

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

1.0	Purpose of Guidelines
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- 1.1 Licensing issues are dealt with by both Councillors and employees. Employee is defined to include Head of Business Services, Licensing Services Manager, Service Managers from within Governance Services, Section Leaders from Licensing Services.
- 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.
 - Applicants for operators licences.
 - Applicants for vehicle licences
 - Existing licensed drivers, operators and vehicle proprietors whose licences are being renewed or 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, 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 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 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, 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 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; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause to include where an applicant/licence holder has any convictions, warnings, cautions or charges awaiting trial for offences or behaviour outlined in the guidance and matters referred to in the list above at 1.6 can be considered.
- 1.8 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.
- 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. 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.
- 1.10 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. We are able to do this because the processes in which the applications are determined are a civil process and decisions are based on the balance of probability.
- 1.15 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination **may** 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 these guidelines.
- 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 any 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 normally 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 behaviour will weigh heavily against a licence being granted or retained.

Private Hire Vehicle Operators

- 1.20 A private hire vehicle 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.
- 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.

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.

1.23 In accordance with 7.2 of the Department for Transport's 'Statutory taxi and private hire vehicle standards', vehicle licence applicants and proprietors are required to undergo an annual basic DBS disclosure, which will be used to consider whether an applicant or licence holder with a conviction for offences, other than those relating to driving, meet the 'fit and proper' threshold.

Safeguarding Vulnerable Groups Act 2006 Barred Lists

1.24 A licence will not normally be granted to an applicant included on the DBS Children's or Adults' Barred List. Applicants may be reported to the police, as may licence holders who knowingly fail to notify Licensing Services of their addition to a barred list and do not immediately surrender their licence.

2.0	Relevant Convictions, Cautions/Fixed Penalties/Community Resolutions / Offence(s) and all relevant information received
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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/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 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 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.

3.0	Complaints
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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, ~~or~~ suspension or revocation of the licence.

4.0	Further Guidance
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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 operator's 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.

Patterns of repeated unacceptable behaviour 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~~ They have 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 their 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.
- 4.8 Hackney carriage and private hire vehicle drivers should be able to communicate satisfactorily in English with customers to a standard where they can identify potential exploitation through communicating with passengers and their interaction with others, 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. This level is to be determined by the Local Authority and in appropriate cases further driver training assessment may be deemed necessary at the applicant's or licence holder's own expense.- Evidence of driving ability which is below the satisfactory level required may result in refusal to grant or renew, suspension or revocation 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.

5.0	Determination of Action to be Taken
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- 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
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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 or more relevant for 'Totting Up' purposes as outlined at 5.1.2 – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years. A road risk assessment may have to be satisfactorily completed prior to a licence being granted at the applicant's or licence holder's own expense.

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

If the total number of driving licence penalty points reaches 12 or more (6 or more if the licence is less than 2 years old) 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 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 at the applicant's or licence holder's own expense, may have to be satisfactorily completed prior to a licence being granted.
- (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 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 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 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 Local Authority. An offence of this nature is highly relevant to the individual's role as a hackney carriage or private hire driver.

[Offences involving the failure to provide a specimen will also be considered under this guideline.](#)

- (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.

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, 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 5 years following the date of conviction, caution

or in the absence of these the date of 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 Local 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 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, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.

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 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 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 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 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 Officer](#).

The licensing authority will not [normally](#) 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.

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 (e.g. producing false insurance policy).
- Conspiracy to defraud.
- Obtaining money or property by deception .
- [Bribery](#).
- Other deception.

Failure to declare a hackney carriage or private hire licence issued by another licensing authority, or that licence's suspension/revocation will normally be considered as dishonesty.

- (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 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 offence or relevant incident.

5.1.11	Obstruction of Police Officer/Authorised Officer (to include failure to surrender to bail)
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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 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 offence or relevant incident.

5.1.12	Violence
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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.
 - False imprisonment.
 - 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 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 offence or relevant incident.

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 relates to one incident of violence together with one incident of serious violence defined under guidelines 5.1.12 and 5.1.13.

5.1.13	Violence (Serious)
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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 10 years following the date of conviction, caution, expiry of a prison sentence 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 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 relates to one incident of violence together with one incident of serious violence defined under guidelines 5.1.12 and 5.1.13.

5.1.14	Offences or unlawful act resulting in Loss of Life or with the Intent to Cause Loss of Life
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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 these guidelines, 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 **similar** nature resulting in loss of life or intent to cause loss of life 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.

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

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 7 years following the date of conviction, caution or in the absence of these the date of offence or relevant incident.
- 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. 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 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 offence or relevant incident.

5.1.18	Non-Disclosure/Late Disclosure of a Conviction/Caution/Fixed Penalty<u>Relevant Information</u>
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Declarations of criminal and motoring convictions, cautions, ~~and~~ fixed penalties, arrests and being charged with an offence 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.
- (b) *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.

5.1.19	Breach of Licence Conditions / <i>Byelaws</i>
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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/operator 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/operator'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.

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)
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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 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 offence or relevant incident.

5.1.21	Physical Fitness and Medical Conditions
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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, child sexual exploitation, safeguarding etc.)
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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 Local 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.

5.1.23	Breach of Requirements as to Control of the Vehicle, such as using a Mobile Phone etc
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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.

5.1.24	Health Act
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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.

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 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.

5.1.25	Conduct of Applicants / Licence Holders
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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 Wolverhampton, 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.

5.1.26 Driving Standards

Applicants/drivers of hackney carriage and/or private hire driver's licences must satisfy the Local 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.

5.1.27 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.

5.1.28	Disability and Discrimination Act - Breach of Licence Conditions / Byelaws
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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.

5.1.29	Environmental Crime Act
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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.