



LICENSING COMMITTEE

BURNLEY TOWN HALL

27/10/2016 at 6:30pm

Members of the public may ask a question, make a statement or present a petition relating to any matter within the remit of the Committee except those matters relating to Private Hire and Hackney Carriage licence applications and any convictions relating to individuals.

Notice in writing of the subject matter must be given to the Head of the Chief Executive's Office by 5.00pm three days before the meeting. Forms can be obtained for this purpose from the reception desk at Burnley Town Hall or the Contact Centre, Parker Lane, Burnley. Forms are also available on the Council's website www.burnley.gov.uk/meetings.

Under current legislation members of the public can film or record this meeting provided they don't disrupt the meeting.

A G E N D A

1. Apologies

To receive any apologies for absence.

2. Minutes of the Last Meeting

To approve as a correct record the Minutes of the last meeting held on 18th August 2016 also available at (www.burnley.gov.uk)

3. Additional Items of Business

To determine whether there are any additional items of business which, by reason of special circumstances, the Chair decides should be considered at the meeting as a matter of urgency.

4. Declarations of Interest

To receive any declarations of interest from Members relating to any item on the agenda in accordance with the provision of the Code of Conduct and/or indicate if S106 of the Local Government Finance Act 1992 applies to them.

5. Exclusion of the Public

To determine during which items, if any, the public are to be excluded from the meeting.

6. Public Question Time

To consider questions, statements or petitions from Members of the Public.

7. Taxi Licence Fees 2017

To confirm the level of taxi licence fees effective from January 2017. (report enclosed)

8. Amendment to Common Policy - Taxi and Private Hire Driver Convictions and Other Information

To seek approval for an amendment to the policy guidelines (appendix 'A') to be considered when Officers are determining whether new applicants or current holders of hackney and private hire drivers licences are 'fit and proper' persons. (report enclosed)

Councillors

Howard Baker
Margaret Brindle
Bill Brindle
Frank Cant
Ida Carmichael
Saeed Chaudhary
Gary Frayling (Vice Chair)
Anne Kelly

Mohammed Ishtiaq
Sobia Malik
Liz Monk
Tom Porter
Paul Reynolds
Ann Royle (Chair)
Christine White

PUBLISHED 19th October 2016

REPORT TO LICENSING COMMITTEE

DATE	27th October 2016
PORTFOLIO	Housing & Environment
REPORT AUTHOR	Karen Davies
TEL NO	01282 425011
EMAIL	kdavies@burnley.gov.uk

Taxi Licence Fees 2017**PURPOSE**

1. To determine the level of taxi licence fees effective from January 2017.

RECOMMENDATION

2. To agree to maintain current fees for the following licences:
Private Hire Driver, Hackney Carriage Driver, Private Hire Vehicle, Hackney Carriage Vehicle and Private Hire Operator.

REASONS FOR RECOMMENDATION

3. To set fees to recover those costs which are permitted by legislation from the holders of taxi licences. The costs include issuing and administering all taxi licences, together with the costs of supervision and control of vehicle and operator licences, and the costs of inspection and provision of hackney ranks.

SUMMARY OF KEY POINTS

4. Taxi licence fee setting is a function of the Licensing Committee. Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 permit the Council to set driver, vehicle and operator licence fees to recover certain specified costs. The effect of the legislation is that the service must not generate a profit to the Council. There are some costs which cannot legally be recovered from fees and are borne by the Council's general fund.
5. Whenever it is proposed to vary vehicle and operator fees so that they exceed £25, the legislation requires that a 28 day public notice of the proposed fee must be advertised within which time any person may object to the variations. Where no objections are made, or if all objections are withdrawn, the fees come into effect at the end of the 28 day period. Where objections are not withdrawn, the Council must consider the objections before determining the fee level and setting a further date, not later than two months after the first

specified date, on which the new fees shall come into force. As no variation is proposed at this time, no advertisement is required.

6. In Burnley the vehicle test element is payable direct to one of the five testing stations approved to carry out taxi testing, each setting their own charges within a competitive marketplace. This fee is payable in addition to the licence fee. New drivers are required to sit a knowledge test at an additional cost.
7. Following an extensive review last year which took into account the emerging legal precedent and audit guidance, this year's review has sought to ensure that fees are still in line with expenditure.
8. In accordance with the framework agreed with the trade, via Taxi Task Group, costs are apportioned to each taxi licence regime (ie operators, private hire vehicles, private hire drivers, hackney proprietors & hackney drivers), and the costs of each licence type are recovered solely through fees for that particular regime. Any surplus or deficit is then applied to regime alone. Driver licences are issued for three years and in order that there is some fairness to drivers through that period, fees will be maintained at the same level for three years unless there is a substantial indication to the contrary. In the third year fees will be reviewed to take account of the previous three years costs.
9. There is no indication of a need to vary fees at this time.
10. As budgets are built up from zero, with costs that reflect work-streams within a relatively short period of one year, there will inevitably be significant year on year variations in the allocated costs depending on where time has been spent. This may lead to fee fluctuations in future years. As there are comparatively few hackney drivers and vehicles to bear the costs associated with each of these regimes this inevitably has a disproportionate effect on fees for hackney licences. Similarly the small number of operators must bear the substantially increased costs of supervising & controlling their businesses which have arisen from enforcement activities. By contrast, because the pool of private hire drivers is much larger, the costs of administering this regime are spread across the larger group.
11. The Taxi Reserve is anticipated to be in surplus by £13,364 at the end of this financial year. Last year it was agreed to refund the surplus generated from the private hire driver regime. The reserve has been used to provide a £45 discount per private hire driver renewal since Jan 2016. This will continue until Dec 2018 when it is expected that the reserve will have been fully refunded.
12. When the service was outsourced to Liberata in January 2016 the move to an online application system was included within the transformation programme. The Council is set to pilot the new iAPPLY service soon prior to roll out over a two year period.
13. For information, last year's actual spend, together with this years revised expenditure and next year's estimated expenditure are provided at Appendix A (which also includes the surplus/deficit accounted for in the reserve).

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

14. The proposed fees seek to recover permitted costs in accordance with the Council's taxi

fee policy.

POLICY IMPLICATIONS

15. None.

DETAILS OF CONSULTATION

16. Taxi Task Group Meeting October 2016.

17. Councillors Townsend, Harbour, Royle and Frayling.

BACKGROUND PAPERS

18. None

FURTHER INFORMATION

PLEASE CONTACT:

Karen Davies

ALSO:

Peter Henderson

3 YEARS BUDGET

Cost Code		Actual	Estimated	Estimate
		2015/16	Out-turn	2017/18
		£	£	£
	<u>Expenditure</u>			
	<u>Supplies & Services :</u>			
R6160/1811	Operational Equipment	7,173	7,400	7,400
R6160/1904	Stationery - General	309	220	600
R6160/1952	Legal and Professional Services	6,538	7,000	4,500
R6160/1977	Private Wires	361	-	-
R6160/2032	Advertising	356	600	600
	Training	-	7,500	-
R6160/2039	Refunds	2,219	3,000	3,000
		16,956	25,720	16,100
	<u>Agency & Contracted Services</u>			
R6160/2101	Other Council Committees	2,643	2,998	3,088
	<u>Support Costs</u>			
R6160/2329	Legal Services	14,286	12,000	14,830
R6160/2330	Customer Services	11,888	13,675	13,675
R6160/2333	Accountancy Services	783	1,025	1,418
	Debtor Services	41	-	-
	BTH Postages	915	500	1,175
R6160/2375	Licensing Support	75,018	80,450	80,450
R6160/2378	Environmental Health	13,245	9,117	9,117
		116,176	116,767	120,665
	<u>Special Items</u>			
R6160/2702	Safety / Seasonal Initiatives	2,434	1,000	2,500
		138,209	146,485	142,353
	<u>Income</u>			
	<u>Fees and Charges</u>			
R6160/3331	Licences	131,743	132,000	129,767
	Use of Reserves	3,635	8,485	12,486
		135,378	140,485	142,253
	Grants & Contributions	-	5,500	
R6160/3527	Fees for Search Information	616	-	-
R6160/3542	Court Costs	2,215	500	100
		138,209	146,485	142,353
	Net Expenditure/ (Income)	-	-	-
	Less - Transfer (From) / To Taxi Licensing Reserve	(3,635)	(8,485)	(12,486)
	Taxi Reserve Fund Balance	21,849	13,364	878

REPORT TO LICENSING COMMITTEE

DATE	27th October 2016
PORTFOLIO	Housing & Environment
REPORT AUTHOR	Peter Henderson
TEL NO	01282 425011
EMAIL	phenderson@burnley.gov.uk

Amendment to Common Policy - Taxi and Private Hire Driver Convictions and Other Information**PURPOSE**

1. For members to approve an amendment to the policy guidelines (appendix 'A') to be considered when Officers are determining whether new applicants or current holders of hackney and private hire drivers licences are 'fit and proper' persons.

RECOMMENDATION

2. That Licensing Committee approve the new policy guidelines 'Guidelines On The Relevance Of Previous Convictions And Other Information' to replace the existing 'Policy Guidelines to Convictions' with immediate effect

REASONS FOR RECOMMENDATION

3. To ensure that all relevant matters are considered by Officers when determining the fitness and propriety of applicants for, and holders of hackney and private hire drivers licences.

SUMMARY OF KEY POINTS

4. The Council's scheme of delegation requires that, In all cases the Council's Guidelines for determining applications be adhered to. The current policy guidelines deal only with Convictions, however, the Council has a duty to take into account any complaints made to the Council, Police, Licensed Operators or any other agency, breaches of licensing conditions and any intelligence received from other agencies (including circumstances which have not resulted in a criminal Conviction or other disposal), e.g.
 - a) incidents that have resulted in a police investigation where there has been no further action due to the criminal burden of proof will still be considered if the Council is satisfied that the incident occurred based on the balance of probabilities.
 - b) Incidents that have resulted in the suspension or revocation of a licence which has been issued by another Council.

5. The proposed changes to the existing policy will ensure that all relevant matters, in addition to convictions, are considered when Officers are determining the fitness and propriety of an applicant/ licence holder
6. It is proposed to change the name of the policy to, 'GUIDELINES ON THE RELEVANCE OF PREVIOUS CONVICTIONS AND OTHER INFORMATION'

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

7. Nil

POLICY IMPLICATIONS

8. Appendix A replaces existing policy guidelines

DETAILS OF CONSULTATION

9. N/A

BACKGROUND PAPERS

10. None

FURTHER INFORMATION

PLEASE CONTACT:

Peter Henderson 01282 425011

ALSO:

Karen Davies 01282 425011



TAXI LICENSING – POLICY GUIDELINES TO FITNESS AND PROPRIETY INCLUDING CONVICTIONS AND OTHER RELEVANT INFORMATION

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

This document aims to provide guidance to any person with an interest in public and private hire licensing. In particular, but not exclusively:

- Applicants for drivers' Licences
- Existing licensed drivers whose Licences are being reviewed
- Licensing Officers
- Members of the Licensing Committee
- Magistrates hearing appeals against local authority decisions
- Lancashire Constabulary

Where Officers have delegated powers to grant or refuse Licences, they will utilise these guidelines when making a decision to grant a Licence. In other cases Applications for Licences will be referred to the Licensing Committee.

Whilst Officers and the Committee will have regard to the guidelines contained in the policy, each case will be considered on its Individual merits and, where the circumstances demand, the Committee/Officer may depart from the guidelines.

Background

1. In this Policy the following words have the following meanings:
 - a. "Applicant" means a person applying for a Licence, an existing Licence Holder applying for renewal of a Licence, or an existing Licence Holder whose Licence is subject to a decision by the Council to revoke, suspend or take no further action
 - b. "Application" means an Application for a Licence, an Application for renewal of a Licence, or a decision by the Council to revoke, suspend or take no further action in respect of an existing Licence
 - c. "Conviction" means a conviction, caution or formal warning and endorsable fixed penalty
 - d. "Council" means Burnley Borough Council
 - e. "Driver" means a person applying for a Licence or a Licence Holder

- f. "Individual" includes an existing Licence Holder, an applicant for a new Licence, and an Applicant for the renewal of an existing Licence
 - g. "Issue" includes any complaints made to the Council, Police, Operators or any other agency, breaches of licensing conditions and intelligence received from other agencies (including circumstances which have not resulted in a criminal Conviction or other disposal). E.g. incidents which have resulted in a police investigation where there has been no further action due to the criminal burden of proof will still be considered if the Council is satisfied that the incident occurred based on the balance of probabilities)
 - h. "Licence" means a Licence to drive a hackney carriage or a private hire vehicle.
 - i. "Licence Holder" means the holder of a current valid Licence granted by the Council
2. Where this Policy refers to a period free of Conviction, that period is to be calculated as:

Commencing on the later of:

- a) the date of the Conviction;
- b) in the case of a Licence Holder, the date the Conviction was reported to the Council;
- c) in the case of a Licence Holder, the date the Council became aware of the conviction from any other source;
- d) the date any custodial sentence was completed; or
- e) the end date of any period of disqualification from driving

and ending on the date of determination of the Application.

3. Licences for drivers of hackney carriages or private hire vehicles may only be granted where the Council is satisfied that the Individual is a fit and proper person to hold such a Licence.
4. The document is intended to give guidance on one aspect of whether a person is or is not a fit and proper person namely the situation where a person has previous Convictions and cautions.
5. The Council is concerned to ensure:
- a. That a person is a fit and proper person.
 - b. The public are not exposed to persons with a history of dishonesty, indecency or violence.
 - c. The safeguarding of children and young persons and vulnerable adults.
6. The public are not normally permitted to attend Committee hearings for private hire or hackney carriage drivers Applications however, in determining whether to grant a Licence the committee or officers will take into account the human rights of the wider public and balance these against the human rights of the Applicant.

7. When submitting an Application, Individuals are required to declare all previous Convictions they may have. Individuals are also required to declare all formal/simple cautions, any matters of restorative justice and all fixed penalties and all endorsable fixed penalties they have received and to provide details of all criminal matters of which they are currently the subject of criminal investigation or prosecution.
8. The information given will be treated in confidence and will only be taken into account in relation to the relevant Application to assist the Council in determining whether the Applicant is a fit and proper person to hold a Licence for the purposes of sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, or whether the Council should exercise any of its powers under section 61 of the Act (i.e. suspension, revocation or refusal to renew a Licence).
9. Applicants for a Licence to drive a hackney carriage or private hire vehicle should be aware that the Council is empowered by law to check with the Disclosure Barring Service for the existence and content of any criminal record and other intelligence held in their name. Officers from the licensing section will where appropriate contact other agencies for any other information which they may hold for instance, the Council's Housing Service, Lancashire County Council Children's Services and Lancashire Constabulary. Information received from the Disclosure Barring Service or other agency will be kept in strict confidence while the licensing process takes its course and will be retained no longer than is necessary and in any event will be destroyed in accordance with the requirements of the Data Protection Act 1998 and in accordance with good practice after the Application is determined or any appeal against such determination is decided.
10. The disclosure of a criminal Convictions or other relevant information relating to an Individual's conduct will not necessarily debar an Individual from being granted, retaining or renewing a Licence. It will depend on whether or not the Individual can satisfy the Council that they are a fit and proper person to hold such a Licence.
11. The Council may fail to be satisfied that an Individual is a fit and proper person to hold a Licence for any good reason. If adequate evidence that a person is a fit and proper person is not adduced or if there is good reason to question or doubt the evidence provided, then that could amount to good reason to refuse a Licence.
12. In considering evidence of an Individual's good character and fitness to hold a Licence, where previous Convictions or other information relating to criminal matters/character is disclosed, the Council will consider the nature of the offence/issue and penalty. When it was committed/took place, the date of Conviction/Issue and the length of time which has elapsed, the Individuals age when the offence was committed/Issue took place whether or not it is part of a pattern of criminal behaviour, the intent, the harm which was, or could have been caused and any other factors which might be relevant. Where an Individual has been convicted of a criminal offence, the Council cannot review the merits of the conviction [*Nottingham City Council v. Mohammed Farooq (1998)*]

13. The Council has adopted the following guidelines relating to the relevance of Convictions to which it refers in determining Applications for Licences and when considering whether to take any action against an existing Licence Holder.
14. The guidelines do not deal with every type of offence, and do not prevent the Council from taking into account offences not specifically addressed in the guidelines, or other conduct, which may be relevant to an Individual. If an Individual has a Conviction for an offence not covered by the guidelines regard will be had to the factors at paragraph 12 when deciding whether any action should be taken.
15. Offences described in the guidelines and similar offences, though differently entitled in any statutory provision, modification or re-enactment, will be taken into account in accordance with the guidelines.
16. The guidelines are not an attempt to define what is a "fit and proper person".
17. Any Individual who is refused a Licence or has such a Licence suspended or revoked has a right of appeal to the Magistrates' Court within 21 days of the notice of refusal.

GUIDELINES ON THE RELEVANCE OF PREVIOUS CONVICTIONS AND OTHER INFORMATION

General Policy

1. Each case will be decided on its own merits.
2. The Council has a duty to ensure so far as possible that drivers are fit and proper persons to hold Licences. One aspect of that is the extent to which previous Convictions, including but not limited to Convictions for offences against children and young persons, dishonesty, sexual offences, traffic offences, violence and drugs indicate that a person is not a fit and proper person, and would not take advantage of passengers or abuse or assault them.
3. The Council has a duty to take into account any complaints made to the Council, Police, licensed Operators or any other agency, breaches of licensing conditions and any intelligence received from other agencies (including circumstances which have not resulted in a criminal Conviction or other disposal, e.g.
 - a) incidents that have resulted in a police investigation where there has been no further action due to the criminal burden of proof will still be considered if the Council is satisfied that the incident occurred based on the balance of probabilities.
 - b) Incidents that have resulted in the suspension or revocation of a licence which has been issued by another Council.
4. Restorative justice and other criminal disposals are increasingly used by the police as a less formal way of dealing with issues and as an alternative to the criminal court system. The Council recognises that restorative justice and other out of court disposals tend to be applied in less serious cases or for first time offenders, nevertheless all such disposals will be taken into account when determining if a person is a fit and proper person.
5. An Individual with a Conviction for a serious offence need not be automatically barred from obtaining a Licence, but would normally be expected to:
 - a. Remain free of Conviction for an appropriate period; and
 - b. Show adequate evidence that he or she is a fit and proper person to hold a Licence (the onus is on the Applicant to produce such evidence). A person with a Conviction for a single serious offence or a number of separate offences is not barred from applying for a private hire or hackney carriage driver Licence, but would normally be expected to remain free from Conviction for an appropriate period (which will depend on the nature of the offence.)
 - c. Simply remaining free of Conviction will not generally be regarded as adequate evidence that a person is a fit and proper person to hold a Licence.
6. Some discretion may be appropriate if the offence is an isolated one with mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate

behaviour, which will be taken into account. (In any case which involves certain specified sexual offences, murder or manslaughter a Licence will normally be refused.)

7. In relation to the period that a driver is expected to remain free of Conviction as detailed in paragraphs A-D and F, if an Applicant has more than 1 Conviction for any of the offences listed, the period free of Conviction will increase by 1 year per additional offence.

8. Where the Licensing Committee convene to consider an Application they may do so by:

a. Hearing with notice – Notice of the time and date when a committee will be convened will be given to the Applicant ahead of the date listed in order to allow the person to seek independent legal advice and to attend and be represented at the hearing. The procedure to be followed will be provided to the Applicant with the notice.

b. Ex-parte hearing – which will take place in accordance with the Ex-parte hearings policy. In exceptional circumstances relevant information will be assessed to balance a person's right to a fair hearing against whether or not it is in the public interest to hold the hearing ex-parte.

9. Where new offences are created or existing offences are consolidated or re-enacted etc. they will be treated in a manner appropriate to their severity whether or not this guidance has been updated to reflect the changes.

10. The following examples afford a general guide on the action, which might be taken where Convictions are disclosed.

A. OFFENCE OF DISHONESTY

Applicants 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.

Passengers may include especially vulnerable people and children.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing, passengers may include especially vulnerable people. 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.

The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into drivers.

For these reasons a serious view is taken of any Convictions involving dishonesty.

In particular, an Application will normally be refused where the Individual has a Conviction for an offence or similar offences or offences which replace the offences below and the Conviction is less than 3 years prior to the date of Application

- i. Theft
- ii. Burglary
- iii. Fraud
- iv. Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- v. Handling or receiving stolen goods
- vi. Forgery (e.g. producing false insurance policy)
- vii. Conspiracy to defraud
- viii. Obtaining money or property by deception
- ix. Other deception

In general an Applicant with Convictions for dishonesty which are between 3 and 5 years old will normally be referred to Committee.

B. VIOLENCE (OTHER THAN SEXUAL AND INDECENCY OFFENCES)

Members of the public and in particular, the elderly, infirm and children or vulnerable adults entrust their personal safety to private hire and hackney carriage drivers whenever they take a journey.

Passengers often travel alone and are vulnerable to physical attack etc.

Users of private hire and hackney carriage vehicles have a right to expect that drivers are not Individuals with a predisposition towards or a propensity for violent behaviour at any level.

Offences against Children (under 14 years) and Young Persons (aged 14 to 17 years)

Applicants are often entrusted with the care of children and young persons.

It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.

The Council seeks to minimise risks associated with children and young persons and for that reason a more serious view will be taken where offences of violence involve children or young persons.

Where the commission of an offence involves loss of life a Licence will normally be refused.

A Conviction less than 5 years old will generally be refused. In other cases where the Conviction is less than 10 years prior to the date of the Application will be referred to the Committee for determination.

Offences against Other Persons

Applicants maintain close contact with the public, where the commission of an offence involved loss of life a Licence will normally be refused.

A Conviction less than 3 years old will generally be refused. In other cases where the Conviction is less than 10 years prior to the date of the Application will be referred to the Committee for determination.

In particular:

i. An Application will normally be refused where the Individual has a Conviction for an offence or similar offence(s), or similar offence(s) which replace the below offences:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving

ii. An Application will also normally be refused where the Individual has a Conviction for an offence or similar offence(s) or similar offence(s) which replace the below offences and the Conviction is less than 10 years prior to the date of Application:

- Arson

- Racially aggravated malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861 & s.29(1)(a) Crime and Disorder Act 1998)
- Actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
- Grievous bodily harm with intent (s.18 Offences Against the Person Act)
- Grievous bodily harm (s.20 Offences Against the Person Act)
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault with racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
- Violent disorder
- Resisting arrest

iii. An Application will also normally be refused where the Individual has a Conviction for an offence or similar offence(s) or similar offence(s) which replace the below offences and the Conviction is less than 5 years prior to the date of Application:

- Racially-aggravated criminal damage (s.30 Crime and Disorder Act 1998)
- Racially-aggravated s.4 Public Order Act 1986 offence (fear of provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress (s.31(1)(b) Crime and Disorder Act 1998)
- Racially-aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32(1)(b) Crime and Disorder Act 1998)
- Racially-aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)

iv. An Application will also normally be refused where the Individual has a Conviction for an offence or similar offence(s) or similar offence(s) which replace the below offences and the Conviction is less than 3 years prior to the date of Application:

- Blackmail
- Common assault
- Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
- Affray

- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Harassment/Breach of restraining order - Protection from Harassment Act 1997
- Obstruction
- Possession of offensive weapon
- Criminal damage

C. DRUGS

An Application from an Individual who has a Conviction related to the supply, intent to supply or production of drugs and the Conviction is less than 10 years prior to the date of Application will generally be refused

An Application from an Individual who has an isolated Conviction for an offence related to the possession of Class A drugs or permitting premises to be used for drug activity within the last 7 years will generally be refused. A Conviction less than 10 years old will be referred to the Committee for determination.

An Application from an Individual who has an isolated Conviction for an offence related to the possession of Class B drugs within the last 5 years will generally be refused. A Conviction less than 7 years old will be referred to the Committee for determination.

An Application from an Individual who has an isolated Conviction for an offence related to the possession of Class C drugs within the last 3 years will generally be refused. A Conviction less than 5 years old will be referred to the Committee for determination. .

An Application will normally be refused where the Individual has more than one Conviction for offences related to the possession of drugs and the most recent Conviction is less than 7 years prior to the date of the Application.

If any Applicant was an addict then they will normally be required to show evidence of 5 years free from drug taking after detoxification treatment as required by the Council.

D. SEXUAL AND INDECENCY OFFENCES

Any Individual currently on the sex offenders' register would not normally be granted a Licence.

Offences against Children (under 14 years) and Young Persons (aged 14 to 17 years)

Applicants are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.

Where the commission of a sexual offence involves a child or young person an Application for a Licence will normally to be refused.

Intelligence and other information which has not resulted in a criminal conviction

The Council will sometimes be made aware of other intelligence or low level information about an Individual which has not resulted in the conviction of that person but is relevant in relation to their character. Officers will give appropriate consideration to this information and will seek to consult with other appropriate agencies in order to ensure that they have a comprehensive understanding. Any additional information gathered through this process may then be taken into account.

Offences against persons other than children / young persons

Applicants often carry unaccompanied passengers. Individuals with a Conviction for rape, indecent assault, or other similar offences or similar offences under the Sexual Offences Act 2003, will normally be refused a Licence.

Applicants on the sex offenders register will normally be refused. Individuals with a Conviction less than 5 years old relating to sexual offences such as soliciting, importuning, indecent exposure or other similar offences under the Sexual Offences Act 2003, will normally be refused.

Where the Conviction is between 5 and 10 old it will be referred to Committee. After 5 years, consideration will be given to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a Licence. Amongst circumstances, which the Council may wish to consider, are circumstances, which if they occurred at the time of the consideration of the Application would not be a criminal offence.

E MOTORING CONVICTIONS

I. Major Traffic Offences

- a. An isolated Conviction, without disqualification, for an offence such as dangerous driving will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of drivers. However, where the Conviction is within 3 years prior to the date of the Application the Application will normally be refused.
- b. Applications where there is more than one Conviction for this type of offence within the last 5 years will normally be refused
- c. A list of offences to which this paragraph applies is attached as **Appendix I**.

II. Minor Traffic Offences

- a. Isolated Convictions for minor traffic offences should not normally prevent an Application from being granted. However, the number, type and frequency of this type of offence will be taken into account and if there is more than 1 offence of this nature the Applicant will normally be expected to show a period free of Conviction of at least 6 months.
- b. In particular, an Application will normally be refused where the Applicant has 12 or more penalty points on his DVLA Licence (whether or not the Applicant was convicted by a court for the offences for which the points were imposed) or where the Applicant has more than one Conviction for this type of offence within the last 6 months.
- c. A list of offences to which this paragraph applies is attached as **Appendix II**.

III. Hybrid Traffic Offences

- a. Offences of the type listed in **Appendix III** will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or less penalty points for the offence.

IV. Disqualification

Major Traffic Offence

An application will generally be refused unless a period of 3 years free from conviction has elapsed from the restoration of the DVLA licence, and 5 years where the disqualification relates to driving whilst unfit through drink or drugs.

Minor Traffic Offence

An application will generally be refused unless the individual can show a period free from conviction has elapsed from the restoration of the DVLA licence which is equal to the period of disqualification imposed by the court i.e. 3 month disqualification = 3 month period free from conviction. Where no disqualification has been given the period free from conviction will be determined by reference to the period(s) free from conviction for a minor traffic offence(s).

Hybrid Traffic Offence

An application will generally be refused unless the individual can show a period free from conviction has elapsed from the restoration of the DVLA licence which is twice the period of disqualification imposed by the court. e.g 3 month disqualification = 6 month period free from conviction. Where no disqualification has been given the period free from conviction will be determined by reference to the period(s) free from conviction for hybrid traffic offence(s).

V. Totting Up

TT99 Totting up – if the total of penalty points reaches 12 or more within 3 years the driver is liable to disqualification by the Court.

Totting up With Disqualification

An application will generally be refused unless the individual can show a period of at least 12 month free from conviction has elapsed from the restoration of the DVLA licence.

Where any of the offences which contribute to a totting up disqualification are a Major Traffic Offence the Council will consider the application under “Disqualification – major traffic offence”

Totting up without Disqualification

In “totting-up” cases where disqualification is considered by the court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver the Council is likely to refuse driver’s Licence because different criteria apply and an Applicant will normally be expected to show a period of at least 12 months free from Conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

In these circumstances the Council will consider the application as a disqualification for the most serious of the offences contributing to the totting up (e.g. where the offences contributing to the totting up are SP30, SP80 and IN10 the Council would consider IN10 under ‘Disqualification – Major Traffic Offence’).

**F OFFENCES UNDER THE TOWN POLICE CLAUSES ACTS AND
PART II OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT
1976**

One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the Acts") is to ensure the protection of the public. For this reason a serious view is taken of Convictions for offences under the Acts (including illegally plying for hire) when deciding whether an Applicant is to be treated as a fit and proper person to hold a Licence.

In particular, an Applicant will normally be refused a Licence where (s)he has been Convicted of an offence under the Acts at any time during the 2 years preceding the Application or has more than one Conviction within the last 5 years preceding the date of the Application.

G DRUNKENNESS

Not in a motor vehicle

An isolated Conviction for drunkenness need not debar an Applicant from being granted a Licence. In some cases, a warning may be appropriate. However, more than 1 Conviction in the last 2 years will merit a refusal.

In addition the Applicant will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic.

H SPENT CONVICTIONS

By virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002 taxi drivers are an exempted occupation for the purposes of the 1974 Act and convictions are therefore never spent.

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 justice cannot be done in the case, except by admitting or requiring evidence relating to that spent Conviction. The council will in its consideration the nature of the offence(s), the history or pattern of offending, the lapse of time and whether all the convictions have previously been considered

MAJOR TRAFFIC OFFENCES
(Paragraph (E,I) refers)

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
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
CD71	Causing death by careless driving then failing to provide a specimen for analysis
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
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR31	Driving or attempting to drive when unfit through drugs
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	Failure to provide a specimen for drug analysis 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
IN10	Using a vehicle uninsured against third party risks
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

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. IN10 becomes IN16)

MINOR TRAFFIC OFFENCES
(Paragraph (E,II) refers)

MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street Offences
MS40	Driving with uncorrected defective eyesight or refusing to submit to a test
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a "Stop" sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16)

HYBRID TRAFFIC OFFENCES
(Paragraph (E,III) refers)

CD 10	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
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 whilst driving a motor vehicle
LC20	Driving otherwise than in accordance with a Licence
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
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)