Taxi Licensing Committee

Guidance Notes

These guidance notes are applicable to applicants, representatives of applicants, existing licence holders, those requested to attend a hearing, Licensing Officers, and Elected Members of the Licensing Committee.

1. INTRODUCTION

1.1 The key role of the Committee is to consider applications and licence reviews where there is information provided that requires the Committee to decide whether a driver is fit and proper to hold a Hackney Carriage/Private Hire Vehicle driver's licence in line with statutory guidance and the council's taxi licensing policy. Decisions should focus on protecting the public and the Committee cannot take the personal circumstances of a driver into account.

2. MEMBERSHIP

2.1 The Licensing Committee shall consist of eleven elected Members of the Council. In the event of the Chair or Deputy of the Licensing Committee not being present, the Committee shall elect a Chair from amongst its Members for the purpose of that hearing.

2.2 The quorum of the Committee shall be four voting Members.

2.3 Because of the nature of the hearing all Members must be present throughout the hearing. If for any reason a Member needs to withdraw during the proceedings the hearing should be temporarily adjourned until the Member returns, or the Member should not participate any further in the hearing. If a Member of the Committee arrives late, after the hearing has commenced, they cannot participate in that hearing.

3 NOTICE OF HEARINGS

3.1 The Committee will meet on the second Monday of each month. The applicant/licence holder will be given notice of the date, time and location of the hearing and will be invited to attend unless the Committee is considering an immediate suspension that has been imposed by the Licensing Manager under delegated powers.

4 THE HEARING

4.1 Subject to the above, the applicant/licence holder may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. Members of the public are not admitted.

4.2 At the start of the hearing, the Chair will introduce the members of the Committee and any officers in attendance and shall ask the parties and any persons accompanying them to introduce themselves.

4.3 The hearing is the main opportunity for the applicant/licence holder to state their case. While some attendees or their representatives may have had previous experience of this

type of hearing and be able to present their case clearly and confidently, others will be nervous and inarticulate and may be put off by excessive formality in the conduct of the hearing. The Chair should therefore try to ensure that the atmosphere of the hearing is not excessively formal.

4.4 However the Chair must be prepared to intervene impartially, when necessary, in order to ensure that the proceedings are orderly, or to curb lengthy speeches which are obviously irrelevant to the question at issue.

4.5 If any party who was expected to attend has not done so, the Committee will decide whether to hold the hearing in that party's absence, or to adjourn it to another date in order to allow the party the opportunity to attend. If the Committee decides to hold the hearing in a party's absence, they will still consider any written information received.

4.6 If a party has informed the Council that they do not intend to attend or be represented at the hearing, the hearing can proceed in their absence.

4.7 The Chair will explain to those present that the hearing is subject to this procedure, copies of which will have been distributed to the parties prior to the hearing and shall ask if there are any questions of clarification or explanation about its contents.

4.8 The Licensing Officer will then present the application/case for consideration.

4.9 The Chair will then invite the applicant/licence holder, or their representative to address the Committee on their application/case and to respond to any points upon which clarification is required. They may also call any person(s) to whom permission has been granted to appear in support of their application or case.

4.10 The applicant/licence holder, their representative or any person called on their behalf may be asked any questions upon their presentation by any Member of the Committee or by the Legal Advisor to the Committee.

4.11 After the applicant/licence holder or his representative has addressed the Committee and after comments and questions have been invited, they will be invited to give a closing statement is they so wish, then they will be asked to leave the hearing and await the decision of the Committee. The Officers from Legal and Democratic Services will remain with the Committee to provide legal advice only and will take no part in the discussion of the merits of the case or what the decision should be.

5 DETERMINATION OF APPLICATIONS/CASES

5.1 At the conclusion of the hearing, the Committee will determine the application/case, and the applicant/licence holder will be invited back, and the Chair will inform them verbally of the decision.

5.2 The options available to the Committee are

GRANT APPLICATION

(a) Grant the licence
(b) Grant the licence with a warning letter with regard to the applicant's future conduct.
(c) Refuse the application.

REVIEW OF A LICENCE

(a) Take no further action.
(b) Allow the licence to continue with a warning letter with regard to the applicant's future conduct.

(c) Suspend the licence for a period to be decided by the Committee and issue a warning letter with regard to the applicant's future conduct. In addition the Committee may order the licence holder to attend such training deemed necessary in order to adequately carry out their duties.

(d) Revoke the licence.

REVIEW OF AN IMMEDIATE SUPENSION

(a) Allow for the immediate suspension of the licence to continue for a period to be decided by the Licensing Committee

(b) To lift the suspension of the licence

(c) To lift the suspension of the licence with a warning letter with regard to the licence holder's future conduct.

(d) Revoke the licence.

5.3 The Licensing Authority will notify the applicant/licence holder of the Committee's decision in writing as soon as possible after the hearing and inform them of their right of appeal.

5.4 If, for whatever reason, the decision could not be finalised, the Chairman will confirm that this will be delivered in writing within five working days beginning with the day of the hearing.

6. GUIDANCE ON RELEVANCE OF CONVICTIONS

6.1 The guidance below is in place to assist the members of the Licensing Committee in their decision-making and to maintain consistency of those decisions with each case being considered on its own merits.

6.2 The guidance also aims to provide clear information to current licence holders and potential applicants regarding the relevance of convictions and cautions.

6.3 The Licensing Committee may depart from this guidance if the individual circumstances of any case merit such a decision and in such cases the Committee will give full reasons for the departure.

HULL CITY COUNCIL'S GUIDANCE ON THE RELEVANCE OF CONVICTIONS

The primary objective of the licensing regime is to ensure that, so far as possible, those licensed to drive taxis are suitable persons to do so, namely that they are safe drivers with

good driving records and adequate experience, sober, mentally and physically fit, honest and trustworthy. It is not the intention of the Licensing Authority to punish the applicant twice for a conviction or caution, but to ensure that public safety is not compromised. The Committee will not consider the effect on the individual of any sanction imposed.

LEGISLATION

The Local Government (Miscellaneous Provisions) Act 1976 Section 51 deals with the grant of a driver's licence with regard to the suitability of the applicant The Act states that a:

"…Council shall not grant a licence to drive a (Private Hire/Hackney Carriage Vehicle) unless they are satisfied that the person is a ***fit and proper person*** to hold a driver's licence."

Therefore, the wording of the legislation makes it clear that the Licensing Authority may grant a licence ONLY if it is satisfied that the person is fit and proper - the onus is on the applicant to prove this, NOT the Licensing Authority to demonstrate that they are not.

There is no absolute definition as to what constitutes a "fit and proper person". However, considering the range of passengers that a driver may carry, and other tasks that a driver may be required to perform, many of whom will be vulnerable, the Licensing Committee will want to have confidence that such people would be able to rely on the driver.

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 deals with currently licensed drivers:

"…the district council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds.

1. That he has since the grant of the licence -

i) Been convicted of an offence involving dishonesty, indecency or violence. or

ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of Part of this Act.

Or;

2. Any other reasonable cause."

Some important areas that will be considered by the Committee are:

• Honesty and trustworthiness.

• Courtesy - The Licensing Authority considers that aggressive or abusive conduct on the part of the driver is unacceptable.

• Consistently good and safe driving - those paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all road traffic legislation and any conditions attached to the licence.

• Good physical and mental health.

• Good knowledge and awareness of any special requirements that disabled passengers may have.

PROTECTING THE PUBLIC

The over-riding consideration for the members of the Licensing Committee is to protect the travelling public. Having considered and applied the appropriate guidelines, if the Committee

has any reasonable doubts, then an application must be refused, or consideration must be given to revocation or suspension of an existing licence.

In exceptional circumstances, authorised officers will exercise the powers granted under the Road Safety Act 2006 to suspend a licence with immediate effect where there are serious concerns regarding public safety following arrest or information provided by the Chief Officer of Police (or a body responsible for public or child protection). Where relevant, the case will be referred to a Licensing Committee for ratification and then for final determination following the conclusion of any legal proceedings.

COMPLIANCE WITH CONDITIONS AND REQUIREMENTS OF LICENSING AUTHORITY

All applicants and currently licensed drivers are issued with and are strongly advised to carefully read and familiarise themselves with the Hull City Council Hackney Carriage and Private Hire Licensing Conditions and Procedures Handbook.

The Licensing Committee may take into account an applicant's relevant history while holding a licence, from this or any other authority in deciding whether a person is a fit and proper person to hold a licence, or whether they can continue to hold a licence. This will include checks made to the National Anti-Fraud database on refusals and revocations of hackney carriage and private hire licences.

Such matters as a licence holder's record of complaints, or positive comments from members of the public, their compliance with licence conditions and their willingness to co-operate with Licensing Officers will all be taken into consideration.

CONVICTIONS AND/OR CAUTIONS

The licence application form requires that the applicant must disclose all convictions and cautions. These include any convictions that are spent under the Rehabilitation of Offenders Act 1974. Except those that are "protected", as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 2002 (SI2002/441). (The amendments to the Exceptions Order 1975 (2013 provide that certain spent convictions and cautions are 'protected' and are not subject to disclosure and cannot be taken into account).

If a licence is granted to a person on the basis of false or incomplete information supplied by them, the Licensing Committee may revoke the Licence.

The disclosure of any conviction will not necessarily preclude an applicant from being issued a licence. However, all convictions, spent or live, will be assessed, and may be taken into consideration. A series of offences over a period of time is more likely to give cause for concern than an isolated conviction. If a pattern is found for any offences, then serious consideration should be made as to the suitability of that person to hold, or apply for, a licence.

NON- STATUTORY REHABILITATION PERIODS

This guidance document has separated the various offences affecting an application into different categories, each detailing the period that normally elapse following conviction for a particular type of offence. If these requirements are not met, the matter will be referred to the Licensing Committee. If, after consideration by the Committee, a person is not considered

suitable to hold a licence, then the application should be refused or, in the case of an existing driver, the licence should be revoked or suspended.

The Committee will not look behind the conviction or caution, but the applicant may, however, explain any mitigating factors, which they may consider led to them committing the offence. The Committee may choose to take these factors into account, together with all other relevant information, in deciding whether the applicant is suitable to hold or retain a licence.

The number, type and frequency of any offences will be taken into account. In some cases, it may be appropriate to issue a licence together with a strong warning as to future driving conduct, or to give a similar warning to an existing licence holder. If a significant history of offences is disclosed, refusal of an application or a revocation or suspension may result.

CATEGORIES OF OFFENCES

CAUTIONS

New applicants

If an applicant has received a caution for an offence, and dependent upon the nature of the offence, they may be required to attend a hearing of the Licensing Committee to explain the caution.

A caution is regarded in the same way as a conviction

Existing Licence Holders

If an existing driver has received a caution for an offence, and dependent upon the nature of the offence, the driver may be required to attend a hearing of the Licensing Committee to explain the caution.

If a caution is not declared, but if discovered by officers, the driver will be required to attend the Licensing Committee where they must explain why they failed to declare the caution.

BARRED LISTS

A licence will not be granted to a person who is on any of the barred lists

MOTORING OFFENCES

Hackney Carriage and Private Hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. 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 against an existing licence. Subsequent convictions reinforce the fact 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.

Penalty points applied to a DVLA driving licence remain active for either 3 or 10 years, which may be from the date of the offence or the date of the conviction, depending upon the offence. They may be removed from the licence after 4 or 11 years from the date of conviction, or the date of the offence depending on the type of offence.

By attaining 7 or more penalty points on their DVLA licence a driver is demonstrating they may not be fit and proper and the authority should assess their suitability. It is suggested

part of the assessment is to undertake a driver awareness course and/or pass a driver assessment, with no more than 8 minor infringements, within 2 months of notice from the authority that they are considering the suitability of the licence holder. Failure to do so strongly suggests that the driver is not fit and proper and not be licensed until a period of 12 months as passed with no further convictions and has passed a driver assessment since the last conviction.

Any driver who has accumulated 12 or more points on the DVLA licence and has not been disqualified under the totting up procedure by a court as a result of making exceptional hardship arguments shall not be able to advance such arguments before the licensing authority as they are not a relevant consideration in determining what action the authority should take. Any such driver will not be licensed for a period of 5 years from the date of accumulation of 12 points or more.

Any driver who has been disqualified as a result of "totting up", which erases the points when the licence is restored, will not be licensed for a period of 5 years from the date of the disqualification. Other disqualifications will need to be investigated, the reasons ascertained, and a decision will be based on the results of that investigation.

Drivers who commit parking, obstruction and other such motoring offences that do not attract penalty points are not displaying a professional approach to their work. Persistent offenders should be reported to their licensing authority who may consider a period of suspension depending on the severity and frequency of the incidents reported.

New applicants

Where an applicant has 7 or more penalty points or more on their DVLA licence for a *minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for a **major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

In most cases if there are 6 or fewer points on an applicant's licence, a licence may be granted (subject to any other necessary checks and tests) by the Licensing Section with or without a formal warning with regard to future conduct.

If an applicant has been disqualified from driving for any reason, other than the offences shown below, at least five years (after restoration of DVLA licence) should elapse before an applicant is considered for a private hire/hackney carriage driver's licence.

*a minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles).

**a major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance, or any offence connected with motor insurance.

Existing Licence Holders

Private hire and hackney carriage drivers are professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at ***all*** times. Any traffic offences

could show a lack of responsibility whilst driving either due to the maintenance and safety of their vehicles or in the manner of their driving.

Convictions or cautions for traffic offences do not automatically prevent a person from proceeding with a renewal of their licence, or from keeping their licence. However, the number,

type and frequency of an offence will be taken into account. In some cases it may be appropriate to issue a licence together with a strong warning as to future driving requirements.

Any existing licence holder who has 7 penalty points or more on his driving licence will be required to appear before the Licensing Committee to explain their convictions or cautions.

In the case of an existing licensed driver being disqualified from driving under the totting up procedure, or for any other reason, their hackney carriage/private hire licence will be **immediately suspended** and referred to the next available hearing of the Licensing Committee for review.

USING A HAND-HELD TELEPHONE OR HAND-HELD DEVICE WHILST DRIVING

Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

INSURANCE OFFENCES

New applicants

With regard to convictions or cautions for driving or being in charge of a vehicle without insurance, any new applicant who has been convicted or cautioned for driving or being in charge of a vehicle without insurance a licence will not be granted until at least 7 year have elapsed since the completion of any sentence imposed.

More than one conviction or caution for these types of offences should raise serious doubts as to an applicant's suitability to hold a hackney carriage or private hire licence and the Licensing Committee may choose to reject the application for a licence. If an applicant has been disqualified for these offences, at least 7 years should elapse (after restoration of the DVLA driving licence) conviction free before an applicant is considered for a hackney carriage or private hire licence.

Existing Licence Holders

The Council takes a serious view of convictions or cautions for driving or being in charge of a vehicle without insurance by one of its licensed drivers.

An isolated incident may not always result in their licence being revoked or suspended.

More than one conviction and/or caution for these types of offences would raise serious doubts as to the driver's continuing suitability to hold a hackney carriage or private hire licence.

Any existing licence holder who has been convicted of or cautioned for an insurance offence will be required to appear before the Licensing Committee to explain their conviction/caution.

In the case of an existing licensed driver being disqualified from driving for any insurance related offence(s) their hackney carriage/private hire licence will be **immediately suspended** and referred to the next available hearing of the Licensing Committee for review.

DRUNKENESS

This category has been divided into two separate sections; drink driving with a motor vehicle and drunkenness without a motor vehicle.

With a Motor Vehicle

The Council views driving or being in charge of a vehicle whilst under the influence of alcohol as a serious offence.

The offences that apply to this section include:

• Driving or attempting to drive with alcohol above the limit.

• Being in charge of a vehicle, driving or attempting to drive when unfit through drink.

• Refusal to provide a specimen of breath or blood for analysis.

New applicants

Where an applicant has a single conviction for drink driving a licence will not be granted, until at least 7 years have elapsed since the completion of any sentence or driving ban imposed.

Any applicant with more than one conviction for any drink driving offence within seven years prior to the receipt of their application should expect their application to be rejected by the Licensing Committee.

Existing Licence Holders

A licensed driver found guilty of driving whilst under the influence of drink or of refusing to provide a specimen of breath or blood for analysis, and whose DVLA licence is suspended, will have their hackney carriage/private hire licence **immediately suspended**, and referred to the next available hearing of the Licensing Committee for review.

Without a Motor Vehicle

New applicants

An isolated conviction or caution for drunkenness not associated with a motor vehicle will not necessarily result in an application being refused, but an applicant who has been convicted or cautioned within 3 years prior to receipt of his/her application will be required to appear before the Licensing Committee hearing to explain their convictions or cautions.

Existing Licence Holders

An existing licence holder who has committed, or being cautioned for, any of these offences will be required to appear before the Licensing Committee hearing to explain their convictions.

DRUG OFFENCES - including drugs abuse, misuse or dependency

If there are indications that an applicant or licensee has, or has had a history of, a medical problem associated with possible abuse, misuse or dependence of drugs, the applicant will also be subject to additional medical testing/assessment before the application is considered. If the applicant was found to be dependent on drugs, a licence will not be granted unless 5 years have elapsed since the dependency ceased.

New applicants

Where an applicant has any conviction for, or related to the production, import, trade in or related to, the supply of drugs, or possession with intent to supply, or connected with possession with intent to supply a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Where an applicant has a conviction for driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Existing Licence Holders

A hackney carriage/private hire driver found guilty of driving whilst under the influence of drugs and whose DVLA licence is suspended will have their hackney carriage/private hire licence immediately suspended and referred to the next available hearing of the Licensing Committee for review.

A driver convicted of, or cautioned for, any other drug-related offence will be required to appear before the Licensing Committee to explain their conviction or caution.

EXPLOITATION AND CRIMINAL HARASSMENT

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment or criminal harassment 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, trafficking, psychological, emotional or financial abuse and stalking without violence but this is not an exhaustive list.

BEHAVIOURS

Driver behaviours that fall short of criminal behaviour but are indicators of more sinister behaviour need to be addressed to maintain confidence in the taxi trades and to stop unwanted behaviours before they evolve into criminal acts.

Behaviours such as:

- Asking a passenger for their contact or social media details
- Asking personal or intimate questions
- Inappropriate physical contact with passengers or invade their person space
- Inappropriate conversations, questions or behaviour

This is more important if the passenger is a lone vulnerable individual.

Except in the most serious of cases, driver should be given a warning in the first instance, if appropriate sent on refresher safeguarding training and explained how the behaviour maybe perceived by a vulnerable passenger.

If the behaviour, on the balance of probability, is repeated and considered predatory in nature then any applicant should not be licensed.

Where an applicant or licence holder has a conviction for an offence contrary to any legislation relating to taxi or private hire activity not covered elsewhere, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

SEX AND INDECENCY OFFENCES

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted. This includes any sexual harassment.

In addition to the above, applicants who are on the Disclosure and Barring Services (DBS) barred lists will not be considered. Applicants who are not on the barred lists and/or are on the sexual offenders' register will not be considered.

New applicants

As hackney carriage and private hire drivers often carry unaccompanied passengers, any new applicants with convictions, or cautions, for a sexual offence, or where there is cause for concern of a similar nature will be required to appear before the Licensing Committee to explain their conviction(s) or caution(s).

Existing Licence Holders

Any existing licence holder, arrested for, charged with, convicted of, or cautioned for a sexual offence or where cause for concern of a similar nature arises whilst licensed with the authority may, where there is an immediate threat to public safety, have their licence immediately suspended and will be required to appear before the Licensing Committee.

Following revocation, it is unlikely that anyone with convictions for the following offences will ever be licensed again.

- **Rape**
- **Indecent Assault**
- **Gross Indecency with a Female**
- **Gross Indecency with a Male**
- **Indecent Assault on a Child**
- **Buggery**

VIOLENCE AGAINST PERSONS, PROPERTY, ANIMALS OR THE STATE/CRIMES RESULTING IN DEATH

Violence involves situations where the victim is put in fear, alarm or distress without any physical contact. It is accepted that the concept of "violence" is wide, but any such behaviour will be of concern. This guidance does not differentiate between levels of violence. It will be a matter for the Licensing Committee to determine whether there is any justification for departing from this time period, dependant on the facts of a particular case.

As hackney carriage/ private hire drivers maintain close contact with the public, any convictions or cautions for violence will be taken very seriously.

New applicants

Where an applicant has been convicted of a crime which 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**.**

A licence will not be granted where the applicant has a conviction for an offence of violence, or connected with any offence of violence, to include the following offences, until at least 10 years have elapsed since the completion of any sentence imposed. Where the offence of violence was committed against a child or vulnerable adult a licence will never be granted.

• Arson

• Malicious wounding or grievous bodily harm which is racially aggravated

• Actual bodily harm which is racially aggravated

• Grievous bodily harm

• Robbery

• Racially-aggravated criminal damage

• Racially-aggravated s.4 Public Order Act 1986 offence (fear or provocation of violence)

• Racially-aggravated s.4A Public Order Act 1986 offence (intentional

harassment, alarm or distress)

• Racially-aggravated harassment

• Racially-aggravated fear of violence

• Common assault

• Common assault which is racially-aggravated

• Assault occasioning actual bodily harm

• Assault on the police

• Affray

• Battery

• Riot

• Obstruction

• Criminal damage

• Violent disorder

• Resisting arrest

• Any other offence involving violence

Existing Licence Holders

An existing licence holder who is arrested for, charged with or convicted of, or cautioned for any of the offences listed above may, where there is an immediate threat to public safety,

have their licence immediately suspended and will be required to appear before the Licensing Committee.

Any existing licence holder who is found guilty of the following offences, will have their licence immediately suspended and the matter referred to the Licensing Committee as a matter of urgency.

• Murder

• Manslaughter

• Causing death by reckless driving, including:

• Causing death by reckless driving when unfit through drugs:

• Causing death by careless driving when unfit though drink

• Causing death by careless driving with alcohol level above the limit

• Causing death by careless driving then failing to supply a specimen for analysis

• Manslaughter or culpable homicide while driving a vehicle

• Causing death by dangerous driving

• Arson

• Malicious wounding or grievous bodily harm which is racially aggravated

• Actual bodily harm which is racially aggravated

• Grievous bodily harm with intent

• Grievous bodily harm

• Robbery

• Racially-aggravated criminal damage

• Racially-aggravated s.4 Public Order Act 1986 offence (fear or provocation of violence)

• Racially-aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress)

• Racially-aggravated harassment

• Racially-aggravated fear of violence

OFFENCES INVOLVING PUBLIC ORDER

Where an applicant has a conviction for a public order offence or similar that is not in itself an act of violence, a licence will not be granted for a period of 5 years.

OFFENCES INVOLVING DISCRIMINATION

Where an applicant has a conviction involving or connected with discrimination in any form, including non-compliance with the Equality Act 2010, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed. This includes e.g. refusals to carry assistance dogs or to provide mobility assistance.

POSSESSION OF A WEAPON

New applicants

Where an applicant has a conviction for possession of a weapon of any kind or any other weapon-related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Existing Licence Holders

An existing licence holder, who is convicted for possession of a weapon of any kind or any other weapon-related offence, will be referred to the Licensing Committee.

DISHONESTY

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. For these reasons a serious view is taken at any convictions involving dishonesty.

New applicants

Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence as shown below, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

• Theft

• Burglary

• Fraud

• Benefit fraud

• Handling or receiving stolen goods

• Forgery

• Conspiracy to defraud

• Obtaining money or property by deception

• Any other offence involving dishonesty

Existing Licence Holders

An existing licence holder who is convicted or cautioned for the above offences, will be referred to the Licensing Committee.

OFFENCES INVOLVING REGULATORY NON-COMPLIANCE

Regulatory crimes include local authority offences, licensing matters, and other offences prosecuted by other authorities. It also includes matters relating to the administration of justice such as failing to surrender to bail, and any other matter where regulations or requirements have been ignored or broken. These offences demonstrate a lack of compliance with legal requirements which would clearly be a worry in relation to taxi and private hire licensees. Serious consideration would need to be given as to whether they are a safe and suitable person to hold a licence.

HACKNEY CARRIAGE/PRIVATE HIRE OFFENCES

Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

VEHICLE USE OFFENCES

Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriage and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

COMPLAINTS AGAINST DRIVERS

Any complaints made against hackney carriage and private hire drivers will be investigated by the Licensing Authority

Following that investigation the following course of action may be taken:

- No further action.
- Issue a warning letter with regard to the driver's future conduct.
- Refer the driver to the Licensing Committee for a review of the driver's licence.

In the case of the latter course of action, the driver will be required to appear before the Licensing Committee to explain their actions and the Licensing Committee will consider the complaint together with any history of complaints made against the driver to assess any patterns.

On the basis of the evidence, and subject to any explanation given by the driver, the Licensing Committee will then consider whether the driver is a suitable person to continue to hold such a licence.

APPEALS

Any person aggrieved by the decision made by a District Council regarding a driver's licence held under Section 51 of the Local Government (Miscellaneous Provisions) Act, 1976 has a right of appeal to a Magistrates' Court, this must be lodged within 21 days of the notice of the decision.

In addition, any applicant refused a driver's licence on the grounds that the Licensing Committee is not satisfied they are a fit and proper person to hold such a licence, has a right of appeal to the magistrates' court within 21 days of the notice of the decision.

It should be noted that following an unsuccessful appeal the Magistrates' Court can award such costs against the appellant as it thinks just and reasonable.