

Relevant Extracts from the Council's Taxi & Private Hire Licensing Policy.

1. Introduction

1.1.1 East Lindsey District (the Licensing Authority) is responsible for the licensing of hackney carriage vehicles (taxis) and hackney carriage drivers, and private hire vehicles, private hire drivers and private hire vehicle operators.

1.1.2 This document sets out the policy that this Licensing Authority will apply when making decisions about new driver licence applications, licence renewal applications, and driver licences currently in force. It provides prospective licence applicants with clarity and a consistency of approach in the decision-making process.

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1.1.8 When issuing driver licences the Council's overriding concern is the protection and promotion of public safety. This involves a number of important aims and objectives including:

- Protecting vulnerable persons and children from harm, sexual abuse and trafficking.
- Ensuring the safety and health of customers, other road users and licensed drivers.
- Protecting customers from financial harm.
- Ensuring that licence holders are fit and proper persons to hold a licence.
- Ensuring that licence holders do not pose a threat to customers or members of the public.
- Ensuring that the public are safeguarded from dishonest persons.
- Making decisions about licence applications, and licences in force, in a consistent and fair way.

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1.2. Fit and Proper

1.2.1 The Council must not grant a driver licence unless it is satisfied that the applicant is a fit and proper person to hold a driver's licence. This document contains guidance for Council Officers and the Council's Licensing Committee on the way in which a driver licence applicant's fitness should be considered. However, it is important to note that every licence application must be treated on its own merits, and the contents of this policy document do not bind the Council, its Officers or the Licensing Committee. Decisions may be made that depart from the guidance herein, if the circumstances of the application warrant doing so. Any decision will be accompanied by full reasons for that decision.

1.2.2 It is noted that no attempt is made within the legislation to define the term "fit and proper person", and this policy document likewise makes no attempt to formulate such a definition. The Council may consider any relevant issue when making its determination on this point, and these guidelines should be regarded as examples of issues that may lead to the Council not being satisfied that an applicant is fit and proper, rather than an exhaustive list of the issues that may be taken into consideration.

1.2.3 The Council may fail to be satisfied that a person is a fit and proper person to hold a driver's licence for any good reason. If adequate evidence of good character is not available or if there is good reason to question or doubt the evidence produced, then that in itself could amount to good reason to refuse a licence application.

1.2.4 A licence applicant who does not satisfy these guidelines will not necessarily be barred from obtaining a licence. The Council will consider each case on its own merits, taking into account any relevant circumstances or mitigating factors. Regard will be had when making a determination to any positive comments and references evidenced with the licence application.

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1.2.6 The overriding consideration in compiling and interpreting these guidelines is the safety of the public. The Council has a duty to ensure that those licensed to drive hackney carriages and private hire vehicles are suitable persons to do so, and will wish to satisfy itself that applicants and licensed drivers 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 to abuse, assault or take advantage of passengers.

1.2.7 These policy guidelines may be taken into account by the Council when dealing with any of the following matters:

- an application for a new hackney carriage driver's licence (Section 46, Town Police Clauses Act 1847 and Section 59, Local Government (Miscellaneous Provisions) Act 1976)
- an application for a new private hire driver's licence (Section 51, LG(MP)A 1976)
- an application to renew a private hire or hackney carriage driver's licence (Sections 51, 59 and 61, LG(MP)A 1976)
- a proposal to suspend or revoke a hackney carriage or private hire driver's licence (Section 61, LG(MP)A 1976)

1.2.8 Although Section 61 of the 1976 Act does not contain the same reference to a "fit and proper person", the fact that such action may be taken due to "any other reasonable cause" will generally lead the Council to include similar guidelines in its considerations under that section. Any references in this document to the refusal of an application should therefore be read to include suspension or revocation of a licence.

1.2.9 Any person refused a driver's licence on the grounds that the Council is not satisfied that they are not a fit and proper person to hold a licence (or where a licence was suspended or revoked, as the case may be) has a right of appeal to the Magistrates' Court within 21 days of receiving notice of the decision.

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1.2.11 This policy document has been drawn up with regard to the Department of Transport's Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (March 2010), and in accordance with Government advice contained in Department of Transport Circular 2/92 and Home Office Circular 13/92 and the Statutory Minimum Licensing Standards for Hackney Carriages and Private Hire Vehicles (published by the Department for Transport in July 2020).

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2.7 Cautions - Adult cautions are not regarded as convictions, but being admissions of guilt, may be taken into consideration by the Licensing Authority.

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3.4 Licensee Self-Reporting - Licence holders are required by this Authority to notify the Licensing Team within 48 hours of an arrest and release, charge or conviction of any sexual offence, any

offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope (with the exception of one-off minor traffic offences) will result in a review by this Authority as to whether the licence holder is fit to continue to hold a licence. This will not however be seen as a direction that a licence should be withdrawn; it is for the Licensing Authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities.

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7. Offences Involving Violence or Resulting in Death

7.1 Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence. 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 of another person they will not be licensed.

7.2 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 10 years have elapsed since the completion of any sentence imposed.

7.3. Given the wide range of the offences that involve violence, consideration will be given to the nature and type of the conviction.

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7.7 A licence will not normally be granted where the applicant has a conviction for an offence below (or similar offence(s) which replace the below offences) or any offence of attempting, conspiring to commit, aiding and abetting or procuring such offence and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

A hackney carriage or private hire driver found guilty of any of the offences (detailed in this paragraph 7.7 of the policy) should expect to have his/her licence revoked immediately and not be considered for the grant of a licence until a minimum period of 5 years has elapsed.

7.8 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

7.9 In the event of a licence being granted, a strict warning both verbally and in writing will be administered.

14. Suspension and Revocation of Driver Licences – New Evidence

14.1 With regard to the suspension or revocation of driver licences - this Authority recognises that new evidence may be produced at an appeal hearing, that may result in the Court reaching a different decision to that reached by the Council. The Authority also recognises that an appeal may

be settled by agreement between the Licensing Authority and the driver on terms which, in the light of new evidence, becomes the appropriate course of action. For example, if the allegations against a driver are subsequently, on the balance of probability, considered to be unfounded, a suspension can be lifted or, if the licence has been revoked, an expedited re-licensing process can be used.

14.2 In each case, approval to use a driver expedited re-licensing process will be considered by Council Licensing Officers in conjunction with the Council's Legal Department and the Chair and Vice Chair of the Licensing Committee. This expedited re-licensing system is to be used only in exceptional and compelling circumstances.

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23. Non-Conviction Information

23.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he/she could be a danger to the public, consideration will be given to refusing the application.

23.2 In assessing the action to take, the safety of the travelling public will be the paramount concern.

24. Once a Licence Has Been Granted

24.1 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence. 24.2 All of the preceding contents of this policy document apply equally to current hackney carriage and private hire vehicle drivers as they do to licence applicants (unless otherwise stated).

26. Conclusion

26.1 To conclude, 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 will be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered.

26.2 While it is possible that an applicant may have a number of convictions that, individually, would not prevent him/her being licensed, the overall offending history will be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion may be afforded if an offence is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public. This consideration is vital because taxi and private hire licence holders have unprecedented access to the public and are in a position to exercise control over an individual (including children and vulnerable adults).

26.3 A man or woman who has committed an offence and has to wait a period of time before being accepted as a hackney carriage or private hire vehicle driver (or operator) is more likely to value his/her licence and act accordingly.