

Name of meeting: Licensing and Safety Committee

Date: Wednesday 6th July 2022

Title of report: Review of Private Hire and Hackney Statement of Fitness and Suitability Policy

Purpose of report: The purpose of this report is to inform Members of concerns raised about the Council's current policy on determining the fitness and suitability to hold a private hire and hackney carriage licence.

Key Decision - 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
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u>	Key Decision –No Private Report/Private Appendix – No
The Decision - Is it eligible for call in by Scrutiny?	Not Applicable
Date signed off by <u>Strategic Director</u> & name	Colin Parr – 27.06.22
Is it also signed off by the Service Director for Finance?	Eamonn Croston – 17.06.22
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft – 21.06.22
Cabinet member portfolio	Councillor Will Simpson

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Has GDPR been considered? Yes – there is no personal data contained in this report.

1. Summary

1.1 The purpose of this report is to inform Members of concerns raised by some Ward Councillors, trade representatives and GMB Union about the Council's current policy on determining the fitness and suitability to hold a private hire and hackney carriage licence.

1.2 Members are asked to consider whether, as a result of those concerns, a review of the policy should take place, and if Members are minded to agree a review is required, the scope of that review.

2. Information required to take a decision

Background

2.1 It is a function of the Council to issue Hackney Carriage and Private Hire licences under the Local Government Miscellaneous Provisions Act 1976 ('the 1976 Act').

2.2 When exercising its functions under the 1976 Act, the overriding requirement of the Council, in its capacity as licensing authority, is the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.

2.3 In June 2019, to support the Council in exercising its functions under the 1976 Act, a robust fitness and suitability policy was adopted by Members of the Licensing and Safety Committee.

2.4 This policy, a copy of which is attached at appendix 1, provides a set of standards that all new applicants and existing licence holders are measured against; and provides the public with the reassurance it requires when using the services of the private hire and hackney carriage trades licensed by the Council.

2.5 The aim of the policy and the standards it sets is to ensure public safety is not compromised while at the same time providing guidance to an applicant, existing licence holder or decision maker, on the criteria to be taken into account by the Council when determining whether or not an applicant, or an existing licensee on renewal, is fit & proper to hold a hackney carriage or private hire driver's licence.

2.6 The policy categorises the types of issues, both criminal and non-criminal that will be taken into account when assessing whether or not a person is fit and proper to hold or retain a licence with the Council.

2.7 While the matters outlined in the policy will be taken into account when determining whether or not a person is "fit & proper" to become or remain a licensed driver, each case is decided on its own merits, and where circumstances warrant the policy can be departed from, but this should only be done in exceptional circumstances.

Current Policy

2.8 Although drafted by officers, the direction of policy is determined by Members. Members provide instruction to officers as to what they require of the licensing service, therefore the policy is the policy of the Committee.

2.9 The current policy was presented to Members of the Licensing and Safety Committee, in draft form, on the 11 October 2018. Having considered the draft policy Members approved officers to consult, without making any changes to the policy.

2.10 Following consultation, a further report was presented to Members of the Licensing and safety Committee on the 11 June 2019. Having considered all responses to the consultation Members formally adopted the policy, with an effective date of the 1 August 2019.

2.11 Officers have since that date presented information to Members on the number of decisions made under the policy. However, Members will recall from the Committee meeting held on the 2 March 2022 that officers presented a report which provided Members with more detailed information, in private session, relating to the decisions made under the policy.

2.12 Having considered the information presented there was a general consensus from Members that the policy was being applied by officers in line with the Committees intentions and that the decisions made under the policy were right and appropriate given the individual circumstances of each case.

2.13 Members were also in agreement that it was important the public had sight of the decisions made, as this would provide reassurance to the public that officers, when making decisions, were applying the policy fairly and that the public were being protected.

2.14 As such, Members requested officers look at how information presented to them in private session, could be placed in the public domain.

Decisions Under the Policy

2.15 As requested by Members at the meeting on the 2 March 2022, officers have worked with colleagues in the Councils Information Governance team on being able to place details of the decisions made under the policy in the public domain.

2.16 An update on this work is contained within a separate report before Members at this Committee.

Concerns about the Policy

2.17 Officers informed Members at the meeting on the 2 March 2022 that those raising concerns had been advised to use the consultation process for the Department for Transport Statutory Standards to outline what their concerns were; and that those concerns would be presented to a future Licensing and Safety Committee.

2.18 Only 9 responses were received via the aforementioned consultation process, however, notwithstanding the low response, officers are aware there are concerns being raised by Elected Members, trade representatives, Union representatives, individual drivers and limited number of members of the public.

2.19 In addition to the responses via the consultation a document was also submitted which can be found at appendix 2. This document is a copy of the fitness and suitability policy with sections highlighted in red and commentary under those sections detailing concerns.

2.20 Members should note the concerns being raised at Kirklees are also being raised in other West Yorkshire Authorities. With the concerns being raised broadly falling into the following themes –

Concerns Raised	Council Response
<ul style="list-style-type: none"> that a licence will be automatically revoked if a driver receives six penalty points. 	<p>This is incorrect, the policy states that a licence will be reviewed if a driver accumulates 7 or more points on their DVLA driving licence for minor motoring offences.</p>
<ul style="list-style-type: none"> the policy does not take into account drivers' welfare or rights as a worker. 	<p>The council only issue licences to drivers we do not employ them. Issues surround the rights and welfare of workers fall outside the scope of this policy.</p>
<ul style="list-style-type: none"> that other transport providers i.e. bus drivers, train drivers, HGV drivers, are not subject to the same policy, 	<p>The authority cannot comment on the suitability tests applied by other regulators or employer. This will vary from sector to sector and be based on statutes and best practice guidance relevant to other industries.</p>
<ul style="list-style-type: none"> that parts of the policy are vague and open to interpretation. 	<p>This is a matter for members to consider.</p>
<ul style="list-style-type: none"> minor disputes with neighbours will result in a licence being suspended or revoked. 	<p>This is not correct. Each case is judged on its own merits against the policy.</p>
<ul style="list-style-type: none"> the list of convictions in Table A to the policy is too vague meaning drivers have to report everything and anything. 	<p>The policy is specific in relation to what should be reported to the licensing authority and the timescales to do so.</p>
<ul style="list-style-type: none"> the policy is draconian in its nature. 	<p>The policy has been adopted in accordance with the recommendations by the Institute of Licensing and the recommendations of the Statutory Guidance Issued by the Department for Transport.</p>
<ul style="list-style-type: none"> sufficient evidence did not exist to warrant the previous policy being re-written in its entirety, instead amendments could have been made to the previous policy. 	<p>The policy was subject to full consultation prior to being approved by the members of the Licensing and Safety Committee.</p>

<ul style="list-style-type: none"> the policy on driving convictions should revert back to the previous policy. 	This is a matter for members to decide.
<ul style="list-style-type: none"> suspension or revocation of a licence for driving points should only take place if a driver is banned by the Courts. 	This is a matter for members to decide.
<ul style="list-style-type: none"> due to the vast majority of drivers being from a BAME background, that the policy has a detrimental impact on the BAME community and therefore does not meet the Council obligations under the Equalities Act 2010, 	The safety of the travelling public is the council's priority. A full integrated impact assessment was completed at the time the policy was adopted which considered this matter.

2.21 At the Committee meeting on the 2 March 2022 deputations were also made by Mr Akooji Badat and Mr Hassan Badat against the suitability policy raising similar concerns to the above list.

Policy Review

2.22 It is normal practice for any Council policy to be reviewed on a periodic basis, and in the main, policy reviews should take place every three to five years.

2.23 On the 1 August 2022 the current fitness and suitability policy will have been in force for three years and given the commitment to place the concerns being raised before Members, officers feel it is an appropriate time for Members of the Committee to consider if a review of the policy is necessary.

2.24 As stated in paragraph 2.8 above, the current fitness and suitability policy is the policy of the Committee and only Members of the Committee can decide whether a review is required. Equally, if Members are to agree that a review is necessary, it would be for Members to determine the scope of that review for example, does the whole policy require review or just certain aspects, such as, the section of the policy relating to minor road traffic convictions.

2.25 In deciding if a review is necessary and if so what the scope of that review is, Members primary concern should be the safety of the travelling public and others who may be impacted by the private hire and hackney carriage trades.

3. Implications for the Council

3.1 Working with People

Residents of Kirklees need to be confident the policies and procedures relating to the licensing of the private hire and hackney carriage trades are robust and

that the protection of the public is at the heart of all policy matters and decision making.

Having a suitability policy that sets a high standard is part of the process to ensure public confidence can be met.

3.2 Working with Partners

The licensing service work closely with West Yorkshire Police, Other West Yorkshire Authorities, and trade representatives to ensure all views are taken into account.

3.3 Place Based Working

There is no impact in the context of this report.

3.4 Climate Change and Air Quality

There is no impact in the context of this report.

3.5 Improving outcomes for children

The Council wants to ensure that children have the best start in life and to ensure that the people of Kirklees feel safe and are protected from harm.

The Council has a duty to protect the travelling public and safeguard children in licensed vehicles, and more specifically, for the purposes of home to school transport

3.6 Financial Implications of people living or working in Kirklees

There are no financial implications for people living or working in Kirklees.

3.7 Other (eg Legal/Financial or Human Resources) Consultees and their opinions

Legal

It is essential that Kirklees, as a public body, complies with the Equality Act and is mindful of the Public Sector Equality Duty when formulating any policies.

It is noted that the proposal does include the carrying out of an Impact Assessment in relation to any potential policy changes.

Finance

There are no direct financial implications in the context of this report. However, if Members are minded to review the policy there will be cost implications in relation to officer time and consultation.

Integrated Impact Assessment

An Integrated Impact Assessment was completed as part of the initial adoption of the suitability policy. For the purpose of this report, there are no proposed policy /

procedure changes, the report is merely asking Members if a review is necessary; as such, an Integrated Impact Assessment is not required.

If Members take the decision that a review is necessary, then an Integrated Impact Assessment will be completed as part of that review.

4. Next steps and timelines

4.1 For Members to consider if a review of the Council's statement of fitness and suitability is necessary.

4.2 Should Members take a decision that a review is necessary then Members should also determine the scope of that review and that the timescales for that review be delegated to the Group Leader for Licensing in conjunction with the Chair of the Licensing and Safety Committee.

5. Officer recommendations and reasons

5.1 Members are recommended to consider the issues being raised in this report and take a decision on whether a review of the policy is necessary. The policy is three years old, so a periodic review is not unreasonable.

6. Cabinet Portfolio Holder's recommendations

6.1 Cllr Will Simpson has no additional comments in relation to this report.

7. Contact officer

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Group Leader – Licensing
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8. Background Papers and History of Decisions

8.1 Adoption of current policy [Agenda for Licensing and Safety Committee on Wednesday 13th March 2019, 10.00 am | Kirklees Council](#)

9. Service Director responsible

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Kirklees Licensing

A policy on determining the suitability of Applicants and Licensees as Drivers in Taxi and Private Hire Licensing



A Policy on determining the suitability of Applicants and Licensees as Drivers in Taxi & Private hire licensing.

Introduction

1. The West Yorkshire and York licensing authorities, which consists of Bradford, Calderdale, Leeds, Kirklees, Wakefield and York, recognises that the role of Hackney Carriage and Private Hire Drivers is a professional one. Hackney Carriage and Private Hire Drivers transport our most vulnerable persons and are often the first point of contact for visitors to each authority.
2. The reason for this policy is to ensure that the travelling public within West Yorkshire and York can be confident that the drivers licensed by each authority are suitable for this role, that the standards applied are consistent across each Authority area and that the requirements will be the same for whichever authority they choose to apply to.
3. It is a function of the Council to issue Hackney Carriage and Private Hire licences under the Local Government Miscellaneous Provisions Act 1976.
4. The overriding requirement of the Council when carrying out this function is the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services. The aim of this policy is to ensure that public safety is not compromised.
5. The Council must ensure that applicants/licence holders are and remain fit and proper to hold a licence. This policy will apply to all new applicant and to existing licensees on renewal. This requirement is contained within Sections 51 & 59 of the Local Government Miscellaneous Provisions Act 1976.
6. This policy categorises the types of issues including, crime and driving convictions that form part of the “fit & proper” test to facilitate the assessment of the potential risk to the public. As part of this assessment the Council is concerned to ensure that
 - An individual does not pose a threat to the public.
 - The Council’s obligations to safeguard children and vulnerable adults are met.
 - The public are protected from dishonest persons.
7. The standards of safety and suitability are not set as a base minimum. They are set high to give the public the assurance it requires when using taxi services. The Council does **not** have to strike a balance between the driver’s right to work and the public’s right to protection. The public are entitled to be protected. This means that the Council is entitled and bound to treat the safety of the public as the paramount consideration.
8. Taxis are used by almost everyone but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated. A taxi driver has significant power over a passenger who places themselves, and their personal safety, in the driver’s hands.
9. As part of the assessment referred to in paragraph 4 above the Council can consider convictions and cautions but also other outcomes of actions taken by the Police, other agencies and the Civil Courts.
10. Reference to convictions in this policy also includes cautions, warnings, reprimands, all forms of fixed penalty notices, restrictive type orders and any other relevant

information. These must be reported to the Council in the format and timescales stated in the relevant policy. In addition any circumstances relating to the licensee is potentially relevant if it is relevant to their safety and suitability to hold a licence.

11. Matters which have not resulted in a criminal conviction (whether as a result of an acquittal, a conviction being quashed, a decision not to prosecute or an investigation which is continuing where the individual has been bailed) will be taken into account by the Council. In addition, complaints where there was no police involvement will also be considered.
12. In the case of a new applicant who has been charged with any offences and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn.
13. In all cases, the Council will consider a conviction or behaviour and what weight should be attached to it, and each case will be decided on its own merits and in line with this policy.
14. The licensing process places a duty on the Council to protect the public. Therefore it is essential that those seeking a licence as a driver meet the required standards. As previous offending and other behaviour can be considered as a predictor in determining future behaviour, it is important that the Council considers all relevant factors including previous convictions, cautions, complaints, failures to comply with licence conditions, and the time elapsed since these were committed.

Applying the Guidance

15. One of the purposes of this policy is to provide guidance to an applicant or existing licence holder on the criteria to be taken into account by the Council when determining whether or not an applicant, or an existing licensee on renewal, is fit & proper to hold a hackney carriage or private hire driver's licence.
16. When determining whether or not a person is "fit & proper" to become or remain a licensed driver each case will be decided on its own merits and the Council shall only depart from this Policy in exceptional circumstances.
17. There must be clear and compelling reasons for the Council to depart from this policy. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered exceptional circumstances nor will the impact of losing (or not being granted) a licence on the applicant and/or his family.
18. The granting of a licence places an individual in a unique position of trust and they are expected to act with integrity and demonstrate conduct befitting of the trust placed in them. For this reason, whilst it is possible for an applicant or existing licence holder to have convictions that individually comply with the policy, the overall offending history and conduct of the applicant/licence holder will be considered. Appropriate weight will be applied where a series of convictions/incidents have been incurred over a period of time.
19. The Policy will also be applied if any additional issue arises that would call into question a person's suitability to continue to hold a licence. If an existing licence holder's conduct falls short of the "fit and proper" standard of behaviour at any time, their licence will be revoked.

20. Where a licence would normally be granted after an elapsed period, there may be circumstances where the elapsed period will be extended.
21. Any foreign offence disclosed by the applicant/licence holder or revealed on an enhanced Disclosure & Barring Service Disclosure will be dealt with in line with this Policy.
22. Any concerns, issues, incidents or convictions/offences not covered by this Policy will not prevent the Council from taking them into account.

Disclosure and Barring Service

23. Applicants need to be aware that as a consequence of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, they are excluded from the provisions of the Rehabilitation of Offenders Act 1974 in relation to spent convictions and that **ALL** convictions (including minor motoring convictions and fixed penalty notices) must be declared. The Secretary of State made this exemption because it is necessary to put public safety as the first consideration and to enable the Councils to take a wider view of the applicant over a longer timescale.
24. The Council conducts enhanced disclosures from the Disclosure and Barring Service ("DBS") of any applicant for a drivers licence. Applicants will be required to obtain an enhanced disclosure at their expense and to subscribe to the Disclosure and Barring Update Service.
25. Any information contained in the Enhanced DBS Certificate that identifies an individual as not suitable to work with children or vulnerable adults will normally be refused.
26. The Council 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 Council or other Councils and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.
27. In determining safety and suitability the Council is entitled to take into account all matters concerning that applicant or licensee. This includes not only their behaviour whilst working in the hackney carriage or private hire trade, but also their entire character including, but not limited to, their attitude and temperament.
28. Any applicant who has resided outside the UK for any period longer than 6 months within the preceding 3 years will be required to produce a certificate of good conduct dated in the last 3 months which details any convictions or cautions recorded against the individual. It is the applicant's responsibility to obtain this evidence at his cost. This will be in addition to the Enhanced DBS. Alternatively you may be required to produce a Statutory Declaration dated in the last 3 months.
29. It is the responsibility of the applicant/licence holder to satisfy the Council that they are a "fit and proper person" to hold a licence. Therefore the applicant/licence holder must ensure that all convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses are disclosed to the Council, including any incurred outside

the UK. A failure to report such convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses will be given significant weighting.

30. Once a licence has been granted there is a continuing requirement on the part of a licensee to maintain their safety and suitability to meet the “fit and proper” test. The Council has the powers to take action against licence holders and any behaviour, incidents, convictions or other actions on the part of the licensee which would have prevented them from being granted a licence will lead to the licence being revoked.
31. Any dishonesty by any applicant or other person acting on the applicant’s behalf which occurs in any part of the application process will result in a licence being refused, or if already granted, revoked and may result in prosecution.
32. An applicant must hold a full DVLA driver’s licence, have the right to remain and work in the UK and be a “fit and proper” person.
33. Under the Local Government (Miscellaneous Provisions) Act 1976 section 57, the Council has the power to require an applicant to provide:

“such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to such licence.”

The provision of this information can help to satisfy the Council that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of “fit and proper” and “safety and suitability” go beyond this. There is the character of the person to be considered as well.

34. The character of the applicant in its entirety is the paramount consideration when considering whether they should be licensed. The Council is not imposing an additional punishment in relation to previous convictions or behaviours. The information available to them is used to make an informed decision as to whether or not the applicant is a safe and suitable person.
35. The fact that an offence was not committed when the applicant was driving a taxi or when passengers were aboard is irrelevant. Speeding, drink driving and bald tyres are all dangerous, irrespective of the situation. Violence is always serious. A person who has a propensity to violence has that potential in any situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour.
36. Licensees are expected to demonstrate appropriate professional conduct at all times, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
37. There are those who seek to take advantage of vulnerable people by providing services they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. The Council expects licensees to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers must feel able to check that the person offering a service is

entitled to do so. Licensees must be willing to demonstrate that they are entitled to provide the service offered by, for example, showing their badge. Any applicant or licensee who does not comply with the requirements set out in this paragraph will not meet the “fit and proper” test.

Criminal and Driving Convictions

38. The Council considers that a period of time must elapse after a crime before a person can no longer be considered to be at risk of re-offending. The timescales set out in Table A are to reduce the risk to the public to an acceptable level.
39. In relation to single convictions Table A sets out the time periods that should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.
40. The Council will look at the entirety of the individual and in some cases the suitability will not be determined simply by a specified period of time having elapsed following a conviction or the completion of a sentence. The time periods are a relevant and weighty consideration but they are not the only determining factor.
41. In addition to the nature of the offence or other behaviour, the Council will also consider the quantity of matters and the period of time over which they were committed. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
42. This policy does not replace the Council’s duty to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by this policy the Council must consider the matter from first principles and determine the fitness of the individual.
43. Once a licence has been granted there is a continuing requirement on the part of the licensee to maintain their safety and suitability to meet the “fit and proper” test.
44. Some offences on their own are serious enough for a licence not to be granted and these identified Table A. In the case of an existing licence “refused” in the Table means “revoked”.
45. Applicants and licensees should be aware that where they have been convicted of a crime which has resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.
46. Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological or financial abuse.
47. The Council will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any “barred” list. Existing licensees who are placed on the Sex Offenders Register or on any “barred” list will have their licence revoked.

48. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction. Fixed penalties and community resolutions will also be considered in the same way as convictions.
49. Road Safety is a major priority to the Council. A taxi driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in their vehicle. As those passengers may be alone, and may also be vulnerable, any driving convictions or unacceptable behaviour whilst driving will weigh heavily against a licence being granted or retained.
50. Taxi drivers are professional drivers charged with the responsibility of carrying the public. Any motoring convictions demonstrate a lack of professionalism and will be considered seriously. Whilst it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action taken against an existing licence, subsequent convictions would indicate that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

Decision and Right of Appeal

51. Where the Council is minded to refuse an application or suspend or revoke an existing licence in line with this policy the applicant or existing licence holder will be informed and be given an opportunity to provide any additional written evidence in support of their application or retention of their licence.
52. The Council, at its absolute discretion, may determine to meet with the applicant or existing licence holder for the purpose of clarifying information provided or received. The applicant can be accompanied by one individual at the meeting who is not permitted to make comment or enter into any part of the discussion.
53. The Applicant or existing licence holder will be notified in writing of the Council's final decision.
54. Any person whose application is refused or licence suspended or revoked by the Council has a right of appeal to the Magistrates' Court. An Appeal must be lodged within 21 days of the decision at the appropriate Magistrates' Court. Appeal rights are contained in Section 77 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II) and Section 300 of the Public Health Act 1936.

TABLE A

Offence	Period Elapsed
Crimes resulting in death of another person or was intended to cause the death or serious injury to another person.	No period is thought sufficient to have elapsed and the application will be refused.
Exploitation – any crimes involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victims were adults or children including, for example: slavery, child sexual exploitation, grooming, psychological, emotional, or financial abuse.	No period is thought sufficient to have elapsed and the application will be refused.
Offences involving violence (including arson, riot, terrorism offences, harassment, common assault & criminal damage) or connected with any offence of violence.	10 years
Possession of a weapon or any other weapon related offence.	7 years
Sex and indecency offences – any offence involving or connected with illegal sexual activity or any form of indecency.	No period is thought sufficient to have elapsed and the application will be refused.
Dishonesty – any offence of dishonesty, or any offence where dishonesty is an element of the offence.	7 years
Drugs supply – any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply.	10 years
Drugs use – any conviction for possession of drugs, or related to possession of drugs.	5 years
Discrimination – any conviction involving or connected with discrimination in any form.	7 years
Drink driving/driving under the influence of drugs.	7 years

Driving whilst using a hand-held telephone or other device.	5 years
Minor traffic or vehicle related offences – offences which <u>do not involve</u> loss of life, driving under the influence of drink or drugs, driving whilst using a hand held telephone or other device and has not resulted in injury to any person or damage to any property (including vehicles) resulting in 7 or more points on a DVLA licence.	3 years
Major traffic or vehicle related offences – offences not covered under minor traffic or vehicle related offences and also any offence which resulted in injury to a person or damage to any property (including vehicles), driving without insurance or any offence relating to motor insurance.	7 years
Hackney carriage and private hire offences.	7 years
Vehicle use offences, for example being carried in vehicle without the owners consent.	7 years.

A Policy on determining the suitability of Applicants and Licensees as Drivers in Taxi & Private hire licensing.

Appendix A

Amended 1st August 2019

2 Introduction

1. The West Yorkshire and York licensing authorities, which consists of Bradford, Calderdale, Leeds, Kirklees, Wakefield and York, recognises that the role of Hackney Carriage and Private Hire Drivers is a professional one. Hackney Carriage and Private Hire Drivers transport our most vulnerable persons and are often the first point of contact for visitors to each authority.

2. The reason for this policy is to ensure that the travelling public within West Yorkshire and York can be confident that the drivers licensed by each authority are suitable for this role, that the standards applied are consistent across each Authority area and that the requirements will be the same for whichever authority they choose to apply to. **Public Safety is determined both by the driver and vehicle being "Fit for Purpose" as some of the authorities have different vehicle standards this statement is not true - Statement needs amending or removing or the vehicles policies need to be exactly the same for the WYCA and York for this statement to be true.**

3. It is a function of the Council to issue Hackney Carriage and Private Hire licences under the Local Government Miscellaneous Provisions Act 1976.

4. The overriding requirement of the Council when carrying out this function is the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services. The aim of this policy is to ensure that public safety is not compromised.

5. The Council must ensure that applicants/licence holders are and remain fit and proper to hold a licence. This policy will apply to all new applicant and to existing licensees on renewal. This requirement is contained within Sections 51 & 59 of the Local Government Miscellaneous Provisions Act 1976.

6. This policy categorises the types of issues including, crime and driving convictions that form part of the "fit & proper" test to facilitate the assessment of the potential risk to the public. As part of this assessment the Council is concerned to ensure that · An individual does not pose a threat to the public. · The Council's obligations to safeguard children and vulnerable adults are met. · The public are protected from dishonest persons.

7. The standards of safety and suitability are not set as a base minimum. They are set high to give the public the assurance it requires when using taxi services. The Council does not have to strike a balance between the driver's right to work and the public's right to protection. The public are entitled to be protected. This means that the Council is entitled and bound to treat the safety of the public as the paramount consideration. **Wherever it is reasonably possible worker's rights and workers welfare should be taken into account as both these issues directly**

contribute to the driver being able to fulfil his/her obligations to provide customer service to the highest standards possible. All conditions need to be reasonable and necessary.

8. Taxis are used by almost everyone but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated. A taxi driver has significant power over a passenger who places themselves, and their personal safety, in the driver's hands.

9. As part of the assessment referred to in paragraph 4 above the Council can consider convictions and cautions but also other outcomes of actions taken by the Police, other agencies and the Civil Courts. ***The word "other agencies" is of concern and needs to be specific as it could be any type agency even one which isn't a recognised agency. Also, could be open to abuse as it will depend on the licensing officer's interpretation of the policy wording***

10. Reference to convictions in this policy also includes cautions, warnings, reprimands, all forms of fixed penalty notices, restrictive type orders and any other relevant information. These must be reported to the Council in the format and timescales stated in the relevant policy. In addition any circumstances relating to the licensee is potentially relevant if it is relevant to their safety and suitability to hold a licence. ***We have concerns with words warnings, reprimands, all forms of fixed penalty notices – need clarification on exactly what these terms are referring to – a fixed penalty definition is "a fine of a fixed amount of money for a particular offence" without knowing what type of offence/s are covered how will drivers know which offences to report. Fixed penalty notices are issued for many types of civil matters as well as motoring offences., Drivers can quite easily get these fixed penalty notices when taking fares to other cities due to lack of knowledge of the area and at times the satellite navigations doesn't recognise new road layouts or recent traffic regulations changes. It would be totally unjust to use non-traffic related "Fixed Penalty" notices to determine whether a driver is a "Fit and Proper" person. Using such general and vague definitions will leave this policy open to abuse as it will depend on the licensing officer's interpretation of the policy wording.***

11. Matters which have not resulted in a criminal conviction (whether as a result of an acquittal, a conviction being quashed, a decision not to prosecute or an investigation which is continuing where the individual has been bailed) will be taken into account by the Council. In addition, complaints where there was no police involvement will also be considered. ***We have concerns regarding the last comment "where there was no police involvement" – Need clarification on this point as what type of complaints will be considered - This is worrying because you could have an argument with a neighbour/family member or at a restaurant/pub/football match no police is involved but because you're a taxi/private hire driver and someone who didn't like the way you spoke or if someone just doesn't like the look of you can report you to vehicle licensing and you could end up losing your license. For serious breaches of the law that's perfectly fine but not for very minor issues. Are drivers being asked to be on duty 24/7? not have any opinions? Do you expect a taxi/private hire driver to live a life where they are not allowed to say or do anything? if you are then please name any other job that has such strict rules and regulations? Could be open to abuse as it will depend on the licensing officer's interpretation of the policy wording.***

12. In the case of a new applicant who has been charged with any offences and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn.

13. In all cases, the Council will consider a conviction or behaviour and what weight should be attached to it, and each case will be decided on its own merits and in line with this policy.

Convictions and offences categories as shown in Table A of the policy document need to be clear and precise as the vague and generic terms used leaves drivers having to report everything and anything and then it is being left at the discretion of licensing officers. Could be open to abuse by different officers interpreting the policy differently and making decisions based on their personal like or dislike of a driver

14. The licensing process places a duty on the Council to protect the public. Therefore, it is essential that those seeking a living as a driver meet the required standards. As previous offending and other behaviour can be considered as a predictor in determining future behaviour, it is important that the Council considers all relevant factors including previous convictions, cautions, complaints, failures to comply with licence conditions, and the time elapsed since these were committed. Applying the Guidance

15. One of the purposes of this policy is to provide guidance to an applicant or existing licence holder on the criteria to be taken into account by the Council when determining whether or not an applicant, or an existing licensee on renewal, is fit & proper to hold a hackney carriage or private hire driver's licence. ***Totally failing on the purpose as many of the conditions use either generic or vague terminology therefore the guidance is not very clear***

16. When determining whether or not a person is "fit & proper" to become or remain a licensed driver each case will be decided on its own merits and the Council shall only depart from this Policy in exceptional circumstances.

17. There must be clear and compelling reasons for the Council to depart from this policy. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered exceptional circumstances nor will the impact of losing (or not being granted) a licence on the applicant and/or his family. ***Good character and good record must be taken in to account in the interest of ensuring that any action taken against the driver is fair, reasonable and necessary***

18. The granting of a licence places an individual in a unique position of trust and they are expected to act with integrity and demonstrate conduct befitting of the trust placed in them. For this reason, whilst it is possible for an applicant or existing licence holder to have convictions that individually comply with the policy, the overall offending history and conduct of the applicant/licence holder will be considered. Appropriate weight will be applied where a series of convictions/incidents have been incurred over a period of time.

19. The Policy will also be applied if any additional issue arises that would call into question a person's suitability to continue to hold a licence. If an existing licence holder's conduct falls short of the "fit and proper" standard of behaviour at any time, their licence will be revoked. ***What does the term "additional issues" mean? This is a vague generic term and could be interpreted differently by different officers and could be abused by officers – need clarity***

20. Where a licence would normally be granted after an elapsed period, there may be circumstances where the elapsed period will be extended.

21. Any foreign offence disclosed by the applicant/licence holder or revealed on an enhanced Disclosure & Barring Service Disclosure will be dealt with in line with this Policy. **Agree with this policy but the declaration and or reporting of foreign offences should be done via the application/renewal form and not via a 'Certificate of good character' from a solicitor or from overseas – The 'Certificate of good character' from a solicitor doesn't give licensing authorities any extra powers as they still have powers to revoke a license and or prosecute a license holder if false information is provided by the applicant on the application/renewal form. Authorities do have an option to carry out overseas checks via <https://www.onlinecrbcheck.co.uk/overseascheck.aspx> Every case needs to be assessed on its merits as many drivers have raised concerns that in some countries fake allegations are quite common and, in some cases, people are named in Incident Reports just because they were present when the reported incident took place. If the driver is visiting any country but does not have any official ID from that country they will not be able to obtain any police information once they have left the country – the point being who will give a character reference or any statement for an 'Alien' person? Just to prove fake allegations do take place check <https://www.amnesty.org.uk/> on the Naznin Zaghari-Ratcliffe case.**

22. Any concerns, issues, incidents or convictions/offences not covered by this Policy will not prevent the Council from taking them into account. Disclosure and Barring Service - **Some vague and generic terminology used gives concern that different officers may interpret the policy differently and could be open abuse – need clarity on what type of concerns, issues, incidents or conviction/offences the policy is referring to.**

23. Applicants need to be aware that as a consequence of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, they are excluded from the provisions of the Rehabilitation of Offenders Act 1974 in relation to spent convictions and that ALL convictions (including minor motoring convictions and fixed penalty notices) must be declared. The Secretary of State made this exemption because it is necessary to put public safety as the first consideration and to enable the Councils to take a wider view of the applicant over a longer timescale. **Generally, agree with statement but have concerns about the fixed penalty notices point – need clarification on exactly what these terms are referring to – a fixed penalty definition is "a fine of a fixed amount of money for a particular offence" without knowing what type of offence/s are covered how will drivers know which offences to report. Also, could be open to abuse as it will depend on the licensing officer's interpretation of the policy wording**

24. The Council conducts enhanced disclosures from the Disclosure and Barring Service ("DBS") of any applicant for a driver's licence. Applicants will be required to obtain an enhanced disclosure at their expense and to subscribe to the Disclosure and Barring Update Service.

25. Any information contained in the Enhanced DBS Certificate that identifies an individual as not suitable to work with children or vulnerable adults will normally be refused.

26. The Council 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 Council or other Councils and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations. **Generally, agree with the**

statement but we need transparency on the recording of complaints – written confirmation must be given to the driver with the details of the complaint and how long it will remain on their file.

27. In determining safety and suitability the Council is entitled to take into account all matters concerning that applicant or licensee. This includes not only their behaviour whilst working in the hackney carriage or private hire trade, but also their entire character including, but not limited to, their attitude and temperament. ***Some of the terminology used is too vague and generic and could be interpreted differently by different officers and could be abused by officers – need clarity***

28. Any applicant who has resided outside the UK for any period longer than 6 months within the preceding 3 years will be required to produce a certificate of good conduct dated in the last 3 months which details any convictions or cautions recorded against the individual. It is the applicant's responsibility to obtain this evidence at his cost. This will be in addition to the Enhanced DBS. Alternatively you may be required to produce a Statutory Declaration dated in the last 3 months. ***The reporting of foreign offences should be via the application/renewal form declaration and not via a 'Certificate of good character' from a solicitor or from overseas – The 'Certificate of good character' doesn't give licensing authorities an extra power as they still have powers to revoke a license if false information is provided via a declaration by the applicant on the application/renewal***

29. It is the responsibility of the applicant/licence holder to satisfy the Council that they are a "fit and proper person" to hold a licence. Therefore the applicant/licence holder must ensure that all convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses are disclosed to the Council, including any incurred outside Appendix A Amended 1 st August 2019 5 the UK. A failure to report such convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses will be given significant weighting. ***Generally, agree with statement but have concerns about the fixed penalty notices point – need clarification on exactly what these terms are referring to – a fixed penalty definition is "a fine of a fixed amount of money for a particular offence" without knowing what type of offence/s are covered how will drivers know which offences to report. As written in point 28 the declaration about time spent overseas must be via a declaration on the application/renewal form. Just to give you an example the bus gate restrictions in Leeds report;***

<https://www.yorkshireeveningpost.co.uk/news/transport/11000-penalties-issued-to-motorists-in-just-over-a-month-on-single-leeds-city-centre-street-3540099?fbclid=IwAR1TfPPFP4rpB1EE8sa3vPjR1-1YIJEUml-4U5JSUV9iOaCJYPan9rKSUUA>

11,000 fixed penalty notices were issued in one single month and chances are many Private Hire drivers will have received these penalty notices, according to this policy these drivers would be classed as not being "Fit and Proper" and would have their license suspended or revoked. Need clarity on the wording as this could be open to abuse as it will depend on the licensing officer's interpretation of the policy wording

30. Once a licence has been granted there is a continuing requirement on the part of a licensee to maintain their safety and suitability to meet the "fit and proper" test. The Council has the powers to take action against licence holders and any behaviour, incidents, convictions or other actions on the part of the licensee which would have prevented them from being granted a licence will lead to the licence being revoked. ***The term "incidents" is a***

vague generic term and could be interpreted differently by different officers and could be abused by officers – need clarity

31. Any dishonesty by any applicant or other person acting on the applicant's behalf which occurs in any part of the application process will result in a licence being refused, or if already granted, revoked and may result in prosecution. ***This confirms that the proposals made in points 21,28 & 29 to replace the 'Certificate of good character' with a declaration on the application/renewal form would be acceptable as the licensing authority will still have the power to revoke and or prosecute the driver if they are found to have withheld information or made a dishonest declaration.***

32. An applicant must hold a full DVLA driver's licence, have the right to remain and work in the UK and be a "fit and proper" person.

33. Under the Local Government (Miscellaneous Provisions) Act 1976 section 57, the Council has the power to require an applicant to provide: "such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to such licence." The provision of this information can help to satisfy the Council that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of "fit and proper" and "safety and suitability" go beyond this. There is the character of the person to be considered as well.

34. The character of the applicant in its entirety is the paramount consideration when considering whether they should be licensed. The Council is not imposing an additional punishment in relation to previous convictions or behaviours. The information available to them is used to make an informed decision as to whether or not the applicant is a safe and suitable person.

35. The fact that an offence was not committed when the applicant was driving a taxi or when passengers were aboard is irrelevant. Speeding, drink driving and bald tyres are all dangerous, irrespective of the situation. Violence is always serious. A person who has a propensity to violence has that potential in any situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour. ***Agree with the policy for the very serious offences – however every suspension needs to meet the Fair, Reasonable and Necessary test. For driving points issues any decision should be based on the previous Convictions policy as sufficient evidence has not been provided to say that there was a serious risk to public safety with old policy or there was a very high percentage of drivers with more than 7 points – Just to give you an example on how easily points can be accumulated – the speed limit reduction from 40 mph to 30 mph on York road in Leeds and the initial poor signage resulted in many members of the public including Taxi and Private Hire drivers getting speeding fines as they were driving to or less than 40 mph. Circumstances around such or similar Incidents need to be taken into account before any suspension or revocation decision is taken. Also, violence it could be 3 cases of self-defence in a short period of time and that could happen whilst working or not working doesn't mean you are a threat to public safety and you will commit violence. Each offence needs to be considered on its own merits and any suspension or revocation should be reasonable and proportionate***

36. Licensees are expected to demonstrate appropriate professional conduct at all times, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them. ***Broadly we support the policy for serious crimes but it seems that drivers cannot have life outside their role as a Taxi and Private Hire drivers. Simply having a discussion or a debate outside of work on an emotive issue such as Politics, Black Lives Matters, Palestine, Kashmir, Uighur Muslims or give your opinion on transgender issues and someone can report you does that mean that you are prejudice in any way? why should that impact your ability to work. Are we saying as a taxi/private hire driver you can't have an opinion or social media interactions on these issues or any other issues in fear of being reported for prejudice? There have been many cases where drivers are not even given a crime number when they report incidents which the police term as "Civil" matters and therefore are not recorded anywhere by the police, yet a customer making even a very minor allegation which could be in the same "Civil" category is taken seriously by the police and the licensing authority which will lead to suspension of the driver's license whilst an investigation takes place, even if there is no evidence to support the complaint the complaint will be recorded on the drivers file. KMC should explore putting a reporting system in place where drivers can report incidents that they feel aggrieved by so that any malicious or fake allegations can then be dealt with using both sets of information. Just to give you an example a Leeds Private Hire driver refused to accept a kebab soaked £10 note for the fare and the customer made very serious allegations against him***
<https://www.phtm.co.uk/news/825/phtm-news/student-jailed-for-falsely-accusing-leeds-cabbie-of-groping-her> which led to his immediate suspension

37. There are those who seek to take advantage of vulnerable people by providing services they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. The Council expects licensees to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers must feel able to check that the person offering a service is entitled to do so. Licensees must be willing to demonstrate that they are entitled to provide the service offered by, for example, showing their badge. Any applicant or licensee who does not comply with the requirements set out in this paragraph will not meet the "fit and proper" test. Criminal and Driving Convictions. ***Support the policy where there is a deliberate intention, but each case must be taken on its own merits. Regarding issue of displaying the badge – KMC are asking drivers to wear the badge around the neck on a lanyard – The badge should be either worn or displaying in the vehicle, that should be at the discretion of the driver and the overriding factor should be that the badge is available for inspection when requested by a customer or an authorised officer.***

38. The Council considers that a period of time must elapse after a crime before a person can no longer be considered to be at risk of re-offending. The timescales set out in Table A are to reduce the risk to the public to an acceptable level. ***See table A comments below***

39. In relation to single convictions Table A sets out the time periods that should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted. ***See table A comments below***

40. The Council will look at the entirety of the individual and in some cases the suitability will not be determined simply by a specified period of time having elapsed following a conviction or the completion of a sentence. The time periods are a relevant and weighty consideration but they are not the only determining factor.

41. In addition to the nature of the offence or other behaviour, the Council will also consider the quantity of matters and the period of time over which they were committed. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.

42. This policy does not replace the Council's duty to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by this policy the Council must consider the matter from first principles and determine the fitness of the individual.

43. Once a licence has been granted there is a continuing requirement on the part of the licensee to maintain their safety and suitability to meet the "fit and proper" test.

44. Some offences on their own are serious enough for a licence not to be granted and these identified Table A. In the case of an existing licence "refused" in the Table means "revoked".

See table A comments below

45. Applicants and licensees should be aware that where they have been convicted of a crime which has resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

46. Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological or financial abuse.

47. The Council will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any "barred" list. Existing licensees who are placed on the Sex Offenders Register or on any "barred" list will have their licence revoked.

48. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction. Fixed penalties and community resolutions will also be considered in the same way as convictions.

49. Road Safety is a major priority to the Council. A taxi driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in their vehicle. As those passengers may be alone, and may also be vulnerable, any driving convictions or unacceptable behaviour whilst driving will weigh heavily against a licence being granted or retained. ***The driving convictions issue needs to remain as the previous policy unless evidence can be presented to say that this change in policy is reasonable and necessary any suspensions should be based on decisions taken by the courts to ban drivers***

50. Taxi drivers are professional drivers charged with the responsibility of carrying the public. Any motoring convictions demonstrate a lack of professionalism and will be considered seriously. Whilst it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action taken against an existing licence, subsequent convictions would indicate that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence. ***The driving convictions issue needs to remain as the previous policy unless evidence can be presented to say that this change in policy is reasonable and necessary any suspensions should be based on decisions taken by the courts to ban drivers***

51. Where the Council is minded to refuse an application or suspend or revoke an existing licence in line with this policy the applicant or existing licence holder will be informed and be given an opportunity to provide any additional written evidence in support of their application or retention of their licence. ***Decisions should be made by a subcommittee as per DfT guidance to ensure that the driver has been given an opportunity to have their issue heard by the subcommittee before the decision to suspend or revoke is made***

52. The Council, at its absolute discretion, may determine to meet with the applicant or existing licence holder for the purpose of clarifying information provided or received. The applicant can be accompanied by one individual at the meeting who is not permitted to make comment or enter into any part of the discussion. ***When an applicant has an accomplice/Trade representative or Union rep with him/her then the unless it is a PACE interview the accomplice must be allowed to comment or make representation for and on behalf of the applicant***

53. The Applicant or existing licence holder will be notified in writing of the Council's final decision.

54. Any person whose application is refused or licence suspended or revoked by the Council has a right of appeal to the Magistrates' Court. An Appeal must be lodged within 21 days of the decision at the appropriate Magistrates' Court. Appeal rights are contained in Section 77 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II) and Section 300 of the Public Health Act 1936. ***In order to ensure that all decisions are just and fair it is essential that there is complete clarity in the whole policy wording – Many points have vague and generic wording which will mean different officers will interpret the policy and drivers may interpret the policy differently.***

TABLE A

Offences involving violence (including arson, riot, terrorism offences, harassment, common assault & criminal damage) or connected with any offence of violence. 10 years We have no issues with the 10-year ban for serious offences of ABH, GBH, Arson, Terrorism or where there is serious wounding done intentionally – but the wounding and or connected with an offence of violence wording means that even accidental or wounding caused during self-defence could be classed as violence and the driver loses licence for 10 years. This is very draconian for the lesser offences.

Possession of a weapon or any other weapon related offence. 7 years No issue with the Possession of a fire arm or bladed weapon etc it should be 10 years - but the "any other weapon related offence" leaves it open to cover a driver that has maybe picked

up any item from his vehicle like a torch to defend himself when he/she is being attacked or threatened and that could be classed as a weapon related offence and get banned for 7 years –

Dishonesty – any offence of dishonesty, or any offence where dishonesty is an element of the offence. 7 years *For very serious offences where a long prison sentence is involved then that's fine – for other offences then it must be an offence that has been proven in court of law and the sentence should proportionate 7 years is draconian for very minor offences or*

Drugs supply – any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply. 10 years *The term 'connected with possession or connected with possession with intent to supply' is of concern – in cases where a person is convicted and given a prison sentence then that's fine but for other or lesser sentence where there is no prison sentence then the ban needs to be reasonable and proportionate.*

Drugs use – any conviction for possession of drugs, or related to possession of drugs. 5 years **Discrimination – any conviction involving or connected with discrimination in any form. 7 years** *This also is very vague terminology - agree with ban for serious offences but not for minor issues or where drugs have been used for recreational use. We have customers using drugs in Taxis and sometimes the driver doesn't see them, you only find out when you see the empty wrappers. If you do see them and tell them to stop you risk being abused or assaulted or even worse they could make a false allegation that you supplied the drugs to them – so the driver has to make that decision and without the police support it's best to keep quiet. Each case must be dealt with on its own merits and any ban must be reasonable and proportionate*

Driving whilst using a hand-held telephone or other device. 5 years *- Agree for offences where a driver has been found guilty of causing death or serious injury or has been given a lengthy ban by the courts. Other offences where just points are awarded these should be considered under the totting up procedure – also makes a mockery of this when majority of the drivers are working for companies that dispatch bookings via a mobile app or mobile device and bookings cannot be accepted without touching the mobile device – why are KMC licensing these operators knowing that the driver will have to be breaking the law every time they accept the booking*

Minor traffic or vehicle related offences – offences which do not involve loss of life, driving under the influence of drink or drugs, driving whilst using a hand held telephone or other device and has not resulted in injury to any person or damage to any property (including vehicles) resulting in 7 or more points on a DVLA licence. 3 years *This decision should be left up to the courts – if a driver is banned by the courts then a license should be revoked – 3 years is draconian – 1 year is reasonable with driver having to pass and advance driving test – driver will have to pay very insurance premiums going into thousands of pounds to be able to start working again as a Taxi or Private Hire Driver so will have to be extra cautious otherwise insurance companies will refuse to insure him/her*

Major traffic or vehicle related offences – offences not covered under minor traffic or vehicle related offences and also any offence which resulted in injury to a person

or damage to any property (including vehicles), driving without insurance or any offence relating to motor insurance. 7 years **Where a death has occurred then 7 years is fine but for other offences the ban is not reasonable or proportionate – insurance related offences have always got to be declared on insurance policies so many companies will not insure drivers if they do the premium will be heavily loaded, for serious accidents where a high claim was made again many companies will refuse to insure or will heavily load the premium – Let the courts make the decision on the ban then add 1 year. Driver to pass advance driving test when he/she re-applies**

Hackney carriage and private hire offences. 7 years *Very vague description of offences - no offence deserves a 7-year ban – This could be offences like incorrect time on the meter, forgetting to put the meter on, taking a longer route, very draconian as nothing that can't be changed with education and training.*

Vehicle use offences, for example being carried in vehicle without the owners consent. 7 years *This doesn't make sense at all and again is a generalised description which could be anything or even a minor offence so a 7-year ban would be draconian*