

KNOWSLEY METROPOLITAN BOROUGH COUNCIL

DEPARTMENT OF CORPORATE RESOURCES

POLICY FOR THE LICENSING OF PRIVATE HIRE OPERATORS

**GUIDANCE NOTES FOR PROSPECTIVE APPLICANTS
TO OPERATE PRIVATE HIRE VEHICLES**

A POLICY STATEMENT

Under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 no person shall in a controlled district operate any vehicle as a private hire vehicle without having a current Private Hire Operator's licence. A Local Authority shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an Operator's licence.

In determining whether an applicant is "fit and proper" to operate private hire vehicles and drivers in Knowsley the Council shall have regard to the following:

- (i) Any previous convictions of relevance;
- (ii) The applicant's financial standing;
- (iii) The applicant's general character;
- (iv) The applicant's knowledge and experience of the private hire profession;
- (vi) The applicant's understanding of his/her responsibility as a private hire operator and their commitment to abide by the terms and conditions of the private hire operators licence.

Only when the Council is satisfied on all these points will it consider granting a private hire operator's licence. However, before granting the licence the Council will have to be satisfied that the premises from which the applicant intends to operate is suitable.

The suitability of the premises will be dependant upon its location, size, decor and facilities. Planning approval must be obtained before an application to operate from a particular premise is entertained.

When the Council is satisfied with the fitness of both the applicant and the applicant's premises then a private hire operator licence can be granted subject to standard terms and conditions plus any other special conditions which the Council deems necessary.

The Council takes the view that as the person responsible for recruiting private hire vehicles and drivers, for accepting bookings and for fulfilling customer expectations the role of the private hire operator is crucial. It is he/she who can set the standards expected by the Company and ensure that vehicle proprietors and drivers meet those standards and customers expectations. It is also important that the private hire operator recognises the role of the Council as the Licensing Authority and works in partnership with the Council to achieve high standards.

The aim of the Council's policy is therefore to ensure that only persons who are honest, professional and committed to meeting the Council's high standards are licensed as private hire operators in Knowsley.

It is hoped that through this policy the Council, the private hire trade and ultimately the people of Knowsley will benefit from a high quality, professional private hire service.

B THE APPLICANT

You (the applicant) must satisfy the Council that you are fit and proper to be granted a private hire operators licence. As mentioned in Part A above the Council will take account of certain factors. These are outlined in detail below.

(i) Previous Convictions

In view of the significant responsibility held by private hire operators in terms of setting standards for their company, recruiting vehicles and drivers, and dealing with members of the public the Council believes that the operator must be a person of impeccable character and should be an example to all those whom he/she employs.

The Council therefore insists that applicants must at least fulfil the same requirements as applicants for private hire drivers licences in terms of being free from serious convictions.

Sections (a) to (i) below afford a general guide to applicants as to the relevance of convictions.

Each case will of course be considered on its merits and whilst the Council may exercise its discretion, the overriding consideration shall be the protection of the public.

(a) Minor Traffic Offences

Convictions for minor traffic offences will not prevent a person from being considered for a licence. Where an applicant has more than 9 penalty points for such convictions but has not been disqualified then the application may be granted subject to a warning. Where the applicant has received a disqualification from driving on account of such offences then they must normally show a period of 12 months free from conviction after the restoration of their licence before their application is considered.

(b) Major Traffic Offences

Major traffic offences include those on the attached list of offences which have the following codes:

DR10	AC10	DD60
DR20	AC20	DD80
DR30	BA10	IN10
DR40 See Section (c)	BA30	IN14
DR50 below	CD40	UT10
DR60	CD50	UT20
DR70	CD60	UT30
DR80	CD70	UT40
DR90	DD40	TT99

If an applicant has a live endorsement in respect of a major traffic offence but has not been disqualified then the application may be granted subject to a warning. More than one live endorsement for such offences would normally result in the application being refused. If the applicant has been disqualified for such offences then the application will normally be refused until at least three years after the restoration of their licence unless the conviction falls within the type of offence outlined or (c) below in which case a longer period may apply.

(c) Alcohol/Drug Related Driving Offences

A person who has been disqualified from driving as a result of a driving offence whilst under the influence of alcohol/drugs must show at least three years free from convictions after the restoration of their driving licence before their application will be considered.

More than one "live" conviction of this type would require the applicant to show a period of at least five years free from convictions after the restoration of their driving licence before the application would be considered.

(d) Drug Offences

An applicant with a conviction for a drug related (non-driving) offence should be required to show a period of at least five years free of convictions before an application is considered or five years from completion of any custodial sentence imposed, whichever is the later. If the conviction relates to the supply of prohibited drugs then it is unlikely that even after this period the application will be granted.

(e) Indecency Offences

Applicants with convictions for indecent exposure, indecent assault, importuning or any sexual offence, will be refused a licence. In exceptional circumstances an application will be considered on its merits when the applicant can show a substantial period (of at least five years) free of such convictions from either the date of conviction or five years from completion of any custodial sentence imposed, which ever is the later. However it is extremely unlikely that applicants with such convictions will be granted a licence.

(f) Violence

Applicants with convictions for grievous bodily harm, wounding, serious assault, or possession of a dangerous weapon etc. will normally be refused a licence. An application may be granted if the applicant can show at least five years free of such convictions from either the date of conviction or five years from completion of any custodial sentence imposed, whichever is the later.

(g) Dishonesty

Applicants with convictions for an offence involving dishonesty will normally be refused a licence. An application will be considered where the applicant can show at least 5 years free of such convictions from either the date of conviction or 5 years from completion of any custodial sentence imposed, whichever is the later.

(h) Public Order Offences

Applicants with convictions involving public order offences such as affray, fear or provocation of violence, criminal damage etc. will normally be refused a licence. An application will be considered where the applicant can show at least 3 years free of such convictions from either the date of conviction or 3 years from completion of any custodial sentence imposed, whichever is the later.

(i) Private Hire/Hackney Carriage Offences

Any previous conviction which relates to an offence committed (in any licensed district) by the applicant while working as a Hackney Carriage or Private Hire Proprietor, Driver or Operator is regarded as extremely serious and the application is likely to be refused. An application will be answered where the applicant can show at least 3 years free from such convictions although if the applicant has more than one such conviction then a period of at least 5 years will apply.

This includes any offence against the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976, or any breach of the conditions or byelaws made under the relevant legislation.

Note

All applicants are required to disclose **ANY** convictions, motoring or otherwise unless they are “Spent” under the provisions of the Rehabilitation of Offenders Act 1974. **THE WITHHOLDING OF INFORMATION OR SUBMISSION OF FALSE INFORMATION MAY LEAD TO PROSECUTION.** Whilst, you do not have to disclose spent convictions this does not mean that the Council are prohibited from taking any such convictions into consideration. The Council’s Policy is in accordance with the case of Morton v City of Dundee District Council (1991) and Adamson v Waveny District Council (1997).

This means, that spent convictions will be taken into consideration when determining if an applicant is a “fit and proper” person if the Council believes that they are relevant and that justice cannot otherwise be done.

See Explanatory Notes on the Rehabilitation of Offenders Act attached.

(ii) Financial

The applicant must demonstrate that he/she is solvent, of sound financial standing and free from any past financial irregularities. A reference will be required from the applicant’s bankers to this effect.

(iii) General Character

As the person ultimately responsible for delivering a service to the public the Operator is expected to be a person of integrity.

In particular the operator should be professional, amenable, decent and should display an even temperament at all times. Two character references will be required from persons of standing within the community and who have known the applicant for at least two years.

(iv) Experience/Knowledge

It is desirable for applicants to have a working knowledge of the private hire trade preferably gained in Knowsley as either a proprietor, driver or operator. This will help ensure the applicant knows the Council’s requirements (and can satisfy them) and should assist the Operator in establishing his/her business and in delivering the service required.

(v) Responsibilities/Commitment

The applicant must be able to demonstrate that he/she fully appreciates the considerable responsibility entrusted to Operators and must show a firm commitment to complying with the terms and conditions of the Private Hire Operators licence and to delivering a quality service to customers.

Note

The Council's Licensing Officers will meet with all applicants before a Private Hire Operator licence is granted to ensure that the applicant demonstrates the knowledge and commitment required.

C THE APPLICANT'S PREMISES

The applicant's premises must be within the district of Knowsley.

Written planning permission for the premises to be used as a private hire booking office must be obtained from the Council's Planning Department prior to submitting an application for a private hire operator's licence. Where planning permission is deemed unnecessary then evidence of this must be produced in writing.

Once the appropriate planning approval has been obtained the application can be considered. However, before granting the Operator's licence officers will inspect the premises from which the applicant intends to operate to ensure that they are suitable for accommodating members of the public whilst they wait for a private hire vehicle and are properly furnished.

D OTHER INFORMATION REQUIRED

In addition to information relating to the applicant and their premises the Council requires the following information:

(i) **Name of the Company**

The Council must be satisfied that the proposed name of the applicant's company is suitable and does not conflict with existing licensed operators.

(ii) **Telephone Numbers**

The applicant must submit details of every telephone number proposed to be used in connection with the Operator's business. If the Council believes that any of the numbers proposed conflict with those of existing operators and could therefore confuse members of the public then the applicant will be advised that those numbers cannot be used and must abide by this decision if the licence is to be granted.

(iii) **Advertising**

The applicant must not distribute any promotional advertising material in relation to his/her proposed operation until such time as an Operator's licence has been granted. Any such material must comply with the conditions of the Private Hire Operators licence.

E THE APPLICATION PROCEDURE

Once a fully completed application form (including the fee of £560) has been received at the Licensing Office accompanied by references and evidence of planning approval for the premises to be used then consultations will be carried out with the following:

Merseyside Police
Planning Department
Environmental Health
Ward Members

Following completion of these consultations and on receipt of all the information required from the applicant any inspections or meetings which are necessary will take place between the applicant and Licensing Officers.

If no objections are received during the consultation process and the application satisfies the Council's policy then a report will be prepared for the Borough Solicitor and Secretary to consider the application.

If objections are received during the consultation process or the application does not meet the Council's policy a report will then be presented to a Licensing Sub-Committee for Members to determine the application. The applicant will be invited to attend that meeting and make representations in support of his/her application.

If the application is refused then the applicant has a right of Appeal to the Magistrates Court within 21 days from the date of refusal.

Successful applicants will have their licence granted at the Licensing Office subject to the standard terms and conditions plus any additional conditions deemed necessary.

F TERMS AND CONDITIONS OF LICENCE

As outlined above the applicant will be expected to demonstrate an understanding of the standard terms and conditions which apply to operators licences prior to a licence being issued. Furthermore, the applicant must give an undertaking to comply with these terms and conditions once the operators licence has been granted.

All Private Hire Operators licences granted by the Council are subject to the standard terms and conditions attached. These must be complied with at all times and failure to do so may result in the Operators licence being suspended, revoked or on a renewal application being refused.

In addition to the standard terms and conditions the Council may also impose specific conditions which it feels are necessary. These could relate personally to the Operator or to the Operator's premises. As with the standard conditions the Operator is expected to comply with them at all times.

G MISCELLANEOUS

(i) Licence Renewals

The Operator's licence must be renewed on an annual basis. Prior to the existing licence expiring an application together with the appropriate licence fee must be submitted to the Licensing Office. Renewal applications can be made at any time during the last month of the life of the licence, the new licence issued being valid for 12 months from the expiry of the old licence.

Providing there are no objections or problems with the application and the Operator's conduct over the previous year has been acceptable then the licence will normally be renewed by Licensing Staff. If there are problems with the application then it will be referred to the Licensing Committee for consideration.

(ii) Change of Ownership

Where there is a change in the ownership or controlling interest of the company, notification must be made to the Council at least 7 days in advance of the proposed change. The new owner or responsible person is required to submit an application for an operators licence (whether or not the operating name remains the same).

The application will be determined in accordance with this Policy and subject to Licensing Committee approval, a licence will be granted in the name of the new owner/responsible person.

(iii) Change of Premises/Additional Premises

Should a licensed private hire Operator wish to either change or add premises then planning permission for the new premises must be obtained. Notification of such a change must be made to the Council, in writing, at least 21 days in advance of the change.

Upon receipt of such notification, consultations will take place with Merseyside Police, Planning, Environmental Health and the Ward Councillors. On completion of those consultations and providing no objections are received the Borough Solicitor and Secretary will determine the matter. If objections are received then the matter will be referred to a Licensing Sub Committee for determination. Subject to approval being granted, the address of the new premises will be noted and the current licence amended accordingly.

(iv) Change of Name/Telephone Numbers

The Operator shall apply in writing to the Council if he/she wishes to change or add to the name of his/her Company or the telephone numbers in use by the Company. This must be done at least 7 days in advance of any such change.

Any new names or telephone numbers must not be used until the Council has granted written approval to the Operator to do so.

H ENQUIRIES

Should you have any queries regarding the Council's Policy for Licensing Private Hire Operator's or your application please contact the Licensing Service on (0151)-443 3605/3613 or call at the Licensing Office, Computer Building, Westmorland Road, Huyton, Knowsley, L36 9YU between the hours of 9am - 4pm Monday to Friday. Email licensing@knowsley.gov.uk

THE REHABILITATION OF OFFENDERS ACT 1974

The Rehabilitation of Offenders Act, 1974, has the effect of removing from a convicted persons criminal record, certain offences after a stipulated period of time has passed. After the appropriate rehabilitation period, a rehabilitated person is treated for all purposes in law as a person who has not committed or been convicted of such offence.

The provisions of the Act **DO NOT APPLY** to:

- (a) a sentence of imprisonment for life;
- (b) a sentence of imprisonment, Youth Custody or corrective training for a term exceeding thirty months;
- (c) a sentence of preventative detention; and
- (d) a sentence of detention during Her Majesty's pleasure or for life, or for a term exceeding thirty months passed under Section 53 of the Children and Young Persons Act, 1933 (young offenders convicted of grave crimes).

For other offences the appropriate rehabilitation periods are as follows:-

TABLE A

Rehabilitation periods subject to reduction by half for persons under 17

NOTE: A SENTENCE OF IMPRISONMENT/YOUTH CUSTODY INCLUDES A SENTENCE WHICH HAS BEEN SUSPENDED

SENTENCE	REHABILITATION PERIOD
A sentence of imprisonment or Youth Custody or corrective training for a term exceeding six months but not exceeding thirty months.	Ten Years
A sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's service.	Ten Years
A sentence of imprisonment or Youth Custody for a term not exceeding six months.	Seven Years
A sentence of dismissal from Her Majesty's service.	Seven Years
A sentence of detention in respect of a conviction in service disciplinary proceedings.	Five Years
A fine or any other sentence subject to rehabilitation under this Act, not being a sentence to which Table B overleaf or any of sub-sections (3) to (8) overleaf applies.	Five Years

TABLE B

Rehabilitation periods for certain sentences confined to young offenders.

SENTENCE	REHABILITATION PERIOD
A sentence of Borstal training.	Seven Years
A custodial order under Schedule 5A to the Army Act 1955 or the Air Force Act 1955, or under Schedule 4A to the Naval Discipline Act 1957, where the maximum period of detention specified in the order is more than six months.	Seven Years
A custodial order under section 71AA of the Army Act 1955 or the Air Force Act 1955, or under section 43AA of the Naval Discipline Act 1957, where the maximum period of detention specified in the order is more than six months.	Seven Years
A sentence of detention for a term exceeding six months but not exceeding thirty months passed under section 53 of the said Act of 1933 or under section 206 of the Criminal Procedure (Scotland) Act 1975.	Five Years
A sentence of detention for a term not exceeding six months passed under either of those provisions.	Three Years
An order for detention in a detention centre made under section 4 of the Criminal Justice Act 1982, section 4 of the Criminal Justice Act 1961.	Three Years
A custodial order under any of the Schedules to the said Acts of 1955 and 1957 mentioned above, where the maximum period of detention specified in the order is six months or less	Three Years
A custodial order under section 71AA of the said Acts of 1955, or section 43AA of the said Act of 1957, where the maximum period of detention specified in the order is six months or less	Three Years

The rehabilitation period applicable -

- (a) to an order discharging a person absolutely for an offence; and
- (b) to the discharge by a children's hearing under Section 43(2) of the Social Work (Scotland) Act, 1968, of the referral of a child's case; shall be six months from the date of conviction.

Where in respect of a conviction a person was conditionally discharged, bound over to keep the peace or be of good behaviour, or placed on probation, the rehabilitation period applicable to the sentence shall be one year from the date of conviction or a period beginning with that date and ending when the order for conditional discharge or probation order or (as the case may be) the recognisance or bond of caution to keep the peace or be of good behaviour ceases or ceased to have effect, whichever is the longer.

Where two (or more) sentences are incurred in relation to a conviction (e.g. imprisonment followed by probation) and each of these sentences has a different rehabilitation period the applicable rehabilitation period in relation to the conviction is the longest one.

Where certain serious offences occur during a rehabilitation period for an earlier offence the earlier conviction may not become spent until the end of the rehabilitation period for the latest offence.