1. INTRODUCTION

The aim of this document is to provide guidelines to be made available to the following groups of people:

- Applicants for hackney carriage / private hire drivers licences
- Existing licensed drivers whose licences' being reviewed
- Licensing Officers
- Members of the Licensing Committee/ Panel (or other relevant decision making body)
- Magistrates hearing appeals against local authority decisions

One of the requirements to be a hackney carriage / private hire driver is to be a fit and proper person. In determining whether a person is fit and proper to hold such a licence the local authority takes into account the criminal record of the applicant. Other relevant factors include an applicant’s medical fitness and in some authorities there is a requirement to complete a technical test/ assessment and complete a specific training programme.

These guidelines provide a framework of criteria against which local authorities will utilize criminality records to determine whether to grant or refuse new driver applications and existing drivers whose licences may be reviewed following new criminality issues or breach of licence...
conditions. The conspiring to, aiding and abetting of offences are considered serious matters and where relevant such matters will be referred to the Committee/Panel.

Non-indictable and summary offences occurring a significant time before application and with no other related convictions will not normally be referred to the Committee/Panel.

2. BACKGROUND


The Association of Greater Manchester Authorities (with the exception of Manchester City Council) in partnership with the neighboring unitary authorities of Blackburn with Darwen, Blackpool and Warrington made a decision to put together guidance that would be supported and adopted within their authorities, thereby providing transparency and consistency across the region, in accordance with the principles of the Enforcement Concordat/Regulatory Compliance Code.

The specific legislation relevant to determining applications and reviews of licences is set out below

Section 51(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides:

‘Subject to the provisions of this part of the Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a licence:

Provided that a district council shall not grant a licence-

(a) unless they are satisfied that the applicant is a fit and proper person to hold a driver’s licence….’

Section 59(1) of the LG(MP)A 1976 provides:

‘Notwithstanding anything in the Act of 1847, a district council shall, shall not grant a licence to drive a hackney carriage-

(a) unless they are satisfied that the applicant is a fit and proper person to hold a drivers licence…..’

3. GENERAL POLICY

The Licensing Officer has delegated powers to grant licences, and will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the Licensing Committee/Panel (or other relevant decision making body). Whilst Officers and the Committee/Panel will have regard to the guidelines contained in the policy, each case will be considered on its individual merits and, where the circumstances demand, the Committee/Officer may depart from the guidelines.
When submitting an application for a hackney carriage/private hire drivers licence applicants must reveal all previous convictions and cautions including those which are spent. Legislation allows the Local Authority to consider spent convictions where these are relevant as a possible reason for suspension, revocation or refusal of a licence. In general terms in considering whether a spent conviction is relevant the following factors are examples of those which may be considered, the time that has elapsed since the conviction occurred, the seriousness of the conviction and any pattern of offending.

In all cases where the Committee/Panel has to decide whether or not to revoke or to suspend a licence, as well as a decision on the facts, the Committee's/Panel's duty to protect the public should be balanced against any relevant factors which may be suffered by the driver should the licence be revoked or temporarily suspended.

4. SPECIFIC OFFENCES

Minor Traffic Offences

The case of an applicant who has been disqualified within the previous two years who then accrues a further six points on his licence and any applicant who has accrued sufficient points to render him liable to be disqualified under Section 35 Road Traffic Offenders Act 1998 will be referred to the Committee/Panel. The case of an applicant disqualified from driving, where the disqualification has expired less than twelve months before the application is made, will also be referred to the Committee/Panel.

Applicants who have been disqualified from driving for any period will not normally be granted a licence by the Committee/Panel unless they have held a licence for at least one year following the expiry of the period of disqualification.

Major Traffic Offences

Where in the previous three years the applicant has been convicted of:

i) dangerous driving; or
ii) two or more convictions for driving without due care and attention; or
iii) driving without insurance

will result in the application being referred to Committee/Panel. More than one conviction for this type of offence within the previous three years would normally result in refusal of the application and a period of twelve months free of conviction should generally elapse before consideration of any future re-application.

Drunkenness

i) With Motor Vehicle

Where an applicant has more than 1 drink driving conviction or where an isolated conviction is less than 5 years old then the applicant would normally be referred to Committee/Panel.

A serious view will be taken of convictions for driving or being in charge of a vehicle with excess alcohol or under the influence of drink/drugs, although the Committee/Panel will be prepared to consider the grant of a licence in the case of an isolated
incident. An applicant with more than one conviction for such an offence would not normally be granted a licence for at least five years following the latest conviction.

If a period of disqualification has been given then a period of three years free of conviction after the restoration of the statutory driving licence should normally have elapsed before a licence is be granted.

If there is any evidence or suspicion that the applicant is an alcoholic, the applicant will be required to undergo a medical examination and produce a certificate of medical fitness to drive private hire / hackney carriage vehicles.

Should the medical examination reveal that the applicant has a problem with alcoholism, then a period of not less than five years should generally elapse with the applicant submitting relevant evidence of successful treatment, endorsed by a general practitioner.

**ii) Not in Motor Vehicle**

An applicant with two or more convictions for drunk and disorderly within a three year period would not normally be granted a licence.

Where there is any suggestion that the applicant is/was an alcoholic, then the Committee/Panel would not be prepared to grant a licence unless satisfied that the applicant has undertaken appropriate treatment and a period of at least five years has elapsed since the treatment was complete.

**Drugs**

An isolated conviction for use of a controlled drug if occurring within the last 3 years or within the last 5 years if unspent would generally be referred to Committee/Panel. Applicants convicted of possession of controlled drugs within a period of three years would not normally be granted a licence.

If there is any evidence or suspicion that the applicant has a drugs addiction problem the applicant will be required to undergo a medical examination and produce a certificate of medical fitness to drive private hire / hackney vehicles.

The Committee/Panel takes a particularly serious view of offences of supplying controlled drugs. Applicants convicted of supplying controlled drugs within a period of five years would not normally be granted a licence.

**Indecency**

Any offence of a sexual nature will normally be referred to the Committee/Panel.

The Committee/Panel views convictions for offences of indecency seriously as hackney drivers and private hire drivers often have occasion to carry unaccompanied passengers. An applicant with convictions for indecent exposure, indecent assault, importuning or any of the more serious sexual offences within the last three to five years would not normally be granted a licence. Applicants with more than one conviction for such an offence would not normally be granted a licence for at least five years following the latest conviction.

Any applicant currently on the sex offenders’ register would not normally be granted a licence.
Violence

Any offence involving violence or intimidation will normally be referred to the Committee/ Panel

The Committee/ Panel views convictions for offences of violence seriously, as hackney carriage and private hire drivers maintain close contact with the public. An applicant with convictions for grievous bodily harm, wounding, assault or offences of public disorder within the previous three years would not normally be granted a licence. An applicant with more than one conviction for such an offence would not normally be granted a licence for at least five years following the latest conviction.

Dishonesty

Members of the public expect drivers of hackney carriage and private hire vehicles to be honest and trustworthy. For these reasons a serious view will be taken of any conviction involving dishonesty.

The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into drivers. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare or knowing that a property is empty whilst the occupants are away on holiday for a set period of time or after taking them to the airport or railway station.

A period of three years free of conviction would normally be required before consideration of a licence.

Plying for Hire

In the case of a private hire driver found guilty of an offence of plying for hire, the Committee/ Panel would normally order the licence to be suspended for a minimum of two months and a maximum of six months. In the case of a second or subsequent offence, the Panel would consider a longer period of suspension or revocation of the licence.

Breach of Conditions or Bye-laws

Any serious or repeated breach of conditions by a private hire driver or similar breach of bye-laws by a hackney carriage driver will be referred to the Committee/ Panel.

The Committee/ Panel will consider in each case whether the breach of the conditions merits the suspension or revocation of the driver's licence.

Reapplication

Applicants are advised that Council guidelines are that where an applicant has had an application refused or a licence revoked, the Committee/ Panel would normally refuse any subsequent application made within 12 months of the date of the previous refusal or revocation unless there are substantial material changes in the applicants circumstances.

Criminal Records Checks
In addition to convictions information any intelligence supplied by the Criminal Records Bureau is also routinely supplied to the applicant. Where relevant such intelligence will be considered within these guidelines by the Committee/Panel.

The Authority will comply with the Criminal Records Bureau policy on disclosures. A copy of the policy is available on request.