

**Summons to Meeting**

Wednesday 12 December 2018

# Licensing Regulatory Panel

Thursday 20 December 2018, 10.00 am

Council Chamber - Allerdale House, Workington

Membership:

Councillor Mary Bainbridge  
Councillor Peter Kendall  
Councillor Bill Pegram

Councillor Hilary Harrington  
Councillor Ron Munby MBE

*Members of the public are welcome to attend the meeting. If you have any questions or queries contact Lee Jardine on 01900 702556.*

## Agenda

**1. Election of Chair**

To elect a Chair for the ensuing meeting.

**2. Apologies for Absence**

**3. Declaration of Interests**

Councillors/Staff to give notice of any disclosable pecuniary interest, other registrable interest or any other interest and the nature of that interest relating to any item on the agenda in accordance with the adopted Code of Conduct.

**4. Questions**

To answer questions from members of the public – submitted in writing or by electronic mail no later than 5.00pm, 2 working days before the meeting.

**The Chairman will move:**

That under Section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they may involve the likely disclosure of exempt information as defined in paragraph 1 of part 1 of Schedule 12A of the Act.

5. To consider an application for a Private Hire Driver Licence (Pages 3 - 6)
6. To consider an application for a Hackney Carriage Driver Licence (Pages 7 - 12)

**Statement of Policy Concerning the Relevance of Criminal Convictions Relating to the Determination of Application or Renewal for a Hackney Carriage Private Hire Driver's Licence (Pages 13 - 30)**

**Rehabilitation of Offenders Act 1974 (Pages 31 - 32)**

**Procedure at Licensing Panel (Pages 33 - 34)**

A handwritten signature in cursive script, appearing to read 'D Sewell'.

**Monitoring Officer**

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# Agenda Item 5

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

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# Agenda Item 6

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The Relevance of Criminal Convictions Relating to the Determination of the Application to Grant or Renew a Hackney Carriage or Private Hire Drivers Licence



## Introduction

1. The purpose of this policy is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a Hackney Carriage and/or Private Hire vehicle driver and/or operator licence.
2. The overriding consideration when having regard to this policy is to protect the safety of the public. The Licensing Authority is concerned to ensure:
  - 2.1 that a person is a fit and proper person.
  - 2.2 that the person does not pose a threat to the public.
  - 2.3 that the public are safeguarded from dishonest person.
  - 2.4 the safeguarding of children and young persons.
3. This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
  - 3.1 Applicants for driver/operator licences
  - 3.2 Existing licensed drivers/operators whose licences are being reviewed
  - 3.3 Licensing Officers
  - 3.4 Members of the Licensing Panel (or other relevant decision making body)
  - 3.5 Magistrates hearing appeals against local authority decisions
4. Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the licensing panel. Whilst officers and the panel will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the officer or the panel may depart from the guidelines.**

## General Policy

5. Applicants for a Private Hire/Hackney Carriage driver Licence must have held a full UK/EC/EEA driving licence for at least three years, such period to be calculated from the date of issue of a full driving licence.
6. There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
7. A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would be expected to:
  - 7.1 Remain free of conviction for an appropriate period as stated in the guidelines; and
  - 7.2 Show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).
8. Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
9. **Where an applicant has been convicted of a criminal offence, the council cannot review the merits of the conviction** [Nottingham City Council v. Mohammed Farooq (1998)]
10. If an applicant with a history of criminal convictions has been granted a licence, and at the time of renewal of that licence the applicant's circumstances have not changed, the licence should be renewed at the discretion of the Licensing Officer without the need for the application to be referred to the Licensing Panel and without the need for further testing through the Council's nominated driving assessment/test. An application for renewal of a licence which contains new offences or offences which were not previously disclosed will be referred to the Licensing Panel for determination.

## Appeals

11. Any applicant refused a driver's licence on the grounds that the council 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.
12. Nothing in the criteria outlined in this policy will remove an applicant's right to appeal to a Magistrates' Court against the Council's refusal to grant or renew a licence, or decision to suspend or revoke a licence, or against any conditions which may have been imposed on any such licence by the local authority.

## Powers

13. Section 61 and Section 62 of the Local Government (Miscellaneous Provisions) Act 1976 allow the Licensing Authority to suspend, revoke or refuse to renew a driver licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town

Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

14. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the council 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 Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
15. 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.

### **Consideration of Disclosed Criminal History**

16. Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the council is required to ensure that an applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire vehicle driver's 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 Council will look into:
  - 16.1 how relevant the offence(s) are to the licence being applied for.
  - 16.2 how serious the offence(s) were.
  - 16.3 when the offence(s) were committed.
  - 16.4 the date of conviction.
  - 16.5 circumstances of the individual concerned
  - 16.6 sentence imposed by the court.
  - 16.7 whether they form part of a pattern of offending.
  - 16.8 any other character check considered reasonable (e.g. personal references)
  - 16.9 any other factors that might be relevant.
17. In considering whether to revoke a Hackney Carriage or Private Hire driver or operator licence in accordance with s61 of the Local Government (Miscellaneous Provisions) Act 1976, the decision will be made by an authorised member of the Licensing department following consultation with the Legal, Licensing and Elections Manager. The Legal, Licensing and Elections Manager may choose to defer the decision to the Licensing Panel.
18. Further, in considering whether to suspend or revoke a Private Hire or Hackney Carriage driver licence, if it appears that the interests of public safety require the suspension or revocation to have immediate effect, the decision will be made in accordance with section 61 of the Local Government (Miscellaneous Provisions) Act, 1976 as amended by s52 of the Road Safety Act 2006.
19. Applicants can discuss further what effect a caution/conviction may have on any application by contacting an authorised member of the Licensing department in confidence for advice.

20. The licensing authority conducts disclosures from the Disclose and Barring Service (DBS) of any applicant for a driver licence. The licensing authority follows the DBS's Code of Practice on the fair use of disclosure information. A copy is available [here](#).
21. Applicants applying for the grant or a renewal of a drivers' licence will be required to obtain a disclosure at their expense. The licensing authority abides by the [DBS's Policy](#) on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.
22. More information about the DBS can be found on their [website](#).
23. The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.
24. It is an offence under Section 57(3) of the Local Government (Miscellaneous Provisions) Act 1976 for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

### **Outstanding Charges or Summonses**

25. If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.
26. If the outstanding charge or summons involves a serious offence and the individual's conviction history (including "spent" convictions) indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the application may be refused.

### **Non-conviction Information**

27. If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include violent offences and sex offences.
28. In assessing the action to take, the safety of the travelling public must be the paramount concern.

### **Cautions**

29. Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

### **Licensing Offences**

30. Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disable persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since.

### **Licences Issued By Other Licensing Authorities**

31. Where an application for a taxi and/or private hire vehicle driver's licence/private hire operator's licence has been referred to the licensing panel for determination with regard to this policy, and the applicant already holds such a licence granted by another licensing authority, the guidance in this policy shall take precedence over any decision of another licensing authority.

### **Summary**

32. To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 5 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.
33. While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

### **Overseas Residents**

34. Where the DBS check is unlikely to have any information on a person, due to a short period of residence in the UK, applicants must obtain (at the cost of the applicant) a certificate of good conduct from their embassy or consulate. The certificate should be authenticated, translated and sealed by the embassy/consulate. The Disclose and Barring Service provides information on most relevant embassies/consulates. Means of obtaining a certificate can be found on the DBS [website](#).

35. The following examples afford a general guide on the action to be taken where convictions are admitted.

36. **Minor Traffic Offences**

36.1 Convictions for minor traffic offences should not prevent a person from proceeding with an application for a Private Hire or Hackney Carriage driver licence; however, an application containing multiple offences of this nature and convictions relating to minor driving offences committed when the applicant was driving a Hackney Carriage or Private Hire vehicle will be considered in a more serious light.

36.2 If an applicant has 8 or more current penalty points on their DVLA driving licence the application will be considered by the Licensing Panel to determine his/her suitability.

36.3 If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a Hackney Carriage or Private Hire driver's licence will be reviewed by the Council's Licensing Panel.

36.4 **Further, in determination of the renewal of a Private Hire driver licence or Hackney Carriage licence, the Council's nominated driving assessment/test shall be taken where the driver has been disqualified from driving by the DVLA or with endorsements on their driving licences or for serious driving offences.**

36.5 Offences in this category include but are not limited to:-

- Failing to stop after an accident
- Failing to give particulars or report an accident within 24 hours.
- Undefined accident offence
- Using vehicle with defective brakes
- 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
- Using a vehicle with defective tyres
- Using a vehicle with defective steering
- Causing or likely to cause danger by reason of load or passengers
- Using a mobile device while driving a motor vehicle
- Driving otherwise than in accordance with a licence
- Driving after making a false declaration about fitness when applying for a licence
- Driving a vehicle having failed to notify a disability
- Driving after a licence has been revoked or refused on medical grounds
- Leaving a vehicle in a dangerous position
- Unlawful pillion riding
- Playstreet offences
- Offences not covered by other codes
- Driving with uncorrected defective eyesight
- Refusing to submit to an eyesight test
- Failure to give information as to identity of driver etc.
- Contravention of Special Road Regulations (excluding speed limits)

- Undefined Contravention of Pedestrian Crossing Regulations
- Contravention of Pedestrian Crossing Regulations with moving vehicle
- Contravention of Pedestrian Crossing Regulations with stationary vehicle
- Driving without “L” plates
- Not accompanied by a qualified person
- Carrying a person not qualified
- Drawing an unauthorised trailer
- Undefined failure to comply with conditions of a Provisional Licence
- Exceeding goods vehicle speed limit
- Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- Exceeding statutory speed limit on a public road
- Exceeding passenger vehicle speed limit
- Exceeding speed limit on a motorway
- Failing to comply with traffic light signals
- Failing to comply with double white lines
- Failing to comply with a “Stop” sign
- Failing to comply with direction of a constable or traffic warden
- Failing to comply with traffic sign (excluding „Stop” sign, traffic lights or double white lines)
- Failing to comply with school crossing patrol sign
- Undefined failure to comply with a traffic direction sign

**36.6 An application received which details more than one of the offences in this category on the DVLA driving licence may be referred to the Council’s Licensing Panel for the following reasons:**

- 36.6.1 the Licensing Officer believes such offences may place the general public at risk;**
- 36.6.2 in circumstances where any such offence was committed while driving a Hackney Carriage or Private Hire vehicle; or**
- 36.6.3 the applicant has 8 or more current penalty points on their DVLA driving licence.**

**36.7 In any other circumstances the decision will remain with the Licensing Officer.**



### 37. Serious Road Traffic Offences

37.1 A serious view will be taken of serious road traffic offences. An isolated incident in the past will not necessarily stop a Private Hire or Hackney Carriage driver licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour. More than one conviction for these offences would normally prevent a licence being granted or renewed.

37.2 An isolated conviction for serious road traffic offence should normally merit a warning as to future driving and advice on the standard expected of Hackney Carriage and Private Hire vehicle drivers. More than one conviction for this type of offence within the last two years may be referred to Licensing Panel at the discretion of the Licensing Officer.

37.3 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would normally be granted for a Hackney Carriage or Private Hire driver's licence. An operator found guilty of aiding and abetting the driving passengers for hire and reward whilst without insurance will have his operator's licence revoked immediately and prevented from holding a licence for three years.

**37.4 Further, in determination of the renewal of a Private Hire driver licence or Hackney Carriage licence, the Council's nominated driving assessment/test shall be taken where the driver has been disqualified from driving by the DVLA or with endorsements on their driving licences or for serious driving offences.**

37.5 Offences in this category include but are not limited to:-

- Driving without due care and attention
- Driving without reasonable consideration for other road users
- Driving without due care and attention or without reasonable consideration for other road users
- Using a vehicle uninsured against third party risks
- Driving while disqualified by order of Court
- Attempting to drive while disqualified by order of Court

**37.6 An application received containing one or more of the above offences will be considered in the first instance by the Licensing Officer the decision to grant or renew such a licence will remain with that officer in circumstances where:**

**37.6.1 due to the level of the potential risk implied by the offence(s) to the public the a licence should not be granted or renewed;**

**37.6.2 the offence is an isolated incident falling under section 37.1 in which a warning and advice is sufficient with the grant or renewal of such licence, or;**

**37.6.3 a time period of 10 years or more has passed since the offence (or most recent offence) was committed, showing a significant reduction in the risk to the public meaning the licence can be granted.**

**37.7 Other applications containing offences in this category may be referred to the Licensing Panel where appropriate.**

37.8 A very serious view is to be taken of any applicant who has been convicted of a driving offence in 37.9.

37.9 A licence will not normally be considered unless the applicant is free of conviction for 5 years or (or at least 3 years must have passed since the completion of the sentence, whichever is longer) if he has a conviction for:

- Dangerous Driving
- Manslaughter or culpable homicide while driving a vehicle
- Causing death by dangerous driving
- Furious driving
- Motor racing on the highway

**37.10 An application received which details one of the offences in 37.9 on the DVLA driving licence will automatically be referred to the Council's Licensing Panel for determination.**

### **38. Drink driving/driving under the influence of drugs**

38.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending.

38.2 More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 3 years, after the restoration of the driving licence following a drink drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

**38.3 Further, in determination of the renewal of a Private Hire driver licence or Hackney Carriage licence, the Council's nominated driving assessment/test shall be taken by where the driver has been disqualified from driving by the DVLA or with endorsements on their driving licences or for serious driving offences.**

38.4 Offences in this category include but are not limited to:-

- Driving or attempting to drive with alcohol level above limit
- Driving or attempting to drive while unfit through drink
- Driving or attempting to drive then refusing to supply a specimen for analysis
- In charge of a vehicle while alcohol level above limit
- In charge of a vehicle while unfit through drink or drugs
- Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
- Failing to provide a specimen for breath test
- Driving or attempting to drive when unfit through drugs

**38.5 An application received containing one or more of the above offences will be considered in the first instance by the Licensing Officer, the decision to grant or renew such a licence will remain with that officer in circumstances where:**

**38.5.1 due to the level of the potential risk implied by the offence(s) to the public the a licence should not be granted or renewed, or;**

**38.5.2 a time period of 10 years or more has passed since the offence (or most recent offence) was committed, showing a significant reduction in the risk to the public meaning the licence can be granted.**

**38.6 Other applications containing offences in this category may be referred to the Licensing Panel where appropriate.**

### 39. Drunkenness

39.1 An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However a number of convictions for drunkenness could indicate a medical problem necessitating critical examinations. In some cases, a warning may be sufficient.

39.2 If there is evidence of persistent alcohol misuse or dependency a specialist medical examination may be required before the licence is granted.

39.3 Offences in this category include but is not limited to:-

- Drunk and Disorderly Behaviour
- Entering an Aircraft When Drunk or Being Drunk in an Aircraft

**39.4 An application received containing one or more of the above offences will be considered in the first instance by the Licensing Officer, the decision to grant or renew such a licence will remain with that officer in circumstances where:**

**39.4.1 due to the level of the potential risk implied by the offence(s) to the public the licence should not be granted or renewed;**

**39.4.2 the offence is an isolated incident falling under section 39.1 in which a warning and advice is sufficient with the grant or renewal of such licence, or;**

**39.4.3 a time period of 10 years or more has passed since the offence (or most recent offence) was committed, showing a significant reduction in the risk to the public meaning the licence can be granted.**

**39.5 Other applications containing offences in this category may be referred to the Licensing Panel where appropriate.**

#### 40. Drugs

40.1 A serious view shall be taken of convictions of this nature. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. An application with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained.

40.2 If there is evidence of persistent drug use, misuse or dependency a specialist medical examination may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

40.3 Offences in this category include but is not limited to:-

- Possessing Controlled Drug
- Possessing Controlled Drug with Intent to Supply
- Producing Controlled Drug
- Importing Drugs

40.4 **An application received containing one or more of the above offences will be considered in the first instance by the Licensing Officer. The decision to grant or renew such a licence will remain with that officer in circumstances where:**

40.4.1 **due to the level of the potential risk implied by the offence(s) to the public the a licence should not be granted or renewed;**

40.4.2 **the offence is an isolated incident falling under section 40.1 in which a warning and advice is sufficient with the grant or renewal of such licence, or;**

40.4.3 **a time period of 10 years or more has passed since the offence (or most recent offence) was committed, showing a significant reduction in the risk to the public meaning the licence can be granted.**

40.5 **Other applications containing offences in this category may be referred to the Licensing Panel where appropriate.**

## 41. Indecency Offences

41.1 As Hackney Carriage and Private Hire vehicle drivers often carry unaccompanied passengers including schoolchildren and vulnerable adults, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period of at least 3 years free of such offences. More than one conviction of this kind should preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct should be issued.

41.2 Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as rape, assault by penetration, offences involving children or vulnerable adults or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

41.3 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.

41.4 A licence will not normally be granted if an applicant has more than one conviction for a sex or indecency offence.

41.5 Offences in this category include but are not limited to:-

- Rape
- assault by penetration
- sexual assault
- causing a person to engage in sexual activity without consent
- rape of a child under 13
- assault of a child under 13 by penetration
- sexual assault of a child under 13
- causing or inciting a child under 13 to engage in sexual activity
- sexual activity with a child
- causing or inciting a child to engage in sexual activity
- engaging in sexual activity in the presence of a child
- causing a child to watch a sexual act
- arranging or facilitating commission of a child sex offence
- meeting a child for sexual grooming etc.
- abuse of position of trust: sexual activity with a child
- abuse of position of trust: causing or inciting a child to engage in sexual activity
- abuse of position of trust: sexual activity in the presence of a child
- abuse of a position of trust: causing a child to watch a sexual act
- sexual activity with a child family member
- inciting a child family member to engage in sexual activity
- sexual activity with a person with a mental disorder impeding choice
- causing or inciting a person with a mental disorder impeding choice, to engage in sexual activity
- engaging in sexual activity in the presence of a person with a mental disorder impeding choice
- causing a person with a mental disorder impeding choice, to watch a sexual act
- inducement, threat or deception to procure sexual activity with a person with a mental disorder.

- causing a person with a mental disorder to engage or agree to engage in sexual activity by inducement, threat or deception
- engaging in the sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder
- causing a person with a mental disorder to watch a sexual act by inducement, threat or deception
- care workers: sexual activity with a person with a mental disorder
- care workers: causing or inciting sexual activity
- care workers: sexual activity in the presence of a person with a mental disorder
- care workers: causing a person with a mental disorder to watch a sexual act
- indecent photographs of persons aged 16 or 17
- paying for sexual services of a child
- causing or inciting child prostitution or pornography
- controlling a child prostitute or a child involved in pornography
- arranging or facilitating child prostitution or pornography
- causing or inciting prostitution for gain
- controlling prostitution for gain
- Living off immoral earnings
- Prostitution
- Possessing or distributing obscene material
- Indecent or nuisance telephone calls
- trafficking into the UK for sexual exploitation
- trafficking within the UK for sexual exploitation
- trafficking out of the UK for sexual exploitation
- administering a substance with intent
- committing an offence with intent to commit a sexual offence
- trespass with intent to commit a sexual offence
- sex with an adult relative: penetration
- sex with an adult relative: consenting penetration
- exposure
- voyeurism
- intercourse with an animal
- sexual penetration of a corpse

**41.6 Any application with a conviction within this category will automatically be put before the Council's Licensing Panel for determination.**

## 42. Violence

42.1 As Hackney Carriage and Private Hire vehicle drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

42.2 Offences in this category include but are not limited to :-

- Battery/Common Assault
- Aggravated Common Assault
- Assault - Section 47
- Wounding - Section 20
- Grievous Bodily Harm - Section 18
- Resist Arrest/Obstruct/Assault Police
- Riot
- Violent Disorder
- Affray
- Using Threatening, Abusive Words or Behaviour
- Intentional harassment alarm or distress
- Harassment alarm or distress
- Drunk and Disorderly
- Robbery
- Possession of bladed article or point in a public place or on school premises
- Possess Offensive Weapon
- Possession offensive weapon on school premises
- Possess Firearm
- Possess Firearm with Intent
- Criminal Damage
- Arson
- Kidnapping
- False Imprisonment
- Manslaughter
- Murder

42.3 **An application received containing one or more of the above offences will be considered in the first instance by the Licensing Officer The decision to grant or renew such a licence will remain with that officer in circumstances where:**

42.3.1 **due to the level of the potential risk implied by the offence(s) to the public the a licence should not be granted or renewed or;**

42.3.2 **a time period of 10 years or more has passed since the offence (or most recent offence) was committed, showing a significant reduction in the risk to the public meaning the licence can be granted.**

42.4 **Other applications containing offences in this category may be referred to the Licensing Panel where appropriate.**

42.5 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as murder, manslaughter



or culpable homicide while driving, terrorism offences, or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

## 43. Dishonesty

43.1 Hackney Carriage and Private Hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare, etc. Overseas visitors can be confused by the change in currency and become 'fair game' for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 years free of conviction should be required before entertaining an application.

43.2 Offences in this category include but are not limited to:-

- Theft
- Theft – Shoplifting
- Theft – Employee
- Theft - From Vehicle
- Bilking
- Burglary & Theft – Dwelling
- Burglary & Theft - Non Dwelling
- Burglary – Aggravated
- Fraudulent Use
- Handling
- Receiving
- Forgery
- Conspiracy to Defraud
- Obtain Money by Deception
- Obtain Money by Forged Instrument
- Obtain Goods or Services by Deception
- False Accounting
- False Statement to Obtain Benefit
- Going Equipped
- Taking/Driving or attempt to Steal Vehicle
- Allow to be Carried in Stolen Vehicle
- Perverting the Course of Justice
- Aggravated taking of a Vehicle

43.3 **An application received containing one or more of the above offences will be considered in the first instance by the Licensing Officer. The decision to grant or renew such a licence will remain with that officer in circumstances where:**

43.3.1 **due to the level of the potential risk implied by the offence(s) to the public the a licence should not be granted or renewed or;**

43.3.2 **a time period of 10 years or more has passed since the offence (or most recent offence) was committed, showing a significant reduction in the risk to the public meaning the licence can be granted.**

43.4 **Other applications containing offences in this category may be referred to the Licensing Panel where appropriate.**

Sentence – Adult (18+) when convicted		Current period	New period	Notes
Prison (1)	Over 4 years	Never	Never	
	More than 30 months and less than (or equal to) 4 years	Never	Sentence + 7 years	(2)
	More than 6 months and less than (or equal to) 30 months	10 years	Sentence + 4 years	(3)
	Less than (or equal to) 6 months	7 years	Sentence + 2 years	(4)
Sentence of detention (over 6 months but not exceeding 30 months)		7 years	As prison sentences	(5)
Sentence of detention (6 months or under)		5 years	As prison sentences	
Removal from Her Majesty's Service		7 years	1 year	(6)
Service detention		5 years	1 year	(7)
Community order		5 years	12 months	(10)
Fine		5 years	1 year	(8)
Compensation order		Once paid in full	Once paid in full	(9)
Hospital order		Longer of 5 years / 2 years after the order ceases to have effect	End of the order (12)	(13)
Conditional discharge, binding over, care order, supervision order, reception order		Longer of 1 year after making of order, or 1 year after it ends	End of the order (12)	
Absolute discharge		6 months	Spent immediately	
Disqualification		End of disqualification	End of disqualification	
Relevant order		End of the order	End of the order (12)	
Conditional cautions		Once conditions end	Once conditions end	
Caution, warning, reprimand		None	None	(14)

Sentence – Under 18 when convicted		Current period	New period	Notes
Prison (1)	Over 4 years	Never	Never	
	More than 30 months and less than (or equal to) 4 years	Never	Sentence + 3.5 years	(2)
	More than 6 months and less than (or equal to) 30 months	5 years	Sentence + 2 years	(3)
	Less than (or equal to) 6 months	3.5 years	Sentence + 18 months	(4)
Detention and Training Order (over 6 months)		5 years (15+ at conviction) or 1 year after order ceases (12-14)	As prison sentences	
Detention and Training Order (6 months or less)		3.5 yrs (15+ at conviction) or 1 year after order ceases (12-14)	As prison sentences	
Sentence of detention (over 6 months but not exceeding 30 months)		5 years	As prison sentences	(5)
Sentence of detention (6 months or under)		18 months	As prison sentences	
Removal from Her Majesty's service		3.5 years	6 months	(6)
Service detention		2.5 years	6 months	(7)
Community order		2.5 years	6 months	(10)
Youth Rehabilitation Order		Longer of 1 year / end of the order	6 months	(11)
Fine		2.5 years	6 months	(8)
Compensation order		Once paid in full	Once paid in full	(9)
Hospital order		Longer of 5 years/ 2 years after the order ceases to have effect	End of the order (12)	(13)
Conditional discharge, binding over, care order, supervision order, reception order		Longer of 1 year after making of order, or 1 year after it ends	End of the order (12)	
Absolute discharge		6 months	Spent immediately	
Disqualification		End of disqualification	End of disqualification	
Relevant order		End of the order	End of the order (12)	
Conditional cautions		Once conditions end	Once conditions end	
Youth caution, warning, reprimand		None	None	(14)

## Allerdale Borough Council

### Revised Procedure at Licensing Panel Meetings

April 2014

Once the Chair has moved the exemption paragraph the press and public will leave the room.

#### **Procedure**

##### **Step 1**

The Chair will ask those present to introduce themselves and explain the procedure to be followed.

##### **Step 2**

The Chair will ask the author of the report (or their substitute) to outline the proposal and the background to the case. Their role will be to provide factual information to the panel.

The Chair invites members of the panel to ask the presenting officer any questions they may have about the application.

##### **Step 3**

The Chair invites the applicant or the applicant's representative to address the panel on the merits of their application. The applicant or the applicant's representative is permitted a maximum of 10 minutes. In the case of review applications all speakers are permitted an equal amount of time.

The Chair asks if any member of the panel/officers present have any questions to ask the applicant or the applicant's representative.

##### **Step 4**

The Chair invites any party making representations (including any other persons who have been given permission to participate (if any) to present their comments(s). This may include Councillors who have submitted written representations on the application within the requisite timescale.

The Chair asks if any members of the panel have any questions to ask any party making representations.

### **Step 5**

The Chair offers the applicant or the applicant's representative the final opportunity to address the panel. The applicant or the applicant's representative is permitted a maximum of 10 minutes. In the case of a review application all speakers will be allowed an equal amount of time.

### **Step 6**

The Chair will ask the parties to withdraw so that the panel can consider its determination. In considering its determination, the panel may seek advice from its Legal Adviser.

### **Step 7**

The parties will be re-called and informed of the Panel's decision.

- Applicant to be advised that the decision will be confirmed in writing within seven days
- Applicant to be advised of any appeal procedure

All parties will leave swiftly prior to the next case.