

Statement of Policy relating to the relevance of previous convictions, cautions, complaints and other matters which may impact on the granting of a licence

1. Introduction

1.1 This policy provides guidance to the General 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 police information etc.

1.2 Whilst this policy applies to the determination of driver licences, the principles within it are equally applicable to the determination of a private hire operator and vehicle/hackney carriage licence applications. Consequently, where a conviction (as defined below) is considered relevant to fitness and propriety/suitability of an individual to hold (or be granted) a private hire operator licence or a vehicle 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 South Ribble BC (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 consider the 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 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 penalty 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 Board, 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:

- ⌚ Applicants for a driver’s licence
- ⌚ Existing licensed drivers whose licences are being renewed
- ⌚ Licensing Officers
- ⌚ Members of the General Licensing Committee
- ⌚ Magistrates and Judges hearing appeals against local authority decisions

- 1.8 In considering this guidance the Council will be mindful that each case must be considered on its individual merits and, where the circumstances demand, the committee may depart from the guidelines
- 1.9 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 the sentence” is to be construed in a similar way.
- 1.10 In this policy the word “applicant” refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders that are subject of periodic auditing or having their licences 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 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 further material comes to light.

2 General Policy

- 2.1 Whilst the General 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.
- 2.3 Where there is information available to show that an applicant may not be a fit and proper person or an existing holder may no longer be fit and proper the applicant/licence holder will be referred to a meeting of the General Licensing Committee:
- a) Hearing with notice -Where a committee is asked to consider whether or not a person is fit and proper, notice of the time and date of the meeting will be given to the

applicant/licence holder in advance in order to allow the person to seek independent legal advice and to attend and be represented at the hearing.

b) Ex-parte hearing – Where a committee is convened as a result of sensitive information being received by the Council an assessment will be undertaken in balancing a person’s right to a fair hearing against whether or not it is in the public interest to hold the hearing ex parte.

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

2.4 Where an individual has had an application refused or a licence revoked the General Licensing Committee will normally refuse any subsequent application made within 12 months of the date of the previous refusal or revocation, unless there has been a substantial material change in the individual’s circumstances. Applications received more than 12 months after the refusal/revocation will be considered in accordance with this policy.

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 to appeal to the Magistrate’s Court within 21 days of the notice of refusal.

4. Powers

4.1 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 allows 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 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 a Council to take into account all convictions recorded against an applicant or the holder of a hackney carriage/private hire 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 Local Government (Miscellaneous Provisions) Act 1976, the Council is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire driver’s licence is a “fit and proper person” to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the 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 etc
- ⌚ Whether they form part of a pattern of offending
- ⌚ Any other character check considered reasonable (e.g. personal reference)
- ⌚ 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 2 working days of their arrest of 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 application.
- 4.5 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing service on 01772 625357 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.
- 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 Police Disclosure Scheme or other similar arrangements. Examples of such information sources that may be used include social care information, benefit payments etc.
- 4.8 It is an offence for any person knowingly or recklessly to 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). Where an applicant has made a

false statement or a false declaration on their application 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
- ⌚ For existing drivers who have accumulated 9 or more points on their DVLA licence, their drivers licence will normally be suspended until the driver has successfully undertaken a driving test to DVSA standards. Such 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 the 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 granting/issuing 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
- ⌚ Assault occasioning actual bodily harm

- ⌚ Assault occasioning grievous bodily harm
- ⌚ Robbery
- ⌚ Possession of a firearm
- ⌚ Riot
- ⌚ Assault Police
- ⌚ Violent disorder
- ⌚ Resisting arrest
- ⌚ Any racially-aggravated offence against the person or property
- ⌚ Common assault
- ⌚ Affray
- ⌚ Any offence that may be categorised as domestic violence
- ⌚ Any Public Order Act offence (harassment, alarm or distress, intentional harassment or fear of provocation of violence)
- ⌚ Any offences (including attempt 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
- ⌚ Harrassment – breach of restraining order
- ⌚ Any offences (including attempt 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 3 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 passenger, 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 will be considered as serious. Applicants with convictions for 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)
- ⌚ Possession of indecent photographs depicting child pornography
- ⌚ Sexual assault
- ⌚ Indecent assault
- ⌚ Exploitation of prostitution
- ⌚ Soliciting (kerb crawling)
- ⌚ Making obscene/indecent telephone calls
- ⌚ Indecent exposure
- ⌚ Any similar offence (including attempt 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 private hire or taxi driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transaction and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. For these reasons, a serious view is taken of any conviction involving dishonesty.

9.2 In general, a minimum period of 5 years free of conviction or at least 5 years have passed since the completion of the 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
- ⌚ Any similar offences (including attempt 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 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 licence holders are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle 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 5 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. An application will normally be refused where the applicant has a conviction for driving/being in charge under the influence which does not result in a disqualification within two years of the date of application.

10.3 An isolated conviction for drunkenness not related to the driving of a vehicle need not debar an applicant from gaining a licence. In some cases a warning may be deemed appropriate. More than one conviction could indicate a medical problem necessitating critical examination and refusal of a licence.

- 10.4 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.
- 10.5 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.
- 10.6 If there is evidence of persistent drug 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 5 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 attempt or conspiracy), 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.
- 12.2 New applicants and existing licensed drivers with a conviction for a "major traffic offence" as defined below will be referred to the Committee for determination where the conviction is less than 5 years prior to the date of application. A conviction less than 2 years prior to the date of application will generally be refused.

12.3 Where the conviction resulted in a period of disqualification, an application will normally be refused unless a period of 3 years free from conviction has elapsed from the date of restoration of the DVLA licence, 5 years where the disqualification relates to driving whilst under the influence/being unfit through drink or drugs.

12.4 “Major traffic offences”

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of court
BA30	Attempting to drive while disqualified by order of court
DD40	Dangerous driving
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving/attempting to drive then failing to supply specimen for analysis
DR31	Driving/attempting to drive when unfit through drugs
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drugs
DR60	Failure to provide a specimen for analysis in circumstances other than driving/attempting to drive
DR61	Failure to provide a specimen for drug analysis in circumstances other than driving/attempting to drive
DR70	Failing to provide a specimen for a breath test
DR90	In charge of a vehicle when unfit through drugs
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
MS90	Failure to give information as to the identity of a driver, etc.
UT50	Aggravated vehicle taking
	Offences of aiding, abetting counselling or procuring the above offences (offence coded as above but last digit is a 2)
	Offences of causing or permitting above offences (offence coded as above but last digit is a 4)
	Inciting (offence coded as above but last digit is a 6)
	Any intermediate traffic offence (as defined below) which has attracted 4 or more penalty points

12.5 “Intermediate” traffic offences

Where an individual has a single intermediate traffic offence (as defined below) within the 12months immediately preceding the date of application, they will normally be expected to show a period of at least 6 months free from conviction before an application is considered.

Where an individual has 2 or more intermediate traffic offences in the 12 months immediately preceding the date of application, the individual will normally be expected to show a period of at least 12 months free from conviction before an application is considered.

Where the conviction resulted in a period of disqualification an application will generally be refused unless the individual can show a period free from conviction has elapsed from the restoration of the DVLA licence which is twice the period of the disqualification imposed. For example a 3 month disqualification requires a 6 month period free from conviction.

CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of unsuitable vehicle/dangerous condition
CU30	Using vehicle with defective tyre
CU40	Using vehicle with defective steering
CU50	Causing/likely to cause danger by reason of load or passengers
CU80	Using mobile phone whilst driving
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Drive without due care and attention/without reasonable consideration
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle
SP30	Exceeding statutory speed limit on a public road – not dealt with as a fixed penalty
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on motorway
SP60	Exceeding speed limit
	Offences of aiding, abetting counselling or procuring the above offences (offence coded as above but last digit is a 2)
	Offences of causing or permitting above offences (offence coded as above but last digit is a 4)
	Inciting (offence coded as above but last digit is a 6)
	Any minor traffic offence (as defined below) which has attracted 4 or more penalty points

12.6 “Minor” traffic offences

Where an individual has a single minor traffic offence (as defined below) in the 12 months immediately preceding the date of application, the application will normally be granted with a letter of warning being placed on file.

Where an individual has two or more minor offences in the 12 months immediately preceding the date of application an individual will normally be expected to show a period of at least 6 months free from conviction before an application is considered.

Where the conviction resulted in a period of disqualification an application will generally be refused unless the individual can show a period free from conviction has elapsed from the restoration of the DVLA licence which is equal to the period of the disqualification imposed.

MS10	Leaving vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eye test
MW10	Contravention of special road regulations (excluding speed limits)
PC10	Contravention of pedestrian crossing regulations
PC20	Contravention of pedestrian crossing regulations with a moving vehicle
PC 30	Contravention of pedestrian crossing regulations with a stationary vehicle
SP30	Speeding dealt with by way of a fixed penalty
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a "stop" sign
TS40	Failing to comply with the direction of a constable or traffic warden
TS50	Failing to comply with a traffic sign (excluding stop, traffic lights, double white lines)
TS60	Failing to comply with a school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign
	Offences of aiding, abetting counselling or procuring the above offences (offence coded as above but last digit is a 2)
	Offences of causing or permitting above offences (offence coded as above but last digit is a 4)
	Inciting (offence coded as above but last digit is a 6)

12.7 "Totting Up"

Where a driver obtains 12 or more penalty points with a three year period, they will be liable to be disqualified from driving by the court.

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

Where any of the offences which contribute to the totting up disqualification are classed as a "major" traffic offence an application will normally be refused unless a period of 3 years free from conviction has elapsed from the date of restoration of the DVLA licence, 5 years where the disqualification relates to driving whilst under the influence/being unfit through drink or drugs.

There may be occasions where an applicant has accrued sufficient points for the court to consider disqualification, but there is a successful argument made that there should be no disqualification because it would cause exceptional hardship. In these circumstances the Council expects the individual to supply full details of each of the matters that led to the totting up. The Council will take those matters into account in accordance with this policy when deciding whether to grant or refuse an application or whether to take action against an existing licence. Should the individual not supply this information, the Council will take the failure to do so into account when deciding whether to take any such action.

13 Insurance offences

- 13.1 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 3 years however strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.
- 13.2 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
- 14.1 Certain offences under taxi legislation - plying for hire, overcharging and refusing to carry disabled persons will prevent a licence being granted or renewed until a period of 3 years has passed since conviction
- 14.2 Where an individual has any other licensing conviction arising from the Town Police Clauses Act 1847, Part II Local Government (Miscellaneous Provisions) Act 1976, the Hackney Carriage Byelaws or Section 167 Criminal Justice and Public Order Act 1994, they will normally be refused a licence if the conviction is during the 2 year period immediately preceding the date of application.
- 14.3 Where there is more than one licensing conviction an application will normally be refused unless at least 5 years has passed since the completion of the most recent sentence.

Outstanding charges or summonses

- 15.1 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.

16 Non-conviction information

- 16.1 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.
- 16.2 If an applicant has been arrested or charged, but not convicted, for serious offences which suggest 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.
- 16.3 Licence holders will be referred to the Committee in situations where it is clear that their behaviour is not influenced by verbal or written warnings administered by Licensing Officers.
- 16.4 Any licence holder who receives a third warning, wither written or verbal, in respect of a breach or complaint within an 18month period (calculated by reference to the date of the breach/complaint) will be brought before the Committee

16.5 In certain situations the breach or complaint may be deemed so serious that an immediate response is warranted. In those cases the Council will utilise its emergency powers under Standing Order 38 and report the circumstances to the next scheduled Licensing Committee.

16.3 In assessing the action to take, the safety of the travelling public must be the paramount concern.

17 Applicants with a period of residency outside the UK

17.1 If an 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 during 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 UK 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 a 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 3 to 10 years (depending on the crime committed) 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 While 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 the applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if the 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 to have immediate effect, and the notice given to the driver includes a statement that it is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

18.4 At least three years should elapse after the restoration of a DVLA driving licence before a licence would be granted for a hackney carriage or private hire driver's licence.