

Wolverhampton City Council

OPEN DECISION ITEM

Committee / Panel	LICENSING COMMITTEE	Date	25/07/2012
Originating Service Group	EDUCATION AND ENTERPRISE		
Contact Officer(s)/ Telephone Number(s)	COLIN PARR 0105		
Title/Subject Matter	PROPOSED REVISIONS TO THE HACKNEY CARRIAGE/ PRIVATE HIRE GUIDELINES		

RECOMMENDATION

Councillors are recommended to approve the revised Guidelines relating to the Relevance of Convictions and Breaches of Licence Conditions for hackney carriage and private hire vehicle proprietors, drivers and private hire operators attached at Appendix A.

PROPOSED REVISIONS TO THE HACKNEY CARRIAGE/PRIVATE HIRE GUIDELINES

1.0 PURPOSE OF REPORT

1.1 This report is intended to:

- (a) Advise Councillors of the outcome of the consultation with the hackney carriage private hire trades and other interested parties on proposals to revise the Council's existing guidelines relating to hackney carriage and private hire vehicle proprietors, drivers and private hire vehicle operators.
- (b) Seek approval for revised Guidelines Relating to the Relevance of Convictions and Breaches of Licence Conditions for hackney carriage and private hire vehicle proprietors, drivers and private hire vehicle operators.

2.0 BACKGROUND

2.1 The Council has a duty to protect the general public from harm when using hackney carriage or private hire vehicles. In order to do this the Council must satisfy itself that all drivers and operators are 'fit and proper' persons.

2.2 Guidelines for hackney carriage and private hire vehicle proprietors, drivers and private hire vehicle operators (the Guidelines) are used to provide the Council with a written framework which allows employees and Councillors to make fair and consistent decisions when assessing the suitability of applicants for hackney carriage or private hire licences. The Guidelines also cover existing drivers, proprietors and operators when they breach conditions, are convicted/cautioned for relevant offences or behave in a manner that is inconsistent with that expected from a licence holder. They identify the powers delegated to employees to make decisions about hackney carriage drivers and proprietors, along with private hire driver, proprietor and operator licences.

2.3 The Guidelines are reviewed on a periodic basis to ensure that they take into account revised and current legislation along with local and national licensing priorities and technological advancements. The last review was carried out in September 2010.

2.4 In order to progress the current reviews an employee working group was established to consider issues associated with the operation of existing guidelines over the previous 18 months since their adoption and to draw up a proposal for a revised document.

3.0 CONSULTATION

3.1 Amendments to the existing guidelines are attached to this report at Appendix A. The proposed amendments to the guidelines are highlighted in **bold italics**.

3.2 A copy of the amended guidelines were sent to the following groups:-

- Licensed private hire operators
- Taxi Owners Association (Wolverhampton) Ltd
- Wolverhampton Hackney Carriage Drivers Association
- Independent Hackney Carriage Proprietors
- West Midlands Police
- WCC Safeguarding
- WCC Road Safety
- WCC Transportation Service
- Wolverhampton University and Students Union

- WVOne
- Wolverhampton Domestic Violence Forum
- Wolverhampton Magistrates Court
- Safety Charities (The Suzi Lamplugh Trust)
- Groups representing people with disabilities
- Prince's Trust
- Youth Offending Team
- City Centre Pub Watch
- Bilston Pub Watch
- Worcester County Council ((Training Provider)
- Safer Wolverhampton Partnership
- BRAKE (Road Safety Charity)
- Environmental Health (Commercial)

3.3 This document was also made available on the Council's website to allow members of the public to make comments.

3.4 The closing date for written comments in respect of the proposed amendments to the Guidelines was 10 July 2012.

3.5 3 responses were received from the following parties:-

- ABC Countdown Cars Ltd
- Wolverhampton Domestic Violence Forum
- Environmental Health (Commercial)

3.6 A summary of comments received are attached at Appendix B of this report, together with the employee's response.

3.7 Only one amendment has been made to the proposed Guidelines as a result of comments received from Environmental Health (Commercial) as outlined at 5.1.19 of Appendix B, page 5. This amendment has been included in the final draft.

3.8 The Committee are recommended to agree the final draft which is attached at Appendix A.

4.0 PROPOSED AMENDMENTS

4.1 There are a number of minor amendments to the draft Guidelines that have been made in order to provide greater clarification of the individual Guidelines to decision makers when dealing with new applications and reviews. These are highlighted in **bold italics** within Appendix A.

4.2 There are two significant proposed changes to the draft Guidelines, these are detailed below.

4.3 The working group proposes an amendment to the Guidelines relating to minor traffic offences for existing drivers and new applicants. It is proposed that penalty points endorsed on a DVLA driving licence within a three year period relevant for "Totting Up" purposes under Section 35 of the Road Traffic Offences Act 1988 be considered only as outlined at 5.1.2 of Appendix A.

4.4 The draft also proposes that existing licence holders may where appropriate abate a suspension by completing appropriate training to the satisfaction of the Council as outlined at 1.10 of Appendix A.

5.0 FINANCIAL IMPLICATIONS

5.1 There are no direct financial implications arising from this report. [TK/12072012/U]

6.0 EQUALITIES IMPLICATIONS

6.1 The amendments to the hackney carriage/private hire Guidelines improve the controls available for the monitoring and enforcement of the “taxi trade”. The controls will be applied equally and consistently to private hire drivers, operators and proprietors, as well as hackney carriage drivers and proprietors from all ethnic groups.

6.2 Application of the Guidelines will ensure that the service provided by private hire and hackney carriage drivers is fair and consistent with all users of the service.

6.3 An Equality Analysis has been undertaken in relation to this activity and will be reviewed as part of the consultation process.

7.0 ENVIRONMENTAL IMPLICATIONS

7.1 There are no direct environmental implications arising from this report.

8.0 LEGAL IMPLICATIONS

8.1 The following legislation governs the licensing of hackney carriage and private hire vehicle proprietors, drivers and private hire operator licences:

Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 stated that a district council shall on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver’s licence.

“Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper to hold a driver’s licence”.

Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states that a council, before granting a hackney carriage driver’s licence must be satisfied that an applicant is a fit and proper person to hold such a licence and that the applicant has for at least 12 months prior to the date of the application, been authorised to drive a motor car.

Section 61 of the Local Government (Miscellaneous Provision) Act 1976 states a district council may suspend or revoke or on application, refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:-

- *that since the grant of the licence he/she has been convicted of an offence involving dishonesty, indecency or violence; or*
- *that since the grant of the licence he/she has been convicted of an offence under, or has failed to comply with the provisions of the Town, Police Clauses Act 1847 or this part of the Act; or*
- *any other reasonable cause.*

Section 55(1) of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence:

Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operators licence.

Section 60 of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council may suspend or revoke or refuse to renew a vehicle licence if:-

- the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle*
- an offence has been committed under the Town, Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976.*
- any other reasonable cause [SH/13072012/0].*

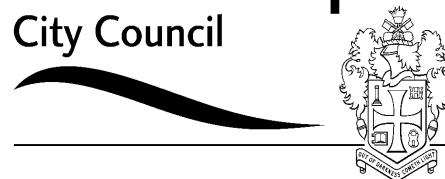
9.0 BACKGROUND PAPERS

9.1 Previous reports to Licensing Committee.

WOLVERHAMPTON CITY COUNCIL

**HACKNEY CARRIAGE AND PRIVATE HIRE
VEHICLE PROPRIETORS AND
DRIVERS AND PRIVATE HIRE
VEHICLE OPERATORS**

Wolverhampton
City Council



**GUIDELINES RELATING TO RELEVANCE OF CONVICTIONS AND
BREACHES OF LICENCE CONDITIONS**

1.0 Purpose of Guidelines

- 1.1 Licensing issues are dealt with by both Councillors and employees. **Employees is defined to include Head of Regulatory Services, Licensing Manager and Service Managers from within the Regulatory Services Division, and in the case of new applications Section Leaders from Licensing Services. Responsibility for decision making at employee level will “normally” be as follows:-**
- (a) **Head of Regulatory Service - new/review or renewal**
 (b) **Service Managers - new/review or renewal**
 (c) **Section Leaders Licensing - new**
- 1.2 This document provides guidance outlining how 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.
 - Existing licensed drivers whose licences are being reviewed.
 - Magistrates hearing appeals against Local Authority decisions.
- 1.3 Whilst employees and Councillors will have regard to the guidelines, each case will be considered on its individual merits, and where **reasonable**, the **Employees/Committee** may depart from the guidelines.
- 1.4 Any decision to suspend, revoke or refuse to 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 application of the Human Rights Act will be considered carefully **and balanced against the overriding consideration to protect the public.**
- 1.5 The Licensing 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 operators 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 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 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the local authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence as outlined in the guidance involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

1.8 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. Therefore the local authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

1.9 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.

1.10 ***In appropriate circumstances a suspension 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.***

2.0	Relevant Convictions, Cautions/Fixed Penalties and Persons Charged with a Serious Offence(s)
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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/operators 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/operators licence being referred to **employees** to determine a course of action detailed in Section 5.0 below. (In the event of a serious breach or allegation in respect of a licensed operator, the matter will be referred to Licensing Committee for consideration).
- 2.2.2 In cases where it is in the interests of public safety, the **employees** may suspend, refuse to renew or revoke a driver's licence with immediate effect following a review. In such cases a written explanation will be given as to why it is in the interests of public safety to suspend, refuse to renew or revoke immediately.

3.0 Complaints

- 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 or suspension of the licence.

4.0 Further Guidance

- 4.1 **Where** an application is made for a new licence, and the applicant has previously held a hackney carriage or private hire drivers, proprietors or operators licence **or on review of an existing licence** and relevant convictions have previously been considered **in decision making** by the Local Authority in connection with **any further or existing** licence any decision on a new application **or on review** will **normally** be made by the **employees** or Licensing Committee, with reliance only on any relevant convictions or behaviour which have arisen since any previous application or review. **However 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.**
- 4.2 An applicant or licence holder whose application/licence is subject to a formal review hearing will be advised in writing 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 may proceed in his or her absence.
- 4.3 In all cases involving suspension, revocation and refusal to grant or renew the applicant or licence holder has the right to appeal against the decision of the Licensing Committee or the **employees** through the Magistrates Court.

- 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.

Dependant on the facts and where deemed appropriate the employees may make a decision contrary to that suggested by the guidelines or where appropriate refer a matter to Councillors of the Licensing Sub-Committee for decision. Where decisions are made which are contrary to the guidelines or where the matter is referred to the Licensing Sub-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**.

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

- (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.

- (b) *Repeat offences resulting in a combined total of 6 **current penalty points relevant for 'Totting Up' purposes as outlined at 5.1.2** – Issued with final written warning. A new licence will normally be granted with a warning.*
- (c) *Repeat offences resulting in a combined total of 9 or more penalty points **currently relevant for totting purposes as outlined 5.1.2** – normally revoke or refuse to renew. A new licence will not normally be granted.*

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

If the total 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) *First offence – will normally revoke or refuse to renew. A new licence will not normally be granted until a period equal to the length of the disqualification has elapsed since the end of the disqualification period.*
- (b) *Repeat 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 totting and drink driving) that can result **in four or more penalty points and/or leave** a period of disqualification and/or imprisonment.

For the purpose of these guidelines the following motoring 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
DD80	Causing death by 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 5 years following the expiration of the disqualification period or if not disqualified 5 years from the date of conviction.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 10 years following the expiration of the last disqualification period or if not disqualified 10 years from the date of the most recent conviction.

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 Local 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 5 years following the expiration of the disqualification period or if not disqualified 5 years from the date of conviction.
- (b) *Repeat offences* – **will normally revoke or refuse to renew**. A new licence will not normally be granted for 10 years following the expiration of the last disqualification period or if not disqualified 10 years from the date of conviction.

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 6 months or refuse to renew. A new licence will not normally be granted for 2 years following the date of conviction.
- (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.

5.1.6 Drug Related Offences

In the case of drivers with convictions for the possession of illegal drugs **or other drug related offences (excluding the supply or dealing of drugs, for which there is a separate guideline at 5.1.7)**, the applicant may be required to satisfy the Local Authority that they are free of addiction subject to a licence being granted.

- (a) *First offence* – will normally suspend for up to 6 months or refuse to renew. A new licence will not normally be granted for **3** years following the date of conviction or expiry of a prison sentence.

- (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 or expiry of a prison sentence.

Applicants or licence holders who have committed repeat offences for drug possession may have to undertake additional medical testing to ensure that they are not using drugs or showing physical symptoms of drug addiction.

5.1.7 Dealing/Supply of Drugs

Due to the nature of work carried out in the hackney carriage and private hire industry, a conviction for the 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 or expiry of a prison sentence.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted.

5.1.8 Indecency Offences

Any offence for indecency is treated very seriously as hackney carriage/private hire drivers often work in isolation with members of society.

- (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 or expiry of a prison sentence.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 10 years following the date of conviction or expiry of a prison sentence.

5.1.9 Sexual Offences

Drivers of hackney carriage and private hire vehicles ***often work in isolation with members of society.***

The Local 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 may be informed by discussions with the Police and/ or Wolverhampton Safeguarding Unit: The Local Authority Designated Employee.

Any offence(s)/conviction(s) 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

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. For these reasons a serious view is taken of any offences involving dishonesty.

For the purpose of these guidelines the following offences are 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 (eg. 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 5 years following the date of conviction or expiry of a prison sentence.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 10 years following the date of conviction or expiry of a prison sentence.

5.1.11 Obstruction of Police Officer/Authorised Officer

- (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 or expiry of a prison sentence.
- (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 or expiry of a prison sentence.

5.1.12 Violence

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 suspend for up to 6 months, revoke or refuse to renew. A new licence will not normally be granted for 2 years following the date of conviction or expiry of a prison sentence.
- (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 or expiry of a prison sentence.***
- (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 or expiry of a prison sentence.
- (b) ***Repeat offences – will normally revoke or refuse to renew. A new licence will not normally be granted for 10 years following the date of conviction or expiry of a prison sentence.***

5.1.13 Violence (Serious)

For the purpose of these guidelines 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 **7** years following the date of conviction or the expiry of a prison sentence.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted.

5.1.14 Violence resulting in Loss of Life or with Intent to Cause Loss of Life

A conviction for the following offences would normally preclude the applicant / licence holder from holding a licence due to the nature of the work involved.

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Attempted murder

A conviction – will normally result in revocation or refusal to renew. A new licence will not normally be granted.

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.

A conviction – will normally result in revocation or refusal to renew. A new licence will not normally be granted.

5.1.16 Hate Crime

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.

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.

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 insurances 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.

- (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.
- (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 3 years following the date of conviction.

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 result in a written warning.
- (b) *Second offence* – will normally suspend for up to 2 months or refusal to renew. A new licence will not normally be granted for 2 months following the date of conviction/caution/fixed penalty.
- (c) *Three or more 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/fixed penalty.

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.
- (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.

5.1.20 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)

- (a) *First offence* – will normally suspend for up to for 4 months, or refuse to renew. A new licence will not normally be granted for 4 months following the date of conviction.
- (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.

5.1.21 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.

5.1.22 Investigation of Serious Offences (involving violence, sexual offences, etc)

Where information is received in relation to an existing licence holder 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 – 5.1.25, the Local Authority may consider the information provided and take action in relation to the information provided. This may mean a licence is suspended, revoked or a renewal of a 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.

5.1.23 Mobile Phones

This type of offence is treated very seriously as it increases the likelihood of an accident.

- (a) *First offence* – will normally suspend for up to 6 months or refusal to renew. A new licence will not normally be granted for 6 months following the date of conviction.
- (b) *Repeat offences* – will normally revoke or refuse to renew. A new licence will not normally be granted for 1 year following the date of conviction.

5.1.24 Health Act

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 2 months. A new licence will not normally be granted for 2 months following the date of conviction.
- (b) *Repeat offences* – will normally suspend for up to 6 months. A new licence will not normally be granted for 1 year following the date of conviction.

5.1.25 Conduct of Hackney Carriage and Private Hire Vehicle Drivers, Proprietors and Operators

A hackney carriage or private hire drivers badge 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.***

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 4 months, or refuse to renew. A new licence will not normally be granted for 4 months following the outcome of any review hearing in relation to the incident.
- (b) *Repeat instance* – 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 the incident.

SUMMARY OF CONSULTATION RESPONSES TO THE PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE GUIDELINES

Organisation	Guideline No.	Proposed Guideline	Comments Received	Employee's Response
<p>Mr Caley of ABC Countdown Cars Ltd</p>	<p>5.1.25</p>	<p>Conduct of Hackney Carriage and Private Hire Vehicle Drivers, Proprietors and Operators</p> <p>A hackney carriage or private hire drivers badge is a badge of approval, it states the Local Authority feels the holder is fit and proper and suitable in every way. <i>The standard of behaviour and level of trust expected should be demonstrated in the conduct of those licensed at all times</i></p> <p>If the applicant or driver/proprietor/operator licence holders behaviour falls below that expected from a licence holder the following will apply;</p> <p>(a) <i>First instance</i> – will normally suspend for up to 4 months, or refuse to renew. A new licence will not normally be granted for 4</p>	<p>Operators should report drivers to the Licensing Authority if serious complaints cannot be resolved with the operator.</p>	<p>The Licensing Authority may not always be able to take action on the operators complaint. However there may be other evidence that raises questions over the individual concerned as to whether they are a 'fit and proper' person.</p>

Organisation	Guideline No.	Proposed Guideline	Comments Received	Employee's Response
		<p>months following the outcome of any review hearing in relation to the incident.</p> <p>(b) <i>Repeat instance</i> – 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 the incident.</p>		
<p>Wolverhampton Domestic Violence Forum</p>	<p>5.1.9</p>	<p>Sexual Offences</p> <p>Drivers of hackney carriage and private hire vehicles <i>often work in isolation with members of society.</i></p> <p>The Local Authority seeks to minimise risks associated with <i>these persons</i> and for that reason a more serious view will be taken where sexual offences <i>occur.</i></p> <p>Decisions relating to the determination of an application or review of an existing licence may be informed by discussions with the Police and/ or</p>	<p>We support the changes of convictions of a sexual nature and the inclusion of battery. These areas of crime are particularly relevant to our work and have included reference to this in our 'Violence Against Women and Girls' Strategy 2012-2015.</p>	<p>The Licensing Authority endeavours to protect all members of society.</p>

Organisation	Guideline No.	Proposed Guideline	Comments Received	Employee's Response
	5.1.12	<p>Wolverhampton Safeguarding Unit: The Local Authority Designated Officer.</p> <p>Any offence(s)/ conviction(s) of a sexual nature against any person will normally result in revocation or refuse to renew. A new licence will not normally be granted.</p> <p>Violence</p> <p>For the purpose of these guidelines the following are classed as 'violent offences':</p> <ul style="list-style-type: none"> • 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. 		

Organisation	Guideline No.	Proposed Guideline	Comments Received	Employee's Response
		<ul style="list-style-type: none"> • Criminal damage. • Other violent offences. <p>(a) <i>First offence</i> – will normally suspend for up to 6 months, revoke or refuse to renew. A new licence will not normally be granted for 2 years following the date of conviction or expiry of a prison sentence.</p> <p>(a) <i>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 or expiry of a prison sentence.</i></p> <p>(b) <i>Repeat offences</i> – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years following the date of conviction or expiry of a prison sentence.</p> <p>(b) <i>Repeat offences – will normally revoke or refuse to renew. A</i></p>		

Organisation	Guideline No.	Proposed Guideline	Comments Received	Employee's Response
		<p><i>new licence will not normally be granted for 10 years following the date of conviction or expiry of a prison sentence.</i></p>		
<p>Environmental Health (Commercial)</p>	<p>5.1.19</p>	<p>Breach of Licence Conditions / Byelaws</p> <p>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.</p> <p>(a) <i>First offence</i> – will normally suspend for up to 2 months or refuse to renew. A</p>	<p>Each case will be considered on its merits and in accordance with Regulatory Services Enforcement Policy.</p>	<p>Noted. The guidelines have been amended to include reference to this policy.</p>

Organisation	Guideline No.	Proposed Guideline	Comments Received	Employee's Response
		<p>new licence will not normally be granted for 2 months from the date of revocation or refusal to renew.</p> <p>(b) <i>Second offence</i> – 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.</p> <p>(c) <i>Three or more offences</i> – 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.</p>		