



*Alison Stuart  
Head of Legal and  
Democratic Services*

**MEETING** : LICENSING COMMITTEE  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : TUESDAY 19 MARCH 2019  
**TIME** : 7.00 PM

**PLEASE NOTE TIME AND VENUE**

**MEMBERS OF THE COMMITTEE**

Councillor D Andrews (Chairman)

Councillors P Ballam, R Brunton, Mrs R Cheswright, K Crofton, G Cutting (Vice-Chairman), B Deering, J Jones, M McMullen, T Page, M Stevenson and N Symonds

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## **DISCLOSABLE PECUNIARY INTERESTS**

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
  - must not participate in any discussion of the matter at the meeting;
  - must not participate in any vote taken on the matter at the meeting;
  - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
  - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
  - must leave the room while any discussion or voting takes place.
2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.
3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.
4. It is a criminal offence to:

- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
- participate in any discussion or vote on a matter in which a Member has a DPI;
- knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

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If you think a meeting you plan to attend could be very busy, you can check if the extra space will be available by emailing [democraticservices@eastherts.gov.uk](mailto:democraticservices@eastherts.gov.uk) or calling the Council on 01279 655261 and asking to speak to Democratic Services.

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## AGENDA

1. Apologies

*To receive apologies for absence.*

2. Chairman's Announcements

3. Declarations of Interest

*To receive any Members' declarations of interest.*

4. Minutes - 6 February 2019 (Pages 7 - 12)

*To approve the Minutes of the meeting of the Committee held on Wednesday 6 February 2019*

5. Consideration of Draft Suitability Policy in Relation to Hackney Carriage and Private Hire Licensing (Pages 13 - 62)

6. Urgent Business

*To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.*

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MINUTES OF A MEETING OF THE  
LICENSING COMMITTEE HELD IN THE  
COUNCIL CHAMBER, WALLFIELDS,  
HERTFORD ON WEDNESDAY 6 FEBRUARY  
2019, AT 7.00 PM

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PRESENT: Councillor D Andrews (Chairman)  
Councillors P Ballam, Mrs R Cheswright,  
K Crofton, B Deering, J Jones, M McMullen,  
T Page, M Stevenson and N Symonds

ALSO PRESENT:

Councillors P Ruffles

OFFICERS IN ATTENDANCE:

Peter Mannings	- Democratic Services Officer
Oliver Rawlings	- Service Manager (Licensing and Enforcement)

368 APOLOGY

An apology for absence was submitted on behalf of  
Councillor G Cutting.

369 CHAIRMAN'S ANNOUNCEMENTS

The Chairman referred to the East Herts convictions  
policy and he commented that a number of Authorities  
had used this document as a basis for new convictions  
policies. He referred to mandatory driver training for

new and existing drivers and commented on the new driver proficiency test being linked to the convictions policy. He emphasised that the proficiency test had replaced the testing previously carried out by the Driver and Vehicle Standards Agency (DVSA).

The Chairman advised that the Service Manager (Licensing and Enforcement) had been providing valuable advice in assisting Broxbourne Borough Council and Watford Borough Council with licensing policy documents. Members were advised that the Licensing Record Points Scheme had been updated in 2017 and the use of wheelchair accessible vehicles was being encouraged in that licences for such vehicles would be free in the first year and a 50% renewal discount would be applied.

The Chairman stated that the Shared Internal Audit Service (SIAS) had provided substantial assurance that effective controls were in place to ensure risk management. He referred to the night time economy position statement and commented on the first increase in taxis fares in 7 years.

Members were reminded that a review of fees and charges had been completed and all previous licences had been inspected. The Council had also approved a revised statement of gambling policy. The Chairman commented on the fact that full electric vehicle taxis would be licensed for free in East Herts in 2019/20.

Members were reminded by the Chairman of the more assertive stance being taken towards Taxi Drivers by Members serving on the Licensing Sub-Committee. He



referred to a number of recent Magistrate's court judgements and stated that more licences had been revoked since 2016 than had been revoked in the last 10 years. A joint convictions policy with other Local Authorities was being worked on and Officers were working hard to oversee the process of Disclosure and Barring Service (DBS) checks and also Taxi Driver medicals.

The Chairman advised that 86 new applicants had taken the knowledge test and there were 300 driver renewals due in 2019 so it was a busy year for licensing. He referred to the new emissions policy and commented on the lack of joined up working on this topic.

The Service Manager (Licensing and Enforcement) advised of East Herts involvement in the Herts 2025 project. This involves a 3 month trial for electric vehicles with charging infrastructure being put in place as part of the scheme. The Chairman commented on the range of electric vehicles when compared to the likely daily mileage of taxis in East Herts.

Members had a general discussion in respect of wheelchair accessible vehicles and the practicalities of electric vehicles being used as taxis in East Herts.

370 MINUTES - 14 NOVEMBER 2018

Councillor J Jones proposed and Councillor P Ballam seconded, a motion that the Minutes of the meeting held on 14 November 2018 be confirmed as a correct record and signed by the Chairman. After being put to

the meeting and a vote taken, this motion was declared CARRIED.

RESOLVED – that the Minutes of the meeting held on 14 November 2018, be confirmed as a correct record and signed by the Chairman.

371 CONSIDERATION OF RESPONSES TO DRAFT VEHICLE AGE AND EMISSION POLICY

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The Head of Housing and Health submitted a report that presented the responses to the draft vehicle age and emissions policy. The Service Manager (Licensing and Enforcement) advised that Members were being asked to endorse the final wording for approval by Council.

The Service Manager advised that 4 consultation responses had been received. 3 of these responses had been from the licensed trade which represented less than a 1% response rate. The first 2 responses had been from licensed dual drivers.

The Service Manager referred to the Euro 4, 5 and 6 emission standards. Members were advised that the Euro 6 standards had been introduced in 2014. The Service Manager summarised the consultation responses for Members and advised that no significant amendments were suggested to the draft policy.

Members were advised that some of the exception criteria had been deleted from the policy and this should benefit the licensed trade and the Council as Licensing Authority. The Service Manager stated that

the final consultation response had been from a resident of Bishop's Stortford who lived within one of the districts Air Quality Management Area (AQMA). The resident had been supportive of the policy.

Councillor T Page commented on whether Officers had considered a possible unintended consequence of Members of the licensed trade deserting East Herts and there being a shortage of drivers as a result of the policy.

The Service Manager advised that a majority of the fleet would be compliant aside from the very oldest vehicles. He believed that there would be enough vehicles to cover the District in the unlikely event of a percentage of the currently licensed vehicles were not renewed.

The Service Manager acknowledged a vote of thanks from Members for the diligent and hard work carried out by Licensing Officers. Councillor D Andrews proposed and Councillor J Jones seconded, a motion that the final wording of the Draft Vehicle Age and Emissions Policy be endorsed and recommended to Council for approval. After being put to the meeting and a vote taken, the motion was declared CARRIED. Members unanimously supported the recommendations now detailed.

RESOLVED – that (A) the consultation responses received in respect of the draft Vehicle Age and Emissions Policy be noted;

(B) the draft Vehicle Age and Emissions Policy

be endorsed; and

(B) the final wording be recommended to Council for approval.

The meeting closed at 7.46 pm

Chairman .....
Date .....

## EAST HERTS COUNCIL

### LICENSING COMMITTEE – 19 MARCH 2019

#### REPORT BY HEAD OF HOUSING AND HEALTH

#### CONSIDERATION OF DRAFT SUITABILITY POLICY IN RELATION TO HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING

WARD(S) AFFECTED: ALL

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#### **Purpose/Summary of Report**

- In August 2016 East Herts Council implemented a convictions policy to be applied to applicants and existing licence holders in the hackney carriage and private hire trade.
- This policy has now been reviewed and amended in light of lessons learned, case law, best practice and updated guidance.
- Members are asked to endorse the wording of the new 'Suitability policy' for an 8 week public consultation.

<b><u>RECOMMENDATION FOR LICENSING COMMITTEE:</u></b>	
<b>(A)</b>	<b>That the Committee endorses the draft 'Suitability Policy' for an 8 week public consultation.</b>

#### 1.0 Background

1.1 East Herts, as an authority that licenses hackney carriage and private hire drivers, vehicle proprietors and operators, can set its own criteria to ensure that applicants are 'fit and proper' to hold a licence.

1.2 Since March 2002, Hackney Carriage and Private Hire drivers have been included within the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. The consequence of this is that all convictions, irrespective of age, sentence imposed or

offence committed, remain live for an applicant for a Hackney Carriage or Private Hire drivers licence and will be recorded on an enhanced criminal record check.

- 1.3 East Herts introduced the current convictions policy in August 2016 and decisions regarding revocations have been made referencing the policy. A number of these decisions have been challenged in court by way of appeal at both Magistrates and Crown court, and the authority has successfully defended each of these appeals.
- 1.4 Since that time many authorities dealing with the issuing of hackney carriage and private hire licences have implemented similar policies.
- 1.5 As part of trying to promote County wide standards in taxi licensing a working party was set up to create a joint Suitability Policy based on East Herts current policy. Initially East Herts, Stevenage, Watford, Broxbourne and Three Rivers were represented in this group. All five local authorities have had the opportunity to feed ideas into the proposed draft document being put before Members today.

## 2.0 Report

- 2.1 The revision of the Convictions Policy and it's widening into a broader 'Suitability Policy' has been shaped, in part, by the lesson's learned from the implementation and use of that original policy. It has also been influenced by a number of documents that have been published since the original policy was implemented in 2016.
- 2.2 In April 2018 the Institute of Licensing issued a document entitled 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades' and in many ways this document adopted the approach that had been used when formulating East Herts original Convictions Policy. The IOL document has been considered during the

drafting of East Herts 'Suitability Policy' but it was felt that a more bespoke document was required. The main difference between the two documents is the way in which offences are grouped.

- 2.3 In February 2019 the Government issued its response to the report of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing. Although the document did not commit the Government to any time line for implementing changes it did include a number of relevant points which can be found at **Essential Reference Paper 'B'**.
- 2.4 As detailed in the above exerts the Department for Transport is currently consulting on draft statutory guidance 'Taxi and Private Hire Vehicle Licensing: Protecting Users'. This document also has a number of relevant sections but particularly 'Annex A – Previous convictions guidance'. All the relevant parts can be found at **Essential Reference Paper 'C'**.
- 2.5 East Herts revised Suitability Policy matches the guidance given in Annex A with regards to how convictions are viewed. The draft attached to this report is stricter in relation to those caught in possession of drugs. The draft DfT Guidance states that at least 5 years must have elapsed since completion of any sentence imposed before a licence is granted. However East Herts draft policy states that 10 years must be have elapsed.
- 2.6 The draft DfT guidance makes it clear at paragraph 2.50 that 'These periods should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance'.
- 2.7 The revised policy sets out our minimum standards. It suggests actions that will normally be taken where a new applicant or existing licence holder have relevant convictions we consider inappropriate for a licensed driver, proprietor or operator.

- 2.8 In addition to dealing with convictions the wider scope of the proposed Suitability Policy will make it clearer to stake holders how we will consider other factors such as non-conviction information. The authority has always been able to consider such information but it has been included in more detail to aid those that may be subject to or use the policy.
- 2.9 The revised policy makes reference to the use of the National Anti-Fraud Network (NAFN) register of drivers who have been refused or revoked. Use of the register is referenced in the Government's response to the Task and Finish Group report. The new section explains to new applicants and existing driver's how this valuable database will be used.
- 2.10 Each application will be considered on its own individual merits and where a valid reason is demonstrated the decision maker can depart from the policy if they wish. Where an application is refused or other sanction imposed there is route of appeal for the individual to magistrate's court.
- 2.11 The purpose and primary concern in taxi licensing is to ensure the safety of the public. The authority must be satisfied that an applicant is a 'fit and proper' person to hold such a licence. The draft Suitability Policy has this principle at its core.
- 2.12 The council's Monitoring Officer has advised that the public consultation should not proceed during the 'Purdah' period in the run-up to the local elections on 2<sup>nd</sup> May. Therefore, officers propose that the public consultation starts on 6<sup>th</sup> May 2019 and lasts for eight weeks closing at midnight on 30<sup>th</sup> June\_2019.
- 2.13 The consultation will be open to the public and all stakeholders in the hackney carriage and private hire trade. Each individual licence holder will be contacted directly notifying them of the consultation and how to respond.



- 2.14 In addition partners such as Hertfordshire Constabulary and Hertfordshire County Council will be contacted directly to ask for their opinions.
- 2.15 The consultation will include groups likely to be the trades' customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women's groups, local traders, and the local multi-agency safeguarding arrangements. It will also be helpful to consult with night-time economy groups (such as Pubwatch) as the trade is an important element of dispersal from the local night-time economy's activities.
- 2.16 The consultation will be publicised via direct correspondence, the Taxi, Newsletter and on East Herts website. A press release will be made to local newspapers in an attempt to further publicise the consultation and canvas as many opinions as possible.
- 2.17 Once the consultation closes a report will be bought back to Licensing Committee so that Members can consider all the responses and any proposed amendments before endorsing the final document for approval by Council.

### 3.0 Implications/Consultations

- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

#### Background Papers

Institute of Licensing - 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades':

[https://instituteoflicensing.org/documents/Guidance\\_on\\_Suitability\\_Web\\_Version\\_\(16\\_May\\_2018\).pdf](https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)

Department for Transport's draft Statutory Guidance 'Taxi and Private Hire Vehicle Licensing: Protecting Users':

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/778276/taxi-phv-licensing-protecting-users-draft-stat-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/778276/taxi-phv-licensing-protecting-users-draft-stat-guidance.pdf)

Government response to the report of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/775983/taxi-task-and-finish-gov-reponse.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775983/taxi-task-and-finish-gov-reponse.pdf)

Contact Member: Councillor Graham McAndrew – Executive Member for the Environment and the Public Realm.

Contact Officer: Jonathan Geall – Head of Housing and Health, Extn: 1594.

Report Author: Oliver Rawlings – Service Manager Licensing and Enforcement, Extn: 1629.

## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	Priority 1 – Improve the health and wellbeing of our communities Priority 2 – Enhance the quality of people's lives; and Priority 3 – Enable a flourishing local economy
Consultation:	An 8 week consultation will be undertaken.  Any revision of the Policies in relation Hackney Carriage and Private Hire licensing that the Authority seeks to rely upon must be subject to public consultation. All responses to be considered by Licensing Committee before endorsing a final document for approval by Council.
Legal:	Decisions based on the Suitability Policy are open to challenge through an appeal to magistrates court. Once in place the policy could be challenged via Judicial Review.
Financial:	If the policy was challenged then there would be cost implications in defending that challenge.
Human Resource:	No issues identified by report author or contact officer
Risk Management:	Without a comprehensive Suitability Policy in place there is a chance that a person who is not 'fit and proper' may obtain a licence. Were this to happen then the Authority could be open to criticism similar to that aimed at Rotherham in the Casey report.

<p>Health and wellbeing – issues and impacts:</p>	<p>By ensuring that those people licensed by East Herts are ‘fit and proper’ to hold and continue to hold a licence we can improve the health and wellbeing of individuals in East Herts.</p> <p>It is particularly relevant for those most vulnerable sections of the community who place their trust in the licensed taxi trade, and by default, East Herts Council.</p>
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**Government response to the report of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing**

Foreword by Parliamentary Under Secretary of State for Transport

The existing licensing framework provides licensing authorities with extensive powers to set appropriate standards for drivers, vehicles and private hire operators. As the Chair has identified, licensing authorities can bring about much of the needed reform through the use of these powers and we support the call for far greater collaboration between licensing authorities in the interests of both passengers and the trade.

Together, Government and licensing authorities can learn from past failings and regulatory and industry best practice, to provide a framework that fosters fair competition, high standards and a service for all that those working in the trade can be rightly proud of.

**3. Safety in taxis and private hire vehicles**

3.1 Many of the recommendations made by the TFG Report in this area call on local licensing authorities to make better use of their existing powers, ahead of Government legislating for the introduction of national minimum standards.

**TFG Recommendation 16**

The Department for Transport must as a matter of urgency press ahead with consultation on a draft of its Statutory Guidance to local licensing authorities. The guidance must be explicit in its expectations of what licensing authorities should be doing to safeguard vulnerable passengers. The effectiveness of the guidance

must be monitored in advance of legislation on national minimum standards.

**Government Response:**

3.2 The TFG received submissions and heard evidence on ways to increase passenger safety from a wide range of organisations.

3.3 Both the Jay and Casey Reports into child sexual abuse and exploitation noted the prominent role played by taxi and PHV drivers in a large number of cases of abuse. The Casey Report in particular uncovered what was described as "weak and ineffective arrangements for taxi licensing which leave the public at risk." To help reduce the risk posed to children and vulnerable individuals from harm by taxi and PHV drivers who seek to abuse their position of trust, section 177 of the Policing and Crime Act 2017 enables the Secretary of State to issue statutory guidance to licensing authorities on the exercise of their taxi and PHV licensing functions.

3.4 The TFG was invited to review the draft statutory guidance ahead of the public consultation, and it has now been published for consultation alongside this response. The Department is grateful to the organisations it engaged with while drafting the guidance for consultation, and we encourage all organisations and individuals with views on the guidance to respond to the consultation.

**TFG Recommendation 21**

Government must issue guidance, as a matter of urgency, that clearly specifies convictions that it considers should be grounds for refusal or revocation of driver licences and the period for which these exclusions should apply. Licensing authorities must align their existing policies to this ahead of inclusion in national minimum standards.

### **Government Response:**

3.18 The Government agrees with this recommendation, and its view has been included in the statutory guidance which has been issued for consultation alongside this response.

3.19 As with the introduction of national minimum standards, Government will seek to balance the need for greater nationwide consistency with respect for local decision making. We welcome the work that the Institute of Licensing in partnership with the Local Government Association, the National Association of Licensing and Enforcement Officers and Lawyers in Local Government have done in this area. Their work has informed the guidance on previous convictions that is included in the draft statutory guidance. The intention is that, subject to the outcome of the consultation, this will be included in national minimum standards.

### **TFG Recommendation 23**

All licensing authorities must use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked taxi or PHV driver licence. All refusals and revocations must be recorded, and the register checked for all licence applications and renewals. Licensing authorities must retain the reasons for any refusal, suspension or revocation and provide those to other authorities as appropriate. The Government must, as a matter of urgency, bring forward legislation to mandate this alongside a national licensing database (recommendation 24).

### **Government Response:**

3.23 It is important that licensing authorities who are making a decision on whether to grant a taxi or PHV driver licence can do so in possession of all relevant facts, including whether the applicant has been refused or lost a licence in another area because of safety

concerns. At present, there is no data sharing mechanism to make sure that such history is disclosed to them.

3.24 The Government supports the Private Member's Bill brought by Daniel Zeichner MP that would mandate licensing authorities to use such a database. The Government also welcomes the initiative of the LGA in setting up a voluntary database of drivers who have been refused or revoked licences. Any information obtained using data sharing methods like this must be used as an aid to local, independent decision making. The statutory guidance which is published for consultation alongside this response expands further on the Government's view.

3.25 In the longer term, the Government intends that information about drivers who have had licences refused or revoked would be one part of the wider-ranging national database discussed against the next recommendation (24).

**TFG Recommendation 32**

Licensing authorities should use their existing enforcement powers to take strong action where disability access refusals are reported, to deter future cases. They should also ensure their systems and processes make it as easy as possible for passengers to report disability access refusals.

**Government Response:**

4.11 The TFG report notes the findings of a recent survey of guide dog owners which identified that almost half (42%) had experienced a refusal to enter a taxi or PHV in the previous year because of their dog. The Government agrees that this is unacceptable.



4.12 In the ITS we committed to undertake research to identify why the risk of fines and the loss of a driver's taxi or PHV licence appear insufficient in some circumstances to prevent them from discriminating against assistance dog owners. It is obvious that prevention of illegal refusals is preferable to retrospective sanctions, which do little to rebuild the confidence of assistance dog users who have been subject to illegal refusals. We will therefore use evidence from this research to inform ways in which training can play a role in preventing refusals occurring. As set out in response to recommendation 29 of the TFG report, Government intends to include disability awareness and equality training in national minimum standards.

4.13 The Government agrees that those that refuse to meet their legal obligation under Sections 168 and 170 of the Equality Act 2010 should be subject to enforcement action. We have stated in the ITS that licensing authorities should use the powers available to them, and take robust action against those who have discriminated illegally against disabled passengers.

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**Licensing policy**

- 2.9 The Department encourages licensing authorities to create a cohesive policy document that brings together all their procedures on taxi and PHV licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 2.10 When formulating a taxi and PHV policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the report by Dame Louise Casey CB of February 2015 on safeguarding failings.

"It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride."

- 2.11 The long-term devastation caused by CSAE was summarised in the same report:

“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”

- 2.12 Rotherham Metropolitan Borough Council (‘Rotherham Council’) provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and PHV sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere are well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 2.13 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. It is therefore recommended that licensing authorities regularly review their licensing policies and their performance, but should also consider interim reviews should there be significant issues arising in their area.

### **Fit and proper test**

- 2.14 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or PHV driver’s licence is a ‘fit and proper’ person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

**Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?**

- 2.15 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 2.16 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 2.19 below) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that **an applicant or licensee should not be 'given the benefit of doubt'**. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can therefore include information that goes beyond criminal convictions.

### **Conviction policy**

- 2.49 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly

exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

2.50 Engagement with licensing authorities identified that greater direction from the Department was sought and in some cases required. The Department did not make specific recommendations regarding the assessment of convictions in the 2010 update of the Best Practice Guidance. In response to concerns raised by stakeholders and to assist in greater consistency in licensing, Annex A provides the Department's recommendations on this issue. This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and PHV licensees<sup>21</sup>. These periods should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that each case must be considered on its own merits, and applicants are entitled to a fair and impartial public hearing of their application if required.

### **Enforcement**

2.80 Implementing an effective framework for licensing authorities is essential to a well-functioning taxi and PHV sector. These steps will help prevent the licensing of drivers that are not deemed 'fit and proper' but does not ensure that those already

licensed continue to display the behaviours and standards expected.

2.81 We have discussed the benefits of licensing authorities working collaboratively in regard to the sharing of information, and this can equally apply to enforcement powers. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. Together with increased clarity for the public on complaining, these measures will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the LGA Councillors' handbook.

2.82 It is not reasonable to expect drivers to adhere to a policy unless they are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

2.83 The Department suggest that there should be a clear, simple and well publicised process for the public to make complaints about drivers and operators. This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a

need to suspend or revoke a licence in the interests of public safety.

### **Consultation at the local level**

2.119 It is good practice for licensing authorities to consult on any significant proposed changes in licensing rules. Such consultation should include not only the taxi and PHV trades but also groups likely to be the trades' customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women's groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy's activities.

2.120 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and PHV sector in neighbouring areas; it would therefore be good practice to engage with these to identify any concerns and issue that might arise from a proposed change. Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; the Department considers this approach to be good practice.

### **Annex A - Previous convictions guidance**

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or PHV licence. The following recommendations to licensing authorities on previous convictions reflect this.



Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial public hearing of their application if required. The periods given below should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

### **Crimes resulting in death**

Where an applicant or licensee 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.

### **Exploitation**

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

### **Offences involving violence**

Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

### **Possession of a weapon**

Where an applicant has a conviction for possession of a weapon 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.

### **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. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

### **Dishonesty**

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

### **Drugs**

Where an applicant has any conviction for, 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.

### **Discrimination**

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## **Motoring convictions**

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction of a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or PHV driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

## **Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving**

Where an applicant has a conviction for drink driving or 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 the case of driving under the influence of drugs, 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 using a held-hand 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.

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**DRAFT**  
**Taxi Licensing**  
**Suitability Policy**

## 1.0 Introduction

1.1 This policy provides guidance to all parties on the criteria that will be taken into account when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a Hackney Carriage and/or Private Hire Driver Licence, an Operator Licence or be the proprietor of a licensed vehicle. Whilst criminal convictions play a significant part in the Licensing Authority's determination on whether an individual is fit and proper or not, the Council will also take into account other factors such as demeanour, general character, non-criminal behaviour, driving abilities, and police information and the like.

1.2 When the Council makes any decisions or takes any actions in line with this policy, the safety of the public will be its paramount concern.

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

- applicants for a driver's licence
- existing licensed drivers
- licensing officers
- the Council's properly delegated decision makers
- magistrates and judges hearing appeals against local authority decisions.

In considering this guidance the Council will be mindful that each case must be considered on its individual merits and, where the circumstances demand, the decision makers may depart from the guidelines.

1.3 It is the responsibility of East Herts Council (referred to as the Council) to issue Hackney Carriage and Private Hire licences

under the Local Government (Miscellaneous Provisions) Act 1976. In exercising this duty the Council will consider its duty to ensure the safety of the public as its primary consideration. Licences will not be issued unless the person is considered to be 'fit and proper'.

1.4 In seeking to safeguard the safety of the public the Council will be concerned to ensure:

- that a person is a fit and proper person in accordance with Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II)
- that the person does not pose a threat to the public
- that the public are safeguarded from dishonest persons
- the safety of children, young persons and vulnerable adults.

1.5 In drafting this policy and considering responses to the consultation consideration has been given to the Human Rights Act 1998, particularly in relation to:

- Article 6 (right to a fair trial);
- Article 8 (the right to respect for private and family life);  
and
- Protocol 1, Article 1 (protection of property)

1.6 All decisions taken under this policy will be taken in accordance with the Human Rights Act.

1.7 Similarly the impact of this policy on the local community of East Herts, both positive and negative, has been considered.

## Decision-making principles

- 1.8 The term “Fit and Proper” for the purposes of taxi and private hire licensing is not legally defined but it has also been described as “safe and suitable” in a number of court cases.
- 1.9 In determining whether a person is fit and proper to hold a **driver’s licence**, those tasked with determining licences / applications are effectively asking the following question of themselves:

**“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?”**

- 1.10 In determining whether a person is fit and proper to hold an **operator’s licence**, those tasked with determining licences / applications are effectively asking the following question of themselves:

**“Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”**

There are no statutory criteria for granting a vehicle proprietor’s licence so the authority has absolute discretion over whether or not to grant. In determining whether a person should be granted a **vehicle licence**, those tasked with determining licences / applications are effectively asking the following question of themselves:

**“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at**



**any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?"**

- 1.11 If the answer to the pertinent question is an unqualified 'yes', then the person can be considered to be fit and proper. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether a licence should be granted to that person.
- 1.12 In order to assess the suitability of an Applicant (and to inform decision makers when answering the questions above), the Council will undertake whatever checks and apply whatever processes it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. In assessing the suitability of an Applicant or licence holder, the Council will take into consideration the following factors:
- Criminality
  - Period of holding a driver's licence
  - Number of endorsed driving licence penalty points
  - Right to work in the UK
  - Medical fitness
  - Standard of driving / driving ability
  - The conduct of the individual in making the application (which could include whether they have acted with integrity during the application process, made a misleading statement or omission)
  - The previous licensing history of existing / former licence holders

The Council conducts enhanced disclosures from the Disclosure and Barring Service (DBS) on all applicants for a new driver's licence and every three years following the grant

of a driver's licence. Applicants applying for the grant or a renewal of a driver's licence will be required to obtain an enhanced disclosure at their expense.

- 1.13 Hertfordshire Constabulary will be consulted on all new and renewal applications. Applicants and existing licence holders should be aware that any information that the Police provide regarding their fitness and propriety to hold a licence will be considered.
- 1.14 East Herts Council is a member of the National Anti-Fraud Network (NAFN) and as such has access to the National Register of Taxi and Private Hire Licence Revocations and Refusals (NR3). This is an important step in tackling the issue of individuals making applications to different licensing authorities following a refusal or revocation elsewhere. The register will be used in the following way:
- When a new application is received the register will be checked to see if that individual has had a licence revoked or refused by another authority; and
  - When an application to this authority is refused the applicants details will be added to the register; and
  - When a licence which has been issued by this authority is revoked the individuals details will be added to the register.
- 1.15 In addition the Council will also consider further information sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards (or other bodies with a similar function), other licensing authorities and statutory agencies where appropriate.
- 1.16 An individual wishing to be licensed would normally be required to remain conviction free for an appropriate period of time as detailed in this policy. In the case of a new

application for a licence it is the applicant's responsibility to demonstrate how they are fit and proper to hold a licence. Simply remaining free from complaint and/or conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

- 1.17 The standards and criteria set out in paragraphs 3 to 12 below are those that would normally be applied to applications and licences. The Council may depart from these criteria; however it must only do so in wholly exceptional circumstances<sup>1</sup>. The otherwise good character and driving record of the Applicant or licence holder will not ordinarily be considered as exceptional circumstances.
- 1.18 The Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered or new information has come to light.

## **2.0 Powers**

- 2.1 Section 61 and Section 62 of the Local Government (Miscellaneous Provisions) Act 1976 allow the Council to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 2.2 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the Council to take into account all convictions

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<sup>1</sup> 'Wholly exceptional circumstances will be decided by discussion between the officer dealing with the matter, the Head of Service and the Chair of the Licensing Committee.

recorded against an applicant or the holder of a Private Hire Vehicle or Hackney Carriage driver's licence, whether spent or not. Therefore the Council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Individuals need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.

2.3 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 driver's licence and/or Private Hire Vehicle Operator's licence is a "fit and proper" person to hold such a licence. However, if there is any reason to question an individual's fitness and propriety to hold a licence (such as convictions, warnings, charges awaiting trial, police intelligence, complaints or any other matter considered relevant) the Council will look into:

- How relevant the information is to the licence
- How serious the matter(s) were
- When the matter(s) occurred
- The date of the conviction, warning, caution etc.
- The number of matters/offences i.e. lots of minor offences
- Circumstances of the individual concerned
- Any sentence or sanction imposed by a court
- Any comments made by the court or other information laid before the court
- The individual's age at the time of offence / incident
- Whether they form part of a pattern of conduct/offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant, for example:

- Whether the Applicant has intentionally misled the Council or lied as part of the application process
- Information provided by other agencies / Council departments
- The previous conduct of an existing or former licence holder

2.4 Existing holders or those with open applications are required to notify the Council in writing of certain matters in the following time periods:

- driving licence endorsement within 5 working days;
- fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including acquittal as part of a criminal case) within 5 working days;
- arrest for any matter (whether subsequently charged or not) within 3 working days

Failing to notify the Council within the appropriate timescale will raise serious questions for the Council as to the honesty of the individual and will be taken into account in relation to the fitness and propriety of that person.

2.5 Individuals can discuss further what effect any relevant information may have on their application or licence by contacting the Licensing Team for advice. It is in the individual's best interest to bring any relevant detail to the attention of the authority at an early stage.

If you are not sure whether or not to bring a matter to the Authority's attention then the simple answer is that you should. If the matter is not considered relevant then you will have peace of mind and if it is considered relevant it can be dealt with. The costs involved in applying for a licence may be wasted if details come to light later which mean the

application should be refused. Similarly failure to notify the authority of a relevant matter whilst licensed will bring your fitness and propriety into question.

- 2.6 It is an offence for any person knowingly or recklessly to make a false statement or to omit any material matter when giving information required as part of the application for a licence or required by holding a licence. Where an individual has made a false statement or a false declaration or omission on their application for the grant or renewal of a licence, the licence will normally be refused. Where a licence is already in place that licence can be suspended or revoked. Subsequent applications for licences will be refused for a period of five years from the date that the lie or omission came to light.
- 2.7 The Council is 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 Council or other licensing authorities, and information disclosed by the police. Examples of information sources that may be used include but are not limited to social care information, benefits payments, and the like.
- 2.8 The lists of offences within this Policy are not exhaustive. The Council can consider any offences not detailed in this Policy when examining the fitness and propriety of an individual.
- 2.9 **Options at time of new applications or renewals:** When determining the fitness and propriety of an applicant for a licence the Council has the following options:
- approve the application
  - approve the application with a shorter expiry date
  - refuse the application.

2.10 **Options when considering an existing licence:** When considering the fitness and propriety of an existing licence holder the Council has the following options:

- take no action
- issue a warning which may include the use of Licensing Record Points in line with the Council's Licensing Points Scheme
- suspend the licence subject to a 21 day appeal period
- suspend the licence with immediate effect
- revoke the licence subject to a 21 day appeal period
- revoke the licence with immediate effect.

2.11 A suspension or revocation of the licence of a driver normally takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that this is so and an explanation of why, the suspension or revocation takes effect when the notice is given to the driver. [s61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.]

2.12 The Council recognises the different roles of drivers, vehicle proprietors and operators and its responsibility to ensure that they are 'fit and proper' to hold such licences. For driver's licences all of the following sections apply but sections 11 and 12 do not apply to private hire operator's licences or vehicle proprietor's licences.

### **3.0 Convictions**

3.1 Licensed drivers, and potentially private hire operators, have close regular contact with the public. A firm line is to be taken with those who have any convictions.

### 3.2 Offences including threat to or loss of life and/or violence

Murder	<p>Applications will be <b>refused</b></p> <p><b>An existing licence will be revoked</b></p>
Manslaughter	
Manslaughter or culpable homicide while driving	
Grievous bodily harm	
Violent disorder	
Riot	
Malicious wounding or grievous bodily harm which is racially aggravated	
Aggravated burglary	
Terrorism offences	
Any related offences (including aiding, abetting, attempting or conspiring to commit offences) that are similar in gravity to those above or which replace those above	
Arson	<p>Applications will only be considered if a period of at least <b>10 years</b> has passed since conviction, the end of any prison sentence or period 'on licence' (whichever is longest)</p> <p><b>An existing licence will be revoked</b></p>
Actual bodily harm	
Robbery	
Possession of firearm	
Assault Police	
Resisting arrest	
Any racially aggravated offence against a person or property	
Affray	
Any offence that may be categorised as domestic violence	



Any other Public Order Act offence (harassment, alarm or distress, intentional harassment or fear of provocation of violence)	
Any related offences (including aiding, abetting, attempting or conspiring to commit offences) that are similar in gravity to those above or which replace those above	

### 3.4 Possession of a weapon

Conviction for possession of an offensive weapon or other weapon related offence	<p>Applications will only be considered if a period of at least <b>7 years</b> has passed since conviction, the end of any prison sentence or period 'on licence' (whichever is longest)</p> <p><b>An existing licence will be revoked</b></p>
A history of two or more separate convictions for offences of a violent nature or weapon related offences	<p>Applications will be <b>refused</b></p> <p><b>An existing licence will be revoked</b></p>

### 3.5 Other offences

Obstruction	<p>Applications will only be considered if a period of at least <b>5 years</b> has passed since conviction, the end of any prison sentence or period 'on licence' (whichever is longest)</p> <p><b>An existing licence will be revoked</b></p>
Criminal damage	
Common assault	
Any related offences (including aiding, abetting, attempting or conspiring to commit offences) that are similar in gravity to those above or which replace those above	

3.6 As licensed drivers often carry unaccompanied and/or vulnerable passengers, the Council will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. Similarly licensed private hire operators will have access to information regarding the location and movements of these groups of people. All sexual and indecency offences will be considered as serious.

### 3.7 Sexual and indecency offences

Rape	<p>Applications will be <b>refused</b></p> <p><b>An existing licence will be revoked</b></p>
Assault by penetration	
Offences involving children or vulnerable adults	
Trafficking, sexual abuse against children and/or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003)	
Making or distributing obscene material	

Possession of indecent photographs depicting child pornography	
Sexual assault	
Indecent assault	
Exploitation of prostitution	
Soliciting (kerb crawling)	
Making obscene/indecent telephone calls	
Indecent exposure	
Any related offences (including aiding, abetting, attempting or conspiring to commit offences) that are similar in gravity to those above or which replace those above	
Applicant is currently on the Sex Offenders Register or any other similar register	

- 3.8 In addition to the above the Council will not allow an individual to remain licensed or grant a licence to any individual who is currently on the Sex Offenders Register or any other similar register.
- 3.9 A licensed driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. Both drivers and operators may be privy to information regarding empty homes as taxis are often used as transport to airports etc. For these reasons, a serious view is taken of any conviction involving dishonesty.

### 3.10 Dishonesty offences

Theft	<p>Applications will only be considered if a period of at least <b>7 years</b> has passed since conviction, the end of any prison sentence or period 'on licence' (whichever is longest)</p> <p><b>An existing licence will be revoked</b></p>
Burglary	
Fraud	
Benefit fraud	
Handling or receiving stolen goods	
Forgery	
Conspiracy to defraud	
Obtaining money or property by deception	
Other deception	
Taking a vehicle without consent	
Fare overcharging	
Any related offences (including aiding, abetting, attempting or conspiring to commit offences) that are similar in gravity to those above or which replace those above	

3.11 A serious view is taken of any drug-related offence. Taking drugs and driving poses an obvious risk to public safety, whilst individuals who have convictions for the supply of drugs will also be treated with considerable concern. The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered carefully.

3.12 It is recognised nationally that taxis can travel to any location at any time without raising suspicion so they are the ideal mode of transport for moving illegal items. An individual

applying for an operator's licence with any conviction relating to the supply of illegal substances will be refused.

3.13 As licence holders are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while exceeding the legal limit or under the influence of drink or drugs. If there is any suggestion that an individual is alcohol or drug dependent, a satisfactory special medical report (as specified by the Council at that time) must be provided.

3.14 If there is suspicion 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 or to avoid sanctions being imposed on an existing licence. Such a report will be at the individual's own expense.

If an individual has previously been an addict then they would be required to show evidence of 5 years free from drug taking after detoxification treatment.

3.15 Drug related offences

Conviction for an offence relating to the supply of illegal/controlled drugs	Applications will be <b>refused</b>  <b>An existing licence will be revoked</b>
Conviction for possession of illegal/controlled drugs	Applications will only be considered if a period of at least <b>10 years</b> has passed since conviction, the end of any prison sentence or period 'on licence' (whichever is longest)

	<b>An existing licence will be revoked</b>
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#### 4.0 Driving and traffic offences

4.1 A very serious view is to be taken of any individual who has been convicted of a driving offence that resulted in the loss of life.

4.2 Driving offences including loss of life

Causing death by dangerous driving	<p>Applications will be <b>refused</b></p> <p><b>An existing licence will be revoked</b></p>
Causing death by careless driving whilst under the influence of drink or drugs	
Causing death by dangerous driving	
Causing death by driving: unlicensed, disqualified or uninsured driver	
Any related offences (including aiding, abetting, attempting or conspiring to commit offences) that are similar in gravity to those above or which replace those above	

### 4.3 Other traffic offences

Minor traffic offences	Will be considered but will not normally result in an application being <b>refused or an existing licence being revoked.</b>
Major traffic offences (one)	At least <b>1 year</b> free of any other driving conviction (either major or minor) <b>An existing driver licence revoked.</b>
Major traffic offences (two or more)	At least <b>2 years</b> free of any other driving conviction (either major or minor) <b>An existing driver licence revoked.</b>
Disqualification	At least <b>5 years</b> free of any other driving conviction (either major or minor) starting from the date the drivers licence is restored <b>An existing driver licence revoked.</b>
Disqualification (two or more)	Application <b>refused</b> <b>An existing driver licence revoked.</b>
New applicant with 7 or more points on their DVLA	Application <b>refused</b>

licence	
Existing licensed driver who accumulates 9 or more points on their DVLA licence	6 weeks to pass the Council approved driving test or licence <b>suspended</b> until successfully completed. (Test to be taken at individuals own expense)
12 or more points on the DVLA licence	Application <b>refused</b> . <b>An existing</b> driver licence <b>revoked</b> .

- 4.4 Minor traffic offences come under the following categories: Construction and use offences, Miscellaneous offences, Motorway offences, Pedestrian crossings, Speed limits and Traffic direction and signs. These offences can also be subject to consideration as part of the Licensing Records Points Scheme.
- 4.5 Major traffic offences, which are all offences not covered in the paragraph above, will give rise to serious doubts about the individual's suitability to be a driving professional. An individual with any such convictions will be required to show a period of at least one year free of any other driving conviction. For individuals with more than one offence this period will be increased to two years.

## 5.0 Outstanding charge or summons

- 5.1 If the individual is the subject of an outstanding charge or summons their application should be suspended until the matter is resolved.
- 5.2 Outstanding Charges or Summonses



Outstanding charge or summons	Application <b>put on hold</b> until the matter is resolved.  Fitness and propriety of existing licence holder will be considered
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## 6.0 Licensing offences

6.1 Certain offences under taxi legislation will prevent a licence being granted or renewed.

6.2 Licensing offences

Illegal Plying for hire	Applications will only be considered if a period of at least <b>3 years</b> has passed since conviction  An existing licence will be revoked
Overcharging	
Refusing to carry a person with a disability or assistance dog	

## 7.0 Insurance offences

7.1 A serious view will be taken of convictions for any insurance offence but in particular of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided the Applicant has been free of conviction for 5 years. However, strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.

7.2 Insurance offences

	Applications will only be considered if a period of at least <b>5 years</b> has passed since conviction, the end of any prison sentence or
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	<p>period 'on licence' (whichever is longest)</p> <p>An existing licence will be revoked</p>
<p>More than 1 insurance offence</p>	<p>Applications will be refused</p> <p>An existing licence will be revoked</p>

7.3 An operator found guilty of aiding and abetting, or otherwise assisting the driving of passengers whilst without insurance will have his Operator's Licence revoked immediately and will not be permitted to hold a licence for a period of at least three years.

## 8.0 Discrimination offences

8.1 An applicant for an operator or drivers licence who has been convicted of any offence involving discrimination must:

- be free from a similar conviction for a period of at least 7 years; AND
- demonstrate a thorough understanding of the requirements of the Equality Act 2010 to the satisfaction of the issuing authority.

8.2 Applicants with more than 1 conviction for discrimination offences will be refused.

8.3 Any operator or driver who has been convicted of any of the following will have their licence/s revoked:

- discriminating, whether as the result of a criminal investigation or by way of a successful action in the County Court for a claim of discrimination.

- refusing an assistance dog.
- over-charging a passenger on the basis of their disability.
- allowing a disabled passenger to travel in an unsafe manner.

8.4 Where the applicant for an operator's licence is a company or partnership a conviction for discrimination against any partner, director or secretary of that body will be considered in the same way as it would be for an individual and the licence will be revoked.

## **9.0 Exploitation offences**

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

## **10.1 Non-conviction information**

10.1 At any point during a licence application or once an application is held, the Council will take into account of information that becomes known about situations and circumstances that have not led to a conviction. This will include but is not limited to:

- an arrest
- being held on bail
- being charged but not convicted
- acquittals
- circumstances in which convictions were quashed due to misdirection to the jury

- circumstances where the decision was taken not to prosecute, and
- complaints.

10.2 In determining the most appropriate action to take, the Council will take into account, though not limit itself to:

- the source of the information
- the nature of non-conviction information
- the credibility of the witness / complainant
- the range of information / number of complaints available
- the credibility of the licence holder.

With regard to the options available, the Council will have regard to paragraphs 2.9 and 2.10 of this policy.

## **11.0 Individuals with periods of residency outside the UK**

11.1 If at any time an Applicant or existing licence holder has spent six continuous months or more overseas the Council will expect to see evidence of a criminal record check from the country/countries visited covering the whole period spent overseas.

11.2 Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those individuals who have lived overseas. For EU nationals suitable checks should be available, for those countries for which checks are not available, one option is to require a certificate of good conduct authenticated by the relevant embassy. Where an individual cannot demonstrate that they were conviction-free during periods abroad they will be unable to meet the 'fit and proper' criteria. The onus is on the applicant to provide proof of their fitness and propriety and where they cannot applications will be refused.

## **12.0 Conditional discharge**

- 12.1 Applicants are required to notify the Council of any conditional discharge or absolute discharge and these will be considered on a case-by-case basis. As the court can use these options in a variety of cases it is not possible to give comprehensive guidelines regarding the likely outcome of their consideration by the Council.
- 12.2 If an offence is committed during the period of a conditional discharge the courts may re-sentence an offender for the offence for which the conditional discharge was given. At this point the Council may consider that offence under this policy.

## **13.0 Cumulative impact of offending history**

- 13.1 The Council recognises there may be cases where an Applicant or an existing licence holder may have a number of convictions and/or non-conviction matters, none of which, if considered in isolation, would preclude the holding of a licence. A number of convictions and/or non-conviction matters, however, will give cause for concern, thus, in such circumstances the Council will take into account the cumulative nature of these separate convictions and/or non-conviction matters when determining the suitability of that person to hold a licence.

## **14.0 Appeals**

- 14.1 Any Applicant refused a driver's licence or an existing licence holder who has their licence suspended or revoked has a right to appeal to the Magistrate's Court within 21 days of the notice of refusal [Local Government (Miscellaneous Provisions) Act 1976, s 77 (1)].

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