

# GUIDANCE ON THE RELEVANCE OF CONVICTIONS AND CONDUCT



## 1.0 INTRODUCTION

- 1.1 This document should be read in conjunction with the current Taxi Licensing Policy, Vehicle Specifications, Conditions of Licence and other relevant documents. We have updated this guidance in light of the recommendations of the Department for Transport Statutory Taxi and Private Hire Vehicle Standards (July 2020).

## 2.0 DRIVERS

- 2.1 The Council cannot grant a drivers licence unless they are satisfied that the applicant is a “fit and proper person” to hold a hackney carriage or private hire drivers licence. Once a licence has been granted, there is a continuing requirement that the driver remains a fit and proper person, and if they fall below the required standard, the licence can be suspended or revoked.
- 2.2 To be a “fit and proper” person means that they must be “safe and suitable” to drive a hackney carriage or private hire vehicle.

The overriding consideration for the Council is to protect the public. The licensing regime is intended, among other things, to ensure so far as is possible that those licensed to drive vehicles are safe and suitable persons to do so, namely that they are:

“...safe drivers, with good driving records and adequate experience, sober, mentally and physically fit and not persons who would take advantage of their employment to abuse or assault passengers.”

(Lord Bingham in *McCool v Rushcliffe Borough Council* [1998] 3 All ER 889

- 2.3 Having considered and applied the appropriate guidelines, the following question should be asked:

“...Would you (as a member of the Licensing Board or other person charged with the ability to grant a hackney carriage/private hire driver’s licence) allow your daughter or son, granddaughter or grandson, spouse, mother or father, or any other person you care for or any vulnerable person you know, to get into a vehicle with this person alone?..”

(Paragraph 10.21 Button on Taxis – Licensing Law and Practice; Fourth Edition; Ed Bloomsbury Professional)

- 2.4 If the answer to this question is an unqualified yes, then a licence will normally be approved. If there are any doubts in the minds of those making the decision, then the licence must be refused, suspended or revoked. It is the responsibility of the applicant or existing driver to satisfy the Council they are a ‘fit and proper’ person.

- 2.5 In deciding whether an applicant or existing licensed driver is a 'fit and proper' person the Council will consider the overall character of the person, and in doing so will take the following factors into account ( this is not an exhaustive list:
- relevant skills
  - knowledge
  - experience
  - qualifications
  - spoken and written English
  - medical fitness
  - criminal record
  - motoring endorsements
  - good conduct
  - any other relevant information
- 2.6 Refusal, revocation or suspension of a licence is not to be considered lightly. However, the licensing system is designed to protect the public and this is the overriding consideration. The drivers' livelihood and the impact of not being licensed (or any other action) on that livelihood and their family will not be taken into account when deciding if a person is fit and proper to hold or retain a licence. [Cherwell District Council v Anwar (2011)] [Leeds City Council v Hussain (2002)]

### 3.0 CONSIDERATION OF DISCLOSED CRIMINAL HISTORY

- 3.1 Whilst the Council will have regard to these guidelines, **each case will be considered on its individual merits. Where the circumstances are justified the Council may depart from its guidelines and in doing so will consider any mitigating or aggravating factors.**

Where an applicant has been convicted of an offence, the Taxi Licensing Committee cannot review the merits of the conviction [Nottingham City Council v Mohammed Farooq (1998)]

- 3.2 If an applicant or driver has any convictions, warnings, cautions, or charges awaiting trial, the Council will consider:
- The relevance of the offence to the licence
  - How serious the offence(s) are/were
  - The circumstances of the offence
  - 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 or inappropriate behaviour
  - Whether it was an isolated offence
  - Any other character check considered reasonable (e.g. personal references)
  - Any other factors that might be relevant

Multiple offences or a series of offences over a period of time are likely to give greater cause for concern.

## Applications

If a person has only one conviction for a relevant offence, no pattern of offending behaviour is identified and the time scales set out in the conviction tables below are satisfied, then unless the Director for Public Health has any concerns about the conviction or considers the applicant is unsuitable for some other reason, the matter will not be referred to the committee for a decision and will be dealt with under the officers delegated powers.

### 4.0 USE OF POWERS/SANCTIONS

4.1 The imposition of any sanction will be considered carefully to ensure that it is just and is proportionate to the situation, taking into account the overriding requirement of maintaining public safety.

4.2 The actions/sanctions the committee may take are as follows:

- a) **Take no further action / grant the licence**
- b) **Give a written warning**

Where this happens, the warning remains on file and can be referred to at future disciplinary hearings. A warning will usually remain relevant to the consideration of whether a licensed driver is a 'fit and proper' person for a rolling period of three years.

- c) **Apply Conditions (on application for a licence only (except HCDL))**

- d) **Ask an existing licensed driver to successfully undertake/competence assessments or re- training, where the skill-base or health of the licensed driver is not to the required standard, within a defined time period.**

For example, requiring driving lessons, retaking the appropriate hackney carriage or private hire driving test, completing relevant training, further medical examination or assessment, at their own expense. Should the driver fail to successfully complete additional requirements within the prescribed period the Council may consider further action.

- e) **Suspend the licence**

Licences can be suspended as punishment or pending further training or assessments being completed (amongst other things). Where it is used as a punishment the following periods are usually imposed:

- Minor contraventions, a 1 to 14 day suspension
- Serious contraventions, a 14 day to 3 month suspension

- f) **Revoke / refuse the issue or renewal of a licence.**

This action is taken where the Council is not satisfied that the applicant or driver is a fit and proper person to hold or retain a licence.

4.3 Each case will be considered on its own merits and in all cases, when deciding whether a licensed driver is a 'fit and proper' person to hold or retain a licence, the Council will consider:

- a) All relevant information even where these matters may already have been considered in a previous hearing
- b) Cumulative impact of a range of relatively minor contraventions
- c) Passenger safety
- d) The maintenance of public confidence in the licensed trade

- e) Whether there are multiple offences/ contraventions/ behaviours
- f) The circumstances of each situation and any patterns
- g) Attitude of the driver

## 5.0 APPEALS

- 5.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal by virtue of S.9 (Private Hire) and S.17 (Hackney Carriage) Plymouth City Council Act 1975. There is also a right of appeal against any conditions attached to a private hire drivers licence S.9 (Private Hire). If a hackney carriage or private hire drivers licence is suspended, revoked or renewal is refused, a similar right of appeal exists under section 19(3) Plymouth City Council Act 1975.

## 6.0 TYPES OF OFFENCES

- 6.1 The Council considers that the following types of offences are relevant when considering the suitability of a person to hold or retain a licence;
- Dishonesty
  - Violence (including criminal damage)
  - Public order offences
  - Substance abuse (including possession, use and distribution)
  - Sexual offences (including obscene materials, indecency)
  - Motoring Offences and disqualifications
  - Alcohol related offences
  - Contravention of licensing laws or conditions
  - Discrimination

The Table of Offences below, sets out how the Council view convictions of the type listed.

- 6.2 The Council may also consider other offences which may impact on the assessment of being "fit and proper". Where not specifically mentioned below these offences should be considered against the most relevant criteria and the fundamental question as to whether or not the applicant/licensee is a "fit and proper" person to hold a driver's licence.

## 7.0 RELEVANCE OF CONVICTIONS

- 7.1 The Council will have regard to the **Rehabilitation of Offenders Act 1974 as amended**. This legislation allows most criminal convictions to become "spent" after a specified period of time. Once a conviction is spent for most purposes it does not have to be revealed and cannot be taken into consideration.
- 7.2 However, ALL criminal convictions, irrespective of their age can be considered when determining if a person is fit and proper to hold or retain a licence. This is because hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974 (by virtue of Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, Sch 2 para 4.)
- 7.3 Only relevant spent convictions should be considered. The nature of the offence is the first consideration (for example it may not be connected to the activities of a driver) but the quantity of offences, even if they are not in themselves relevant, will also be taken into account (*Adamson v Waveney DC QBD [1997] 2 All E.R. 898*).

#### 7.4 Cautions and Endorsable Fixed Penalties

For the purpose of these guidelines formal cautions and endorsable fixed penalties shall be relevant and must be disclosed.

Endorsable fixed penalties will be considered in accordance with the Motoring convictions section of the table of offences below.

Cautions are not convictions but, being admissions of guilt, should be taken into consideration, in so far as it is relevant, in the determination of good character. In considering a caution the following factors will be taken into account;

- the nature of the offence
- the driver's offending history; and
- the guidelines applicable had it been a conviction

#### 7.5 Criminal Behaviour Orders (CBOs), Community Protection Notices (CPOs), Civil Injunctions (CIs)

Criminal Behaviour Orders (CBOs) Community Protection Notices (CPNs) and Civil Injunctions (CIs) are civil, not criminal, sanctions (although breaches are punishable by up to five years in prison) and are administered by police and local authorities working in partnership.

These Orders target serious and persistent, but generally, relatively low-level disorder that can blight a local neighbourhood. An order can restrict a person from entering a geographical area or specified premises which could affect a licensed driver's ability to carry out normal duties as a licensed driver.

An applicant or existing driver served with one of these Orders for behaviour considered to be of an anti-social nature is a relevant matter in deciding whether or not that person is 'fit and proper' to hold a licence.

In deciding whether an applicant or existing driver is 'fit and proper' to hold a licence, the Council will give consideration to the nature of the order and any conditions attached that restrict movement and any relevant factors.

The same standards will apply to any amended or replacement orders that may be introduced in the future.

#### 7.6 Fixed Penalty Notices (for non-endorsable matters)

A number of criminal offences can be dealt with by way of a fixed penalty notice. This does not result in a conviction, but as the behaviour was itself criminal, the Council will consider fixed penalty notices and the offences that were committed as relevant.

#### 7.7 Absolute and Conditional Discharges

A court can dispose of a case by issuing an Absolute or Conditional Discharge which although results from a finding of guilt is not a conviction however the Council will take these into consideration, in so far as it is relevant, in the determination of good character. In considering an absolute or conditional discharge, the following factors will be taken into account:

- The nature of the offence
- The driver's offending history; and
- The Guidelines applicable had it been a conviction.

## 7.8 Suspended Sentences

Suspended sentences should be treated the same as if they had been put into effect immediately. Where a court decides to suspend the sentence, this can be taken into consideration when determining whether an applicant or existing driver, in so far as it is relevant, is 'fit and proper' to hold or retain a licence. Consideration will also be given to that person's behaviour during the period of suspension.

## 7.9 Arrests and/or Charges for serious offences

If a licensed driver is being investigated and/or arrested or charged for a serious offence, the licensee may be referred to Taxi Licensing Committee before trial on the grounds of public safety. Such serious offences would include dishonesty, violence, drug offences, indecency or sexual offences and major traffic offences.

In such cases the committee will consider what, if any action, should be taken against the licences held by the person concerned in light of the information it has at the time. This may include suspension, revocation or refusal to renew a licence

## 7.10 General Behaviour and Conduct

A pattern of offending may occur where a licensed driver accumulates a variety of offences/contraventions/warning notices that when considered individually are relatively minor, but when considered as a whole will call into question their right to hold a licence.

In these circumstances it is reasonable to consider all factors when deciding whether a driver is 'fit and proper' to hold a licence on the grounds of persistent offending and that public confidence in the licensed trade is repeatedly being undermined.

Factors that will be considered include:

- general behaviour;
- failure to comply with the rules of the road;
- repeated lack of compliance with lawful directions from authorised officers;
- a lack of good conduct, that could be reasonably expected of a licensed driver;
- failure to comply with conditions/byelaws.

## 7.11 Time periods following offences

The Table of Offences below details the minimum time periods before which the Council will not generally grant a licence to an applicant. It also sets out the likely actions for a licensee convicted of such offences.

Where a time period is specified for an offence below, this will not normally commence until the completion of the sentence imposed as set out below. In the case of the sentences listed below the completion of the sentence will be taken as follows:

- Imprisonment (including suspended sentences) – end of the period of imprisonment imposed by the court
- Community orders – end of the period specified in the order
- Conditional discharge - end of the period specified in the order
- Fine - one year from the date of conviction
- Caution – date caution given
- Disqualification from driving – restoration of the DVSA driving licence or completion of sentence – whichever is later

An application that complies with the minimum times for offences will be considered but it should not be assumed that the application will be granted. The Council will always consider each application or case on its merits and will have regard to all relevant information to hand when making its decision.

## 8.0 Table of Offences

<b>Table of offences</b>		
<b>Dishonesty</b>		
<p>The Council considers any form of dishonesty as a serious offence. A licensed driver holds a position of trust. They deal with cash transactions and drivers can easily defraud the travelling public by demanding more than the legal fare. They are also frequently transporting lone and vulnerable passengers. Passengers are entitled to expect a high level of honesty from a licensed driver.</p> <p>Repeat offending will be considered as an aggravating factor.</p>		
<b>Example of offences</b>	<b>Applicants with convictions</b>	
<ul style="list-style-type: none"> <li>▪ Theft</li> <li>▪ Burglary</li> <li>▪ Fraud</li> <li>▪ Benefit fraud (includes offences under ss.111A and 112 of the Social Security Administration Act 1992)</li> <li>▪ Handling or receiving stolen goods</li> <li>▪ Forgery</li> <li>▪ Conspiracy to defraud</li> <li>▪ Obtaining money or property by deception</li> <li>▪ Other deception</li> <li>▪ Identity Theft</li> </ul>	<b>Conditions</b>	<b>Time period</b>
	Sentences of 4 years or more, or persistent repeat offending	Never accepted as fit and proper person on ground of public safety
	Sentences of less than 4 years	Seven years from completion of any sentence
	<b>Existing drivers convicted of dishonest offences</b>	
Revocation		

## Violence

The Council considers any convictions for, or connected with, violence as serious offences. Licensed drivers maintain close contact with passengers who are often alone in the vehicle and may be vulnerable. Passengers are entitled to feel safe and free from fear and to expect a high standard of safety from a licensed driver.

The Council consider any of the following as aggravating factors:

- Offences committed in the course of licensed employment
- Racially aggravated offences
- Offences involving weapons
- Offences against children or vulnerable adults
- Repeat offending

<b>Offences</b>	<b>Applicants with convictions</b>	
<ul style="list-style-type: none"> <li>▪ Murder</li> <li>▪ Manslaughter</li> <li>▪ Manslaughter or culpable homicide while driving</li> <li>▪ Terrorism offences</li> </ul>	<b>Conditions</b>	<b>Time period</b>
	N/A	Never accepted as fit and proper person on ground of public safety
<b>Other violent offences include (but are not limited to):</b>	<b>Conditions</b>	<b>Time period</b>
<ul style="list-style-type: none"> <li>▪ Arson</li> <li>▪ Battery/Common Assault/Assault occasioning actual bodily harm/Racially or religiously aggravated grievous bodily harm /unlawful wounding / actual bodily harm</li> <li>▪ Grievous bodily harm with intent/Grievous bodily harm/unlawful wounding</li> <li>▪ Robbery</li> <li>▪ Possession of a firearm</li> <li>▪ Riot</li> <li>▪ Assault of a police officer</li> <li>▪ Affray</li> <li>▪ Offences under Public Order Act 1986 involving harassment, alarm or distress or violence</li> <li>▪ Obstruction</li> <li>▪ Criminal damage</li> <li>▪ Violent disorder</li> <li>▪ Resisting arrest</li> </ul>	Sentences of four years or more  Or  Persistent repeat offending	Never accepted as fit and proper person on ground of public safety
	Sentences of less than four years	Ten years from completion of any sentence
	<b>Action against drivers convicted of a violent offence</b>	
Revocation		

**Possession of a weapon**

The Council considers any convictions for possession of a weapon or any other weapon related offence as serious offences. Licensed drivers maintain close contact with passengers who are often alone in the vehicle and may be vulnerable. Passengers are entitled to feel safe and free from fear and to expect a high standard of safety from a licensed driver.

The Council consider any of the following as aggravating factors:

- Offences committed in the course of licensed employment
- Racially aggravated offences
- Repeat offending

<b>Offences</b>	<b>Applicants with convictions</b>	
<ul style="list-style-type: none"> <li>▪ Possession of a weapon or any other weapon related offence</li> </ul>	<b>Conditions</b>	<b>Time period</b>
	Any sentence	Seven years from completion of any sentence.
	<b>Action against drivers convicted of a violent offence</b>	
	Revocation	

**Discrimination**

The Council consider any of the following as aggravating factors:

- a) Offences committed in the course of licensed employment
- b) Offences involving weapons
- c) Repeat offending

<b>Offences include (but are not limited to):</b>	<b>Applicants with convictions</b>	
<ul style="list-style-type: none"> <li>▪ Racially-aggravated criminal damage</li> <li>▪ Racially-aggravated (fear or provocation of violence)</li> <li>▪ Racially-aggravated public order (intentional harassment, alarm or distress)</li> <li>▪ Racially-aggravated harassment (putting people in fear of violence)</li> <li>▪ Any other discrimination offences including attempted or conspiracy to commit offences that replace the above</li> </ul>	<b>Conditions</b>	<b>Time period</b>
	Any sentence	Seven years from completion of sentence
	<b>Action against drivers convicted of a Discrimination offence</b>	
	Revocation	

## Drugs

Licensed drivers are required to carry the passengers on the public highway so the personal use of illegal substances will have significant public safety implications.

The nature and quantity of the substances, whether for personal use or supply are issues which the Council will consider in its decision-making

The supply of drugs will be considered as an aggravating factor.

Any applicant with convictions for, or related to the possession of drugs or driving under the influence of drugs may have to undergo drugs testing (either one off or for a period of time) at their own expense to demonstrate that they are not using controlled drugs

Where there is evidence of persistent drugs use, misuse or dependency, a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the application will be considered. The cost of any medical examination would have to be met by the applicant.

Offences include (but are not limited to):	Applicants with convictions	
<ul style="list-style-type: none"> <li>• Any offence for the supply (or intent to supply) drugs</li> <li>• Any offence connected with possession with intent to supply</li> <li>• Any offence related to or connected to any of the above</li> </ul>	Conditions	Time period
	Sentence of imprisonment in excess of five years or persistent repeat offending	Never accepted as fit and proper person on ground of public safety
	Any other sentence	Ten years
<ul style="list-style-type: none"> <li>• Driving under the influence of drugs</li> </ul>	Sentence of imprisonment in excess of five years or persistent repeat offending	Never accepted as fit and proper person on ground of public safety
	Any other sentence	Seven years
<ul style="list-style-type: none"> <li>• Possession of drugs, or related to the possession of drugs</li> </ul>	Sentence of imprisonment in excess of five years or persistent repeat offending	Never accepted as fit and proper person on ground of public safety
	Any other sentence	Five years
	<b>Existing driver convicted of any of the listed drug offences</b>	
	Revocation	

**Exploitation**

These offences relate to crimes 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.

The Council will not grant a licence to any applicant who is currently on the sexual offences register or on any barred list.

<b>Offences include (but are not limited to):</b>	<b>Applicant with conviction/s</b>	
<ul style="list-style-type: none"> <li>▪ Slavery</li> <li>▪ Sexual abuse</li> <li>▪ Exploitation</li> <li>▪ Grooming</li> <li>▪ Psychological, emotional or financial abuse</li> </ul>	<b>Conditions</b>	<b>Time period</b>
	Any sentence	Never accepted as fit and proper person on ground of public safety
	<b>Existing Driver convicted of an Exploitation offence</b>	
	Revocation	

## Sexual and Indecency Offences

Passengers are entitled to expect a high standard of safety from a licensed driver and for this reason the Council consider any convictions for an offence involving or connected with illegal sexual activity or indecency offences as serious offences.

Licensed drivers maintain close contact with their passengers, many of whom will be lone and vulnerable, and all passengers should feel safe and free from the likelihood of any sexual advance

The Council expects any licensed driver to charge a just monetary fee for a completed journey. Negotiating an alternative sexual favour as payment is not acceptable and will be grounds for revocation

The Council will not grant a licence to any applicant who is currently on the sexual offences register or on any barred list.

Offences include (but are not limited to):	Applicants with convictions	
<ul style="list-style-type: none"> <li>▪ Rape</li> <li>▪ Assault by penetration</li> <li>▪ Offences involving children or vulnerable adults</li> <li>▪ Sexual assault</li> <li>▪ Indecent assault</li> <li>▪ Exploitation or prostitution</li> <li>▪ Trafficking for sexual exploitation</li> <li>▪ Possession of indecent photographs, child pornography, etc.</li> <li>▪ Any sex or indecency offence that was committed in the course of employment as a licensed driver, consensual or otherwise.</li> <li>▪ Gross indecency with a female</li> <li>▪ Gross indecency with a male</li> <li>▪ Buggery</li> <li>▪ Any similar offences (including attempted or conspiracy to commit) offences which replace the above</li> </ul>	Conditions	Time period
	Offences involving or connected with illegal sexual activity	Never accepted as fit and proper person on ground of public safety
	<b>Existing Driver convicted of sexual or indecency offence</b>	
Revocation		

## Motoring convictions

Hackney carriage and private hire drivers are professional drivers responsible for carrying the public. Those passengers are entitled to expect a high standard of road safety and driving skills from a licensed driver and for this reason the Council consider any convictions for motoring offences to be serious matters.

The Council expects any drivers it licences to demonstrate the behaviours of a safe road user who has regard for the rules of the road to show they are therefore suitable to drive professionally.

The Council classifies motoring convictions as major, minor and hybrid offences. The categories are set out in Table 1 of this document. Hybrid offences are considered to be minor traffic offences if the penalty was 3 points or less, and major traffic offences for penalties of four points or more.

The Council acknowledge that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence.

The Council view the following as being aggravating features when considering an application or reviewing a licence:

- Driving or being in charge of a vehicle whilst under the influence of alcohol or drugs
- Where an existing licensed driver has previously appeared in front of Taxi Licensing Committee for repeat offences such as multiple vehicle maintenance issues
- Multiple motoring convictions for any combination of major, minor and hybrid offences

The Council will not consider 'exceptional hardship' as a factor in deciding whether or not a person is 'fit and proper' to continue to hold a licence.

Offences include (but are not limited to):	Applicant with conviction/s	
	Conditions	Time period
<ul style="list-style-type: none"> <li>• Causing death by dangerous driving</li> <li>• Dangerous driving</li> <li>• Causing death by careless driving</li> <li>• Causing death by careless driving whilst under the influence of drink or drugs</li> </ul>	Any sentence regardless of when offence committed	Never accepted as fit and proper person on ground of public safety
<ul style="list-style-type: none"> <li>• Driving whilst uninsured</li> <li>• Driving without due care and attention/without reasonable consideration</li> <li>• Similar offences</li> </ul>	Any sentence	Seven years from completion of the sanction
<ul style="list-style-type: none"> <li>• Disqualification due to being unfit to drive through drink or drugs</li> <li>• Driving or attempting to drive with alcohol levels above the prescribed limit</li> <li>• In charge of a vehicle, driving or attempting to drive when unfit through drink</li> <li>• Refusal to provide a specimen of breath or blood for analysis</li> <li>• Aiding and abetting another in the commission of such an offence</li> </ul>	Two or more disqualifications or convictions on different occasions	Never accepted as fit and proper person on ground of public safety
	Isolated incident	Seven years from completion of disqualification (time to run from end restoration of DVLA licence) Where no disqualification, the time runs from the completion of the sentence.

<ul style="list-style-type: none"> <li>Use of a handheld device whilst driving</li> </ul>	Any sentence	Five years since conviction or completion of any sentence or driving ban imposed, whichever is the latter
<ul style="list-style-type: none"> <li>Conviction for a single offence resulting in five or more penalty points</li> <li>Convictions for offences resulting in a total of six penalty points or more in the two years prior to applying for a licence</li> </ul>	Any sentence	Two years from date of the last offence.
<b>Penalty points on a licence</b>		
More than three penalty points acquired in the 12 month period prior to applying for a licence (taken from date of application)	Any sentence	12 months from date of last offence
<b>Disqualification</b>		
Disqualification resulting from 'totting' (i.e. the accumulation of penalty points from several minor offences)	Any sentence	Two years without further conviction (time runs from restoration of DVLA licence)
<b>Existing Drivers receiving points or convictions</b>		
<b>Offences</b>	<b>Condition</b>	<b>Action</b>
Conviction for an offence classified as a Major traffic offence in table one	Any sentence	Revocation
Conviction for an alcohol or drug related offence linked with a motor vehicle	Any sentence	Revocation
Disqualification from driving	Any sentence	Revocation – unless licence expires prior to decision being made
Isolated conviction or endorsement for minor traffic offence	Pattern of offending demonstrated from history	Licence may be reviewed by Taxi Licensing Committee
	No pattern of offending behaviour	Warning letter from Taxi Licensing
Two minor traffic offences within a 12 month period (conviction or endorsements)	Pattern of offending demonstrated from history	Licence may be reviewed by Taxi Licensing Committee
	No pattern of offending demonstrated from history	Warning letter from Taxi Licensing
Third traffic offence within 24 month period (conviction or endorsements)	N/A	Licence may be reviewed by Taxi Licensing Committee

**Offences under the Town Police Clauses Act 1847, Plymouth City Council Act 1975, Plymouth City Council Act 1987, Hackney Carriage Byelaws, etc.:**

The hackney carriage and private hire licensing regime is designed and intended to protect the travelling public. For this reason offences under these Acts are considered as serious offences when deciding whether a licensed driver is 'fit and proper' to hold a licence.

These standards also apply to failure to comply with any condition of licence/byelaws. In these circumstances, these standards will be applied even where the breach does not result in prosecution.

<b>Offences include (but are not limited to):</b>	<b>Existing Drivers receiving convictions</b>	
<ul style="list-style-type: none"> <li>• Illegal plying for hire</li> <li>• Failing to proceed</li> <li>• Failing to comply with conditions of licence/failing to comply with byelaws (notification of convictions, change of address, etc.)</li> </ul>	<b>Condition</b>	<b>Action</b>
	Isolated conviction	Points awarded under the Council's Penalty Points Scheme (where applicable) Warning letter
	Further conviction	Points awarded under the Council's Penalty Points Scheme Prosecution/Simple Caution and/or the licence may be reviewed by Taxi Licensing Committee

### **Drunkenness (not in a motor vehicle)**

A number of convictions for drunkenness could indicate a medical problem that requires critical examination in deciding whether to grant, suspend or revoke a licence. In these cases the applicant must be able to demonstrate no dependence on alcohol and comply with the timeframes detailed in the table below.

#### **Applicant with conviction/s**

<b>Condition</b>	<b>Time period</b>
Isolated conviction	Need not prevent an applicant from gaining a licence
A number of convictions	Applicant must be able to demonstrate no dependence on alcohol <b>and</b> show a period of at least three years from completion of any medical or other treatment (if received) with no further alcohol related convictions.

#### **Existing drivers**

Conviction/s	May result in referral to Taxi Licensing Committee
--------------	--

#### **Equality Act offences**

Licensed drivers are required to transport person from all sections of society, without any discrimination.

Sections 168 and 171 of the Equality Act 2010 require taxi and PHV drivers to carry guide, hearing and other assistance dogs accompanying disabled people and to do so without any additional charge.

An offence under the Equality Act may call into question whether or not that person was 'fit and proper' to hold or retain a licence.

Any other convictions for any form of discrimination will be viewed very seriously and are dealt with in the sections above.

#### **Repeat Offending and General Behaviour**

There are occasions where a licensed driver will have a range of low level offences or unacceptable behaviour. This may call into question their regard to acceptable standards of passenger safety, where there is a disregard to the rules of the road, a lack of professionalism in terms of appearance and behaviour and an unwillingness to behave in a manner that could reasonably expected of a licensed driver.

In these particular cases the Council will consider all the facts in deciding whether that person is 'fit and proper' to retain a licence.

## 9.0 VEHICLE PROPRIETORS

### Safe and Suitable test

- 9.1 The objective of vehicle licensing is to ensure public protection. This is done by ensuring all vehicles are safe, and that anyone granted a vehicle licence pose no threat to the public and have no links to serious criminal activity.
- 9.2 All applicants must provide a Basic Disclosure from the Disclosure and Barring Service (DBS) and list all unspent convictions on their application.
- 9.3 All vehicle proprietors, who are not also holders of a valid hackney carriage or private hire drivers licence granted by Plymouth City Council, must obtain a Basic Disclosure from the Disclosure and Barring Service (DBS) every year.
- 9.4 The results of the DBS disclosure will be reviewed and any previous history of vehicle inspection and maintenance will be taken into account when considering an application or whether to review a licence.
- 9.5 To enable consistent and informed decision to be made, the Council will apply the following test:
- ‘Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of day or night without arousing suspicion and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?’** (Paragraph 8.98, Button on Taxis - Licensing Law and Practice; Fourth Edition; Bloomsbury Professional).
- 9.6 Subject to the requirements of Section 5 of the Plymouth City Council Act 1975, where you already hold a private hire driver or hackney carriage driver licence, you will be considered safe and suitable to hold a vehicle licence unless there are concerns over your ability to maintain and insure your vehicle, in which case your suitability will be considered by the Taxi Licensing Committee.
- 9.7 The Table of Offences for Vehicle Proprietors and Private Hire Operators below lists types of offences the Council consider relevant to the vehicle licensing regime. The table sets out the type of action an applicant or licensee can expect if they have a conviction which is not spent within the meaning of the Rehabilitation of Offenders Act 1974 (as amended) for the type of offence listed. However, each case will always be considered on its own merits and depending on the individual circumstances of a case, the Council can depart from its policy.
- 9.8 At the end of this document is a table setting out examples of the rehabilitation periods for convictions. This is the period after which a conviction is considered spent and cannot be considered by the Council. It is not comprehensive and you should refer to the Rehabilitation of Offenders Act 1974 as amended, for full details

## 10.0 Private Hire Operators (PHO)

### Fit and Proper Test

- 10.1 The aim of the licensing regime is to protect the public. It is therefore important to ensure that anyone granted a licence poses no threat to the public and has no links to serious criminal activity.
- 10.2 Under S.13 of the Plymouth City Council Act 1975, the Council cannot grant a PHO licence unless they are satisfied that the applicant is a fit and proper person to hold such a licence.

- 10.3 PHOs are not an exempt profession under the provisions of the Rehabilitation of Offenders Act 1974 and therefore, the Council can only take account of convictions which are not spent under the provisions of that Act, when deciding if they are fit and proper (or safe and suitable) to hold a licence.
- 10.4 All applicants (including for renewal of a licence) must produce a Basic DBS disclosure certificate.
- 10.5 All existing Private Hire Operators must produce a Basic DBS disclosure certificate annually.
- 10.6 If the Operator/applicant) has lived outside of the UK for a continuous period of 3 months or more since the age of 18, then they must also obtain a certificate of good conduct from the country or countries that they have lived in.
- 10.7 The results of the DBS disclosure and any previous history of as a PHO will be taken into account when considering an application or whether to review a licence.
- 10.8 If you are already a licensed hackney carriage or private hire driver, the Council will rely on this fact when considering if you are a suitable to hold a PHO licence.
- 10.9 When determining an application or when reviewing a licence, the Council will apply the following test to ensure consistent and informed decisions are made:
- ‘Would I be comfortable allowing this person to have control of a business that knows where any licensed vehicle is travelling, at any time of day or night and be satisfied that he/she would not allow the business to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain their records to an acceptable standard throughout the period of the licence?’.**
- 10.10 The Table of Offences for Vehicle Proprietors and Private Hire Operators in 11.0 below lists types of offences the Council consider relevant to the PHO licencing regime. The table sets out the type of action an applicant or operator can expect if they have an unspent conviction (within the meaning of the Rehabilitation of Offenders Act 1974 (as amended)) for the type of offence listed. However, each case will always be considered on its own merits and depending on the individual circumstances of a case, the Council can depart from its policy.
- 10.11 At the end of this document is a table setting out examples of the rehabilitation periods for convictions. This is the period after which a conviction is considered spent and cannot be considered by the Council. It is not comprehensive and you should refer to the Rehabilitation of Offenders Act 1974 as amended, for full details.

<b>11.0 Table of offences relevant to Vehicle Proprietors and Private Hire Operators</b>		
<p><b>Dishonesty</b></p> <p>The Council consider any form of dishonesty as a serious offence and there is potential for dishonesty to occur within the vehicle licensing regime. For example, a licensed vehicle proprietor could purchase vehicles using criminal proceeds and then rent the vehicles out to gain 'genuine' earnings.</p> <p>Repeat offending is considered an aggravating feature.</p>		
<b>Offences include( but are not limited to):</b>	<b>Applicant</b>	<b>Existing Licensee</b>
<ul style="list-style-type: none"> <li>▪ Theft</li> <li>▪ Burglary</li> <li>▪ Fraud</li> <li>▪ Benefit fraud (includes offences under ss.111A and 112 of the Social Security Administration Act 1992)</li> <li>▪ Handling or receiving stolen goods</li> <li>▪ Forgery</li> <li>▪ Conspiracy to defraud</li> <li>▪ Obtaining money or property by deception</li> <li>▪ Other deception</li> <li>▪ Identity Theft</li> </ul>	Refusal of licence or renewal	Revocation of licence
<p><b>Violence</b></p> <p>The Council considers any convictions for, or connected with, violence as serious offences.</p> <p>Taxis are used to transport people in many circumstances and are seen everywhere across the UK, at all times of the day and night, in any location. Therefore taxis could provide a transportation system for violent crime if the vehicle proprietor was not 'fit and proper'.</p> <p>The Council consider any of the following as aggravating factors:</p> <ul style="list-style-type: none"> <li>• Offences committed in the course of licensed employment</li> <li>• Racially aggravated offences</li> <li>• Offences involving weapons</li> <li>• Offences against children or vulnerable adults</li> <li>• Repeat offending</li> </ul>		
<b>Offences include (but are not limited to):</b>	<b>Applicant</b>	<b>Existing Licensee</b>
<ul style="list-style-type: none"> <li>▪ Murder</li> <li>▪ Manslaughter</li> <li>▪ Manslaughter or culpable homicide while driving</li> <li>▪ Terrorism offences</li> </ul>	Refusal of licence or renewal	Licence revoked

<ul style="list-style-type: none"> <li>▪ Arson</li> <li>▪ Battery/Common Assault/Assault occasioning actual bodily harm/Racially or religiously aggravated grievous bodily harm /unlawful wounding / actual bodily harm</li> <li>▪ Grievous bodily harm with intent/Grievous bodily harm/unlawful wounding</li> <li>▪ Robbery</li> <li>▪ Possession of a firearm</li> <li>▪ Riot</li> <li>▪ Assault of a police officer</li> <li>▪ Common assault</li> <li>▪ Affray</li> <li>▪ Offences under Public Order Act 1986 involving harassment, alarm or distress or violence</li> <li>▪ Obstruction</li> <li>▪ Criminal damage</li> <li>▪ Violent disorder</li> <li>▪ Resisting arrest</li> </ul>	<p>Refusal of licence or renewal</p>	<p>Licence revoked</p>
<p><b>Possession of a weapon</b></p> <p>The Council considers any convictions for possession of a weapon or any other weapon related offence as serious offences.</p> <p>The Council consider any of the following as aggravating factors:</p> <ul style="list-style-type: none"> <li>• Offences committed in the course of licensed employment</li> <li>• Racially aggravated offences</li> <li>• Repeat offending</li> </ul>		
<p><b>Offences</b></p>	<p><b>Applicants with convictions</b></p>	
<ul style="list-style-type: none"> <li>▪ Possession of a weapon or any other weapon related offence</li> </ul>	<p>Refusal of licence or renewal</p> <hr/> <p><b>Action against drivers convicted of a violent offence</b></p> <p>Revocation</p>	

**Discrimination**

The Council consider any of the following as aggravating factors:

- Offences committed in the course of licensed employment
- Offences involving weapons
- Repeat offending

<b>Offences include( but are not limited to):</b>	<b>Applicant</b>	<b>Existing Licensee</b>
<ul style="list-style-type: none"> <li>▪ Racially-aggravated criminal damage</li> <li>▪ Racially-aggravated (fear or provocation of violence)</li> <li>▪ Racially-aggravated public order (intentional harassment, alarm or distress)</li> <li>▪ Racially-aggravated harassment (putting people in fear of violence)</li> <li>▪ Any other discrimination offences including attempted or conspiracy to commit offences that replace the above</li> </ul>	Refusal of licence or renewal	Licence revoked

**Drugs**

Licensed vehicles have the potential to be used to transport drugs or to potentially sell to passengers.

The nature and quantity of the substances, whether for personal use or supply are issues which the Council will consider in its decision-making.

The supply of drugs will be considered as an aggravating factor.

**Offences include( but are not limited to):**

- Any offence for the supply (or intent to supply) drugs
- Any offence connected with possession with intent to supply
- Possession of drugs, or related to the possession of drugs
- Any offence related to or connected to any of the above

**Applicant**

Application refused

**Existing Driver**

Licence revoked

**Exploitation**

These offences relate to crimes 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.

The Council will not grant a licence to any applicant who is currently on the sexual offences register or on any barred list.

**Offences include (but are not limited to):**

- Slavery
- Sexual abuse
- Exploitation
- Grooming
- Psychological, emotional or financial abuse

**Applicant with conviction/s****Conditions**

Any sentence

**Time period**

Never accepted as fit and proper person on ground of public safety

**Existing Driver convicted of an Exploitation offence**

Revocation

## Sexual and Indecency Offences

Passengers are entitled to expect a high standard of safety from a licensed vehicle and for this reason the Council consider any convictions for any offence involving or connected with illegal sexual activity or indecency offences as serious offences.

Vehicle proprietors must ensure that the vehicle is not used for illegal or illicit purposes including sexual and indecency offences such as trafficking or exploitation.

The Council will not grant a vehicle licence to any applicant who has any current convictions or is currently on the sexual offences register or on any barred list.

### Offences include( but are not limited to):

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation or prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography, etc.
- Any sex or indecency offence that was committed in the course of employment as a licensed driver, consensual or otherwise.
- Gross indecency with a female
- Gross indecency with a male
- Buggery
- Any similar offences (including attempted or conspiracy to commit) offences which replace the above

### Applicant

Application refused

### Existing Driver

Licence revoked

## Equality Act 2010 Offences

Licensed drivers are required to transport person from all sections of society, without any discrimination.

Sections 168 and 171 of the Equality Act 2010 require taxi and private hire vehicle drivers to carry guide, hearing and other assistance dogs accompanying disabled people and to do so without any additional charge.

An offence under the Equality Act may call into question whether or not that person was 'fit and proper' to hold or retain a licence.

Any other convictions for any form of discrimination will be viewed very seriously and are dealt with in the sections above.

The Private Hire Operator responsible for the booking must ensure that no additional charge is added for carrying an assistance dog and must comply with the requirements of the Equality Act 2010.

<b>Rehabilitation Periods for adult convictions</b>	
<b>Sentence</b>	<b>Rehabilitation Period</b>
Imprisonment – 4 years or more	Never spent
Imprisonment – 2 ½ years to <4 years	Sentence + 7 years
Imprisonment – 6 months to less <2 ½ years	Sentence + 4 years
Imprisonment – less than 6 months	Sentence + 2 years
Fine	1 year
Community Order	Period specified in order + 1 year
Disqualification, Conditional Discharge, Bind –over	End of period specified in the Order
Absolute Discharge, Simple Caution	Spent immediately

**Table I - RELEVANCE OF PREVIOUS CONVICTIONS****MAJOR TRAFFIC OFFENCES**

<b>Code</b>	<b>Penalty Points</b>
<b>Accident Offences</b>	
AC10 Failing to stop after an accident	5-10
AC20 Failing to give particulars or to report an accident within 24 hours	5-10
AC30 Undefined accident offences	4-9
<b>Disqualified Driver</b>	
BA10 Driving while disqualified by order of court	6
BA20 Attempting to drive while disqualified by order of court	6
<b>Careless Driving</b>	
CD10 Driving without due care and attention	3-9
CD20 Driving without reasonable consideration for other road users	3-9
CD30 Driving without due care and attention or without reasonable consideration for other road users	3-9
CD40 Causing death through careless driving when unfit through drink	3-11
CD50 Causing death by careless driving when unfit through drugs	3-11
CD60 Causing death by careless driving with alcohol level above the limit	3-11
CD70 Causing death by careless driving then failing to supply a specimen for analysis	3-11
<b>Reckless/Dangerous Driving</b>	
DD40 Dangerous driving	3-11
DD60 Manslaughter or culpable homicide while driving a vehicle	3-11
DD80 Causing death by dangerous driving	3-11
<b>Drink or Drugs</b>	
DR10 Driving or attempting to drive with alcohol level above limit	3-11
DR20 Driving or attempting to drive while unfit through drink	3-11
DR30 Driving or attempting to drive then failing to supply a specimen for analysis	3-11
DR40 In charge of a vehicle while alcohol level above limit	10
DR50 In charge of a vehicle while unfit through drink	10
DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR70 Failing to provide specimen for breath test	4
DR80 Driving or attempting to drive when unfit through drugs	3-11
DR90 In charge of a vehicle when unfit through drugs	10
<b>Insurance Offences</b>	
IN 10 Using a vehicle uninsured against third party risks	6-8

## Licence Offences

LC20	Driving otherwise than in accordance with a licence	3-6
LC30	Driving after making a false declaration about fitness when applying for a licence	3-6
LC40	Driving a vehicle having failed to notify a disability	3-6
LC50	Driving after a licence has been revoked or refused on medical grounds	3-6

## Miscellaneous Offences

MS50	Motor racing on the highway	3-11
MS60	Offences not covered by other codes	as appropriate

## Theft or Unauthorised Taking

UT50	Aggravated taking of a vehicle	3-11
------	--------------------------------	------

**Aiding, abetting, counselling or procuring**

Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)

**Causing or permitting**

Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)

**Inciting**

Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16)

**MINOR TRAFFIC OFFENCES**

## Miscellaneous Offences

MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3
MS30	Play street Offences	2
MS40	Driving with uncorrected defective eyesight or refusing to submit to a test	3
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver, etc.	3

## Motorway Offences

MW10	Contravention of Special Road Regulations (excluding speed limits)	3
------	--	---

## Pedestrian Crossing

PC10	Undefined contravention of Pedestrian Crossing Regulations	3
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle	3
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle	3

## Traffic Direction and Signs

TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with a "Stop" sign	3

TS40	Failing to comply with direction of a constable or traffic warden	3
TS50	Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)	3
TS60	Failing to comply with school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3

### **Aiding, abetting, counselling or procuring**

Offences as coded above, but with 0 changed to 2 (e.g. PCI0 becomes PCI2)

### **Causing or permitting**

Offences as coded above, but with 0 changed to 4 (e.g. PCI0 becomes PCI4)

### **Inciting**

Offences as coded above, but with 0 changed to 6 (e.g. PCI0 becomes PCI6)

## **HYBRID TRAFFIC OFFENCES**

### Construction & Use Offences

CU10	Using vehicle with defective brakes	3
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers	3
CU80	Using a mobile phone while driving a motor vehicle	3

### Speed Limits

SP10	Exceeding goods vehicle speed limit	3-6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3-6
SP30	Exceeding statutory speed limit on a public road	3-6
SP40	Exceeding passenger vehicle speed limit	3-6
SP50	Exceeding speed limit on a motorway	3-6
SP60	Undefined speed limit offence	3-6

### **Aiding, abetting, counselling or procuring**

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

### **Causing or permitting**

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

### **Inciting**

Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)