

## **POLICY ON THE SUSPENSION, REVOCATION OR REFUSAL TO RENEW HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES**

### **INTRODUCTION**

Tewkesbury Borough Council has to be satisfied that those persons who hold licences to drive hackney carriage and/or private hire vehicles are fit and proper persons to do so.

The fitness and propriety of a person will be assessed before a licence is issued to a person, however the Council also needs to keep the fitness and propriety of licence holders under review after a licence is granted as circumstances may change and the person may no longer be deemed a fit and proper person to hold a licence.

Licence holders are required by the conditions of their licences, to notify the Council of any convictions, cautions or fixed penalties that they receive. Licence holders are also required to notify the Council of any pending court cases and if they develop any health or medical issues that may affect their fitness as a driver.

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 gives Tewkesbury Borough Council the power to suspend, revoke or (on application) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds-

- **That since the grant of the licence they have been convicted of an offence involving dishonesty, indecency or violence.**
- **That since the grant of the licence they have been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976.**
- **Any other reasonable cause**

Each case will be decided on its own merits. Although an applicant may have received convictions, cautions or fixed penalties that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision. The Council may take into account anything they consider relevant to the decision being taken.

## **GUIDELINES RELATING TO THE SUSPENSION, REVOCATION OR REFUSAL TO RENEW HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES**

### **1. GENERAL**

- 1.1 Each case will be decided on its own merits and with reference to the Council's "Policy on the Relevance of Convictions for Hackney Carriage and Private Hire Drivers."
- 1.2 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.
- 1.3 The following examples afford a general guide on the action which might be taken when considering the continuing suitability of a person to hold a licence.

### **2. LICENCE HOLDER CONVICTED OF AN OFFENCE INVOLVING DISHONESTY, INDECENCY OR VIOLENCE**

- 2.1 Where an existing licence holder is convicted of an offence involving dishonesty, indecency or violence they will normally be referred to a Licensing Sub-Committee who will consider whether to take any steps in relation to the licence.
- 2.2 The Licensing Sub-Committee will then have regard to all the circumstances including:-
  - The seriousness of the offence (including the sentence imposed)
  - Whether the offence was committed whilst acting as a hackney carriage or private hire driver
  - Any previous convictions, cautions or fixed penalties received
  - The licence holder's previous compliance record
  - Evidence of previous good character
  - Any mitigating factors involved in the commission of the offence
- 2.3 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-
  - Issue a warning to the licence holder about their future conduct.
  - Suspend the licence
  - Revoke the licence
  - Refuse to renew the licence (if such an application is being considered)

**3. LICENCE HOLDER CONVICTED OF AN OFFENCE UNDER OR HAS FAILED TO COMPLY WITH THE PROVISIONS OF THE TOWN POLICE CLAUSES ACT 1847 OR PART TWO OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

3.1 Where an existing licence holder is convicted of an offence under, or has failed to comply with the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976, they will normally be referred to a Licensing Sub-Committee who will consider whether to take any steps in relation to the licence.

3.2 The Licensing Sub-Committee will then have regard to all the circumstances including:-

- The seriousness of the offence (including the sentence imposed)
- Whether the offence was committed whilst acting as a hackney carriage or private hire driver
- Any previous convictions, cautions or fixed penalties received
- The licence holder's previous compliance record
- Evidence of previous good character
- Any mitigating factors involved in the commission of the offence

3.3 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-

- Issue a warning to the licence holder about their future conduct.
- Suspend the licence
- Revoke the licence
- Refuse to renew the licence (if such an application is being considered)

**4. "ANY OTHER REASONABLE CAUSE"**

**4.1 Convictions, Cautions or Fixed Penalties for Driving Offences**

4.1.1 A licence holder receiving a conviction, caution or fixed penalty for a major driving offence will normally be referred to a Licensing Sub-Committee who will consider whether to take any steps in relation to the licence.

4.1.2 A licence holder receiving convictions, cautions or fixed penalties for minor driving offences will normally be issued with a written warning by the Licensing Officer. If however a licence holder receives 9 or more penalty points on their driving licence in a period of 12 months they will normally be referred to a Licensing Sub-Committee. The Licensing Sub-Committee will then consider whether to take any steps in relation to the licence.

4.1.3 A list of offences deemed to be major and minor driving offences can be found at Annex A to this policy.

4.1.4 The Licensing Sub-Committee will then have regard to all the circumstances including:-

- The seriousness of the offence(s) (including the sentence(s) imposed)
- Whether the offence(s) were committed whilst acting as a hackney carriage or private hire driver
- Any other previous convictions, cautions or fixed penalties received
- The licence holder's previous compliance record
- Evidence of previous good character
- Any mitigating factors involved in the commission of the offence(s)

4.1.5 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-

- Issue a warning to the licence holder about their future conduct.
- Suspend the licence
- Revoke the licence
- Refuse to renew the licence (if such an application is being considered)

4.1.6 Where the licence holder has been disqualified from driving by the Courts as a result of any convictions, cautions or fixed penalties received, the Licensing Sub-Committee will always revoke the licence held to drive hackney carriage or private hire vehicles.

## **4.2 Convictions, Cautions or Fixed Penalties for Other Offences**

4.2.1 If a licence holder receives a conviction, caution or fixed penalty for any other offence not covered in the guidelines above they may be referred to a Licensing Sub-Committee.

4.2.2 The Licensing Sub-Committee will then have regard to all the circumstances including:-

- The seriousness of the offence (including the sentence imposed)
- Whether the offence was committed whilst acting as a hackney carriage or private hire driver
- Any other previous convictions, cautions or fixed penalties received
- The licence holder's previous compliance record
- Evidence of previous good character
- Any mitigating factors involved in the commission of the offence

4.2.3 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-

- Issue a warning to the licence holder about their future conduct.
- Suspend the licence
- Revoke the licence
- Refuse to renew the licence (if such an application is being considered)

### **4.3 Licence Holder Charged With, or Arrested on Suspicion of Offences**

- 4.3.1 The presumption of innocence is an important doctrine in English law. It is a fundamental right that a person charged with a criminal offence shall be presumed innocent until proved guilty according to law. Therefore in normal circumstances no action will be taken against a licence holder until they are convicted or accept a caution or fixed penalty for any offence.
- 4.3.2 However all public authorities have a duty to balance the rights of individuals against the duty to protect children, vulnerable adults and the wider public, therefore we reserve the right to refer to a Licensing Sub-Committee any relevant notifications concerning a licence holder being arrested on suspicion of any offence.
- 4.3.3 The offences to which this paragraph applies will include any offences involving violence or sexual offences and any other offences where the safety of children or vulnerable adults and the wider public could be considered as being at risk.
- 4.3.4 The Licensing Sub-Committee will then have regard to all the circumstances which will include but not be restricted to:-
- The seriousness and circumstances of the alleged offence
  - The potential risk to children, vulnerable adults and the wider public
  - Whether the offence is alleged to have been committed whilst the licence holder was acting as a hackney carriage or private hire driver
  - Any previous convictions, cautions or fixed penalties received
  - The licence holder's previous compliance record
  - Evidence of previous good character
- 4.3.5 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-
- Issue a warning to the licence holder about their future conduct.
  - Suspend the licence
  - Refuse to renew the licence
  - Revoke the licence

### **4.4 Breaches of Licence Conditions**

- 4.4.1 Hackney carriage and private hire driver licences are granted subject to certain conditions, which must be complied with.
- 4.4.2 An isolated breach of a licence condition will normally only result in the licence holder being issued with a written warning by the Licensing Officer.
- 4.4.3 Multiple, repeated or serious breaches of licence condition will result in the licence holder being referred to a Licensing Sub-Committee for consideration.
- 4.4.4 The Licensing Sub-Committee will then have regard to all the circumstances including:-

- The seriousness of the breach(s)
- Any previous convictions, cautions or fixed penalties received
- The licence holder's previous compliance record
- Evidence of previous good character
- Any mitigating factors involved in the commission of the breach(s)

4.4.5 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-

- Issue a warning to the licence holder about their future conduct.
- Suspend the licence
- Revoke the licence
- Refuse to renew the licence (if such an application is being considered)

#### **4.5 Concern Over Medical Fitness**

4.5.1 Hackney carriage and private hire drivers are required to notify the Council if they develop any health or medical issues that may affect their fitness as a driver.

4.5.2 In such circumstances the licence holder may be referred to a Licensing Sub-Committee at the discretion of the Licensing Officer where the issue is likely to affect the licence holder in the long term.

4.5.3 The Licensing Sub-Committee will then have regard to all the circumstances including:-

- The seriousness of the medical condition
- Any previous ill health suffered by the licence holder
- Any reports supplied by medical practitioners
- The likelihood and anticipated timeframe for recovery

4.5.4 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-

- Require the licence holder to undertake a medical examination
- Suspend the licence
- Revoke the licence
- Refuse to renew the licence (if such an application is being considered)

### **5. RIGHTS OF APPEAL AND IMMEDIATE SUSPENSION / REVOCATION**

5.1 Under section 61(3) of the Local Government (Miscellaneous Provisions) Act 1976 any person aggrieved by a decision to suspend, revoke or refuse to renew a private hire driver's licence, may appeal to a magistrates court.

5.2 Where an appeal is lodged against a decision to suspend, revoke or refuse to renew a driver's licence, Section 77 of the Act prevents such decision taking

effect until the appeal is disposed of. Therefore a licence holder will be able to continue driving hackney carriage or private hire vehicles until 21 days after the Notice of the decision is given to them (unless an appeal is lodged, and then until the appeal is determined)

- 5.3 Section 61 has subsequently been amended by Section 52 of the Road Safety Act 2006 to enable the suspension or revocation to take place with immediate effect [section 61(2B)] if it appears that this is in the interests of public safety. The Notice of suspension/revocation must state that this is so, and give an explanation of why an immediate suspension or revocation is required. In these circumstances the driver concerned would have no right to continue driving even if they were to lodge an appeal against the decision (unless/ until an appeal is upheld).
- 5.4 In deciding whether or not a suspension or revocation should have immediate effect the Licensing Sub-Committee will have regard to all the circumstances including:-
- The seriousness of the risk to public safety
  - The fact that the licence holder may suffer financial hardship whilst waiting for their appeal to be heard.

## **ANNEX A**

### **MAJOR TRAFFIC OFFENCES**

- AC10 Failing to stop after an accident
- AC20 Failing to give particulars or to report an accident within 24 hours
- AC30 Undefined accident offences
- BA10 Driving while disqualified by order of court
- BA30 Attempting to drive while disqualified by order of court
- CD10 Driving without due care and attention
- CD20 Driving without reasonable consideration for other road users
- CD30 Driving without due care and attention or without reasonable consideration for other road users
- CD40 Causing death through careless driving when unfit through drink
- CD50 Causing death by careless driving when unfit through drugs
- CD60 Causing death by careless driving with alcohol level above the limit
- CD70 Causing death by careless driving then failing to supply a specimen for analysis
- CD80 Causing death by careless, or inconsiderate, driving
- CD90 Causing death by driving: unlicensed, disqualified or uninsured drivers
- DD40 Dangerous driving
- DD60 Manslaughter or culpable homicide while driving a vehicle
- DD80 Causing death by dangerous driving
- DR10 Driving or attempting to drive with alcohol level above limit
- DR20 Driving or attempting to drive while unfit through drink
- DR30 Driving or attempting to drive then failing to supply a specimen for analysis
- DR40 In charge of a vehicle while alcohol level above limit
- DR50 In charge of a vehicle while unfit through drink
- DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
- DR70 Failing to provide specimen for breath test
- DR80 Driving or attempting to drive when unfit through drugs
- DR90 In charge of a vehicle when unfit through drugs
- IN 10 Using a vehicle uninsured against third party risks
- LC20 Driving otherwise than in accordance with a licence
- LC30 Driving after making a false declaration about fitness when applying for a licence
- LC40 Driving a vehicle having failed to notify a disability
- LC50 Driving after a licence has been revoked or refused on medical grounds
- MS50 Motor racing on the highway
- MS60 Offences not covered by other codes
- UT50 Aggravated taking of a vehicle

Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)

Causing or permitting offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)

Inciting offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16)



## **MINOR TRAFFIC OFFENCES**

- MS10 Leaving a vehicle in a dangerous position
- MS20 Unlawful pillion riding
- MS30 Play street Offences
- MS70 Driving with uncorrected defective eyesight
- MS80 Refusing to submit to an eyesight test
- MS90 Failure to give information as to identity of driver, etc.
- MW10 Contravention of Special Road Regulations (excluding speed limits)
- PC10 Undefined contravention of Pedestrian Crossing Regulations
- PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle
- PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle
- TS10 Failing to comply with traffic light signals
- TS20 Failing to comply with double white lines
- TS30 Failing to comply with a "Stop" sign
- TS40 Failing to comply with direction of a constable or traffic warden
- TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
- TS60 Failing to comply with school crossing patrol sign
- TS70 Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16)

## **HYBRID TRAFFIC OFFENCES**

- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.
- CU30 Using a vehicle with defective tyre(s)
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- CU80 Using a mobile phone while driving a motor vehicle
- SP10 Exceeding goods vehicle speed limit
- SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- SP30 Exceeding statutory speed limit on a public road
- SP40 Exceeding passenger vehicle speed limit
- SP50 Exceeding speed limit on a motorway

Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)