

GUIDANCE ON DETERMINATION OF ALL HACKNEY CARRIAGE & PRIVATE HIRE LICENCES

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1.0 INTRODUCTION

- 1.1 The purpose of hackney carriage and private hire licences is to ensure the safety of the public and a licence should not be granted by Copeland Borough Council unless it is satisfied that the applicant is a safe and suitable/fit and proper person. This document details how Copeland Borough Council determines whether a person is safe and suitable either to be granted a licence or to retain a licence.
- 1.2 Previous offending behaviour can be considered as a predictor in determining future behaviour and it is essential that Copeland as the licencing authority considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.

Where an applicant has more than one conviction, showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a licence.

- 1.3 The guidance has been informed by the Institute of Licensing Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades – April 2018. The guidance complements the Local Government Association Taxi and Private Hire Licensing Councillors Handbook.

2.0 GENERAL

- 2.1 Copeland Borough Council will always assess Safeness and Suitability (fit and proper person test).
- 2.2 The guidance does not contain detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. The reasons are to be prevent the arguments that if a particular offence is not listed it is not covered and differentiation of seriousness within categories
- 2.3 Officers will apply the guidelines when assessing applications and will use delegated powers to approve and grant licences
- 2.4 Applications that cannot be approved and granted under delegated powers will be reported to the Licensing Committee for consideration. The Licensing Committee will be informed of the reasons that delegated powers to approve and grant could not be used and will consider any mitigating circumstances that the applicant provides. The Licensing Committee will consider and apply this guidance and assess each case.
- 2.5 Applicants will be informed in writing that officers could not grant the application and the reason why.
- 2.6 Licensing Committees are a Hearing with Notice – the applicant will be provided with a 7 days' notice of a hearing. Applicants may be accompanied by a representative at the Hearing.
- 2.7 The safe and suitable requirement is continuous, the guidance will be considered as part when determining the appropriate enforcement action
- 2.8 **Where an applicant has more than one conviction, showing a pattern or tendency irrespective of time since the convictions serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a licence.**

3.0 DRIVERS:

- 3.1 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.
- 3.2 Where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will be given as to whether they are a safe and suitable person.**
- 3.3 An applicant must hold a full DVLA or equivalent driver's licence, have the right to work in the UK and have a medical assessment.
- 3.4 The safe and suitable assessment will consider the offence categories listed in 1 - 14.

1. CRIMES RESULTING IN DEATH

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.

2. EXPLOITATION

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 slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

3. SEX AND INDECENCY OFFENCES

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.

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.

Where an applicant has more than one conviction, showing a pattern or tendency irrespective of time since the convictions serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a licence.

IN RELATION TO SINGLE CONVICTIONS FOR THE OFFENCES LISTED IN 4 – 14 THE FOLLOWING TIME PERIODS SHOULD ELAPSE FOLLOWING COMPLETION OF THE SENTENCE OR THE DATE OF CONVICTION IF A FINE WAS IMPOSED BEFORE A LICENCE WILL BE GRANTED:

4. OFFENCES INVOLVING VIOLENCE

Where an applicant has a conviction for an offence of violence, 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.

5. POSSESSION OF WEAPON

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 **7 years** have elapsed since the completion of any sentence imposed.

6. DISHONESTY

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

7. DRUGS

Where an applicant has any convictions 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 **10 years** have elapsed since the completion of any sentence imposed.

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 **5 years** have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

8. 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 the completion of any sentence imposed.

9. MOTORING CONVICTIONS

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public.

Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

10. 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 these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

11. USING A HAND-HELD MOBILE TELEPHONE OR HAND-HELD DEVICE WHILST DRIVING

Where an applicant has a conviction for using a hand-held mobile telephone or 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.

12. OTHER MOTORING OFFENCES:

A) MINOR TRAFFIC OFFENCE

A minor traffic or vehicle related offence is one which **does not involve** loss of life, driving under the influence of drugs, driving whilst using a mobile phone and has not resulted in injury to any person or damage to any property (including vehicles).

Where an applicant has **7 or more points** on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least **5 years** have elapsed since the completion of any sentence imposed.

B) MAJOR TRAFFIC OFFENCES

A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance.

Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least **7 years** have elapsed since the completion of any sentence imposed.

13. HACKNEY CARRIAGE AND PRIVATE HIRE OFFENCES

Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least **7 years** have elapsed since the completion of any sentence imposed.

14. VEHICLE USE OFFENCES

Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least **7 years** have elapsed since the completion of any sentence imposed.

4.0 PRIVATE HIRE OPERATORS:

- 4.1 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties operators obtain and hold considerable amounts of personal and private information about passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 4.2 As public trust and confidence in the overall safety and integrity of the hackney carriage and private hire system is vital, the same standards will be applied to operators as those applied to drivers.**
- 4.3 Operators must ensure that any staff (whether employees or independent contractors) who are able to access any personal and private information are subject to the same standards as the operator themselves. This will require the operator to require that staff who access private and personal information obtain an enhanced DBS certificate.
- 4.4 If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.
- 4.5 Where an applicant has more than one conviction, serious consideration will be given as to whether they are a safe and suitable person.**

5.0 VEHICLE PROPRIETORS:

5.1 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities:-

- (a) They must ensure that the vehicle is maintained to an acceptable standard at all times.
- (b) They must ensure that the vehicle is not used for illegal or illicit purposes.

5.2 Where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.

5.3 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to vehicle proprietors as those applied to drivers.