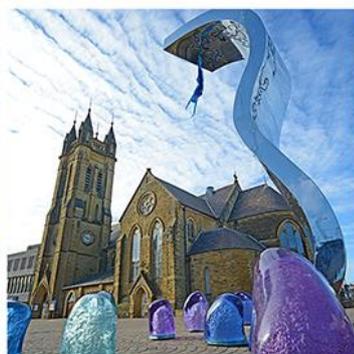
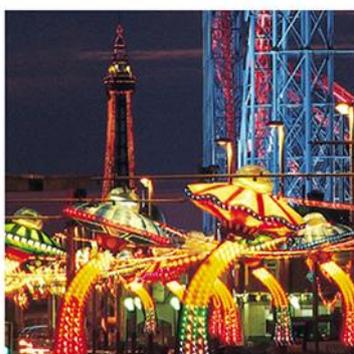


# Appendix 5a: Draft Horse Drawn Hackney Carriage Licensing Policy

Blackpool Council



# Draft Horse Drawn Hackney Carriage Licensing Policy

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# Draft Horse Drawn Hackney Carriage Licensing Policy

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## 1. Introduction

Blackpool Council is responsible for the regulation of horse drawn hackney carriages within the Borough of Blackpool.

When developing this policy the following have been taken into consideration:

- The aims and objectives of this policy (see below)
- Current legislation
- Regulators Code 2014
- Local Government Association template Criminal Convictions Policy 2015

This policy sets out the application requirement and standards that must be met by the horse drawn hackney carriage trade licensed by Blackpool Council. When carrying out its regulatory functions, the Council will have regard to this policy. Each application or enforcement measure will be considered on its own merits however where it is necessary to depart substantially from the policy, clear and compelling reasons will be given.

## 2. Aims and objectives of the licensing policy

The principal purpose of horse drawn hackney carriage licensing is to protect the public and promote public safety. The Council's aim is to facilitate well run and responsible businesses which display sensitivity to the wishes and needs of the general public

Blackpool Council will carry out this licensing function with a view to promoting the following:

- The protection of the public, safeguarding children and the vulnerable and the prevention of crime and disorder,
- The safety and health of the public and drivers
- Carriage safety, comfort and access
- The welfare of the horses used in connection with the carriages.

The Council aims to ensure that the horse drawn hackney carriage services offered within the Borough are of a good standard. The application and compliance procedures are designed to ensure these standards are maintained, monitored for compliance and appropriately enforced.

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## 3. Delegations

Under the Council's Constitution, the Public Protection Sub-Committee has the authority to discharge non-executive regulatory functions with respect to horse drawn hackney carriage licensing. The Sub-Committee will determine applications, contraventions, suspensions and revocations.

The Head of Licensing Services has delegated powers to grant licences where there are no criminal or other concerns that give rise to doubts over the suitability of the applicant to hold a licence.

The Head of Licensing Services or in their absence the Licensing Enforcement and Health and Safety Manager, after consultation with the Chair or in their absence Vice-Chairman of the Public Protection Sub-Committee may:

- Issue warning letters on behalf of the Sub-Committee
- Suspend horse drawn hackney carriage drivers with immediate effect

Horse drawn hackney carriages may be suspended by the Head of Licensing Services or in their absence the Licensing Enforcement and Health and Safety Manager, if it cannot be established that the carriage is suitably insured.

## 4. Horse Drawn Hackney Carriage Drivers

An applicant must satisfy the Council that they are a fit and proper person to become licensed. Once licensed the driver must remain a fit and proper person throughout the duration of the licence.

### 4.1 Fit and Proper Person Test

Licensed drivers are in a position of trust. The legislation requires that licences can only be granted if the Council is satisfied that the applicant is a fit and proper person.

Whilst there is no definition of a fit and proper person, decisions from Courts over the years have come to the conclusion that the Council is effectively asking the following question

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**“Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?”**

During the application process the Council will undertake a number of checks to gather the information necessary to assess the suitability of the applicant.

Factors that will be taken into account when reaching a decision include:

- Age – a licence will not be granted to a person under the age of 18
- Criminality (whether the applicant has any criminal convictions or cautions)
- Driving licence – length held and penalty points endorsed
- Right to work in the UK
- Medical Fitness
- General conduct/standards of behaviour
- Conduct of the applicant during the application process
- Previous licensing history
- Ability to communicate and understand English

This is not an exhaustive list of matters that will be considered and further information will be sought from other agencies such as Lancashire Constabulary, Safeguarding Boards and other licensing authorities as appropriate.

## 4.2 Making an application

It is the policy of the licensing authority that every application for a licence to drive a Horse Drawn Hackney Carriage must be accompanied by satisfactory evidence of the following matters (and that applications that are incomplete will not be deemed to have been made until such time as they are completed) -

- That the applicant has the right to live and work in the country
- An enhanced criminal record check and evidence that they are not on a child and/or vulnerable adult barring list
- A certificate of their current medical fitness to Group 2 standard

Applications will not be considered until the following has been established:

- That the applicant has adequate literacy and numeracy skills to provide the service that they wish to be licensed for

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- That the applicant has sufficient ability to speak English and to understand spoken English to provide the service that they wish to be licensed for
- That the applicant has completed training specific to the service that they wish to be licensed to provide (including in respect of safeguarding, sexual exploitation, disability and dementia awareness and equality and diversity)

## 4.2.1 Application form

Applicants are expected to act with honesty and integrity throughout the application process. There is an expectation that information requested, for example previous convictions and cautions, will be fully and accurately disclosed. Applicants are required to disclose all convictions and cautions including those that would normally be considered spent as horse drawn hackney carriage drivers are included as exceptions within the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

Care should be taken when completing the form as failure to make full and accurate disclosure can in itself result in refusal of the application.

Renewal applications where a DBS is required must be submitted at least **six weeks** prior to the expiry of the previous licence to ensure that the DBS certificate is received and the new licence and badge can be issued before the expiry of the current licence.

Once the licence has expired renewal applications cannot be accepted and all applications will be treated as “new”. Applications submitted less than one calendar month before expiry will be able to rely on existing medical and DBS clearance (if in date) however applicants will be unable to drive until their new badge has been issued to them – this may take a few days.

## 4.2.2 Disclosure and Barring Service Check

A criminal record check of a driver is seen as an important safety measure. An enhanced disclosure through the Disclosure and Barring Service (DBS) is required as these disclosures include details of live and spent convictions, police cautions and other relevant information from the Police.

Before an application will be considered, the applicant must provide a current enhanced disclosure certificate. In this context “current” means less than three months old. DBS certificates are ordinarily applied for through the Council’s Licensing Service however a certificate obtained elsewhere will be acceptable if it is less than three months old and has been processed in relation to both the child and adult workforce employment position (this is specified on the certificate)

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It should be noted that the DBS send the certificate to the applicant direct. The original certificate must be produced to the Licensing Service to progress the application.

**A licence will not be granted or renewed in the absence of a current enhanced DBS certificate.**

So that the licensing authority receives relevant information as quickly as possible in order to take appropriate and proportionate action to protect public safety, it is the licensing authority's policy to require applicants to register for the DBS's update service and to nominate the licensing authority to receive updates. Registration lasts for 1 year and costs £13 per year. Licensees are expected to maintain this registration and nomination throughout the duration of their licence.

More information about the DBS can be found on their website at <https://www.gov.uk/government/organisations/disclosure-and-barring-service>.

## **Applicants with periods of residency outside the UK**

If a new applicant has spent six continuous months or more overseas the Council will need to see evidence of a criminal record check from the country/countries visited covering the period before an application can be made.

### **4.2.3 Relevance of Convictions and Cautions.**

In assessing whether the applicant is a fit and proper person to hold or retain a licence, the Council will consider each case on its merits having regard to its policy on convictions and cautions which can be found at Appendix A.

### **4.2.4 Medical Assessment**

Previously only horse drawn hackney carriage drivers over the age of 65 have been required to submit evidence of their medical fitness before being licensed. It is now proposed to bring medicals for horse drawn hackney carriage drivers into line with those already in existence for motorised hackney carriage drivers

The DVLA recommend that hackney carriage and private hire drivers should be subject to the Group 2 medical standards applicable to applicants for licences to drive buses and lorries, therefore with effect from 1<sup>st</sup> September 2016 the authority proposes to introduce this medical standard for both new applicants and existing horse drawn hackney carriage drivers applying for renewal.

Applicants are required to undergo a medical assessment on first application, on reaching the age of 45 years then every 5 years thereafter until the age of 65 when annual examinations will

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be required. Holders of current PSV and/or HGV licences where the holder is able to produce proof of a current medical examination will not be required to undergo further assessment.

Where there is any doubt as to the medical fitness of the applicant, the Council may require the applicant to undergo and pay for a further medical examination by a doctor appointed by the Council.

Licence holders must advise the licensing service of any deterioration or other change in their health that may affect their driving capabilities – this includes, but is not restricted to the list of conditions which must be notified to the DVLA. Where there remains any doubt about the fitness of the applicant, the Public Protection Sub-Committee will review the medical evidence and make a final decision.

No licence shall be issued until medical clearance (if required) has been established.

## **Exemption Certificates**

Licensed drivers are under a legal duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without additional charge. Drivers who have a medical condition which is aggravated by exposure to dogs may apply to the Council for exemption from the duty on medical grounds. If an application is successful they will be issued with an exemption certificate and a notice of exemption. The notice of exemption must be displayed in a prominent position in the carriage.

## **4.2.5 Driving Test**

The licensing authority needs to be satisfied that the applicant for a new horse drawn hackney carriage driver's licence is an experienced carriage driver capable of working safely in an area with a large volume of pedestrian and vehicular traffic. One of the recommendations of the Horse Drawn Hackney Carriage Scrutiny in 2015 was that a more stringent and rigorous driving test for prospective horse drawn hackney carriage drivers should be developed to include both a theory and an extended practical test.

With effect from the date of implementation new applicants for horse drawn hackney carriage drivers will be tested as follows:

- a) Theory test - this test can be either written or oral;
- b) Off-road test – to examine a driver's control of the carriage, ability to perform manoeuvres, knowledge of animal husbandry and ability to attach the dung catching device; and
- c) Promenade test – extended test on the Promenade testing ability to
  - manoeuvre in traffic, and
  - parking on ranks

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Once a new applicant has passed all three elements of the test and received both medical and DBS clearance they will be issued with a provisional licence which would allow the driver to operate under the supervision of an experienced horse drawn hackney carriage driver approved by the Council for this purpose. Once the provisional driver has satisfactorily completed 100 hours driving experience they may be issued with a full horse drawn hackney carriage driver's licence.

Applicants who have been licensed previously by Blackpool Council will not be required to pass a knowledge test if their last licence expired less than three years prior to the date of the new application.

## 4.2.6 Safeguarding Training

One of the aims of this policy is to protect the public and safeguard children and the vulnerable. For this reason the Council believes that it is appropriate for licensed drivers to undertake basic safeguarding training.

To ensure a consistent approach to this training across Lancashire a training package has been prepared. The intention is that this will be delivered to new applicants as part of the knowledge test.

It is important that all licensed drivers receive the same level of training therefore all existing drivers will be required to undertake the training which will consist of a power point presentation and a short test. The intention is to work with the licensed trade to agree appropriate timescales. Comments are invited on how the training should be delivered to existing drivers.

## 4.2.7 Right of driver to work in the UK

The Council will require all applicants for new licences to provide documentary evidence to confirm that they may legally work in the UK. Examples of documents that may be provided include (but are not limited to):

- A UK passport confirming that the holder is a British Citizen (or citizen of another EEA country including Switzerland)
- Passport or other travel document endorsed to show that the holder is allowed to stay in the UK and undertake paid employment
- Full UK birth/adoption certificate
- An immigration document issued by the Border and Immigration Agency to the holder which indicates that the person named in it can stay in the United Kingdom and undertake paid employment

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- A work permit or other approval to take employment issued by the Home Office or the Border and Immigration Agency when produced in combination with either a passport or another travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to undertake paid employment.

When an applicant is subject to immigration controls, a licence will not be issued for longer than the period that the applicant has permission to undertake paid employment in the United Kingdom.

## **4.3 Standards expected of a licensed driver**

### **4.3.1 General Conduct**

The standards expected of licensed drivers are set out in the Code of Good Conduct. This code, set out at Appendix B should be read in conjunction with the other statutory and policy requirements set out in this document.

### **4.3.2 Dress Code**

It is recognised that the horse drawn hackney carriage trade plays an important part in portraying a positive image of Blackpool.

Anything that serves to enhance the professional image of the trade and promotes the concept that the drivers of licensed vehicles are professional vocational drivers is to be welcomed.

To ensure that the objectives above are met a dress code for licensed drivers has been set see Appendix C.

### **4.3.3 Code of Conduct when working with vulnerable passengers**

It is essential that young, elderly and other vulnerable people are safeguarded and protected whilst being transported in a licensed carriage. Accordingly a specific Code of Conduct must be complied with when working with vulnerable passengers. This Code can be found at Appendix D.

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## 5 Horse Drawn Hackney Carriages

### 5.1 Limitation of numbers

The grant of a hackney carriage licence may be refused for the purpose of limiting the number of licensed taxis, if the local authority is satisfied that there is no significant demand for the services of hackney carriages in the area which is unmet.

Blackpool Council does limit the number of hackney carriages to 256 motorised and 44 horse-drawn. The need for this limit is reviewed periodically (approximately every three years) by a competent company appointed to conduct the review on behalf of the Council, the findings of which are available on request.

### 5.2 Carriage Specification

The Council is permitted a wide discretion in deciding what it will and will not licence by Section 47(2) of the 1976 Act:

***(1) A district council\* may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider reasonably necessary***

***(2) Without prejudice to the generality of the forgoing subsection, a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear any such distinguishing marks as shall clearly identify it as a hackney carriage.***

(\*A District Council is deemed by the Act to include Unitary Authorities)

The basic requirements for a carriage are:

- Must be driven by only one horse;
- Four wheels;
- A compartment for passengers to be carried in;
- Capable of carrying a minimum of four and up to six passengers (dependent upon construction)
- Be constructed to a suitable standard and quality to be a licensed carriage
- In the opinion of the Council appointed inspector safe for use as a hackney carriage vehicle on a road.

There is no prescribed style of carriage. Whilst it is open to operators to source new styles of carriage, the ultimate decision on licensing rests with members of the Public Protection Sub-

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Committee. Applicants proposing to licence a carriage other than a traditional style landau will be required to produce the carriage to the Sub-Committee for inspection and approval.

## 5.3 Carriage Testing

All carriages to be licensed for the forthcoming year must be presented for inspection and testing on the date appointed by the licensing authority. All licence holders will be given advance notice of the dates and location of the annual test.

All carriages must be produced with a full set of tack, although in the case of multiple licence holders, each carriage need not be produced with its own horse.

From time to time it will be necessary to have a carriage inspected either after accident damage or where there is to be a change of carriage part way through the season. Private arrangements must not be made with the Council appointed inspector, instead, all inspections must be arranged through the licensing service and a licensing/enforcement officer must be present when the inspection takes place.

## 5.4 Signage

Every licensed carriage must display a plate to the rear which indicates the licence number and licence expiry date together with any additional information that the Authority may from time to time prescribe.

## 5.5 Horses

Horses must be suitable and at least 6 years old to be used in connection with any horse drawn hackney carriage.

The Council will issue any new horses with a 'trial certificate' which allows the horse to be used in connection with a horse drawn hackney carriage for 1 month to allow assess the horse to be assessed for its suitability to be used as a working horse.

All horses used in connection with a horse drawn hackney carriage must be inspected by a qualified equine veterinary surgeon. A veterinary certificate for the horse must be produced to the Council every 12 months.

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## 5.6 Application Process

The Council will consider all applications for horse drawn vehicle licences on their own merits.

A valid application will consist of:

- Vehicle application form
- Public liability insurance
- Vets certificate and horse passports for the horses to be used.
- Fee

An application will not be considered until all of the required documents have been produced.

Applications for carriages that are in the opinion of the licensing service of traditional landau design or have previously received approval from the Sub-Committee may be granted under delegated powers. All other carriages must be approved by the Sub-Committee before they can be licensed.

Successful applicants will be issued with a horse drawn hackney carriage licence together with the licence plate which must at all times be displayed at the rear of the vehicle.

Unsuccessful applicants will be informed of their right to appeal against the decision to the Magistrates' Court within 21 days of receipt of the formal notice of refusal.

## 5.7 Grant and renewal of licences

Vehicle licences will be issued for a period of 12 months. Each carriage will be issued with a plate to be affixed to the rear stating amongst other things the number of passengers that may be carried, usually six. For the avoidance of doubt the Council considers that the maximum number of people that may be in/on a carriage at any time in addition to the number of passengers stated on the licence is the driver plus a trainee driver/groomsman (if necessary). The only people permitted to sit next to the driver are a groomsman/trainee driver.

## 5.8 Change of Vehicle

Historically, the licensing service have permitted vehicle licence holders who wish or need to change their vehicle to do a vehicle change to enjoy the benefit of the unexpired portion of the licence. The only charge for this was for the vehicle plates/disc.

The proposal is that this practice will cease and from the date this policy comes into force licence holders wishing to change vehicles must apply for a new vehicle licence. This decision has been

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taken due to the number of these applications now being received and the fact that it is the correct approach lawfully. Refunds for complete months outstanding on the existing licence will be given.

## 5.9 Conditions

The Council may attach such conditions as it considers reasonably necessary to the grant of a vehicle licence.

The following conditions are attached to all horse drawn hackney carriage licences:

1. No horse shall be harnessed to, or used in connection with the licensed vehicle unless within the preceding twelve months, a veterinary surgeon has examined the horse and issued in respect of it a certificate of fitness in a form approved by the Council. This certificate shall be returned to the Licensing Service forthwith
2. Vets papers relating to the horse in harness should be available for inspection on request by an authorised officer
3. A horse which is harnessed to or used in connection with a licensed hackney carriage shall not be used for more than seven hours of work in any one day.
4. If in harness for seven consecutive hours the horse shall during that period have a break of not less than one hour and shall be fed and watered,
5. No horse shall be harnessed to or used in connection with the licensed vehicle unless it is fitted with an identifying microchip, the number of which has been notified to the Licensing Service
6. All carriages must be fitted with a dung catching device while the carriage is in use on any public highway. If requested to do so by a licensing enforcement officer, a tight leather strap must be placed between the bungee and the lock to prevent the bungee from sliding back.
7. Lights and signals (where so directed) should be fitted to the carriage at all times and should be capable of being lit by the driver. Between dusk and dawn lighting on a carriage is restricted to two standard rear position lamps and two standard front position lamps only
8. The table of fares as prescribed by Blackpool Council shall be displayed in the carriage in such a manner that it is capable of being easily viewed by the passengers being conveyed in the carriage.
9. When carrying members of the public, only persons registered with/licensed by Blackpool Council in respect of horse drawn hackney carriages and the fare paying passengers may be carried on the vehicle. Members of the public must be seated within the carriage and must not sit next to the driver.

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## 5.10 Accidents

If at any time a licensed vehicle is involved in an accident, however minor, the driver must inform the licensing service as soon as possible and in any event within one working day. An accident report form must then be completed and submitted to the licensing service within 72 hours of the accident occurring (except in exceptional circumstances when the licensing service may agree to the report being filed outside of that time limit).

The vehicle must be presented for inspection at the Council appointed carriage inspector as soon as possible after the accident has taken place at the licence holder's expense. The inspection should be booked via the licensing service. Failure to present the vehicle for inspection may result in the vehicle licence being suspended until such time as the vehicle is produced for examination.

## 5.11 Fares

The Council sets the maximum rates that may be charged by horse drawn hackney carriage vehicles.

## 6 Compliance and Enforcement

### 6.1 Enforcement

The principal purpose of hackney carriage licensing is to protect the public and promote public safety. To this end the Council aims to provide an efficient, targeted and proportionate regulatory service to those it regulates.

The Regulator's Code was brought into force in 2014 which states that the Council should:

- Carry out their activities in a way that supports those they regulate to comply and grow,
- Provide simple and straightforward ways to engage with those they regulate and hear their views,
- Base their regulatory activities on risk,
- Share information about compliance and risk,
- Ensure clear information guidance and advice is available to help those they regulate meet their responsibilities to comply,

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- Ensure that their approach to their regulatory activities is transparent.

Where appropriate, referrals will be made to other agencies. This will include but is not limited to the Police, HM Customs and Excise, DVLA and the Children's and Adult Safeguarding teams.

The Council will respond to complaints made by the public and referrals from other agencies and bodies. In addition officers will undertake proactive inspections and testing as either day to day activity or as a part of programmed operations.

## 6.1.1 Disciplinary Hearings

Licence holders may be referred to the Public Protection Sub-Committee for committing offences, failure to comply with any part of this policy, or for other any other conduct which impacts on their fitness to be a licence holder. The Sub-Committee will consider the impact of the offending/conduct on the individual's fitness to hold a licence and take such action as is appropriate in the circumstances.

### Warnings

These may be issued for minor infringements. A warning letter will remain on file for a period of three years and will be referred to in the event that the licence holder is taken before the Sub-Committee for any other reason.

### Suspensions

Carriages can be suspended in accordance with section 68 Local Government (Miscellaneous Provisions) Act 1976 if an officer is not satisfied as to the fitness of a vehicle.

Drivers can be suspended under section Local Government (Miscellaneous Provisions) Act 1976. This suspension can be ordered to take immediate effect.

### Revocations

Both vehicle and drivers licences may be revoked by the Sub-Committee.

If the seriousness of the case merits revocation, this course of action will be available to the Sub-Committee even if it is the first enforcement action taken against the driver/vehicle.

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## Appendix A - Taxi and PHV Licensing Criminal Convictions' Policy

### 1. Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a horse drawn hackney carriage driver's licence.
- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
- That a person is a fit and proper person.
  - That the person does not pose a threat to the public.
  - That the public are safeguarded from dishonest person.
  - The safeguarding of children, young persons and vulnerable adults.
- 1.3 The term " fit and proper person" for the purposes of licensing is not legally defined and in assessing whether someone is "fit and proper" the Council will consider the following together with any other relevant information:
- Criminality
  - Human rights
  - Period of holding a driver's licence
  - Number of penalty points endorsed on driving licence
  - Right to work
  - Medical fitness
  - Conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process)
  - Previous licensing history of existing and former licence holders.

In addition the Council will also consider further information provided by sources such as Lancashire Constabulary (including abduction notices), Children and Adult Safeguarding Boards and other statutory agencies.

- 1.4 This policy provides guidance to any person with an interest in horse drawn hackney carriage licensing. In particular, but not exclusively:
- Applicants for drivers' licenses
  - Existing licensed drivers whose licences are being reviewed

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- Licensing officers
- Members of the Licensing Committee and Public Protection Sub-Committee
- Magistrates hearing appeals against local authority decisions

1.5 Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the Public Protection Sub-Committee. Whilst officers and the Sub-Committee 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.**

## 2. General policy

2.1 There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.

2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:

- a. Remain free of conviction for an appropriate period; and
- b. Show adequate evidence that her or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).

(Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence).

2.3 **Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction** [Nottingham City Council v. Mohammed Farooq (1998)].

## 3 Appeals

3.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].

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- 3.2 Any licensed driver whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.

## 4. Powers

- 4.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 4.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a horse drawn hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 4.3 In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

## 5. Consideration of disclosed criminal history

- 5.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a horse drawn hackney carriage drivers' licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:
- How relevant the offence(s) are to the licence being applied for,
  - How serious the offence(s) were,
  - When the offence(s) were committed,
  - The date of conviction,
  - Circumstances of the individual concerned,
  - Sentence imposed by the court,

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- The applicant's age at the time of conviction,
  - Whether they form part of a pattern of offending,
  - Any other character check considered reasonable (e.g. personal references),
  - Any other factors that might be relevant.
- 5.2 Existing holders of drivers' licences are required to notify the licensing authority in writing within seven days of being arrested, receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).
- 5.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing office on 01253 478343 in confidence for advice.
- 5.4 The licensing authority conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any applicant for a driver licence. The licensing authority follows the DBS's Code of Practice on the fair use of disclosure information. A copy is available on request.
- 5.5 Applicants applying for the grant or a renewal of a drivers' licence will be required to obtain an enhanced disclosure at their expense. The licensing authority abides by the DBS's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.
- 5.6 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police.
- 5.7 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 5.8 For renewal applications and current licence holders the policy will not be applied retrospectively where there are no new concerns or convictions. The policy will be applied to existing licence holders if any additional convictions are incurred or they are otherwise brought to the attention of the Council for conduct that would call into question a person's suitability to hold a licence.
- 5.9 Offences not covered by this Policy will be considered by the Council when determining whether the applicant/licensed driver is a fit and proper person.

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## 6 Serious offences involving violence

- 6.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.
- 6.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.
- 6.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
  - Manslaughter
  - Manslaughter or culpable homicide while driving
  - Terrorism offences
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence to those below and the conviction is less than 10 years prior to the date of application:
- Arson
  - Malicious wounding or grievous bodily harm which is racially aggravated
  - Actual bodily harm which is racially aggravated
  - Grievous bodily harm with intent
  - Robbery
  - Possession of firearm
  - Riot
  - Assault Police
  - Common assault with racially aggravated
  - Violent disorder
  - Resisting arrest
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

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- 6.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence to those below and the conviction is less than 5 years prior to the date of application:
- Racially-aggravated criminal damage
  - Racially-aggravated offence
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences 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
- 6.7 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.
- 6.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

## **7. Possession of a weapon**

- 7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.
- 7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

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## 8. Sex and indecency offences

- 8.1 As licensed drivers can carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinized. Those with convictions for the more serious sexual offences will generally be refused. For other offences, applicants will be expected to show a substantial period free of conviction for such offences before a licence will be granted.
- 8.2 Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as:
- Rape
  - Assault by penetration
  - Offences involving children or vulnerable adults
  - Sexual assault
  - Indecent assault
  - Exploitation of prostitution
  - Grooming, trafficking for sexual exploitation or other sexual exploitation related offences
  - Possession of indecent photographs, child pornography etc.
  - Or **any** sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.
- 8.3 Before an application will be considered, an applicant should be free of conviction for at least 10 years (or at least 5 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:
- Indecent exposure
  - Soliciting (kerb crawling)
  - Or any similar offences (including attempted or conspiracy to commit).
- 8.4 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.
- 8.5 A licence will not normally be granted if an applicant has more than one conviction for a sexual/indecency offence.

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## 9. Dishonesty

- 9.1 A licensed driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. For all these reasons, a serious view is taken of any conviction involving dishonesty.
- 9.2 In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:
- theft
  - burglary
  - fraud
  - benefit fraud
  - handling or receiving stolen goods
  - forgery
  - conspiracy to defraud
  - obtaining money or property by deception
  - other deception
  - taking a vehicle without consent
  - and any similar offences
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 9.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.
- 9.4 Applicants or existing licence holders that are found to have intentionally misled the Council, or lied as part of the application process, will not normally be issued with a licence.

## 10. Drugs

- 10.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.
- 10.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 years.

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- 10.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.
- 10.4 An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.
- 10.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.
- 10.6 A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.

## **11 Driving offences involving the loss of life**

- 11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- or any similar offences

## **12 Drink driving/driving under the influence of drugs/using a mobile phone whilst driving**

- 12.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. Normally at least three years, after the restoration of the driving licence following a

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drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

- 12.2 Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research for example which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:
- are much less aware of what's happening on the road around them
  - fail to see road signs
  - fail to maintain proper lane position and steady speed
  - are more likely to 'tailgate' the vehicle in front
  - react more slowly, take longer to brake and longer to stop
  - are more likely to enter unsafe gaps in traffic
  - feel more stressed and frustrated.

<http://www.rosipa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>

- 12.3 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.
- 12.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

## 13 Licensing offences

- 13.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since .
- 13.2 A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence.

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## **14 Insurance offences**

- 14.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour.
- 14.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.
- 14.2 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have his operators' licence revoked immediately and be prevented from holding a licence for at least three years.

## **15 Outstanding charges or summonses**

- 15.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.
- 15.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

## **16 Non-conviction information**

- 16.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application.
- 16.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

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## **17 Cautions**

- 17.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

## **18 Licences issued by other licensing authorities**

- 18.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.
- 18.2 Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

## **19 Summary**

- 19.1 To summarise, 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 would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.
- 19.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.
- 19.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must 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 can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

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## Appendix B - Code of Conduct for Licence Holders

This code of conduct should be read in conjunction with the other statutory and policy requirements set out in this document.

Licence holders shall endeavour to promote the image of the horse drawn hackney carriage trade by:

- Complying with the Code of Conduct;
- Complying with all the conditions of their licence, the Horse Drawn Hackney Carriage Licensing Policy and where applicable the hackney carriage byelaws
- Behaving in a civil, orderly and responsible manner at all times

Licence holders shall:

- Maintain their carriage in a safe and satisfactory condition at all times;
- Keep their carriage clean and suitable for hire to the public at all times;
- Attend punctually when undertaking a pre-booked hiring;
- Assist, where necessary, passengers into and out of the carriage

At taxi ranks and other places where hackney carriages ply for hire by forming queues, drivers shall in addition to the above:

- Rank in an orderly manner and proceed along the rank in order, moving along promptly
- Remain in or near to the carriage

Licensed drivers shall

- Pay attention to personal hygiene and dress so as to present a professional image to the public;
- Be polite and helpful to passengers
- Treat all customers with dignity and respect regardless of their sex, race, disability, sexual orientation, trans gender, religion or belief
- Drive with care and due consideration for other road users and pedestrians
- Obey all traffic order and directions at all times
- Not consume alcohol
- Not use a hand held mobile phone whilst the carriage is in motion
- Not smoke whilst on the vehicle

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## Appendix C - Driver Dress Code

The purpose of a driver's dress code is to seek a standard of dress that provides a positive image of the horse drawn hackney carriage trade in Blackpool to enhance a professional image of licensed drivers and ensure that public and driver safety is not compromised.

### Acceptable Standard of Dress

All clothing worn by the driver must be clean and in good condition, and the driver must have good standards of personal hygiene.

As a **minimum** standard, males should wear knee length shorts/long legged trousers and a shirt which has a full body and as a minimum short sleeves.

As a **minimum** standard, females should wear knee length shorts/long legged trousers, skirt or dress and a shirt / blouse which has a full body and as a minimum short sleeves.

### Footwear

Footwear for all drivers shall fit around the heel of the foot.

### Unacceptable Standard of Dress

The following are deemed to be unacceptable:

- (a) Clothing that is not kept in a clean condition, free from holes and rips.
- (b) Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend.
- (c) Sportswear (e.g. football / rugby kits, track suits, beach wear etc.).
- (d) Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel.
- (e) Drivers not having either the top or bottom half of their bodies suitably clothed.
- (f) The wearing of hoods or other clothing that obscures the driver's vision or their identity

The above lists are not exhaustive and Authorised Officers of the Council will assess whether standards of dress are acceptable or not. In such instances, the Officer's decision will have effect as though it were included in the above lists and the licensed driver will be required to comply accordingly.

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## **Appendix D - Code of Conduct when working with vulnerable passengers**

A vulnerable passenger is a person whose age or disability means that they are more susceptible to harm than a typical passenger. This may be a child, elderly person and someone with learning difficulties for example. It can include someone who is vulnerable due to an excessive level of intoxication.

The code of conduct aims to promote good safeguarding practice for drivers and staff working with vulnerable passengers in the taxi or private hire trade. Licensed drivers should adopt the following practices:

Drivers should carry photo ID at all times and wear it in accordance with the conditions of licence/byelaws

The driver/operator must confirm that appropriate provision has been made for the vulnerable person prior to accepting the booking or commencing the journey. This does not necessarily mean that the driver/operator is responsible for the provision of appropriate measures however they should check that they are in place.

When making a journey with vulnerable passengers photo identification should be produced to the carer responsible for the vulnerable person. If necessary you should obtain a record of the carer's contact details if there is no chaperone.

If a vulnerable passenger is refused service a responsible person should be informed so that alternative arrangements can be made. For example this situation may arise if the customer has an assistance dog and the driver has a medical exemption granted by the Council.

Always ask if a vulnerable person needs help do not assume

Drivers should remain professional at all times and should not:

- Touch a vulnerable person inappropriately
- Make offensive or inappropriate comments (such as the use of swearing or sexualised or discriminatory language)
- Behave in a way that may make a vulnerable passenger feel intimidated or threatened
- Attempt to misuse personal details obtained via the business about a vulnerable person.

A log should be maintained by drivers where a service has been provided to a vulnerable passenger including any incidents occurring/actions taken or refusals of service.

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If you are concerned about the safety, welfare or behaviour of a vulnerable person you should report this to the police by telephoning 101 (or in appropriate cases by calling 999)

If you are concerned about someone else's conduct you should report your concerns to the Council's licensing department 01253 478343, the police on 101 or Crimestoppers 0800 555111