



## LICENSING & REGULATORY COMMITTEE

### HACKNEY CARRIAGE AND PRIVATE HIRE – VEHICLE DRIVER'S LICENSES THE RELEVANCE OF CONVICTIONS POLICY

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#### **1. Introduction**

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

This policy aims to provide guidance to all parties with an interest in public and private hire licensing thereby providing transparency and consistency in accordance with the principles of good enforcement and relevant Regulatory Compliance Codes.

This policy has been developed with reference to the Local Government Association's guidance "*Determining the suitability of applicants and licensees in the hackney and*

*private hire trades*" (2018). This is considered the best practice across England and forms the benchmark for assessing fitness and propriety

## 2. Purpose and Legal Framework

Licences for drivers of hackney carriages and private hire vehicles may only be granted where the Council is satisfied that the individual is a fit and proper person to hold such a licence.

The policy is intended to provide guidance on how previous convictions, cautions, restorative justice outcomes, and other relevant matters will be considered in determining whether an applicant or licence holder is fit and proper.

## 3. Definitions and Scope

For the purposes of this policy, the term "**individual**" includes:

- New applicants
- Applicants for renewal
- Existing licence holders

This policy applies at the point of application, at renewal, and throughout the term of a licence where new convictions, cautions, or relevant information come to light.

A commonly used test of whether a person is fit and proper is:

*"Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?*

If the answer is "no," then the individual should not hold a licence

## 4. Disclosure Requirements

This policy provides guidance on how the Council will assess whether an applicant or licence holder is a fit and proper person, particularly in cases where they have previous convictions, cautions, restorative justice outcomes, or other relevant matters.

In doing so, the Council seeks to ensure:

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

Applicants for a hackney carriage or private hire driver's licence must declare:

- All previous convictions
- All formal or simple cautions
- Any matters of restorative justice

- All endorsable fixed penalties
- Any criminal matters under investigation or pending prosecution

The information provided will be treated in confidence and considered only in relation to the application. It will assist the Council in deciding whether the individual is a fit and proper person to hold a licence under sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, or whether action should be taken under section 61 of the Act (suspension, revocation, or refusal to renew a licence)

## 5. **Disclosure and Barring Service (DBS) Checks**

### 5.1 Enhanced DBS Certificates

Individuals The Council is empowered by law to check with the DBS for the existence and content of any criminal record for all individuals who apply or hold a licence with this authority. Information will be treated with strict confidence and retained only as necessary.

### 5.2 DBS Update Service and Ongoing Monitoring

All licensed drivers are required to subscribe to the DBS Update Service. The Council will conduct checks at least every six months (or more frequently if required). Relevant information may be referred to by the Licensing and Regulatory Committee.

## 6. **General Policy Principles**

Each case will be considered on its own merits, whether it involves a new applicant or an existing driver seeking renewal. The overriding consideration is the protection of the public.

The disclosure of a criminal record or other relevant information will not automatically prevent the grant, renewal, or continuation of a licence. The decision will depend on whether the Council is satisfied that the individual is a fit and proper person.

In reaching a decision, the Council will consider factors such as:

- Nature and seriousness of the offence(s)
- Circumstances of the offence(s)
- Applicant's overall conviction history
- Time elapsed since conviction or completion of sentence
- Mitigating circumstances
- Evidence of rehabilitation
- Any other reasonable character checks

Where convictions or other matters are disclosed, the Council may also take into account:

- The individual's age when the offence was committed
- The date of conviction
- Any pattern of behaviour or repeat offending

If suitable evidence of good character and fitness is not provided, or if there are doubts about the evidence submitted, this may be sufficient grounds to refuse a licence.

The Rehabilitation of Offenders Act 1974 does not apply. Taxi drivers are exempt positions under the Exceptions Order 1975, meaning all convictions may be taken into account.

The Council may also consider convictions or relevant conduct outside England and Wales, including overseas offences. Applicants must declare any such matters. Where necessary, the Council may request certified translations or official records to help assess the seriousness of the offence and whether the person is suitable to be licensed.

## 7. Guidelines on Specific Offence Categories

### 7.0 Guidelines Overview

The following guidelines set out how the Council will assess the relevance of certain categories of convictions when determining new or renewal applications, or when considering whether to take action against an existing licence holder.

These guidelines are not exhaustive and do not attempt to define what constitutes a “fit and proper person.” Offences not specifically covered will still be considered in line with the principles of this policy.

For avoidance of doubt, where thresholds are set for the grant of a new licence, similar considerations will apply to existing licence holders who are convicted of equivalent offences during the term of their licence. Such cases will normally be referred to the Regulatory Committee, which may consider suspension or revocation depending on the severity and circumstances.

If an individual has a conviction for an offence not covered by these guidelines, the Council will apply the same principles, taking into account the nature, seriousness, timing, and surrounding circumstances of the offence.

### 7.1 Violence

Licensed drivers have close and regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence.

- An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.
- In all other cases, the applicant must demonstrate a period free from conviction before an application will be considered. For the purposes of this guidance, “free of conviction” means from the date of conviction or, where a sentence of imprisonment was imposed, from the date of completion of that sentence (whichever is later).

#### (a) The most serious offences

Applications will normally be refused unless there are truly exceptional circumstances where the applicant has a conviction for:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Any offence resulting in, or intended to cause, the death or serious injury of another person

**(b) Serious violent offences**

A licence will not normally be granted until at least 7 years have elapsed since the date of conviction, or since the completion of any sentence (whichever is longer):

- Arson
- Kidnapping
- Threats to kill
- Wounding with intent to cause grievous bodily harm (GBH with intent)
- Grievous bodily harm (GBH)
- Assault occasioning actual bodily harm that is racially aggravated
- Robbery
- Aggravated burglary
- Racially aggravated criminal damage
- Racially aggravated public order offences
- Or any similar/replacement offences

**(c) Other violent offences**

Before an application will be considered, the applicant should be free of conviction for at least 3 years (or 3 years since completion of the sentence, whichever is longer), if convicted of offences such as:

- Common assault
- Battery (including assault by beating under Section 39, Criminal Justice Act 1988)
- Assault occasioning actual bodily harm (ABH)
- Assault with intent to resist arrest
- Assault on Police
- Public order offences (including affray, violent disorder)
- Criminal damage
- Harassment
- Or any similar/replacement offences

**(d) Long-term exclusion**

Where an applicant has any conviction for an offence of violence against persons, or connected with violence, the Council may determine that a licence will not be granted until at least 10 years have elapsed since completion of sentence, particularly in cases involving multiple offences or patterns of violent behaviour.

**(e) Existing licence holders**

Any existing licensed driver who receives a conviction for common assault, battery, or similar offences will be referred to the Regulatory Committee. Depending on the circumstances, this may result in suspension or revocation of their licence, in line with the Council's duty to protect the public and uphold confidence in the licensing regime.

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## 7.2 Possession of a weapon

The possession of a weapon, or any other weapon-related offence, raises serious concerns about whether an applicant is a fit and proper person to carry the public

Given the potential risk to public safety, an application will normally be refused if the applicant has been convicted of such an offence within the last 7 years. In addition, at least 7 years must have elapsed since the completion of the sentence (whichever period is longer) before a licence application will be considered.

### **7.3 Sex and Indecency Offences**

Sexual and indecency offences are treated with the utmost seriousness. A licence will be refused for the most serious offences, as these present an unacceptable risk to public safety. For other offences, an application will not normally be granted until the relevant rehabilitation period has elapsed. In all cases, safeguarding and the protection of the travelling public are the overriding considerations.

#### **(a) Absolute refusal**

A licence will be refused where an applicant has a conviction for any of the following offences (or any similar or replacement offences):

- Rape
- Assault by penetration
- Sexual offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Possession, distribution, or creation of indecent images of children
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Any sexual offence committed in the course of employment as a taxi or private hire driver

#### **(b) Discretionary refusal (rehabilitation period applies)**

Unless there are exceptional circumstances, an application will not normally be granted until at least 7 years have elapsed since conviction, or since completion of any sentence (whichever is longer) where an applicant has a conviction for:

- Indecent exposure (including flashing and public nudity offences under the Sexual Offences Act 2003 or subsequent legislation)
- Soliciting (e.g. kerb crawling)
- Any similar or replacement offences

#### **(c) Repeat offending**

An application will normally be refused if an applicant has more than one conviction for an indecency offence.

#### **(d) Broader safeguarding concerns**

Where an applicant or licensee has been convicted of any offence involving, related to, or connected with the abuse, exploitation, or mistreatment of another individual, they will not be licensed. This includes, but is not limited to:

- Child sexual abuse
- Grooming
- Slavery or trafficking
- Exploitation (sexual, financial, emotional, or psychological)

#### **(e) Existing licence holders**

Any existing licence holder who is convicted of an offence involving indecent exposure will be referred to the Regulatory Committee. Given the serious safeguarding implications, such cases may result in the revocation of the licence.

## **7.4 Dishonesty**

Taxi and private hire drivers are expected to be trustworthy. They regularly handle cash transactions and may be entrusted with passengers' belongings. Drivers are also required by law to hand in lost property to the police, and operators must ensure it is recorded. The nature of the role means that dishonesty offences raise serious concerns about whether an individual is fit and proper to hold a licence.

Dishonesty offences include, but are not limited to:

- Theft
- Burglary
- Fraud (including benefit fraud)
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Taking a vehicle without consent
- Any similar or replacement offences

### **(a) Rehabilitation period**

A licence will not normally be granted until at least 7 years have elapsed since the date of conviction, or since the completion of any sentence (whichever is longer).

### **(b) Repeat offending**

An application will normally be refused if an applicant has more than one conviction for a dishonesty offence within the last 7 years.

### **(c) Safeguarding and public protection**

Where dishonesty offences form part of a wider pattern of offending behaviour, or where there is evidence of ongoing risk to the public, the Council may refuse or revoke a licence irrespective of the time elapsed since conviction.

## **7.5 Drugs**

The misuse of drugs presents a significant risk to public safety, particularly where the individual is responsible for transporting passengers. Convictions for drug-related offences raise serious concerns about an applicant's or licence holder's fitness to drive the public.

### **(a) Supply of Drugs**

A licence will not normally be granted where an applicant has a conviction for, or related to, the supply of drugs, possession with intent to supply, or any comparable offence, until at least 10 years have elapsed since the date of conviction, or since completion of any sentence (whichever is longer).

### **(b) Possession of Drugs**

A licence will not normally be granted where an applicant has a conviction for possession of drugs, or an offence connected with possession, until at least 5 years have elapsed since the date of conviction, or since completion of any sentence (whichever is longer).

### **(c) Evidence of dependency or misuse**

Where there is evidence of persistent drug use, misuse, or dependency (for example, two or more convictions for possession), an applicant may be required to:

- undergo drug testing at their own expense, for a period determined by the Council; and/or
- provide a specialist medical report confirming that they meet the DVLA Group 2 medical standards in relation to drug misuse and dependency.

**(d) Existing Licence Holders**

Where an existing licence holder is convicted of a drug-related offence, the matter will be referred to the Regulatory Committee. Revocation or suspension of the licence may follow, depending on the seriousness of the offence and any ongoing risk to the public.

**7.6 Driving offences involving the loss of life**

Driving offences that result in the loss of life are treated with the utmost seriousness. Individuals with convictions of this nature pose an unacceptable risk to public safety.

**(a) Absolute refusal**

A licence will be refused where an applicant has a conviction for:

- Causing death by dangerous driving
- Any comparable or replacement offence

**(b) Discretionary refusal (rehabilitation period applies)**

Unless there are exceptional circumstances, a licence will not normally be granted until at least 7 years have elapsed since the date of conviction, or since completion of any sentence (whichever is longer) where an applicant has a conviction for:

- Causing death by careless driving
- Causing death by driving while unlicensed, disqualified, or uninsured
- Any similar or replacement offence

**(c) Existing licence holders**

Where an existing licence holder is convicted of an offence resulting in the loss of life, the matter will be referred to the Regulatory Committee and will normally result in the revocation of the licence.

**7.7 Drink Driving/Driving Under the Influence of Drugs**

Driving while under the influence of alcohol or drugs is regarded as a very serious offence. Licensed drivers are expected to maintain the highest standards of road safety, and such convictions raise significant concerns about an individual's suitability to hold a licence.

**(a) Absolute refusal**

A licence will be refused where an applicant has more than one conviction for:

- Driving or being in charge of a vehicle with excess alcohol
- Driving or being in charge of a vehicle while unfit through drink or drugs
- Failing to provide a specimen
- Any comparable or replacement offence

**(b) Discretionary refusal (rehabilitation period applies)**

Unless there are exceptional circumstances, a licence will not normally be granted until at least **7 years** have elapsed since the restoration of the applicant's driving licence, where an applicant has a conviction as outlined in 7.7(a)

If there is any evidence of alcohol or drug dependency, the applicant must also provide a satisfactory specialist medical report before an application will be considered.

**(c) Existing licence holders**

Where an existing licence holder is convicted of driving under the influence of alcohol or

drugs, the matter will be referred to the Regulatory Committee and will normally result in the revocation of the licence.

## 7.8 Using a hand-held device whilst driving

The use of a hand-held mobile phone or similar device while driving is a serious offence, as it poses significant risks to road safety. Licensed drivers are expected to demonstrate the highest levels of attention and responsibility when driving.

### (a) Discretionary refusal (rehabilitation period applies)

Unless there are exceptional circumstances, a licence will not normally be granted until at least 5 years have elapsed since the date of conviction, or since the completion of any sentence (whichever is longer), where an applicant has a conviction for:

- Using a hand-held mobile phone or similar device whilst driving
- Any comparable or replacement offence

### (b) Existing licence holders

Where an existing licence holder is convicted of using a hand-held device whilst driving, the matter will be referred to the Regulatory Committee and may result in the suspension or revocation of the licence.

## 7.9 Motoring Convictions and Endorsable Traffic Offences

Licensed drivers are professional drivers and are expected to maintain a safe and lawful driving record. A poor driving history may raise serious concerns regarding an applicant's fitness to carry the public safely and may indicate a disregard for the law.

### (a) Discretionary refusal (rehabilitation period applies)

- Where an applicant has more than 6 current penalty points endorsed on their driving licence, the application will normally be referred to the Regulatory Committee for determination.
- More than one conviction for an endorsable offence within the last 2 years, resulting in more than 6 penalty points, will normally result in refusal. In such cases, no further application will be considered until the applicant has been free from conviction for a period of 1–3 years, depending on the nature and seriousness of the offence(s).
- Endorsable offences include, but are not limited to:
  - Accident offences
  - Driving whilst disqualified
  - Careless driving
  - Construction and Use offences
  - Dangerous driving
  - Drink or drug driving
  - Insurance offences
  - Licence offences
  - Speed limit offences
  - Traffic direction and sign offences
  - Theft or unauthorised taking of a vehicle
  - Any comparable or replacement offence

### (b) Minor, non-endorsable traffic offences

Convictions for minor traffic offences (for example, obstruction or waiting in a restricted street) will not normally prevent a licence from being granted. These offences are not recorded on driving licences.

### (c) Existing licence holders

Where an existing licence holder accumulates more than 6 penalty points or is convicted of multiple endorsable offences within a short period, the matter will be referred to the Regulatory Committee and may result in the suspension or revocation of the licence.

## **8. Other relevant factors**

### **8.1 Outstanding charges or summonses**

Applicants must demonstrate that they are fit and proper to hold a licence. Where there are outstanding criminal proceedings, this may raise concerns about their suitability.

#### **(a) Applications**

- Where an applicant is the subject of an outstanding charge or summons, their application may continue to be processed but will be reviewed once proceedings are concluded.
- If the outstanding charge or summons relates to an offence that would ordinarily result in refusal if convicted, the application will be placed on hold until the outcome of proceedings is known.

#### **(b) Existing licence holders**

- Where an existing licence holder is subject to an outstanding charge or summons, the matter will be referred to the Regulatory Committee.
- The Committee may decide to take no action pending the outcome or may consider suspension or revocation where the nature of the alleged offence raises immediate concerns for public safety.

### **8.2 non-conviction information**

The licensing authority has a duty to protect the travelling public. Information other than convictions, such as arrests, charges, complaints, or safeguarding intelligence, may indicate concerns about an individual's suitability to hold a licence, even in the absence of a conviction.

#### **(a) Applications**

- Where an applicant has, on more than one occasion, been arrested or charged (but not convicted) for a serious offence, this may suggest they pose a risk to public safety. In such cases, the licensing authority may consider refusing the application.
- Serious offences include, but are not limited to:
  - Violent offences
  - Sexual offences
  - Any other offence raising safeguarding concerns

#### **(b) Existing licence holders**

- Persistent complaints, safeguarding intelligence, or multiple arrests without conviction may, when considered cumulatively, raise doubts about an individual's continued suitability.
- Such matters will be considered on a case-by-case basis and may be referred to the Regulatory Committee, which may determine that suspension or revocation of the licence is appropriate.

#### **(c) Paramount consideration**

In all cases, the safety of the travelling public will be the overriding concern.

### **8.3 Civil orders (ASBOs, CPNs, etc.)**

Civil Injunctions and Community Protection Notices (CPNs) are issued to individuals who have engaged in behaviour causing harassment, alarm, or distress. Although these are civil

measures, breaches may amount to criminal offences.

**(a) Applications**

- Where an applicant is subject to a civil order, consideration will be given to both:
  - The nature of the restrictions imposed, and
  - The behaviour that led to the order.
- If the underlying behaviour conflicts with the standards expected of a licensed driver, the application will normally be refused.

**(b) Existing licence holders**

- Where an existing licence holder becomes subject to a civil order, the matter will be referred to the Regulatory Committee.
- The Committee may determine that the licence should be suspended or revoked, depending on the seriousness of the behaviour and the terms of the order.

**(c) Paramount consideration**

The safety and wellbeing of the public will remain the overriding consideration when assessing the impact of any civil order on an individual's suitability to be licensed.

## 8.4 Hate crimes

Licensed drivers are expected to treat all members of the public with courtesy, fairness, and respect. Offences motivated by prejudice or hostility are unacceptable for a licence holder.

**(a) Applications**

- An application will not normally be granted where the applicant has been convicted of a hate crime or any offence motivated by prejudice within the last 7 years.
- More than one conviction of this nature will normally result in refusal of the application, regardless of the time elapsed.
- Relevant offences include, but are not limited to:
  - Racially or religiously aggravated offences
  - Homophobic, transphobic, or disability-related hate offences
  - Any comparable or replacement offence

**(b) Existing licence holders**

- Where an existing licence holder is convicted of a hate crime or a prejudice-motivated offence, the matter will be referred to the Regulatory Committee.
- Such offences will normally result in the revocation of the licence.

**(c) Paramount consideration**

The licensing authority's priority is to protect the travelling public and to ensure that all passengers can travel in an environment free from harassment, hostility, or discrimination.

## 9. Suspension / revocation of a current driver licence.

The licensing authority has a duty to ensure that all licence holders remain fit and proper throughout the duration of their licence. Information received during the licence period must therefore be assessed to determine whether suspension or revocation is appropriate.

**(a) Immediate suspension**

- Where information suggests that a driver may pose a threat or danger to the public if allowed to continue working, their licence will normally be suspended with immediate effect, pending the outcome of any investigation.

**(b) Revocation**

- A subsequent conviction for a serious offence will normally result in the revocation of the licence.
- Serious offences include (but are not limited to) violent, sexual, safeguarding-related, or motoring offences which present a risk to public safety.

**(c) Referral to the Regulatory Committee**

- The Council retains discretion to refer any licence holder to the Regulatory Committee where information arises indicating they may no longer be a fit and proper person.
- This may include:
  - Convictions
  - Cautions
  - Safeguarding intelligence
  - Information received via the DBS Update Service
  - Information from safeguarding partners or other agencies

**(d) Paramount consideration**

The overriding priority will be the protection of the travelling public and the maintenance of confidence in licensed drivers.

**10. Appeals**

Applicants and licence holders have the right to challenge decisions made by the licensing authority.

**(a) Right of appeal**

- Any individual who is refused a driver's licence, or who has a licence suspended or revoked on the grounds that they are not considered a fit and proper person, has the right of appeal to the Magistrates' Court.

**(b) Timeframe**

- An appeal must be lodged within 21 days of receiving the notice of refusal, suspension, or revocation.

**(c) Paramount consideration**

- While the right of appeal exists, the licensing authority's primary responsibility remains the protection of the public and the maintenance of high standards among licensed drivers.

**11. Summary**

A criminal history will not automatically result in refusal of a licence, nor does a current conviction for a serious offence necessarily mean that an applicant is permanently barred. However, certain offences – including serious sexual offences, offences involving children or vulnerable adults, terrorism, murder, manslaughter, and causing death by dangerous driving – are regarded as incompatible with being a licensed driver. In such cases, a licence will be refused or revoked.

For other offences, the Council will normally expect an applicant to remain free from conviction for a defined minimum period – typically between 5 and 10 years, depending on the seriousness and nature of the offence – before an application can be considered. These rehabilitation periods are set out in Section 7 and the Convictions and Rehabilitation Periods Table.

When assessing suitability, the Council will take into account:

- the seriousness and circumstances of each offence;
- the time that has elapsed since conviction or completion of sentence;
- the individual's overall offending history; and
- any evidence of rehabilitation or good conduct.

A pattern of offending behaviour is more likely to give rise to concern than an isolated conviction. While discretion may be applied where there are isolated offences with clear mitigating circumstances, the overriding consideration will always be the protection of the travelling public and the maintenance of confidence in licensed drivers.

### **13. Convictions and Rehabilitation Periods Table**

<b><u>Offence Category</u></b>	<b><u>New Applicants – Minimum Free Period (from conviction or sentence)</u></b>	<b><u>Existing Licence Holders – Likely Action</u></b>
<b>Violence (e.g. GBH, ABH, threats)</b>	5–10 years depending on severity	Referral to Committee
<b>Murder, Manslaughter, Terrorism</b>	Refusal – permanent	Revocation
<b>Dishonesty (e.g. theft, fraud)</b>	7 years	Referral
<b>Drug Supply / Intent to Supply</b>	10 years	Referral
<b>Drug Possession</b>	5 years + possible drug testing	Referral
<b>Drink/Drug Driving</b>	7 years after restoration of licence	Referral
<b>Causing Death by Dangerous Driving</b>	Refusal – permanent	Revocation
<b>Causing Death by Careless Driving</b>	7 years	Referral to Committee
<b>Using Hand-Held Device While Driving</b>	5 years	Referral to Committee
<b>Sexual Offences (e.g. rape, abuse, exploitation)</b>	Refusal – permanent	Revocation
<b>Indecent Exposure / Soliciting</b>	7 years	Referral

<b>(e.g. kerb crawling)</b>		
<b>Possession of Indecent Images</b>	Refusal – permanent	Revocation
<b>Weapons Offences</b>	7 years	Referral
<b>Hate Crime / Discrimination Offences</b>	7 years	Referral
<b>Multiple Minor Motoring Offences (e.g. &gt;6 points)</b>	1–3 years free from offence	Referral to Committee
<b>ASBO / Community Protection Order</b>	Case-by-case	Referral to Committee
<b>Non-conviction Intelligence (e.g. arrests, safeguarding concerns)</b>	Case-by-case	May be referred to Committee