

APPENDIX A

KNOWSLEY METROPOLITAN BOROUGH COUNCIL

**SAFETY, RESILIENCE AND COMMUNITY
PROTECTION SERVICE**

LICENSING SECTION

**STATEMENT OF GUIDANCE FOR DETERMINING
IF AN APPLICANT FOR A NEW OR RENEWAL
HACKNEY CARRIAGE OR PRIVATE HIRE
LICENCE, CAN BE CONSIDERED FIT AND
PROPER FOR THE ISSUE OF A LICENCE OR THE
RETENTION OF A LICENCE**

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1. INTRODUCTION

- 1.1 Knowsley Council is committed to equality of opportunity for individuals from all groups and must comply with legislation on sex, race and disability. The Council will work to prevent discrimination and prejudice and create equality of opportunity both in its role as a major employer and in the provision of services. Applications for licences are welcomed from all members of the community regardless of their gender, race, ethnic origin, disability, age, sexual orientation, nationality, religion, belief or any other individual characteristics which may impact upon a person's opportunities in life.
- 1.2 This policy has been produced in accordance with the powers contained within the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 and taking account of the Department for Transport best practice guidance relating to hackney carriage and private hire drivers and the Department for Transport's Statutory Taxi and Private Hire Vehicle Standards 2020.
- 1.3 The purpose of this policy is to explain how the Council will deal with criminal convictions committed by new or existing hackney carriage and/or private hire drivers, proprietors, and private hire operators.
- 1.4 Licences for drivers, proprietors and operators of Hackney Carriages and Private Hire Vehicles may only be granted where the Council is satisfied that the applicant is a fit and proper person to hold such a licence.
- 1.5 This guidance will be used for the determination of applications in relation to Hackney Carriage Drivers and Private Hire Drivers, Hackney Carriage and Private Hire Vehicles and Private Hire Operator Licences.
- 1.6 The Council has to make difficult decisions but when deciding if an applicant or existing driver is fit and proper to hold licence the safeguarding of the travelling public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. To this end if on the balance of probabilities the Council considers that the applicant or licensee is not 'fit and proper', they should **not** hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and should take into consideration conduct that has not resulted in a criminal conviction.
- 1.7 In determining whether an applicant or licensee is "fit and proper" the Council will consider, amongst other things, an applicant's criminal and driving records, medical fitness, relevant skills, knowledge, experience, qualifications, and previous history as a licence holder (if applicable).
- 1.8 The Council can determine that an applicant or licensee is **not** a fit and

proper person to hold a licence for any other reasonable cause. If adequate evidence that a person is a fit and proper person is not found or if there is good reason to question or doubt the evidence provided, then that would usually amount to good reason to refuse a licence.

- 1.9 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application. Where Licensing Officers have delegated powers to grant licences they will refer to these guidelines when making a decision to grant a licence. In cases where applicants fall outside of this policy for applications for licences they will be offered the opportunity for their application to be referred to a meeting with a senior officer of the Council in consultation with the Chairperson of the Licensing Committee. After considering all relevant evidence that hearing will determine the application. Whilst Officers and the Chair of the Licensing Committee will have regard to the guidelines contained in the policy, each case will be considered on its individual merits and, where the circumstances demand, they may depart from the guidelines. In such cases reasons will be given for this departure. Offences not specifically identified in these guidelines may also be considered depending on the circumstances.
- 1.10 In exercising its powers the Council must ensure:
- That a person is a fit and proper person
 - That a person does not pose a threat to the public
 - That the public are safeguarded from dishonest persons
 - The safeguarding of children, young and vulnerable persons
- 1.11 In respect of applications for Hackney Carriage and Private Hire Driver licences the Council can consider all convictions, including spent convictions as appropriate, in accordance with the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2022.
- 1.12 The information given will be treated in confidence and will only be taken into account in relation to the relevant application to assist the Council in determining whether the applicant is a fit and proper person to hold a licence.
- 1.13 Information received from the Disclosure and Barring Service (DBS) will be kept in strict confidence while the licensing process takes its course and will be retained no longer than is necessary, and in any event will be destroyed in accordance with the requirements of the Data Protection Act 2018 and in accordance with good practice after the application is determined or any appeal against such determination is decided.
- 1.14 The disclosure of a criminal record or other information relating to criminal matters will not necessarily prevent an applicant from obtaining a licence. In respect of driver applications the Council will consider all information on an enhanced DBS and will take a serious view of any special Police warnings

contained therein. The granting or renewal of a licence will depend upon whether or not the applicant can satisfy the Council that they are a fit and proper person to hold such a licence.

- 1.15 In considering evidence of an applicant's good character and fitness to hold a licence, where previous offences or other information relating to criminal matters is disclosed, the Council will consider the nature of the offence, the date of offence, the applicant's age when the offence was committed, the penalty imposed and any other relevant factors which might be relevant.

2. PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS

- 2.1 Under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 a Local Authority must not grant a licence to drive a hackney carriage or private hire vehicle;

- (i) Unless they are satisfied that the applicant is a fit and proper person to hold a drivers licence or;
- (ii) To any person who has not for at least 12 months been authorised to drive a motor car or is not at the date of application for a driver's licence so authorised.

- 2.2 In relation to driver licences, the Council has a duty to ensure that any person to whom it grants a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. In determining if an applicant for a drivers licence is fit and proper or on whether an existing driver remains fit and proper the Council officers will ask themselves whether without any prejudice, and based on the information before them, would they allow a person for whom they care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night? If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

3. PROPRIETORS

Under the Department for Transport's Private Hire and Hackney Carriage Vehicle Standards Statutory Guidance proprietors who are not also the holder of a drivers licence are now required to undertake an annual Basic level Disclosure and Barring Service (DBS) check. This will disclose any unspent convictions recorded on the Police National Computer (PNC). The Council will consider whether an applicant or licence holder with a conviction for offences listed in this document meet the 'fit and proper' threshold. If not then their application must be refused.

4. PRIVATE HIRE OPERATORS

- 4.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises. It is important therefore that the Council is assured that those that are granted a private hire vehicle operator licence also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry

passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

4.2 Under the Department for Transport's Private Hire and Hackney Carriage Vehicle Standards Statutory Guidance the Council does require operators to undertake a Basic level disclosure from the DBS annually. Any individual can apply online for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC).

4.3 The Council will consider whether an applicant or licence holder with a conviction for offences provided in this document meets the 'fit and proper' threshold.

5. FAILURE TO DISCLOSE A CONVICTION

5.1 When completing an application form for a Private Hire or Hackney Carriage Driver or Private Hire Operators Licence it is an absolute requirement:

(i) To disclose **ALL** offences, including driving offences and all spent convictions, cautions, Police warnings and reprimands, and fixed penalties in the relevant box on the application form.

(ii) To inform the Council if you are under investigation in respect of any criminal offence, if you are on police bail pending the outcome of a police investigation or whether any criminal proceedings in the Magistrates, Crown Court or other Tribunal/Court have been commenced against you.

(iii) To inform the Council if you have had any Community Protection Notices, Civil Injunctions, Criminal Behaviour Orders (or other orders/injunctions made by a court) issued against you, including details of any sentences upon breach relating to anti-social behaviour.

(iv) Failure to fully disclose any of these matters may lead to an application being refused and may result in a prosecution.

5.2 The Council has a responsibility to protect the travelling public and, in this regard, may use information provided to prevent and detect fraud, to enforce legislation and to comply with statutory obligations, and may share the information, for the same purposes, with other services within the Council as well as other organisations including the NF3 National Register of Revoked and Refused Persons.

6. REFERRALS TO SENIOR OFFICER AND CHAIRMAN OF LICENSING COMMITTEE PANEL MEETING

6.1 In circumstances where an applicant has convictions which are outside of the timeframes referred to in this guidance and/or if there are any concerns about an applicant being 'fit and proper', the application will be referred to a meeting with a senior officer of the council and the Chair of the Licensing Committee who will consider the application. Applicants will be advised of the procedure which will enable their attendance before the Panel and they will be able to attend the meeting to put their case forward. Any person refused a licence has a right of appeal to the

Magistrates' Court against the Council's decision. Appeals must be made within 21 days of being notified of the Council's decision.

- 6.2 Each applicant referred to the Panel will be considered on their individual merits. In those circumstances the Panel will decide whether the applicant is a fit and proper person to hold a licence. In certain cases, the Panel may consider it appropriate to grant a licence before the relevant period has elapsed, for instance where an offence is isolated and the circumstances of its commission are such that the Panel consider it is not relevant to the applicant's suitability to hold a licence. Alternatively, the Panel may consider that, notwithstanding the applicant being free of offences for the relevant period, it would not be appropriate to grant a licence.
- 6.3 The overriding consideration of the Panel will always be to protect the travelling public. Applicants should be aware that the grant of a licence places a significant responsibility on the licensee which by the nature of the contact with members of the public requires the licensee to be a person proven to be capable of fulfilling the trust placed in them by the hirers of vehicles.
- 6.4 Holding a Hackney Carriage or Private Hire Licence or Private Hire Operators Licence is a responsible position, and therefore the Panel takes its public protection role very seriously. The Panel will only issue a licence if satisfied that a person is 'fit and proper'. If doubt remains then a licence must not be issued.
- 6.5 When considering applications for Hackney Carriage and Private Hire Driver Licences, the Panel can consider all criminal offences, including spent convictions and will also take into consideration cautions, police warnings and reprimands, fixed penalties, Community Protection Notices issued by a court. The Panel will also consider factors such as whether someone is released by Police under investigation or on or whether any criminal proceedings in a court have commenced.
- 6.6 Whilst an applicant may have a number of offences that, individually, meet the Council's policy guidelines, the overall offending history will be considered when assessing suitability for a licence. The Panel may depart from these guidelines at its discretion subject to the circumstances. The policy guidelines provide a general guide to applicants on various types of offences.

7. GUIDELINES ON THE RELEVANCE OF PREVIOUS CONVICTIONS

- 7.1 The Council has adopted the following guidelines relating to the relevance of convictions to which it refers in determining applications for licences.
- 7.2 The guidelines do not deal with every type of offence, and do not prevent the Council from taking into account offences not specifically addressed in the guidelines, or other conduct, which may be relevant to an application.
- 7.3 If an applicant has a conviction for an offence not covered by the guidelines, regard will be had to the nature of the offence, the date of offence, the applicant's age when the offence was committed, the penalty imposed and any other factors which might be relevant when deciding whether to grant an application. Offences described in the guidelines and similar offences, which have been committed under previous

legislation which has now been revoked will be considered in accordance with the guidelines.

- 7.4 An applicant with a current criminal conviction will not be permanently barred from obtaining a licence, but an applicant will usually be expected to be free from convictions for a number of years, depending on the nature of their particular offences, before a licence will be issued.
- 7.5 The Council must consider each case on its own merits, and applicants/licensees are entitled to and will receive a fair and impartial consideration of their application. Where a period engagement is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Council's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.
- 7.6 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 may be taken into account despite being outside the timeframes referred to in these guidelines. Such cases will generally be referred to the Panel.
- 7.7 For the purpose of clarity, reference in these guidelines to "the completion of any sentence" shall be taken to mean the completion of any Community Order, or the end of the term of imprisonment (meaning the date the offender would have been released from custody had they served the full term of imprisonment imposed by the Court whether or not the term of imprisonment was suspended), whichever is later.

8. LIST OF OFFENCES

8.1 *SEXUAL AND INDECENCY OFFENCES*

Where an applicant has a conviction for any offence involving, or connected with, illegal sexual activity a licence **will not** be granted. In addition, the Council will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

8.2 *CRIMES RESULTING IN DEATH*

Where an applicant has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed. This includes driving offences resulting in the death of a person as detailed in 8.14 below.

8.3 *VIOLENT OFFENCES AGAINST THE PERSON*

Where an applicant has committed more than one violent offence then the application will be refused. Where an applicant has a conviction for violence against the person, or connected with any offence of violence, a licence will not be granted until at least **10 years** have elapsed since either the date of the offence, the date of

conviction, or the completion of any sentence imposed, whichever is later. Given the range of offences that involve violence the Council will carefully consider the nature of the offence and the sentence imposed when determining an application.

8.4 POSSESSION OF A WEAPON

Where an applicant has a conviction for possession of a weapon or any weapon related offence, a licence will not be granted until at least **7 years** have elapsed since either the offence, the date of conviction, or the completion of any sentence imposed, whichever is later.

8.5 PUBLIC ORDER OFFENCES

Where an applicant has a conviction for a public order offence, a licence will not be granted until at least **5 years** have elapsed from the date of the offence, the date of conviction or the completion of any sentence imposed, whichever is later. An applicant with more than one such offence in the previous 10 years will be expected to show a period of at least **7 years** free of such offences from either the offence, the date of conviction, the date of conviction or the completion of any sentence imposed, whichever is later.

8.6 DRUG OFFENCES

A serious view is taken of any drug related offences, in particular offences involving possession with intent to supply.

Where an applicant has committed an offence relating to the supply of drugs, or for the production or cultivation of drugs, a licence will not be granted until a period of at least **10 years** have elapsed from either the offence, the date of conviction or the completion of any sentence imposed, whichever is later.

Where an applicant has committed an offence for possession of drugs or relating to the possession of drugs, a licence will not be granted until at least **5 years** have elapsed from either the offence, the date of conviction, or the completion of any sentence imposed, whichever is later.

If there is evidence of persistent drug use or dependency a specialist medical examination or a drugs test may be required at the applicant's expense. If an applicant was an addict then they would generally be required to show evidence of at least **7 years** free from drug taking after detoxification treatment.

If there is evidence of persistent drug use or dependency, a specialist medical examination or a drugs test may be required at the applicant's expense. A persistent or dependent user will be expected to be free from drug taking for at least 7 years and demonstrate evidence that they continue to be free from drugs. In this situation, the Council may place conditions on a licence relating to reasonable requests for ongoing tests at the Applicant's expense.

8.7 DISHONESTY OFFENCES

Licence holders are expected to be honest and trustworthy. Drivers deal with cash transactions and valuable property may be left in their vehicles. Drivers often deliver unaccompanied property which illustrates the trust that is placed in licensed drivers. It would also be reasonably easy for a dishonest driver to defraud the public by demanding more than the legal fare. For all these reasons, a serious view is taken of any offence involving dishonesty. Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least **7 years** have elapsed since either the offence, the date of conviction, or the completion of any sentence imposed, whichever is later.

8.8 PERVERTING THE COURSE OF JUSTICE

Where an applicant has a conviction for any offence where perverting the course of justice is an element of the offence, a licence will not be granted until at least **7 years** have elapsed since either the offence, the date of conviction, or the completion of any sentence imposed, whichever is later.

8.9 DISCRIMINATION

Where an applicant has a conviction involving, or connected with discrimination in any form, a licence will not be granted until at least **7 years** have elapsed since either the offence, the date of conviction, or the completion of any sentence imposed, whichever is later.

8.10 EXPLOITATION

Where an applicant has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, a licence will not be granted. This includes but is not limited to the following: slavery, child sexual abuse, domestic violence, exploitation, grooming, psychological, emotional or financial abuse.

8.11 HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING OFFENCES

Where an applicant has been convicted of an offence concerned with or connected to Hackney Carriage or Private Hire activity a licence will not be granted until at least **7 years** have elapsed since either the offence, the date of conviction, or the completion of any sentence imposed, whichever is later.

8.12 MOTORING OFFENCES

An applicant's driving record will be taken into account when considering applications for driver licences. The Council will consider the nature and number of motoring offences when considering applications. Hackney Carriage and Private Hire Drivers are professional drivers charged with the responsibility of carrying the public, and as such a higher standard of driving is expected compared to other road users. Multiple motoring convictions may indicate that an applicant does not exhibit

the behaviours of a safe road user and one that is suitable to drive professionally. A poor record of driving will raise doubts about an applicant's fitness and indicate a disregard for the law.

When considering motoring offences the Council will consider the nature and seriousness of the offence(s) and will have regard to the following categories of offences.

Driving offences resulting in the death of a person will be considered in line with 8.2 above.

8.13 DRINK DRIVING/DRIVING UNDER THE INFLUENCE OF DRUGS

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least **7 years** have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant will usually also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs

8.14 DRIVING OFFENCES INVOLVING LOSS OF LIFE

An extremely serious view is taken of a driving offence resulting in the loss of life. Such offences include causing death by dangerous driving, causing death by careless driving whilst under the influence of drink or drugs, or other similar offences. In such circumstances an application will not be granted.

8.15 USING A HAND-HELD DEVICE WHILST DRIVING

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least **5 years** have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.