



Hackney Carriage & Private Hire Regulatory Guidelines

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1. Introduction

1.1 Powers and Duties

Gloucester City Council has adopted the Local Government (Miscellaneous Provisions) Act 1976 (Minute 71, 23 April 1980). Through the 1976 Act and other relevant legislation the Council has a duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles, drivers and operators. Hackney carriages are also known as taxis.

1.2 Objectives

Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where other public transport is either not available (for example in rural areas, or outside “normal hours” of operation such as in the evenings or on Sundays), or provide public transport for those with mobility difficulties. In setting out its policy, the Council seeks to promote the following objectives:

- The protection of public health and safety;
- The establishment of a professional and respected hackney carriage and private hire trade;
- Access to an efficient and effective public transport service;
- The protection of the environment;
- Improve standards of service and the visibility of hackney carriages/private hire vehicles in support of the regeneration of Gloucester.

The aim of the licensing process, in this context, is to regulate the hackney carriage and private hire trade in order to promote the above objectives. It is the Council’s wish to facilitate well-run and responsible businesses, which display sensitivity to the wishes and needs of the general public.

1.3 Best Practice Guidance

In formulating this policy consideration has been given to the advice contained in the ‘Taxi and Private Hire Vehicle Licensing Best Practice Guidance’ issued by the Department for Transport in ~~March 2010~~ **July 2020 and Common Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire** has been taken into account and ‘Guidance on determining the suitability of applicants and licensees in the Hackney and Private Hire trade’.

1.4 Status

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and, in particular, the objectives set out above.

Notwithstanding the existence of this policy document, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart substantially from its policy document,

clear and compelling reasons will be given for doing so. The purpose of this policy document is to formulate guidelines which detail the Council's current stance on the relevance of convictions and cautions and other relevant factors in respect of applications for the grant of new licences, disciplinary action against existing licence holders, the renewal of existing hackney carriage and private hire drivers, operators and proprietor's licences.

These policy document guidelines have been produced to assist Members of the Council's Licensing & Enforcement Committee, Licensing & Enforcement Sub-Committees and Council Officers in their decision-making and to maintain the consistency of the decisions made. They have also been formulated to provide clearer information to current licence holders and potential applicants, with a view to minimising cost and time spent by a licence holder, an applicant and the Council.

The aim of the licensing regime to which these policy document guidelines relate is not to punish the applicant twice for an offence, where criminal action has already been taken, (which includes a conviction or caution), but to ensure that public safety is not compromised.

2 Qualifications and Requirements

2.1 General

All qualifications and requirements for applicants are set out in the respective 'Private Hire; Driver, Vehicle and Operator Rule Book' and 'Hackney Carriage; Driver and Vehicle Rule Book' available on the Council's website at www.gloucester.gov.uk or by contacting the Licensing Team on 01452 396396 or heretohelp@gloucester.gov.uk

2.2 Suitability

The Local Government (Miscellaneous Provisions) Act 1976 deals with the issue of driver suitability:

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

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states:

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

–

1) that he / she has, since the grant of the licence,

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

or,

ii) been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847 or Part of this Act,

or,

2) any other reasonable cause.”

The wording of the legislation makes it clear that the Council may grant a licence ONLY if it is satisfied that the person is “**fit and proper**” – the onus is on the applicant to prove this on a balance of probabilities, NOT for the Council to demonstrate that they are not.

Whether someone is a “fit and proper person” to hold a licence is ultimately a matter of common sense. When considering whether someone should serve the public, the range of passengers that a driver may carry should be borne in mind for example, elderly people, unaccompanied children, the disabled, those who have had too much to drink, lone women, vulnerable people, foreign visitors and unaccompanied property.

Some areas to consider include –

- **Honesty and trustworthiness** – drivers often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. They must not abuse their position of trust. *For example, any passenger would expect to be charged the correct fare for a journey and then be given the correct change; they would also expect a driver to hand in any article left by a passenger in a vehicle; and also the driver to maintain confidentiality between them and the passenger.*
- **Not abusive** – drivers are often subject to unpleasant or dishonest behaviour. However this does not excuse any aggressive or abusive conduct on the part of the driver. Drivers are expected to avoid confrontation, and to address disputes through the proper legal channels. In no circumstances should they take the law into their own hands.
- **A good and safe driver** – Passengers paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to their licence.
- **Health** – Drivers are expected to be both physically and mentally fit to perform their role.
- **Ability** – Both private hire and hackney carriage drivers are expected to be capable of transporting passengers to their destination in a timely manner. To this end all applicants must pass the appropriate knowledge test.

2.3 Protecting the Public (Fit and Proper)

The overriding consideration for the Members of the Licensing & Enforcement Committee, Licensing & Enforcement Sub-Committee and Council Officers is to protect the public. Having considered and applied the appropriate policy document guidelines, the following, generally accepted, question should be asked:

~~“Would you (as a member of the Licensing & Enforcement Committee, Licensing Sub-Committee or other person charged with the ability to grant a hackney carriage/private hire driver’s licence) allow your daughter or son, granddaughter or grandson, spouse, mother or father, or any other person you care for or any vulnerable person you know, to get into a vehicle with this person alone?”⁴~~

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver’s licence is a ‘fit and proper’ person to be a licensee. The question of whether a person is a fit and proper person will be based on the following standard:

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?

If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence.

The overriding consideration will be safeguarding the public. This means that an applicant or licensee should not be ‘given the benefit of doubt’. If the Licensing Sub-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 take into consideration conduct that has not resulted in a criminal conviction.

~~If the answer to this question is an unqualified yes, then a licence should normally be approved or allowed to continue. If there are any doubts in the minds of those making the decision, then the licence must be refused, suspended or revoked. It is the responsibility of the applicant/licence holder to satisfy the Council that they are a fit and proper person.~~

⁴ ~~Paragraph 10.45 Taxis – Licensing Law and Practice by James T. H. Button, Butterworths Third edition 2009~~

Case law also makes it clear the perception of hardship and that the impact of losing (or not being granted) a driver’s licence on the applicant and their family is not a consideration to be taken into account when deciding whether a person is a fit and proper. (Leeds City Council v Hussain [2002] EWHC 1145 (Admin). [2003] RTR 199 and Cherwell District Council v Anwar [2011] EWHC 2943 (Admin).

2.4 Convictions

The Council will look at all past indicators (convictions, cautions, fixed penalties, motoring convictions etc) that may affect a person's suitability to hold a licence. Applicants (both new and on renewal) are required to declare all convictions, cautions and fixed penalties on their application and sign a statutory declaration to that effect. Applicants who are found to have given false information on an application form, or those existing licence holders who have failed to declare any relevant fact may have their licence suspended or revoked.

2.5 Soft information and information from other sources

The Council may receive soft information from other agencies or via complaints made from members of the public. This information will be considered in cases where it calls into question an applicant or licence holder's ability to meet the "fit and proper person" test.

2.6 Options available to the Licensing & Enforcement Committee, Licensing & Enforcement Sub Committee and Council Officers

When determining an application or reviewing a licence holders' suitability to hold a licence the Members of the Committee, Sub-Committee or Council Officer making the decision will have the following options:

- To approve the licence / take no action.
- To impose additional conditions on the licence.
 - *This action may be taken with regard to either new applications or existing licence holders.*
- To give a written warning.
- To refuse/revoke the licence.
- For existing licence holders - to suspend the licence
 - *Suspension can be used where serious concerns are raised over the suitability of an individual to hold a licence. In this instance, on the balance of probabilities, the licence holder is not a "fit and proper person" but may become so at a later date. This may either be through an action they may take, such as in the case of a driver undergoing a further medical examination, or by demonstrating a satisfactory standard of driving by successfully undertaking a Driving Standards Agency Test. Any action required of the licence holder would be specified on the notice of suspension.*

In the interests of ensuring the safety of the travelling public the Members of the Licensing & Enforcement Committee, Licensing & Enforcement Sub-Committee and Council Officers will take any action they deem appropriate depending on the merits of the individual case. This may include requiring an applicant or licence holder to undergo any further examination or test (at their expense) as they deem fit, and in the case of an existing licence holder, suspending their licence pending the outcome of any such examination or test. In cases where licences are suspended or

conditions imposed a right of appeal is available as detailed at section 5 of this document.

2.7 Each case on its merits

The test that must be applied is that on the balance of probabilities, is the licence holder or applicant a fit and proper person to hold a licence. Or in other words, would the safety of the travelling public be put at risk if the applicant/licence holder was permitted to retain or obtain a licence.

When reaching a decision each case will be treated on its merits. Factors that may be considered include:

- Any offences, cautions of fixed penalties received. When considering an offence the Council may also consider the following:
 - Details of the offence.
 - Severity of the sentence imposed,
 - Nature of the sentence imposed i.e. did the sentence aim to reform the individual such as a drink driving course or community service order.
 - The Court that tried the offence i.e. was it an offence that could have been heard in a Magistrates' Court but was referred to Crown Court due to the particular circumstances of the offence or did the offender elect for Crown Court trial, as of right.
 - Any history of good conduct since the offence, or character references from credible persons/agencies involved **(these must be supplied by the applicant/licence holder)**.
- Any representations made, or supporting information provided by the applicant, including evidence from witnesses.
- Gloucester City Council's policy on the relevance of convictions.
- The licence holder's rights under the European Convention on Human Rights.
- Any complaints made against the licence holder.
- The licence holder's actions following any complaint/offence.
- Any breach of licence conditions or Council policy.
- Any warning letters issued to the licence holder.
- Any penalty points received under the Council's penalty point system
- Any other relevant information.

It is for the applicant, or existing licence holder (if under review) to prove they are a "fit and proper person" to hold a licence. **Any supporting information that may help their case must be produced to the Council in order for it to be considered.**

3 Guidelines on the relevance of convictions (**Relevance of Convictions Policy**)

The Council's policy on the relevance of convictions, cautions and fixed penalties is as follows (the following policy applies to new applicants and existing licence holders):

Any changes in legislation will be dealt with as appropriate.

3.1 Each case will be decided on its own merits.

The overriding consideration must be the safety of the public. The council has a duty to ensure so far as is possible that all applicants and licence holders are fit and proper persons to do so.

3.2 A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain:

- (a) Free of convictions for an appropriate period, and
- (b) Show evidence of good character from the time of the conviction. Simply remaining free of conviction does not necessarily provide sufficient evidence of good character.

Discretion would be appropriate where an offence is an isolated one and there are mitigating circumstances. Multiple offences or a series of offences over a period of time would give greater cause for concern and may give indications of a pattern of criminal behaviour which would need to be taken into account.

3.3 The following examples afford a general guide on the action that will be taken in relation to applicants with the following convictions:

(a) **Minor Traffic Offences**

Isolated convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, etc., should not prevent a person from proceeding with an application. However the number, type and frequency of the type of offence should be taken into account. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a Hackney Carriage or Private Hire Drivers Licence may be granted after its restoration but a warning should be issued as to future conduct.

(b) **Major Traffic Offences**

An isolated conviction for a major traffic offence should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 ~~7~~ years free from convictions has elapsed.

The following traffic offences are considered to be major:

- ~~AC10 Failing to stop after an accident~~
 - ~~AC20 Failing to give particulars or to report an accident within 24 hours~~
 - ~~AC30 Undefined accident offences~~
 - ~~BA10 Driving while disqualified by order of court~~
 - ~~BA20 Attempting to drive while disqualified by order of court~~
 - ~~BA40 Causing death by driving while disqualified~~
 - ~~BA60 Causing serious injury by driving while disqualified~~
 - ~~CD10 Driving without due care and attention~~
 - ~~CD20 Driving without reasonable consideration for other road users~~
 - ~~CD30 Driving without due care and attention or without reasonable consideration for other road users~~
 - ~~CD40 Causing death through careless driving when unfit through drink~~
 - ~~CD50 Causing death by careless driving when unfit through drugs~~
 - ~~CD60 Causing death by careless driving with alcohol level above the limit~~
 - ~~CD70 Causing death by careless driving then failing to supply a specimen for analysis~~
 - ~~CD80 Causing death by careless or inconsiderate driving~~
 - ~~CD90 Causing death by driving: unlicensed, disqualified or uninsured drivers~~
 - ~~DD10 Causing serious injury by dangerous driving~~
 - ~~DD40 Dangerous Driving~~
 - ~~DD60 Manslaughter or culpable homicide while driving a vehicle~~
 - ~~DD80 Causing death by dangerous driving~~
 - ~~DD90 Furious driving~~
 - ~~DR10 Driving or attempting to drive with alcohol level above the limit~~
 - ~~DR20 Driving or attempting to drive while unfit through drink~~
 - ~~DR30 Driving or attempting to drive then failing to supply a specimen for Analysis~~
 - ~~DR31 Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity~~
 - ~~DR40 In charge of a vehicle while alcohol level above limit~~
 - ~~DR50 In charge of a vehicle while unfit through drink~~
 - ~~DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive~~
 - ~~DR61 Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive~~
 - ~~DR70 Failing to provide specimen for breath test~~
 - ~~DR80 Driving or attempting to drive when unfit through drugs~~
 - ~~DR90 In charge of a vehicle when unfit through drugs~~
 - ~~DG10 Driving or attempting to drive with drug level above the specified limit.~~
 - ~~DG40 In charge of a vehicle while drug level above specified limit~~
 - ~~DG60 Causing death by careless driving with drug level above the limit~~
 - ~~IN10 Using a vehicle uninsured against third party risks~~
 - ~~LC20 Driving otherwise than in accordance with a licence~~
 - ~~LC30 Driving after making false declaration about fitness when applying for a licence~~
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~~LC40~~ Driving a vehicle having failed to notify a disability
~~LC50~~ Driving after a licence has been revoked or refused on medical grounds
~~MS10~~ Leaving a vehicle in a dangerous position
~~MS20~~ Unlawful pillion riding
~~MS30~~ Play street offences
~~MS50~~ Motor racing on the highway
~~MS60~~ Offences not covered by other codes
~~MS70~~ Driving with uncorrected defective eyesight
~~MS80~~ Refusing to submit to an eyesight test
~~MS90~~ Failure to give information as to identity of driver etc
~~MW10~~ Contravention of special roads regulations (excluding speed limits)
~~PC10~~ Undefined contravention of pedestrian crossing regulations
~~PC20~~ Contravention of pedestrian crossing regulations with moving vehicle
~~PC30~~ Contravention of pedestrian crossing regulations with stationary vehicle
~~UT50~~ Aggravated taking of a vehicle

Aiding, abetting, counselling or procuring
Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)

Causing or permitting
Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)

Inciting
Offences as coded above, but with 0 changed to 6 (e.g. IN16 becomes IN16)

(i) — Hybrid Traffic Offences

Hybrid Offences are borderline of being considered major Offences depending on how many points are obtained. Offences of the type listed below will be treated as major traffic offences if four or more penalty points were imposed for the offence.

~~CU10~~ Using vehicle with defective brakes
~~CU20~~ Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
~~CU30~~ Using a vehicle with defective tyre(s)
~~CU40~~ Using a vehicle with defective steering
~~CU50~~ Causing or likely to cause danger by reason of load or passengers
~~CU80~~ Using a mobile phone while driving a motor vehicle
~~SP10~~ Exceeding goods vehicle speed limit
~~SP20~~ Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
~~SP30~~ Exceeding statutory speed limit on a public road
~~SP40~~ Exceeding passenger vehicle speed limits
~~SP50~~ Exceeding speed limit on a motorway
~~SP60~~ Undefined speed limit offence

Aiding, abetting, counselling or procuring

~~Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)~~

~~Causing or permitting~~

~~Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)~~

~~Inciting~~

~~Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)~~

~~**(c) 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 these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.~~

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

~~**(d) Drugs**~~

~~An applicant or existing licence holder with a 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 free of convictions before an application or re-application is entertained, or 5 years after detoxification treatment if he/she was an addict.~~

~~Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence holder will not be granted until at least 5 years have elapsed since completion of any sentence imposed.~~

~~The nature, quantity and class of drugs will be taken into account. Each case will be considered on its own merit.~~

~~**(e) 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 any 'barred' list.~~

~~**(i) 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 exploitation, grooming, psychological, emotional or financial abuse.~~

~~**(f) — 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.~~

~~**(i) — 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.~~

~~**(ii) — Possession of a weapon**~~

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

~~**(g) — Dishonesty**~~

~~Hackney carriage and private hire drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become “fair game” for an unscrupulous driver.~~

~~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.~~

~~Any dishonesty by any applicant or the other person on the applicants behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.~~

~~**(h) — Hackney Carriage and Private Hire Offences**~~

~~Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use),~~

~~a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.~~

~~**(i) — Vehicle construction of use offences**~~

~~Where an applicant has a conviction for any offence which involved the use of a vehicle (including Hackney Carriages or Private Hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.~~

~~**(j) — Offences of 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.~~

~~**(k) — Other Miscellaneous Offences**~~

~~These could include local authority offences, byelaw offences, nuisance offences etc. which although may not be directly relevant to hackney carriage and private hire licensing would demonstrate a feckless or irresponsible attitude and should not be discounted lightly. Each case would need to be assessed on an individual basis and although they may not necessarily debar an applicant from receiving a licence a strict warning should be given.~~

~~**(l) — Spent Convictions**~~

~~The Council will only consider spent convictions if it appears to be relevant for deciding whether the applicant is a fit and proper person to hold a licence and that full consideration for determining the application cannot be given except by admitting or requiring evidence relating to that spent conviction.~~

~~**(m) — Cautions and Endorsable Fixed Penalties**~~

~~For the purposes of these guidelines formal cautions and endorsable fixed penalties shall be treated as though they were convictions.~~

GLOUCESTERSHIRE LICENSING AUTHORITIES – TAXI AND PRIVATE HIRE CONVICTIONS POLICY

INFORMATION FOR APPLICANTS AND EXISTING LICENCE HOLDERS

- 1. This policy is intended to provide guidance on determining suitability of new applicants and existing licence holders where the applicant or licence holder has been convicted of a criminal or driving offence.**
 - 2. The policy lists the types of offences that may give concern to the Licensing Authority. For the more serious offences the expectation is that an application will be refused or an existing licence holder will have their licence revoked. For other**
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offences the policy gives the times scales that it is expected will have elapsed since the conviction before an application will be granted.

3. The Policy states that each case will be treated on its own merits. Where an applicant or Licence Holder has an offence listed in this policy it will not necessarily mean an automatic barring or revocation. However, the applicant or licence holder can expect that their application or licence will be put before a Licensing Sub-Committee for consideration who will take account of this policy. The obligation will on the applicant or licence holder to put forward reasons and/or evidence in support of their case for the Licensing Sub-Committee to consider.
4. If an application is refused or a licence is revoked the applicant or licence holder will have right of appeal to the Magistrate's Court. The application to the Magistrates Court should be made within 21 days of the applicant or licence holder being notified by the Licensing Authority of the decision to refuse or revoke.
5. Where a licence holder is convicted of an offence where the Licensing Authority believes that the safety of the public may be at immediate risk, the licence may be suspended/revoked with immediate effect. The licence holder will have right of appeal to the Magistrates Court against a suspension issued with immediate effect however they may **not** use the licence until any decision is made by the Court
6. Existing licence holders that have been granted licences previous to this policy coming into effect may have convictions on their record that fall within the timescales within this policy. The Licensing Authority will have made decisions on those licences based on policies in place at the time where the timescales may have been lesser or those offences not included. It is not reasonable that those licences should be automatically be revoked. The Licensing Authority will review all existing licences in light of this policy and where the Licensing Authority has concerns about a particular licence holder and/or there are further offences, breaches or complaint, the licence holder may be reviewed by a Licensing Sub-Committee who will take into account all matters including any previous offences that may now fall within this current policy. In particular, serious account will be taken of any history of safeguarding matters. Where appropriate, existing licence holders may be requested to apply for a new enhanced DBS certificate in order that the Council can review historic offences in line with this policy.

OVERVIEW

7. The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must have the confidence that the driver is safe and suitable.
 8. Taxi legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence. If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
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9. These guidelines apply to all new applications for a taxi or private hire driver licence and all licensed taxi and private hire drivers.
 10. In addition, where relevant, they will also be applied to taxi and private hire vehicle licence applicants and licence holders, and private hire operator licence applicants and licence holders. Where such applicants and licence holders are not applying for, or already hold a taxi or private hire driver licence they will be required to provide a basic criminal conviction checks on application and then at regular intervals. The Licensing Authority will take account of any current criminal convictions showing on the basic criminal conviction check, or criminal conviction received, in accordance with this policy.
 11. Taxi 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 private hire vehicle licence.
 12. This policy is based on the Statutory Taxi and Private Hire Vehicle Standards issued by the Department of Transport in July 2020, Annex - Assessment of Previous Convictions. <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>
 - 13. The Licensing Authority will consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.**
 14. In each case appropriate weight should be given to the evidence provided. This will include assessing the risk of re-offending and harm.
 15. The Licensing Authority will be looking at the entirety of the individual when making the decision whether an applicant or licence holder is a safe and suitable person. Time periods are relevant and weighty considerations, but they are not the only determining factor. Other factors that the Licensing Authority will take into account when making a decision include but are not exhaustively:
 - Relevance and date of the offence
 - Sentence imposed by the court
 - Age of person and circumstances when the offence was committed
 - Subsequent periods of good behaviour
 - Overall conviction history
 - Any history of complaints made to the Licensing Authority against an existing licence holder. Unproven complaints may in some circumstances be taken into account if it is considered that there is a strong likelihood that the complaints are justified and the nature and/or number of complaints raise concern regarding suitability of applicant
 - Whether the applicant has intentionally misled the Licensing Authority or has lied as part of the application process
 - Information provided by other agencies or other services at the Licensing Authority. This may include information disclosed by the Police or Safeguarding Services
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- Any other matters that are relevant
16. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime.
 17. A caution is regarded in exactly the same way as a conviction.
 18. Fixed penalties and community resolutions will also be considered in the same way as a conviction.
 19. Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered
 20. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. 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.
 21. It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered.
 22. Within this document, any reference to “conviction” will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
 23. In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
 24. Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
 25. In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
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26. It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
27. Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
28. Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
29. These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person.
30. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

OFFENCES

Crimes resulting in death

31. 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 (where there was an intention or strong likelihood of death) of another person they will not be licensed. A licence holder who is convicted of the above will have their licence revoked.

Exploitation

32. 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, financial abuse, domestic abuse, harassment and stalking but this is not an exhaustive list.

Offences involving violence against the person

33. Licensed drivers have close regular contact with the public who could be at risk from violent behaviour. Drivers are often entrusted with the care of children,
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young persons and vulnerable adults. The Licensing Authority seeks to protect the safety of the public and minimise risk.

34. Where an applicant has a conviction for an offence of violence against the person, 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. A licence holder convicted of the above will have their licence revoked

Examples of Violent offences include (this is not an exhaustive list)

- a. Arson
- b. Malicious wounding or grievous bodily harm
- c. Actual bodily harm
- d. Grievous bodily harm with intent
- e. Robbery
- f. Riot
- g. Assault Police
- h. Any racially aggravated assault
- i. Violent disorder
- j. Resisting arrest
- k. Common assault/battery
- l. Affray
- m. Obstruction

Possession of a weapon

35. 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 seven years have elapsed since the completion of any sentence imposed. A licence holder convicted of the above will have their licence revoked

Sexual offences

36. As licensed drivers often carry unaccompanied and vulnerable passengers, the Licensing Authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences should be considered as serious.

37. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. A licence holder convicted of the above will have their licence revoked

38. 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. A licence holder who goes on any of the above will have their licence revoked

39. Sexual/Indecency Offences include (this is not an exhaustive list)

- a. Rape
 - b. Assault by penetration
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- c. Offences involving children or vulnerable adults
- d. Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
- e. Making or distributing obscene material
- f. Possession of indecent photographs depicting child pornography.
- g. Sexual assault
- h. Indecent assault
- i. Exploitation of prostitution
- j. Soliciting (kerb crawling)
- k. Making obscene / indecent telephone calls
- l. Indecent exposure
- m. Any similar offences (including attempted or conspiracy to commit) offences

40. Any licence holder charged with, convicted or issued with a formal caution for any of the offences mentioned above should expect to have their licence revoked with immediate effect.

Dishonesty

41. Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways. In certain situations, drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station. For these reasons convictions of dishonesty are treated very seriously

42. Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. A licence holder convicted of any of the above will have their licence revoked

43. Dishonesty offence includes (this is not an exhaustive list)

- a. Theft
- b. Burglary
- c. Fraud
- d. Benefit fraud
- e. Handling or receiving stolen goods
- f. Forgery
- g. Conspiracy to defraud
- h. Obtaining money or property by deception
- i. Other deception
- j. Any similar offence

Drugs

44. 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.
45. 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 five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs. A licence holder convicted of the above will have their licence revoked

Discrimination

46. Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. A licence holder convicted of the above will have their licence revoked
47. Examples of Discrimination offences include (this is not exhaustive list)
 - a. Racially aggravated common assault
 - b. Any racially-aggravated offence against a person or property.
 - c. Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
 - d. Offences under Equality Act 2010
 - e. Any offence considered as hate crime. Hate crime is any criminal offence which is perceived by the victim, or anybody else, to be motivated by hostility or prejudice towards someone's: race, religion, sexual orientation, transgender identity, disability.

Motoring convictions

48. 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.
 49. For the purposes of this policy a minor traffic offence is one where the DVLA has imposed no more than 3 penalty points on the applicant's DVLA driving licence for the offence. A major conviction is one where the DVLA has imposed more than 3 penalty points on the applicant's DVLA driving licence for the offence. There is more information about endorsement codes and penalty points on the Government's website. <https://www.gov.uk/penalty-points-endorsements/endorsement-codes-and-penalty-points>
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50. For the purposes of this policy, a 'valid' traffic offence is the same definition as used by the DVLA. Points that stay on a DVLA licence for 4 years are 'valid' for 3 years. Points that stay on a DVLA driving licence for 11 years they are 'valid' for 10 years. There is more information on the Government's website <https://www.gov.uk/penalty-points-endorsements/how-long-endorsements-stay-on-your-driving-licence>
51. Where an applicant has more than one minor traffic offence a licence would be refused whilst the relevant points remain 'valid' on their driving licence.
52. Where an applicant has a major conviction the application will be refused whilst the relevant points remain 'valid' on their driving licence.
53. Any motoring conviction while 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 private hire vehicle driver licence providing the Licensing Authority considers that the licensee remains a fit and proper person to retain a licence.
54. Where there is a second occurrence of a minor traffic offence, whilst the first minor traffic offence is valid, or a single occurrence of a major traffic offence of up to 6 points, a licence holder can agree to complete a driving assessment, at their own expense, through an approved provider, as an alternative to a review/revocation of their licence by a Licensing Sub-Committee
55. Where a licence holder has more than 6 valid penalty points for driving offences their licence will be revoked.

Drink driving/driving under the influence of drugs

56. 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 seven 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 may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs. A licence holder convicted of the above will have their licence revoked

Using a hand-held device whilst driving

57. 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 five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later. A licence holder convicted of the above will have their licence revoked.
 58. Where the offence is dealt with as driving offence and penalty points have been imposed on a DVLA licence, the licence will not be granted until at least four
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years have passed. This is the length of time these points remain current of the DVLA licence. A licence holder who has had penalty points imposed on their DVLA licence for using a held-hand mobile telephone or a hand-held device, will have their licence revoked.

Hackney Carriage and Private Hire Offences

59. Where an applicant has any offences under any relevant hackney carriage or private hire legislation a licence will not be granted until at least 7 years have elapsed since the conviction. A licence holder convicted of the above will have their licence revoked

4. Licensing & Enforcement Committee and Licensing & Enforcement Sub-Committee

Applicants or existing drivers may be referred to the Licensing & Enforcement Committee or Licensing & Enforcement Sub-Committee for their application/suitability to be considered. The Sub-Committee panel consists a minimum of three to a maximum of seven members. Prior to a hearing the licence holder or applicant will be advised of the date, time and place of the hearing and of their right to attend and be represented should they wish. A copy of the committee report will be supplied to them prior to the hearing.

4.1 Right to be Represented

Applicants or licence holders are entitled to be represented at a Committee hearing. Any such representative does not need to be legally trained. However should an applicant/licence holder decide to use a representative who is not legally trained they do so at their own risk. Given, in the case of an existing licence holder, their livelihood may be at stake the Council would recommend that any person going before a Committee gives serious consideration to seeking legal representation or advice.

Non-legal representatives may give character references of the applicant. Written character references will also be accepted.

4.2 Interpretation Services

Interpretation services are available for Committee hearings. If an applicant or licence holder requires this service they should advise the Officer dealing with their case of the required language at their earliest convenience in order for the necessary arrangements to be made.

An applicant/licence holder may provide their own interpreter. The Council will accept any such representative and assume they are fully qualified to perform the role.

4.3 Exclusion of the Public

In view of the nature of any such hearing and the personal facts that may emerge, the hearing will be conducted with the press and public excluded. Pursuant to Section 100A(4) of the Local Government Act 1972 (as amended), the public would be excluded on the grounds that the matter involves the likely disclosure of exempt information as defined in Section 100 of the Local Government Act 1972 (as amended). Only those permitted by the applicant or licence holder will be allowed to remain in the room.

4.4 Recommended Procedure

The Chair of the Committee will open the hearing stressing the Committee's independence and outlining the procedures which will be followed. The Committee can regulate the conduct of the hearing as it wishes, so long as it is acting fairly and reasonably to the parties thereto.

The recommended committee procedure is as follows:

- i. The Council's report is presented by the Group Manager, Environmental Health and Regulatory Services or other authorised Officer.
 - ii. The Officer is questioned by the applicant/licence holder (or representative) and then by Members of the Committee if any points need clarification.
 - iii. The Chair invites the applicant/licence holder (or representative) to present his case.
 - iv. The applicant/licence holder (or representative) can be questioned by the Council's Officers and/or Members if any points need clarification. Even if represented, the applicant/licence holder can be asked questions directly.
 - v. Any party may call witnesses of fact or character, who may be questioned by the other party and the Committee. Details should be disclosed at the earliest opportunity and 7 days prior to the Committee, if possible, to the other party and Members.
 - vi. Written evidence should be disclosed at the earliest opportunity and 7 days prior to the Committee if possible, to the other party and the Members.
 - vii. Each side must be given the opportunity to sum up if they so wish, the applicant/licence holder (or representative) speaking last.
 - viii. At the conclusion of the case the Chair will request all parties (with the exception of the Council's Legal Officer and Democratic Services Officer) to leave the room while the Committee deliberates. Alternatively, the Committee may retire to a separate room, if more convenient.
 - ix. When the Committee has reached its decision, all parties will be invited to return to be informed of the decision.
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- x. The decision will later be confirmed in writing and will include a statement of reasons for reaching that decision.

4.5 Failure to Attend

If the applicant/licence holder does not attend the hearing at the appointed time and day then the Committee can continue and consider the matter without the applicant/licence holder's presence. In such cases this will be conducted on the basis of the evidence provided by the Officer, together with any written comments received from the applicant/licence holder concerned.

4.6 The Committee's Powers

The committee has the following powers:

- i. To approve the licence / take no action;
- ii. To impose additional conditions on the licence;
- iii. To give a written warning;
- iv. To refuse / revoke the licence;
- v. For existing licence holders – to suspend the licence (pending a suitable outcome to be determined by the Committee)

4.7 Applicants/Licence Holders Rights

The applicant of licence holder has the following rights:

- i. To take legal advice at any time.
- ii. To be represented by a Solicitor or other representative during any part of the procedure. Applicant/licence holder to be responsible for all costs arising from such representation.
- iii. To produce all relevant evidence in respect of his case. However, such evidence must be disclosed to the Head of Legal Services at least 7 working days, if possible, prior to the hearing.
- iv. To ask questions of the Committee or Officers.
- v. To appeal to the appropriate Court against any decision to refuse, suspend or revoke a licence or against a licence condition.

4.8 Points to Note

- i. The Group Manager, Legal and Democratic Services, or other authorised Officer, will act as Clerk to the Committee and provide advice when needed on matters which may be raised of a legal or procedural nature, either during the hearing or before the Committee's decision is announced.
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- ii. Both sides must be given every reasonable opportunity to present their case.
- iii. In order to assist the applicant/licence holder to present his case, there should be no excessive formality about the hearing. The atmosphere should be such as to bring out all of the facts to enable the Committee to make a reasoned decision.
- iv. The Committee must not only act but must be seen to act fairly and impartially. The Committee will be acting in quasi judicial manner and must consider only the evidence which is put before it. The Committee must act reasonably on the basis of the evidence and not take into account extraneous or irrelevant facts.
- v. Applicants/licence holders must be made aware that the hearing may take a number of hours to complete and should be prepared to wait until the completion of the case before leaving. It may be that the Committee will be considering other business and several matters may be heard on the same day. This could result in several hours wait for an applicant/licence holder.

5. Rights of Appeal

In all cases where the Council:

- Refuses an application
- Refuses to renew a licence
- Suspends a licence
- Revokes a licence, or
- Imposes conditions on a licence,

the applicant or licence holder will be notified of the decision in writing, such notification will include full reasons for the decision. In any such case the applicant or licence holder will have the right of appeal to the Magistrates' or Crown Court (as appropriate). Any such appeal must be made with 21 days of receiving written notification of the Council's decision.

6. ~~Complaints Investigation Procedure~~ **Enforcement and Complaints Policy & Procedure**

~~6.1 When a complaint is lodged about any alleged improper activity on the part of a proprietor/operator or driver, a signed written statement shall be sought from the complainant. The statement shall include all relevant information in particular clearly identifying the licensee, his car and/or plate number, date, time and place of the alleged incident, and the name(s) and address(es) of any witnesses.~~

~~Complaints of a minor nature may be dealt with by telephone or visit. All complaints of a serious nature will be investigated.~~

- ~~6.2~~ Upon receipt of the written complaint, the substance thereof shall forthwith be sent to the licensee against whom the complaint is made, who shall be invited to submit a written statement answering the allegation made.
- ~~6.3~~ If the person about whom a complaint is made, has not responded to the invitation within 7 days of being so invited, then a reminder shall be sent, but after a further 7 days the complaint may be dealt with without further reference to him/her.
- ~~6.4~~ If on receipt of the licensee's reply, it appears that there is substance in the complaint, the parties involved shall be interviewed.
- ~~6.5~~ The City Improvement and Environment Manager, upon examination of all the information available shall decide which of the following courses of action he/she considers appropriate:
- ~~• To take no action,~~
 - ~~• To impose additional conditions on the licence,~~
 - ~~• To give a written warning,~~
 - ~~• To revoke the licence, or~~
 - ~~• To suspend the licence~~
- ~~6.6~~ Any written warnings shall be expunged from the licensee's record upon the expiry of 12 months following the date of issue.

Enforcement

This policy takes a risk based proportionate, targeted and flexible approach to inspection and enforcement and where appropriate will work with external agencies such as the Police.

When a potential breach or offence is identified, Licensing Officers will investigate the matter.

If it is in relation to a licensed vehicle the licence holder may be requested to bring in the vehicle for an inspection by a Licensing Officer or to take the vehicle to an MOT approved garage for a full inspection.

If it is in relation to a licensed driver or operator the licence holder may be requested to attend an interview. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage and Private Hire legislation the interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

Complaints by the Public

The public are able to make complaints to the licensing service about licensed drivers and operators. This could include such issues as offensive comments by a driver, unsafe driving, failure or lateness of attending bookings and refusal to take guide dogs.

Licensing Officers will normally ask the complainant to put their complaint in writing or by email giving details of the nature of the complaint with date, time and location if relevant.

All such complaints will be recorded and investigated and the licence holder notified. Licensing Officers may request the licence holder to attend an interview in order determine the facts. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage and Private Hire legislation that interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

Some complaints such as those alleging a serious criminal offence, traffic offence, violence or verbal abuse may be referred to the Police.

Actions that may be Taken Following Enforcement or Complaint

When deciding what action to take the Licensing Officers will consider each case on its own merits and will consider all relevant matters including:

- Seriousness of the offence, breach or complaint
- Any history of previous offences, breaches and/or complaints
- Consequences of non-compliance
- Effectiveness of any action
- Danger to the public
- In the case of an unproven allegation the seriousness of the allegation and the likelihood and risk of danger to the public

Action	Examples (but not an exhaustive list)
Take no action	<ul style="list-style-type: none"> • Breach, offence or complaint is proven to be false. • Matter is minor or unproven and there is no previous history
Verbal or written advice for example recommendation to re-take driver assessment test	<ul style="list-style-type: none"> • Matter is minor and/or due to misunderstanding by the licence holder
Verbal or written warning	<ul style="list-style-type: none"> • Complaint made by the public • Minor traffic offence • Contravention of the code of conduct or dress code
Fixed penalty notice	<ul style="list-style-type: none"> • Smoking offences in a licensed vehicle
Immediate suspension or revocation of licence	<ul style="list-style-type: none"> • Suspension of vehicle (S 68) issued when on inspection of a vehicle Officers believe that it has a defect or is potentially unsafe for passengers or the meter is defective

	<ul style="list-style-type: none"> • Suspension of driver licence (s 61 (2B) if in interest of public safety for example failing a medical, safeguarding or serious criminal allegations • Suspension of driver licence (s 61) if driver fails to provide relevant documentation by expiry e.g. DBS/Medical
Suspension of licence – 21 days notice	<ul style="list-style-type: none"> • Suspension of a vehicle licence (s60) for failure to have a Council Vehicle Inspection or provide relevant document or visual condition of vehicle is not satisfactory
Simple caution issued by authorised officer	<ul style="list-style-type: none"> • A licence holder admits to committing a less serious offence and the issuing of such a caution is likely to reduce re-offending
Review of the licence by the Licensing Sub-Committee	<ul style="list-style-type: none"> • A licence holder receives criminal conviction, police caution, major motoring offence, safeguarding concern or serious complaint or allegation • A licence holder has a history of complaints and/or offences. In the case of complaints by the public these complaints could be unproven if there is previous history of such complaints or a likelihood that the complaint is justified and the public could be at risk • A licence holder that had received more than 3 warnings from Officers for breaches of conditions, policy or legislation within a 12 month period • A licensed driver who has accumulated more than 6 current points on their driving licence • Any matter where a possible outcome is the revocation of the licence
Prosecution	<ul style="list-style-type: none"> • Using an unlicensed vehicle • Unlicensed driver driving a licensed vehicle • Unlicensed operator • Driving without valid insurance • Refusing to carry a guide dog • Exceeding the number of passengers on the plate

Review of the Licence by the Licensing Sub-Committee

The licence holder will be invited to a Licensing Sub-Committee meeting. The licence holder will be given reasonable notice of the meeting. However if the licence holder does not attend without reasonable cause the panel may undertake the review in his/her absence. The licence holder may bring another person with them to the review to support or represent them or they may wish to put comments in writing for the panel to consider. After considering all the facts the panel may take any action they feel appropriate. Below is a list of possible actions.

- No action
 - Oral or written warning
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- Requirement to take action within a time period for example recommendation to take an anger management course, safeguarding or disability awareness training, speed awareness course or driving assessment
- Suspend the licence until an action or requirement has been met
- Suspend the licence for a period of time as a deterrent to ensure future compliance
- Revoke the licence
- Recommend a simple caution
- Recommend prosecution

Right of Appeal

A licence holder has a right of appeal to the Magistrates Court for any decision by the Council to refuse, suspend or revoke a driver, vehicle licence or operator licence or against any conditions added to a licence. This appeal must be made within 21 days of the notification of the Council's decision.

There is an exception to the above right of appeal in the case of a decision to refuse to grant a Hackney Carriage vehicle licence. In this case the right of appeal is to the Crown Court.

There is no right of appeal against an immediate suspension of a vehicle licence (s68).

7. Penalty Point System for Hackney Carriage and Private Hire Drivers

Gloucester City Council operates a Penalty Points system, which is designed to support the aims and objectives of the Council in that all operators, drivers and vehicle proprietors maintain the high standards required of them at all times.

The aim of the penalty point system is to work in conjunction with other enforcement options. It provides a formalised stepped enforcement plan. The purpose of the scheme is to record misdemeanours and to act as a record of a licence holder's behaviour and conduct so as to ascertain whether they are a fit and proper person. It does not prejudice the Council's ability to take other actions.

A driver or operator accumulating more than 12 points in any rolling 12 month period will be referred to the Licensing & Enforcement Sub-Committee of the City Council for consideration of disciplinary action.

7.1 Policy

The Penalty Points Scheme operates as follows:

The City Council's Enforcement Policy will be fully considered by the Licensing & Enforcement Officer when determining the manner in which any breach of legislation or the requirements of this Policy are dealt with. Where it is decided that the use of the penalty points system is appropriate, the points will be issued in accordance with this policy. Where the policy allows a range of points for a particular incident, the Licensing & Enforcement Officer will determine the appropriate number of points proportionate to the offence.

Before any penalty points are issued, there must be sufficient evidence to prove the offence or breach of licensing requirements.

Points issued to a licence holder will be confirmed, in writing, within 21 working days. Any appeal should be submitted, in writing, within 21 working days to the City Centre Improvement Officer (Licensing Lead) at the following address:

Licensing Team
PO Box 3252
Gloucester
GL1 9FW

Or via email to licensing@gloucester.gov.uk

If after considering any such appeal the Licensing Team Leader determines that the points issued were done so as a result of a valid complaint then they will have the discretion to award a greater number of points than displayed on the tariff.

When issued, penalty points will remain 'live' for a rolling 12 month period.

A maximum of 12 penalty points will be issued on any one occasion, which will result in an immediate referral to the Licensing & Enforcement Sub-Committee. However, the Sub-Committee will be advised of the extent of the offences, should they have potentially attracted a higher points total.

If a licence holder accumulates 12 or more points in any rolling 12 month period, they will be required to attend a disciplinary hearing with the Licensing & Enforcement Sub-Committee, for the appropriate action to be taken in accordance with this policy.

Where a licence holder or applicant is brought or appears before a Licensing & Enforcement Sub-Committee, the Committee will have all options detailed at section 2.6 of this document available to them.

Licence holders and applicants retain the right to be represented, legally or otherwise at any Licensing & Enforcement Committee or Licensing & Enforcement Sub-Committee meeting and to state any mitigating circumstances they deem necessary. It is strongly recommended that any licence holder or applicant before the committee reads all relevant sections of this document prior to the hearing in order that they are fully aware of their rights and the committee's powers.

The penalty points system will operate without prejudice to the Council's ability to take other action under other appropriate legislation.

Licensing and Enforcement Officers may award half of the maximum points on a first offence, unless it is a legal Offence under the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976 where maximum points will be awarded.

7.2 Points

Points may be awarded for the following offences/breaches of conditions:

	Offence/Breach of Condition	Maximum* Points Applicable	Driver	Vehicle Owner or Operator
1	Providing false or misleading information on licence application or renewal, or failing to provide any relevant information.	12	X	X
2	Carrying more passengers than stated on vehicle licence	12	X	
3	Failure to display vehicle licence plates	4	X	X
4	Failure to wear drivers badge	4	X	
5	Failure to display tariff card where meter installed	4	X	X
6	Failure to maintain tyres, lights, wipers, exhaust, bodywork etc in good order. (multiple points may be awarded for a number of breaches i.e. more than one bald tyre)	6	X	X
7	Failure to display roof sign (HCV only)	4	X	X
8	Failure to carry working fire extinguisher of correct type and size	4	X	X
9	Failure to carry adequate first aid kit	4	X	X
10	Unsatisfactory condition of vehicle, interior or exterior	4	X	X
11	Failure to display bus lane stickers (PHV only)	4	X	X
12	Displaying unauthorised signs	4	X	X
13	Changes to specification, design or appearance of a vehicle without prior approval	4	X	X
14	Failure to notify of change of address in writing within seven days	4	X	X
15	Failure to notify of any caution, conviction or fixed penalty within seven days of being formally notified of any such charge or/and of conviction	6	X	X
16	Refusing to carry assistance dog without requisite exemption	12	X	
17	Refusing to take a fare without reasonable cause	12	X	X
18	Charging more than the agreed or metered fare	6	X	X
19	Failure to notify of change in medical circumstances	12	X	
20	Smoking in a licensed vehicle this also	6	X	X

	includes E-Cigarettes, E-Liquid and any vaping products.			
21	Failure to pay a Fixed Penalty Notice for smoking in a licensed vehicle	4	X	X
22	Unreasonable prolongation of journey or any misconduct regarding the charging of fares	6	X	
23	Private hire driver plying for hire	12	X	
24	Using unlicensed vehicle	12	X	X
25	Failure to produce a 6 monthly vehicle inspection	6		X
26	Failure to produce vehicle for testing or inspection when required/requested	6		X
27	Failure to notify of an accident within 72 hours (where accident causes damage to vehicle materially affecting safety, performance or appearance of vehicle)	4		X
28	Carrying an offensive weapon in vehicle	12	X	
29	Failure to notify of a transfer of ownership of licensed vehicle	4		X
30	Obstruction of authorised officer or police officer	12	X	X
31	Displaying any feature on a private hire vehicle that suggests it is a hackney carriage vehicle (taxi)	6	X	X
32	Using a vehicle the appearance of which suggests that it is a taxi	6	X	X
33	Failure to meet standards of dress or appearance	4	X	
34	Unsatisfactory behaviour or conduct to customers, other road users, Licensing and Enforcement Officers and elected members.	12	X	X
35	Failure to issue receipt on request	12	X	X
36	Failure to provide reasonable assistance with loading/unloading of luggage	12	X	
37	Failure to offer reasonable assistance to passengers with a disability	12	X	
38	Failure to attend punctually at appointed time and place without reasonable cause	4	X	X
39	Any other reasonable cause	6	X	X
40	Failure to produce any relevant document within timescale on request	6	X	X
41	Failure to produce or allow inspection of records (operator)	6		X
42	Failure to keep records in prescribed form (operator)	4		X
43	Failure to honour booking without just	4		X

	cause			
44	Misleading use of the words 'Taxi' or 'Cab' on advertising materials for private hire	4		X
45	Driving whilst using a mobile phone eg making a call or texting when not using blue tooth or hands free	12	X	
46	Must comply with all traffic regulations and legislation in force	6	X	X
47	Leaving a Hackney Carriage Vehicle unattended on a designated rank longer than 15 minutes	6	X	
48	Leaving your vehicle unattended on a double yellow area, waiting or stopping on a bus stop or private land (without the owner's permission) unless requested by a paying customer present in the vehicle.	6	X	X
49	Failure to behave in a civil and orderly manner.	6	X	X
50	Issues of cleanliness of interior or exterior of vehicle	3	X	X
51	Seats not cushioned or covered properly	3	X	X
52	A private hire vehicle waiting or entering a designated Hackney Carriage rank	12	X	X
53	Failure to display approved door signs	6	X	X
54	Leaving your Hackney Carriage or Private Hire Vehicle idling	6	X	X

Crosses indicate the potential recipients of penalty points for infringements. Certain infringements may result in both drivers, proprietors or operators receiving penalty points. Points can be awarded to one or several persons depending upon the nature of the infringement however each case will be determined on its own merits.

Certain matters are specific to certain types of licence.

*by Officers. If the matter is referred to the Licensing & Enforcement Sub-Committee they may impose any number of points they deem necessary.

8 Table of delegations

Matter to be dealt with	Full Committee	Sub-Committee	Licensing Officers
Full policy review	All cases		
Application for driver's licence, with no convictions			All cases
Application for driver's licence, with relevant convictions		Cases where referral for determination required, other than traffic offences	Cases in relation to traffic offences
Suspension of driver's licence (public safety)		All cases where referral for determination required	
Revocation of driver's licence (public safety, immigration)		Cases where referral for determination required	Cases where immediate effect required
Application for vehicle licence			All cases
Suspension of vehicle licence (public safety)			All cases with a reasonable cause
Revocation of vehicle licence (public safety)		Cases where referral for determination required	Cases where immediate effect required
Application for operator's licence			All cases
Application for operator's licence, with relevant convictions		All cases where referral for determination required	
Suspension of operator's licence (public safety)		All cases where referral for determination required	
Revocation of operator's licence (public safety)		Cases where referral for determination required	Cases where immediate effect required
Assistance dogs in taxis: exemption certificate request forms			All cases

Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases
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