

APPENDIX 2



STOCKPORT
METROPOLITAN BOROUGH COUNCIL

**Statement of Policy and Guidelines Relating to the
Relevance of Convictions, Formal / Simple Cautions,
Complaints and other matters which may impact on the
Granting of a Licence**

The logo for the Public Protection Partnership, Greater Manchester, consists of a cluster of colored dots in orange, blue, and green, arranged in a roughly circular pattern.

**Public
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1. Statement of policy about relevant convictions

- 1.1 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.
- 1.2 This document aims to provide guidance to any person with an interest in Hackney and Private Hire licensing. In particular, but not exclusively:
- Applicants for driver Licences;
 - Existing licensed drivers whose Licences are being reviewed;
 - Applicants for Operator Licences;
 - Existing licensed Operators whose Licences are being reviewed;
 - Licensing Officers;
 - Members of the Licensing, Environment and Safety Committee (or other relevant decision making body);
 - Magistrates hearing appeals against local authority decisions; and/or
 - Greater Manchester Police.
- 1.3 The policy aims to provide transparency and consistency across the AGMA region, in accordance with the principles of good enforcement and relevant Regulatory Compliance Codes.
- 1.4 Where Officers of the Council have delegated powers to grant a Licence, they will consider these guidelines when making a decision to grant a Licence. In all other cases, where an applicant or current licensed driver has been convicted of any offence, received a caution or the Department is in receipt of other information relating to criminal matters or character, the matter will be referred to the Licensing, Environment and Safety Committee for determination. Whilst Officers and the Committee will have regard to the guidelines contained in the policy, each case will be considered on its individual merits and, where the circumstances demand, the Committee may depart from the guidelines.

2. Background

- 2.1 In this policy the word "individual" includes an existing Licence holder, an applicant for a new Licence, and an applicant for the renewal of an existing Licence.

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- 2.2 Licences for drivers of Hackney Carriages, Private Hire vehicles or Private Hire Operators may only be granted where the Council is satisfied that the individual is a fit and proper person to hold such a Licence.
- 2.3 In this policy the word “issue” is used. This includes complaints made to the Council, Police, Operators or any other agency, breaches of licensing conditions and intelligence received from other agencies (including circumstances which have not resulted in a criminal conviction, caution or other disposal). e.g. incidents which have resulted in a police investigation where there has been no further action due to the criminal burden of proof, will still be considered if the Committee is satisfied that the incident occurred based on the balance of probabilities.
- 2.4 This document is intended to give guidance on one aspect of whether a person is or is not a fit and proper person, namely the situation where a person has previous convictions, cautions or there are concerns about the individuals conduct
- 2.5 The Council is concerned to ensure:
- 2.5.1 That a person is a fit and proper person;
 - 2.5.2 The public are not exposed to persons with a history of dishonesty, indecency or violence; and
 - 2.5.3 The safeguarding of children, young persons and vulnerable adults.
- 2.6 The public are not normally permitted to attend Committee hearings for Private Hire and Hackney Carriage driver applications, Private Hire Operator applications or reviews, however in determining whether to grant a Licence the Committee or Officers will take into account the human rights of the wider public and balance these against the human rights of the applicant.
- 2.7 When submitting an application for a Licence to drive a Hackney Carriage or Private Hire vehicle, or for an Operator Licence, individuals are required to declare all previous convictions they have. Individuals are also required to declare all formal/simple cautions, any matters of restorative justice and all fixed penalties and all endorsable fixed penalties they have received and to provide details of all criminal matters of which they are currently the subject of criminal investigation or prosecution.

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- 2.8 The information given will be treated in confidence and will only be taken into account in relation to the relevant application to assist the Council in determining whether the applicant is a fit and proper person to hold a Licence for the purposes of sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, or whether the Council should exercise any of its powers under section 61 and 62 of the Act (i.e. suspension, revocation or refusal to renew a Licence).
- 2.9 Applicants for a Licence to drive a Hackney Carriage or Private Hire vehicle should be aware that the Council is empowered by law to check with the Disclosure and Barring Service for the existence and content of any criminal record and other intelligence held in their name. Officers from the Licensing section will, where appropriate, contact other agencies for any other information which they may hold for instance, Housing Service, Children's Services Greater Manchester Police and in respect of licensed drivers or applicants for a drivers licence NAFN regarding the National Register of Taxi Licence Revocations and Refusals . Information received from the Disclosure and Barring Service or other agency will be kept in strict confidence while the licensing process takes its course and will be retained no longer than is necessary and in any event will be destroyed in accordance with the requirements of the Data Protection Act 2018 and in accordance with good practice after the application is determined or any appeal against such determination is decided.
- 2.10 The disclosure of criminal convictions/fines or cautions or other relevant information relating to an individuals conduct will not necessarily debar the Licence from being granted, retained or renewed. It will depend on whether or not the individual can satisfy the Council that they are a fit and proper person to hold such a Licence.
- 2.11 The Council may fail to be satisfied that an individual is a fit and proper person to hold a driver Licence or an Operator Licence for any good reason. If adequate evidence that a person is a fit and proper person is not adduced or if there is good reason to question or doubt the evidence provided, then that could amount to good reason to refuse a Licence.
- 2.12 In considering evidence of an individual's good character and fitness to hold a driver or Operator Licence, where previous convictions or cautions, or other information relating to criminal matters or character is disclosed, the Council will consider the following:
- The nature of the offence or issue and penalty;

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- When it was committed or took place;
- The date of conviction or issue;
- The length of time which has elapsed;
- The individuals age when the offence was committed or issue took place;
- Whether or not it is part of a pattern of criminal behaviour;
- In respect of a licensed driver/ driver applicant information obtained from the National Register of Taxi Driver Revocations and Refusals
- The intent, the harm which was, or could have been caused; and
- Any other factors which might be relevant.

- 2.13 Where an individual has been convicted of a criminal offence, the Council cannot review the merits of the conviction [*Nottingham City Council v. Mohammed Farooq (1998)*].
- 2.14 The Council has adopted the following guidelines relating to the relevance of convictions to which it refers in determining new or renewal applications for driver Licences and Operator Licences and when considering whether to take any action against an existing Licence holder.
- 2.15 The guidelines do not deal with every type of offence, and do not prevent the Council from taking into account offences not specifically addressed in the guidelines, or other conduct, which may be relevant to an individual. If an individual has a conviction for an offence not covered by the guidelines, regard will be had to the factors at paragraph 2.12 when deciding whether any action should be taken.
- 2.16 Offences described in the guidelines and similar offences, though differently entitled in any statutory provision, modification or re-enactment, will be taken into account in accordance with the guidelines
- 2.17 The guidelines are not an attempt to define what is a “fit and proper person”.
- 2.18 Any individual who is refused a driver Licence or has such a Licence suspended or revoked on the grounds that the Council is not satisfied he or she is a fit and proper person to hold such a Licence, has a right of appeal to the Magistrates’ Court within 21 days of the notice of refusal.
- 2.19 Any individual who is refused an Operator Licence has a right of appeal to the Magistrates’ Court within 21 days of the notice of refusal.

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- 2.20 The guidance will be used for the determination of new applications, the renewal of existing Licences and the review of existing Licences in relation to Hackney Carriage drivers, Private Hire drivers and Operator Licences.
- 2.21 It is common practice for individuals to submit simultaneous applications for Hackney Carriage and Private Hire Driving Licence(s). Licensing Authorities may use the same application form that allows the individual to specify if they are applying for both types of driver Licences or only one type. This provides an efficient service for the customer and saves needless duplication. For dual applications the Licensing Committee are asked to apply the fit and proper test to each individual application. Similarly where an existing driver who holds both Private Hire and Hackney Carriage Licences is referred to Committee, the fit and proper test will be applied individually to each Licence.

3. Guidelines on the relevance of previous convictions and other information - General Policy

- 3.1 Each case will be decided on its own merits.
- 3.2 The Council has a duty to ensure so far as possible that drivers and Operators are fit and proper persons to hold Licences. One aspect of that is the extent to which previous convictions and conduct, including but not limited to convictions for offences against children and young persons, dishonesty, sexual offences, traffic offences, violence and drugs indicate that a person is not a fit and proper person, and would not take advantage of passengers, abuse or assault them.
- 3.3 Restorative justice and other criminal disposals are increasingly used by the police as a less formal way of dealing with issues and as an alternative to the criminal court system. The Council recognises that restorative justice and other out of court disposals tend to be applied in less serious cases or for first time offenders, nevertheless all such disposals will be taken into account when determining if a person is a fit and proper person.
- 3.4 A person with a conviction for a serious offence need not be automatically barred from obtaining a Licence, but would normally be expected to:
- Remain free of conviction for an appropriate period; and

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- Show adequate evidence that he or she is a fit and proper person to hold a Licence (the onus is on the applicant to produce such evidence).
- 3.5 A person with a conviction for a single serious offence or a number of separate offences is not barred from applying for a Private Hire or Hackney Carriage driver Licence, but would normally be expected to remain free from conviction for an appropriate period which will depend on the nature of the offence.
- 3.6 Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is a fit and proper person to hold a Licence.
- 3.7 In situations where it may be appropriate to depart from the general policy, for example, may be situations where the offence is an isolated one with mitigating circumstances or where a conviction defaults outside of the policy between the application and determination date. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour, which will be taken into account. In any case which involves certain specified sexual offences, murder or manslaughter a Licence will normally be refused.
- 3.8 The Council, through the Licensing, Environment and Safety Committee, will convene to consider any information or representations received that a person is not/no longer a “fit and proper” person or has breached a condition of Licence. If this has been proved they may refuse, revoke or suspend a Licence for any specified period using the following methods:
- 3.8.1 Hearing with notice – Where a Committee is to be convened to consider whether or not a person is a “fit and proper” person, notice of the time and date when a Committee will be convened will then be given ahead of the date listed in order to allow the person to seek independent legal advice and to attend and be represented at the hearing.
- 3.8.2 Ex-parte hearing – Where a Committee is convened as a result of sensitive information being received by the Council an assessment will be undertaken in balancing a persons right to a fair hearing against whether or not it is in the public interest to hold the hearing ex-parte.
- 3.9 Where new offences are created or existing offences are consolidated or re-enacted etc they will be treated in a manner appropriate to their severity whether or not this guidance has been updated to reflect the changes.

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4. General guide to the action which should be considered where convictions/ conduct matters, are disclosed / discovered

4.1 DISHONESTY

- 4.1.1 Drivers of Hackney Carriage 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 also in a number of other ways.
- 4.1.2 Passengers may include especially vulnerable people and children.
- 4.1.3 Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing, passengers may include especially vulnerable people. In certain situations drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station. The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into drivers.
- 4.1.4 For these reasons a serious view is taken of any convictions involving dishonesty. In general an individual with convictions for dishonesty, which are less than 5 years old, is unlikely to be considered favourably.
- 4.1.5 In particular, a Licence will normally be refused, suspended or revoked where the individual has a conviction for an offence or similar offences or offences which replace the below offences, and in relation to a new application that the conviction is less than 3 years prior to the date of application:
- Theft

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- Burglary
- Fraud
- Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- Handling or receiving stolen goods
- Forgery (e.g. producing false insurance policy)
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Blackmail

4.2 VIOLENCE

4.2.1 Members of the public and in particular, the elderly, infirm and children or vulnerable adults entrust their personal safety to Private Hire and Hackney Carriage drivers whenever they take a journey.

4.2.2 Passengers often travel alone and are vulnerable to physical attack etc.

4.2.3 Users of Private Hire and Hackney Carriage vehicles have a right to expect that drivers are not individuals with a predisposition towards or a propensity for violent behaviour at any level.

4.2.4 **Offences against Children (under 14 years) and Young Persons (aged 14 to 17 years)**

4.2.4.1 Drivers of Hackney Carriage and Private Hire vehicles are often entrusted with the care of children and young persons.

4.2.4.2 It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.

4.2.4.3 The Council seeks to minimise risks associated with children and young persons and for that reason a more serious view will be taken where offences of violence involve children or young persons.

4.2.4.4 Where the commission of an offence involved loss of life, a Licence will normally be refused or revoked.

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4.2.4.5 In all cases the matter is to be referred to the Committee for determination. A conviction less than 5 years old will generally be refused.

4.2.5 Offences against Other Persons

4.2.5.1 As Hackney Carriage and Private Hire vehicle drivers maintain close contact with the public, where the commission of an offence involved loss of life a Licence will normally be refused or revoked.

4.2.5.2 In all cases the matter will be referred to the Committee for determination. A conviction less than 3 years old will generally be refused.

4.2.5.3 In particular:

- i. A Licence will normally be refused or revoked where the individual has a conviction for an offence or similar offence(s) which replace the below offences:
 - Murder;
 - Manslaughter; and/or
 - Manslaughter or culpable homicide while driving.

- ii. A Licence will also normally be refused or revoked where the individual has a conviction for an offence or similar offence(s) which replace the below offences and in the case of applications, the conviction is less than 10 years prior to the date of application:
 - Arson;
 - Malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998);
 - Actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998);
 - Grievous bodily harm with intent (s.18 Offences Against the Person Act);
 - Grievous bodily harm with intent (s.20 Offences Against the Person Act);
 - Robbery;
 - Possession of firearm;

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- Riot;
 - Assault Police;
 - Common assault with racially aggravated (s.29(1)(c) Crime and Disorder Act 1998);
 - Violent disorder; and/or
 - Resisting arrest.
- iii. A Licence will also normally be refused or revoked where the individual has a conviction for an offence or similar offence(s) which replace the below offences and in the case of applications, the conviction is less than 5 years prior to the date of application:
- Racially-aggravated criminal damage (s.30 Crime and Disorder Act 1998);
 - Racially-aggravated s.4 Public Order Act 1986 offence (fear of provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998);
 - Racially-aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress (s.31(1)(b) Crime and Disorder Act 1998);
 - Racially-aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998);
 - Racially-aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32(1)(b) Crime and Disorder Act 1998); and/or
 - Racially-aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998).
- iv. A Licence will also normally be refused or revoked where the individual has a conviction for an offence or similar offence(s) which replace the below offences and in the case of applications, the conviction is less than 3 years prior to the date of application:
- Common assault;
 - Assault occasioning actual bodily harm (s.47 Offences Against the Person Act);
 - Affray;
 - S5 Public Order Act 1986 offence (harassment, alarm or distress);
 - S.4 Public Order Act 1986 offence (fear of provocation of violence);
 - S4A Public Order Act 1986 offence (intentional harassment, alarm or distress);

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- Harassment- breach of restraining order- on conviction Protection from Harassment Act 1997 s5(5) = s. 5(6);
- Obstruction;
- Possession of offensive weapon; and/or
- Criminal damage.

4.3 DRUGS

- 4.3.1 A Licence will normally be refused or revoked where the individual has a conviction for an offence related to the supply of drugs and on application where the conviction is less than 5-10 years prior to the date of application.
- 4.3.2 After 5 years, consideration will be given to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a Licence.
- 4.3.3 A Licence will normally be refused or revoked where the individual has more than one conviction for offences related to the possession of drugs and the convictions are less than 5 years prior to the date of the application.
- 4.3.4 Any offence relating to the supply of drugs will be referred to the Committee for determination. An application with a related conviction of less than 5 years old will generally be refused.
- 4.3.5 An isolated conviction for an offence related to the possession of drugs will be referred to the Committee for determination. A conviction less than 3 years old will generally be refused.
- 4.3.6 If any applicant was dependent on drugs, then they will normally be required to show evidence of 5 years free from drug taking after detoxification treatment as required by the Council.

4.4 SEXUAL AND INDECENCY OFFENCES

- 4.4.1 Any individual currently on the sex offenders' register would not normally be granted a Licence.
- 4.4.2 **Offences against Children (under 14 years) and Young Persons (aged 14 to 17 years)**

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4.4.2.1 Drivers of Hackney Carriage and Private Hire vehicles are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.

4.4.2.2 Where the commission of a sexual offence involves a child or young person a Licence will normally to be refused or revoked.

4.4.3 **Intelligence and other information which has not resulted in a criminal conviction**

4.4.3.1 The Council will sometimes be made aware of other intelligence or low level information about an individual which has not resulted in the conviction of that person but is relevant in relation to their character. Officers will give appropriate consideration to this information and will seek to consult with other appropriate agencies in order to ensure that they have a comprehensive understanding. Any additional information gathered through this process may then be taken into account at any subsequent hearing or Licensing Committee.

4.4.4 **Offences against persons other than children / young persons**

4.4.4.1 As Hackney Carriage and Private Hire vehicle drivers often carry unaccompanied passengers, an individual with a conviction for rape, indecent assault, or other similar offences under the Sexual Offences Act 2003, will normally be refused a Licence or have any current licence revoked.

4.4.4.2 Individuals with a conviction relating to sexual offences such as soliciting, importuning, indecent exposure or other similar offences under the Sexual Offences Act 2003, will be referred to the Committee for determination.

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Applicants on the sex offenders register or with a conviction less than 5 years old will generally be refused and any current licence revoked.

- 4.4.4.3 After 5 years, consideration will be given to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a Licence.

4.5 DRUNKENNESS

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

4.5.2 With a motor vehicle (No Disqualification)

- 4.5.2.1 A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of alcohol.
- 4.5.2.2 An application will normally be refused where the individual has a conviction, which does not result in disqualification, for an offence within 2 years of the date of the application. Any current licence will normally be revoked.
- 4.5.2.3 More than one conviction for this type of offence, within the last 5 years of the date of conviction is likely to merit refusal.

4.5.3 With a motor vehicle (Disqualification)

- 4.5.3.1 Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should normally elapse from the date of the restoration of the DVLA Licence before an applicant is considered for a Licence.
- 4.5.3.2 In addition, an individual will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were alcohol dependent.

4.5.4 Not in a motor vehicle

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- 4.5.4.3 An isolated conviction for drunkenness need not debar an individual from gaining a Licence. In some cases, a warning may be appropriate.
- 4.5.4.4 More than one conviction for drunkenness could indicate a medical problem necessitating critical examination and refusal or revocation of a Licence.
- 4.5.4.5 In addition, an individual will generally be required to show that a period of at least 5 years has elapsed after completion of detoxification treatment if they were drug or alcohol dependent.

4.6 MAJOR TRAFFIC CONVICTIONS

- 4.6.1 New applicants and existing licensed drivers with a conviction for a 'Major Traffic Offence' (as defined below) will be referred to the Committee for determination. A conviction less than 2 years prior to the date of the application will generally be refused. A current licence will normally be suspended or revoked.
- 4.6.2 Where the conviction resulted in a period of disqualification, an application will normally be refused unless a period of 3 years free from conviction has lapsed from the restoration of the DVLA Licence and 5 years where the disqualification relates to driving whilst unfit through drink or drugs.
- 4.6.3 In addition, applicants will generally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were drug or alcohol dependent.
- 4.6.4 For the purposes of these guidelines the following motoring offences are classed as 'Major Traffic Offences':

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of Court
BA30	Attempting to drive while disqualified by order of Court
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death through careless driving when unfit through drugs

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CD60	Causing death through careless driving with alcohol level above the limit
CD70	Causing death through careless driving then failing to supply a specimen for alcohol analysis
CD71	Causing death through careless driving the failing to supply a specimen for drug analysis
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR31	Driving or attempting to drive when unfit through drugs
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving / attempting to drive
DR61	Failure to provide specimen for drug analysis in circumstances other than driving / attempting to drive
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a Licence
LC30	Driving after making a false declaration about fitness when applying for a Licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a Licence has been revoked or refused on medical grounds

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MS50	Motor racing on the highway
MS60	Offences not covered by other codes
MS90	Failure to give information as to identity of driver, etc.
UT50	Aggravated taking of a vehicle

4.6.5 Aiding, Abetting, Counselling or Procuring

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

4.6.6 Causing or Permitting

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

4.6.7 Inciting

4.6.7.1 Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16),

4.6.8 Or similar offences or offences which replace the above offences.

4.6.9 Disqualification – Major Traffic Offence

4.6.9.1 An application will generally be refused unless a period of 3 years free from conviction has elapsed from the restoration of the DVLA Licence, and 5 years where the disqualification relates to driving whilst unfit through drink or drugs.

4.7 INTERMEDIATE TRAFFIC OFFENCES

4.7.1 Any intermediate traffic conviction, which has attracted 4 or more penalty points will be treated as though it were a Major Traffic Offence.

4.7.2 Single Conviction

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4.7.2.1 Where an individual has a single intermediate traffic conviction within the 12 months immediately preceding the date of application, they will normally be expected to show a period of at least 6 months free from conviction before an application is considered.

4.7.3 Two or more Convictions

4.7.3.1 Where an individual has 2 or more intermediate traffic convictions in the 12 months immediately preceding the date of application, the individual will normally be expected to show a period of at least 12 months free from conviction before an application is considered.

4.7.4 If any conviction for an Intermediate Traffic Offence results in a disqualification, the individual should refer to the sections of these guidelines relating to disqualification.

4.7.5 Individuals with a Conviction / Fine / Simple Caution / Fixed Penalty Points for an offence which falls under the heading of a 'Minor' or 'Intermediate' Traffic Offence (which has attracted no more than 3 penalty points), and where the total number of accumulated points on their DVLA driving Licence is less than 12 or does not result in a period of disqualification, can have their applications granted or current licences can continue without the matter being referred to the Committee.

4.7.6 An individual who has been disqualified owing to the totting up system or in relation to an offence regarding a major or intermediate traffic conviction, will not normally be granted a Licence unless they have held a DVLA Licence for at least 12 months following the expiry of the period of the disqualification. In such circumstances an existing Licence will normally be revoked.

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

CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyres

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

4.7.8 Aiding, Abetting, Counselling or Procuring

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

4.7.9 Causing or Permitting

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

4.7.10 Inciting

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

4.7.11 Or similar offences or offences which replace the above offences.

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4.7.12 Disqualification – Intermediate Traffic Offence

4.7.12.1 An application will generally be refused unless the individual can show a period free from conviction has elapsed from the restoration of the DVLA Licence which is twice the period of disqualification imposed by the court. e.g 3 month disqualification = 6 month period free from conviction. Where no disqualification has been given the period free from conviction will be determined by reference to the period(s) free from conviction for an intermediate traffic offence(s).

4.8 MINOR TRAFFIC OFFENCES

4.8.1 Any Minor Traffic Offence which has attracted 4 or more penalty points will be treated as though it were an intermediate traffic conviction.

4.8.2 Single conviction

4.8.2.1 Where an individual has a single minor traffic conviction in the 12 months immediately preceding the date of application, the application will normally be granted with a letter of warning being placed on the file.

4.8.3 Two or more Convictions

4.8.3.1 Where an individual has two or more minor traffic convictions in the 12 months immediately preceding the date of application an individual will normally be expected to show a period of at least six months free from conviction before an application is considered.

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

MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS70	Driving with uncorrected defective eyesight

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

4.8.5 Aiding, abetting, counselling or procuring

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

4.8.6 Causing or permitting

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

4.8.7 Inciting

4.8.7.1 Offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16), or similar offences or offences which replace the above offences.

4.8.8 Or similar offences or offences which replace the above offences.

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4.8.9 Disqualification – Minor Traffic Offence

4.8.9.1 An application will generally be refused unless the individual can show a period free from conviction has elapsed from the restoration of the DVLA Licence which is equal to the period of disqualification imposed by the court i.e. 3 month disqualification = 3 month period free from conviction. Where no disqualification has been given the period free from conviction will be determined by reference to the period(s) free from conviction for a minor traffic offence(s).

4.9 TOTTING UP

4.9.1 TT99 Totting up – if the total of penalty points reaches 12 or more within 3 years the driver is liable to disqualification by the Court.

4.9.2 Totting up With Disqualification

4.9.2.1 An application will generally be refused unless the individual can show that a period free from conviction has elapsed from the restoration of the DVLA Licence, which is equal to the period of disqualification imposed by the court.

4.9.2.2 Where any of the offences which contribute to a totting up disqualification are a Major Traffic Offence the Council will consider the application under “Disqualification – major traffic offence”.

4.9.2.3 In such circumstances a current Licence would normally be revoked.

4.9.3 Totting up without Disqualification

4.9.3.1 There may be occasions where an individual has accrued sufficient points under totting up for the court to consider disqualification, but successfully argues that exceptional hardship should apply and the court has not, therefore, imposed a disqualification. In these circumstances the Committee expects the individual to supply full details of each of the matters that led to the totting up. The Council will take those matters into account in accordance with this policy when deciding whether to grant or refuse an application or whether to take action against an existing Licence. Should the

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individual not supply full details of each of these matters then the Committee will take the failure to supply such information into account when deciding whether to take any such action.

- 4.9.3.2 In these circumstances the Committee will consider the matter as a disqualification for the most serious of the offences that contributed to the totting up e.g. where the offences contributing to the totting up are SP30, SP80 and IN10 the Council would consider IN10 under 'Disqualification – Major Traffic Offence'.

4.10 PLYING FOR HIRE

- 4.10.1 In the case of a driver found guilty of an offence of illegally plying for hire, the Committee would normally order the Licence to be revoked or suspended.

4.11 BREACH OF CONDITIONS, BYE-LAWS AND COMPLAINTS

- 4.11.1 Any breach of conditions, breach of bye-laws or complaint relating to the conduct of a Licence holder may be referred to the Committee. A Licence holder brought before the Committee will be dealt with by no further action, a formal warning, period of suspension or revocation.
- 4.11.2 Licence holders will be brought before Committee in situations where it is clear that the individual's behaviour is not influenced by verbal or written warnings administered by Licensing Officers. Any Licence holder who receives a third warning [verbal or written] in respect of a breach or complaint occurring within a 12 month period [calculated by reference to the date of the breach/complaint] will be brought before the Committee.
- 4.11.3 All complaints are investigated. Some investigations and breaches will result in prosecution and in those cases the prosecution outcome will be the deciding factor in the decision to refer to Committee as will other prosecutions and cautions administered by other enforcing agencies.
- 4.11.4 Where this authority administers a caution to an individual, this does not preclude a referral to Committee for the matter for which the individual has been cautioned.

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4.11.5 In other cases an investigation may result in a warning, such warnings will be relevant to the rolling 12 month period.

4.11.6 In certain situations the breach or complaint may be deemed so serious that an immediate referral to Committee is warranted. In those cases the reasoning for the decision for the immediate referral will be recorded within the formal report to Committee.

4.12 SPENT CONVICTIONS

4.12.1 By virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002 taxi drivers are an exempted occupation for the purposes of the 1974 Act and convictions are therefore never spent.

4.12.2 The Council will only consider spent convictions if it appears to be relevant for deciding whether the individual is a fit and proper person to hold a Licence and that justice cannot be done in the case, except by admitting or requiring evidence relating to that spent conviction. The Committee will take into consideration the nature of the offence(s), the history or pattern of offending, the lapse of time and whether all the convictions have previously been considered.

4.13 FORMAL/ SIMPLE CAUTIONS AND ENDORSABLE FIXED PENALTIES

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

4.14 MULTIPLE CONVICTIONS FROM A SINGLE INCIDENT

4.14.1 Where an individual has multiple convictions arising from a single incident, the convictions will generally be treated as one conviction for the purposes of these guidelines.

4.14.2 In these circumstances the period for which the individual would normally be expected to show free from conviction will be the longest applicable period calculated by reference to each offence.

4.15 OTHER OFFENCES

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- 4.15.1 Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and Hackney Carriage Byelaws and Section 167 Criminal Justice and Public Order Act 1994.
- 4.15.2 One of the main purposes of the licensing regime set out in the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976 (“the Acts”) and Hackney Carriage Byelaws, is to ensure the protection of the public.
- 4.15.3 For this reason a serious view is taken of convictions for offences under the Acts (including illegally plying for hire and/or touting) when deciding whether an individual is to be treated as a fit and proper person to hold a Licence.
- 4.15.4 In particular, an individual will normally be refused a Licence if they have been convicted of an offence under the Acts at any time during the 2 years preceding the application or has more than one conviction within the last 5 years preceding the date of the application.

4.16 Conduct

- 4.16 Information may be received from third parties that gives rise to concerns regarding a person’s conduct, for example information ascertained from the nation register of Taxi licence Revocations and Refusals such information may relate to an applicant or a licensed driver, the information will be considered and if deemed relevant will be taken into consideration when determining whether a person is or remains a fit and proper person to hold a licence

4.17 REAPPLICATION

- 4.16.1 Individuals are advised that Council guidelines are that where an individual has had an application refused or a Licence revoked, the Committee would normally refuse any subsequent application made within 12 months of the date of the previous refusal or revocation unless there are substantial material changes in the individual’s circumstances.

Taxi Licensing
Licensing Team
Public Protection

APPENDIX 2

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These guidelines to convictions supersede all others and take effect from: XXXXXXXX