



# GUIDELINES ON FITNESS OF APPLICANTS FOR HACKNEY CARRIAGE / PRIVATE HIRE DRIVER'S LICENCES

<b>AUTHOR</b>	Ross Hill – Licensing Team Leader, Legal Governance
<b>RESPONSIBLE OFFICER</b>	Mark Brookes – Group Manager, Legal Governance

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# 1. Introduction

- 1.1. This document sets out the guidelines adopted by Dacorum Borough Council in respect of the consideration of whether an applicant is fit and proper to hold a hackney carriage or private hire driver's licence.
- 1.2. The Council is responsible for regulating the provision of hackney carriage and private hire services under the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976, and other related legislation. When considering applications for many of the licence types available under the legislative framework, including hackney carriage and private hire driver's licences, the Council must be satisfied that the applicant is a fit and proper person to hold such a licence.
- 1.3. This document contains guidance for Officers and the Members of the Licensing Health & Safety Enforcement Committee on the way in which an applicant's fitness should be considered. However, it is important to note that every application **must** be treated on its own merits, and the contents of this document do not bind the Council, its officers or the Committee. Decisions may be made that depart from the guidance herein, if the circumstances of the application warrant doing so. Any decision should be accompanied by full reasons for that decision, and those making the decision should be aware that departing without sufficient reason, or failing to give consideration to such circumstances, may give rise to a judicial review of the decision.
- 1.4. It is noted that no attempt is made within the legislation to define the term "fit and proper person", and these guidelines likewise make no attempt to formulate such a definition. The Council may consider any relevant issue when making its determination on this point, and these guidelines should be regarded as examples of issues that may lead to the Council not being satisfied that an applicant is fit and proper, rather than an exhaustive list of the issues that may be taken into consideration.
- 1.5. The Council may fail to be satisfied that a person is a fit and proper person to hold a driver's licence for any good reason. If adequate evidence of good character is not available or if there is good reason to question or doubt the evidence produced, then that in itself could amount to good reason to refuse an application.
- 1.6. An applicant who does not satisfy these guidelines will not necessarily be barred from obtaining a licence. The Council will consider each case on its own merits, taking into account any relevant circumstances or mitigating factors.
- 1.7. The overriding consideration in compiling and interpreting these guidelines is the safety of the public. The Council has a duty to ensure that those licensed to drive hackney carriages and private hire vehicles are suitable persons to do so, and will wish to satisfy itself that applicants and licensed drivers are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.
- 1.8. These guidelines may be taken into account by the Council when dealing with any of the following matters:
  - an application for a new hackney carriage driver's licence (section 46, Town Police Clauses Act 1847/section 59, Local Government (Miscellaneous Provisions) Act 1976)
  - an application for a new private hire driver's licence (section 51, LG(MP)A 1976)
  - an application to renew a private hire or hackney carriage driver's licence (sections 51, 59 and 61, LG(MP)A 1976)
  - a proposal to suspend or revoke a hackney carriage or private hire driver's licence (section 61, LG(MP)A 1976)

- 1.9. Although section 61 of the 1976 Act does not contain the same reference to a “fit and proper person”, the fact that such action may be taken due to “any other reasonable cause” will generally lead the Council to include similar guidelines in its considerations under that section. Any references in this document to the refusal of an application should therefore be read to include suspension or revocation of a licence.
- 1.10. Any person refused a driver’s licence on the grounds that the Council is not satisfied that they are not a fit and proper person to hold a licence (or where a licence was suspended or revoked, as the case may be) has a right of appeal to the magistrates’ court within 21 days of receiving notice of the decision.
- 1.11. Information provided by applicants will be treated in confidence and will only be utilised by the Council to determine whether the applicant is a fit and proper person to hold a hackney carriage or private hire driver’s licence for the purposes of sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.
- 1.12. The guidelines have been drawn up with regard to the Department of Transport’s “Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (March 2010)”, and in accordance with government advice contained in Department of Transport Circular 2/92 and Home Office Circular 13/92.
- 1.13. This document was approved at a meeting of the Council’s Licensing Health & Safety Enforcement Committee on the 12<sup>th</sup> February 2013, and was published via our website, at [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)

## **2. Driving entitlement**

- 2.1. In accordance with sections 51(1)(b) and 59(1)(b) of the 1976 Act, licences may not lawfully be granted to any person who has not been authorised to drive a motor car for at least 12 months, or who is not so authorised at the time of application.
- 2.2. The Council has adopted a policy going beyond this requirement, and will expect applicants for hackney carriage or private hire drivers licences to have held a full motor car driving licence for at least 36 months prior to applying for a licence. Applications will generally be refused if this requirement is not satisfied.
- 2.3. Applicants will be required to produce their current, full driving licence for inspection, with their application, bearing the applicant's current home address. Where a licence has been issued in two parts (counterpart and photo card) both must be shown.
- 2.4. The Council will also carry out a separate check of an applicant's entitlement to drive in the UK via an appropriate verification agency. Applicants will be required to sign a consent form for this check as part of their application.
- 2.5. All applicants must hold either a full UK driving licence, or one issued by another Member State of the European Community (EC) or one of the other countries in the EEA. European licences may be used for a limited period only, dependent upon the applicant's circumstances, and the Council shall have regard to any guidance given by the Driver and Vehicle Licensing Agency (DVLA) in this regard.
- 2.6. The Council has also adopted a policy requiring any applicant who holds a driving licence issued by an EEA member state to obtain a British licence counterpart, prior to making their application. This will ensure that the applicant is formally recorded on UK driving licence databases, and may be allocated licence endorsements and penalty points for motoring offences committed in the UK, thus creating an ongoing record on driving conduct, of a type relevant to vocational drivers. Both the British counterpart and the original European licence must be produced on making an application. British counterparts may be obtained from DVLA through the completion of form D9.
- 2.7. Where a driving licence shows an entitlement to drive in the UK that is valid for less than 3 years, a licence may, at the discretion of the Council, be issued to expire upon the end of that entitlement. An application to renew the licence would need to be accompanied by evidence of the renewed entitlement to drive in the UK.
- 2.8. Driving licence endorsements are covered later in this document. However, should a licence-holder be disqualified from driving during the validity of a licence, either following a serious offence or under the 'totting-up procedures', the Council will generally look to suspend or revoke the licence(s) held by that person.

### **3. Character and licensing history**

- 3.1. This heading is a particularly wide ranging one, but can be summed up generally as the Council requiring applicants and licence-holders to conduct themselves appropriately and honestly in their dealings both with the public and with the Council.
- 3.2. Although the Council will not seek character references in most cases, any other information may be taken into account, should the Council deem it relevant to the application in question.
- 3.3. Where an applicant has previously held (or currently holds) a licence, whether issued by Dacorum or another local authority, information about the applicant's conduct under the previous licence(s) may be taken into account in considering an application. This may include details of any complaints made against the applicant, warnings given to the applicant by officers, or records of adverse conduct by the applicant towards members of the public, other licence holders, or officers. If there is a substantial negative history of such issues, an application will generally be refused.
- 3.4. In addition to considering the outcomes of any individual legal actions, warnings or convictions for the above-mentioned issues, the Council may also draw appropriate inferences from repeat incidents or patterns of such issues which may not necessarily have resulted in formal action.
- 3.5. If an application has previously been refused (or a licence revoked), then any further applications made within the period of 24 months from the date of refusal (or revocation) will generally be refused. If the grounds for revocation or refusal are particularly serious, then this period may be extended at the discretion of the Council.
- 3.6. Knowingly or recklessly making a false statement in, or in connection with, an application is likely to result in that application being refused. In addition, as such conduct may constitute a criminal offence under section 57(3) of the Local Government (Miscellaneous Provisions) Act 1976, legal action may also be taken against the applicant.
- 3.7. Where an existing licence-holder is under an obligation to provide information to the Council (for example, details of any convictions or motoring endorsements received during the validity of the licence) and has failed to meet this obligation, it shall be open to the Council to investigate the reason for this failure, and to draw appropriate inferences. Where the failure related to a particularly serious matter, refusal of an application to renew the licence may be warranted.
- 3.8. Where an applicant is required to complete the Council's knowledge test, any attempt at cheating in that test is likely to result in their application being refused. Cheating in this context may include, but is not limited to, copying another applicant's answers, disruptive behaviour during the test, utilising any non-permitted papers or devices (unless consent has previously been given for their usage), or otherwise trying to gain an unfair or improper advantage.
- 3.9. Issues relating to criminal convictions will be addressed later in this document. However, the Council will pay particular attention to any convictions for offences with a public safety element.

## **4. Medical suitability**

- 4.1. Every application for a new licence or to renew a licence will be required to be accompanied by a medical certificate, in a format specified by the Council, completed by the applicant's own GP or by another suitably qualified medical practitioner who has had access to the applicant's medical records covering a minimum period of at least 5 years.
- 4.2. Applicant's will be expected to satisfy the current medical standards of fitness to drive for Group 2 licences, as set by the Driver and Vehicle Licensing Agency (DVLA), and the Council's medical certificate will be drafted around these standards, requiring the medical practitioner to state whether, in their opinion, the applicant complies with the standards and is medically fit to drive hackney carriages or private hire vehicles. A summary of these standards can be viewed via [www.dft.gov.uk/dvla/medical/ata glance.aspx](http://www.dft.gov.uk/dvla/medical/ata glance.aspx)
- 4.3. Medical certificates will be requested upon first application, and at three-yearly intervals (on application to renew the licence) thereafter until the licence-holder reaches the age of 65. From the age of 65, a licence-holder will be required to submit completed medical certificates annually, on the anniversary of the grant of the most recent licence. Licences will still be issued for a three year period (unless otherwise requested by the applicant, or in the absence of another limitation that causes the Council to issue a shorter duration licence), but failure to submit the medical certificate annually may lead the Council to suspend or revoke the licence.
- 4.4. Where an applicant does not fully comply with the standards, the Council will consider carefully whether this, in itself, will make the applicant an unfit person. For example, a condition that can be, and is being, controlled with corrective equipment or medication will not generally be considered to make a person unfit, although the Council may require further information or evidence from the applicant's doctor or consultant on the effect of such control measures, and the applicant's willingness to abide by the treatment programme.
- 4.5. Where the medical practitioner has stipulated that they do not consider the applicant to be medically fit, in accordance with the Group 2 standards, to drive hackney carriage or private hire vehicles, the Council will generally refuse the application.
- 4.6. Where the medical practitioner has recommended that further monitoring of a particular condition or examinations are undertaken in a certain period, it shall be open to the Council to consider granting a licence for a shorter period commensurate with that recommendation, or to require additional medical certificates to be submitted at more frequent intervals than would otherwise be required.

### **Insulin-treated diabetes**

- 4.7. The Council has adopted a specific policy in respect of insulin-treated diabetic applicants. In addition to a medical certificate confirming that the applicant satisfies the Group 2 standards (which make specific provisions for insulin-treated subjects), the Council will require the applicant to obtain and submit, with every application, a letter from a hospital consultant specialising in diabetes confirming that the applicant has been undergoing insulin treatment for a minimum of four weeks.
- 4.8. The Council will also require a signed declaration from the applicant, confirming that they will:
  - Comply with the directions for treatment given to him/her by the Doctor supervising that treatment;
  - Immediately report to the Licensing Authority, in writing, any change in diabetic condition;
  - Provide to the Licensing Authority, as and when necessary, evidence that blood glucose monitoring is being undertaken at least twice daily and at time relevant to driving a hackney carriage or private hire vehicle during employment.

## 5. Right to work in the UK

- 5.1. All applicants for a hackney carriage or private hire driver's licence will be required to demonstrate that they have the right to live and work in the United Kingdom. We will follow the general advice given by the UK Border Agency, available at [www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/](http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/), in ascertaining this status.
- 5.2. A licence will not be granted to an applicant who is not entitled to work in the UK.
- 5.3. It shall be incumbent upon an applicant to produce such official documentation as to demonstrate such an entitlement. This requirement shall apply equally to British, EEA and non-EEA nationals.
- 5.4. The UK Border Agency maintains a list of documents that can evidence such an entitlement, which is reproduced below. Documents in List A demonstrate that the person has an ongoing entitlement to work in the UK; documents in List B indicate that the person has restrictions on their entitlement to be in the UK. Copies of documents produced will be retained.

<b>List A</b> <b>Documents showing an ongoing right to work</b>	
<p>A passport showing that the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom.</p> <p>A passport or national identity card showing that the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.</p> <p>A residence permit, registration certificate or document certifying or indicating permanent residence issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to a national of a European Economic Area country or Switzerland.</p> <p>A permanent residence card or document issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the family member of a national of a European Economic Area country or Switzerland.</p> <p>A Biometric Residence Permit issued by the UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom, or has no time limit on their stay in the United Kingdom.</p> <p>A passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom.</p>	<p>An official document issued by a previous employer or Government agency, e.g. HM Revenue and Customs, the Department for Work and Pensions, Jobcentre Plus, the Training and Employment Agency (Northern Ireland) or the Northern Ireland Social Security Agency, which contains the National Insurance number and name of the person, <b>and one of the following:</b></p> <ul style="list-style-type: none"> <li>• An Immigration Status Document issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the United Kingdom or has no time limit on their stay in the United Kingdom</li> <li>• A full birth certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's parents</li> <li>• A full adoption certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's adoptive parents</li> <li>• A birth certificate issued in the Channel Islands, the Isle of Man or Ireland</li> <li>• An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland</li> <li>• A certificate of registration or naturalisation as a British citizen</li> <li>• A letter issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom.</li> </ul>



<b>List B</b> <b>Documents showing a time-limited right to work</b>	
<p>A passport or travel document endorsed to show that the holder is allowed to stay in the United Kingdom and is allowed to do the type of work in question.</p> <p>A Biometric Residence Permit issued by the UK Border Agency to the holder which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question.</p> <p>A work permit or other approval to take employment issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency, <b>and one of the following:</b></p> <ul style="list-style-type: none"> <li>• a passport or other travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to do the work in question</li> <li>• a letter issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the holder or the employer or prospective employer confirming the same</li> </ul> <p>A Certificate of Application issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to or for a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old <b>(the Council must also undertake employment checks with UKBA in this situation).</b></p> <p>A residence card or document issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to a family member of a national of a European Economic Area country or Switzerland.</p>	<p>A document issued by a previous employer or Government agency, e.g. HM Revenue and Customs, the Department for Work and Pensions, Jobcentre Plus, the Training and Employment Agency (Northern Ireland) or the Northern Ireland Social Security Agency, which contains the National Insurance number and name of the holder, <b>and one of the following:</b></p> <ul style="list-style-type: none"> <li>• An Immigration Status Document issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to the holder with an endorsement indicating that the person named in it can stay in the United Kingdom, and is allowed to do the type of work in question.</li> <li>• A letter issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the holder or the employer or prospective employer, which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question.</li> </ul> <p>An Application Registration Card (ARC) issued by the Home Office, the Border and Immigration Agency or the UK Border Agency stating that the holder is permitted to take employment <b>(the Council must also undertake employment checks with UKBA in this situation).</b></p>

5.5. In addition to requiring documents as identified above, the Council may also make direct enquiries to the UK Border Agency, to verify the details of an applicant's right to work.

5.6. Where an applicant's entitlement to work (or to remain in the UK) is time-limited, it is open to the Council to consider granting a licence that expires in accordance with the entitlement to work. Should that entitlement subsequently be extended during the validity of the licence, an application to renew the licence for a longer period may be made, to be accompanied by evidence of the revised entitlement.

## **6. Criminal convictions, cautions and reprimands**

- 6.1. When submitting an application for a licence to drive a hackney carriage or a private hire vehicle, or to renew such a licence, applicants are required to declare on the application form **all** previous convictions, cautions, penalties and motoring endorsements they may have received. Applicants are also required to declare any ongoing criminal investigations, prosecutions or similar legal proceedings of which they are the subject.
  - 6.2. As hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974, convictions which would ordinarily be considered 'spent' must be declared and may be considered in the determination of the application. However, the Council will generally only take such convictions into account if they are considered to be of particular relevance to the application in question or of an especially serious nature, or if there is some other cause to believe that the applicant cannot be considered to be 'rehabilitated'.
  - 6.3. All applicants will be required to obtain an enhanced level disclosure from the Disclosure and Barring Service (DBS), and the Council shall facilitate these applications. This level of disclosure includes details of spent convictions and police cautions, as well as any non-conviction information deemed relevant to the application. This level of check is considered appropriate as a licensed driver may be left in sole charge of passengers under 18 years of age or other vulnerable adults, at any time and without prior knowledge. More information on the DBS can be found at [www.homeoffice.gov.uk/agencies-public-bodies/dbs/](http://www.homeoffice.gov.uk/agencies-public-bodies/dbs/)
  - 6.4. As DBS disclosures can be considered accurate only on their issue date, and may contain additional, non-conviction information, specific to the application and released at the discretion of the chief police officer, we will require all applicants to obtain a new disclosure through the Council on each licence application. Disclosures obtained previously through other bodies or for other purposes will not be accepted.
  - 6.5. DBS disclosures will not include details of any foreign convictions, unless the conviction has been recorded on the UK Police National Computer. To enable the Council to properly consider an application, an applicant who has resided outside the UK for a period of more than 3 months (excluding holidays) within the preceding three years will be required to produce a 'Certificate of Good Conduct' from the relevant country(ies) (generally issued through the relevant embassy or consulate) which details any convictions or other matters arising against the applicant while resident in that country. It shall be the applicant's responsibility to obtain such documents, and to pay any associated fees. This requirement is in addition to the DBS disclosure. Where an applicant is unable to obtain the above, they must give a statement outlining the reasons for this, and provide references to the satisfaction of the Council from appropriate individuals or bodies as to their conduct in the country.
  - 6.6. As a general rule, the Council will expect applicants for licences to be free from previous convictions, cautions and reprimands. However, a person with convictions, cautions or reprimands will not be excluded from holding a licence but should be expected to have:
    - remained free of conviction for an appropriate period and
    - shown adequate evidence of good character from the time of conviction.
- Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character.
- 6.7. It should be noted that the Council may refuse an application (or suspend or revoke a licence) after considering a conviction, caution or reprimand for any offence, if it is not satisfied that the applicant is fit and proper to hold a licence.

- 6.8. Each case will be decided on its own merits. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, 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.
- 6.9. On application to renew a licence, if no further convictions have been received since the previous application was considered, the Council will not consider it necessary to review convictions considered on the previous application. However, in cases where new convictions have been received, all convictions may be taken into consideration, even if they have been previously considered.
- 6.10. Drivers licensed by the Council are required to notify the Licensing Section immediately in writing of any convictions, cautions or similar proceedings during the period of the licence. It is open to the Council to reconsider a licence during its validity period if a conviction (or similar) would cause the Council to consider whether to refuse an application, in accordance with the following guidelines, and that licence may be suspended or revoked if deemed appropriate.

### **Statement on the relevance of conviction information**

- 6.11. In determining the relevance of a conviction or caution, consideration will be given to the nature and seriousness of the offence involved, the period of time elapsed since conviction and the applicant's conduct subsequent to that conviction.
- 6.12. In circumstances where previous convictions or other information relating to criminal matters is disclosed the Council will take the following into consideration:
- The nature of the offence
  - When it was committed
  - The date of conviction
  - The nature of the sentence imposed
  - The applicant's age when the offence was committed
  - The time elapsed since the conviction and the applicant's conduct in that time, and
  - Any other factors which might be relevant.
- 6.13. Where the applicant has been convicted of a criminal offence the Council cannot and will not review the merits of the conviction.
- 6.14. It is noted that cautions are not convictions, but rather are an admission of guilt to a criminal matter. The Council may have regard to cautions when considering an application, and will take the following matters into consideration:
- The nature of the offence
  - Any history of related cautions or convictions
  - The guidelines applying to convictions of that category.
- 6.15. The issue of summons or the arrest and release on bail with or without charge can indicate that there has been an event, which may cause the Council to review the suitability of an applicant or a licensed driver to hold a licence.
- 6.16. Although some specific guidelines on the relevance of convictions are contained in the following sections for examples of offences to which the Council will pay particular regard, the Council will give equal consideration to offences falling outside of these categories and the examples given. Offences of a similar nature or differently entitled in any statutory provision, modification or re-enactment will be taken into account in accordance with the 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**

### **Violence**

- 6.17. As hackney carriage and private hire drivers maintain close contact with the public, in general a period of 3 or more years free of conviction for offences involving violence (depending on the nature and seriousness of the offence) will be required before an application is likely to be considered favourably. An offence involving loss of life is likely to result in the refusal of an application.
- 6.18. An application will normally be refused if an applicant has more than one conviction for an offence of a violent nature within the last 10 years.
- 6.19. Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence of:
- Murder
  - Manslaughter
  - Manslaughter or culpable homicide while driving
  - Kidnapping or abduction
  - Terrorism offences
- 6.20. An application will normally be refused where the applicant has a conviction for an offence, less than 10 years prior to the date of application, of:
- Arson
  - Malicious wounding or grievous bodily harm which is racially aggravated
  - Actual bodily harm which is racially aggravated
- 6.21. An application will normally be refused where the applicant has a conviction, less than 8 years prior to the date of application, for an offence of:
- Grievous bodily harm with intent
  - Grievous bodily harm
  - Wounding with intent
  - Robbery
  - Aggravated burglary
  - Threats to kill
  - Racially-aggravated criminal damage
  - Racially-aggravated public order offences
- 6.22. For convictions of a type referred to in the preceding paragraph, between 8 and 10 years after conviction more weight will be given to the circumstances of the offence and any evidence produced which demonstrates good character since the date of conviction.
- 6.23. An application will normally be refused where the applicant has a conviction, less than 3 years prior to the date of application, for an offence of: -
- Common assault
  - Assault occasioning actual bodily harm
  - Assaulting a police officer
  - Affray
  - Public order offences
  - Harassment
  - Obstruction
  - Possession of offensive weapon

- Possession of firearm
- Criminal damage
- Violent disorder
- Resisting arrest

6.24. For convictions of a type referred to in the preceding paragraph, between 3 and 8 years after conviction more weight will be given to the circumstances of the offence and any evidence produced to show good character since the date of conviction.

## **Sexual and indecency offences**

6.25. As hackney carriage and private hire drivers often carry unaccompanied passengers, including children or other vulnerable persons, applicants with convictions for sexual or indecency offences will normally be refused a licence until they can show a substantial period (usually 5 or more years) free from any such conviction. Serious or multiple convictions will likely result in the refusal of an application.

6.26. Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence of:

- Rape
- Sexual assault
- Indecent assault
- Offences involving children or vulnerable adults
- Gross indecency
- Possession of indecent material, child pornography, etc
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Any sexual offence committed in the course of taxi or private hire work

6.27. An application will normally be refused where the applicant has a conviction, less than 5 years prior to the date of application, for an offence of: -

- Indecent exposure
- Soliciting

## **Drugs and alcohol**

6.28. An application will normally be refused where the applicant has a conviction for an offence relating to the possession or use of drugs and the conviction is less than 5 years prior to the date of application.

6.29. An application will normally be refused where the applicant has a conviction for an offence relating to the import, production or supply of drugs and the conviction is less than 8 years prior to the date of application.

6.30. An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate. However, a number of convictions for drunkenness may indicate a medical problem necessitating critical examination of an application.

6.31. Where there is evidence of persistent drug or alcohol misuse or dependency (which may include multiple convictions for related offences), applicants will be required to show that they satisfy the relevant medical standards in relation to drug and alcohol misuse. To verify this, the Council may require the applicant to undergo a specialist medical examination.

## **Dishonesty**

- 6.32. Drivers of hackney carriages and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways. Members of the public entrust themselves in to the care of drivers and expect to be treated fairly and conveyed in a safe manner.
- 6.33. For these reasons a serious view is taken of any convictions involving dishonesty. In general a period of 3 to 5 years free of conviction will be required before an application is likely to be considered favourably.
- 6.34. In particular, an application will normally be refused where the applicant has a conviction, less than 3 years prior to the date of the application, for an offence of:
- Theft
  - Burglary
  - Fraud
  - Benefit fraud
  - Handling or receiving stolen goods
  - Forgery
  - Conspiracy to defraud
  - Obtaining money or property by deception
  - Taking a vehicle without consent
  - Other deception
- 6.35. Between 3 and 5 years after conviction more weight will be given to the circumstances of the offence and any evidence produced which demonstrates good character since the date of conviction.

## **Driving offences**

- 6.36. Because of the nature of the work licensed drivers will undertake, a serious view will be taken of convictions for driving offences that resulted in loss of life. In particular, an application will normally be refused where the applicant has a conviction, less than 8 years prior to the date of the application, for an offence of:
- Causing death by dangerous driving
  - Causing death by careless driving, while under the influence of drink or drugs
- 6.37. An application will normally be refused where the applicant has a conviction, less than 5 years prior to the date of the application, for an offence of:
- Causing death by careless driving
  - Causing death by driving while unlicensed, disqualified or uninsured
- 6.38. A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink or drugs. Where a disqualification has occurred as a result of a drink-driving or a drug-driving offence, at least 5 years free from conviction should elapse after the restoration of the DVLA licence before an applicant is granted a licence.
- 6.39. Convictions for drink-driving or drug-driving without disqualification will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standards expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence is likely to merit refusal.
- 6.40. A drink-driving or drug-driving conviction arising from an offence in the course of hackney carriage or private hire work within the last five years is also likely to merit refusal.

- 6.41. The provisions included under the heading 'Drugs and alcohol' in respect of substance misuse or dependency will also be taken into account when considering drink-driving or drug-driving offences.
- 6.42. Further provisions relating to motoring endorsements are provided in the next section of this document.

### **Taxi and private hire related offences**

- 6.43. One of the main purposes of the licensing regime set out in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 is to ensure the safety and protection of the public. For this reason a serious view is taken of convictions for offences under these and other related Acts (including illegally plying for hire and touting) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.
- 6.44. In particular, an applicant will normally be refused a licence where (s)he has been convicted of a relevant offence at any time during the 12 months preceding the application or has more than one conviction within the last 2 years preceding the date of the application.
- 6.45. A similar consideration will also be applied to offences under the Disability Discrimination Act 1995 or the Equality Act 2010, where the offence arose in the course of taxi or private hire work.

## **7. Driving licence endorsements**

- 7.1. For certain driving offences, either where an individual has been convicted by a court or has admitted the offence by way of a fixed penalty notice, driving licences may be endorsed with details of the offence, and a number of penalty points can be imposed upon the individual's driving licence. Endorsements may indicate a poor driving record and give rise to concerns about the applicant's fitness to hold such a hackney carriage or private hire driver's licence.
- 7.2. Driving licence endorsements may form part of the overall sentence arising from a criminal conviction, which will also be shown on the DBS disclosure. In such circumstances, the following guidelines should be read in conjunction with the appropriate paragraphs of the preceding section.
- 7.3. Endorsements will be checked by requiring an applicant to produce his driving licence to accompany an application, and by way of the verification check detailed in the 'Driving entitlement' section of this document.
- 7.4. All endorsements have a set validity period, and the Council will have regard to this period when determining which endorsements to take into account. The Council will have regard to both individual valid endorsements, and the cumulative total of penalty points from all valid endorsements on the licence.
- 7.5. Endorsements which fall outside of the stated validity period will not generally be taken into consideration, unless they demonstrate a pattern of poor driving.
- 7.6. A full list of endorsable traffic offences, including the corresponding endorsement codes, penalty points and validity periods, is included at Annex A.
- 7.7. On application to renew a licence, if no further endorsements have been received since the previous application was considered, the Council will not consider it necessary to review previous endorsements. However, in cases where new endorsements have been added, all valid endorsements appearing on the licence at the time of application may be taken into consideration, even if they have been previously considered.
- 7.8. Drivers licensed by the Council are required to notify the Licensing Section immediately in writing of any endorsements received during the period of the licence. It is open to the Council to reconsider a licence during its validity period if an endorsement would cause the Council to consider whether to refuse an application, in accordance with the following guidelines, and that licence may be suspended or revoked if deemed appropriate.

### **Major endorsements**

- 7.9. An endorsement which was subject to the award of four or more penalty points shall be regarded, for licensing purposes, as a major endorsement.
- 7.10. All such endorsements will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standards expected of hackney carriage and private hire drivers.
- 7.11. More than one such valid endorsement will generally result in the application being refused.
- 7.12. An endorsement which was subject to the award of ten or more penalty points shall be regarded with particular seriousness, and may constitute grounds for refusal on its own.

### **Minor endorsements**

- 7.13. An endorsement which was subject to the award of three or less penalty points shall be



regarded, for licensing purposes, as a minor endorsement.

7.14. A single minor endorsement will not generally prevent an application from proceeding.

7.15. However, a larger number of minor endorsements, particularly if incurred in a short period of time, will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standards expected of hackney carriage and private hire drivers.

### **Cumulative total of penalty points**

7.16. An application will normally be refused where the applicant has 12 or more penalty points from valid endorsements on his driving licence (whether or not the applicant was convicted by a court for the offences for which penalty points were imposed).

7.17. Applicants with 9 or more penalty points from valid endorsements on their driving licence, or three or more valid endorsements, will generally have their applications referred to the Licensing Health and Safety Enforcement Sub-Committee for careful consideration of the facts. If the Sub-Committee are not satisfied that the applicant can be considered a fit and proper person by virtue of his endorsements, it shall be open to them to refuse the application.

7.18. All applicants with 6 to 8 penalty points from valid endorsements on their licence, or two valid endorsements, will generally be required to attend an interview with a licensing officer to review the facts behind the endorsements. It shall be at the Licensing Team Leader's discretion as to whether to refer such applications to the Licensing Health and Safety Enforcement Sub-Committee for further consideration of the pertinent facts, or to approve the application. Where applications are approved, it is expected that a warning as to future driving and advice on the standards expected of hackney carriage and private hire drivers will also be administered.

### **Other traffic offences**

7.19. Penalties for other non-endorsable traffic offences, such as parking penalty notices, obstruction, waiting in a restricted road, etc, that have not resulted in a criminal conviction, will not generally be taken into account when considering an application.

### **Disqualification**

7.20. Where an applicant has been disqualified from driving because of a serious traffic offence, a licence application will generally be refused unless a period of 2 years free of conviction or endorsement has elapsed from the restoration of the driving licence.

7.21. Where several minor traffic offences have resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard. Generally, a period of 12 months free from conviction must have elapsed from the restoration of the driving licence.

7.22. In "totting-up" cases where disqualification is considered by the court, even if the court does not disqualify a driver (e.g. because of exceptional circumstances) the Council is likely to refuse a hackney carriage or private hire driver's licence. This is because different criteria apply and an applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

## **Annex A – Endorsable traffic offences**

<b>Accident offences</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
AC10	Failing to stop after an accident	5-10	Four years from offence
AC20	Failing to give particulars or to report an accident within 24 hours	5-10	
AC30	Undefined accident offences	4-9	
<b>Disqualified driver</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
BA10	Driving while disqualified by order of court	6	Four years from offence
BA30	Attempting to drive while disqualified by order of court	6	
<b>Careless driving</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
CD10	Driving without due care and attention	3-9	Four years from offence
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	Eleven years from conviction
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 [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	Four years from conviction
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	3-11	
<b>Construction and use offences</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
CU10	Using a vehicle with defective brakes	3	Four years from offence
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3	
CU30	Using a vehicle with defective tyre(s)	3	
CU40	Using a vehicle with defective steering	3	
CU50	Causing or likely to cause danger by reason of load or passengers	3	
CU80	Using a mobile phone while driving a motor vehicle	3	
<b>Reckless/dangerous driving</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
DD40	Dangerous driving	3-11	Four years from conviction
DD60	Manslaughter or culpable homicide while driving a vehicle	3-11	
DD80	Causing death by dangerous driving	3-11	
DD90	Furious driving	3-9	

<b>Drink or drugs</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
DR10	Driving or attempting to drive with alcohol level above limit	3-11	Eleven years from conviction
DR20	Driving or attempting to drive while unfit through drink	3-11	
DR30 [DR31]	Driving or attempting to drive then failing to supply a specimen for [drug] analysis	3-11	
DR40	In charge of a vehicle while alcohol level above limit	10	Four years from offence
DR50	In charge of a vehicle while unfit through drink	10	
DR60 [DR61]	Failure to provide 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	Eleven years from conviction
DR90	In charge of a vehicle when unfit through drugs	10	Four years from offence
<b>Insurance offences</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
IN10	Using a vehicle uninsured against third party risks.	6-8	Four years from offence
<b>Licence offences</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
LC20	Driving otherwise than in accordance with a licence	3-6	Four years from offence
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 grounds	3-6	
<b>Miscellaneous offences</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
MS10	Leaving a vehicle in a dangerous position	3	Four years from offence
MS20	Unlawful pillion riding	3	
MS30	Play street offences	2	
MS50	Motor racing on the highway	3-11	
MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)	varies	
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	6	
<b>Motorway offences</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
MW10	Contravention of special roads regulations (excluding speed limits)	3	Four years from offence

<b>Pedestrian crossings</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
PC10	Undefined contravention of pedestrian crossing regulations	3	Four years from offence
PC20	Contravention of pedestrian crossing regulations with moving vehicle	3	
PC30	Contravention of pedestrian crossing regulations with stationary vehicle	3	
<b>Speed limits</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
SP10	Exceeding goods vehicle speed limits	3-6	Four years from offence
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3-6	
SP30	Exceeding statutory speed limit on a public road	3-6	
SP40	Exceeding passenger vehicle speed limit	3-6	
SP50	Exceeding speed limit on a motorway	3-6	
<b>Traffic directions and signs</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
TS10	Failing to comply with traffic light signals	3	Four years from offence
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 traffic sign (excluding 'stop' signs, traffic lights or double white lines)	3	
TS60	Failing to comply with a school crossing patrol sign	3	
TS70	Undefined failure to comply with a traffic direction sign	3	
<b>Theft or unauthorised taking</b>			
<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>	<b>Validity</b>
UT50	Aggravated taking of a vehicle	3-11	Four years from offence

#### **Aiding, abetting, counselling 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.