

HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER CONVICTIONS POLICY

1.0 EXECUTIVE SUMMARY

1.1 The purpose of this report is to seek Members approval of a revised policy in relation to the criteria applicable when considering an applicant for a Private Hire or Hackney Carriage Driver Licence who has criminal convictions. The policy also covers existing drivers who may incur a criminal conviction whilst licensed as a Private Hire or Hackney Carriage Driver. In addition the draft policy sets out the criteria to be used in determining fitness and propriety.

2.0 BACKGROUND

2.1 In accordance with sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 a district council shall not grant a licence to drive a hackney carriage or private hire vehicle unless they are satisfied that the applicant is a fit and proper person to hold a driver licence.

2.2 All applicants for Hackney Carriage and Private Hire Driver Licences are subject to a criminal record check to establish any conviction, which may be relevant to the application.

2.3 The check on criminal convictions assists the Council in determining whether at the time of application for a new licence the applicant is a fit and proper person to hold a licence. Equally a criminal record check also assists a council in determining an application for the renewal of a driver licence by establishing whether since the grant of a driver licence a driver has been convicted of any offence including dishonesty, indecency or violence.

2.4 The Rehabilitation of Offenders Act 1974 was designed to set graduating timescales when convictions would be determined as spent. Amendments to this Act have resulted in all convictions being considered relevant for consideration when determining applications for Hackney Carriage and Private Hire Driver Licences.

2.5 In 1992, the Home Office published a General Policy Circular in which gives guidance to Local Authorities when considering applications for Hackney Carriage and Private Hire Driver Licences. This guidance sets general time scales after an applicant has been convicted of an offence, when licence applications should be considered. The timescales are set between three and ten years. Following the publication of this circular in 1992 Members of this Committee approved a set of guidelines in respect of applicants for Hackney Carriage and Private Hire Driver Licences in Wirral, and those guidelines are set out at Appendix 1, attached to this report. There has been no further policy document produced by the Home Office since 1992 and the Council's current guidelines have not since been subject to review.

- 2.6 The Assistant Chief Constable of Merseyside Police has recently coordinated a number of meetings of the Merseyside Licensing Authorities with a view to developing a consistent approach across Merseyside in relation to how local authorities deal with applicants and existing licensed drivers who have criminal convictions.
- 2.7 A revised policy attached as Appendix 2, has been developed to incorporate the changes needed to bring about the consistency sought by Merseyside Police. These amendments reflect the recently revised policy of Liverpool City Council and the new draft policy of Knowsley Borough Council. St Helens Council is due to revise its policy along similar lines to make the policy consistent with other Merseyside Authorities.
- 2.8 A summary of the proposed key changes to the existing policy are contained in Appendix 3.

3.0 FINANCIAL & STAFFING IMPLICATIONS

- 3.1 There are no financial implications arising out of this report.

4.0 EQUAL OPPORTUNITIES IMPLICATIONS

- 4.1 There are no equal opportunities implications arising out of this report.

5.0 ANTI POVERTY IMPLICATIONS

- 5.1 There are no specific anti poverty implications arising directly out of this report.

6.0 SOCIAL INCLUSION IMPLICATIONS

- 6.1 There are no specific social inclusion implications arising directly out of this report.

7.0 LOCAL AGENDA 21 IMPLICATIONS

- 7.1 There are no specific Agenda 21 implications arising directly out of this report.

8.0 LOCAL MEMBER SUPPORT IMPLICATIONS

- 8.1 This report affects the entire Borough.

9.0 COMMUNITY SAFETY IMPLICATIONS

- 9.1 There are Community Safety implications as hackney carriage and private hire drivers should be fit and proper persons when granted a licence and throughout its duration due to their involvement with the general public.

10.0 **PLANNING IMPLICATIONS**

10.1 There are no planning implications arising out of this report.

11.0 **BACKGROUND PAPERS**

11.1 There are no background papers.

12.0 **RECOMMENDATION**

12.1 That the policy detailed at Appendix 3, be adopted with immediate effect by the Committee as the policy to be used when determining applications for Hackney Carriage and Private Hire Driver Licences and when considering licensed drivers who incur a criminal conviction.

This report was prepared by Margaret Calvert who can be contacted on 0151 691 8476.

CURRENT GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

GENERAL POLICY

1. Each case will be decided on its own merits.
2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.
3. The following examples afford a general guide on the action to be taken where convictions are admitted.

(a) Minor Traffic Offences

Convictions for minor traffic offences, eg obstruction, waiting in a restricted street, speeding etc, should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or private hire vehicle licence may be granted after its restoration but a warning should be issued as to future conduct.

(b) Major Traffic Offences

An isolated conviction for reckless driving or driving without due care and attention etc, should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 years from convictions has elapsed.

(c) Drunkenness

(i) With Motor Vehicle

A serious view should be taken of convictions of driving or being in charge of a vehicle whilst under the influence of drink. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence. If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic a period of 5 years should elapse after treatment is complete before a further licence application is considered.

(ii) Not in Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (i) above). In some cases, a warning may be sufficient.

(d) Drugs

An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict.

(e) Indecency Offences

As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences should be refused until they can show a substantial period (at least 10 years) free of such offences (subject to the Regulation of Offenders Act 1974). If a licence is granted a strict warning as to future conduct should be issued.

(f) Violence

As hackney carriage and private hire vehicle drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

(g) Dishonesty

Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the currency and become "fair game" for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.