



REPORT OF:	HEAD OF DEVELOPMENT & REGULATION
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TO:	REGULATORY COMMITTEE
DATE:	29 TH FERUARY 2012

AGENDA ITEM NO:	4	WARD(S) AFFECTED:	ALL
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SUBJECT:	GUIDANCE ON CRIMINAL CONVICTIONS ETC
PURPOSE OF THE REPORT:	TO REVIEW THE GUIDANCE USED WHEN DETERMINING WHETHER INDIVIDUALS ARE FIT AND PROPER TO HOLD HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES.
RECOMMENDATION:	
<ol style="list-style-type: none"> 1. Adopt the Local Government Regulation (LGR) Policy guidance at annex 2, in matters of criminal conviction etc. 	
SUMMARY:	
<ol style="list-style-type: none"> 2. This report contains the current guidance on criminal convictions, used by officers and members of the committee, to determine whether individuals are “fit and proper” to hold hackney carriage and private hire driver licences. 3. Having reviewed the level of detail, along with changes in legislation and emerging good practice, Officers consider that the current guidance is no longer fit for purpose and would ask the Committee to consider adopting an improved standard which has been developed nationally. 	

FACTORS FOR CONSIDERATION

4. On 22nd January 1998 the advice contained within the Department of Transport Circular 2/92 and Home Office Circular 13/92 (**Annex 1**) was adopted by the Environmental Services Committee [minutes 3 to 8 page 41-44]. Officers and Committee members currently refer to this advice when determining whether or not an applicant or an existing licence holder is a “fit and proper” person to hold a hackney carriage and/or private hire driver or operator licence.
5. Information in Annex D to the Circulars contains guidelines relating to the relevance of convictions and this has continued to be used to determine what weight to give to criminal and motoring offences. Published in 1992 these guidelines do not give detail of the various offences that now exist within each category such as violence, drugs or motoring offences. Other offences such as public order, possession of a weapon, licensing or insurance offences or racially aggravated crimes are not mentioned. Furthermore no reference is

made to other levels of conviction now commonly encountered such as cautions and non-conviction information.

6. The Department for Transport Best Practice Guidance on Taxi and Private Hire Vehicle Licensing published in March 2010 recognises that;

“In considering an individual’s criminal record, local licensing authorities will want to consider each case on its merits, but they should take a particularly cautious view of any offences involving violence, and especially sexual attack. In order to achieve consistency, and thus avoid the risk of successful legal challenge, local authorities will doubtless want to have a clear policy for the consideration of criminal records, for example the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

7. Local Government Regulation (LGR) the coordinating body for Local Authority Regulatory Services in consultation with local councils, Department for Transport (DfT), Institute of Licensing (IoL), National Association of Licensing Enforcement Officers (NALEO) and Transport for London (TfL) have produced a guidance policy regarding criminal convictions (**Annex 2**). Different types of offences have been broken down and listed, and the relevant period that a person should be free from conviction of a particular crime clearly specified. Officers consider that this document provides a comprehensive and detailed set of guidance criteria to assist both in determining applications and taking further enforcement action during the life of a licence.
8. Other advice in the circulars detailing the procedures to be adopted in order to gain access to police records was subsequently replaced in 2002 by checks through the Criminal Record Bureau (CRB). Reference is made to the current and proposed levels of CRB checks required by the Council’s existing conditions in paragraphs 5.4 and 5.5 of Annex 2.

RESOURCE IMPLICATIONS

9. In the event of a successful appeal to the Magistrate’s Court arising from a decision made by the Council, costs may be awarded against the Council.

LEGAL IMPLICATIONS

10. There is no formal definition or statutory guidance regarding the application of criteria to be used when determining if an applicant or existing licence holder is a “fit and proper” person. It is therefore for each licensing authority to determine the appropriate policy and guidance to deal with applications and reviews of licences.

STATUTORY POWERS

11. The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 includes hackney carriage and private hire drivers. Consequently all convictions, irrespective of age, sentence imposed or offence committed remain “live” and available to the Council for appropriate consideration.
12. Under the provisions of Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (the Act), the district council shall not

grant a licence unless they are satisfied that the applicant is a fit and proper person to hold a licence.

13. Section 61 of the Act allows the district council to suspend, revoke or refuse to renew a driver's licence if convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Act; or any other reasonable cause.
14. Section 62 of the Act allows the district council to suspend, revoke or refuse to renew an operator's licence for any offence or non compliance with the provisions of Part II of the Act; any conduct on the part of the operator which appears to render him unfit to hold an operator's licence; any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or any other reasonable cause.
15. The Act gives any person, aggrieved by the refusal of a district council to grant, suspend or revoke a driver or operator licence, the right to appeal to a magistrates' court within 21 days of the notification of the decision.

CONCLUSIONS

16. The Council has a statutory obligation to ensure that a hackney carriage and/or private hire driver or operator licence is only granted to or held by someone who is considered to be a "fit and proper" person. There is a balance to be struck, as the Council must provide reasonable protection for the travelling public without establishing unwarranted barriers to those wishing to take up employment in the hackney carriage and private hire trade.
17. Consideration of criminal convictions is the biggest area of concern for officers. It is therefore vital that clear and up to date guidance exists to encourage consistency and provide information to applicants and existing licence holders on the approach that the Council is likely to take in respect of any convictions or cautions they may have.

BACKGROUND PAPERS

None

ANNEXES

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| Annex 1 | Department of Transport Circular 2/92 and Home Office Circular 13/92 |
| Annex 2 | LGR: Taxi and PHV Licensing Criminal Convictions' Policy. September 2010 |



DISCLOSURE OF CRIMINAL RECORDS: APPLICANTS FOR HACKNEY CARRIAGE & PRIVATE HIRE VEHICLE DRIVERS' LICENCES

Department of Transport Circular 2/92

and

Home Office Circular 13/92

To:

The Chief Executive
Metropolitan District Councils
District Councils in England and Wales
The Council of the Isles of Scilly

Chief Officers of Police
Clerks to Police Authorities

The Commissioner of Police of the Metropolis
The Commissioner of Police for the City of London
County Councils in England and Wales

} for
} information
} only

SUMMARY

1. This circular advises local authorities on the procedures to adopt for checking with the police the criminal convictions of applicants for hackney carriage and private hire vehicle drivers' licences. They apply where

* local authorities have responsibilities under the Local Government (Miscellaneous Provisions) Act 1976; or

* any local Act contains a provision requiring a local authority to be satisfied as to the fitness of an applicant to hold a licence to drive a hackney carriage or a private hire vehicle.

2. This facility does not apply to local authorities who have not adopted the Local Government (Miscellaneous Provisions) Act 1976 and therefore license hackney carriage drivers by virtue of the Town Police Clauses Act 1847 only.

Annex A explains the procedure.
Annex B sets out a model local policy statement.
Annex C is a model request for a police check.
Annex D contains example guidelines relating to the relevance of convictions.

ACTION

3. The procedure described in Annex A comes into effect on 1 April 1992. Local authorities responsible for the licensing of drivers of hackney carriages or private hire vehicles are asked to adopt it for gaining access to the police records described, and to nominate an officer to liaise with the police. The name of the nominated officer should be given to the police as soon as possible.

BACKGROUND

4. These arrangements stem from Section 47 of the Road Traffic Act 1991 which provides that a council may send to the chief officer of police for the police area in which the council is situated a copy of an application for a hackney carriage or private hire vehicle driver's licence and may request the chief officer's observations on it. The chief officer is required to respond to the request. The arrangements are intended to assist local authorities in satisfying themselves that applicants are fit and proper persons to hold driver licences. The arrangements do not apply to London.

5. This Circular has been drawn up in consultation

with representatives of the local authority associations,
the Association of Chief Police Officers and taxi trade
associations.

ENQUIRIES

6. Contact points for enquiries are:

From local authorities :
Mrs K Turnbull
Department of Transport
Room S15/20
2 Marsham Street
LONDON SW1P 3EB
Tel: 071 276 4896

From the Police :
Mr F E Whittaker
F2 Division
Home Office
50 Queen Anne's Gate
LONDON SW1H 9AT
Tel. 071 273 3716

ANNEX A

DISCLOSURE OF CRIMINAL RECORDS

APPLICANTS FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS' LICENCES

SCOPE

1. The legislation provides that local authorities with responsibilities under the Local Government (Miscellaneous Provisions Act 1976 (the Act) or equivalent local legislation may ask the chief officer of police for their area for his observations on:

- * any application for a licence to drive a hackney carriage;
- * any application for renewal of a licence to drive a hackney carriage;
- * any application for a licence to drive a private hire vehicle under Section 51 of the Act;
- * any application for renewal of a licence to drive a private hire vehicle

where the application was received on or after 1 April 1992 or was under consideration at that date.

THE POLICE CHECK

2. In all cases the police check will be made against the index to the national collection of criminal records maintained on the Police National Computer (PNC). These records include details of persons convicted of all offences, broadly speaking, for which a term of imprisonment may be given.

3. Hackney carriage and private hire vehicle (PHV) driver licences may run for up to three years, although many authorities re-grant them annually. Because of constraints on resources authorities should note that, in commenting on an application, the police will normally only conduct a criminal record check if the licence is being granted or re-granted for the first time under these arrangements, or if a period of three years has elapsed since the applicant was last subject to a criminal record check (but see also paragraphs 17 and 25).

NOMINATED OFFICER

4. An officer in each local authority to whom these arrangements apply should take responsibility for requesting checks from the police. Authorities should give their police force details of their nominated officer as soon as possible. He or she should be responsible for:-

- * overseeing the operation of the checking procedure within the authority;
- * ensuring that requests fall within the terms of the legislation and this circular;
- * ensuring that requests are made at the right time;
- * ensuring that the provisions of the Rehabilitation of Offenders Act 1974 are observed;
- * ensuring that information received from the police is released only to those who need to see it, and
- * ensuring that records are kept securely and for no longer than is necessary.

PROCEDURE

5. Police checks should not take the place of normal licensing procedures. Other checks to establish a person's

integrity and fitness to hold a licence to drive a hackney carriage or PHV should be carried out, and attempts made to account satisfactorily for any unexplained gaps in employment.

6. A police check should not be requested if an applicant is unsuitable for other reasons.
7. In considering applications from potential licence holders authorities should be aware that applicants do not have to reveal, and licensing authorities must not take into account, offences which are spent under the Rehabilitation of Offenders Act 1974, although these may be included in any record provided by the police. The nominated officer should take responsibility for identifying spent convictions and ensuring that those considering the application are not influenced by them.
8. An applicant should be informed in writing that a police check will be carried out.
9. Authorities should make every effort to confirm the identity of the applicant before the police are asked to process a check. Verification of identity, date of birth and any change of name should be obtained. Apart from checking any available documentation such as birth certificate, passport, driving licence etc, it is recommended that independent verification of the applicant's identity is sought, perhaps from a previous employer. Incomplete or incorrect identification details may invalidate the police check and lead to a failure to discover relevant convictions.
10. Authorities may wish to consider making a policy statement available to people who will be subject to a criminal records check under these arrangements. A model statement is offered at Annex B.
11. When a police check is desired, the request should be sent to the Chief Constable of the police force for the area in which the applicant has applied for a licence. Requests should be made in a form consistent with the model layout shown at Annex C.
12. The police will reply to the nominated officer either indicating that there is no trace on national police records of a record which matches the details provided, or that those details appear identical with the person whose record will be attached. The record will contain details of all convictions recorded nationally against that person.
13. It should be noted that the police record will not include details of motoring convictions. Such information may be obtained from the Driver and Vehicle Licensing Agency. This will be provided on receipt of a written request which must include the subject's driver number, or failing that, their full name and date of birth. A fee of £3.50 (for each individual enquiry) is payable at the time the request is made. The information given will include endorsement/disqualification details. Requests should be sent to:

**DEU (Data Subject Enquiries)
Room C1/16
DVLA
Longview Road
Swansea SA6 7JL.**

14. Where

- * the information provided by the police differs from that provided by the applicant, and is of significance, the nominated officer should discuss the discrepancy with the applicant before reaching any final decision in which the nature of the information received is a factor;
- * there is disagreement, the person should have the opportunity to see the information provided by the police.

15. It should be noted that applicants themselves may reveal certain minor convictions or cautions which are not recorded in the national collection of criminal records and, therefore, not included in the convictions provided by the police. In general, corroboration of such convictions or cautions should not be sought from the police.

16. A person who believes the information provided by the police is incorrect and who wishes to make representations to the police should do so in the first place through the nominated officer. Authorities will want to ensure that cases of this kind are dealt with at an appropriate level.

CHECKS ON PERSONS ALREADY IN POSSESSION OF HACKNEY CARRIAGE/PHV DRIVERS' LICENCES

17. Checks should not normally be made on persons other than in connection with an application for grant or renewal of a licence. If, however, serious allegations are made against a driver, or previously unrevealed information comes to light and the nominated officer is satisfied that the information cannot be verified in any other way, a police check may be requested. This should not be done without the knowledge of the individual concerned who must be given an opportunity to discuss the outcome of the check.

USE OF INFORMATION

18. The fact that a person has a criminal record or is known to the police does not necessarily mean that he or she is unfit to hold a driver's licence. The authority concerned should make a balanced judgement about a person's suitability taking into account only those offences which are considered relevant to the person's suitability to hold a licence. A person's suitability should be looked at as a whole in the light of all the information available.

19. In deciding the relevance of convictions, authorities will want to bear in mind that offences which took place many years in the past may often have less relevance than recent offences. Similarly, a series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. In any event the importance of rehabilitation must be weighed against the need to protect the public.

20. In order to ensure consistent and fair treatment when determining whether or not criminal convictions render an applicant unsuitable to hold a licence, local authorities may find it very helpful to draw up detailed policy guidelines containing general criteria against which applications may be considered. The guidelines at Annex D are based on those used by the Metropolitan Police and are offered to local authorities as an example which they may wish to use or adapt.

21. Where it is discovered that a driver, licensed prior to implementation of section 47, had failed to disclose past convictions, local authorities will need to consider carefully whether they should now refuse to re-grant the driver licence. In most cases, if those convictions are such that they would now lead to the refusal of a licence, refusal should be considered. If, however, previously unrevealed convictions are discovered which would not now disqualify the individual from holding a licence, consideration should normally be given to granting it. It is possible that a significant proportion of drivers will be shown to have concealed previous convictions and it is recommended that local authorities develop a consistent and fair policy when dealing with them.

APPEALS

22. Any person who is aggrieved by the licensing authority's decision to refuse a driver's licence may appeal to a Magistrates' Court.

STORAGE AND DESTRUCTION OF RECORDS

23. Any information the police supply will be of a sensitive and personal nature. It must be used only in connection with the application which gave rise to the request for a check to be made. The nominated officer must ensure it is kept securely while the licensing process takes its course and that the information is not kept for longer than is necessary. An indication on the Authority's own record that a check with the police has been carried out may be made but should not refer to specific offences.

CHECKS ON APPLICANTS FROM OVERSEAS

24. Other than in exceptional circumstances, the police cannot

- * make enquiries about the antecedents of people from overseas; or
- * establish details of convictions acquired outside the United Kingdom.

Applicants from certain EC countries may, however, be able to produce certificates of good conduct.

POLICE REPORTING OF CONVICTIONS AS THEY OCCUR

25. If a police force is able to identify that the holder of a driver licence has acquired a relevant conviction, it will give details to the local nominated officer. This will occur only where the police are aware that a person is licensed under the Act and so will not mean that the nominated officer will automatically get information about all relevant convictions.

POLICE MONITORING

26. Where possible forces are asked to collate the following information in respect of each authority with which they deal:

- * number of PNC checks requested,
- * time taken to process checks,
- * number of positive traces, and
- * any apparent difficulties with these arrangements, including the resource implications.

27. The results of this monitoring will be kept under review by the Home Office in conjunction with the Association of Chief Police Officers and the local authority associations.

ANNEX B

STATEMENT OF POLICY ABOUT RELEVANT CONVICTIONS

(See Annex A, paragraph 10)

When formulating their own policy, local authorities may wish to consider using the following statement, suitably adapted :

“When submitting an application for a licence to drive a hackney carriage or private hire vehicle you are requested to declare any convictions or cautions you may have, unless they are regarded as “spent” under the Rehabilitation of Offenders Act 1974. The information you give will be treated in confidence and will only be taken into account in relation to your application.

You should be aware that the licensing authority is empowered in law to check with the police for the existence and content of any criminal record held in the name of an applicant. Information received from the police will be kept in strict confidence while the licensing process takes its course and will be retained for no longer than is necessary.

The disclosure of a criminal record or other information will not debar you from gaining a licence unless the authority considers that the conviction renders you unsuitable. In making this decision the authority will consider the nature of the offence, how long ago and what age you were when it was committed and any other factors which may be relevant. [Authorities may wish to refer to any guidelines to which they adhere.] Any applicant refused a driver’s licence on the ground that he/she is not a fit and proper person to hold such a licence has a right of appeal to a Magistrates’ Court.

If you would like to discuss what effect a conviction might have on your application you may telephone [A N Other on 012-345-6789] in confidence, for advice.”

ANNEX C

REQUEST FOR A POLICE CHECK IN RESPECT OF AN APPLICATION FOR GRANT OR RENEWAL OF A LICENCE TO DRIVE A HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLE

Part A. To be completed by applicant.

I am aware that the grant of such a licence is subject to a police record check. This has been explained to me and I understand that spent convictions are not considered by the licensing authority. I hereby declare that the information given below is true.

Signature..... Date.....

Surname..... All Forenames.....

Maiden Name..... Previous surnames.....

Date of Birth..... Place of Birth..... Sex M/F

Present Address.....

Previous addresses in last 5 years Date from..... to.....

Continue overleaf if necessary, giving dates.

HAVE YOU EVER BEEN CONVICTED AT A COURT OR CAUTIONED BY THE POLICE FOR ANY OFFENCE WHICH IS NOT NOW SPENT UNDER THE TERMS OF THE REHABILITATION OF OFFENDERS ACT 1974 ? YES/NO

If yes provide details overleaf, including approximate date, the offence and the court or police force which dealt with you.

Part B. To be completed by the Nominated Officer

The person identified above satisfies the conditions of Joint Circular DTp 2/92 HO 13/92. The details provided have been verified and I am satisfied they are accurate.

The subject has not been checked previously/was last checked on/...../.....

(Signed)..... (Date).....

Part C. For Police Use Only. Ref.

PNC/NIB Records only have been checked against the above details:

No trace on details supplied

The subject appears identical with the person whose criminal record is attached

(Signed)..... (Date).....

ALL FORMS TO BE RETURNED UNDER CONFIDENTIAL COVER

ANNEX D

It is recommended that local authorities adopt their own guidelines relating to the relevance of convictions for use in determining applications for hackney carriage and private hire vehicle (PHV) drivers' licences. The following is an example only and is based on criteria used by the Metropolitan Police.

GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

GENERAL POLICY

1. Each case will be decided on its own merits.
2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.
3. The following examples afford a general guide on the action to be taken where convictions are admitted.

(a) Minor Traffic Offences

Convictions for minor traffic offences, eg obstruction, waiting in a restricted street, speeding etc, should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or PHV licence may be granted after its restoration but a warning should be issued as to future conduct.

(b) Major Traffic Offences

An isolated conviction for reckless driving or driving without due care and attention etc, should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and PHV drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 years free from convictions has elapsed.

(c) Drunkenness

(i) With Motor Vehicle

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence. If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic a period of 5 years should elapse after treatment is complete before a further licence application is considered.

(ii) Not in Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (i) above). In some cases, a warning may be sufficient.

(d) Drugs

An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict.

(e) Indecency Offences

As hackney carriage and PHV drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind should preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct should be issued.

(f) Violence

As hackney carriage and PHV drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

(g) Dishonesty

Hackney carriage and PHV drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.



Taxi and PHV Licensing Criminal Convictions' Policy
Local councils in England and Wales (outside London)

September 2010

The following Criminal Convictions Policy has been developed through consultation with local councils, drawing elements from existing policies with the view to creating a standard document for reference. Comments have also been received from the Department for Transport, NALEO, IoL and TfL. The policy is guidance only and local councils may wish to depart from any suggested conditions based on the specific details of each applicant. We will keep the document under review and welcome further suggestions to ensure it is relevant to councils' needs.

Note to licensing practitioners:

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

Taxi and PHV Licensing Criminal Convictions' Policy
Local councils in England and Wales (outside London)

1. Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver or operator licence.
- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
- That a person is a fit and proper person
 - That the person does not pose a threat to the public
 - That the public are safeguarded from dishonest person
 - The safeguarding of children and young persons
- 1.3 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
- Applicants for drivers' licences
 - Existing licensed drivers whose licences are being reviewed
 - Licensing officers
 - Members of the licensing committee/ panel (or other relevant decision making body)
 - Magistrates hearing appeals against local authority decisions
- 1.4 Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the licensing Regulatory committee/panel (or other relevant decision-making body). Whilst officers and the committee/panel will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.**

2. General policy

- 2.1 There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:
 - a. Remain free of conviction for an appropriate period; and
 - b. Show adequate evidence that her or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
- 2.3 **Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction** [Nottingham City Council v. Mohammed Farooq (1998)].

3. Appeals

- 3.1 Any applicant refused a driver or operator licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.

4. Powers

- 4.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 4.2 Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew an operators licence if the application/licence holder has been convicted of any offence under or non compliance with the provisions of Part II of the Act; any conduct on the part of the operator which appears to render him unfit to hold an operator's licence; any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or any other reasonable cause
- 4.3 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's

licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

- 4.4 In this policy the term “disqualification” refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification and that any action required to be undertaken as part of a court agreed reduction in the period of disqualification has been successfully completed.

5. Consideration of disclosed criminal history

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

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

- 5.2 Existing holders of drivers’ licences are required to notify the licensing authority in writing within seven twenty-eight days of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).

- 5.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing officer [**insert details here**] in confidence for advice.

- 5.4 The licensing authority conducts [standard or [enhanced with effect from 1.4.12] disclosures from the Criminal Records Bureau (CRB) of any applicant for a driver licence. Applicants for operator licences are required to obtain a Basic Disclosure. The licensing authority follows the CRB’s Code of Practice on the fair use of disclosure information.

- 5.5 Applicants applying for the grant or a renewal of a drivers' licence will be charged the cost of the disclosure as part of a non refundable administration fee The licensing authority abides by the CRB's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.
- 5.6 More information about the CRB can be found on their website at www.disclosure.gov.uk.
- 5.7 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.
- 5.8 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

6 Serious offences involving violence

- 6.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.
- 6.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.
- 6.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Terrorism offences
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 10 years prior to the date of application:
- Arson

- Malicious wounding or grievous bodily harm which is racially aggravated
 - Actual bodily harm which is racially aggravated
 - Grievous bodily harm with intent
 - Robbery
 - Possession of firearm
 - Riot
 - Assault Police
 - Common assault with racially aggravated
 - Violent disorder
 - Resisting arrest
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 5 years prior to the date of application:
- Racially-aggravated criminal damage
 - Racially-aggravated offence
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 3 years prior to the date of application:
- Common assault
 - Assault occasioning actual bodily harm
 - Affray
 - S5 Public Order Act 1986 offence (harassment, alarm or distress)
 - S.4 Public Order Act 1986 offence (fear of provocation of violence)
 - S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
 - Obstruction
 - Criminal damage
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.7 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.
- 6.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

7. Possession of a weapon

- 7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.
- 7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

8. Sex and indecency offences

- 8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Those with convictions for the more serious sexual offences will generally be refused. For other offences, applicants will be expected to show a substantial period (normally at least 5 years) free of conviction for such offences before a licence will be granted.
- 8.2 Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as:
- Rape
 - Assault by penetration
 - Offences involving children or vulnerable adults
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 8.3 Before an application is allowed, an applicant should be free of conviction for at least 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:
- Sexual assault
 - Indecent assault
 - Possession of indecent photographs, child pornography etc.
 - Exploitation of prostitution
 - Trafficking for sexual exploitation
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 8.4 Before a licence is granted, an applicant should be free of conviction for at least 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:
- Indecent exposure
 - Soliciting (kerb crawling)
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

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

8.6 A licence will not normally be granted if an applicant has more than one conviction for a sex or indecency offence.

9. Dishonesty

9.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deposit such property with the police within 24 hours. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

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

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

10. Drugs

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

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

- 10.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.
- 10.4 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.
- 10.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

11 Driving offences involving the loss of life

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

A licence will not normally be granted unless the applicant is free of conviction for 7 years or (or at least 3 years must have passed since the completion of the sentence, whichever is longer) if he has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

- 11.2 Before a licence is granted, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he has a conviction for:

- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers

12 Drink driving/driving under the influence of drugs

- 12.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 3 years, after the restoration of the driving licence following a drink drive conviction should elapse before an

application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

13 Outstanding charges or summonses

- 13.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings. Where information is received through the Notifiable Occupations Scheme or otherwise, officers will use their delegated powers as appropriate. This may include suspending the licence if the licence holder has been charged with a relevant offence, pending a review once the outcome of the case is known.
- 13.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.
- 13.3 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [[Road Safety Act 2006, s 52, 2A&2B](#)]

14 Non-conviction information

- 14.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include serious violent offences and serious sex offences.
- 14.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

15 Cautions

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

16 Licensing offences

- 16.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed.

17 Insurance offences

- 17.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behavior. More than one conviction for these offences would normally prevent a licence being granted or renewed.
- 17.2 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would normally be granted for a hackney carriage or private hire drivers licence. An operator found guilty of aiding and abetting driving passengers for hire and reward without insurance will have his operators' licence revoked immediately and prevented from holding a licence for three years.

18 Overseas residents

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

19 Licences issued by other licensing authorities

- 19.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Normally the guidance in this policy will take precedence over the decision of another authority and each case will be decided on its own merits.

20 Summary

- 20.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.
- 20.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.
- 20.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an

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

Annex A – Motoring offences and penalty points

The following is a guide to the number of penalty points a court may impose, it does not reflect the fact that some offences may incur a disqualification. These codes are recorded from information supplied by the courts (accurate at the time of this document).

Code	Offence	Penalty Points
Accident Offences		
AC10	Failing to stop after an accident	5-10
AC20	Failing to give particulars or to report an accident within 24 hours	5-10
AC30	Undefined accident offences	4-9
Disqualified Driver		
BA10	Driving whilst disqualified by order of court	6
BA30	Attempting to driver while disqualified by order of court	6
Careless Driving		
CD10	Driving without due care and attention	3-9
CD20	Driving without reasonable consideration for other road users	3-9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3-9
CD40	Causing death through careless driving when unfit through drink	3-11
CD50	Causing death by careless driving when unfit through drugs	3-11
CD60	Causing death by careless driving with alcohol level above the limit	3-11
CD70	Causing death by careless driving then failing to supply a specimen for analysis	3-11
CD71	Causing death by careless driving then failing to supply A specimen for drug analysis	3-11
CD80	Causing death by careless, or inconsiderate, driving	3-11
CD90	Causing death by driving: unlicensed, disqualified or Uninsured drivers	3-11
Construction & Use Of Offences		
CU10	Using a vehicle with defective brakes	3
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicles or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3

CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers	3
C80	Using a mobile phone while driving a vehicle	3
Dangerous Driving		
DD40	Dangerous Driving	3-11
DD60	Manslaughter or culpable homicide while driving a vehicle	3-11
DD90	Furious Driving	3-9
Drink or Drugs		
DR10	Driving or attempting to drive with alcohol level above limit	3-11
DR20	Driving or attempting to drive while unfit through drink	3-11
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3-11
DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR61	Failure to supply a specimen for drug analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to provide specimen for breath test	4
DR80	Driving or attempting to drive when unfit through drugs	3-11
DR90	In charge of a vehicle when unfit though drugs	3-11
Insurance Offences		
IN10	Using a vehicle uninsured against third party risks	6-8
Licence Offences		
LC20	Driving otherwise than in accordance with the licence	3-6
LC30	Driving after making a false declaration about fitness applying for a licence	3-6
LC40	Driving a vehicle having failed to notify a disability	3-6
LC50	Driving after a licence has been revoked or refused on medical ground	3-6
Miscellaneous Offences		
MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3
MS30	Play street offences	2
MS50	Motor racing on the highway	3-11
MS60	Offences not covered by other codes	As Appropriate
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc.	3
Motorway Offences		
MW10	Contravention of Special Roads Regulations (excluding	3

	speed limits)	
Pedestrian Crossings		
PC10	Undefined Contravention of Pedestrian Crossing Regulation	3
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle	3
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle	3
Speed Limits		
SP10	Exceeding goods vehicle speed limits	3-6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3-6
SP30	Exceeding statutory speed limit on a public road	3-6
SP40	Exceeding passenger vehicle speed limit	3-6
SP50	Exceeding speed limit on a motorway	3-6
Traffic Directions And Signs		
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with 'Stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with a traffic sign (excluding stop signs, traffic signs 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
Special Code		
TT99	To signify a disqualification under totting-up procedure. If the total of penalty points reaches 12 or more within 3 Years, the driver is liable to be disqualified	
Theft or Unauthorised Taking		
UT50	Aggravated taking of a vehicle	3-11

Aiding, abetting, counseling or procuring

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

Causing or permitting

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

Inciting

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

Non-endorsable offences

Some offences are non-endorsable. A non-endorsable offence is an offence which courts do not endorse onto paper counterpart. No penalty points are attributed to these offences but they carry a period of disqualification. At the end of the disqualification (over 56 days) the driver will have to apply for a renewal licence together with the appropriate fee. Any queries about offences and endorsements should be directed to the convicting court.

Period of time

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

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

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

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

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

- Reckless/dangerous driving (shown on the licence as DD40, DD60 and DD80).
- Offences resulting in disqualification.
- Disqualified from holding a full licence until a driving test has been passed.

Or 4 years from the date of offence in all other cases.

Source www.direct.gov.uk