

**Name of meeting and date: Licensing & Safety Committee 15<sup>th</sup> October 2014**

**Title of report: Assessment Criteria and Convictions Policy for Licensed Drivers**

<b>Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>Not Applicable</b>
<b>Is it in the Council's Forward Plan?</b>	<b>Not Applicable</b>
<b>Is it eligible for "call in" by Scrutiny?</b>	<b>Not Applicable</b>
<b>Cabinet member portfolio</b>	<b>Regeneration, Environment &amp; Transportation</b>

**Electoral wards affected and ward councillors consulted: ALL**

**Public or private: Public**

## **1 SUMMARY**

1.1 To consider the introduction of a Policy on the relevance of criminal conduct, unsavoury conduct and complaints against Licence Holders and Applicants for licences.

## **2 INTRODUCTION**

2.1 Hackney carriages and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where other public transport is either not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties.

2.2 It is vitally important that the provision of a professional and respected hackney carriage and private hire trade is maintained, by continued partnership working with the trade and also by monitoring and implementing improvements of the required standards of service.

## **3 BACKGROUND**

3.1 Kirklees Council has not previously had a Policy specific to assessing the suitability of an applicant for a joint hackney carriage/private hire driver licence in its district. Assessment has always been made against the Department of Transport Circulars 2/92 and Home Office Circular 13/92 which are seriously out of date and it is submitted no longer fit for purpose as they do not cover

the variety of offences and/or misconduct that officers and Elected Members sitting on the Regulatory Panel may have to deal with.

- 3.2 The Licensing regime exists to ensure that the safety of the public is protected. As a result it is necessary for the Council to have a robust assessment criteria and convictions policy that adequately deals with any issue that might undermine the safety of the public.
- 3.3 There have been also changes in legislation that do need to be taken into consideration in a new policy. A copy of the Policy is attached at Appendix 1.
- 3.4 The Licensing & Safety Committee and Regulatory Panel has delegated authority determine such matters.

#### **4 PROPOSALS**

- 4.1 By virtue of section 59 (1) (a) (in relation to hackney carriage drivers licences) and section 51 (1) (a) (in relation to private hire drivers licences) of the Local Government (Miscellaneous Provisions) Act 1976 a Council shall not grant a licence 'unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence'.
- 4.2 What constitutes fit and proper is not defined in the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976. It is for the Licensing Authority to determine whether an applicant or driver is fit and proper based on the information presented and having regard to the following:
  - The rules of natural justice
  - The Human Rights Act 1998
  - Section 17 of the Crime and Disorder Act 1998
  - The Council's own Conditions, By-laws and Policies
- 4.3 Members must consider each application on its own merit in light of the Council's policies. However, the Licensing Authority must not apply its policies in such a way as to fetter its discretion.
- 4.4 The overriding concern for any decision-maker must be the protection and the safety of the public. The Policy brings clarity for the benefit of applicants and decision-makers, and explains that the Licensing Authority will deal with cautions and other sanctions in a similar way to convictions
- 4.5 The Policy also deals specifically with repetitive endorsements on DVLA driving licences and also confirms that the Licensing Authority makes its decisions on a balance of probability and that consequently, information concerning offences that did not lead to prosecution may still render the applicant as not fit and proper
- 4.6 Members should also note that the policy sets out the minimum requirements before an application will be considered. This does not mean that an applicant will automatically be suitable once the 3-5 years (or other applicable periods) have elapsed. It merely confirms that their application will be considered and still refused if the Licensing Authority is not satisfied that they are fit and proper to hold a licence.
- 4.7 The Department for Transport's best practice guide to Hackney Carriage and Private Hire licensing issued in March 2010 states the following in respect of criminal records checks:  
'A criminal record check is an important safety measure particularly for

*those working closely with children and the vulnerable... An Enhanced Disclosure may also include any other information held in police records that is considered relevant by the police, for example, details of minor offences, non-conviction information on the Police National Computer such as Fixed Penalty Notices and, in some cases, allegations...*

*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...'*

4.8 It can be seen that the Policy has been written following the advice in the Best Practise Guide.

## **5 CONSULTATION**

5.1 The Policy has been subject to a full consultation with the following people/groups contacted

- All Kirklees District Councillors
- Taxi Trade representatives
- GMB Union
- West Yorkshire Police
- Copies left at both licensing counters for the wider trade
- Posting on the internet inviting comments

5.2 There has been very little response to the consultation. The responses that we have had are positive and support the introduction of the Policy. Copies of the responses are attached at Appendix 2.

5.3 No one who responded has spoken against the adoption of the Policy. However, full and thorough consideration of the consultation responses received is required to reduce any risk of challenge to any subsequent decisions.

## **6. RESOURCE IMPLICATIONS**

6.1 A consistent and considered use of the Policy is likely to have savings on Committee and Panel time as applying the Policy at the application point should reduce the number of referrals to Regulatory Panel.

## **7. DECISION REQUESTED**

6.1 The Licensing Committee is requested to consider the policy and authorise the Licensing Manager to implement its use by officers and Elected Members sitting on the Regulatory Panel effective immediately.

For further information on this report please contact Catherine Walter on 456868 or [catherine.walter@kirklees.gov.uk](mailto:catherine.walter@kirklees.gov.uk)

Appendix 1 – Revised Assessment Criteria & Convictions Policy

Appendix 2 – Copies of consultation responses

Appendix 3 – Extract from Taxi and Private Hire Vehicle Licensing: Best Practice Guidance, published 2nd March 2012 by the Department of Transport

# **HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES**

**A Policy on the Relevance of Criminal Conduct and Complaints  
against Licence Holders and Applicants for Licences.**



## 1. Introduction

The public are entitled to have the utmost confidence in drivers of taxis and private hire vehicles: therefore, the Council must ensure that only fit and proper persons obtain drivers' licences.

The purpose of this policy is to provide guidance on the criteria taken into account by the Licensing Authority 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.

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 persons
- The safeguarding of children and young people

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
- Councillors
- Licensing officers
- Legal officers
- Magistrates hearing appeals against local authority decisions

For renewal applications and current licence holders the policy will not be applied retrospectively. The Policy will be applied if any additional convictions are incurred or brought to the attention of the Council that would call into question a person's suitability to hold a licence.

Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. Whilst officers 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 officer may pass the matter to the Council's Regulatory Committee.

All licences are issued with a set of Conditions which the licence holder must comply with. By-laws are also in place in relation to Hackney Carriage Drivers. Copies are attached to every licence and are available on request. A repeated breach of licensed driver and or licensed vehicle conditions and or by-laws may also lead to a person having his hackney carriage/private hire driver licence suspended or revoked.

## 2. General policy

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 exceptional mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.

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 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). 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.

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)].

It is the responsibility of the applicant/licence holder to satisfy the Licensing Authority that they are a 'fit and proper person' to hold a licence. The applicant/licence holder must ensure that all convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses are disclosed to the Council.

### **3. Appeals**

Any applicant refused a driver's 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**

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.

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.

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.

### **5. Consideration of disclosed criminal history**

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 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 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

Existing holders of drivers' licenses are required to notify the Licensing Authority in writing within seven days of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).

Applicants can discuss further what effect a caution/conviction may have on any application by contacting a licensing officer in confidence for advice.

The Licensing Authority conducts enhanced disclosures from the Disclosure & Barring Service (DBS) formerly the Criminal Records Bureau (CRB) of any applicant for a driver licence. The Licensing Authority follows the DBS's Code of Practice on the fair use of disclosure information. A copy is available on request.

Applicants applying for the grant or a renewal of a drivers' licence will be required to obtain an enhanced disclosure at their expense. The Licensing Authority abides by the DBS's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.

More information about the DBS can be found on their website at

<https://www.gov.uk/government/organisations/disclosure-and-barring-service>

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.

DBS disclosures will not include details of any foreign convictions or cautions unless they have been recorded on the UK National Computer. Any applicant who has resided outside the UK for any period longer than 3 months within the preceding 3 years will be required to produce a "Certificate of Good Conduct" from the relevant countries which details any cautions or convictions arising against the applicant while resident in that country. It shall be the applicant's responsibility to obtain this documentary evidence and to bear the costs of such. The requirement is in addition to the DBS disclosure.

Where an applicant is unable to obtain the above, a discussion will take place with the licensing manager to ascertain what alternative evidence should be provided. This may include character references from appropriate individuals or other bodies as to the applicants conduct whilst resident in the other country.

### **Non-conviction information**

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 but is not limited to serious violent offences, offences involving child sexual exploitation and sex offences.

***The Licensing Authority considers cases to the civil burden of proof i.e. a "balance of probabilities" and is able to make a decision on the alleged offences regardless of whether a criminal conviction followed the offence.***

In assessing the action to take, the safety of the travelling public must be the paramount concern.



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.

The following lists are not exhaustive and any offences not covered by this Policy will not prevent the Licensing Authority from taking into account those offences.

## **6. Sex and indecency offences**

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 normally 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.

No period is thought appropriate to have elapsed and an application will normally be refused where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Sexual offences involving children, young persons or vulnerable adults
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- Sexual Assault
- Abuse of position of trust
- Familial child sex offences
- Possession of indecent photographs of children
- Abuse of children and young persons through prostitution or pornography
- Trafficking for sexual exploitation
- Preparatory offences

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
- Exploitation of prostitution
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

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

In addition to the above the Licensing Authority will not grant a licence to any applicant who is currently on the Sex Offenders Register.

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

### **7. Serious offences involving violence**

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.

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.

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

A licence will not normally be granted where the applicant has a conviction for an offence of 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

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

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)
- S4 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

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.

In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

### **8. Driving offences involving the loss of life**

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

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

### **9. Possession of a weapon**

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.

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.

### **10. Dishonesty**

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. All drivers are required to deposit such property with either the Licensing Authority or the police within 24 hours. 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.

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.
- perverting the course of justice

## **11. Drugs**

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.

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.

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.

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.

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.

## **12. Drink driving/driving under the influence of drugs**

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**

If the individual is the subject of an outstanding charge or summons their application may 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 on existing licence holders, consideration will be given to the information in accordance with this policy.

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. Existing drivers may have their licence suspended or revoked.

A suspension or revocation of the licence of a driver normally 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.

### **14. Cautions**

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.

### **15. Licensing offences**

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

### **16. Insurance offences**

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 behaviour. More than one conviction for these offences would normally prevent a licence being granted or renewed.

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 the driving passengers for hire and reward whilst without insurance will have his operators' licence revoked immediately and prevented from holding a licence for three years.

### **17. Licenses issued by other Licensing Authorities**

Applicants who hold a licence with one Licensing Authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

### **18. Suspensions / Revocations**

A licence will be suspended by an Officer of the Council, with immediate effect, in the interest of public safety, in the following circumstances:

- a person is charged with a serious offence
- a person is under investigation for serious offences
- a person is deemed by a qualified general practitioner that the individual is unfit to drive to Group 2 Medical Standards
- a person after experiencing a change in medical condition fails to provide proof of his/her fitness to drive to Group 2 Medical Standards
- a person fails to provide a valid photo card DVLA driving licence, on request

A licence will be revoked by an Officer of the Council with immediate effect in the interest of public safety in the following circumstances:

- a person's ordinary Road Traffic Act Driving licence is revoked or suspended
- a person is disqualified from driving for any period of time

### **19. Summary**

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.

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.

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.

Before a decision is made to refuse or revoke a licence a meeting will be held in order to afford an applicant or existing driver an opportunity to put their case.

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

This policy will be continuously monitored and, if necessary, a review will be undertaken.

### **20. 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).

Existing drivers who have accumulated 9 or more points on their DVLA driving licence will have their private hire/hackney carriage driver licence suspended, until the driver has successfully undertaken a private hire or hackney carriage DSA driving test, at their own expense.

New applicants are required, as part of the application process, to undertake a DSA driving test and therefore will be able to satisfy the Council of their driving ability.

## **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
- CU80 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 through 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 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

### **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 speed limits) 3

### **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, counselling or procuring**

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

### **Causing or permitting**

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

### **Inciting**

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

### **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](http://www.direct.gov.uk)

Issued by Kirklees Council, Licensing Department, Huddersfield 01484 456868



**Catherine Walter**

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**From:** [REDACTED]  
**Sent:** 19 November 2013 14:38  
**To:** Catherine Walter  
**Subject:** Re: Consultation

Hi Cath

Thanks, I'll certainly have a look through and see if there's any feedback from our members and let you know by the deadline date.

Regards

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Catherine Walter**

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**From:** [REDACTED]  
**Sent:** 20 November 2013 12:23  
**To:** Catherine Walter  
**Subject:** Re: Consultation

To cath, Hi, ( date:19/11/13)  
re your consultation drafts..

I would be obliged if you could send me hard copies of this draft as there are too many pages to be reading on small screen is difficult on android iPhone . My printer is broken down.

Not disrespecting you but once again this in my views is for the keeping thuffnes on drivers again whilst the decisions will be made by L&S committee with certain or most powers delegated to you and your dept. Has other authorities Adopted or ongoing drafts re this matter or is it your personal opinion that the 1992 system is outdated This draft needs proper looking into with plenty time needed not few minutes. This is why I keep pointing out to your licensing dept that we need bona fide associations with constitutions and membership fees etc to give our sensible opinions/views otherwise their are organisations whom you as licensing may consult with as taxi drivers associations but are realistically representing thier own or Thier companies interests only.

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**From:** [REDACTED]  
**Sent:** 19 November 2013 18:38  
**To:** Catherine Walter  
**Subject:** Re: Consultation

Hi Cath

I will have a look and give you my thoughts.

**Catherine Walter**

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**From:** Cllr Nigel Patrick  
**Sent:** 19 November 2013 17:45  
**To:** Catherine Walter  
**Subject:** RE: Consultation - Assessment Criteria

Cath,

I have had a very quick look at this. Correct me if I am wrong, but it doesn't appear to cover taxi offences. So for example a private hire taxi driver may rack up numerous penalties by plying for on street trade, by parking on double yellows, obstructing a pavement, acting without insurance etc. Surely these types of offences should be included?

I note you quote some case law, but personally I would not want to use a taxi if the driver had a serious conviction regardless of how long it was since the conviction.

Nigel

Councillor Nigel Patrick  
Holme Valley South Ward  
Kirklees Council

Tel: 07917331225 (mobile) or 01484221811 (Conservative Group Office)  
Email: [nigel.patrick@kirklees.gov.uk](mailto:nigel.patrick@kirklees.gov.uk)

**Catherine Walter**

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**From:** Cllr Hilary Richards  
**Sent:** 03 December 2013 08:48  
**To:** Catherine Walter  
**Subject:** RE: Consultation - Assessment Criteria

Catherine

This is a very clear and comprehensive document  
Many thanks to all who contributed to this document

*Hilary*

Hilary Richards can be contacted on 01484 652922

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**Catherine Walter**

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**From:** Cllr Charles Greaves  
**Sent:** 19 November 2013 13:39  
**To:** Catherine Walter  
**Subject:** RE: Consultation - Assessment Criteria

Hello - It reads well to me. Charles

**Catherine Walter**

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**From:** Cllr David Ridgway  
**Sent:** 19 November 2013 15:57  
**To:** Catherine Walter  
**Subject:** RE: Consultation - Assessment Criteria

Hi Catherine

Thanks for this. It is very useful.

Mind you, it is probably impossible to write a policy that will "fit all" and the importance of the committee is to interpret the policy to suit each applicant on its own merits

Cheers

David

**Catherine Walter**

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**From:** Catherine Walter  
**Sent:** 08 September 2014 16:03  
**To:** Catherine Walter  
**Subject:** FW: Consultation - Assessment Criteria

**From:** Cllr David Sheard  
**Sent:** 19 November 2013 12:31  
**To:** Catherine Walter  
**Subject:** RE: Consultation - Assessment Criteria

Yes it seems comprehensive, but I would have put the sex offences first.



requirements for the grant of taxi and PHV driver's licences. Since that time, a number of central and eastern European states have joined the EU and the EEA and the Department takes the view that drivers from the Accession States are eligible to acquire a taxi or PHV driver's licence under the 1976 Act if they have held an ordinary driving licence for 12 months which was issued by an acceding State (see section 99A(i) of the Road Traffic Act 1988). To complete the picture, the Deregulation (Taxis and Private Hire Vehicles) Order 1998 (SI 1998 No 1946) gave equal recognition to Northern Ireland driving licences for the purposes of taxi and PHV driver licensing under the 1976 Act (see section 109(i) of the Road Traffic Act 1988, as amended).

### **Criminal Record Checks**

58. A criminal record check is an important safety measure particularly for those working closely with children and the vulnerable. Taxi and PHV drivers can be subject to a Standard Disclosure (and for those working in "Regulated Activity" to an Enhanced Disclosure) through the Criminal Records Bureau. Both levels of Disclosure include details of spent and unspent convictions, cautions reprimands and final warnings. An Enhanced Disclosure may also include any other information held in police records that is considered relevant by the police, for example, details of minor offences, non-conviction information on the Police National Computer such as Fixed Penalty Notices and, in some cases, allegations. An Enhanced Disclosure is for those working in Regulated Activity<sup>1</sup> and the Government has produced guidance in relation to this and the new "Vetting and Barring Scheme" which is available at [www.isa.gov.org.uk/default.aspx?page=402](http://www.isa.gov.org.uk/default.aspx?page=402). [The Department will issue further advice as the new SVG scheme develops.]

59. 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.

60. Local licensing authorities will also want to have a policy on background checks for applicants from elsewhere in the EU and other overseas countries. One approach is to require a certificate of good conduct authenticated by the relevant embassy. The Criminal Records Bureau website ([www.crb.gov.uk](http://www.crb.gov.uk)) gives information about obtaining certificates of good conduct, or similar documents, from a number of countries.

61. It would seem best practice for Criminal Records Bureau disclosures to be sought when a licence is first applied for and then every three years, even if a licence is renewed annually, provided drivers are obliged to report all new convictions and cautions to the licensing authority.

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<sup>1</sup> "Regulated Activity" is defined in The Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Regulations 2009

## **Notifiable Occupations Scheme**

62. Under this Scheme, when an individual comes to the notice of the police and identifies their occupation as a taxi or PHV driver, the police are requested to notify the appropriate local licensing authority of convictions and any other relevant information that indicates that a person poses a risk to public safety. Most notifications will be made once an individual is convicted however, if there is a sufficient risk, the police will notify the authority immediately.

63. In the absence of a national licensing body for taxi and PHV drivers, notifications are made to the local licensing authority identified on the licence or following interview. However, it is expected that all licensing authorities work together should they ascertain that an individual is operating under a different authority or with a fraudulent licence.

64. The police may occasionally notify licensing authorities of offences committed abroad by an individual however it may not be possible to provide full information.

65. The Notifiable Occupations Scheme is described in Home Office Circular 6/2006 which is available at <http://www.basingstoke.gov.uk/CommitteeDocs/Committees/Licensing/20070710/3%20yr%20licences-update%20on%20hants%20constab%20procedures%20re%20Home%20office%20circ%206;2006-%20Appendix%202.pdf>. Further information can also be obtained from the Criminal Records Team, Joint Public Protection Information Unit, Fifth Floor, Fry Building, 2 Marsham Street, London SW1P 4DF; e-mail [Samuel.Wray@homeoffice.gsi.gov.uk](mailto:Samuel.Wray@homeoffice.gsi.gov.uk).

## **Immigration checks**

66. The Department considers it appropriate for licensing authorities to check on an applicant's right to work before granting a taxi or PHV driver's licence. It is important to note that a Criminal Records Bureau check is not a Right to Work check and any enquires about the immigration status of an individual should be addressed to the Border and Immigration Agency. Further information can be found at [www.bia.homeoffice.gov.uk/employingmigrants](http://www.bia.homeoffice.gov.uk/employingmigrants). More generally, the Border and Immigration Agency's Employers' Helpline (0845 010 6677) can be used by licensing staff to obtain general guidance on immigration documentation, although this Helpline is not able to advise on individual cases. The authority can obtain case specific immigration status information, including whether a licensing applicant is permitted to work or details of work restrictions, from the Evidence and Enquiry Unit, Floor 12, Lunar House, Wellesley Road, Croydon CR9 2BY . Further details on the procedures involved can be obtained by contacting the Unit (020 8196 3011).

## **Medical fitness**

67. It is clearly good practice for medical checks to be made on each driver before the initial grant of a licence and thereafter for each renewal. There is general recognition that it is appropriate for taxi/PHV drivers to have more stringent medical standards than those applicable to normal car drivers because: