

## Appendix 2

### READING BOROUGH COUNCIL – HACKNEY CARRIAGE AND PRIVATE HIRE CONVICTIONS POLICY

#### INFORMATION FOR APPLICANTS AND EXISTING LICENCE HOLDERS

1. This policy is intended to provide guidance on determining suitability of new applicants and existing licence holders where the applicant or licence holder has been convicted of a criminal or driving offence.
2. The policy lists the types of offences that may give concern to the Licensing Authority. For the more serious offences the expectation is that an application will be refused, or an existing licence holder will have their licence revoked. For other offences the policy gives the timescales that it is expected will have elapsed since the conviction before an application will be granted.
3. The Policy states that each case will be treated on its own merits. Where an applicant or Licence Holder has an offence listed in this policy it will not necessarily mean an automatic barring or revocation. However, the applicant or licence holder can expect that their application or licence will be put before a Licensing Sub-Committee for consideration who will take account of this policy. The obligation will be on the applicant or licence holder to put forward reasons and/or evidence in support of their case for the Licensing Sub-Committee to consider.
4. If an application is refused or a licence is revoked the applicant or licence holder will have right of appeal to the Magistrate's Court. The application to the Magistrates Court should be made within 21 days of the applicant or licence holder being notified by the Licensing Authority of the decision to refuse or revoke.
5. Where a licence holder is convicted of an offence where the Licensing Authority believes that the safety of the public may be at immediate risk, the licence may be suspended/revoked with immediate effect. The licence holder will have right of appeal to the Magistrates Court against a suspension issued with immediate effect however they may **not** use the licence until any decision is made by the Court.
6. Existing licence holders that have been granted licences previous to this policy coming into effect may have convictions on their record that fall within the timescales within this policy. The Licensing Authority will have made decisions on those licences based on policies in place at the time where the timescales may have been lesser, or those offences not included. It is not reasonable that those licences should be automatically revoked. The Licensing Authority will review all existing licences in light of this policy and where the Licensing Authority has concerns about a particular licence holder and/or there are further offences, breaches or complaint, the licence holder may be reviewed by a Licensing Sub-Committee who will take into account all matters including any previous offences that may now fall within this current policy. In particular, serious account will be taken of any history of safeguarding matters. Where appropriate, existing licence holders may be requested to apply for a new enhanced DBS certificate in order that the Council can review historic offences in line with this policy.

#### OVERVIEW

7. The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must have the confidence that the driver is safe and suitable.

8. Taxi legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence. 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 to do so.
9. These guidelines apply to all new applications for a taxi or private hire driver licence and all licensed taxi and private hire drivers.
10. In addition, where relevant, they will also be applied to taxi and private hire vehicle licence applicants and licence holders, and private hire operator licence applicants and licence holders. Where such applicants and licence holders are not applying for, or already hold a taxi or private hire driver licence they will be required to provide a basic criminal conviction check on application and then at regular intervals. The Licensing Authority will take account of any current criminal convictions showing on the basic criminal conviction check, or criminal conviction received, in accordance with this policy.
11. Taxi legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence.
12. This policy is based on the Statutory Taxi and Private Hire Vehicle Standards issued by the Department of Transport in July 2020, Annex - Assessment of Previous Convictions. <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>

and the

Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 Section 1 (1) <https://www.legislation.gov.uk/ukpga/2022/14/enacted>

13. The Licensing Authority will consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.
14. In each case appropriate weight should be given to the evidence provided. This will include assessing the risk of re-offending and harm.
15. The Licensing Authority will be looking at the entirety of the individual when making the decision whether an applicant or licence holder is a safe and suitable person. Time periods are relevant and weighty considerations, but they are not the only determining factor. Other factors that the Licensing Authority will take into account when making a decision include but are not exhaustively:
  - Relevance and date of the offence
  - Sentence imposed by the court
  - Age of person and circumstances when the offence was committed
  - Subsequent periods of good behaviour

#### **Their overall conviction history**

- Any history of complaints made to the Licensing Authority against an existing licence holder. Unproven complaints may in some circumstances be taken into account if it is considered that there is a strong likelihood that the complaints are justified and the nature and/or number of complaints raise concern regarding suitability of applicant.

- Whether the applicant has intentionally misled the Licensing Authority or has lied as part of the application process.
  - Information provided by other agencies or other services at the Licensing Authority. This may include information disclosed by the Police or Safeguarding Services.
  - Any other matters that are relevant.
16. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime.
- Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 Section 1(2)
17. A caution is regarded in the same way as a conviction.
18. Fixed penalties and community resolutions will also be considered in the same way as a conviction.
19. Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered.
20. Where a period is given below, it should be taken to be a **minimum** in considering whether a licence should be granted or renewed in most cases. 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.
21. It is important to recognise that matters which have not resulted in a criminal conviction whether that is the result of an acquittal, a conviction being quashed, where a decision not to prosecute has been made or an investigation which is continuing where the individual has been bailed can and will be considered by the licensing authority. In addition, complaints where there was no police involvement will also be considered.
22. Within this document, any reference to “conviction” will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
23. In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
24. Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
25. In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.

26. It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicles, and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked. There is a further ongoing duty to notify the licensing authority of arrest and/or prosecution within the timescales set out in the adopted statutory standards.
27. Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g., failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked, and may result in prosecution.
28. Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
29. These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person.
30. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

## **OFFENCES**

### **Crimes resulting in death**

31. Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury (where there was an intention or strong likelihood of death) of another person they will not be licensed. A licence holder who is convicted of the above will have their licence revoked.

### **Exploitation**

32. Where an applicant or licensee 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, they will not be licensed.

This includes (this is not an exhaustive list)

- a. Slavery,
- b. Child sexual abuse,
- c. Exploitation,
- d. Grooming,
- e. Psychological,
- f. Emotional,
- g. Financial abuse,
- h. Domestic abuse,
- i. Harassment and stalking.

### **Offences involving violence against the person**

32. Licensed drivers have close regular contact with the public who could be at risk from violent behaviour. Drivers are often entrusted with the care of children, young persons and vulnerable adults. The Licensing Authority seeks to protect the safety of the public and minimise risk.
33. Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least **TEN YEARS** have elapsed since the completion of any sentence imposed. A licence holder convicted of the above will have their licence revoked.

Examples of Violent offences include (this is not an exhaustive list)

- a. Arson
- b. Malicious wounding or grievous bodily harm
- c. Actual bodily harm
- d. Grievous bodily harm with intent
- e. Robbery
- f. Riot
- g. Assault Police
- h. Any racially aggravated assault
- i. Violent disorder
- j. Resisting arrest
- k. Common assault/battery
- l. Affray
- m. Obstruction

### **Possession of a weapon**

34. Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least **SEVEN YEARS** have elapsed since the completion of any sentence imposed. A licence holder convicted of the above will have their licence revoked.

### **Sexual offences**

35. As licensed drivers often carry unaccompanied and vulnerable passengers, the Licensing Authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences should be considered as serious.
36. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. A licence holder convicted of the above will have their licence revoked.
37. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list. A licence holder who goes on any of the above will have their licence revoked.

38. Sexual/Indecency Offences include (this is not an exhaustive list)

- a. Rape
- b. Assault by penetration
- c. Offences involving children or vulnerable adults

- d. Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
  - e. Making or distributing obscene material
  - f. Possession of indecent photographs depicting child pornography.
  - g. Sexual assault
  - h. Indecent assault
  - i. Exploitation of prostitution
  - j. Soliciting (kerb crawling)
  - k. Making obscene / indecent telephone calls
  - l. Indecent exposure
  - m. Any similar offences (including attempted or conspiracy to commit) offences
39. Any licence holder charged with, convicted, or issued with a formal caution for any of the offences mentioned above should expect to have their licence revoked with immediate effect.

### **Dishonesty**

40. Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways. In certain situations, drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station. For these reasons convictions of dishonesty are treated very seriously.
41. 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 **SEVEN YEARS** have elapsed since the completion of any sentence imposed. A licence holder convicted of any of the above will have their licence revoked.
42. Dishonesty offence includes (this is not an exhaustive list)
- a. Theft
  - b. Burglary
  - c. Fraud
  - d. Benefit fraud
  - e. Handling or receiving stolen goods
  - f. Forgery
  - g. Conspiracy to defraud
  - h. Obtaining money or property by deception
  - i. Other deception
  - j. Any similar offence

### **Drugs**

43. Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least **TEN YEARS** have elapsed since the completion of any sentence imposed.
44. Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least **FIVE YEARS** have elapsed since the

completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs. A licence holder convicted of the above will have their licence revoked.

## **Discrimination**

45. Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least **SEVEN YEARS** have elapsed since the completion of any sentence imposed. A licence holder convicted of the above will have their licence revoked.
46. Examples of Discrimination offences include (this is not exhaustive list)
- a. Racially aggravated common assault
  - b. Any racially aggravated offence against a person or property.
  - c. Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
  - d. Offences under The Equality Act 2010
  - e. Any offence considered as hate crime. Hate crime is any criminal offence which is perceived by the victim, or anybody else, to be motivated by hostility or prejudice towards someone's: race, religion, sexual orientation, transgender identity, disability.

## **Motoring convictions**

47. Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with 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.
48. For the purposes of this policy a minor traffic offence is one where the DVLA has imposed no more than 3 penalty points on the applicant's DVLA driving licence for the offence. A major conviction is one where the DVLA has imposed more than 3 penalty points on the applicant's DVLA driving licence for the offence. There is more information about endorsement codes and penalty points on the Government's website. <https://www.gov.uk/penalty-points-endorsements/endorsement-codes-and-penalty-points>
49. For the purposes of this policy, a 'valid' traffic offence is the same definition as used by the DVLA. Points that stay on a DVLA licence for 4 years are 'valid' for 3 years. Points that stay on a DVLA driving licence for 11 years are 'valid' for 10 years. There is more information on the Government's website <https://www.gov.uk/penalty-points-endorsements/how-long-endorsements-stay-on-your-driving-licence>
50. Where an applicant has more than one minor traffic offence a licence would be refused whilst the relevant points remain 'valid' on their driving licence.
51. Where an applicant has a major conviction, the application will be refused whilst the relevant points remain 'valid' on their driving licence.

52. Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the Licensing Authority considers that the licensee remains a fit and proper person to retain a licence.
53. Where there is a second occurrence of a minor traffic offence, whilst the first minor traffic offence is valid, or a single occurrence of a major traffic offence of **up to 6** points, a licence holder can agree to complete an extended driving assessment, at their own expense, through an approved provider, as an alternative to a review/revocation of their licence by a Licensing Sub-Committee.
54. Where a licence holder has **more than 6** valid penalty points for driving offences, their licence will be revoked.

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

55. 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 **SEVEN 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 may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs. A licence holder convicted of the above will have their licence revoked.

### **Using a hand-held device whilst driving**

56. Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least **FIVE YEARS** have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later. A licence holder convicted of the above will have their licence revoked.
57. Where the offence is dealt with as a driving offence and penalty points have been imposed on a DVLA licence, the licence will not be granted until at least **FOUR YEARS** have passed. This is the length of time these points remain current of the DVLA licence. A licence holder who has had penalty points imposed on their DVLA licence for using a hand-held mobile telephone or a hand-held device, will have their licence revoked.

### **Hackney Carriage and Private Hire Offences**

58. Where an applicant has a licence for any offences under any relevant hackney carriage or private hire legislation will not be granted a licence until at least **SEVEN YEARS** have elapsed since the conviction. A licence holder convicted of the above will have their licence revoked.