

CONVICTIONS POLICY

It is a legislative requirement and the duty of the Council to ensure that anyone who holds a licence for hackney carriage/private hire work is 'fit and proper' to hold the licence. This appendix details the definition of fit and proper used by the Council and other factors the Council will consider as part of the determination of an application for or the renewal of a licence. Compliance with this policy is an integral part of the fit and proper person test.

In order to protect the safety of the public the Council must ensure:

- A person is a fit and proper person in accordance with Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976
- The person does not pose a threat to the public
- The public are safeguarded from a dishonest persons
- Safety of children, young persons and vulnerable adults

Definition of 'Fit and Proper'

In the absence of a judicially approved definition of 'fit and proper' the Council will apply the test cited in the Statutory Taxi and Private Hire Vehicle Standards 2020 and when considering whether an applicant or licensee is fit and proper to pose the following question:

Without any prejudice, and based on 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 night or day?

If, on the balance of probabilities, the answer to the question is no, the conclusion reached will be that the individual should not hold a licence.

In accordance with the Statutory Taxi and Private Hire Vehicle Standards, all decisions on the suitability of an applicant or licensee will be made on the balance of probability meaning that an applicant or licensee should not be 'given the benefit of doubt.' If the view is only "50/50" as to whether the applicant or licensee is fit and proper they should not hold a licence. Furthermore, it is recognised that the threshold used is lower than for a criminal conviction (that being beyond reasonable doubt) and consideration can be taken into account of conduct that has not resulted in a criminal conviction.

It is also noted that the terms of the Rehabilitation of Offenders Act 1974 does not apply when considering the licensing of drivers as convictions as never 'spent'.

In considering an individual's criminal records the Council must and will consider each case on its merits, but a particularly cautious view will be taken on any offences against

individuals with special needs, children or other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime.

In order to achieve consistency the Council has a policy for the consideration of criminal records as set out below. This cites offences which will prevent an applicant from being licensed regardless of the period elapsed since the offence in all but truly exceptional circumstances. In the case of lesser offences, the number of years the Council will require to have elapsed since the commission of particular kinds of offences, before a licence will be granted are also set out below.

The policy below sets out an assessment of previous convictions. The periods stated will be taken as a starting point in considering whether a licence should be granted or renewed notwithstanding that all applicants will be entitled to a fair and impartial consideration of their application.

Assessment of Previous Convictions

Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

Where an applicant or licensee 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.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

For drivers that were licensed prior to this policy, but have one or more of the convictions listed in this policy that falls within the time frames specified, in line with the Statutory Taxi and Private Hire Vehicle Standards, when the driver's next DBS certificate is received the Council will consider whether the grant of the licence needs to be reviewed by the Licensing Applications Sub-Committee. The Sub-Committee will review the case and make a decision based on this policy as to whether the driver can continue to hold a licence. Each case will be considered on its own merits.

This places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so they might obtain or retain a licence.