



THE FITNESS OF APPLICANTS FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCES POLICY

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1. Introduction

- 1.1 This document sets out the policy adopted by Barrow Borough Council in respect of the consideration of whether an applicant is fit and proper to hold a hackney carriage or private hire driver's licence.
- 1.2 The Council is responsible for regulating the provision of hackney carriage and private hire services under the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976, and other related legislation.

When considering applications for many of the licence types available under the legislative framework, including hackney carriage and private hire driver's licences, the Council must be satisfied that the applicant is a fit and proper person to hold such a licence.

- 1.3 This policy forms the basis for Officers and the Members of the Licensing Regulatory Committee on the way in which an applicants fitness should be considered. However, it is important to note that every application **must** be treated on its own merits, and the contents of this document do not bind the Council, its Officers or the Committee.

Decisions may be made that depart from this policy, if the circumstances of the application warrant doing so. Any decision should be accompanied by full reasons for that decision, and those making the decision should be aware that departing without sufficient reason, or failing to give consideration to such circumstances, may give rise to a judicial review of the decision.

- 1.4 It is noted that no attempt is made within the legislation to define the term "fit and proper person", and this policy likewise makes no attempt to formulate such a definition. The Council may consider any relevant issue when making its determination on this point, and this document contains examples of issues that may lead to the Council to determine that an applicant is fit and proper, rather than an exhaustive list of the issues that may be taken into consideration.

- 1.5 The Council may fail to be satisfied that a person is a fit and proper person to hold a driver's licence for any good reason. If adequate evidence of good character is not available or if there is good reason to question or doubt the evidence produced, then that in itself could amount to good reason to refuse an application.
- 1.6 An applicant who does not satisfy this policy will not necessarily be barred from obtaining a licence. The Council will consider each case on its own merits, taking into account any relevant circumstances or mitigating factors.
- 1.7 The overriding consideration in compiling and interpreting this policy, is the safety of the public. The Council has a duty to ensure that those licensed to drive hackney carriages and private hire vehicles are suitable persons to do so, and will wish to satisfy itself that applicants and licensed drivers are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.
- 1.8 Licences will be issued for a three year period, in the absence of any other limitation that causes the Council to issue a shorter duration licence. An annual statement of declaration, upon the anniversary of the grant of the most recent licence, will be required to be signed by licensed private hire and hackney carriage drivers, declaring any new convictions and/or cautions. An annual DVLA check will also be conducted at this time to ensure the driver has not received any driving endorsements in the previous 12 months.
- 1.9 This policy will be taken into account by the Council when dealing with any of the following matters:
 - a) An application for a new hackney carriage driver's licence (Section 46 Town Clauses Act 1847 / Section 59 Local Government (Miscellaneous Provisions) Act 1976).
 - b) An application for a new private hire driver's licence (Section 51 Local Government (Miscellaneous Provisions) Act 1976).

- c) An application to renew a private hire or hackney carriage driver's licence (Section 51, 59 and 61 Local Government (Miscellaneous Provisions) Act 1976).
- d) A proposal to suspend or revoke a hackney carriage or private hire driver's licence (Section 61 Local Government (Miscellaneous Provisions) Act 1976).

1.10 Although Section 61 of the 1976 Act does not contain the same reference to a "fit and proper person", the fact that such action may be taken due to "any other reasonable cause" will generally lead the Council to include similar considerations under that Section. Any references in this document to the refusal of an application should therefore be read to include suspension or revocation of a licence.

1.11 Any person refused a driver's licence on the grounds that the Council is not satisfied that they are not a fit and proper person to hold a licence (or where a licence was suspended or revoked, as the case may be) has a right of appeal to the magistrates' court within 21 days of receiving notice of the decision.

1.12 Information provided by applicants will be treated in confidence and will only be utilised by the Council to determine whether the applicant is a fit and proper person to hold a hackney carriage or private hire drivers licence for the purposes of Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.

1.13 The policy has been drawn up with regard to the Department of Transport's "Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (March 2010)", and in accordance with government advice contained in Department of Transport Circular 2/92 and Home Office Circular 13/92.

The policy has been prepared with reference to, and are considered to be compatible with, the rights, freedoms and obligations contained in the Human Rights Act 1998 and the European Convention on Human Rights.

2. Driving Entitlement

- 2.1 In accordance with Sections 51(1)(b) and 59(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, licences may not lawfully be granted to any person who has not been authorised to drive a motor car for at least 12 months, or who is not so authorised at the time of application.
- 2.2 Applicants will be required to produce their current, full driving licence for inspection, with their application, bearing the applicant's current home address. Where a licence has been issued in two parts (counterpart and photo card) both must be shown.
- 2.3 The Council will also carry out a separate check of an applicant's entitlement to drive in the UK via an appropriate verification agency. Applicants will be required to sign a consent form for this check as part of their application.
- 2.4 All applicants must hold either a full UK driving licence, or one issued by another Member State of the European Community (EC) or one of the other countries in the EEA. European licences may be used for a limited period only, dependent upon the applicant's circumstances, and the Council shall have regard to any guidance given by the Driver and Vehicle Licensing Agency (DVLA) in these circumstances.
- 2.5 The Council requires any applicant who holds a driving licence issued by an EEA member state to obtain a British licence counterpart, prior to making their application. This will ensure that the applicant is formally recorded on UK driving licence databases, and may be allocated licence endorsements and penalty points for motoring offences committed in the UK, thus creating an on-going record on driving conduct, of a type relevant to vocational drivers. Both the British counterpart and the original European licence must be produced on making an application. British counterparts may be obtained from DVLA through the completion of form D9.
- 2.6 Where a driving licence shows an entitlement to drive in the UK that is valid for less than 3 years, a licence may, at the discretion of the Council, be issued to expire upon the end of that entitlement. An application to renew the licence would need to be accompanied by evidence of the renewed entitlement to drive in the UK.

2.7 New applicants will be required to pass the DVSA Standard Driving Assessment - Practical Assessment OR an alternative practical driving assessment specifically for hackney carriage/private hire drivers, provided by a UK Government accredited organisation.

For further information and to book and pay for your driving test go to:
<https://www.gov.uk/book-driving-test> OR <https://www.advancedmotoring.co.uk>

Driving test certificates will only form part of a valid application if they were carried out within 1 year of the completed application date.

2.8 Driving licence endorsements are covered later in this document. However, should a licence- holder be disqualified from driving during the validity of a licence, either following a serious offence or under the 'totting-up procedures', the Council will generally look to suspend or revoke the licence(s) held by that person.

3. Character and Licensing History

- 3.1 The Council require applicants and licence-holders to conduct themselves appropriately and honestly in their dealings both with the public and with the Council.
- 3.2 Although the Council will not seek character references in most cases, any other information may be taken into account, should the Council deem it relevant to the application in question.
- 3.3 Where an applicant has previously held (or currently holds) a licence, whether issued by Barrow Borough Council or another local authority, information about the applicant's conduct under the previous licence(s) may be taken into account in considering an application. This may include details of any complaints made against the applicant, warnings given to the applicant by officers, or records of adverse conduct by the applicant towards members of the public, other licence holders, or officers. If there is a substantial negative history of such issues, an application will generally be refused.
- 3.4 In addition to considering the outcomes of any individual legal actions, warnings or convictions for the above-mentioned issues, the Council may also draw appropriate inferences from repeat incidents or patterns of such issues which may not necessarily have resulted in formal action.
- 3.5 If an application has previously been refused (or a licence revoked), then any further applications made within the period of 24 months from the date of refusal (or revocation) will generally be refused. If the grounds for revocation or refusal are particularly serious, then this period may be extended at the discretion of the Council.
- 3.6 Knowingly or recklessly making a false statement in, or in connection with, an application is likely to result in that application being refused. In addition, as such conduct may constitute a criminal offence under Section 57(3) of the Local Government (Miscellaneous Provisions) Act 1976; legal action may also be taken against the applicant.

- 3.7 Where an existing licence-holder is under an obligation to provide information to the Council (for example, details of any convictions or motoring endorsements received during the validity of the licence) and has failed to meet this obligation, it shall be open to the Council to investigate the reason for this failure, and to draw appropriate inferences. Where the failure related to a particularly serious matter, refusal of an application to renew the licence may be warranted.
- 3.8 Issues relating to criminal convictions will be addressed later in this policy. However, the Council will pay particular attention to any convictions for offences with a public safety element.

4. Medical Suitability

- 4.1 Every application for a new licence will be required to be accompanied by a medical certificate, in a format specified by the Council, and completed by the applicant's own GP or by another suitably qualified medical practitioner who has had access to the applicant's medical records covering a minimum period of at least 5 years. The medical certificate must have been completed within 1 month of the completed application/renewal date.
- 4.2 Applicant's will be expected to satisfy the current medical standards of fitness to drive for Group 2 licences, as set by the Driver and Vehicle Licensing Agency (DVLA), and the Council's medical certificate will be drafted around these standards, requiring the medical practitioner to state whether, in their opinion, the applicant complies with the standards and is medically fit to drive hackney carriages or private hire vehicles. A summary of these standards can be viewed via:
www.dft.gov.uk/dvla/medical/ata glance.aspx
- 4.3 Medical certificates will be requested upon first application, and when the applicant reaches their 50th, 56th, 59th and 62nd birthday. From the age of 65, a licence-holder will be required to submit completed medical certificates annually, on the anniversary of the grant of the most recent licence. Licences will still be issued for a three year period (unless otherwise requested by the applicant, or in the absence of another limitation that causes the Council to issue a shorter duration licence), but failure to submit the medical certificate annually may lead the Council to suspend/revoke or refuse to renew the licence.
- 4.4 Where an applicant does not fully comply with the standards, the Council will consider carefully whether this, in itself, will make the applicant an unfit person. For example, a condition that can be, and is being, controlled with corrective equipment or medication will not generally be considered to make a person unfit, although the Council may require further information or evidence from the applicant's doctor or consultant on the effect of such control measures, and the applicant's willingness to abide by the treatment programme.

- 4.5 Where the medical practitioner has stipulated that they do not consider the applicant to be medically fit, in accordance with the Group 2 standards, to drive hackney carriage or private hire vehicles, the Council will refuse the application.
- 4.6 Where the medical practitioner has recommended that further monitoring of a particular condition or examinations are undertaken in a certain period, it shall be open to the Council to consider granting a licence for a shorter period commensurate with that recommendation, or to require additional medical certificates to be submitted at more frequent intervals than would otherwise be required.
- 4.7 The cost of the Medical Examination is not included within the licensing fees and is paid directly to the Medical Practice / GP Surgery.

5. Training Requirements

- 5.1 The Licensing Authority has identified that from time to time there will be a need for specific training within the Hackney Carriage and Private Hire licensing trade, in order to continually improve driver standards, knowledge and awareness.
- 5.2 Upon application or during the course of their licence, applicants / drivers will be required to undertake appropriate training, as determined by the Licensing Authority.
- 5.3 Failure to undertake the required training within the specified time may result in suspension / revocation or refusal to renew the relevant drivers licence.
- 5.4 Where outside bodies, charitable organisations or professional providers are employed by the Council to deliver bespoke training, any costs incurred will be recovered through licensing fees. All costs will be kept a minimum. The Licensing Authority has adequate in-house facilities to enable cost-effective training.
- 5.5 The Council will have 'Safeguarding' policies and procedures to ensure the public are protected. This includes policies and procedures the Council uses to vet licence holders and also a hackney carriage and private hire, drivers ability to identify those at risk, protect those who may be vulnerable or being exploited, ensure that their actions do not negatively contribute to such persons becoming victims and responsibility to report any concerns.
- 5.6 From the date of adoption of this policy, all applicants (new and renewal) for hackney carriage and private hire drivers' licences will be required to attend a Safeguarding Awareness training session. Failure to attend within the specified time may result in suspension / revocation or refusal to renew the relevant drivers licence.
- 5.7 Safeguarding Awareness sessions will be free of charge, for the first 12 months, following the adoption of this policy. Subsequent sessions will incur a cost recoverable through licensing fees.

- 5.8 Applicants for hackney carriage and private hire drivers' licences will be required to undergo a written test as part of the process of satisfying the Council that they are suitable persons to hold such a licence. All new applicants will be required to pass a knowledge test as part of the application procedure.
- 5.9 Existing drivers, from the date of adoption of this policy, will be required to undertake the same knowledge test upon drivers licence renewal. Failure to undertake and pass the knowledge test may result in refusal to renew the appropriate licence.
- 5.10 All applicants will be given the necessary information needed to pass the knowledge test, prior to booking the test. An individuals learning needs will be taken into consideration and adjustments made where necessary.
- 5.11 The test will encompass questions, the majority of which are multiple choice, which will access the drivers' knowledge in the following areas:

Local Geography

Applicants will be tested on their knowledge of Barrow Borough Council geography, recording the shortest routes between locations and identifying where local landmarks are.

Highway Code

Applicants will be asked to answer a number of questions as to driving skill, road information and etiquette as set out in the Highway Code.

Licensed driver responsibilities and Licence conditions

Applicants will be tested on their knowledge and understanding of the hackney carriage and private hire licensing, and a drivers responsibilities.

Numeracy

Applicants will be tested on their ability to carry out elementary mental arithmetic, as encountered in calculating the change to be paid to a potential customer who overpays a fare.

Disability awareness

All applicants will be tested on their knowledge on the carriage of assistance animals and interaction with disabled customers and any individual who has a protected characteristic under the Equality Act 2010 (or as Amended).

General

Questions covering vehicle maintenance, seat belts, smoking.

- 5.12 A maximum number of 3 attempts has been imposed for which applicants (for the grant of a new hackney carriage/private hire drivers licence) are able to undertake the Council's knowledge test (numeracy, highway code, local geography, driver responsibilities etc.), after which there will be a minimum period of six months before any new testing may take place.
- 5.13 Existing licensed drivers, who are required to take the knowledge test upon renewal, will again have a maximum number of 3 attempts to pass and must take this into consideration when applying to renew their licence. To facilitate this, existing drivers can take the knowledge test at any of the sessions before their renewal date. Failure to undertake and pass the knowledge test may result in refusal to renew the appropriate licence.
- 5.14 The knowledge test is conducted at the Council Offices, twice a month. A timetable of knowledge test dates is produced annual. Applicants will not be considered to be fit and proper to hold a licence unless or until they have achieved the requisite pass rate 75% in the test.
- 5.15 The knowledge test is only required to be passed once. However, undertaking and passing the knowledge test may be used as an option that is available to Members, when considering whether or not a driver is a fit and proper person, following justified complaints of conduct or poor character.

6. Right to Work in the UK

- 6.1 All applicants for a hackney carriage or private hire driver’s licence will be required to demonstrate that they have the right to live and work in the United Kingdom. We will follow the general advice given by the UK Border Agency, available at: www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/ in ascertaining this status.
- 6.2 A licence will not be granted to an applicant who is not entitled to work in the UK.
- 6.3 It shall be incumbent upon an applicant to produce such official documentation as to demonstrate such an entitlement. This requirement shall apply equally to British, EEA and non-EEA nationals.
- 6.4 The UK Border Agency maintains a list of documents that can evidence such an entitlement, which is reproduced below. Documents in List A demonstrate that the person has an on-going entitlement to work in the UK; documents in List B indicate that the person has restrictions on their entitlement to be in the UK. Copies of documents produced will be retained.

List A	
Documents showing an on-going right to work	
A passport showing that the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom.	An official document issued by a previous employer or Government agency, e.g. HM Revenue and Customs, the Department for Work and Pensions, Jobcentre Plus, the Training and Employment Agency (Northern Ireland) or the Northern Ireland Social Security Agency, which contains the National Insurance number and name of the person, and one of the following:
A passport or national identity card showing that the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.	<ul style="list-style-type: none"> • An Immigration Status Document issued by the Home Office, the

<p>A residence permit, registration certificate or document certifying or indicating permanent residence issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to a national of a European Economic Area country or Switzerland.</p>	<p>Border and Immigration Agency, or the UK Border Agency to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the United Kingdom or has no time limit on their stay in the United Kingdom</p>
<p>A permanent residence card or document issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the family member of a national of a European Economic Area country or Switzerland.</p>	<ul style="list-style-type: none"> • A full birth certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's parents
<p>A Biometric Residence Permit issued by the UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom, or has no time limit on their stay in the United Kingdom</p>	<ul style="list-style-type: none"> • A full adoption certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's adoptive parents
<p>A passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom.</p>	<ul style="list-style-type: none"> • A birth certificate issued in the Channel Islands, the Isle of Man or Ireland • An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland • A certificate of registration or naturalisation as a British citizen • A letter issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom.
<p>List B Documents showing a time-limited right to work</p>	
<p>A passport or travel document endorsed to show that the holder is allowed to stay in the United Kingdom and is allowed to do the type of work in question.</p>	<p>A document issued by a previous employer or Government agency, e.g. HM Revenue and Customs, the Department for Work and Pensions, Jobcentre Plus, the Training and</p>

<p>A Biometric Residence Permit issued by the UK Border Agency to the holder which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question.</p>	<p>Employment Agency (Northern Ireland) or the Northern Ireland Social Security Agency, which contains the National Insurance number and name of the holder, and one of the following:</p>
<p>A work permit or other approval to take employment issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency, and one of the following:</p> <ul style="list-style-type: none"> • a passport or other travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to do the work in question • a letter issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the holder or the employer or prospective employer confirming the same 	<ul style="list-style-type: none"> • An Immigration Status Document issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to the holder with an endorsement indicating that the person named in it can stay in the United Kingdom, and is allowed to do the type of work in question. • A letter issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the holder or the employer or prospective employer, which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question.
<p>A Certificate of Application issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to or for a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old (the Council must also undertake employment checks with UKBA in this situation).</p>	<p>An Application Registration Card (ARC) issued by the Home Office, the Border and Immigration Agency or the UK Border Agency stating that the holder is permitted to take employment</p>
<p>A residence card or document issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to a family member of a national of a European Economic Area country or Switzerland.</p>	<p>(The Council must also undertake employment checks with UKBA in this situation).</p>

- 6.5 In addition to requiring documents as identified above, the Council may also make direct enquiries to the UK Border Agency, to verify the details of an applicant's right to work.
- 6.6 Where an applicant's entitlement to work (or to remain in the UK) is time-limited, it is open to the Council to consider granting a licence that expires in accordance with the entitlement to work. Should that entitlement subsequently be extended during the validity of the licence, an application to renew the licence for a longer period may be made, to be accompanied by evidence of the revised entitlement.

7. Criminal Convictions, Cautions and Reprimands

- 7.1 When submitting an application for a licence to drive a hackney carriage or a private hire vehicle, or to renew such a licence, applicants are required to declare on the application form ALL previous convictions, cautions, penalties and motoring endorsements they may have received. Applicants are also required to declare any on-going criminal investigations, prosecutions or similar legal proceedings of which they are the subject.
- 7.2 As hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974, subject to The Rehabilitation of Offenders Act 1974 (Exceptions Order 1975) (Amendment) England and Wales Order 2013, convictions which would ordinarily be considered 'spent' must be declared and may be considered in the determination of the application. The 2013 Order introduced new categories of 'protected cautions' and 'protected convictions', which mean that after the passage of time an applicant must be treated as not having been charged with, convicted of or sentenced for any of those offences.

Protected Cautions

A caution is only a "protected caution" if:-

- It does not related to a listed offence;
- It was given to a person aged under 18 at the time of the caution and two years or more have elapsed;
- It was given to a person aged 18 or over at the time of the caution and six years or more have elapsed.

Protected Convictions

A conviction is only a protected conviction if:-

- It does not relate to a "listed offence" such as violence and sexual offences;
- No custodial sentence was imposed;
- It is the only conviction that the individual has received;
- It was received by a person aged under 18 at the time of the conviction and five and a half years or more have elapsed; and

- It was received by a person ages 18 or over at the time of the conviction and 11 years or more have elapsed.

The Council will generally only take such convictions into account if they are considered to be of particular relevance to the application in question or of an especially serious nature, or if there is some other cause to believe that the applicant cannot be considered to be 'rehabilitated'.

7.3 All applicants will be required to obtain an enhanced level disclosure from the Disclosure and Barring Service (DBS), upon initial application, and every three years thereafter, and the Council shall facilitate these applications upon payment of the required fee. This level of disclosure includes details of spent convictions and police cautions, as well as any non-conviction information deemed relevant to the application. This level of check is considered appropriate as a licensed driver may be left in sole charge of passengers under 18 years of age or other vulnerable adults, at any time and without prior knowledge.

7.4 As DBS disclosures can be considered accurate only on their issue date, and may contain additional, non-conviction information, specific to the application and released at the discretion of the Chief Police Officer, we will require all applicants to obtain a new disclosure through the Council every three years. Disclosures obtained previously through other bodies or for other purposes will not be accepted.

As previously mentioned within this document, an annual statement of declaration, upon the anniversary of the grant of the most recent licence, will be required to be signed by licensed private hire and hackney carriage drivers, declaring any new convictions and/or cautions.

7.5 DBS disclosures will not include details of any foreign convictions, unless the conviction has been recorded on the UK Police National Computer. To enable the Council to properly consider an application, an applicant who has resided outside the UK for a period of more than 3 months (excluding holidays) will be required to produce a 'Certificate of Good Conduct' from the relevant country(ies) (generally issued through the relevant embassy or consulate) which details any convictions or other matters arising against the applicant while resident in that country. It shall be the

applicant's responsibility to obtain such documents, and to pay any associated fees. This requirement is in addition to the DBS disclosure. Where an applicant is unable to obtain the above, they must give a statement outlining the reasons for this, and provide references to the satisfaction of the Council from appropriate individuals or bodies as to their conduct in the country.

7.6 As a general rule, the Council will expect applicants for licences to be free from previous convictions, cautions and reprimands. However, a person with convictions, cautions or reprimands will not be excluded from holding a licence but should be expected to have:

- remained free of conviction for an appropriate period and
- shown adequate evidence of good character from the time of conviction.

Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character.

7.7 It should be noted that the Council may refuse an application (or suspend or revoke a licence) after considering a conviction, caution or reprimand for any offence, if it is not satisfied that the applicant is fit and proper to hold a licence.

7.8 Each case will be decided on its own merits. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, 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.

7.9 On application to renew a licence, if no further convictions have been received since the previous application was considered, the Council will not consider it necessary to review convictions considered on the previous application. However, in cases where new convictions have been received, all convictions may be taken into consideration, even if they have been previously considered.

7.10 Drivers licensed by the Council are required to notify the Licensing Section within 14 days, in writing, of any convictions, cautions or similar proceedings during the period of

the licence. It is open to the Council to reconsider a licence during its validity period if a conviction (or similar) would cause the Council to consider whether to refuse an application, in accordance with the following guidelines, and that licence may be suspended or revoked if deemed appropriate.

8. Statement on the Relevance of Convictions

- 8.1 In determining the relevance of a conviction or caution, consideration will be given to the nature and seriousness of the offence involved, the period of time elapsed since conviction and the applicant's conduct subsequent to that conviction.
- 8.2 In circumstances where previous convictions, cautions or other information relating to criminal matters is disclosed, the Council, when determining whether the person is a 'fit' and 'proper' person, will have regard to the following:-
- The relevance of the offence(s) or other matters revealed in the application;
 - The seriousness of any offence(s) or any other matter revealed;
 - The class / nature of the offences(s);
 - The age of the offences(s);
 - The age of the person at the time of the offence(s);
 - Whether the disclosure reveals a pattern of behaviour;
 - Whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters; and
 - Any other information that is deemed appropriate for consideration in determining whether the person is a 'fit' and 'proper' person.

In addition to the above, the Council is also entitled to use all other records and information available to it in determining applications or entitlement to continue holding a licence. This may include information held by the Council or other licensing authorities and information held by the police under the Home Office Scheme for reporting offences committed by notifiable occupations.

The overall offending history will be considered when assessing a person's suitability to be licensed or to continue holding a licence.

- 8.3 Where the applicant has been convicted of a criminal offence the Council cannot and will not review the merits of the conviction.

8.4 It is noted that cautions are not convictions, but rather are an admission of guilt to a criminal matter. The Council may have regard to cautions when considering an application, and will take the following matters into consideration:

- The nature of the offence
- Any history of related cautions or convictions
- The guidelines applying to convictions of that category.

8.5 The issue of summons or the arrest and release on bail with or without charge can indicate that there has been an event, which may cause the Council to review the suitability of an applicant or a licensed driver to hold a licence.

8.6 Although some specific guidelines on the relevance of convictions are contained in the following sections for examples of offences to which the Council will pay particular regard, the Council will give equal consideration to offences falling outside of these categories and the examples given. Offences of a similar nature or differently entitled in any statutory provision, modification or re-enactment will be taken into account in accordance with the guidelines.

Violence

8.7 As hackney carriage and private hire drivers maintain close contact with the public, in general a period of 3 or more years free of conviction for offences involving violence (depending on the nature and seriousness of the offence) will be required before an application is likely to be considered favourably. An offence involving loss of life is likely to result in the refusal of an application.

8.8 Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence of:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Kidnapping or abduction

- Terrorism offences
- Or other similar offence or offences which replace the above offences.

8.9 An application will normally be refused for a period of 5 years from either the date of conviction if a non-custodial sentence was passed or from the date of release if custody was imposed for offences of:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent
- Grievous bodily harm
- Wounding with intent
- Robbery
- Aggravated burglary
- Threats to kill
- Racially-aggravated criminal damage
- Racially-aggravated public order offences
- Assault with intent to cause grievous bodily harm;
- Assaulting a Police Officer in the execution of his duties;
- Malicious wounding;
- Racially aggravated criminal damage;
- Racially aggravated fear or provocation of violence;
- Racially aggravated intentional harassment, alarm or distress;
- Racially aggravated harassment;
- Racially aggravated putting people in fear of violence;
- Riot;
- Possession of an offensive weapon;
- Possession of a firearm;
- Violent disorder;
- Or any arrestable offence involving violence (an arrestable offence is defined as an offence committed by a person of age 21 years or over and on conviction for the first offence may be sentenced to a term of imprisonment of 5 years or where the penalty is fixed by law).

8.10 An application will normally be refused where the applicant has a conviction, less than 3 years prior to the date of application, for an offence of: -

- Common assault
- Assault occasioning actual bodily harm
- Affray
- Public order offences
- Harassment
- Obstruction
- Criminal damage
- Resisting arrest
- Racially aggravated common assault;
- Racially aggravated harassment, alarm or distress;
- Obstructing a police officer in the execution of his duty;
- Any similar offence or offences which replace the above offences

8.11 For convictions of a type referred to in the preceding paragraph, between 3 and 8 years after conviction more weight will be given to the circumstances of the offence and any evidence produced to show good character since the date of conviction.

Sexual and Indecency offences

8.12 Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence of:

- Rape
- Sexual assault
- Indecent assault
- Offences involving children or vulnerable adults
- Gross indecency
- Possession of indecent material, child pornography, etc.
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Any sexual offence committed in the course of taxi or private hire work

8.13 An applicant will normally be refused a licence until a period usually between 5 and 10 years free of any such convictions from either the date of conviction if a non-custodial sentence was passed or from the date of release if custody was imposed for an offence of: -

- Indecent exposure
- Soliciting

When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a fit and proper person to hold a licence.

Drugs and Alcohol

8.14 An application will normally be refused where an application is made within 3 to 5 years from either the date of conviction if a non-custodial sentence was passed or from the date of release if custody was imposed for an offence relating to the possession of drugs.

However, after a period of three years, from either the date of conviction if a non-custodial sentence was passed or from the date of release if custody was imposed consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

8.15 An application will normally be refused where the applicant has a conviction for an offence relating to the import, production or supply of drugs 5-10 years before the date of application, from either the date of conviction if a non-custodial sentence was passed or from the date of release if custody was imposed.

However, after 5 years, the circumstances of the offence and any evidence which shows that a person is now a fit and proper person to hold a licence will be taken into consideration.

8.16 An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate. However, a number of

convictions for drunkenness may indicate a medical problem necessitating critical examination of an application.

Where there is evidence of persistent drug or alcohol misuse or dependency (which may include multiple convictions for related offences), applicants will be required to produce evidence that shows that they have been free of drug taking or alcohol addiction for at least 5 years. To verify this, the Council may require the applicant to undergo a specialist medical examination.

Dishonesty

8.17 Drivers of hackney carriages and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways. Members of the public entrust themselves in to the care of drivers and expect to be treated fairly and conveyed in a safe manner.

8.18 For these reasons a serious view is taken of any convictions involving dishonesty. In general a period of 3 to 5 years from either the date of conviction if a non-custodial sentence was passed or from the date of release if custody was imposed, will be required before an application is likely to be considered favourably.

8.19 In particular, an application will normally be refused where the applicant has a conviction, less than 3 years prior to the date of the application, for an offence of:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Blackmail
- Administration Act 1992
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud

- Obtaining money or property by deception
- Taking a vehicle without consent
- Other deception
- Or similar offences to those above or any offence which may replace any of the above offences.

8.20 Between 3 and 5 years after conviction more weight will be given to the circumstances of the offence and any evidence produced which demonstrates good character since the date of conviction.

Driving Offences

8.21 Because of the nature of the work licensed drivers will undertake, a serious view will be taken of convictions for driving offences that resulted in loss of life. In particular, an application will normally be refused where the applicant has a conviction, less than 5 years prior to the date of the application for an offence of:

- Causing death by dangerous driving
- Causing death by careless driving, while under the influence of drink or drugs

8.22 An application will normally be refused where the applicant has a conviction, less than 5 years prior to the date of the application, for an offence of:

- Causing death by careless driving
- Causing death by driving while unlicensed, disqualified or uninsured

8.23 A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink or drugs. Where a disqualification has occurred as a result of a drink-driving or a drug-driving offence, at least 5 years free from conviction should elapse after the restoration of the DVLA licence before an applicant is granted a licence.

- 8.24 Convictions for drink-driving or drug-driving without disqualification will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standards expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence is likely to merit refusal.
- 8.25 A drink-driving or drug-driving conviction arising from an offence in the course of hackney carriage or private hire work within the last five years is also likely to merit refusal.
- 8.26 The provisions included under the heading 'Drugs and alcohol' in respect of substance misuse or dependency will also be taken into account when considering drink-driving or drug-driving offences.
- 8.27 Further provisions relating to motoring endorsements are provided in the next section of this document.

Taxi and Private Hire related Offences

- 8.28 One of the main purposes of the licensing regime set out in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 is to ensure the safety and protection of the public. For this reason a serious view is taken of convictions for offences under these and other related Acts (including illegally plying for hire and touting) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.
- 8.29 In particular, an applicant will normally be refused a licence where (s)he has been convicted of a relevant offence at any time during the 12 months preceding the application or has more than one conviction within the last 2 years preceding the date of the application.
- 8.30 A similar consideration will also be applied to offences under the Disability Discrimination Act 1995 or the Equality Act 2010, where the offence arose in the course of taxi or private hire work.

9. Driving Licence Endorsements

- 9.1 For certain driving offences, either where an individual has been convicted by a court or has admitted the offence by way of a fixed penalty notice, driving licences may be endorsed with details of the offence, and a number of penalty points can be imposed upon the individual's driving licence. Endorsements may indicate a poor driving record and give rise to concerns about the applicant's fitness to hold such a hackney carriage or private hire driver's licence.
- 9.2 Driving licence endorsements may form part of the overall sentence arising from a criminal conviction, which will also be shown on the DBS disclosure. In such circumstances, the following guidelines should be read in conjunction with the appropriate paragraphs of the preceding section.
- 9.3 Endorsements will be checked by requiring an applicant to produce his driving licence to accompany an application, and by way of the verification check detailed in the 'Driving entitlement' section of this document.
- 9.4 All endorsements have a set validity period, and the Council will have regard to this period when determining which endorsements to take into account. The Council will have regard to both individual valid endorsements, and the cumulative total of penalty points from all valid endorsements on the licence.
- 9.5 Endorsements which fall outside of the stated validity period will not generally be taken into consideration, unless they demonstrate a pattern of poor driving.
- 9.6 A full list of endorsable traffic offences, including the corresponding endorsement codes, penalty points and validity periods, is included at Annex A.
- 9.7 On application to renew a licence, if no further endorsements have been received since the previous application was considered; the Council will not consider it necessary to review previous endorsements. However, in cases where new

endorsements have been added, all valid endorsements appearing on the licence at the time of application may be taken into consideration, even if they have been previously considered.

9.8 Drivers licensed by the Council are required to notify the Licensing Department within 14 days, in writing, of any endorsements received during the period of the licence. It is open to the Council to reconsider a licence during its validity period if an endorsement would cause the Council to consider whether to refuse an application, in accordance with the following guidelines, and that licence may be suspended or revoked if deemed appropriate.

Major endorsements

9.9 An endorsement which was subject to the award of four or more penalty points shall be regarded, for licensing purposes, as a major endorsement.

9.10 All such endorsements will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standards expected of hackney carriage and private hire drivers.

9.11 More than one such valid endorsement will generally result in the application being refused.

9.12 An endorsement which was subject to the award of ten or more penalty points shall be regarded with particular seriousness, and may constitute grounds for refusal on its own.

Minor endorsements

9.13 An endorsement which was subject to the award of three or less penalty points shall be regarded, for licensing purposes, as a minor endorsement.

9.14 A single minor endorsement will not generally prevent an application from proceeding. However, a larger number of minor endorsements, particularly if incurred in a short period of time, will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standards expected of hackney carriage and private hire drivers.

Cumulative total of Penalty Points

9.15 An application will normally be refused where the applicant has 12 or more penalty points from valid endorsements on his driving licence (whether or not the applicant was convicted by a court for the offences for which penalty points were imposed).

9.16 Applicants with 9 or more penalty points from valid endorsements on their driving licence, or three or more valid endorsements, will generally have their applications referred to the Licensing Regulatory Committee for careful consideration of the facts. If the Committee are not satisfied that the applicant can be considered a fit and proper person by virtue of his endorsements, it shall be open to them to refuse the application.

9.17 Applications from existing drivers for renewal with 9 or more valid endorsements on their licence will be referred to Licensing Regulatory Committee for decision. Members of the Committee will usually be given the option to grant / refuse the licence or to request the applicant takes a re-test of the DVSA or an alternative practical driving assessment specifically for hackney carriage/private hire drivers, provided by a UK Government accredited organisation, before re-licensing is permitted.

9.18 All applicants with 6 to 8 penalty points from valid endorsements on their licence, or two valid endorsements, will generally be required to attend an interview with a licensing officer to review the facts behind the endorsements. It shall be at the Environmental Health Manager's discretion as to whether to refer such applications to the Licensing Regulatory Committee for further consideration of the pertinent facts, or to approve the application. Where applications are approved, it is expected that a warning as to future driving and advice on the standards expected of hackney carriage and private hire drivers will also be administered.

Other Traffic Offences

9.19 Penalties for other non-endorsable traffic offences, such as parking penalty notices, obstruction, waiting in a restricted road, etc., that have not resulted in a criminal conviction, will not generally be taken into account when considering an application.

Disqualification

9.20 Where an applicant has been disqualified from driving because of a serious traffic offence, a licence application will generally be refused unless a period of 2 years free of conviction or endorsement has elapsed from the restoration of the driving licence.

9.21 Where several minor traffic offences have resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard. Generally, a period of 12 months free from conviction must have elapsed from the restoration of the driving licence.

9.22 In "totting-up" cases where disqualification is considered by the court, even if the court does not disqualify a driver (e.g. because of exceptional circumstances) the Council is likely to refuse a hackney carriage or private hire driver's licence. This is because different criteria apply and an applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

ANNEX A - Endorsement codes and penalty points

Accident offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
AC10	Failing to stop after an accident	5 to 10
AC20	Failing to give particulars or report an accident within 24 hours	5 to 10
AC30	Undefined accident offences	4 to 9

Disqualified driver

Codes BA10 and BA30 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
BA10	Driving while disqualified by order of court	6
BA30	Attempting to drive while disqualified by order of court	6

Codes BA40 and BA60 must stay on a driving record for 4 years from the date of the conviction.

Code	Offence	Penalty points
BA40	Causing death by driving while disqualified	3 to 11
BA60	Causing serious injury by driving while disqualified	3 to 11

Careless driving

Codes CD10 to CD30 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
CD10	Driving without due care and attention	3 to 9
CD20	Driving without reasonable consideration for other road users	3 to 9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3 to 9

Codes CD40 to CD70 must stay on a driving record for 11 years from the date of the conviction.

Code	Offence	Penalty points
CD40	Causing death through careless driving when unfit through drink	3 to 11
CD50	Causing death by careless driving when unfit through drugs	3 to 11
CD60	Causing death by careless driving with alcohol level above the limit	3 to 11
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis	3 to 11

Codes CD80 and CD90 must stay on a driving record for 4 years from the date of the conviction.

Code	Offence	Penalty points
CD80	Causing death by careless, or inconsiderate, driving	3 to 11
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	3 to 11

Construction and use offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
CU10	Using a vehicle with defective brakes	3
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	3
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers	3
CU80	Breach of requirements as to control of the vehicle, such as using a mobile phone	3 to 6

Reckless/dangerous driving

These codes must stay on a driving record for 4 years from the date of the conviction.

Code	Offence	Penalty points
DD10	Causing serious injury by dangerous driving	3 to 11
DD40	Dangerous driving	3 to 11

Code	Offence	Penalty points
DD60	Manslaughter or culpable homicide while driving a vehicle	3 to 11
DD80	Causing death by dangerous driving	3 to 11
DD90	Furious driving	3 to 9

Drink

Codes DR10 to DR61 must stay on a driving record for 11 years from the date of the conviction.

Code	Offence	Penalty points
DR10	Driving or attempting to drive with alcohol level above limit	3 to 11
DR20	Driving or attempting to drive while unfit through drink	3 to 11
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3 to 11
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity	3 to 11
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive	10

Codes DR40 to DR70 must stay on a driving record for 4 years from the date of the offence or 4 years from date of conviction where a disqualification is imposed.

Code	Offence	Penalty points
DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of a vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to provide specimen for breath test	4

Drugs

These codes must stay on a driving record for 11 years from the date of the conviction.

Code	Offence	Penalty points
DG10	Driving or attempting to drive with drug level above the specified limit	3 to 11

Code	Offence	Penalty points
DG60	Causing death by careless driving with drug level above the limit	3 to 11
DR80	Driving or attempting to drive when unfit through drugs	3 to 11

These codes must stay on a driving record for 4 years from the date of the offence or 4 years from date of conviction where a disqualification is imposed.

Code	Offence	Penalty points
DG40	In charge of a vehicle while drug level above specified limit	10
DR90	In charge of a vehicle when unfit through drugs	10

Insurance offences

Code IN10 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
IN10	Using a vehicle uninsured against third party risks	6 to 8

Licence offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
LC20	Driving otherwise than in accordance with a licence	3 to 6
LC30	Driving after making a false declaration about fitness when applying for a licence	3 to 6
LC40	Driving a vehicle having failed to notify a disability	3 to 6
LC50	Driving after a licence has been cancelled (revoked) or refused on medical grounds	3 to 6

Miscellaneous offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3

Code	Offence	Penalty points
MS30	Play street offences	2
MS50	Motor racing on the highway	3 to 11
MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)	3
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc	6

Motorway offences

Code MW10 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
MW10	Contravention of special roads regulations (excluding speed limits)	3

Pedestrian crossings

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
PC10	Undefined contravention of pedestrian crossing regulations	3
PC20	Contravention of pedestrian crossing regulations with moving vehicle	3
PC30	Contravention of pedestrian crossing regulations with stationary vehicle	3

Speed limits

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
SP10	Exceeding goods vehicle speed limits	3 to 6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3 to 6
SP30	Exceeding statutory speed limit on a public road	3 to 6
SP40	Exceeding passenger vehicle speed limit	3 to 6

Code	Offence	Penalty points
SP50	Exceeding speed limit on a motorway	3 to 6

Traffic direction and signs

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with 'stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with traffic sign (excluding 'stop' signs, traffic lights or double white lines)	3
TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3

Special code

Code TT99 must stay on a driving record for 4 years from the date of conviction.

It shows disqualification under 'totting-up' - if the total of penalty points reaches 12 or more within 3 years, the driver can be disqualified.

Theft or unauthorised taking

Code UT50 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
UT50	Aggravated taking of a vehicle	3 to 11

'Mutual recognition' codes

You'll get an 'MR' code on your driving record if you're disqualified while driving in Northern Ireland or the Isle of Man. Your disqualification period will also be valid in GB and will stay on your record for 4 years from the date of conviction.

Code	Offence
MR09	Reckless or dangerous driving (whether or not resulting in death, injury or serious risk)
MR19	Wilful failure to carry out the obligation placed on driver after being involved in a road accident (hit or run)
MR29	Driving a vehicle while under the influence of alcohol or other substance affecting or diminishing the mental and physical abilities of a driver
MR39	Driving a vehicle faster than the permitted speed
MR49	Driving a vehicle whilst disqualified
MR59	Other conduct constituting an offence for which a driving disqualification has been imposed by the State of Offence

Aiding, abetting, counselling or procuring offences

For these offences, the codes are similar, but with the number 0 on the code changed to 2.

For example, code LC20 (driving otherwise than in accordance with a licence) becomes code LC22 on your driving record if you have helped someone to do this.

Causing or permitting offences

For these offences, the codes are similar, but with the number 0 on the code changed to 4.

For example, LC20 (driving otherwise than in accordance with a licence) becomes LC24 on your licence if you've caused or permitted someone to do this.

Inciting offences

For these offences, the codes are similar, but with the number 0 on the code changed to 6.

For example, DD40 (dangerous driving) becomes DD46 on your driving record if you've incited someone to do this.