



### **3. Policy Considerations**

- 3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the Licensee / Applicant and the risks to the safety and comfort of the public.
- 3.2 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.
- 3.3 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.

#### **Appendix J - Relevance of Convictions, Cautions and Fixed Penalty Notices in Relation to the Licensing of Drivers and Operators**

- 3.4 The licensing authority must be satisfied that all those who are licensed to drive hackney carriages and / or private hire vehicles, and those who are licensed to operate under a private hire operator's licence, are fit and proper persons. This general policy relates to the Council's assessment of the suitability of an applicant to be licensed, in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver or operator's licence has received a relevant conviction, caution or fixed penalty.
- 3.5 Additionally, it will be referred to where a relevant conviction, caution or fixed penalty has been received during the period of a driver or operator's licence and used to help inform any decision as to the licence-holder's continuing fitness to hold a licence.
- 3.6 These guidelines shall apply to all new applicants for, and all existing holders of, hackney carriage / private hire driver's licences and private hire operator's licences.

#### **General Policy**

- 3.7 Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.8 Hackney carriage and private hire drivers are listed occupations under the Rehabilitation of Offenders Act 1974. This means that an applicant must disclose ALL convictions when applying for the grant of a licence. The Council may take into account anything they consider relevant to the determination of the application.
- 3.9 When the relevant required information has been returned, the application will be considered in the light of the information provided. The information will be used to ascertain whether the information given on the original application form was correctly and truthfully provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage.
- 3.10 A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a licence. This is a criminal offence and, as such, may lead not only to consideration of the applicant as not being a "fit and proper person", but criminal proceedings.
- 3.11 Applications where convictions, cautions or fixed penalties are held will be considered by a Licensing Officer who, having regard to this policy, may refer the application to a Licensing Committee for determination. This will result in either the determination of the applicant as a "fit and proper person", indicated by the issue of a licence, or the application being refused. In these circumstances the

applicant has the right of appeal to the Magistrates' Court, such appeal to be lodged within 21 days of the decision being notified.

### **Fit and Proper Person**

- 3.12 There is no absolute definition as to what constitutes a "fit and proper person". However, considering the range of passengers that a driver may carry, for example, elderly people, unaccompanied children, people with disabilities, those who have had too much to drink, lone women and foreign visitors, the Council will want to have confidence that such people would be able to rely on the driver.

### **Some important areas that will be considered by the Council are:**

- 3.13 Consistently good and safe driving - those paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence.

### **3.14 Convictions / cautions / fixed penalty notices**

Licence holders must notify the Council in writing within 7 days if he or she is convicted or cautioned for an offence or receives a fixed penalty notice.

### **3.15 Hybrid Traffic Offences**

Hybrid offences will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or fewer penalty points for the offence.

#### **HYBRID TRAFFIC OFFENCES**

CU10 Using a vehicle with defective brakes

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

CU30 Using a vehicle with defective tyre(s)

CU40 Using a vehicle with defective steering

CU50 Causing or likely to cause danger by reason of load or passengers

CU80 Breach of requirements as to control of the vehicle, mobile telephone etc

SP10 Exceeding goods vehicle speed limit

SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)

SP30 Exceeding statutory speed limit on a public road

SP40 Exceeding passenger vehicle speed limit

SP50 Exceeding speed limit on a motorway

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)

## **4. Licensing Comments**

- 4.1 The council is under a statutory obligation to ensure that all its licensed drivers are, and remain, fit and proper people.
- 4.2 As outlined in the report, Mr Layton has a number of DVLA penalty points that he has accumulated since his last renewal but not declared to the council at the time or on his application form. The details of these convictions are outlined in the accompanying papers.

- 4.3 There is a policy requirement on licence holders that they must notify the council in writing within 7 days if he or she is convicted or cautioned for an offence, receives a fixed penalty notice or is the subject of a criminal investigation.
- 4.4 The question on the application form asks “Have you been charged within any new motoring offences since your current licence was issued?” to which Mr Layton responded No.
- 4.5 Mr Layton has been sent a copy of this report and invited to attend this meeting to speak in support of his application and to answer members’ questions or to be represented. In considering the application on its own merits Members should have regard to the adopted Probity Guide.
- 4.6 The Committee must be satisfied that Mr Layton is a fit and proper person before agreeing to the grant of a licence. The refusal recommendation is based upon the policy guidelines and public safety given the close contact that licensed drivers maintain with members of the public.

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**Background Papers**

**Service Records**

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