

Name of meeting: Licensing & Safety Committee

Date: 24th March 2016

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

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan?	N/A
Is it eligible for "call in" by Scrutiny?	N/A
Date signed off by Director & name	Jacqui Gedman – 14/03/16
Is it signed off by the Director of Resources?	David Smith – 10/03/16
Is it signed off by the Assistant Director – Legal, Governance & Monitoring?	Julie Muscroft – 14/03/16
Cabinet member portfolio	Cllr Steve Hall - Portfolio Holder for Planning, Highways and Open Spaces

Electoral wards affected: All

Ward councillors consulted: All

Public or private: Public

1 PURPOSE OF REPORT

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

2 KEY POINTS

- 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.

2.3 Kirklees Council adopted the policy at the last Licensing & Safety Committee on October 15th 2014. Revisions were made in February 2015 and November 2015

2.4 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'.

2.5 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

2.6 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.

2.7 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

2.8 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...'

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

3 IMPLICATIONS FOR THE COUNCIL

- 3.1 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.
- 3.2 Members may recall that the policy is a live working document and will be kept under constant review. The current proposed revisions have been brought at the request of Cllr Ken Smith the Chair of the Licensing & Safety Committee
- 3.3 A copy of the revised Policy (changes tracked for ease of reference) is attached at Appendix 1.
- 3.4 Members may be pleased to know that the policy was the subject of judicial approval last year in the case of Kirklees Council –v- Singh 2015. HHJ Brown sitting with lay justices described the policy as “sensible and balanced”.

4 CONSULTEES AND THEIR OPINIONS

- 4.1 The proposed revisions to the Policy have been shared with representatives of the hackney carriage and private hire trade and no objections have been tabled at the time of preparing this report.

5. NEXT STEPS

- 5.1 The Licensing Committee is requested to consider the revised policy and authorise the Licensing Manager to implement its use by officers effective immediately.

6. OFFICER RECOMMENDATIONS AND REASONS

- 6.1 Officers recommend approval of the revisions to the Policy

7. CABINET PORTFOLIO HOLDER RECOMMENDATION

- 7.1 The Portfolio Holder, Cllr Steve Hall, welcomes further strengthening and clarification of the Policy.

8. CONTACT OFFICER AND RELEVANT PAPERS

Catherine Walter

Licensing, Local Land Charges & Highways Registry Manager

Tel: 01484 221000

Email: catherine.walter@kirklees.gov.uk

Papers: Appendix 1 – Revised Assessment Criteria & Convictions Policy

9. ASSISTANT DIRECTOR RESPONSIBLE

Joanne Bartholomew, Assistant Director – Place

Tel: 01484 221000

Email: joanne.bartholomew@kirklees.gov.uk

HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES

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



Taxi and PHV Licensing Criminal Convictions' Policy

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' and operator 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, young people and vulnerable adults.

In this scheme "safeguarding" means the protection of children or vulnerable adults from harm to their health, safety, well-being or development and "safeguarding concern" means grounds to believe that the individual applicant or driver may not be a fit and proper person because grant, retention or renewal of a licence may risk such harm occurring. Vulnerable adult has the meaning as in section 59 of the Safeguarding Vulnerable Groups Act 2006

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. However, the Policy will be applied to renewal and current licence holders if any additional convictions, cautions or complaints are incurred or brought to the attention of the Council that along with the historical information 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 or complaints 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 including any complaints history 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.

If character references are supplied the referee must have known the person applying for at least 5 years if they are a friend, neighbour or colleague. If the referee is a professional, i.e. teacher, solicitor etc. then they must have known the person for at least 2 years.

The referee cannot be closely related to the applicant, in a relationship or live at the same address as the person applying.

Non-conviction information

If an applicant has, on one or more occasions, 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. The seriousness of the offence and sentence imposed will be considered in making a determination of the application.

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 **unless there are truly exceptional circumstances** where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Sexual offences involving children, young persons or vulnerable adults
- Sexual Assault
- Indecent assault
- Abuse of position of trust
- Familial child sex offences
- Female circumcision
- Female genital mutilation
- Possession of indecent photographs of children
- Abuse of children and young persons through prostitution or pornography
- Trafficking for sexual exploitation

- **Secondary ,preparatory or inchoate offences** (attempt, conspiracy, incitement to commit ; or aiding , abetting , counselling or procuring , any of the above offenses).
- Any sexual offence committed in the course of taxi or private hire work
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

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:

- 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 5 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. Offences against Children

No period is thought appropriate to have elapsed and an application will normally be refused **unless there are truly exceptional circumstances** where the applicant has a conviction for an offence such as:

- Sexual activity with a child
- Causing or inciting a child to engage in sexual activity
- Causing a child to watch a sexual act
- Sexual activity in the presence of a child
- Arranging or facilitating child prostitution or pornography
- Arranging or facilitating commission of a child sexual offence
- Meeting a child following sexual grooming etc.
- Possession of indecent photographs of children
- Grooming of children for sexual exploitation
- Trafficking of children for sexual exploitation
- Supplying or offering to supply Class A drugs to a child
- Voyeurism

A licence will not normally be granted ~~unless there are truly exceptional circumstances~~ 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:~~

- Neglect of a child.
- Child cruelty
- Abandonment of a child
- Drunk in charge of a child
- Under the influence of drugs in charge of a child
- Exposing a child to risk

8. 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 truly exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Murder
- Manslaughter
- Infanticide
- Child destruction
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Kidnapping or abduction
- 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 (s18 Offences Against the Person Act 1861)
- Grievous bodily harm (s20 Offences Against the Person Act 1861)
- Robbery (armed or otherwise)
- Possession or distribution of prohibited weapon or firearm
- Riot
- Common assault with racially aggravated features
- Violent disorder
- Threats to kill
- Any HATE motivated crime
- 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 one of the offences listed below or for an offence which replaces or is broadly equivalent to the offences listed below and the conviction is less than 5 years prior to the date of application:

- Racially-aggravated criminal damage
- Racially-aggravated 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 one of the offences listed below or for an offence which replaces or is broadly equivalent to the offences listed below and the conviction is less than 3 years prior to the date of application:

- Common assault
- ~~Assault occasioning actual bodily harm~~
- ~~Assaulting a Police Officer~~
- 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)
- Harassment
- Obstruction (for example of a police or other authority investigation, making a false statement etc.)
- Criminal damage
- ~~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 one of the offences listed below or for an offence which replaces or is broadly equivalent to the offences listed below and the conviction is less than 5 years prior to the date of application:

- Assault occasioning actual bodily harm
- Assaulting a Police Officer
- Resisting arrest
- Battery

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.

9. 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 where the 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 driving while unlicensed, disqualified or uninsured
- 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 10 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

10. Possession of a weapon

If an applicant has been convicted of possession of a weapon or possession of a firearm 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.

11. 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. The more serious the offence the longer the period free of conviction should be. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- deception designed to obtain a pecuniary advantage
- 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

12. 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 or cultivation of drugs and has not been free of conviction for 10 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.

13. 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. Provided that a period of 2 years has elapsed since conviction an isolated incident would not necessarily debar an applicant from proceeding with an application 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 7 years, after the restoration of the driving licence following a second conviction for driving or being in charge of a vehicle whilst under the influence of drink or drugs 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.

14. Outstanding charges or summonses

If the individual is the subject of an outstanding charge or summons their application may in some circumstances 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.

This section includes applicants or licensees who may be subject to police bail having been arrested for an offence and who is currently under investigation.

15. Cautions

Admission of guilt is required before a caution can be issued. [A caution is therefore treated in the same way as a conviction for the purposes of this policy.](#) Every case will be considered on its own merits including the details and nature of the offence.

16. 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.

17. Complaints

We can take action up to and including suspension and revocation of a drivers licence if a complaint is made which suggests a driver's fitness & propriety is undermined This may be for a number of reasons including but not limited to the following:

- misconduct
- any behaviour, action or negligence impacting on customer safety
- driving standards
- physical or mental ill-health
- lack of the necessary knowledge of English language to be able to perform the role of a licensed driver safely.
- Mischarging
- Inappropriate or aggressive behaviour

The number and type of complaint(s) will be given consideration to and a driver's history will be examined to ascertain whether there have been previous complaints. Except in the most serious of cases, a driver will be given an opportunity to respond to the complaint before any action is taken.

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

19. Licences 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.

20. 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

21. 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 ~~the relevant period 3 years free from conviction have~~ [has](#) 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, do not 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.

22. 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 buy 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

Issued by Kirklees Council, Licensing Department, Huddersfield 01484 456868

First Issued October 2014

Revised February 2015

Revised November 2015

Revised February 2016