

## **SOLIHULL METROPOLITAN BOROUGH COUNCIL POLICY TO DETERMINE THE SUITABILITY OF APPLICANTS AND LICENSEES IN THE HACKNEY AND PRIVATE HIRE TRADES IN ORDER TO PROTECT USERS**

<b>1.0</b>	<b>Purpose of Policy</b>
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- 1.1 Licensing issues are dealt with by both Councillors of the appropriate Committee and employees. Employee is defined to include: Assistant Director, Head of Service, Regulatory Services Manager, Licensing Team Leader, Licensing Officers, Council's Safeguarding Lead and Managers from within Legal and Democratic Services
- 1.2 The aim of local authority licensing of the taxi and private hire trades is to protect the public. The role of the licensing authority is to strike a fair balance between the driver's right to work and the public's right to protection. Case law makes it clear that the impact of losing (or not being granted) a licence on the applicant and his or her family is not a consideration to be taken into account. The safety of the public is paramount and it is the responsibility of the licensing authority to protect the public not provide employment. This policy will ensure a consistent approach with regards to the way in which drivers/proprietors of hackney carriage and private hire vehicles and operators can expect to be treated. In particular, but not exclusively it will affect:
- Applicants for driver's licences.
  - Applicants for operators licences.
  - Applicants for vehicle licences
  - Existing licensed drivers, operators and vehicle proprietors whose licences are being renewed or reviewed.
  - Magistrates/Crown Court hearing appeals against Local Authority decisions.
- 1.3 Whilst employees and Councillors will have regard to the policy, each case will be considered on its individual merits and where reasonable the employees/Committee may depart from the policy. The policy is the baseline for acceptability and will only be departed from in exceptional circumstances and for justifiable reasons which will be recorded.
- 1.4 Any decision to suspend, revoke, refuse to grant or renew a licence will be applied to an applicant/licence holder who is considered not to be a 'fit and proper' person to drive hackney carriages or private hire vehicles. The test to be applied is to ask "would I allow my son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for who you care, to get into a vehicle with this person?" If the answer is no then the licence should be refused. The Department for Transport elaborates further and poses the question "without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night? If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence." If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed

on application to do so. The application of the Human Rights Act 1998 will be considered carefully and balanced against the overriding consideration to protect the public.

1.5 The appropriate Committee is concerned to ensure:

- That a person is a fit and proper person.
- That a person does not pose a threat to the public.
- That the public are safeguarded from dishonest persons.
- The safeguarding of children, young and vulnerable persons

1.6 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operator's licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial or complaints against them, the licensing authority will look into:

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

1.7 In determining whether a person is fit and proper, the licensing authority is entitled to take into account all matters concerning that applicant or licensee. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour and the entire character of the individual will be considered. This can include, but is not limited to, the individual's attitude and temperament. Consideration will be given to the number of complaints received from passengers as multiple complaints are unacceptable and are an indication of the underlying character of the driver.

1.8 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allows the local authority to suspend, revoke or refuse to renew a licence for failure by the licence holder to comply with the provisions of the Town Police Clauses Act 1847.

1.9 The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, allows the local authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Having regard to an individual's previous behaviour and their potential to re-offend will play a significant part when making a decision to grant or renew a licence.

- 1.10 In this policy the term “disqualification” refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.
- 1.11 In this policy the term 'imprisonment' or prison sentence refers to any period of detention resulting in loss of liberty.
- 1.12 In appropriate circumstances a suspension, refusal to renew or revocation may be abated by the licence holder demonstrating to the satisfaction of the Council that they have successfully completed and passed appropriate training which should be evidenced in writing to the Council.
- 1.13 A caution is regarded in exactly the same way as a conviction. This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution. Fixed penalties and community resolutions will also be considered in the same way as a conviction. This is because payment of a fixed penalty indicates acceptance of guilt and a community resolution can only be imposed following an admission of guilt.
- 1.14 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority.
- 1.15 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will normally be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of this policy.
- 1.16 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 1.17 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of the application process (e.g. failure to declare convictions, false names or addresses, falsified references or failure to disclose in full information requested by the licensing authority, to include on the application for a licence) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 1.18 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.

- 1.19 A driver has responsibility for the safety of their passengers, and significant control over passengers who are in the vehicle. As those passengers may be alone and may also be vulnerable, any previous convictions or unacceptable behavior will weigh heavily against a licence being granted or retained. One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious. This is not the case, any driving offences are relevant as they put the general public at risk. Violence, including domestic abuse and sexual offences are always serious and demonstrate unacceptable standards of behaviour.

### **Private Hire Operators**

- 1.20 A private hire operator (“an operator”) in performing their duties obtains and holds considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others or used by the operator or their staff for criminal or other unacceptable purposes. It is therefore vital that a private hire operator is as trustworthy as a driver, notwithstanding the slightly remote role.
- 1.21 Operators shall ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that may lead to the operator’s licence being revoked. The test of fitness and propriety for private hire operators is “would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”

### **Vehicle Proprietors**

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

## **2.1 New Applicants**

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

## **2.2 Existing Licence Holders**

- 2.2.1 A conviction/caution or relevant information relating to the alleged committing of an offence falling within any of the categories outlined in Section 5.0 of this document will result in an existing hackney carriage or private hire driver's/ proprietor's/ operator's licence being referred to employees to determine a course of action detailed in Section 5.0 below. In this event, in respect of a licensed operator, the matter will be referred to the appropriate Committee for consideration.
- 2.2.2 In cases where it is in the interests of public safety, the employees or Councillors may suspend or revoke a driver's licence with immediate effect following a review. In such cases, a statement that this is so and an explanation will be given as to why it is in the interests of public safety to suspend or revoke immediately and suspension/revocation takes effect when the notice is given to the driver.

## **2.3 Overturning decisions**

- 2.3.1 The Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence. In addition, the Council will undertake periodic auditing of currently licensed drivers / vehicles. Such audits will be conducted using this policy as the required standard.

## **2.4 Implementing changes to licensing policy and requirements**

- 2.4.1 It is important to remember that any changes in licensing requirements should be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences will be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach will be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time will be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders will be transparent and communicated promptly and clearly.
- 2.4.2 Where a more subjective change has been introduced, the licensing authority will still consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities are able to do so. Licensing authorities will record the reasons for any deviation from the policies in place.

<b>3.0</b>	<b>Complaints</b>
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- 3.1 A complaint relating to the conduct of an operator, hackney carriage driver, private hire vehicle driver, proprietor of a hackney carriage or proprietor of a private hire vehicle may, depending on the severity of the allegations, result in a written warning, suspension or revocation of the licence. Complaints can be submitted to the Council and details are available on the web site.

<b>4.0</b>	<b>Further Guidance</b>
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- 4.1 Where an applicant who has previously held a licence or, on review of an existing licence and relevant convictions, has previously been considered by the licensing authority then any decision on a new application or on review will normally be made by the employees or appropriate Committee. The employees or Committee will consider any relevant convictions or behaviour which have arisen since any previous application or review. There will be occasions when previously considered convictions or behaviour will be of value and can be referred to in order to indicate a pattern of behaviour which may result in them again being considered in decision making particularly if the conviction(s) is/are of a similar nature to those which have arisen since any previous application or review. Patterns of repeated unacceptable behavior are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for unacceptable behaviour.
- 4.2 Normally an applicant or licence holder whose application/licence is subject to a formal review hearing will be advised in writing and/or by email of the date and time of the meeting. He or she has the right to appear in person at the hearing to give verbal or written information in support of the application/licence and to be represented if required. If the applicant or licence holder fails to attend the review hearing without reasonable excuse, the determination or review will normally proceed in his or her absence. At the hearing, the Council officers will produce a report which will include recommendations to the appropriate Committee.
- 4.3 In all cases involving suspension, revocation and refusal to grant or renew the applicant or licence holder, there is a right to appeal against the decision of the appropriate Committee or the employees through the Magistrates Court within 21 days of the decision.
- 4.4 For the avoidance of doubt where a person is sentenced to a period of imprisonment or detention at a Young Offenders Institution reference to expiry of sentence shall be deemed to mean expiry of the actual term imposed and not any earlier release date.
- 4.5 Any person who has been cautioned for an offence will be dealt with using the criteria relating to convictions.

- 4.6 Decisions will normally be made in accordance with these guidelines; however each case will be decided on its merits. Regard will be had to:-
- a) The nature of the offence
  - b) The age of the individual concerned at the date of the offence
  - c) Whether the driver was acting as a private hire or hackney carriage driver at the time. In the case of an operator, whether the operator was acting in the course of business as a private hire operator at the time
  - d) Any other relevant circumstances

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

- 4.7 Any list of offences outlined in Section 5.0 of this report, show examples of the type of offence in a particular category. The lists are not exhaustive and offences outside of these examples may be considered by the employees/Committee.
- 4.8 Hackney carriage and private hire vehicle drivers should be able to communicate, both orally and in writing, satisfactorily in English with customers in order to be considered a fit and proper person to hold a licence. Not being able to communicate to a satisfactory level may result in refusal to grant or renew suspension or revocation of a licence.
- 4.9 In order for an applicant or licence holder to be considered a fit and proper person to hold a licence their standard of driving should be at a satisfactory level which will be determined by a driving assessment for new applicants. This level is to be determined by the licensing authority and in appropriate cases further driver training assessment may be deemed necessary. Evidence of driving ability which is below the satisfactory level required may result in refusal to grant or renew, suspension or revocations of a licence.
- 4.10 Applicants or licence holders may be required to undertake additional medical testing at the request of the Council at their own expense and this may be required at short notice.
- 4.11 Drivers will have to undergo an enhanced DBS check. In addition to the DBS check, we will also check the barred lists for individuals applying for or renewing a licence. In the interest of public safety, a licence will not be issued to an individual on the barred list. The licensing authority subscribes to the DBS update service which enables a check to be made on the status of a DBS certificate at any time. Checks will be made periodically throughout the duration of the licence
- 4.12 Those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults, so all drivers will be required to undertake safeguarding training. This training will also include other forms of safeguarding understanding such as wider exploitation including child sexual

exploitation, human trafficking and criminal exploitation including 'county lines' drug trafficking whereby vulnerable people, often children, are exploited by gangs to move and store drugs and money across the country. This training also needs to be centred around 'contextual safeguarding' wherein drivers and operators understand the context of how children and young people can be harmed and abused by the people they meet and at places they are taken to.

- 4.13 Drivers may be requested to undergo other forms of training such as disability awareness training.

## **5.0 Determination of Action to be Taken**

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

### **5.1.1 Minor Traffic Offences**

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

A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile device, and has not resulted in injury to any person or damage to any property (including vehicles).

Where an applicant has 6 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

- (a) Single offences resulting in a maximum of 3 current penalty points relevant for 'Totting Up' purposes as outlined at 5.1.2 – Issued with written warning. A new licence will normally be granted with a warning.

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

If the total number of penalty points reaches 12 or more within 3 years the driver is liable to be disqualified from driving under the "Totting Up" procedure.



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

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

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

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

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of Court
BA30	Attempting to drive while disqualified by order of Court
CD10	Driving without due care and attention
DD40	Dangerous driving
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
MS90	Failure to give information as to identity of driver, etc.
UT50	Aggravated taking of a vehicle

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

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

#### **5.1.4 Drink Driving Offences and Driving under the Influence of Drugs**

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

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

#### **5.1.5 Anti-Social Behaviour and Public Order Offences**

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

- (a) *First offence* – will normally suspend for up to 12 months or refuse to renew. A new licence will not normally be granted for 12 months following the date of conviction, caution or in the absence of these the date of the last offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years following the date of conviction, caution or in the absence of these the date of the last offence or relevant incident.

#### **5.1.6 Drug Related Offences**

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

- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of the last offence or relevant incident. In these circumstances, any applicant will have to undergo drugs testing at their own expense to demonstrate that they are

not using controlled drugs.

- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of the last offence or relevant incident. In these circumstances, any applicant will have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

#### **5.1.7 Dealing/Manufacture/Supply of Drugs**

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

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

#### **5.1.8 Public - Indecency Offences**

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

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

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

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

#### **5.1.9 Sexual Offences**

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

The licensing authority seeks to minimise risks associated with these persons and for that reason a more serious view will be taken where sexual offences occur.

Decisions relating to the determination of an application or review of an existing licence will be informed by discussions with the Police and/ or Solihull's Adult's and Children's Safeguarding Services.

The licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

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

#### **5.1.10 Dishonesty**

All applicants and licence holders are expected to be persons of trust. For these reasons a serious view is taken of any offences involving dishonesty. As per S1.17 dishonesty by any applicant as part of the application process (failure to disclose convictions, false names or addresses or falsified references) will result in a licence being refused or if a licence has been granted it will be revoked and may result in prosecution.

For the purpose of this policy the following offences are all classed as 'Dishonesty':

- Theft.
  - Burglary.
  - Fraud.
  - Benefit fraud (including offences under Section 111A and 112 of the Social Security Administration Act 1992).
  - Handling or receiving stolen goods.
  - Forgery (e.g. producing false insurance policy).
  - Conspiracy to defraud.
  - Obtaining money or property by deception
  - Other deception.
- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of the last offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 12 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of the last

offence or relevant incident.

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

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

<b>5.1.12</b>	<b>Violence</b>
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For the purpose of these guidelines the following are classed as 'violent offences':

- Battery
- Common assault.
- Affray.
- S5 Public Order Act 1986 offence or distress/harassment, alarm.
- S4 Public Order Act 1986 (fear of provocation of violence).
- S4A Public Order Act 1986 (intentional harassment, alarm or distress).
- Possession of offensive weapon.
- Criminal damage.
- Other violent offences.

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

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

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

<b>5.1.13</b>	<b>Violence (Serious)</b>
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For the purpose of this policy the following are classed as 'serious violent

offences’:

- Arson
  - Malicious wounding or grievous bodily harm
  - Actual bodily harm
  - Racially aggravated
  - Grievous bodily harm with intent
  - Robbery
  - Possession of firearm
  - Riot
  - Assault Police
  - Violent disorder
  - Resisting arrest
  - Kidnapping
  - Wounding
  - Other serious violence
- (a) *First offence* – will normally revoke or refuse to renew. A new licence will not normally be granted for 10 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of the last offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted.

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

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

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Attempted murder
- Corporate manslaughter
- Causing Death By Dangerous Driving

This is not an exhaustive list.

Any offence(s)/conviction(s) / cautions of a nature resulting in loss of life or intent to

cause loss of life will result in revocation or refusal to renew. Where a new applicant has been convicted of a crime which resulted in the death of another person or was intended to cause death or serious injury they will not be licensed.

#### **5.1.15 Terrorism**

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

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

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

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

#### **5.1.16 Hate Crime and discrimination**

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

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

(b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted.

#### **5.1.17 Plying for Hire**

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

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

(b) *Repeat offences* – will normally revoke or refuse to renew the private hire or

hackney carriage driver's licence. A new licence will not normally be granted for 12 years following the date of conviction, caution or in the absence of these the date of the last offence or relevant incident.

#### **5.1.18 Non-Disclosure/Late Disclosure of a Conviction/Caution/Fixed Penalty**

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

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

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

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

This section refers to failure to disclose only, if the offence falls elsewhere in the guidelines and carries a higher 'penalty' then it is likely that a higher penalty will be imposed.

#### **5.1.19 Breach of Licence Conditions / Byelaws**

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

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

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



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

<b>5.1.20</b>	<b>Any other relevant offences (including ‘touting’, using/operating private hire vehicles without a licence, offences under the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847)</b>
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- (a) *First offence* – will normally suspend for up to for 12 months or refuse to renew. A new licence will not normally be granted for 3 years following the date of conviction, caution or in the absence of these the date of the last offence or relevant incident.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the date of conviction, caution or in the absence of these the date of the last offence or relevant incident.

<b>5.1.21</b>	<b>Investigation of Serious Offences (involving violence, sexual offences, child sexual exploitation, safeguarding etc.)</b>
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Where information is received in relation to an existing licence holder or a new applicant from the Police or other enforcement bodies that an individual(s) are under investigation or have been under investigation for a matter that relates to any of the offences outlined in sections 5.1.1 – 5.1.29, the licensing authority may consider the information provided and take action in relation to the information provided. This may mean a licence is suspended, revoked, a renewal of a licence or a new licence is refused. The power to suspend or revoke immediately as set out in section 2.2.2 may also be used in these circumstances if it is in the interests of public safety. Where an individual has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

There is a general duty on the operator or licence holder to disclose any arrest or involvement in any investigation (criminal, motoring or civil) within 7 days of becoming aware of them. Failure to disclose may lead to revocation of a licence.

<b>5.1.22</b>	<b>Breach of Requirements as to Control of the Vehicle, such as using a Mobile Device etc.</b>
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This type of offence is treated very seriously as it increases the likelihood of an accident.

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

<b>5.1.23</b>	<b>Health Act 2006</b>
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A hackney carriage or private hire licence is a badge of approval, it states the licensing authority feels the holder is fit and proper and suitable in every way. The standard of behaviour and level of trust expected should be demonstrated in the conduct of those licensed at all times.

Drivers must not smoke in a licensed vehicle. Any offence under this Act can risk the health of both the driver and passengers.

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

<b>5.1.24</b>	<b>Conduct of Applicants / Licence Holders</b>
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A hackney carriage or private hire licence is a badge of approval, it states the licensing authority feels the holder is fit and proper and suitable in every way. The standard of behaviour and level of trust expected should be demonstrated in the conduct of those licensed at all times. This includes when drivers are operating outside of Solihull, where drivers are expected to co-operate with reasonable requests from compliance staff authorised in other areas.

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

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

- (b) *Repeat instance* – will normally revoke or refuse to renew. A new licence will not normally be granted for 3 years following a relevant incident or the outcome of any review hearing in relation to the incident, whichever is the later.

It should be noted that conduct is a wide open area and as such there may be occasions where one incident falls so far below the standards expected that a refusal, revocation, suspension or refusal to renew is felt the appropriate course of action, even in the first instance. This may include factors such as improper conduct in other areas, the severity of the conduct, the involvement of passengers or other aggravating factors.

#### **5.1.25 Driving Standards**

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

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

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

- (b) *Repeat instances* – will normally revoke or refuse to renew. A new licence will not normally be granted for 3 years following the outcome of any review hearing in relation to any incidents relating to driving standards.

#### **5.1.26 Disability and Discrimination Act - Breach of Licence Conditions / Byelaws**

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

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

circumstances if it is in the interests of public safety.

- (b) Repeat offences - will normally revoke or refuse to renew. A new licence will not normally be granted.

#### **5.1.27 Environmental Crime Legislation**

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

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

**A table summarising the offences contained in Section 5.1.1 to 5.1.27 and the course of action is contained at appendix A**

#### **5.1.28 Physical Fitness and Medical Conditions**

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

- (a) In the case of a new application or an application to renew a licence, if the applicant fails to meet the required medical standard the licence will normally be refused. A new licence will not normally be granted for one year after the date of the medical examination or any period advised by an approved medical practitioner.
- (b) In the case of existing licence holders, if a person has a medical condition which falls below the standard outlined in the Group 2 Standard of the published medical standards, the licence may be suspended, revoked, or the renewal of a licence refused, dependent on the nature of the condition along with any recuperation or rehabilitation periods.

#### **5.1.29 Immigration Status**

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

In the case of a new application or an application to renew a licence if the

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

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

6.0

## **Delegations**

Under the Council's Constitution the appropriate Licensing Committee has the authority, amongst other licensing matters, to discharge non-executive regulatory board functions with respect to Hackney Carriage and Private Hire licensing. This function is further delegated to the appropriate Committee comprising of elected members drawn from the Licensing Committee who determine applications, contraventions, suspensions and revocations. To facilitate the effective discharge of the functions, less contentious matters are delegated to appropriately authorised council officers. This approach ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees. Clear separation between the investigator and decision maker demonstrates independence and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that involvement will affect the judgement in relation to decisions made at a later date.

Arrangements for dealing with serious matters that may require the immediate revocation of a licence will be designated to a senior officer/manager with responsibility for Licensing.

**The scheme of delegations is included at appendix B**

## Appendix A

### 5.0 Table of Offences

Offence	Penalty/Action	Outcome
<p><b>Minor Traffic Offence</b></p> <p>Single Offences</p> <p>Repeat Offences</p>	<p>3 penalty points</p> <p>6 penalty points</p>	<p>Written warning</p> <p>New Licence – Refuse for 5 years</p> <p>Renewal – Revoke – 5 year suspension</p>
<p><b>Totting Up</b></p> <p>IF a number of penalty points reaches 12 or more within 3 years the driver is liable to be disqualified from driving under the “totting up” procedure</p>	<p>1<sup>st</sup> offence</p>	<p>New – Refuse for 7 years</p> <p>Renewal – Revoke for 7 years</p>
<p><b>Major Traffic Offences</b> (other than drink driving and drug offences) *please note this is not an exhaustive list:</p> <ul style="list-style-type: none"> <li>• Failing to stop after an accident</li> <li>• Failing to give particulars or to report an accident within 24 hours</li> <li>• Undefined accident offences</li> <li>• Driving whilst disqualified by order of Court</li> <li>• Attempting to drive whilst disqualified by order of Court</li> <li>• Driving without due care and attention</li> <li>• Dangerous driving</li> <li>• Using a vehicle uninsured against third party risks</li> <li>• Driving otherwise than in accordance with a licence</li> <li>• Driving after making a false declaration about fitness when applying for a licence</li> <li>• Driving a vehicle having failed to notify a disability</li> <li>• Driving a licence has been revoked or refused on medical grounds</li> <li>• Motor racing on the highway</li> </ul>	<p>1<sup>st</sup> offence</p> <p>Repeat Offences</p>	<p>New – Refuse for 7 years</p> <p>Renewal – Revoke for 7 years</p> <p>New – Refuse for 12 years</p> <p>Renewal – Revoke for 12 years</p>

<ul style="list-style-type: none"> <li>• Offences not covered by other codes</li> <li>• Failure to give information as to identity of driver, etc.</li> <li>• Aggravated taking of a vehicle</li> </ul>		
<p><b>Drink Driving</b> Any drink driving or drug related driving offence is treated very seriously by the Local Authority.</p>	<p>1<sup>st</sup> offence</p> <p>Repeat Offences</p>	<p>New – Refuse for 7 years Renewal – Revoke for 7 years</p> <p>New – Refuse for 12 years Renewal – Revoke for 12 years</p>
<p><b>ASB/Public Order Offences</b> Drivers should display a measured and calming manner in the face of provocation and difficult situations.</p>	<p>1<sup>st</sup> offence</p> <p>Repeat Offences</p>	<p>New – Refuse for 12 months Renewal – Suspend for 12 months or refuse to renew</p> <p>New – Refuse for 5 years Renewal – Revoke for 5 years</p>
<p><b>Drug Related</b> Possession of illegal drugs or other drug related offences (excluding dealing, manufacture or supply of drugs) the applicant will normally be required to satisfy the Local Authority that they are free of addiction subject to a licence being granted.</p>	<p>1<sup>st</sup> offence</p> <p>Repeat Offences</p>	<p>New – Refuse for 5 years Renewal – Revoke for 5 years</p> <p>New – Refuse for 7 years Renewal – Revoke for 7 years</p>
<p><b>Dealing/Manufacture/Supply of Drugs</b> Due to the nature of work carried out in hackney carriage and private hire industry, the dealing, manufacture or supply of drugs is treated very seriously and will normally preclude a licence being issued for a considerable time.</p>	<p>1<sup>st</sup> offence</p> <p>Repeat offences</p>	<p>New – Refuse for 10 years Renewal – Revoke for 10 years</p> <p>New – Refuse Renewal – Revoked</p>
<p><b>Public Indecency Offences</b> Public Indecency relates to an act or display which is obscene or disgusting to an extent which outrages minimum standards of public decency in contemporary society and is in a place accessible to or in view of the public.</p>	<p>1<sup>st</sup> offence</p> <p>Repeat offences</p>	<p>New – Refuse for 7 years Renewal – Revoke for 7 years</p> <p>New – Refuse for 12 years Renewal – Revoke for 12 years</p>
<p><b>Sexual Offences</b> The holder of a proprietors, operators and/or private hire or hackney carriage drivers licence are in a position of trust and hackney carriage/private hire drivers often work in isolation with members of society. The Local Authority seeks to minimise risks associated with these persons and for that reason a</p>	<p>No licence will be granted to any applicant that is currently on the Sex Offenders register or on any 'barred' list.</p>	<p>New – Refused Renewal – Revoked</p>

more serious view will be taken.		
<p><b>Dishonesty</b></p> <p>For the purpose of these guidelines the following offences are classed as 'Dishonesty'</p> <ul style="list-style-type: none"> <li>• Theft</li> <li>• Burglary</li> <li>• Fraud</li> <li>• Benefit fraud (incl offences under sect 111A and 112 of the Social Security Administration Act 1992)</li> <li>• Handling or receiving stolen goods</li> <li>• Forgery (e.g. producing false insurance policy)</li> <li>• Conspiracy to defraud</li> <li>• Obtaining money or property by deception</li> <li>• Other deception</li> </ul>	<p>1<sup>st</sup> offence</p> <p>Repeat offences</p>	<p>New – Refuse for 7 years Renewal – Revoke for 7 years</p> <p>New – Refuse for 12 years Renewal – Revoke for 12 years</p>
<p><b>Obstruction of Police Officer/Authorised Officer (to include failure to surrender to bail)</b></p>	<p>1<sup>st</sup> offence</p> <p>Repeat offences</p>	<p>New – Refuse for 6 months Renewal -Suspend for 6 months or refuse to renew</p> <p>New – Refuse for 5 years Renewal – Revoke for 5 years</p>
<p><b>Violence</b></p> <p>For the purposes of these guidelines the following are classed as 'violent offences'</p> <ul style="list-style-type: none"> <li>• Battery</li> <li>• Common assault</li> <li>• Affray</li> <li>• S5 Public Order Act 1986 offence or distress/harassment, alarm</li> <li>• S4 Public Order Act 1986 (fear of provocation of violence)</li> <li>• S4A Public Order Act 1986 (intentional harassment, alarm or distress).</li> <li>• Possession of offensive weapon</li> <li>• Criminal damage</li> <li>• Other violent offences</li> </ul>	<p>1<sup>st</sup> offence</p> <p>Repeat offences</p>	<p>New – Refuse for 7 years Renewal – Revoke for 7 years</p> <p>New – 12 years from date of conviction Renewal - Revoke</p>
<p><b>Violence (Serious)</b></p> <ul style="list-style-type: none"> <li>• Arson</li> <li>• Malicious wounding or grievous bodily harm</li> <li>• Actual bodily harm</li> </ul>	<p>1<sup>st</sup> offence</p> <p>Repeat offences</p>	<p>New – Refuse for 10 years Renewal – Revoke for 10 years</p> <p>New – Refuse</p>



<ul style="list-style-type: none"> <li>• Racially aggravated</li> <li>• Grievous bodily harm with intent</li> <li>• Robbery</li> <li>• Possession of firearm</li> <li>• Riot</li> <li>• Assault Police</li> <li>• Violent disorder</li> <li>• Resisting arrest</li> <li>• Kidnapping</li> <li>• Wounding</li> <li>• Other serious violence</li> </ul>	<p>For the purpose of this guideline repeat offences can also include a situation where an applicant or licence holder has a conviction/caution or there is other information which relate to one incident of violence together with one incident of serious violence defined under guidelines 5.1.12 and 5.1.13</p>	<p>Renewal - Revoke</p>
<p><b>Offences or unlawful act resulting in Loss of life or with the Intent to Cause Loss of Life</b> This is not an exhaustive list.</p> <ul style="list-style-type: none"> <li>• Murder</li> <li>• Manslaughter</li> <li>• Manslaughter or culpable homicide while driving</li> <li>• Attempted murder</li> <li>• Corporate manslaughter</li> <li>• Causing death by dangerous driving</li> </ul>	<p>Any offence(s)/conviction (s)/caution(s) of a nature resulting in loss of life or intent to cause loss of life will result in revocation or refusal to renew.</p>	<p>New – refused Renewal – revoked</p>
<p><b>Terrorism</b> Terrorism means the use or threat of action where designed to influence the Government or an international governmental organisation or to intimidate the public or a section of the public, for the purpose of advancing a political, religious or ideological cause.</p>	<p>This also includes any offence, act or omission linked to a terrorism offence.</p>	<p>New – refused Renewal – revoked</p>
<p><b>Hate Crime</b> A hate crime is any criminal offence that is motivated by hostility or prejudice based upon the victims disability, race, sexual orientation, transgender, religion or belief.</p>	<p>1<sup>st</sup> offence</p> <p>Repeat offences</p>	<p>New – refuse for 7 years Renewal – revoke for 7 years</p> <p>New – refused Renewal – revoked</p>
<p><b>Plying for Hire</b> Convictions for plying for hire and related no insurance offences show that a driver is unable to work within the legal restrictions of a private hire/hackney carriage driver’s licence. Offences of this nature generally result in passengers being uninsured during the journey.</p>	<p>1<sup>st</sup> offence</p> <p>Repeat offences</p>	<p>New –Refuse for 7 years Renewal – revoke for 7 years</p> <p>New – refuse for 12 years Renewal – revoke for 12 years</p>
<p><b>Non Disclosure/Late disclosure of</b></p>		

<p><b>a Conviction/Caution/Fixed Penalty</b> Declarations of criminal and motoring convictions, cautions and fixed penalties are vitally important in order for the Local Authority to review the suitability of licence holders. Failure to declare any of the above can result in unsuitable drivers holding a licence.</p>	<p>1<sup>st</sup> offence</p> <p>2<sup>nd</sup> offence</p> <p>3<sup>rd</sup> or more offences</p>	<p>New – refuse for 2 months Renewal – suspend or 2 months (potential to complete additional training course relevant to breach)</p> <p>New – refuse for 6 months Renewal – suspend for 6 months</p> <p>New – Refuse for 3 years Renewal – Revoke for 3 years</p>
<p><b>Breach of licence conditions/byelaws</b></p>	<p>1<sup>st</sup> offence</p> <p>2<sup>nd</sup> offence</p> <p>3<sup>rd</sup> offence or more</p>	<p>Suspend for up to 2 months. New licence not granted for 2 months from date of revocation or refusal to renew</p> <p>Suspend for to 6 months or refuse to renew</p> <p>Revoke or refuse to renew. New licence not granted for 3 years from date of revocation or refusal to renew</p>
<p><b>Any other relevant offences (including touting, using operating private hire vehicles without a licence, offences under the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847)</b></p>	<p>1<sup>st</sup> offence</p> <p>Repeat offences</p>	<p>New – refuse for 3 years Renewal – suspend for 12 months or revoke</p> <p>New – Refuse for 7 years Renewal – Revoke for 7 years</p>
<p><b>Investigation of Serious Offences (involving violence, sexual offences, child sexual exploitation, safeguarding etc.).</b></p>	<p>Where information is received in relation to an existing licence holder or a new applicant from the Police or other enforcement bodies that an individual(s) are under investigation or have been under investigation for a matter that relates to any of the offences outlined in any this table, the Local Authority may consider the information provided and take action in relation to the information provided. This may mean a licence suspended, revoked, a renewal of a licence or a new licence is refused. The power to suspend or revoke immediately as set out in section 2.2.2 may also be used in these circumstances if it is in the interests of public safety.</p>	
<p><b>Breach of Requirements as to Control of the Vehicle, such as using a Mobile Device etc.</b></p>	<p>1<sup>st</sup> offence</p> <p>Repeat offences</p>	<p>New – refuse for 7 years Renewal – revoke for 7 years</p> <p>New – refuse for 12 years Renewal – revoke for 12 years</p>
<p><b>Health Act</b> A hackney carriage or private hire licence is a badge of approval, it</p>	<p>1<sup>st</sup> offence</p>	<p>New – refuse for 6 months Renewal – suspend for 6</p>

<p>states the Local Authority feels the holder is fit and proper and suitable in every way. The standard of behaviour and level of trust expected should be demonstrated in the conduct of these licenced at all times.</p> <p>Drivers must not smoke in a licenced vehicle. Any offence under this act can risk the health of both the driver and passengers.</p>	<p>Repeat offences</p>	<p>months</p> <p>New – refuse for 3 years Renewal – revoke for 3 years</p>
<p><b>Conduct of Applicants/Licence Holders</b></p> <p>A hackney carriage or private hire licence is a badge of approval, it states the Local Authority feels the holder is fit and proper and suitable in every way. The standard of behaviour and level of trust expected should be demonstrated in the conduct of those licensed at all times. This includes when drivers are operating outside of Solihull, where drivers are expected to co-operate with reasonable requests from compliance staff authorised in other areas.*</p>	<p>First instance</p> <p>Repeat instances</p>	<p>New –refuse for 12 months Renewal – suspend for 12 months</p> <p>New – Refuse for 3 years Renewal – Revoke for 3 years</p>
<p><b>Driving Standards</b></p> <p>Applicants/drivers of hackney carriage and/or private hire drivers licences must satisfy the Local Authority they are able to drive at a standard that meets the National Standard of driving.</p>	<p>1<sup>st</sup> instance</p> <p>Repeat instances</p>	<p>New – refuse for 6 months following outcome of committee Renewal – suspend pending further competence assessment</p> <p>New – Refuse for 3 years following outcome of committee Renewal –Revoke for 3 years following outcome of committee</p>
<p><b>Immigration Status</b></p>	<p>Applicants/licence holders must satisfy the Local Authority that they have a right to work in the UK.</p> <p>In the case of a new application or an application to renew a licence if the applicant fails to provide satisfactory documentary evidence from the Home Office of a legal right to work in the UK as a Hackney Carriage or Private Hire Vehicle driver and failure to do so will result in refusal of any application.</p> <p>Failure by an existing licence holder to provide satisfactory documentary evidence from the Home Office of a legal right to work in the UK as a Hackney Carriage and/or Private hire driver will result in revocation.</p>	

<p><b>Disability and Discrimination Act – Breach of Licence Conditions/Byelaws</b> **</p>	<p>1<sup>st</sup> offence</p> <p>Repeat Offences</p>	<p>New – refuse for 7 years Renewal – revoke for 7 years Power to suspend immediately may be used if in the interests of public safety</p> <p>New – Refuse Renewal – Revoke</p>
<p><b>Environmental Crime Legislation</b> The hackney carriage or private hire licence is a badge of approval, it states the Local Authority feels the holder is fit ad property and suitable in every way. The standard of behaviour and level of trust expected should be demonstrated in the conduct of those licenced at all times.</p>	<p>1<sup>st</sup> offence</p> <p>Repeat offences</p>	<p>New – Refuse for 6 months Renewal – Suspend for 6 months</p> <p>New – Refuse for 3 years Renewal – Revoke for 3 years</p>
<p><b>Physical Fitness and Medical Conditions</b> Applicants for driver’s licences must satisfy the medical fitness standards issued by the DVLA. The agreed standard is the Group 2 Standard for vocational drivers.</p>	<p>In the case of a new application or an application to renew a licence, if the applicant fails to meet the required medical standard the licence will normally be refused. A new licence will not normally be granted for one year after the date of the medical examination or any period advised by an approved medical practitioner.</p> <p>In the case of an existing licence holder, if a person has a medical condition which falls below the standard outlined in the Group 2 Standard of the published medical standards, the licence may be suspended, revoked, or the renewal of a licence refused, dependant on the nature of the condition along with any recuperation or rehabilitation periods.</p>	

\*It should be noted that conduct is a wide open area and as such there maybe occasions where one incident falls so far below the standards expected that a refusal, revocation, suspension or refusal to renew is felt the appropriate course of action, even in the first instance. This may include factors such as improper conduct in other areas, the severity of the conduct, the involvement of passengers or aggravating factors.

\*\* Condition 11 of the Conditions Relating to The Issue of a Licence to Drive a Private Hire Vehicle provides:

The licence holder must carry guide or other assistance dogs accompanying passengers, free of charge, unless the driver has proven medical conditions that would preclude such action. The Council medical exemption certificate issued in accordance with Section 37A of Disability and Discrimination Act 1995 must be displayed at all times to the windscreen of the Private Hire Vehicle, facing outwards. Private Hire Vehicle Drivers have a responsibility to ensure that their operator is aware of such medical condition when they are first employed. Breach of this condition is deemed serious and therefore shall normally result in revocation.

When it highlights a number of years revoke, refused or suspended, this is from the expiration of the disqualification period or date of the conviction, caution or in the absence of these date, date of offence or relevant incident and additional training maybe required i.e. road risk assessment, driving course etc.

**Appendix B – Scheme of Delegations**

**Delegations**

<b>New Applications</b>	<b>Tier 1 Officer/Manager/Team Leader</b>	<b>Existing Applications</b>
As table 5 of SMBC Policy to determine the suitability of applicants and licensees in the Hackney and Private Hire Trades in order to protect users.		Officer Cautions Officer Verbal Warnings Officer Written Warnings Immediate Suspensions (immediate public safety, expired licence less than 5 working days, failed medical, )

<b>New Applications</b>	<b>Tier 2 Licensing Taxi Sub Committee</b>	
Escalated from Tier 1 Driving Standards Hearing		As table 5 of SMBC Policy to determine the suitability of applicants and licensees in the Hackney and Private Hire Trades in order to protect users.  Any escalations from tier 1

## New Application



Licensing Officer determines the application

\*exception Driving Standards Hearing

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## Existing Licence Holder

(conviction, caution falling within section 5.0)



Licensing Officer determines course of action



Within Officer remit

(Tier 1)



Within appropriate Committee remit

(Tier 2)

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## Application for a new licence

(applicant previously held a licence and cautions have been considered/given)



Within appropriate Committee remit

(Tier 2)