

**Licensing Authority, Chichester District Council, East Pallant House,
East Pallant, Chichester, West Sussex PO19 1TY**

(Draft) Convictions Policy

1. Introduction

- 1.1 This document provides existing and prospective Licensed Vehicle Proprietors, Drivers, and Operators with clarity as to Chichester District Council's requirements as the Licensing Authority, with respect to convictions and their effect on whether or not Licence(s) will be granted and/ or retained.
- 1.2 As the basis of this Convictions Policy, this Licensing Authority adopts the proposals of the Institute of Licensing which, in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG), and the National Association of Licensing and Enforcement Officers (NALEO), in April 2018 published '*Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades*': These proposals were reiterated by HM Government's Department for Transport in the annex '*Assessment of Previous Convictions*' to its '*Statutory Taxi & Private Hire Vehicle Standards*' published in July 2020, where they are stated as the minimum standards that should be applied by Licensing Authorities. Any future amendments or updates from the Institute of Licensing or HM Government in these respects will be afforded similar credence, and similarly are adopted by this Licensing Authority.

2. Responsibility of the Licensing Authority¹

- 2.1 Drivers and Operators cannot be granted a licence unless the Licensing Authority is satisfied that they are a "Fit and Proper Person" to hold that licence².
- 2.2 As there are no statutory criteria for vehicle licences, Licensing Authorities have absolute discretion over whether or not to grant Hackney Carriage or Private Hire Vehicle Licences.
- 2.3 "Fit and Proper" means that the individual, or in the case of a Private Hire Operator's Licence, the limited company together with its directors and secretary, or all members of a partnership³, is "safe and suitable" to hold the licence.

¹ Pursuant to paragraphs 4.7-4.11 Institute of Licensing - '*Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades – April 2018*'.

² Local Government (Miscellaneous Provisions) Act 1976 s.51 and s.59 in respect of drivers; s.55 in respect of operators.

³ Section 57(2)(c) Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

- 2.4 In determining safety and suitability, the Licensing Authority is entitled to take into account all matters concerning that applicant or existing Licence Holder: This is not simply concerning a person's behaviour whilst working in the Hackney Carriage or Private Hire trade, and is far wider than simply criminal convictions or other evidence of unacceptable behaviour, with the entire character of the individual being considered: This can include, but is not limited to, the individual's attitude and temperament.
- 2.5 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A Caution is regarded in exactly the same way as a conviction⁴. Also, Fixed Penalties and Community Resolutions will be considered in the same way as a conviction⁵.

3. Explanation, Offence Types, and Debarring Periods⁶

- 3.1 Persons involved in the Licensed Vehicle trade have responsibility for the safety of their passengers, responsibility for the safety of other road users, and significant control over passengers who are in their vehicles. As those passengers may be alone, and also may be vulnerable, any previous convictions or unacceptable behaviour weighs heavily against a licence being granted or retained: Although this is particularly the case regarding Licensed Drivers, also these criteria will be applied to Operators and Proprietors of Licensed Vehicles.
- 3.2 Where an applicant or existing Licence Holder has more than one conviction showing a pattern or tendency, irrespective of the time elapsed since the convictions, serious consideration will be given as to whether they are a safe and suitable person to be Licensed.
- 3.3 This Licensing Authority debar persons from becoming Licence Holders should they already have a conviction, or receive a new conviction once Licensed unless, in relation to a single conviction, the following time periods have elapsed following completion of the sentence (or the date of conviction if a fine was imposed):

Crimes resulting in death

- 3.4 Where an applicant or existing Licence Holder 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 nor an existing Licence Renewed.

Exploitation

- 3.5 Where an applicant or existing Licence Holder 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 nor an existing Licence Renewed: This

⁴ This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

⁵ This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

⁶ Based on the Institute of Licensing - 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades' - April 2018, and HM Government's Department for Transport's 'Statutory Taxi & Private Hire Vehicle Standards' - July 2020

includes slavery, child sexual abuse and exploitation (CSAE), grooming, and psychological, emotional, or financial abuse, but this is not an exhaustive list.

Offences involving violence

- 3.6 Where an applicant or existing Licence Holder has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted nor an existing Licence Renewed until at least ten (10) years have elapsed since the completion of any sentence imposed.

Possession of a weapon

- 3.7 Where an applicant or existing Licence Holder has a conviction for possession of a weapon, or any other weapon-related offence, a licence will not be granted nor an existing Licence Renewed until at least seven (7) years have elapsed since the completion of any sentence imposed.

Sex and indecency offences

- 3.8 Where an applicant or existing Licence Holder has a conviction for any offence involving or connected with illegal sexual activity, or any form of indecency, a licence will not be granted nor an existing Licence Renewed.
- 3.9 Additionally, this Licensing Authority will not grant a licence to any applicant nor Renew the Licence of an existing Licence Holder who is currently on the Sex Offenders' Register, nor on any 'debarred' list.

Dishonesty

- 3.10 Where an applicant or existing Licence Holder 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 nor an existing Licence Renewed until at least seven (7) years have elapsed since the completion of any sentence imposed.

Drugs

- 3.11 Where an applicant or existing Licence Holder has any conviction for or related to the supply of drugs, or possession with intent to supply drugs, or connected with possession with intent to supply drugs, a licence will not be granted nor an existing Licence Renewed until at least ten (10) 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.
- 3.12 Where an applicant or existing Licence Holder has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted nor an existing Licence Renewed until at least five (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.

Discrimination

- 3.13 Where an applicant or existing Licence Holder has a conviction involving or connected with discrimination in any form, a licence will not be granted nor an existing Licence Renewed until at least seven (7) years have elapsed since the completion of any sentence imposed.

Motoring convictions

- 3.14 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 most seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not prohibit the grant of a Licence, nor result in action against an existing Licence Holder. However, any subsequent convictions reinforce the fact that the Licence Holder does not take their professional responsibilities seriously, and is therefore not a safe and suitable person to be granted or to retain a licence.

Drink driving/driving under the influence of drugs

- 3.15 Where an applicant or existing Licence Holder has a conviction for drink-driving or driving under the influence of drugs, a licence will not be granted nor an existing Licence Renewed 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.

Using a hand-held mobile phone or other hand-held device whilst driving

- 3.16 Where an applicant or existing Licence Holder has a conviction for using a hand-held mobile phone or other hand-held device whilst driving, a licence will not be granted nor an existing Licence Renewed until at least five (5) years have elapsed since the conviction or completion of any sentence or disqualification imposed, whichever is the later.

Other motoring offences

- 3.17 A minor traffic or vehicle-related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone or other hand-held device, and has not resulted in injury to any person, nor damage to any property (including vehicles) eg. as the result of a Road Traffic Collision (RTC). Where an applicant or existing Licence Holder has seven (7) or more points on their DVLA Driving Licence (or equivalent) for minor traffic or similar offences, a licence will not be granted nor an existing Licence Renewed until at least five (5) years have elapsed since the completion of any sentence imposed.
- 3.18 A major traffic or vehicle-related offence is one which is not covered in any previous section above, but also any offence which resulted in injury to any person, or damage to any property (including vehicles) eg. as the result of a Road Traffic Collision (RTC); also it includes any offence connected with motor insurance. Also, Revocation or a period of Disqualification from entitlement to drive constitutes a major traffic offence. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted nor an existing Licence Renewed until at least seven (7) years have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

- 3.19 Where an applicant or existing Licence Holder has a conviction for an offence concerned with, or connected with Hackney Carriage or Private Hire activity (excluding vehicle use), a licence will not be granted nor an existing Licence Renewed until at least seven (7) years have elapsed since the completion of any sentence imposed: Note that should the matter fall within a more serious category listed herein, those criteria apply.

Vehicle use offences

- 3.20 Where an applicant or existing Licence Holder 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 nor an existing Licence Renewed until at least seven (7) years have elapsed since the completion of any sentence imposed: Note that should the matter fall within a more serious category listed herein, those criteria apply.