

Hackney Carriage and Private Hire Vehicle Proprietors, Drivers, and Private Hire Vehicle Operators

Guidelines ~~Relating to Relevance of Convictions and Breaches of Licence Conditions on Fitness and Propriety~~

1.0	Purpose of Guidelines
1.1	Licensing issues are dealt with by both Councillors and employees. Employee is defined <u>in the scheme of delegations as authorised by the Regulatory Committee to include Head of Business Services, Licensing Services Manager, Service Managers from within Governance Services, Section Leaders from Licensing Services.</u>
1.2	This document provides guidance outlining how drivers/proprietors of hackney carriages and private hire vehicles and <u>private hire vehicle operators (operators)</u> can expect to be treated. In particular, but not exclusively it will affect: <ul style="list-style-type: none"> • Applicants for driver's licences. • Applicants for operator's licences. • Applicants for vehicle licences • Existing licensed drivers, operators and vehicle proprietors whose licences are being renewed or reviewed. • Magistrates hearing appeals against Local Authority decisions.
1.3	Whilst employees and Councillors will have regard to the guidelines, each case will be considered on its individual merits, and where reasonable, the Employees/Committee may depart from the guidelines.
1.4	Any decision to suspend, revoke, refuse to grant or renew a licence will be applied to an applicant/licence holder who is considered not to be a 'fit and proper' person <u>to drive hackney carriages or private hire vehicles. Person includes limited companies and partnerships.</u> The application of the Human Rights Act will be considered carefully and balanced against the overriding consideration to protect the public.
1.5	The <u>Licensing Regulatory Committee (Committee)</u> is concerned to ensure: <ul style="list-style-type: none"> • That a person is a fit and proper person. • That a person does not pose a threat to the public. • That the public are safeguarded from dishonest persons. • The safeguarding of children, young and vulnerable persons.
1.6	Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant

for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operator's licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:

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

Whilst convictions are to be discussed, the hearing is not an opportunity for the matter to be "re-heard". A conviction shows that the person has been found guilty of the offence. If the person disagrees with this, the conviction needs to be appealed to the courts.

- 1.7 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allows the local authority to suspend, revoke or refuse to renew a licence for failure by the licence holder 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 to include where an applicant/licence holder has any convictions, warnings, cautions or charges awaiting trial for offences or behaviour outlined in the guidance and matters referred to in the list above at 1.6 can be considered.
- 1.8 In determining whether a person is fit and proper the licensing authority is entitled to take into account all matters concerning that applicant or licensee. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour and the entire character of the individual will be considered. This can include, but is not limited to, the individual's attitude and temperament.
- 1.9 The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, allows the local authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore, the local authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 1.10 In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.
- 1.11 In this policy the term 'imprisonment' or prison sentence refers to any period of detention resulting in loss of liberty.
- 1.12 In appropriate circumstances a suspension, refusal to renew or revocation may be abated by the licence holder demonstrating to the satisfaction of the Council that

they have successfully completed and passed appropriate training which should be evidenced in writing to the Council.

- 1.13 A caution is regarded in exactly the same way as a conviction. This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution. Fixed penalties and community resolutions will also be considered in the same way as a conviction. This is because payment of a fixed penalty indicates acceptance of guilt and a community resolution can only be imposed following an admission of guilt.
- 1.14 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. We are able to do this because the processes in which the applications are determined are a civil process and decisions are based on the balance of probability.
- 1.15 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination **may** 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.
- 1.16 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.
- 1.17 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 or failure to disclose in full information requested by the licensing authority, to include on the application for a licence) will normally result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 1.18 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 1.19 A driver has responsibility for the safety of their passengers, and significant control over passengers who are in the vehicle. As those passengers may be alone and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

Decision officers will use the following test to determine whether a driver licence applicant or holder is fit and proper:

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.

Private Hire Vehicle Operators

- 1.20 A private hire vehicle operator ("an operator") in performing their duties obtains and holds considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others or used by the operator or their staff for criminal or other unacceptable purposes.
- 1.21 Operators shall ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria, that may lead to the operator's licence being revoked.

Decision officers will use the following test to determine whether a private hire vehicle operator licence applicant or holder is fit and proper:

Without any prejudice, and based on the information before you, would you trust this person to correctly administer their business, protect their customers and personal data, employ fit and proper workers, identify risks affecting those workers and others, then implement measures to reduce those risks, as well as not using the licence to facilitate illegal activities?

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

Vehicle Proprietors

- 1.22 Vehicle proprietors must ensure that the vehicle is maintained to an acceptable standard at all times and they must ensure that the vehicle is not used for illegal or illicit purposes.

Decision officers will use the following test to determine whether a vehicle licence applicant or holder is fit and proper:

Without any prejudice, and based on the information before you, would you trust this person to maintain a mechanically safe and insured vehicle used only for legal purposes?

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

2.0	Relevant Convictions, Cautions/Fixed Penalties/Community Resolutions / Offence(s) and all relevant information received
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2.1 New Applicants

2.1.1 A conviction/caution or relevant information relating to the alleged committing of an offence falling within any of the categories outlined in Section 5.0 of this document will result in a new applicant for a hackney carriage or private hire vehicle driver's/operator's licence being referred to the employees to determine the application.

2.2 Existing Licence Holders

2.2.1 A conviction/caution or relevant information relating to the alleged committing of an offence falling within any of the categories outlined in Section 5.0 of this document will result in an existing hackney carriage or private hire driver's/proprietor's/operator's licence being referred to employees to determine a course of action detailed in Section 5.0 below. (In the event of a serious breach or allegation in respect of a licensed operator, the matter will be referred to ~~Licensing~~ Committee for consideration).

2.2.2 In cases where it is in the interests of public safety, the employees or Councillors may suspend, or revoke a driver's licence with immediate effect following a review. In such cases a statement that this is so and an explanation will be given as to why it is in the interests of public safety to suspend, or revoke immediately and suspension/revocation takes effect when the notice is given to the driver.

3.0	Complaints
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3.1 A complaint relating to the conduct of ~~an operator, hackney carriage driver, private hire vehicle driver, proprietor of a hackney carriage or proprietor of a private hire vehicle licensee~~ may, depending on the severity of the allegations, result in a written warning, ~~or~~ suspension, ~~refusal to renew~~ ~~or~~ ~~revocation~~ of the licence.

4.0	Further Guidance
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4.1 Where an application is made for a new licence, and the applicant has previously held a hackney carriage or private hire drivers, proprietors or operator's licence or on review of an existing licence and relevant convictions have previously been considered in decision making by the Local Authority in connection with any further or existing licence any decision on a new application or on review will normally be made by the employees or ~~Licensing~~ Regulatory Committee, with reliance only on any relevant convictions, ~~cautions~~ or behaviour which have arisen since any previous application or review. However, there will be occasions when previously considered convictions, ~~cautions~~ or behaviour will be of value and can be referred to in order to indicate a pattern of behaviour which may result in them again being considered in decision making particularly if they ~~conviction(s) is/are~~ of a similar nature to those which have arisen since any previous application or review.

Patterns of repeated unacceptable behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for unacceptable behaviour.

- 4.2 Normally an applicant or licence holder whose application/licence is subject to a formal review hearing will be advised in writing and/or by email of the date and time of the meeting. ~~He or she has~~ They have the right to appear in person at the hearing to give verbal or written information in support of the application/licence and to be represented if required. If the applicant or licence holder fails to attend the review hearing without reasonable excuse, the determination or review may proceed in ~~his or their her~~ absence. Hearings will normally be held online via Microsoft Teams.
- 4.3 In all cases involving suspension, revocation and refusal to grant or renew the applicant or licence holder has the right to appeal against the decision of the Licensing Regulatory Committee or the employees through the Magistrates' Court.
- 4.4 For the avoidance of doubt where a person is sentenced to a period of imprisonment or detention at a Young Offenders Institution reference to expiry of sentence shall be deemed to mean expiry of the actual term imposed and not any earlier release date.
- 4.5 Any person who has been cautioned for an offence will be dealt with using the criteria relating to convictions.
- 4.6 Decisions will normally be made in accordance with these guidelines; however each case will be decided on its merits. Regard will be had to:-
- (a) The nature of the offence.
 - (b) The age of the individual concerned at the date of the offence.
 - (c) Whether the driver was acting as a private hire or hackney carriage driver at the time. In the case of an operator, whether the operator was acting in the course of business as a private hire operator at the time.
 - (d) Any other relevant circumstances.

There will be no regard to personal nor financial circumstances when determining whether a person is fit and proper.

Dependant on the facts and where deemed appropriate the employees may make a decision contrary to that suggested by the guidelines or where appropriate refer a matter to Councillors of the Licensing Sub-Committee for decision. Where decisions are made which are contrary to the guidelines or where the matter is referred to the Licensing Sub-Committee employees will give reasons for this.

- 4.7 Any list of offences outlined in section 5.0 of this report, show examples of the type of offence in a particular category. The lists are not exhaustive and offences outside of these examples may be considered by the employees/Committee.
- 4.8 Hackney carriage and private hire vehicle drivers should be able to communicate satisfactorily in English with customers in order to be considered a fit and proper person to hold a Licence. Not being able to communicate to a satisfactory level may result in refusal to grant or renew, suspension or revocation of a licence.

- 4.9 In order for an applicant or licence holder to be considered a fit and proper person to hold a licence their standard of driving should be at a satisfactory level. This level is to be determined by the Local Authority and in appropriate cases further driver training assessment may be deemed necessary at the applicant's or licence holder's expense.- Evidence of driving ability which is below the satisfactory level required may result in refusal to grant or renew, suspension or revocation of a licence.
- 4.10 Applicants or licence holders may be required to undertake additional medical testing at the request of the Council at their own expense and this may be required at short notice.
- 4.11 Private hire vehicle operators must accept bookings for, or on behalf of, any disabled person if a suitable vehicle is available. Drivers without a valid medical exemption may not refuse assistance dogs.
- 4.12 An assistance dog is not a pet, but a working service dog that has been certified by an organisation, that is a full member of Assistance Dogs International (ADI) or International Guide Dog Federation (IGDF), as trained to help a disabled person. The dog may be wearing an identifying harness or jacket to evidence this and/or its owner may be carrying certifying documents.

5.0 Determination of Action to be Taken

- 5.1 In determining the course of action to be taken in connection with an application for a hackney carriage, proprietors or drivers licence, private hire vehicle or driver's licence, or private hire vehicle operator's licence or the review of an existing driver's licence or operator's licence, or proprietor's licence the following sanctions will be applied as a guide. In all cases where it is possible to calculate two or more different periods of time, the calculation which results in the longer period shall be used or both periods of time may be considered consecutively or concurrently at the discretion of the employees/Councillors.

5.1.1 Minor Traffic Offences

The Licensing-Regulatory Committee takes driving offences very seriously, particularly when the applicant displays a pattern of offences.

- (a) Single offences resulting in a maximum of 3 current penalty points relevant for 'Totting Up' purposes as outlined at 5.1.2 – Issued with written warning. A new licence will normally be granted with a warning.
- (b) Repeat offences resulting in a combined total of 6 current penalty points or more relevant for 'Totting Up' purposes as outlined at 5.1.2 – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years. A road risk assessment may have to be satisfactorily completed prior to a licence being granted at the applicant's or licence holder's expense. Licensees may abate a hearing if they attend a road risk assessment, offered at the Council's discretion and at the driver's expense, in advance.

5.1.2 "Totting Up" – Section 35 Road Traffic Offenders Act 1988

If the total number of driving licence penalty points reaches 12 or more (6 or more if the licence is less than 2 years old) within 3 years the driver is liable to be disqualified from driving under the "Totting Up" procedure.

- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the expiration of the disqualification period or if not disqualified 7 years from the date of the conviction, caution or in the absence of these the date of the offence or relevant incident and a road risk assessment, at the applicant's or licence holder's expense, may have to be satisfactorily completed prior to a licence being granted.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted.

5.1.3 Major Traffic Offences (Other than drink driving and drug offences)

A major traffic offence is a road traffic offence (other than for totting and drink driving) that can result in four or more penalty points and/or a period of disqualification and/or imprisonment.

For the purpose of these guidelines the following motor offences are classed as 'Major Traffic offences'. However, this is not an exhaustive list.

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
BA30	Attempting to drive while disqualified by order of Court
CD10	Driving without due care and attention
DD40	Dangerous driving
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes

MS90	Failure to give information as to identity of driver, etc.
UT50	Aggravated taking of a vehicle

- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the expiration of the disqualification period or if not disqualified 7 years from the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 12 years following the expiration of the last disqualification period or if not disqualified 12 years from the date of the most recent conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.

5.1.4 Drink Driving Offences and Driving under the Influence of Drugs

Any drink driving or drug related driving offence is treated very seriously by the Local Authority. An offence of this nature is highly relevant to the individual's role as a hackney carriage or private hire driver.

For the purpose of these guidelines the following motor offences are relevant. However, this is not an exhaustive list.

<u>DG10</u>	<u>Driving or attempting to drive with drug level above the specified limit</u>
<u>DR10</u>	<u>Driving or attempting to drive with alcohol level above limit</u>
<u>DR20</u>	<u>Driving or attempting to drive while unfit through drink</u>
<u>DR30</u>	<u>Driving or attempting to drive then failing to supply a specimen for analysis</u>
<u>DR31</u>	<u>Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity</u>
<u>DR40</u>	<u>In charge of a vehicle while alcohol level above limit</u>
<u>DR50</u>	<u>In charge of a vehicle while unfit through drink</u>
<u>DR60</u>	<u>Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive</u>
<u>DR61</u>	<u>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</u>
<u>DR70</u>	<u>Failing to co-operate with a preliminary test</u>
<u>DR80</u>	<u>Driving or attempting to drive when unfit through drugs</u>

- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the expiration of the disqualification

period or if not disqualified 7 years from the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.

- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 12 years following the expiration of the last disqualification period or if not disqualified 12 years from the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.

5.1.5 Anti-Social Behaviour and Public Order Offences

Drivers of hackney carriages and private hire vehicles should display a measured and calming manner in the face of provocation and difficult situations.

- (a) *First offence* – will normally suspend for up to 6 months or refuse to renew. A new licence will not normally be granted for 2 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.

5.1.6 Drug Related Offences

Possession of illegal drugs or other drug related offences (excluding in relation to the dealing, manufacture or supply of drugs, for which there is a separate guideline at 5.1.7), the applicant will normally be required, at their own expense, to satisfy the Local Authority that they are free of addiction subject to a licence being granted.

- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.

5.1.7 Dealing/Manufacture/Supply/Possession with Intent to Supply of Drugs

Due to the nature of work carried out in the hackney carriage and private hire industry, the dealing, manufacture or supply of drugs is treated very seriously and will normally preclude a licence being issued for a considerable time.

- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 10 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted.

5.1.8 Public - Indecency Offences

Public indecency relates to an act or display which is obscene or disgusting to an extent which outrages minimum standards of public decency in contemporary society and is in a place accessible to or in view of the public.

Indecency offences of a sexual nature will normally be dealt with under the Sexual Offences Guidelines.

The holder of a proprietors, operators and/or private hire or hackney carriage driver's licence are in a position of trust and hackney carriage/private hire drivers often work in isolation with members of society. Therefore, any offence for indecency is treated very seriously.

- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 12 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.

5.1.9 Sexual Offences

The holder of a proprietors, operators and/or private hire or hackney carriage drivers licence are in a position of trust and hackney carriage/private hire drivers often work in isolation with members of society.

The Local Authority seeks to minimise risks associated with these persons and for that reason a more serious view will be taken where sexual offences and inappropriate sexualised behaviour is believed to have occurred. This includes, but is not limited to, all offences under the Sexual Offences Act 2003, as amended.

Decisions relating to the determination of an application or review of an existing licence may be informed by discussions with the Police and/or ~~Wolverhampton Safeguarding Unit: The~~ Local Authority Designated ~~Employee~~ Officers.

The licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list, even where their inclusion is under appeal.

Any offence(s)/conviction(s)/caution(s) or behaviour of a sexual nature against any person will normally result in revocation or refuse to renew. A new licence will not normally be granted.

5.1.10	Dishonesty
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All applicants and licence holders are expected to be persons of trust. For these reasons a serious view is taken of any offences involving dishonesty.

For the purpose of these guidelines the following offences are classed as 'Dishonesty', however, this is not an exhaustive list:

- Theft.
- Burglary.
- Fraud.
- Benefit fraud (including offences under Section 111A and 112 of the Social Security Administration Act 1992).
- Handling or receiving stolen goods.
- Forgery (e.g. producing false insurance policy).
- Conspiracy to defraud.
- Obtaining money or property by deception-;
- Bribery or attempting to bribe.
- Immigration related offences.
- Other deception.

Failure to declare a hackney carriage or private hire licence issued by another licensing authority, or that licence's suspension/revocation will normally be considered an act of dishonesty.

- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 12 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.

5.1.11	Obstruction of Police Officer/Authorised Officer (to include failure to surrender to bail <u>and breach of conditional discharge</u>)
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- (a) *First offence* – will normally suspend for up to 6 months or refuse to renew. A new licence will not normally be granted for 6 months following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years following the date of conviction, caution,

expiry of a prison sentence or in the absence of these the date of offence or relevant incident.

5.1.12 Violence

For the purpose of these guidelines the following are classed as 'violent offences', however, this is not an exhaustive list:

- Battery.
 - Common assault.
 - Affray.
 - S5 Public Order Act 1986 offence or distress/harassment, alarm.
 - S4 Public Order Act 1986 (fear of provocation of violence).
 - S4A Public Order Act 1986 (intentional harassment, alarm or distress).
 - Possession of offensive weapon.
 - Criminal damage.
 - Witness intimidation
 - Other violent offences.
- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 710 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 12 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.

For the purpose of this guideline repeat offences can also include a situation where an applicant or licence holder has a conviction/caution or there is other information which relates to one incident of violence together with one incident of serious violence defined under guidelines 5.1.12 and 5.1.13.

5.1.13 Violence (Serious)

For the purpose of these guidelines the following are classed as 'serious violent offences', however, this is not an exhaustive list:

- Arson
- Malicious wounding or grievous bodily harm
- Actual bodily harm
- Racially aggravated
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Violent disorder
- Resisting arrest

- Kidnapping
- ~~False imprisonment~~
- Wounding
- Other serious violence

- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 10 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted.

For the purpose of this guideline repeat offences can also include a situation where an applicant or licence holder has a conviction/caution or there is other information which relates to one incident of violence together with one incident of serious violence defined under guidelines 5.1.12 and 5.1.13.

5.1.14	Offences or unlawful act resulting in Loss of Life or with the Intent to Cause Loss of Life
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A conviction or caution for the following offences would normally preclude the applicant / licence holder from holding a licence due to the nature of the work involved. For the purpose of these guidelines, the following are offences resulting in loss of life or intent to cause loss of life:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Attempted murder
- Corporate manslaughter
- Causing death by dangerous driving
- ~~Causing death by careless driving when under the influence of drink or drugs or having failed either to provide a specimen for analysis or to permit analysis of a blood sample~~

This is not an exhaustive list.

Any offence(s)/conviction(s) / cautions of a similar nature resulting in loss of life or intent to cause loss of life will normally result in revocation or refusal to renew. A new licence will not normally be granted.

5.1.15	Terrorism
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Terrorism means the use or threat of action where designed to influence the Government or an international governmental organisation or to intimidate the public or a section of the public, for the purpose of advancing a political, religious or ideological cause.

'Action' includes serious violence against a person, serious damage to property, endangering a person's life, other than that of the person committing the action, creating a serious risk to the health or safety of the public or a section of the public, or an act designed to seriously interfere with or seriously to disrupt an electronic system, or the use of firearms or explosives.

This also includes any offence, act or omission linked to a terrorism offence.

Any offence(s)/conviction(s) / cautions relating to terrorism will normally result in revocation or refusal to renew. A new licence will not normally be granted.

5.1.16 Hate Crime

A hate crime is any criminal offence that is motivated by hostility or prejudice based upon the victim's disability, race, sexual orientation, transgender, religion or belief.

- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted.

5.1.17 Plying for Hire

Convictions for plying for hire and related no insurance offences show that a driver is unable to work within the legal restrictions of a private hire/hackney carriage driver's licence. Offences of this nature generally result in passengers being uninsured during the journey.

- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the date of conviction, caution or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew the private hire or hackney carriage driver's licence. A new licence will not normally be granted for 12 years following the date of conviction, caution or in the absence of these the date of offence or relevant incident.

5.1.18 Non-Disclosure/Late Disclosure of a Conviction/Caution/Fixed Penalty Relevant Information

Declarations of criminal and motoring convictions, cautions, and fixed penalties, arrests and being charged with an offence are vitally important in order for the Local Authority to review the suitability of licence holders. Failure to declare any of the above can result in unsuitable drivers holding a licence.

- (a) *First offence* – will normally suspend for up to 2 months or refuse to renew. A new licence will not normally be granted for 2 months from the date of revocation or refusal to renew.

This may be abated by completion of a targeted enhanced training course relevant to the breach and will be subject to the driver's/proprietor's own expense.

- (b) *Second offence* – will normally suspend for up to 6 months or refuse to renew. A new licence will not normally be granted for 6 months from the date of revocation or refusal to renew.
- (b) *Three or more offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 3 years from the date of revocation or refusal to renew.

5.1.19	Breach of Licence Conditions / Byelaws
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Licences are issued with conditions and byelaws, applying to them; this is to ensure that the trade operates in a fair and consistent manner. Breaches of conditions/byelaws can result in poor service to customers. Serious breaches of conditions/byelaws will result in a review. A review will also normally be called where a driver/proprietor/operator has persistently breached conditions, in accordance with Regulatory Services enforcement policy.

Where this relates to a driver failing to evidence continuous subscription to the DBS Update Service, the suspension may be up until the expiry date of the licence, or until a new DBS certificate is provided.

- (a) *First offence* – will normally suspend for up to 2 months or refuse to renew. A new licence will not normally be granted for 2 months from the date of revocation or refusal to renew.

This may be abated by completion of a targeted enhanced training course relevant to the breach and will be subject to the driver's/proprietor's/operator's own expense.

- (b) *Second offence* – will normally suspend for up to 6 months or refuse to renew. A new licence will not normally be granted for 6 months from the date of revocation or refusal to renew.
- (c) *Three or more offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 3 years from the date of revocation or refusal to renew.

5.1.20	Any other relevant <u>or regulatory</u> offences (including 'touting', using/operating private hire vehicles without a licence, offences under the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847)
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- (a) *First offence* – will normally suspend for up to for 12 months or refuse to renew. A new licence will not normally be granted for 3 years following the date of conviction, caution or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the date of conviction, caution or in the absence of these the date of offence or relevant incident.
- (c) *Serious instances* - It should be noted that there may be occasions where one incident falls so far below the standards expected that a refusal, revocation, suspension or refusal to renew is felt the appropriate course of action, even in a single instance. A new licence would not normally be granted.

5.1.21	Physical Fitness and Medical Conditions
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Applicants for hackney carriage and/or private hire drivers licences must satisfy the medical fitness standards issued by the Driver and Vehicle Licensing Agency (DVLA). The agreed standard is the Group 2 Standard for vocational drivers.

~~(e)~~(a) In the case of a new application or an application to renew a licence, if the applicant fails to meet the required medical standard the licence will normally be refused. A new licence will not normally be granted for one year after the date of the medical examination or any period advised by an approved medical practitioner.

~~(a)~~(b) In the case of existing licence holders, if a person has a medical condition which falls below the standard outlined in the Group 2 Standard of the published medical standards, or they fail to attend medical testing at the request of the Council, the licence may be suspended, revoked, or the renewal of a licence refused, dependent on the nature of the condition along with any recuperation or rehabilitation periods.

5.1.22	Investigation of Serious Offences (involving violence, sexual offences, child sexual exploitation, safeguarding etc.)
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Where information is received in relation to an existing licence holder or a new applicant from the Police or other enforcement bodies that an individual(s) are under investigation or have been under investigation for a matter that relates to any of the offences outlined in sections 5.1.1 – 5.1.29, the Local Authority may consider the information provided and take action in relation to the information provided. This may mean a licence is suspended, revoked, a renewal of a licence or a new licence is refused. The power to suspend or revoke immediately as set out in section 2.2.2 may also be used in these circumstances if it is in the interests of public safety.

5.1.23	Breach of Requirements as to Control of the Vehicle, such as using a Mobile Phone etc
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This type of offence is treated very seriously as it increases the likelihood of an accident.

- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the expiration of the disqualification period or if not disqualified 7 years from the date of conviction, caution or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 12 years following the expiration of the last disqualification period or if not disqualified 12 years from the date of conviction, caution or in the absence of these the date of offence or relevant incident.

5.1.24	Health Act
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A hackney carriage or private hire licence is a badge of approval, it states the Local Authority feels the holder is fit and proper and suitable in every way. The standard of behaviour and level of trust expected should be demonstrated in the conduct of those licensed at all times.

Drivers must not smoke (including vaping/e-cigarettes) in a licensed vehicle. Any offence under this act can risk the health of both the driver and passengers.

- (a) *First offence* – will normally suspend for up to 6 months. A new licence will not normally be granted for 6 months following the date of conviction, caution or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 3 years following the date of conviction, caution or in the absence of these the date of offence or relevant incident.

5.1.25	Conduct of Applicants / Licence Holders
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A hackney carriage or private hire licence is a badge of approval, it states the Local Authority feels the holder is fit and proper and suitable in every way. The standard of behaviour and level of trust expected should be demonstrated in the conduct of those licensed at all times. This includes when drivers are operating beyond the boundary of the licensing authority outside of Wolverhampton, where drivers are expected to co-operate with reasonable requests from compliance staff authorised in other areas.

If the applicant or driver/proprietor/operator licence holders behaviour falls below that expected from a licence holder the following will apply;

- (a) *First instance* – will normally suspend for up to 12 months, or refuse to renew. A new licence will not normally be granted for 12 months following a relevant incident or the outcome of any review hearing in relation to the incident, whichever is the later.

- (b) *Repeat instance* – will normally revoke or refuse to renew. A new licence will not normally be granted for 3 years following a relevant incident or the outcome of any review hearing in relation to the incident, whichever is the later.
- (c) *Serious/other instances* -—It should be noted that conduct is a wide open area and as such there may be occasions where one incident falls so far below the standards expected that a refusal, revocation, suspension or refusal to renew is felt the appropriate course of action, even in the first instance. -This may include factors such as improper conduct in other areas, the severity of the conduct, the involvement of passengers or other aggravating factors. Where an offence is not covered elsewhere in these guidelines, this guideline may apply and a new licence would not normally be granted.

5.1.26	Driving Standards
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Applicants/drivers of hackney carriage and/or private hire driver's licences must satisfy the Local Authority they are able to drive at a standard that meets the National Standard of driving.

If the applicant/driver's standard of driving falls below that expected of a licence holder the following will apply;

- (a) *First instance* – will normally suspend until outcome of occupational competence/road risk assessment, revoke or refuse to renew. A new licence will not normally be granted for 6 months following the outcome of any review hearing in relation to any incident relating to driving standards.
- (b) *Repeat instances* – will normally revoke or refuse to renew. A new licence will not normally be granted for 3 years following the outcome of any review hearing in relation to any incidents relating to driving standards.

5.1.27	Immigration Status
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Applicants/licence holders must satisfy the Local Authority that they have a right to work in the UK.

In the case of a new application or an application to renew a licence if the applicant fails to provide satisfactory documentary evidence from the Home Office of a legal right to work in the UK as a Hackney Carriage and or/Private Hire Vehicle driver and failure to do so will result in refusal of any application.

Failure by an existing licence holder to provide satisfactory documentary evidence from the Home Office of a legal right to work in the UK as a Hackney Carriage and or/Private Hire Vehicle driver will result in revocation.

Where an applicant or licence holder has been convicted of, or cautioned in relation to, an immigration related offence, guideline 5.1.10 will apply.

5.1.28	<u>Disability and Discrimination Duties to Disabled People - Equality Act 2010 - Breach of Licence Conditions / Byelaws</u>
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Licence holders have significant duties to disabled people under the Equality Act 2010, as amended by the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022.

~~Condition 11 of the Conditions Relating To The Issue Of A Licence To Drive A Private Hire Vehicle provides; The licence holder must carry guide or other assistance dogs accompanying passengers, free of charge, unless the driver has a proven medical condition that would preclude such action.~~ The Council medical exemption certificates issued in accordance with Section 171 of the Equality Act Section 37A of Disability and Discrimination Act 1995 must be displayed in accordance with the Council's instructions at all times to the windscreen of the Private Hire Vehicle, facing outwards. Private Hire Vehicle Drivers have a responsibility to ensure that their operator is aware of such a medical condition when they are first employed. ~~Breach of this condition is deemed serious and therefore shall normally result in revocation.~~

- (a) First instance - A new licence will not normally be granted for 7 years following the date of conviction, caution or in the absence of these the date of offence or relevant incident or the outcome of any review hearing in relation to the incident, whichever is the later. The power to suspend or revoke immediately as set out in 2.2.2 may also be used in these circumstances if it is in the interests of public safety.
- (b) Repeat offences - will normally revoke or refuse to renew. A new licence will not normally be granted.

5.1.29	<u>Environmental Crime Act</u>
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A hackney carriage or private hire licence is a badge of approval, it states the Local Authority feels the holder is fit and proper and suitable in every way. The standard of behaviour and level of trust expected should be demonstrated in the conduct of those licensed at all times.

- (a) *First offence* – will normally suspend for up to 6 months. A new licence will not normally be granted for 6 months following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 3 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.

5.1.30	<u>Exploitation</u>
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This includes behaviour 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.

For the purpose of these guidelines, the following are offences/situations of exploitation, however, this is not an exhaustive list:

- Exploitation
- Slavery
- Stalking
- Child sexual abuse
- Grooming
- Forced marriage
- Psychological, emotional or financial abuse
- Coercive control

Any offence(s)/conviction(s)/caution(s) or behaviour of an exploitative nature against any person will normally result in revocation or refusal to renew. A new licence will not normally be granted.

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