

# Licences to drive Hackney Carriage and Private Hire vehicles: Guidelines relating to the relevance of convictions and cautions

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## 1. INTRODUCTION

- 1.1 This document provides guidance to the Licensing Committee and its Sub-Committees on the criteria taken into account when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and private hire drivers or operator licence. Although the law does not lay down a similar test for vehicle proprietors, it is the view of Basildon Council that vehicle proprietors should also be assessed in relation to their “fit and proper” status. Whilst convictions will play a significant part in the Licensing Authority’s determination on whether an individual is fit and proper or not, the Council will also take into account other factors such as demeanour, general character, non-criminal behaviour, driving abilities, and other police information etc.
- 1.2 This document will be immediately applied to all current licences, in addition to being considered at the time of renewal and grant of a licence.
- 1.3 It is the responsibility of Basildon Borough Council (referred to as the Council) to issue hackney carriage and private hire licences under the Local Government (Miscellaneous Provisions) Act 1976. In exercising this duty the Council will consider the need to ensure the safety of the public as its primary consideration. Licences will not be issued unless the person is considered to be ‘fit and proper’.
- 1.4 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership) is “safe and suitable” to hold the licence. The Statutory Taxi & Private Hire Vehicle Standards published in July 2020 states:

“Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver’s licence is a ‘fit and proper’ person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

**Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?**

If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence.”

- 1.5 In seeking to safeguard the safety of the public, the Council will be concerned to ensure:
  - That a person is a fit and proper person in accordance with Sections 51 to 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II)
  - That the person does not pose a threat to the public
  - That the public are safeguarded from dishonest persons
  - The safety of children, young persons and vulnerable adults.

1.6 In order to assess the suitability of an applicant the Council will undertake whatever checks and apply whatever processes it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. In assessing the suitability of an applicant or licence holder, the council will take into account the following factors:

- Criminality
- Period of holding a driver's licence
- Number of endorsed driving licence penalty points
- Right to work
- Medical Fitness
- Standard of driving / driving ability
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process)
- The previous licensing history of existing / former licence holders.

In addition the Council will also consider further information sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards, other licensing authorities and statutory agencies.

1.7 This document provides guidance to any person with an interest in hackney carriage and private hire licensing. In particular, but not exclusively:

- Applicants for drivers licence
- Existing licence holders whose licences are being reviewed
- Licensing officers
- Members of the Licensing Committee/Sub Committee
- Magistrates and judges hearing appeals against local authority decisions.

1.8 In considering this guidance the Council will be mindful that each case must be considered on its individual merits and, where the circumstances demand, the committee may depart from these guidelines.

1.9 In this document the word "conviction" is to be defined as including convictions, cautions, warnings, reprimands and other relevant information. In this document 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is a five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this document. The term 'since completion of sentence' is to be construed in a similar way.

1.10 In this document the word applicant refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders that are subject of periodic auditing or having their licence reviewed by the Council as part of the document implementation process. It also includes existing licence holders who are being considered by the council by virtue of offending activity having recently come to light.

The council reserves the right to overturn a decision that has previously been made, or a renewal of a licence, where clear errors are discovered.

- 1.11 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual. Licensing authorities have to make difficult decisions but the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee will be made on the “balance of probability”. This means that an applicant or licensee will not be ‘given the benefit of doubt’. If the committee or delegated officer is only “50/50” as to whether the applicant or licensee is ‘fit and proper’, the individual should not hold a licence. The threshold used here is lower than for a criminal conviction (that being “beyond reasonable doubt”) and can take into consideration conduct that has not resulted in a criminal conviction.

## **2. General Policy**

- 2.1 Whilst the Committee/Sub-Committee may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:
- a. Remain free of conviction for an appropriate period as detailed below; and
  - b. Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be 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.
- 2.2 The standards and criteria set out in paragraphs 6 to 16 below are those that would normally be applied to applications and licences. The Council may depart from these criteria, however it must only do so in wholly exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.
- 2.3 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute, or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to “conviction” will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.

## **3. Appeals**

- 3.1 Any applicant refused a drivers licence, or who has their licence suspended or revoked on the grounds that the council is not satisfied they are a fit and proper person to hold such a licence has a right to appeal to the Magistrates Court within 21 days of the notice of refusal [Local Government (Miscellaneous Provisions) Act 1976, s77 (1)].

## 4. Powers

- 4.1 Section 61 and Section 62 of the Local Government (Miscellaneous Provisions) Act 1976 allow the council to suspend, revoke or refuse to renew a licence if the applicant/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 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the council to take into account all convictions recorded against an applicant or the holder of a Private Hire Vehicle or Hackney Carriage Drivers Licence, whether spent or not. Therefore the council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.
- 4.3 Under the provisions of Section 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the council is required to ensure that an applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire Drivers or vehicle Licence and/or Private Hire Vehicle Operator's 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 council 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 the conviction, warning, caution etc.
  - Circumstances of the individual concerned
  - Any sentence imposed by the court
  - The applicant's age at the time of offence / incident leading to the conviction, warning, caution etc.
  - 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, for example:
    - The previous conduct of an existing or former licence holder
    - Whether the applicant has intentionally misled the council or lied as part of the application process
    - Information provided by other agencies/council departments.
- 4.4 Existing holders of driver's licences are required to notify the council in writing within five working days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the council within 3 working days of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the council as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.

- 4.5 Applicants can discuss further what effect a caution/conviction may have on any application by contacting a Licensing Officer on 01268 206925 for advice.
- 4.6 The council conducts enhanced disclosures from the Disclosure and Barring Service (DBS) on any applicant for a driver's licence. Applicants applying for the grant or renewal of a driver's licence will be required to obtain an enhanced disclosure at their own expense.
- 4.7 The Council 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 Council or other licensing authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations. Examples of such information sources that may be used include social care information, benefits payments etc.
- 4.8 It is an offence for any person to 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.
- 4.9 Any offences not covered by this policy will not prevent the council from taking into account the offences.
- 4.10 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor's licence. In order to support decision making, vehicle proprietors who do not hold a combined hackney carriage and private hire drivers licence with Basildon Council will be required to supply a basic DBS disclosure upon application which will be checked annually.

## **5. Options when determining an application/licence**

- 5.1 When determining an application or reviewing an existing licence the council have the following options:
- approve the application or take no further action
  - refuse the application/revoke the licence/suspend the licence
  - issue a warning which may include the use of enforcement penalty points
  - for existing drivers who have accumulated 9 or more points on their DVLA driving licence, their driving licence will normally be suspended until the driver has successfully undertaken a driving assessment. Such a test will be at the licence holder's expense.

## **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 loss of life.

6.2 In other cases anyone of a violent disposition must not be licensed until at least 7 years free of such conviction. However, given the range of offences that involve violence consideration must be given to the nature of the conviction.

In particular:

- (a) A licence will not be granted where the applicant has a conviction for a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person. Examples include:
- Murder
  - Manslaughter
  - Manslaughter to culpable homicide while driving
  - Terrorism offences
  - Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- (b) Consideration may only be given to the granting / issuing of a licence if at least 10 years have passed since the completion of any sentence and / or licence period following conviction for an offence of violence, or connected with any offence of violence. Examples include:
- Arson
  - Threats to kill
  - Wounding with intent to cause grievous bodily harm
  - Grievous bodily harm
  - Assault occasioning actual bodily harm that is racially aggravated
  - Malicious wounding or grievous bodily harm which is racially aggravated
  - Robbery
  - Aggravated burglary
  - Racially aggravated criminal damage
  - Racially aggravated public order offences
  - Common assault
  - Assault occasioning actual bodily harm
  - Assault with intent to resist arrest
  - Assault on Police
  - Possession of firearm
  - Riot

- Affray
- Resisting arrest
- Public order offences
- Criminal damage
- Any similar offences or offences which replace the above.

6.3 In the event of an application being allowed to proceed, a strict warning both verbally and in writing should be administered.

## 7. **Possession of an offensive weapon**

7.1 If an applicant has been convicted of possession of an offensive 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 7 years (or at least 7 years must have passed since the completion of the sentence, whichever is longer), before an application is allowed.

## 8. **Sex and Indecency Offences**

8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, the council will take a strong line in relation to applicants or existing licence holders with a conviction(s) for sexual offences. All sexual and indecency offences should be considered as serious. Applicants with a conviction(s) for sexual or indecency offences that involve a third party will be refused a licence. Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
- Making or distributing obscene material
- Possession of indecent images
- Sexual assault
- Exploitation of prostitution
- Slavery
- Child sexual exploitation
- Grooming
- Psychological, emotional or financial abuse
- Soliciting (kerb crawling)



- Making obscene / indecent telephone calls
- Indecent exposure
- Any similar offences (including attempted or conspiracy to commit) offences which replace the above.

8.2 An application will be refused if an applicant has **one or** more conviction for a sex or indecency offence. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

8.3 Existing licence holders should be aware that if the Licensing Authority receives notification from the Police that a driver is being investigated for any offence, including a serious offence, such as a sexual offence, then the authority will decide upon the appropriate action to be taken to safeguard the public, based on the allegation being made. This may include considering a specified period of suspension or revocation of the licence with immediate effect on the grounds of public safety.

## 9. Dishonesty

9.1 A licensed PHV or taxi driver is expected to be a trustworthy person. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. 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 UK 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 7 years free of conviction or at least 7 years have passed since the completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handing or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Money Laundering
- Other deception
- Taking a vehicle without consent

- Any similar offence (including attempted or conspiracy to commit) offences which replace the above.

## **10. Alcohol and Drugs**

- 10.1 A serious view is taken of any drug related offence. Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered carefully.
- 10.2 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. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 10 years after the restoration of the driving licence following a drink drive conviction should elapse before an applicant will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report may be required to be provided before the application can be allowed to proceed.
- 10.3 Because of the nature of a driver's involvement with the public, a licence will not be granted where the applicant has a conviction for an offence related to the supply of drugs, until at least 10 years have elapsed since the completion of any sentence imposed.
- 10.4 A licence will not be granted where the applicant has a conviction for offences related to the possession of illegal / controlled drugs until at least 10 years have passed since the completion of any sentence and / or licence period and only then after full consideration of the nature of the offence and the quantity / type of drugs involved.
- 10.5 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

## **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.
- 11.2 A licence will not be granted if an applicant has a conviction for:
- Causing death by dangerous driving
  - Causing death by careless driving whilst under the influence of drink or drugs
  - Causing death by careless driving
  - Causing death by driving: unlicensed, disqualified or uninsured drivers

- Any similar offence (including attempted or conspiracy to commit) offences which replace the above.

## **12. Other traffic offences**

- 12.1 Minor traffic offences e.g. obstruction, some speeding offences, pedestrian crossing offences, traffic light offences waiting in a restricted area, etc. may not ordinarily merit refusal. Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. For existing drivers who have accumulated 9 or more points on their DVLA driving licence, consideration will be given to formally suspending their hackney carriage/private hire drivers licence until the driver has successfully undertaken a driving assessment. Such a test will be at the licence holder's expense.
- 12.2 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. A serious view will be taken of a conviction for driving or being in charge of a vehicle without insurance or driving whilst disqualified. Drivers are responsible for the safety of members of the public who are travelling in their vehicles. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.
- 12.3 Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.
- 12.4 In cases where the courts have imposed a disqualification in respect of the ordinary driving licence, the periods stated above should normally commence from the date of the restoration of the licence.

## **13. Outstanding Charges or Summonses**

- 13.1 If the individual is the subject of an outstanding charge or summons their application should be suspended until the matter is resolved.
- 13.2 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that, in the interest of public safety, the drivers licence should be either suspended or revoked with immediate effect, Basildon Council will issue a statement which confirms that the licence has been suspended/revoked and the reasons why the decision has been made. The suspension/revocation will take effect when the notice is served on the driver. [S62 (2B) of the Local Government (Miscellaneous Provisions) Act 1976].

## **14. Non-Conviction Information**

- 14.1 The council will also take into account situations and circumstances that have not led to a conviction. This will include acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take in relation to non-conviction information (or a complaint), the credibility of both the witness / complainant and the licence holder will be taken into account.
- 14.2 If an applicant has 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 violent and / or sexual offences.
- 14.3 In assessing the action taken, the safety of the travelling public must be the paramount concern.

## **15. Licensing Offences**

- 15.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons will prevent a licence being granted or renewed until a period of 7 years has passed since conviction.

## **16. Discrimination**

- 16.1 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.
- 16.2 This category includes offences under the Equality Act 2010 in so far as it applies to hackney carriage/private hire drivers. In the case of a licensed driver who is convicted of (or received a caution for) an offence under the Equality Act 2010 in so far as it applies to hackney carriage/private hire drivers, the drivers licence shall normally be suspended for six months. The Equality Act 2010 requires such drivers to carry assistance dogs unless an exemption for medical grounds exists. The Equality Act 2010 also requires drivers to provide assistance to passengers in wheelchairs unless an exemption for medical grounds exists.

## **17. Applicants with periods of residency outside the UK**

- 17.1 If an applicant has spent three continuous months or more overseas the Council will expect to see evidence of a criminal record check from the country/countries visited covering the period.
- 17.2 Because of the potential lifetime relevance for some of the most serious offences mentioned in this document, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU Nationals suitable checks should be available, for those countries for which checks are not available, one option is to require a certificate of good conduct authenticated by the relevant embassy.

## **18. Immigration Offences**

- 18.1 A serious view will be taken of offences committed contrary to the Immigration Act 2016 (or any other similar enactment) by any applicant for a hackney carriage and private hire drivers combined licence, a restricted private hire driver's licence or a private hire operator's licence. An applicant will normally have to show a period of at least three years free of conviction from these types of offences before a licence will be granted.
- 18.2 An isolated conviction for an immigration offence will not normally result in an application being refused, however a number of convictions for offences of this type may result in an extension of the above period depending on the seriousness of the offences and penalty incurred.

## **19. Endorsable Traffic Offences**

- 19.1 All current endorsable offences will be shown on an individual's driving licence and should be taken into account, since a poor driving record may raise doubts about the applicant's fitness to drive the public or indicate disrespect for the law.
- 19.2 An endorsable offence will usually attract points and/or a period of disqualification. Some endorsable offences can only be dealt with by a court prosecution; others can be dealt with by either prosecution or fixed penalty notice (FPN).

### **Endorsable offences include:**

- Accident offences
- Driving whilst disqualified
- Careless driving
- Construction and use offences
- Dangerous driving
- Drink or drug offences
- Insurance offences
- Licence offences
- Speed limit offences
- Traffic direction and sign offences
- Theft or unauthorised taking

A full list of endorsable offences and offence codes is at **Appendix A**.

Offence codes and penalty points will stay on a driving record for 4 or 11 years depending on the offence.

- 19.3 An isolated conviction for a serious driving offence, e.g. without due care and attention, no insurance, etc., would normally merit a warning being given as to future driving and advice on the standard expected of licensed drivers. More than one conviction for this type of offence within the last two years would merit refusal and no further application would be considered until a period of 1 to 3 years free from conviction had elapsed.
- 19.4 In the event that an applicant is disqualified from driving under the 'totting up' procedure between having his application accepted and being licensed (e.g. while learning the Knowledge), rather than refusing the application, consideration can be given to putting the application 'on hold' for the period of the disqualification. At the end of the disqualification the applicant can be allowed to resume the Knowledge at the point they left it. This concession can only be allowed when the offences that resulted in the accumulation of penalty points are not serious driving offences.
- 19.5 Convictions for minor (non-endorsable) traffic offences, e.g. obstruction, waiting in a restricted street should not prevent an application from proceeding. Non-endorsable traffic offences are not recorded on driving licences.

## **20. Private Hire Operators**

- 20.1 A private hire operator ("an operator") does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 20.2 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 20.3 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria, that will lead to the operator's licence being revoked.

As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

## **21. Vehicle proprietors**

- 21.1 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities. Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times. Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes

21.2 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.

21.3 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

## **22. Outstanding charges or summonses**

22.1 If the individual is the subject to 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.

22.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history (including 'spent' convictions) 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 alternatively the application may be refused.

## **23. Out of Court Disposals (Formal Cautions)**

23.1 When someone commits a minor crime and admits the offence, the police or Crown Prosecution Service can decide to give them an out of court disposal instead of taking the case to court. The disposal can be a 'caution' or 'penalty notice'. A caution is not a criminal conviction, but it does go on a person's criminal record. Cautions are meant to be used for less serious crimes, for example low level criminal damage. If the person is convicted at court of a similar offence within five years of the caution having been administered, the caution can be brought to the attention of the court and any sentence passed would be regarded as being a second conviction and therefore, a higher sentence may be imposed.

23.2 A simple or conditional caution may be viewed as evidence of bad character when deciding whether or not the applicant is a fit and proper person to hold a licence. For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts. Although out of court disposals (cautions) are spent immediately, the Local Authority may consider that a period of 24 months should have elapsed since administering the caution before an applicant is considered for the grant of a licence.

## **24. Other Offences**

24.1 Where a binding order or a restraining order has been imposed by the court, then no application should be considered whilst that order is still current and a period free of convictions for a period of at least six months has elapsed, after the expiry of the order, before entertaining an application, and then the overall consideration will be the protection of the public.

## **25. Non-conviction information**

- 25.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he/she 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.
- 25.1 In assessing the action to take, the safety of the travelling public must be the paramount concern.

## **26. Summary**

- 26.1 Whilst 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, in most cases, an applicant would be expected to remain free from conviction for 7 to 10 years, according to circumstances, before an application can be considered. If there is doubt about suitability of an individual to be licensed, the committee needs to be mindful of the need to protect the public and caution should be exercised.
- 26.2 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.
- 26.3 The authority may receive information that may have been used in proceedings before a court or otherwise concerning the character of the applicant. Such evidence will be disclosed to the applicant where it leads the authority to question as to whether a licence should be granted to the individual. If, following consideration of any representations the applicant wishes to make concerning those matters, the authority is of the view that the application should be refused, they will indicate this to the applicant. The applicant will have a period of 21 days to appeal this decision.

Within this category, where a hackney carriage / private hire driver is also the keeper of any vehicle and/or licensee of a hackney carriage/private hire vehicle that has been the subject of a notice issued by the Vehicle and Operator Services Agency (VOSA) prohibiting its use on the public road within the previous 12 months, the authority would not normally grant an application.



## Appendix A

### Endorsement Offence Codes

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 – any queries about them should be addressed to the courts.

Code		Penalty Points
<b>Accident Offences</b>		
AC10	Failing to stop after an accident	5-10
AC20	Failing to give particulars or to report an accident within 24 hours	5-50
AC30	Undefined accident offences	4-9
<b>Disqualified Driver</b>		
BA10	Driving whilst disqualified by order of court	6
BA30	Attempting to drive while disqualified by order of the court	6
<b>Careless Driving</b>		
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
CD80	Causing death by careless, or inconsiderate, driving	3-11

CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	3-11
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Code		Penalty Points
<b>Construction &amp; Use Offences</b>		
CU10	Using a vehicle with defective brakes	3
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.	3
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers	3
CU80	Breach of requirements as to control of the vehicle, mobile telephone etc.	3
<b>Dangerous Driving</b>		
DD10	Causing serious injury by dangerous driving	3-11
DD40	Dangerous Driving	3-11
DD60	Manslaughter or culpable homicide while driving a vehicle	3-11
DD80	Causing death by dangerous driving	3-11
DD90	Furious Driving	3-9
<b>Drink or Drugs</b>		
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
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity	3-11

DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of a 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	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive	10
<b>Code</b>		<b>Penalty Points</b>
DR70	Failing to provide specimen for breath test	4
DR80	Driving or attempting to drive when unfit through drugs	3-11
DR90	In charge of a vehicle when unfit through drugs	10
<b>Insurance Offences</b>		
IN10	Using a vehicle uninsured against third party risks	6-8
<b>Licence Offences</b>		
LC20	Driving otherwise than in accordance with a licence	3-6
LC30	Driving after making a false declaration about fitness when applying for a licence	3-6
LC40	Driving a vehicle having failed to notify a disability	3-6
LC50	Driving after a licence has been revoked or refused on medical ground	3-6
<b>Miscellaneous Offences</b>		
MS10	Leaving a vehicle in 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 (including offences relating to breach of requirements as to control of vehicle)	3
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
<b>Motorway Offences</b>		
MW10	Contravention of Special Roads Regulations (excluding speed limits)	3

<b>Code</b>		<b>Penalty Points</b>
<b>Pedestrian Crossings</b>		
PC10	Undefined Contravention of Pedestrian Crossing Regulations	3
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle	3
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle	3
<b>Speed Limits</b>		
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
<b>Traffic Direction and Signs</b>		
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 traffic sign (excluding stop signs, traffic lights or double white lines)	3

TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3
<b>Special Code</b>		
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	
<b>Theft or Unauthorised Taking</b>		
UT50	Aggravated taking of a vehicle	3-11

### **Mutual Recognition Codes**

Drivers will get an 'MR' code on their licence if they are disqualified while driving in Northern Ireland, Isle of Man or the Republic of Ireland. The disqualification period will also be valid in Great Britain and will stay on the licence for 4 years from the date of conviction.

<b>Code</b>	<b>Offence</b>
MR09	Reckless or dangerous driving (whether or not resulting in death, injury or serious risk)
MR19	Wilful failure to carry out the obligation placed on driver after being involved in a road accident (hit or run)
MR29	Driving a vehicle while under the influence of alcohol or other substance affecting or diminishing the mental and physical abilities of a driver
MR39	Driving a vehicle faster than the permitted speed
MR49	Driving a vehicle whilst disqualified
MR59	Other conduct constituting an offence for which a driving disqualification has been imposed by the State of Offence

### **Aiding, Abetting, Counselling or Procuring**

Offences as coded, but with the end 0 changed to 2

## **Causing or permitting**

Offences as coded, but with the end 0 changed to 4

## **Inciting**

Offences as coded, but with the end 0 changed to 6

## **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:

- Drink driving or drugs driving (shown on the licence as **DR10, DR20, DR30, DR31, DR61** and **DR80**).
- Causing death by careless driving whilst under the influence of drink/drugs (shown on the licences as **CD40, CD50** and **CD60**).
- Causing death by careless driving, then failing to provide a specimen for analysis (shown on the licence as **CD70**).

Or **4 years from 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.

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