration numbers and drivers of such vehicles, together with any radio call sign used.

The operator shall also keep records of all employee who take booking and dispatch vehicles.

Copies of all vehicle and driver licences shall be kept by the operator. All records kept by the operator shall be preserved for a period of not less than TWO years following the date of the last entry.

The Operator shall document the following particulars of any vehicle operated:

- a) The registration number of the vehicle
- b) The number of the identification plate provided by the Council pursuant to s.48(5) of the 1976 Act
- c) The make and model of the vehicle
- d) The name and address of the proprietor(s) of the vehicle
- e) The number of passengers permitted to be carried in the vehicle, as shown on the licence
- f) The start and expiry dates of the vehicle's licence issued by the Council
- g) The date on which the vehicle was added to the operator's fleet
- h) The date on which the vehicle was withdrawn from the operator's fleet.

The Operator shall keep a record of the following particulars of all licensed drivers:

- a) The full names of the driver
- b) The permanent address of the driver
- c) The drivers date of birth
- d) The drivers licence (badge) number
- e) The start and expiry dates of the driver's licence issued by the Council
- f) The dates the driver's engagement/employment was commenced and terminated.

The operator is required to keep a record of criminal record checks for all employees who take bookings and dispatch vehicles

2. Standard of Service

The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose shall in particular:-

- a) Ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place;
- b) Keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting;
- c) Ensure that any waiting area provided by the operator has adequate seating facilities;
- d) Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.
- e) Ensure that all vehicles dispatched by them are maintained at all times in a safe and roadworthy condition.
- f) Publish a complaints handling procedure, detailing how members of the public may make complaints to the Operator, in respect of any aspect of the service provided, and investigate any complaints received in a timely manner, making details of such complaints and investigations available to authorised Council

3. Safeguarding

The operator shall ensure all staff who take bookings and dispatch vehicles have been provided with suitable training in the awareness of and reporting of safeguarding concerns which includes human trafficking, county lines and child sexual exploitation.

The operator will keep records for all staff who have received training.

4. Complaints

The operator shall notify the Council in writing (email), within 7 days, of any complaints that are of a serious nature, in line with their policy

5. Change of Operator's Home Address

The operator shall notify the Council in writing of any change of his/her home address during the period of the licence within seven days of such change taking place.

6. Change of Operator's Business Premises

If an operator wishes to change the base from which they operate they will be required to submit a new application. (Note: all operators' business premises must be within the BCP Council Boundary).

7. Convictions and Cautions

The operator shall within seven days disclose to the Council in writing details of any conviction or caution imposed on him/her (or, if the operator is a Company, of any its Directors) during the period of the licence.

8. Operator's Licence

Operators shall operate wholly from those premises specified in the licence and situated within the boundaries

The Operator shall display the Operator's Licence issued by the Council in a conspicuous position at the licensed premises.

9. Signage

Each Private Hire Operator is responsible for ensuring that their advertising is only placed on a vehicle linked to their circuit. Only advertising approved by the Licensing Officers may be displayed.

When an operator ceases to dispatch a vehicle, the operator shall ensure that the driver returns all such signage and livery to them

10. Public Liability Insurance

Operators shall have at all times a current valid policy of public liability insurance for the premises they are licensed to operate from, if those premises are open to the public.

11. Duty to cooperate on regulatory matters

Operators must co-operate with authorised officers of the council in all matters relating to the regulation of the licensed vehicle trade. However nothing in this condition affects the licence holders statutory protection afforded by other legislation.

Criminal Convictions Guidelines

NOTE: In the Council's view this statement and the guidelines that follow are compatible with the rights and freedoms under the European Convention on Human Rights.

This document aims to provide 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/renewed
- Applicants for operators' licences
- Existing licensed operators whose licences are being reviewed/renewed
- Licensing Officers
- Members of the Licensing Committee (or other relevant decision making body)
- Magistrates hearing appeals against local authority decisions
- Police Officers

Thereby providing transparency and consistency, in accordance with the principles of good enforcement and relevant Regulatory Compliance Codes.

Where Licensing Officers have delegated powers to grant or refuse 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 (or other relevant decision-making body). Whilst Officers and the Committee will have regard to the guidelines contained in the policy, each case will be considered on its individual merits and, where the circumstances demand, the Committee may depart from the guidelines.

1. Background

- 1.1 In this policy the word "individual" includes an existing licence holder, an applicant for a new licence, and an applicant for the renewal of an existing licence.
- 1.2 Licences for drivers of Hackney Carriages, Private Hire vehicles or Private Hire Operator may only be granted where the Council is satisfied that the individual is a fit and proper person to hold such a licence.
- 1.3 In this policy the word "issue" is used. This includes complaints made to the Council, Police, Operators or any other agency, breaches of licensing conditions and intelligence received from other agencies (including circumstances which have not resulted in a criminal conviction, caution or other disposal). E.g. incidents which have resulted in a police investigation where there has been no further action due to the criminal burden of proof will still be considered if Licensing Committee is satisfied that the incident occurred based on the balance of probabilities.
- 1.4 Licences for operators of Private Hire vehicles may only be granted where the Council is satisfied that the individual is a fit and proper person to hold such a licence.
- 1.5 The document is intended to give guidance on one aspect of whether a person is or is not a fit and proper person namely the situation where a person has previous convictions and cautions.
- 1.6 The Council is concerned to ensure:

- a. That a person is a fit and proper person.
 - b. The public are not exposed to persons with a history of dishonesty, indecency or violence.
 - c. The safeguarding of children and young persons and vulnerable adults.
- 1.7 The public are not normally permitted to attend Committee hearings for private hire, Hackney Carriage driver applications or Private Hire operator applications or reviews, however, in determining whether to grant a licence the Committee or Officers will take into account the human rights of the wider public and balance these against the human rights of the applicant.
 - 1.8 When submitting an application for a licence to drive a Hackney Carriage or Private Hire vehicle, or for an operators' licence, individuals are required to declare all previous convictions they may have. Individuals are also required to declare all formal/simple cautions, any matters of restorative justice and all fixed penalties and all endorsable fixed penalties they have received and to provide details of all criminal matters of which they are currently the subject of criminal investigation or prosecution.
 - 1.9 An application for a drivers' licence is an exempt activity listed in the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (as amended in 2013) and as such both spent and unspent convictions and cautions must be declared.
 - 1.10 The information given will be treated in confidence and will only be taken into account in relation to the relevant application to assist the Council in determining whether the applicant is a fit and proper person to hold a licence for the purposes of sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, or whether the Council should exercise any of its powers under section 61 and 62 of the Act (i.e. suspension, revocation or refusal to renew a licence).

Where a person is referred to the Licensing Committee and they hold more than one Licence the fit and proper test will be applied individually to each Licence.

- 1.11 Applicants for a licence to drive a Hackney Carriage or Private Hire vehicle should be aware that the Council is empowered by law to check with the Disclosure Barring Service for the existence and content of any criminal record and other intelligence held in their name. Officers from the licensing section will where appropriate contact other agencies for any other information which they may hold for instance, Housing Service, Children's Services and Dorset Police. Information received from the Disclosure Barring Service or other agency will be kept in strict confidence while the licensing process takes its course and will be retained no longer than is necessary and in any event, will be destroyed in accordance with the requirements of the Data Protection Act 1998 and in accordance with good practice after the application is determined or any appeal against such determination is decided.
- 1.12 The disclosure of a criminal convictions/fines or cautions or other relevant information relating to an individual's conduct will not necessarily debar an individual from being granted, retaining or renewing a licence. It will depend on whether or not the individual can satisfy the Council that they are a fit and proper person to hold such a licence.
- 1.13 The Council may fail to be satisfied that an individual is a fit and proper person to hold a driver's licence or an operator's licence for any reasonable cause. If an applicant is unable to produce adequate evidence that they are a fit and proper person or if there is reasonable cause to question or doubt the evidence provided, then that could amount to reasonable cause to refuse a licence.

1.14 In considering evidence of an individual's good character and fitness to hold a driver's licence or operator's licence, where previous convictions/cautions or other information relating to criminal matters/character is disclosed, the Council will consider the nature of the offence/issue and penalty; when it was committed/took place; the date of conviction/issue and the length of time which has elapsed, the individual's age when the offence was committed/issue took place; whether or not it is part of a pattern of criminal behaviour, the intent, the harm which was, or could have been caused and any other factors which might be relevant. Where an individual has been convicted of a criminal offence, the Council cannot review the merits of the conviction [*Nottingham City Council v. Mohammed Farooq (1998)*].

However, if an individual is acquitted of an offence, the Council are entitled to go behind the acquittal because of the different standard of proof (*R v Maidstone Crown Court Ex Parte Olson 1992*).

1.15 The Council has adopted the following guidelines relating to the relevance of convictions to which it refers in determining new/renewal applications for drivers' licences and operators' licences and when considering whether to take any disciplinary action against an existing licence holder.

1.16 The guidelines do not deal with every type of offence, and do not prevent the Council from taking into account offences not listed in the guidelines, or any other conduct, which may be relevant to an individual. Regard will be given to all relevant information when deciding to issue or renew a licence or whether any disciplinary action should be taken.

1.17 Offences described in the guidelines and similar offences, though differently entitled in any statutory provision, modification or re-enactment, will be taken into account in accordance with the guidelines.

1.18 The guidelines are not an attempt to define what is a "fit and proper person". There is no statutory definition of what is a "fit and proper person" but is guidance given in the case of *McCool v Rushcliffe BC 1998*.

1.19 Any individual who is refused a driver's licence or has such a licence suspended or revoked on the ground that the Council is not satisfied he/she is a fit and proper person to hold such a licence has a right of appeal to the Magistrates' Court within 21 days of the notice of refusal.

1.20 Any individual who is refused an operator's licence has a right of appeal to the Magistrates' Court within 21 days of the notice of refusal.

2. General Policy

2.1 Each case will be decided on its own merits. A person with a conviction for a single serious offence or a number of separate offences need not be automatically barred from obtaining a licence, but would normally be expected to:

- a. Remain free of conviction for an appropriate period (which will depend on the nature of the offence); and
- b. Show adequate evidence that he or she is a fit and proper person;
- c. Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

2.2 The Council has a duty to ensure so far as possible that drivers and operators are fit and

proper persons to hold licences. One aspect of that is the extent to which previous convictions, including but not limited to convictions for offences against children and young persons, dishonesty, sexual offences, traffic offences, violence and drugs indicate that a person is not a fit and proper person, and would not take advantage of passengers or abuse or assault them.

- 2.3 In reaching a decision the Council may assess the seriousness of the offence in accordance with the penalty imposed in using the following table:

Sentence length	Rehabilitation period
0-6 Months	3 years
6-30 Months	5 years
30 months to 4 years	7 years
Over 4 years	None

- 2.3.1 Restorative justice and other criminal disposals are increasingly used by the police as a less formal way of dealing with issues and as an alternative to the criminal disposals tend to be applied in less serious cases or for first time offenders, nevertheless all such disposals will be taken into account when determining if a person is a fit and proper person.

- 2.3.2 Amongst situations where it may be appropriate to depart from the general policy, for example, may be situations where the offence is an isolated one with mitigating circumstances or where a conviction defaults outside of the policy between the application and determination date. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour, which will be taken into account. In any case which involves certain specified sexual offences, murder or manslaughter a licence will normally be refused.

- 2.6 The Council through the Licensing Committee will convene to consider any information/representations received that a person is not/no longer a “fit and proper” person, or if a breach of a condition of a licence. If proved they may refuse, or revoke a licence or suspend for any specified period.

- a. Hearing with notice – Where a Committee is to be convened to consider whether or not a person is a “fit and proper” person, notice of the time and date of the meeting will be given in order to allow the person to seek independent legal advice and to attend and be represented at the hearing.
- b. Hearing without notice – Where a sub-committee is convened as a result of sensitive information being received by the Council an assessment will be undertaken in balancing a person’s right to a fair hearing against whether or not it is in the public interest to hold the hearing without notice against the Councils first priority of Public Safety.
- c. Where new offences are created or existing offences are consolidated or re-enacted etc. they will be treated in a manner appropriate to their severity whether or not this guidance has been updated to reflect the changes.

3. Disclosed Convictions General Guide

Spent Convictions

- 3.1 The Council will only consider spent convictions if it appears to be relevant for deciding whether the individual is a fit and proper person to hold a licence and that justice cannot be

done in the case, except by admitting or requiring evidence relating to that spent conviction. The council will consider the nature of the offence(s), the history or pattern of offending, the lapse of time and whether all the convictions have previously been considered.

Formal/Simple Cautions and Endorsable Fixed Penalties

- 3.2 For the purpose of these guidelines formal/simple/conditional cautions and endorsable fixed penalties shall be treated as though they were convictions.

Multiple Convictions from a Single Incident

- 3.3 Where an individual has multiple convictions arising from a single incident, the convictions will generally be treated as one conviction for the purposes of these guidelines.
- 3.4 In these circumstances the period for which the individual would normally be expected to show free from conviction will be the longest applicable period calculated by reference to each offence.

4. Offence of Dishonesty

- 4.1 In view of the nature of their work drivers of Hackney Carriage and Private Hire vehicles are expected to be trustworthy.
- 4.2 Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing, Passengers may include especially vulnerable people and children.
- 4.3 It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.
- 4.4 The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into drivers.
- 4.5 In certain situations, drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station.
- 4.6 For these reasons a serious view is taken of any convictions involving dishonesty. In general, an applicant with conviction(s) and/or caution(s) for dishonesty, which are less than 5 years old, is unlikely to be considered favourably and are to be referred to the Licensing Committee for determination.
- 4.7 In particular, an application will normally be refused where the individual has conviction(s) and/or caution(s) for an offence or similar offences or offences which replace the below offences.
- i. Theft
 - ii. Burglary
 - iii. Fraud
 - iv. Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
 - v. Handling or receiving stolen goods
 - vi. Forgery (e.g. producing false insurance policy)
 - vii. Conspiracy to defraud
 - viii. Obtaining money or property by deception

- ix. Other deception
- x. Blackmail

5. Violence

- 5.1 Members of the public and in particular, the elderly, infirm and children or vulnerable adults entrust their personal safety to Private Hire and Hackney Carriage drivers whenever they take a journey.
- 5.2 Passengers often travel alone and are vulnerable to physical attack etc. Users of Private Hire and Hackney Carriage vehicle have a right to expect that drivers are not individuals with a predisposition towards or a propensity for violent behaviour at any level.

6. Offences against Other Persons

- 6.1 As Hackney Carriage and Private Hire vehicle drivers maintain close contact with the public, where the commission of an offence involved loss of life a licence will normally be refused.
- 6.2 The Council seeks to minimise risks associated with children and young persons and for that reason a more serious view will be taken where offences of violence children under 14 or young persons.
- 6.3 An application will normally be refused where the individual has a conviction for an offence or similar offence(s), or similar offence(s) which replace the below offences:
 - Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
- 6.4 An application will also normally be refused where the individual has a conviction for an offence or similar offence(s) or similar offence(s) which replace the below offences:
 - Malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
 - Actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
 - Grievous bodily harm with intent (s.18 Offences Against the Person Act)
 - Grievous bodily harm with intent (s.20 Offences Against the Person Act)
 - Robbery
 - Possession of firearm
 - Riot
 - Assault Police
 - Common assault with racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
 - Violent disorder
 - Resisting arrest
- 6.5 An application will also normally be refused where the individual has a conviction for an offence or similar offence(s) or similar offence(s) which replace the below offences.
 - Racially-aggravated criminal damage (s.30 Crime and Disorder Act 1998)
 - Racially-aggravated s.4 Public Order Act 1986 offence (fear of

- provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress (s.31(1)(b) Crime and Disorder Act 1998)
- Racially-aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32(1)(b) Crime and Disorder Act 1998)
- Racially-aggravated s5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)

6.6 An application will also normally be refused where the individual has a conviction for an offence or similar offence(s) or similar offence(s) which replace the below offences.

- Common assault
- Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
- 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)
- Harassment- breach of restraining order- on conviction Protection from Harassment Act 1997 s5(5) = s. 5(6)
- Obstruction
- Possession of offensive weapon
- Criminal damage

7. Drugs

7.1 An application will normally be refused where the individual has a conviction for an offence related to the supply of drugs and the conviction is less than 5-10 years prior to the date of application.

7.2 An offence related to the supply of drugs and the conviction is less than 10 years prior to the date of application will be referred to the Panel for determination. A conviction less than 5 years old will generally be refused.

7.3 An application will normally be refused where the individual has more than one conviction for offences related to the possession of drugs.

7.4 For convictions for driving whilst unfit through drugs see Section 10 'Drunkness.'

7.5 If any applicant was an addict, then they will normally be required to show evidence of 5 years free from drug taking after detoxification treatment as required by the Council.

8. Sexual and Indecency Offences

8.1 Any individual currently on the sex offenders' register would not normally be granted a licence.

- 8.2 Drivers of Hackney Carriage and Private Hire vehicles are often entrusted with care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.
- 8.3 Where the commission of a sexual offence involves a child or young person an application for a licence will normally be refused.
- 8.4 The Council will sometimes be made aware of other intelligence or low level information about an individual which has not resulted in the conviction of that person but is relevant in relation to their character. Officers will give appropriate consideration to this information and will seek to consult with other appropriate agencies such as police and social services, in order to ensure that they have a comprehensive understanding. Where appropriate, officers will refer such information/ intelligence to other agencies. Any additional information gathered through this process may then be taken into account at any subsequent licensing committee.

9. Offences against persons other than children / young persons

- 9.1 As Hackney Carriage and Private Hire vehicle drivers often carry unaccompanied passengers, an individual with a conviction for rape, indecent assault, or other similar offences or similar offences under the Sexual Offences Act 2003, will normally be refused a licence.
- 9.2 Individuals with a conviction relating to sexual offences such as soliciting, importuning, indecent exposure or other similar offences or similar offences under the Sexual Offences Act 2003, will normally be referred to the Committee for determination.
- 9.3 Amongst circumstances, which the Council may wish to consider, are circumstances, which if they occurred at the time of the consideration of the application would not now be a criminal offence.

10 Drunkenness

- 10.1 Driving whilst under the influence of drink is unacceptable under any circumstances and puts not only the driver, but passengers and other road users at risk. Such irresponsible behaviour is not conducive with the responsibilities of a Private Hire or Hackney Carriage driver.

With a motor vehicle (No Disqualification)

- 10.2 A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink.
- 10.3 An application will normally be refused where the individual has a conviction, which does not result in disqualification, for an offence within 2 years of the date of the application.

With a motor vehicle (Disqualification)

- 10.4 Where a disqualification has occurred as a result of a drink-driving offence, an application will not normally be considered until at least 5 years have passed from the date of the restoration of the DVLA licence.

Not in a motor vehicle

- 10.5 An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate.
- 10.6 In addition, individual will generally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic.
- 10.7 More than one conviction for drunkenness could indicate a medical problem necessitating critical examination and refusal of a licence.

11. Motoring Convictions

Major Traffic Offences

- 11.1 New applicants and existing licensed drivers with a conviction for a ‘Major Traffic Offence’ as defined below, which is less than 5 years prior to the date of the application (the present date in relation to existing licensed drivers) will be referred to the Licensing Committee for determination. A conviction less than 2 years prior to the date of the application will generally be refused.
- 11.2 Where the conviction resulted in a period of disqualification, an application will normally be refused unless a period of 3 years free from conviction has lapsed from the restoration of the DVLA licence and 5 years where the disqualification relates to driving whilst unfit through drink or drugs
For the purposes of these guidelines the following motoring offences are classed as ‘Major Traffic Offences’:

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of Court
BA30	Attempting to drive while disqualified by order of Court
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death through careless driving when unfit through drugs
CD60	Causing death through careless driving with alcohol level above the limit
CD70	Causing death through careless driving then failing to supply a specimen for alcohol analysis
CD71	Causing death through careless driving the failing to supply a specimen for drug analysis
DD10	Causing Serious injury by dangerous driving
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DD90	Furious driving
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink

DR30	Driving or attempting to drive then failing to supply a specimen for
DR31	Driving or attempting to drive when unfit through drugs
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other
DR61	Failure to provide specimen for drug analysis in circumstances other than driving / attempting to drive
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
MS90	Failure to give information as to identity of driver, etc.
UT50	Aggravated taking of a vehicle

Aiding, Abetting, Counselling or Procuring

- 11.3 Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12).

Causing or Permitting

- 11.4 Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14).

Inciting

- 11.5 Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16). Or similar offences or offences which replace the above offences.

Intermediate and Minor Traffic Offences

- 11.6 New applicants and existing licensed drivers with a Conviction / Fine / Simple Caution/Fixed Penalty Points for an offence which falls under the headings of 'Minor' or 'Intermediate' Traffic Offences and where the total number of accumulated points on their drivers licence is less than 12 or does not result in a period of disqualification, can have their applications granted without the application being referred to the Committee.
- 11.7 An applicant with a disqualification owing to the totting up system or in relation to an offence under these two group headings for any period of disqualification, will not normally

be granted a licence unless they have held a DVLA licence for at least 12 months following the expiry of the period of the disqualification.

- 11.8 Existing drivers disqualified for incurring 12 or more penalty points within a three year period, will be required to complete a driver competency assessment on expiry of the disqualification before they are allowed to drive a public carriage. If the driver is not disqualified their Public Carriage Licence will be suspended until a driver competency assessment has been completed.

For the purposes of these guidelines the following motoring offences are classed as 'Intermediate Traffic Offences':

CU10	Using vehicle with defective brakes
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
CU30	Using a vehicle with defective tyres
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
CU80	Breach of requirements as to control of the vehicle mobile phones etc
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration of other road users
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road – not resulting in a fixed penalty
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Exceeding speed limit offence

Aiding, Abetting, Counselling or Procuring

- 11.9 Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12).

Causing or Permitting

- 11.10 Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14).

Inciting

- 11.11 Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16).

For the purposes of these guidelines the following motoring offences are classed as 'Minor Traffic Offences':

MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with stationary
SP30	Exceeding statutory speed limit on a public road resulting in a fixed
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a "Stop" sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring

11.12 Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12).

Causing or permitting

11.13 Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14).

Inciting

11.14 Offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16).

12. Plying for Hire

12.1 Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and Hackney Carriage Byelaws and Section 167 Criminal Justice and Public Order Act 1994.

12.2 One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the Acts") and Hackney Carriage Byelaws, is to ensure the protection of the public.

- 12.3 For this reason, a serious view is taken of convictions for offences under the Acts (including illegally plying for hire and/or touting) when deciding whether an individual is to be treated as a fit and proper person to hold a licence.
- 12.4 In particular, an individual will normally be refused a licence if (s)he has been convicted of an offence under the Acts at any time during the 2 years preceding the application or has more than one conviction within the last 5 years preceding the date of the application.
- 12.5 In the case of a Private Hire driver found guilty of an offence of plying for hire, the driver would be asked to appear before the Licensing Committee to show why they believe they are still a fit and proper person to hold a public carriage drivers licence. The Committee will consider will whether any further disciplinary action should be taken.

13. Breach of Conditions, and complaints

- 13.1 This guidance is not intended to cover every possible circumstance and there is an expectation that licensees will comply with all relevant legislation.
- 13.2 The Licensing Authority will act with proportionality and consistency. Disciplinary action taken under this policy is without prejudice to the Licensing Authorities right to institute legal proceedings, where a criminal offence has been committed.

Examples of licensing breaches or conduct likely to receive a written caution

- 13.3 Cautioning may be appropriate for single breaches, where the offender has not received any written caution or other disciplinary action for the same or similar breach within the last 12 months:

General

- Persistent failure to comply with Road Traffic legislation.
- Failure to behave in a civil and orderly manner to customer and/or other road users.
- Refusal to carry passengers without reasonable excuse/ refusing to wait.
- Failure to convey or assist with carrying of luggage.
- Driving in a manner likely to cause alarm to passengers/ road users.
- Failure to display tariff or fares or to conceal same.
- Vehicle not cleaned or well maintained.
- Failure to wear/display driver badge.
- Failure to deliver lost property to Town Hall.

Vehicle defects

- Failure to display vehicle licence plate/licence disc internally/ other signage.
- Failure to report accident within 72 hours.
- Failure to produce insurance documents at request of authorised officer within 5 days.
- Failure to produce interim MOT.
- Unauthorised signs /window stickers/ adverts.
- Failure to notify transfer of vehicle licence—or change of vehicle.
- Defective taxi meter/ printer.
- Defective taxi top light.
- Unattended Hackney Carriage vehicle on rank.
- Failure to attend mechanical inspection.
- Late cancellation of mechanical inspection—give less than 24 hours’ notice.
- Defective lights, horn, indicators, exhaust system, tyres, brakes.

Operator breaches

- Premises unclean—not fit for use.
- Failure to keep proper records of bookings of complaints.
- Failure to keep current driver/ vehicle licence details.

13.4 In all cases the caution will be in writing and stipulate a timescale for the matter to be corrected, if appropriate. If the matter is not corrected within the timescale stipulated, or there is a repetition, further disciplinary action may follow.

13.5 The Licensing Team Manager or another manager at principal officer level or higher, has authority to approve and issue letters of caution.

Examples of licensing breaches or conduct likely to receive suspension for a defined period, or revocation of licence:

- Any of the contraventions listed in the 'caution' section above, in these or similar circumstances:
- where the offender has received a written caution or other disciplinary action for the same or a similar breach within the last 12 months; or
- where the offender did not correct a matter as required by a written caution; or where several breaches have been committed together; or where the matter is considered too serious for a caution to be appropriate.
- Permitting no insurance, or insurance that is invalid to cover public carriage use
- Permitting unauthorised/ unlicensed drivers.
- Using or permitting use of unlicensed /unauthorised vehicle.
- Falsifying or making untrue representations in Licence applications or other council licensing documentation.
- Obstruction of an authorised officer of the Council or of a Police Officer in the course of their duty.
- The commission of a criminal offence, or engagement in an activity of a type that brings suitability as a licensee into question.
- Causing injury to passengers, members of the public or other road users by negligence or intent.

13.6 The action taken will be proportionate and take into account all the circumstances including previous suspensions and cautions. Decisions will be determined by a review of available facts at the time the decision is taken.

14. Authority to suspend or revoke.

Suspension/Revocation with immediate effect:

- 14.1 A licence can be suspended or revoked immediately in the interests of public safety under the provisions of section 61(2B) of the Local Government (Miscellaneous Provisions) 1976. If the Council is advised of such conduct, a decision may be taken in consultation between officers and at least three members of the Licensing Committee. In such cases efforts, will be made to contact the driver to advise of the situation and establish if there is any other information that may be relevant and should be considered before any decision is made.

Suspension/Revocation/Caution following Licensing Committee hearing:

- 14.2 Where a decision does not need to be considered immediately, it will be considered at a formal hearing of the Licensing Committee where the alleged offender (and any witnesses) will be afforded the opportunity to hear the evidence and present their case.
- 14.3 Following a hearing members may direct that letters of caution be issued, suspend a licence for specified periods of time, or revoke a licence. Other conditions or stipulations may be attached to the decision as Members see fit.

Appeals against decisions taken

- 14.4 Decision to caution by manager—register a complaint in writing to the Head of Community Safety .
- 14.5 Decision to caution by Members—no appeal possible.
- 14.6 Decision to suspend or revoke licence— relevant information regarding statutory right of appeal to the Magistrates Court, will be provided in a written notification of the Council's decision.

15. Reapplication

- 15.1 Where an applicant has previously had a licence revoked by the Council the Authority will not, save in exceptional circumstances, consider any further application from the applicant for a period of three years from the date of the Authority's decision or, if that decision was appealed against and the appeal was dismissed, abandoned, or otherwise failed, from the date of the dismissal, abandonment or other failure of the appeal, whichever is the later.