



Taxi and PHV Licensing Criminal Convictions' Policy

Introduction

The purpose of this policy is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire vehicle driver and/or operator licence.

The overriding consideration when having regard to this policy is to protect the safety of the public. The Licensing Authority is concerned to ensure:

- That a person is a fit and proper person.
- That the person does not pose a threat to the public.
- That the public are safeguarded from dishonest person.
- The safeguarding of children and young persons.

This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:

- Applicants for driver/operator licences
- Existing licensed drivers/operators whose licences are being reviewed
- Licensing Officers
- Members of the Licensing Committee/ Panel (or other relevant decision making body)
- Magistrates hearing appeals against local authority decisions

Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the licensing committee. Whilst officers and the committee/panel will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.**

General Policy

Applicants for a Private Hire/Hackney Carriage Driver Licence must have held a full UK/EC/EEA driving licence for at least three years. Such period to be calculated from the date of issue of a full driving licence.

There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.

A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:

- a. Remain free of conviction for an appropriate period; and
- b. Show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).
(Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence).

Where an applicant has been convicted of a criminal offence, the council cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)]

Appeals

Any applicant refused a driver's licence on the grounds that the council is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.

Powers

Section 61 and Section 62 of the Local Government (Miscellaneous Provisions) Act 1976 allow the Licensing Authority to suspend, revoke or refuse to renew a driver licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the council to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

Consideration of Disclosed Criminal History

Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the council is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operators licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the Council will look into:

- How relevant the offence(s) are to the licence being applied for.
- How serious the offence(s) were.
- When the offence(s) were committed.
- The date of conviction.
- Circumstances of the individual concerned
- Sentence imposed by the court.
- Whether they form part of a pattern of offending.
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant.

In considering whether to revoke a hackney carriage or private hire driver or operator licence in accordance with s61 of the Local Government (Miscellaneous Provisions) Act 1976, the decision will be made by the Public Protection Team Leader following consultation with the Chair of the Council's Licensing Committee or the Public Protection Team Leader may choose to defer the decision to the Licensing Committee. Further in considering whether to suspend or revoke a Private Hire or Hackney Carriage Driver licence, if it appears that the interests of public safety require the suspension or revocation to have immediate effect, the decision will be made in accordance with section 61 of the Local Government (Miscellaneous Provisions) Act, 1976 as amended by s52 of the the Road Safety Act 2006.

Applicants can discuss further what effect a caution/conviction may have on any application by contacting the Principal Licensing Officer in confidence for advice.

The licensing authority conducts disclosures from the [Criminal Records Bureau \(CRB\) Disclosure & Barring Service \(DBS\)](#) of any applicant for a driver licence. The licensing authority follows the [CRB's DBS Code of Practice](#) on the fair use of disclosure information. A copy is available on request.

Applicants applying for the grant or a renewal of a drivers' licence will be required to obtain a disclosure at their expense. The licensing authority abides by the [CRB's DBS Policy](#) on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.

More information about the [CRB DBS](#) can be found on their website at www.disclosure.gov.uk.

The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.

It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence.

Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence. The licence will normally be refused.

Outstanding Charges or Summonses

If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.

If the outstanding charge or summons involves a serious offence and the individual's conviction history (including 'spent' convictions) indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the application may be refused.

Non-conviction Information

If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include violent offences and sex offences.

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

Cautions

Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

Licensing Offences

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

Licences Issued By Other Licensing Authorities

Where an application for a taxi and/or private hire vehicle driver's licence/private hire operator's licence has been referred to the licensing committee for determination with regard to this policy, and the applicant already holds such a licence granted by another licensing authority, the guidance in this policy shall take precedence over any decision of another licensing authority.

Summary

To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licenced. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 5 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.

While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

Overseas Residents

Where the ~~Criminal Records Bureau~~[Disclosure & Barring Service](#) is unlikely to have any information on a person, due to a short period of residence in the UK, applicants must obtain (at the cost of the applicant) a certificate of good conduct from their embassy or consulate. The certificate should be authenticated, translated and sealed by the embassy/consulate. The ~~Criminal Records Bureau~~[Disclosure & Barring Service](#) provides information on most relevant embassies/consulates. Means of obtaining a certificate can be found on the ~~CRB~~[DBS](#) website www.gov.uk/government/organisations/disclosure-and-barring-service.

The following examples afford a general guide on the action to be taken where convictions are admitted.

Minor Traffic Offences

Convictions for minor traffic offences, eg obstruction, waiting in a restricted street, speeding, etc, should not prevent a person from proceeding with an application for a private hire/hackney carriage driver licence, however, the application may be referred to the Council's Licensing Committee for determination.

If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or private hire driver's licence may be reviewed by the Council's Licensing Committee.

~~**Further, in determination of the renewal of a Private Hire Driver Licence, condition 7.2 of the Council's Private Hire Driver Licence states that a DSA Driving Test shall be taken by Private Hire Drivers where the driver has been disqualified from driving by the DVLA or with endorsements on their driving licences or for serious driving offences.**~~

Offences in this category include but are not limited to:-

AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours.
AC30	Undefined accident offence
CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyres
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
CU80	Using a mobile phone while driving a motor vehicle
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Playstreet offences
MS60	Offences not covered by other codes
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver etc
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined Contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle
PL10	Driving without 'L' plates
PL20	Not accompanied by a qualified person
PL30	Carrying a person not qualified
PL40	Drawing an unauthorised trailer
PL50	Undefined failure to comply with conditions of a Provisional Licence
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a 'Stop' sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding 'Stop' sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign

TS70	Undefined failure to comply with a traffic direction sign
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Serious Road Traffic Offences

A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a private hire or hackney carriage driver licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour. More than one conviction for these offences would normally prevent a licence being granted or renewed.

At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would normally be granted for a hackney carriage or private hire drivers licence. An operator found guilty of aiding and abetting the driving passengers for hire and reward whilst without insurance will have his operators' licence revoked immediately and prevented from holding a licence for three years.

An isolated conviction for driving without due care and attention etc, should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence within the last two years may be referred to Licensing Committee.

~~Further, in determination of the renewal of a Private Hire Driver Licence, condition 7.2 of the Council's Private Hire Driver Licence states that a DSA Driving Test shall be taken by Private Hire Drivers where the driver has been disqualified from driving by the DVLA or with endorsements on their driving licences or for serious driving offences.~~

Offences in this category include but are not limited to :-

CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration for other road users
IN10	Using a vehicle uninsured against third party risks
BA10	Driving while disqualified by order of Court
BA30	Attempting to drive while disqualified by order of Court

An application received which details one of the following offences on the DVLA driving licence (DD40; DD60; DD80; MS50) will automatically be referred to the Council's Licensing Committee for determination.

A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. A licence will not normally be granted unless the applicant is free of conviction for 7 years or (or at least 3 years must have passed since the completion of the sentence, whichever is longer) if he has a conviction for:

DD40	Dangerous Driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DD90	Furious driving
MS50	Motor racing on the highway

Drink driving/driving under the influence of drugs

As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 3 years, after the restoration of the driving licence following a drink drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

~~Further, in determination of the renewal of a Private Hire Driver Licence, condition 7.2 of the Council's Private Hire Driver Licence states that a DSA Driving Test shall be taken by Private Hire Drivers where the driver has been disqualified from driving by the DVLA or with endorsements on their driving licences or for serious driving offences.~~

Offences in this category include but are not limited to :-

DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then refusing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink or drugs
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
DR70	Failing to provide a specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs

An application with details of a conviction for an offence in this category may be put before the Council's Licensing Committee for determination.

Drunkenness

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However a number of convictions for drunkenness could indicate a medical problem necessitating critical examinations (see (1.) above). In some cases, a warning may be sufficient.

Drugs

A serious view shall be taken of convictions of this nature. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. An application with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained.

If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment. .

Offences in this category includes but is not limited to :-

1.	Possessing Controlled Drug
2.	Possessing Controlled Drug with Intent to Supply
3.	Producing Controlled Drug
4.	Import Drugs

An application with details of a conviction for an offence in this category may be put before the Council’s Licensing Committee for determination.

Indecency Offences

As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers including schoolchildren and vulnerable adults, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind should preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct should be issued.

Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as rape, assault by penetration, offences involving children or vulnerable adults or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

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

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

Offences in this category include but are not limited to:-

1.	rape
2.	assault by penetration
3.	sexual assault
4.	causing a person to engage in sexual activity without consent
5.	rape of a child under 13
6.	assault of a child under 13 by penetration
7.	sexual assault of a child under 13
8.	causing or inciting a child under 13 to engage in sexual activity
9.	sexual activity with a child
10.	causing or inciting a child to engage in sexual activity
11.	engaging in sexual activity in the presence of a child
12.	causing a child to watch a sexual act
13.	arranging or facilitating commission of a child sex offence
14.	meeting a child for sexual grooming etc
15.	abuse of position of trust: sexual activity with a child
16.	abuse of position of trust: causing or inciting a child to engage in sexual activity
17.	abuse of position of trust: sexual activity in the presence of a child
18.	abuse of a position of trust: causing a child to watch a sexual act
19.	sexual activity with a child family member

20.	inciting a child family member to engage in sexual activity
21.	sexual activity with a person with a mental disorder impeding choice
22.	causing or inciting a person with a mental disorder impeding choice, to engage in sexual activity
23.	engaging in sexual activity in the presence of a person with a mental disorder impeding choice
24.	causing a person with a mental disorder impeding choice, to watch a sexual act
25.	inducement, threat or deception to procure sexual activity with a person with a mental disorder.
26.	causing a person with a mental disorder to engage or agree to engage in sexual activity by inducement, threat or deception
27.	engaging in the sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder
28.	causing a person with a mental disorder to watch a sexual act by inducement, threat or deception
29.	care workers: sexual activity with a person with a mental disorder
30.	care workers: causing or inciting sexual activity
31.	care workers: sexual activity in the presence of a person with a mental disorder
32.	care workers: causing a person with a mental disorder to watch a sexual act
33.	indecent photographs of persons aged 16 or 17
34.	paying for sexual services of a child
35.	causing or inciting child prostitution or pornography
36.	controlling a child prostitute or a child involved in pornography
37.	arranging or facilitating child prostitution or pornography
38.	causing or inciting prostitution for gain
39.	controlling prostitution for gain
40.	Living off immoral earnings
41.	Prostitution
42.	Possessing or distributing obscene material
43.	Indecent or nuisance telephone calls
44.	trafficking into the UK for sexual exploitation
45.	trafficking within the UK for sexual exploitation
46.	trafficking out of the UK for sexual exploitation
47.	administering a substance with intent
48.	committing an offence with intent to commit a sexual offence
49.	trespass with intent to commit a sexual offence
50.	sex with an adult relative: penetration
51.	sex with an adult relative: consenting penetration
52.	exposure
53.	voyeurism
54.	intercourse with an animal
55.	sexual penetration of a corpse

Any application with a conviction within this category will automatically be put before the Council's Licensing Committee for determination.

Violence

As hackney carriage and private hire vehicle drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

Offences in this category include but are not limited to :-

1.	Battery/Common Assault
2.	Aggravated Common Assault

3.	Assault - Section 47
4.	Wounding - Section 20
5.	Grievous Bodily Harm - Section 18
6.	Resist Arrest/Obstruct/Assault Police
7.	Riot
8.	Violent Disorder
9.	Affray
10.	Using Threatening, Abusive Words or Behaviour
11.	Intentional harassment alarm or distress
12.	Harassment alarm or distress
13.	Drunk and Disorderly
14.	Robbery
15.	Possession of bladed article or point in a public place or on school premises
16.	Possess Offensive Weapon
17.	Possession offensive weapon on school premises
18.	Possess Firearm
19.	Possess Firearm with Intent
20.	Criminal Damage
21.	Arson
22.	Kidnapping
23.	False Imprisonment
24.	Manslaughter
25.	Murder

An application with a conviction within this category may be put before the Council's Licensing Committee for determination.

Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as murder, manslaughter or culpable homicide while driving, terrorism offences, or any similar offences (including attempted or conspiracy to commit) offences which replace the above

Dishonesty

Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare, etc. Overseas visitors can be confused by the change in currency and become 'fair game' for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

Offences in this category include but are not limited to :-

1.	Theft
2.	Theft - Shoplifting
3.	Theft - Employee
4.	Theft - From Vehicle
5.	Bilking
6.	Burglary & Theft - Dwelling
7.	Burglary & Theft - Non Dwelling
8.	Burglary - Aggravated

9.	Fraudulent Use
10.	Handling
11.	Receiving
12.	Forgery
13.	Conspiracy to Defraud
14.	Obtain Money by Deception
15.	Obtain Money by Forged Instrument
16.	Obtain Goods or Services by Deception
17.	False Accounting
18.	False Statement to Obtain Benefit
19.	Going Equipped
20..	Taking/Driving or attempt to Steal Vehicle
21.	Allow to be Carried in Stolen Vehicle
22.	Perverting the Course of Justice
23.	Aggravated taking of a vehicle

An application with a conviction within this category may be put before the Council's Licensing Committee for determination.

Nothing in this criteria will remove an applicant's right to appeal to a Magistrates Court against the Council's refusal to grant or renew a licence, or decision to suspend or revoke a licence, or against any conditions which may have been imposed on any such licence by the local authority. Such appeal to be made within 21 days of the refusal or decision.