



Craven District Council

Policy relating to the Relevance of Previous Convictions and other Relevant Information

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1 Introduction

- 1.1 This policy provides guidance to the Licensing Committee on the criteria to take into account when determining whether or not an applicant or an existing licence holder is a fit and proper person to be granted, have renewed or continue to hold a Hackney Carriage and/or a Private Hire Driver Licence. Whilst criminal convictions will play a significant part in the Licensing Authority's determination on whether an individual is fit and proper or not, the Council will also take into account other factors such as demeanour, general character, non-criminal behaviour, driving abilities and other information from other bodies such as the Police.
- 1.2 Whilst this policy primarily applies to the determination of driver licences, the principles within it are equally applicable to the determination of Private Hire Operator. Private Hire Vehicle and Hackney Carriage licence applications. Consequently, where a conviction (as defined below) is considered relevant to the fitness and propriety/suitability of an individual to hold (or be granted) a Private Hire Operator Licence/Private Hire Vehicle Licence or Hackney Carriage licence, then this policy must be referred to in the determination of that licence/application.
- 1.3 This policy will be immediately applied to all current licences, in addition to being considered at the time of renewal and grant of a licence.
- 1.4 It is the responsibility of Craven District Council (referred to as the Council) to issue Hackney Carriage and Private Hire licences under the Local Government (Miscellaneous Provisions) Act 1976. In exercising this duty the Council will need to ensure the safety of the public as its primary consideration. Licences will not be issued unless the person is considered to be 'fit and proper'.
- 1.5 In seeking to safeguard the safety of the public. The Council will be concerned to ensure:
 - That a person is a fit and proper person in accordance with Sections 51 and 59 of Part II of the Local Government (Miscellaneous Provisions) Act 1976
 - That the person does not pose a threat to the public
 - That the public are safeguarded from dishonest persons
 - The safety of children, young persons and vulnerable adults
- 1.6 The term "Fit and Proper Person" for the purposes of taxi and private hire licensing is not legally defined. However, in determining whether a person is fit and proper to hold a licence, those tasked with determining licences/applications are effectively asking the following question of themselves:

“Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?”

If the answer to the question is an unqualified ‘yes’, then the person can be considered to be fit and proper. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether a licence should be granted to that person.

In order to assess the suitability of an applicant (and to inform decision makers when answering the question above), the Council will undertake whatever checks and apply whatever processes it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. In assessing the suitability of an applicant or licence holder, the Council will take into consideration the following factors:-

- Criminality
- Period of holding a driver’s licence
- Number of endorsed driving licence points
- Right to work
- Medical Fitness
- Standard of driving/driving ability
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process)
- The previous licensing history of existing/former licence holders

In addition the Council will also consider further information sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards, other Licensing Authorities and Statutory Agencies.

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

- Applicant’s for a driver, vehicle or operator licence
- Existing licensed drivers whose licences are being reviewed
- Licensing Officers
- Members of the licensing committee
- Magistrates and Judges hearing appeals against local authority decisions

1.8 In this policy the word “Conviction” is to be defined as including convictions, cautions, warnings, reprimands and other relevant information. In this policy ‘from date sentence has ended’ is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will

be five years from the date of sentencing – regardless of the amount of time actually served by the applicant? If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term ‘since completion of sentence’ is to be construed in a similar way.

- 1.9 In this policy the word applicant refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders that are the subject of periodic auditing or having their licence reviewed by the Council as part of the policy implementation process. It also includes existing licence holders who are being considered by the Council by virtue of offending activity or other activity having recently come to light.

The Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

- 1.10 We will also have regard to any Best Practice Guidance issued by Agencies such as Department for Transport and Institute of Licensing in particular ‘Guidance on determining suitability of applicants and licensees in the hackney and private hire trades’ published April 2018.

2 General Policy

- 2.1 Whilst the Licensing Committee may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:

- a. Remain free of conviction for an appropriate period as detailed below; and
- b. Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

- 2.2 The standards and criteria set out in paragraphs 6 to 16 below are those that would normally be applied to applications and licences. The Council may depart from these criteria; however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

3 Appeals

- 3.1 Any applicant refused a driver’s licence, or who has their licence suspended or revoked on the grounds that the Council is not satisfied they are a fit and proper person to hold such a

licence has a right of appeal to the Magistrates Court within 21 days of the notice of refusal [Local Government (Miscellaneous Provisions) Act 1976, s77 (1)].

4 Powers

- 4.1 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 allow the Council to suspend, revoke or refuse to renew a licence if the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence, failure to comply with the provisions of the Town Police Clauses Act 1847, failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 or any other reasonable cause.
- 4.2 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the Council to take into account all convictions recorded against an applicant or the holder of a Private Hire or Hackney Carriage Driver's licence, whether spent or not. Therefore the Council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.
- 4.3 Under the provisions of Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, the Council is required to ensure that the applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire Drivers licence is a "fit and proper" person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the Council will look into:
- How relevant the offence(s) are to the licence being applied for;
 - How serious the offence(s) were;
 - When the offence(s) were committed;
 - The date of the conviction, warning, caution etc.;
 - Circumstances of the individual concerned;
 - Any sentence imposed by the Court;
 - The applicant's age at the time of the offence/incident leading to the conviction, warning, caution etc;
 - Whether they form part of a pattern of offending;
 - Any other character check considered reasonable (e.g. personal references);
 - Any other factors that might be relevant, for example:
 - The previous conduct of an existing or former licence holder
 - Whether the applicant has intentionally misled the Council or lied as part of the application process
 - Information provided by other Agencies/Council Departments
- 4.4 Existing holders of driver's licences are required to notify the Council in writing within **five** working days of receiving a driving licence endorsement, fixed penalty notice, warning,

reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the Council within **three** working days of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.

- 4.5 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the Licensing Manager on 01756 706343 for advice.
- 4.6 The Council conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any applicant for a driver's licence. Applicants applying for the grant or a renewal of a driver's licence will be required to obtain an enhanced disclosure at their expense; this includes any fees payable to the DBS. Further details are provided in Appendix A and B of this policy.
- 4.7 The Council is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other licensing authorities, and information disclosed by the Police under the Common Law Disclosure Scheme or other similar arrangements. Examples of such information sources that may be used to include social care information, benefits payments etc.
- 4.8 It is an offence for any person to knowingly or recklessly make a false declaration or to omit any material particular in giving information required by the application for a licence [s57 Local Government (Miscellaneous Provisions) Act 1976]. Were an applicant has made a false statement or a false declaration for the grant or renewal of a licence, the licence will normally be refused.
- 4.9 Any offences or behaviour not covered by this Policy will not prevent the Council from taking into account those offences or behaviours.

5 Options when Determining an Application/Licence

- 5.1 When determining an application or reviewing an existing licence the Council have the following options:
 - Approve the application or take no further action;
 - Refuse the application/revoke the licence/suspend the licence;
 - Issue a warning which may include the use of enforcement penalty points;
 - For existing drivers who have accumulated 9 or more penalty points on their DVLA driving licence, their drivers' licence will normally be suspended until the driver has successfully undertaken a driving test to what was the DVSA standard up until 31

December 2016 (when the DVSA ceased to undertake such tests). Such a test will be at the licence holder's expense.

6 Serious Offences involving Violence

6.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will be refused if the applicant has a conviction for an offence that involved loss of life.

6.2 A licence will not be granted where the applicant has a conviction for an offence such as:

- Murder
- Manslaughter
- Manslaughter or Culpable Homicide while driving
- Terrorism Offences
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

6.3 Consideration may only be given to the granting/issuing of a licence if at least 10 years have passed since the completion of any sentence/and or licence period following conviction for an offence shown below:

- Arson
- Malicious Wounding or Grievous Bodily Harm which is racially aggravated
- Actual Bodily Harm
- Grievous Bodily Harm
- Robbery
- Possession of a Firearm
- Riot
- Assault Police
- Violent Disorder
- Resisting Arrest
- Any racially aggravated offence against a person or property
- Common Assault
- Affray
- Any offence that maybe categorised as Domestic Violence
- Any Public Order Act Offence (Harassment, Alarm or Distress, Intentional Harassment or Fear of Provocation of Violence)
- Any Offences (including Attempted or Conspiracy to commit Offences) that are similar to those above.

6.4 Consideration may only be given to the granting/issuing of a licence if at least 5 years have passed since the completion of any sentence and/or licence period following conviction for an offence shown below:

- Obstruction
- Criminal Damage
- Any Offences (including Attempted or Conspiracy to Commit Offences) that are similar to those above.

6.5 A licence will not be granted if an applicant has more than one conviction for an offence of a violent nature.

7 Possession of a Weapon

7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

7.2 Depending on the circumstances of the offence, at least three years must have passed since the completion of the sentence before the licence is granted.

8 Sexual and Indecency Offences

8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, the Council will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences that involve a third party will be refused a licence. Such offences include:

- Rape
- Assault by Penetration
- Offences involving children or vulnerable adults
- Trafficking, Sexual Abuse against children and/or vulnerable adults and Preparatory Offences (as defined within the Sexual Offences Act 2003)
- Making or distributing obscene material
- Possession of Indecent Photographs depicting Child Pornography
- Sexual Assault
- Indecent Assault
- Exploitation or Prostitution
- Soliciting (Kerb Crawling)
- Making Obscene/Indecent Telephone Calls
- Indecent Exposure
- Any similar Offences (including Attempted or Conspiracy to Commit) Offences which replace the above

8.2 In addition to the above the Council will not grant a licence to any applicant who is currently on the Sex Offenders Register or any other similar register.

9 Dishonesty

9.1 A licensed driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and who are potentially easily confused. For these reasons, a serious view is taken of any conviction involving dishonesty.

9.2 In general, a minimum period of five years free of conviction or at least five years have passed since the completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- Theft
- Burglary
- Fraud
- Benefit Fraud
- Handling or Receiving Stolen Goods
- Forgery
- Conspiracy to Defraud
- Obtaining Money or Property by Deception
- Other Deception
- Taking a Vehicle without Consent
- Fare Overcharging
- Or any similar Offences (including Attempted or Conspiracy to commit) Offences which replace the above

9.3 Applicants or existing licence holders that are found to have intentionally misled the Council, or lied as part of the application process, will not be issued with a licence.

10 Alcohol and Drugs

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

10.2 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the applicant's fitness to

drive the public. At least three years after the restoration of the driving licence following a drink driving conviction should elapse before an application will be granted. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be granted.

- 10.3 Because of the nature of a driver's involvement with the public, a licence will not be granted where the applicant has a conviction for an offence related to the supply of drugs.
- 10.4 A licence will not be granted where the applicant has a conviction for offences related to the possession of illegal/controlled drugs until at least 10 years have passed since the completion of any sentence and/or licence period, and only then after full consideration of the nature of the offence and the quantity/type of drugs involved.
- 10.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 Medical Standards) and a satisfactory medical report may be required before the licence is granted. If the applicant was an addict then they would be required to show evidence of five years free from drug taking after detoxification treatment.

11 Driving Offences Involving the Loss of Life

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

A licence will not be granted if an applicant has a conviction for:

- Causing Death by Dangerous Driving
- Causing Death by Careless Driving whilst under the influence of drink or drugs
- Causing Death by Careless Driving
- Causing Death by Driving – Unlicensed, Disqualified or Uninsured Drivers
- Or any similar Offences (including Attempted or Conspiracy) to Commit Offences which replace the above

12 Other Traffic Offences

- 12.1 Traffic Offences such as obstruction, some speeding offences (usually dealt with by means of a fixed penalty), pedestrian crossing offences, traffic light offences, waiting in a restricted area, or offences of a similar nature may not ordinarily merit refusal. However, they will be subject to consideration as part of the Points Enforcement Policy. For existing drivers who have accumulated 9 or more points on their DVLA licence, their driver licence will normally be suspended until the driver has successfully undertaken a driving test to was the DVSA standard up until 31 December 2016 (when the DVSA ceased to undertake such tests). Such a test will be at the licence holder's expense.

12.2 Traffic Offences such as Driving without Due Care and Attention, reckless driving, more serious speeding offences (usually dealt with by a Court rather than a Fixed Penalty), or Offences of a similar nature will give rise to serious doubts about the applicants suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least one year free of such convictions. For applicants with more than one offence this should normally be increased to two years.

12.3 In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above should normally commence from the date of the restoration of the licence.

13 Outstanding Charges or Summonses

13.1 If the individual is the subject of an outstanding charge or summons their application may be suspended until the matter is resolved, this decision will be made on a case by case basis.

13.2 Where a licence holder is arrested and is the subject of an ongoing enquiry/outstanding charge or summons then dependent on the circumstances of the alleged offence and if it is in the interests of public safety then steps maybe taken to remove a licence with immediate effect (revoke). Annex B contains more information about this process.

14 Non Conviction Information

14.1 The Council will also take into account situations and circumstances that have not led to a conviction. This will include acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take in relation to non-conviction information (or a complaint), the credibility of both the witness/complainant and the licence holder will be taken into account.

14.2 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he/she could be a danger to the public, consideration should be given to refusing the application. Such offences would include violent and/or sexual offences.

14.3 In assessing the action to take, the safety of the traveling public must be the paramount concern.

15 Licensing Offences

15.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons or assistance dogs will prevent a licence being granted or renewed until a period of three years has passed since conviction.

16 Insurance Offences

16.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for three years; however a strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.

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

17 Applicants with Periods of Residency Outside the United Kingdom

17.1 If the applicant has spent six continuous months or more overseas (since the age of 16) the Council will expect to see evidence of a Criminal Record Check from the Country/Countries visited covering the period.

17.2 Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU Nationals a disclosure that is similar to the United Kingdom DBS will be required. For those Countries for which checks are not available, the Council will require a Certificate of Good Conduct authenticated by the relevant Embassy.

18 Summary

18.1 Whilst a criminal history in itself may not automatically result in refusal and a current conviction for serious crime need not bar an applicant permanently from becoming licensed, in most cases, an applicant would be expected to have remained free from conviction for three to ten years (the period of time depending on the crime committed, as detailed above) before an application is likely to be successful. If there is any doubt about the suitability of an individual to be licensed, the Committee needs to be mindful of the need to protect the public and caution should be exercised.

18.2 Whilst it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing

an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

- 18.3 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver [s61(2B) Local Government (Miscellaneous Provisions) Act 1976].
- 18.4 At least three years should elapse (after the restoration of the DVLA Driving Licence) before a licence would be granted for a Hackney Carriage or Private Hire Drivers Licence.
- 18.5 Annex C contains a Criminal Convictions Points Table which gives applicants/licence holders guidance on how offence(s) are taken into account. the type of offence(s), date(s) of conviction, and sentence(s) imposed. Points are added together and the total is used to inform the decision.

These points are described as

CCP's Criminal Conviction Points

DLP's Driving Licence Points

This system allows the Council and the applicant to be clear about whether particular offences mean that someone is not a fit and proper person to hold a licence. The safety of the public will be given the highest priority.

An applicant with 10 or more CCP's will not be granted a licence.

Some offences on their own are serious enough for a licence not to be granted, in the tables these are marked 'refused', and are equivalent to at least 10 CCP's.

In the case of an existing licence, 'refused' in the table means that a licence would be revoked.

An applicant who is currently being investigated or prosecuted for an offence will be dealt with on the basis that the person could be convicted of the offence and will be given the points for that offence.

Points are doubled if a term of imprisonment is served.

Annex A – Motoring Offences and Penalty Points

The following is a guide to the number of penalty points a court may impose, it does not reflect the fact that some offences may incur a disqualification. These codes are recorded from information supplied by the Courts (accurate at the time of this document).

Code	Offence	Penalty Points
Accident Offences		
AC10	Failing to stop after an accident	5-10
AC20	Failing to give particulars or to report an accident within 24 hours	5-10
AC30	Undefined accident offences	4-9
Disqualified Driver		
BA10	Driving whilst disqualified by order of Court	6
BA30	Attempting to drive while disqualified by order of Court	6
BA40	Causing death by driving while disqualified	3-11
BA60	Causing serious injury by driving while disqualified	3-11
CD10	Driving without Due Care and Attention	3-9
CD20	Driving without Reasonable Consideration for other road users	3-9
CD30	Driving without Due Care and Attention or without Reasonable Consideration for other Road Users	3-9
CD40	Causing Death through Careless Driving when Unfit through Drink	3-11
CD50	Causing Death by Careless Driving when Unfit through Drugs	3-11
CD60	Causing Death by Careless Driving with Alcohol Level above the Limit	3-11
CD70	Causing Death by Careless Driving then Failing to Supply a Specimen for Analysis	3-11
CD71	Causing Death by Careless Driving then Failing to Supply a Drug Specimen for Analysis	3-11
CD80	Causing Death by Careless, or Inconsiderate Driving	3-11
CD90	Causing Death by Driving Unlicensed, Disqualified or Uninsured Drivers	3-11
Construction and Use Offences		
CU10	Using a Vehicle with Defective Brakes	3
CU20	Causing or Likely to Cause Danger by Reason of Use of Unsuitable Vehicles or Using a Vehicle with Parts or Accessories (excluding Brakes, Steering or Tyres) in a Dangerous Condition	3
CU30	Using a Vehicle with Defective Tyres	3
CU40	Using a Vehicle with Defective Steering	3
CU50	Causing or Likely to Cause Danger by Reason of Load or Passengers	3
CU80	Using a Mobile Phone while Driving a Vehicle	3
Dangerous Driving		

DD10	Causing serious injury by dangerous driving	3-11
DD40	Dangerous Driving	3-11
DD60	Manslaughter or Culpable Homicide while Driving a Vehicle	3-11
DD80	Causing death by dangerous driving	3-11
DD90	Furious Driving	3-9
Drink		
DR10	Driving or Attempting to Drive with Alcohol Level Above Limit	3-11
DR20	Driving or Attempting to Drive while Unfit Through Drink	3-11
DR30	Driving or Attempting to Drive then Failing to Supply a Specimen for Analysis	3-11
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	3-11
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
DR61	Refusing to give permission for analysis of a blood sample that taken without consent due to incapacity in circumstances other than driving or attempting to drive	10
DR70	Failing to Provide a Specimen	4
Drugs		
DG10	Driving or attempting to drive with drug level above the specified limit	3-11
DG60	Causing death by careless driving with drug level above the limit	3-11
DR80	Driving or attempting to drive when unfit through drugs	3-11
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		
IN10	Using a Vehicle Uninsured against Third Party Risks	6
Licence Offences		
LC20	Driving Otherwise than in Accordance with the Licence	3-6
LC30	Driving after Making a False Declaration about Fitness Applying for a Licence	3-6
LC40	Driving a Vehicle having Failed to Notify a Disability	3-6
LC50	Driving after a Licence has been Revoked or Refused on Medical Grounds	3-6
Miscellaneous Offences		
MS10	Leaving a Vehicle in a Dangerous Position	3
MS20	Unlawful Pillion Riding	3
MS30	Play Street Offences	2
MS50	Motor Racing on the Highway	3-11
MS60	Offences not Covered by Other Codes	As Appropriate
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		
MW10	Contravention of Special Roads Regulations (excluding speed limits)	3
Pedestrian Crossings		
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		
SP10	Exceeding Goods Vehicle Speed Limits	3-6
SP20	Exceeding Speed Limit for Type of Vehicle (excluding goods or passenger vehicles)	3-6
SP30	Exceeding Statutory Speed Limit on a Public Road	3-6
SP40	Exceeding Passenger Vehicle Speed Limit	3-6
SP50	Exceeding Speed Limit on a Motorway	3-6
Traffic Directions and Signs		
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 a Traffic Sign (excluding stop signs, traffic signs 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		
TT99	To signify a Disqualification under Totting Up Procedure. If the total of Penalty Points reaches 12 or more within 3 years the driver is liable to be disqualified	
Theft or Unauthorised Taking		
UT50	Aggravated taking of a Vehicle	3-11

Annex B

GUIDANCE ON IMMEDIATE SUSPENSION AND REVOCATION

Legislation

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or private hire vehicle on any of the following grounds:

- (a) That he has since the grant of the licence
 - (i) Been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of this of this Act; or
- (b) Any other reasonable cause.

Section 61(2) goes on to provide that a suspension or revocation normally takes effect at the end of the period of 21 days beginning on the day on which notice is given to the driver but;

If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice give to the driver includes the statement that this is so and an explanation why then the suspension or revocation takes immediate effect when the notice is given.

These provisions (setting out when the decision takes effect) were inserted by the Road Safety Act 2006.

Guidance on decision making – Suspensions and Revocations generally

Section 61 requires the licensing authority to make a finding on the balance of probabilities that that the grounds set out in the legislation are made out.

In Section 61(1)(a)(i) the offence in question must *involve* dishonesty, indecency or violence. Dishonesty, indecency or violence must be part of the commission of the criminal offence for this subsection to apply but it is not necessary for the offence to be one of dishonesty, indecency or violence.

Section 61(1)(b) allows suspension or revocation (or refusal to renew) for any other reasonable cause. No further definition is give of reasonable cause within the legislation and ultimately the question is a matter for the discretion of the decision maker.

Guidance is given in a number of cases from which the following principles can be drawn.

- The decision maker is entitled to take into account hearsay evidence.¹

- The fact that no criminal case is pursued against the driver is a relevant factor that can be outweighed by other evidence.²

1 *McCool v Rushcliffe Borough Council* (1998)

2 *McCool v Rushcliffe Borough Council* (1998)

- The burden of proof is on the applicant to establish that he is a fit and proper person to hold the licence.³

- Once the driver has established a case that he is a fit and proper person, the evidential burden shifts to the Local Authority to rebut the case put forward by the driver. Rebuttal does not require the decision maker to prove that a person is not a fit and proper person and nor does pursuing that argument amount to double jeopardy.

- They would not have good reason to question or doubt the applicant's case if the evidence amounts to assertions shown to be ill founded gossip or rumour or for any other evidence which a reasonable and fair minded decision maker acting in good faith with proper regard to the interests of the public and the applicant would not think it right to rely on.⁴

The discretion under this Section is wide and is not restricted to convictions for criminal offences nor is proof required to the criminal standard.

The taxi licensing regime is clearly and expressly in place to protect members of the public travelling in taxi and private hire vehicles.

There are issues which undermine that protection which amount to criminal offences in their own right but there are other issues which have significance for the protection of the travelling public where a criminal offence might not have been committed or proved.

Immediate suspension or revocation

Both standard and immediate suspensions require the decision maker to consider the same matters, i.e. whether there has been a relevant conviction or "any other reasonable cause".

A suspension or revocation can only take immediate effect *in the interests of public safety* there must be an additional consideration. That means the decision maker should consider whether there is a clear connection between the incidents alleged and the safety of the travelling public which justifies taking this additional step, given that it can deprive a driver of his livelihood pending an appeal.

However there are no further limits or restrictions on the decision maker's exercise of judgment or discretion providing a proper judgment is made weighing up the evidence available.

There is no requirement in the legislation limiting this power to cases where there has been a conviction for a criminal offence nor that any alleged incident or offence is 'serious'.

³ *R v Maidstone Crown Court ex parte Olson* (1992)

⁴ *McCool v Rushcliffe Borough Council* (1998)

The decision must be taken in the interests of public safety and should be fair, reasonable, proportionate and in accordance with human rights and natural justice principles.

The Council has a published policy relating to new applications for drivers licences by those with criminal convictions. The council will have regard to that policy when considering whether an offence, allegation or complaint should be considered as warranting immediate suspension in the public interest. This will be judged against all the circumstances of the case, including any admissions or denials made and any other relevant evidence.

Examples of situations where immediate suspension or revocation might be warranted include:

- Allegations of violence against a passenger or person wishing to travel.
- Allegations of indecency including sexual assault and rape against a passenger or person wishing to travel.
- Allegations that the driver is unfit to drive as a result of being under the influence of drugs or alcohol.
- Admitted sexual contact with a passenger in the vehicle
- Allegations of dishonesty relating to use of the vehicle such as attempting to pervert the course of justice in relation to a road traffic accident, fraudulent use of tax or insurance documentation, knowingly driving an uninsured vehicle to convey members of the travelling public.
- Allegations of dangerous driving or driving without due care and attention thereby endangering the safety of passengers and other road users.

Each case must be decided on its own facts and any examples given in this guidance are only illustrative. Each case must be considered on its own merits and the powers should be exercised in a consistent and reasonable manner having regard to the facts of the case and the risk posed to the public.

Any decision to suspend or revoke a licence should never be taken lightly. However, the licensing system is designed to protect the public and it would be wrong not to suspend or revoke where such course of action is clearly appropriate on the facts of an individual case.

If there is any doubt whatsoever as to the driver's suitability to hold a licence as a fit and proper person serious consideration must be given to refusal, revocation or suspension.