

**POLICY ON THE ASSESSMENT OF THE CRIMINAL CONVICTIONS,  
CONDUCT AND BEHAVIOUR OF INDIVIDUALS**

**1.1 Introduction**

- 1.1.1 The Council must be satisfied that an individual is a 'fit and proper' person to drive or operate a private hire or hackney carriage vehicle, or suitable to be licensed to own one. The Council's Policy is set out in this appendix applies to applicants for new licences, those renewing and those holding a licence subject.
- 1.1.2 This Policy applies to criminal convictions and driving endorsements, as well as in relation to any other information about an individual's character or conduct of which the Council may at any time be aware of.
- 1.1.3 A person's record of any criminal and driving offences and general history of behaviour is an essential requirement to ensure that an individual does not pose a threat to the safety of public. An individual's past conduct reflects, their choices and decisions at a particular point in time. These choices and decisions reflect an individual's understanding of right and wrong, their consideration of acceptable risk versus reward, their honesty, integrity, morality, prejudices as well as their physical and mental abilities to carry out a particular role.
- 1.1.4 An individual's past conduct can be indicative of how an individual may choose to behave in future or in certain situations. This is not an exact science and an assessment of an individual by the Council has to take into account the risk to the public should an individual behave in a manner in which they have previously demonstrated is part of their character. The more significant the risk to the public the more wary the Council will be to grant a licence.
- 1.1.5 A person who has been convicted of a criminal offence shall not be prevented from applying to the Council and requesting consideration of their application. An individual need not be permanently barred from ever obtaining a licence but is expected to remain free of conviction for a duration commensurate with the seriousness of the offence in order to evidence to the Council that they are no longer likely to behave in such manner again and do not pose a danger to the public.
- 1.1.6 Simply remaining free from convictions will not generally be regarded as sufficient evidence that a person is a 'fit and proper' person to hold a licence. The overriding consideration is the protection of the public and for some offences the duration in which a person will be expected to be free from conviction is significant.
- 1.1.7 Some offenses are so serious that Hertsmere residents would not expect their Council to grant a licence to someone convicted of them. Those with serious violent or sexual offences, on the DBS barring list for working with children or adults or on the sex offenders register should expect to never to be licensed by the Council. This is because repeat behaviour would have such devastating consequence to the public that no period free of conviction is considered sufficient to justify the risk.

- 1.1.8 Hackney-carriage and private-hire drivers are listed as regulated occupations in the Rehabilitation of Offenders Act 1974 (Exceptions) Order (Amendment) (No 2) 2002 and the Council is able to request sight of an Enhanced criminal record disclosure which will reveal all convictions, including those that are spent, as well as any information that the Police have that may be considered by them to be relevant to the Council's consideration.
- 1.1.9 Private hire operators and vehicle proprietors are not required to provide an enhanced disclosure – however the Council can still consider any spent convictions relevant to such individuals where they are known.
- 1.1.10 **All** types of criminal offences are relevant regardless of the offence, sentence or age at the time of commission. For the purpose of the timescales expressed in **these** guidelines, cautions, driving endorsements and fixed penalties will be treated as convictions and the term “conviction” should be read as applying to them in the same manner.
- 1.1.11 The Council will also take into account the number of convictions irrespective of category; the number of counts on a conviction; the sentencing Court concerned; and the sentence imposed. Reference to Magistrates / Crown Court guidelines may be considered.
- 1.1.12 The Council will investigate and review the licence of any person convicted of an offence and may suspend or revoke, or refuse to renew a licence, in such instances.
- 1.1.13 The guidelines in this appendix apply the same to any licence holder convicted of an offence whilst licenced or when applying to renew and should be construed accordingly. For example, if an offence stated will result in the refusal of a new application it should be read that it shall also result in the refusal of a renewal application or the revocation or suspension of a licence that has been granted.
- 1.1.14 This offence listed in this appendix are not exhaustive and any Offence stated in this part should be read as including all offences similar to it, any offence that replaces it, the attempt or conspiracy to commit it, or the aiding, abetting and procuring of it.
- 1.1.15 The Council takes a serious view of all criminal offences but, given the purpose of the licences it will grant, convictions for driving, dishonesty, violent or sexual offences will be of particular concern.
- 1.1.16 Individual convictions will be considered on their own merits as well as in context with any other convictions. The cumulative effect of more than one conviction will be considered and a further period of time without further offence than those stated in this appendix will be necessary.
- 1.1.17 The Council is aware that the test of fit and proper that applies to drivers is different to that of Operators, and there is no set statutory test for proprietors. Except where stated specifically in this appendix appropriate adjustment may be made on the individual merits of a case taking into account the different role of an operator and proprietor.

## **2 DRIVING OFFENCES**

- 2.1.1 The Council acknowledges that the DVLA distinguishes between minor traffic offences and major traffic offences. The table at the end of this appendix lists all present DVLA driving offences and whether they are major or minor. The Council shall also adopt this distinction but recognises that regardless of whether an offence is classed as major or minor, it is still an offence resulting from an individual has falling below the required legal standard for a driver.
- 2.1.2 The use of the word “minor” should not be taken to indicate that the Council treat such matters as trivial. Given the nature of the work carried out by licensed drivers, their customers and the Council expect licence holders to have a suitable standard of driving. Therefore any offence is of concern.
- 2.1.3 References to penalty points and endorsements in this part mean those imposed by the DVLA on a driving licence issued by the DVLA.

### **2.2 History of offending**

- 2.2.1 A record of endorsements (spent or otherwise) will be a relevant consideration when determining applications or reviewing licences. The number, frequency and nature of all endorsements will be considered cumulatively. If in the opinion such history indicates to the Council that a driver is either careless, irresponsible or does not respect the rules and regulations applicable to road users the Council will consider the applicant or licence holder to not be fit and proper to hold a licence, regardless of how many points, if any, are on an individual’s licence at any one time.

### **2.3 Minor Traffic Offences**

- 2.3.1 If a new applicant has six or fewer unspent penalty points on their driving licence for minor traffic offences a licence will still be granted on the basis that they will have passed the taxi driving test as part of the application process. They will be given a clear and strong warning about their duties if a licence is granted and that any further endorsements would put them at risk of revocation or suspension.
- 2.3.2 The above is subject to their being no other concerns (whether taken separately to, or cumulatively with, their driving endorsements) or a pattern of driving endorsements that prevent the Council from being satisfied that the individual is fit and proper.
- 2.3.3 However, if an individual has previously taken the advanced taxi driving test and has subsequently reached 6 penalty points since that test, the application will not be granted unless a further test has been passed.
- 2.3.4 An applicant with 9 or more penalty points for minor offence will not be granted a licence.
- 2.3.5 An applicant that has been disqualified from driving under the DVLA totting up procedure (having received 12 DVLA points within 3 years) will not be granted a licence unless they:

- a. Have had have their DVLA driving licence reinstated for at least 12 months before application;
- b. Have received no further driving endorsements since their DVLA licence was reinstated.
- c. Have passed the advanced driving test;

2.3.6 An applicant who has reached 12 points in 3 years under the DVLA totting up procedure but retained their licence on hardship grounds will not be considered for a licence unless at least 12 months have elapsed in which they have received no further endorsements, they have no more than 6 points showing remaining on their DVLA licence at the time of application and they have passed the relevant driving test.

2.3.7 Where the Council is aware that an individual has received a non-endorsable fixed penalty notice (i.e. does not result in penalty points on a DVLA licence) it will still take these into account.

2.3.8 A disqualification from driving on more than one occasion is strong evidence that an individual is not suitable to be licensed.

## **2.4 Major Traffic offences**

2.4.1 The Council is unlikely to consider it suitable to licence someone to work as a professional driver where they have been convicted of a driving offence that has resulted in the loss of life. Such offences include:

- a) Causing death by dangerous driving;
- b) Causing death by careless driving whilst under the influence of drink or drugs;

2.4.2 If a period of at least 10 years has elapsed since the completion of any sentence given and there has been no further offence, an applicant may be considered suitable dependent upon the Council's consideration of any relevant mitigation.

2.4.3 An applicant convicted of a major traffic offence such as Dangerous Driving or Reckless driving that has not resulted in the loss of life but has resulted in other significant harm or injury to a member of the public must be 10 years clear of any sentence before the Council could justify giving serious consideration to any relevant mitigation.

2.4.4 Dangerous or reckless driving clearly poses a risk to the public and the absence of injury or death is likely to fortuitous rather than due to any conscious choice or act by the individual. Any count of danger our reckless driving will require at least 7 years to elapse since the date of conviction.

2.4.5 Other major traffic offences relate to either significantly poor standards of driving, acts of dishonesty or lack of regard to other road users. An applicant should be at least 5 years clear of any such offence not specifically stated in this appendix.

## **2.5 Driving offences committed by licensed drivers**

- 2.5.1 The Council expects that the drivers it has licensed to drive members of the public in a private hire or hackney carriage vehicle to drive sensibly, safely and lawfully at all times.
- 2.5.2 Any driver who is convicted of a Major traffic offence will have their licence revoked.
- 2.5.3 Any driver who incurs 6 or more penalty points on their DVLA licence within any 3 year period, after having being deemed fit and proper by the Council will have their licence "reviewed." The driver may be required to either re-take the advanced driving test, the Council's knowledge test or both - unless more serious concerns are present.
- 2.5.4 A licensed driver who has 9 DVLA points on their licence at any one time is of significant concern. As a minimum the driver will be expected to retake the advanced driving test and the Councils knowledge test and may be suspended until these are completed. However, if the Council has already attempted to rectify the drivers standard of driving by requiring the completion of a test previously the licence will be revoked.
- 2.5.5 An individual already working as a licensed driver who reaches 12 DVLA points shows a significant disregard for their duties and lack of responsibility They will have their licence revoked even if they have retained their DVLA licence on 'hardship' grounds. A period of at least 3 years should elapse before they would be considered suitable.

#### **2.5.6 Insurance Offences**

- 2.5.7 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 the applicant has been free of conviction (from the date of the completion of any sentence) for 3 years; however, a strict warning will be given as to future behaviour.
- 2.5.8 A licence will not normally be granted if an applicant has more than 1 conviction for an insurance related offence.
- 2.5.9 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst there is no insurance in place will normally have their operator licence revoked immediately and be prevented from holding a licence for a period of at least 3 years.

#### **2.6 Driving while unfit through Alcohol or of Drugs (including medication)**

- 2.6.1 An applicant convicted of an offence of driving, attempting to drive, or being in charge of, a motor vehicle unfit through alcohol or with alcohol levels in the blood, breath or urine above the legal limit will not be licensed until at least 7 years elapsed following the restoration of their DVLA driving licence.
- 2.6.2 An applicant convicted of an offence of driving, attempting to drive, or being in charge of, a motor vehicle when unfit through drugs or with drug levels in the blood, breath or urine above the legal limit not be licensed until at least 7 years elapsed following the restoration of their DVLA driving licence.

2.6.3 A licence will not be granted where there is more than 1 conviction for an offence of this type.

## **2.7 Operators and Proprietors**

2.7.1 The Council recognises that the role of an operator or proprietor will not be to drive a licensed vehicle and pose an imminent danger to the public by their driving standard. Where an operator or proprietor is also a driver, it is likely that any necessary action will be taken in respect to the drivers licence instead.

2.7.2 Convictions for traffic offences will still be considered in respect to the overall suitability of an individual (i.e. honesty) or those that call into question the operators or proprietors judgement of vehicle safety standards (i.e. using a vehicle with defective brakes). Where an Operator or Proprietor has been convicted of a major traffic offence that is not related to the standard of driving and instead shows dishonesty, disregard for the law or for public safety a licence will not be granted unless 5 years have elapsed.

## **3 SEX AND INDECENCY OFFENCES**

3.1.1 Licensed drivers carry unaccompanied and/or vulnerable passengers and therefore the Council will not grant a licence where the applicant has been convicted of:

- 1) Rape
- 2) Assault by penetration
- 3) Offences involving children or vulnerable adults
- 4) Sexual assault
- 5) Indecent assault
- 6) Possession of indecent photographs, child pornography etc.
- 7) Exploitation of prostitution
- 8) Trafficking for sexual exploitation
- 9) Trafficking for prostitution;
- 10) Trafficking for exploitation
- 11) Indecent exposure
- 12) Similar or replacement offences to those listed above (including attempted or conspiracy to commit);

3.1.2 A licence will not be granted to any person on the sex offenders register or who is on the DBS barred list for working with children or adults.

3.1.3 The Council is prepared to consider an application from an individual convicted of any of the below offences after a period of at least 10 years has elapsed without further offence:

- 1) Soliciting or loitering for the purpose of prostitution
- 2) Importuning;
- 3) Offences of holding obscene material

3.1.4 The Council recognises that the commission of such offences are often reflective of an individual's perspective that the other parties that are the subject to the

solicitation or obscene material are of less worth or value in society. Therefore, when considering if to grant a licence to someone convicted of an offence in para 3.1.2 the Council will also consider the impact of the individuals' offence on others in society and will expect to be satisfied that the applicant is capable of valuing all members of society and shall not discriminate in anyway.

- 3.1.5 The Council will revoke the licence of any license holder convicted of any of the above offences. Any person who has committed such offences poses a significant and serious risk to the public.

## 3.2 Operators and Proprietors

- 3.2.1 The Council considers all of the above offences to be of such serious nature that it will apply the same criteria in paragraph 3.1.1 to 3.1.5 to applicants for a licence to operate or own a licensed vehicle.

## 4 Violence

- 4.1.1 A Licence will not be granted to any person convicted of the following offences:

- 1) Murder;
- 2) Manslaughter;
- 3) Manslaughter or culpable homicide while driving;
- 4) Terrorism offences;
- 5) Arson with intent to endanger life;
- 6) Kidnapping;
- 7) Similar or replacement offences to those listed above (including attempted or conspiracy to commit).

- 4.1.2 The Council will not grant a licence to any person who has, in the 10 years prior to an application, been convicted of:

- 1) Arson;
- 2) Threats to kill;
- 3) Wounding with intent to cause grievous bodily harm;
- 4) Grievous bodily harm;
- 5) Robbery;
- 6) Possession of a weapon;

- 4.1.3 Unless there are sufficient mitigating circumstances an applicant with more than one conviction for the above will not be licensed.

- 4.1.4 The Council will not grant a licence to any person who has, in the 5 years prior to an application, been convicted of:

- 1) Common assault;
- 2) Assault occasioning Actual Bodily Harm;
- 3) Affray;
- 4) Assault with intent to resist arrest;
- 5) Assault on Police;
- 6) Public Order offences;
- 7) Criminal Damage;
- 8) Harassment;

- 9) Similar or replacement offences to those listed above (including attempted or conspiracy to commit).

4.1.5 Unless there are sufficient mitigating circumstances an applicant with more than one conviction for the above will not be licensed for at least 10 years.

## **4.2 Domestic Violence**

**4.2.1** The Council takes allegations of domestic violence against licence holders seriously. Instances of domestic violence indicates that an individual does not treat someone whom they are expected to love and care for with appropriate respect. Such instances also involve the abuse of a position of power, or bullying, by one party over a person who is physically or emotionally weaker, or dependant on the abuser. This undermines the trust that the Council can have in that individual to appropriately safeguard vulnerable people who may be conveyed by that driver.

**4.2.2** Allegations of domestic violence are difficult to prove and in cases where one party is dependant on the other financially or under social or family pressure, they may not be willing to provide a statement to the Police. It is therefore likely that reports to the Council about domestic violence issues will result from the police attending in respect to a third-party claim.

4.2.3 The Council cannot investigate these offences. An individual convicted of an offence of domestic violence will have their licence revoked. A new applicant with such a conviction will not have a licence granted for at least 5 years. A licence holder subject to more than one allegation of domestic violence will be investigated and have their licence reviewed.

## **4.3 Operators and Proprietors**

4.3.1 Individuals who have been convicted of offences involving violence pose a greater risk to the public when working as a driver than as an operator or vehicle proprietor. However, the offences set out in 4.1.1 are significant and a licence will not be granted to operate or own vehicles where an applicant has such a conviction.

4.3.2 Operators and proprietors must comply with a variety of regulatory requirements, work with enforcement officers, show due regard to the safety of the public and respect for their property and be trustworthy. The Council will therefore apply the same requirements for operators and proprietors as it does for drivers in respect to the following offences:

- 1) Arson;
- 2) Threats to kill
- 3) Robbery;
- 4) Assault with intent to resist arrest;
- 5) Assault on Police
- 6) Criminal Damage;
- 7) Harassment;

4.3.3 A lesser time period free of conviction than that set out for drivers may be acceptable in respect to any offences not referred to in 4.1.1. or 4.1.10, provided that the Council is satisfied that the offences do not indicate a disregard for the



welfare and safety of the public at large, that would be incompatible with the role of an operator or proprietor.

#### **4.4 Existing drivers**

4.4.1 Any act of violence committed by a licensed driver will normally result in the licence being revoked and the individual will not be considered fit and proper to hold a further licence with Hertsmere Borough Council.

### **5 DISHONESTY**

5.1 A licence will not be granted where an applicant has in the 10 years prior to an application been convicted of:

- 1) Robbery
- 2) Burglary
- 3) Theft (where a custodial sentence is served or suspended, abuse of position of responsibility or breach of trust)
- 4) Forgery
- 5) Fraud
- 6) Conspiracy to defraud
- 7) Any similar offences (including attempted or conspiracy to commit) offences which replace the above.

5.1.1 A licence will not be granted where an applicant has in the 5 years prior to an application been convicted of:

- 1) Benefit fraud
- 2) Driving whilst disqualified
- 3) Taking a vehicle without consent,
- 4) Handling or receiving stolen goods
- 5) Obtaining money or property by deception
- 6) Other deception
- 7) Tax

5.1.2 The above are minimum time periods. Where offences of dishonest have been committed as part of organised crime or with serious distress to victims the period may be longer.

5.1.3 An applicant with more than one conviction for an offence of dishonesty will be expected to be at least 10 years clear of the most recent conviction but may, never be considered fit and proper if there is a pattern of behaviour that cannot satisfy the Council that the individual will not take advantage of customers if the opportunity presents itself.

#### **5.1.4 Operators**

5.1.5 Dishonesty offences committed by an operator are of significant concern. An operator will not be licensed until they are at least 10 years clear of a conviction relating.

- 5.1.6 Any individual who has been disqualified as the director of a company will not be considered suitable to operate a business until such time as their disqualification period has ended. Even then, a further period of time may be expected.
- 5.1.7 An individual who has been convicted of any offences when acting in their capacity as a director of a company will not be licensed until they are at least 5 years clear.
- 5.1.8 Where an applicant for a licence is a company, or includes a director who has been involved in a company, that has been prosecuted for offences of fraud, bribery, false accounting, health & safety breaches, data protection breaches, negligence and manslaughter no licence will be granted.
- 5.1.9 Applicants involving an individual, company or director found to have committed offences filing their accounts late or failing to pay tax will not be licensed for at least 3 years.
- 5.1.10 Where an applicant for a licence is a company, or includes a director who has been involved in a company that, has been prosecuted for the commission of any other offences involving dishonesty a licence will not be granted for at least 10 years.

## **6 LICENSING AND OTHER REGULATORY OFFENCES**

- 6.1.1 The Council will not grant a licence to an applicant convicted of Licensing Offence (i.e. an offence under the 1847 Act, the 1976 Act, bye-laws, associated legislation or as a result of a breach of licensing conditions) until the applicant is at least 3 years clear of the conviction.
- 6.1.2 The Council will not grant a licence to an applicant convicted of an offence under any other regulatory regime (i.e. licensing, planning, food safety etc.) until the applicant is at least 1 year clear of the conviction. If the failure is due to the non-compliance with the provisions of a regulatory regime that has, or could have, undermined public safety the applicant must be 3 years clear of the conviction.
- 6.1.3 Warning letters (or any similar correspondence) issued to an applicant by another regulatory body maybe taken in account and no licence will be granted where the Council is not satisfied that the applicant will understand or comply with the requirements of the licensing regime.

### **6.2 Licensed Drivers**

- 6.2.1 The Council will review the licence of any individual found to be committing a licensing offence and a licence holder convicted of such an offence will have their licence revoked.
- 6.2.2 The Council recognises that the purpose of the licensing regime is to protect the public and not to “punish” individuals. A conviction may be sufficient to remind an individual of their duties and responsibilities. The Council may chose not revoke a licence if the licence holder:
- 1) has not previously been convicted an offence;
  - 2) has no other relevant convictions;
  - 3) has not previously been warned about the offence;
  - 4) admitted the offence and assisted officers with their investigation;

5) Satisfactorily passes the Councils training day and Knowledge test.

6.2.3 A licence holder who has their licence revoked will not be granted another licence until at least 3 years have elapsed.

#### **6.2.4 Suspension/Refusal/Revocation by another Licensing Authority**

6.2.5 An applicant who has been suspended/refused/revoked by another Licensing Authority is likely to also not be considered “fit and proper” by Hertsmere Borough Council. The Licensing Authority shall have a right to make enquiries to that other authority.

6.2.6 Applicants who already hold a licence with another licensing authority should not automatically assume that their application will be granted by Hertsmere Borough Council. Each case will be decided on its own merits.

6.2.7 Licence holders who are licensed by multiple authorities are expected to inform all authorities of who they are licensed by and to advise each authority of any changes in this respect. Applicants should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

### **7 CAUTIONS AND FIXED PENALTY NOTICES**

7.1.1 For the purpose of the timescales expressed in these guidelines, cautions, endorsements and fixed penalties will be treated as though they were convictions.

7.1.2 The Council recognises that cautions or fixed penalty notices are utilised for certain offences to deliver more efficient and effective justice where it is not in the public interest to prosecute. However, a person must admit that they committed the offence in order to be cautioned or to accept the penalty notice. As such it is right that the Council apply the same timescale as it would to a person convicted of the same offence.

7.1.3 An applicant subject to a current court order or injunction will not be granted a licence and the Council will expect an applicant to be at least 1 year clear of a court order or injunction and at least 3 years for any court order or injunction related to anti-social behaviour, harassment, violence or dishonesty before a licence is granted.

7.1.4 Fixed penalty notices issued in respect to driving offences are considered in part 2 above. An individual issued with one fixed penalty notice in relation to an environmental or antisocial behaviour matter will need to wait 6 months following the issue of such a notice to satisfy the council that it was a one-off indiscretion. More than one such notice or where other offences have been committed will indicate that a period of 12 months if not longer should be allowed to elapse before a licence is considered suitable.

7.1.5 Penalty notices for disorder, criminal damage and theft will be considered as convictions in line with the respective paragraphs above.

7.1.6 Penalty notices for selling alcohol to a person who is drunk or to a child indicate a concern about the individual ability to comply with regulatory regimes. Where the person committing the offence was a licence holder or in a position of

responsibility at the premises a period of 3 years should elapse or in any other case, 12 months.

## **8 NON-CONVICTION INFORMATION / CONDUCT**

- 8.1.1 Information presented to the Council as part of an enhanced DBS check that reveals information about an individual which did not result in a conviction will still be considered in line with the guidelines above.
- 8.1.2 However, applicants can also display conduct which is not necessarily criminal or does not result in charges being made. The Council accepts that it cannot know everything about an applicant and does not believe that it is proportionate for it to seek to uncover any conduct committed by an individual in private, published on the internet or in private communication with other people.
- 8.1.3 However, where the Council is aware that an individual has behaved in a manner, or expressed views that undermine the Council's confidence in that individual being able to provide a fair service to all members of the public, a licence will not be granted.
- 8.1.4 Conduct that will be of concern includes, but is not limited to, any form of prejudices based on age, race, religion, sex, sexual orientation, gender identity, disability or any conduct that is considered to incite hatred or discrimination against any section of the public.
- 8.1.5 The Council expects applicants and licence holders to be professional drivers and to have a professional relationship only with their customers. The Council will have understandable concerns about the intentions of a licence holder befriending passengers on social media or obtaining personal information such as telephone numbers etc.
- 8.1.6 Applicants who show any form of dishonesty in the application process will not be licensed, unless an Officer assesses that dishonesty was due to an administrative misunderstanding and not intended to, or could not have, concealed relevant information from the Council.
- 8.1.7 An applicant who fails to declare that they have been convicted of an offence, either before or during the application process. An applicant being investigated for an offence, or charged with an offence, during the application process is expected to bring the matter to the Council's attention. An applicant who fails to declare that they have previously held a licence under the 1976 or 1847 Acts, or that one has been revoked or suspended will have their application refused. Failure to do so will result in their application being refused, any licence granted revoked and prosecution for the criminal offence of making a false statement to the Council.
- 8.1.8 Existing licence holders applying to renew a licence must also re-state any convictions previously received, even if they told the Council before.
- 8.1.9 Cheating or improper conduct in relation to the Councils training day and knowledge test will result in refusal.

## **9 AGGRAVATING FEATURES**

- 9.1.1 When considering if an individual is suitable to be licensed following a conviction the Council will also consider if there are aggravating features that suggest a further period of time is necessary to elapse beyond the periods indicated above, before a licence will be granted.
- 9.1.2 The Council will expect an additional period of time beyond those stated above to have elapsed, where offences have been committed that were motivated by, or demonstrated, hostility based on any of the following religion, race, disability, sexual orientation or transgender identity or with the purpose of degradation of an individual for such purposes;
- 9.1.3 The Council will also expect a further period of time to elapse than that set out above if the offences committed involved:
- a) the abuse of a position of trust;
  - b) the use of a licensed vehicle or driver;
  - c) multiple victims
  - d) vulnerable victims or the deliberate targeting of a vulnerable victim
  - e) an intention to commit more serious harm, or the likely possibility of more serious harm occurring, than that which actually resulted from the offence;

## **10 ALCOHOL AND DRUGS**

- 10.1.1 The influence of alcohol or drugs are not considered to be a mitigating factor when applying the criteria of this appendix. An applicant convicted of offence that is not considered elsewhere in this appendix and involves alcohol or drugs as a cause will not be considered fit and proper for a period of at least 12 months from the date of conviction.
- 10.1.2 More than one conviction for offences involving alcohol or drugs may indicate a clinical alcohol or drug dependency. Particular if the offences are recent or spread over a period of time. The Council cannot diagnose such addiction or dependency and where there is an indication that a person has suffered, or currently suffers from, clinical alcohol dependence will be refused.
- 10.1.3 An applicant may undergo a special medical examination at their own cost to satisfy the Council that clinical alcohol or drug dependence is not the case. The Council will not licence any person until at least 5 years after the completion of medical treatment.
- 10.1.4 The Council will not grant a licence to an applicant convicted of possessing drugs until at least 3 years has elapsed since the date of conviction.
- 10.1.5 The Council will not grant a licence to an applicant convicted of the supply of drugs until at least 3 years has elapsed since the date of conviction.
- 10.1.6 An applicant convicted of more than one offence of the supply of drugs will not be licensed.
- 10.1.7 An applicant who has served more than 3 years in custody will be expected to undergo a longer period of time than that indicated above.

## **11 ALLEGATIONS AGAINST THOSE HOLDING LICENCES**

- 11.1.1 Where an allegation or complaint is made about a licensed driver the Council will investigate and review that licence. Allegations made about an individual applying for a licence (or renewing a licence) will result in the application either being refused or held in abeyance until the matter is resolved.
- 11.1.2 The Council recognises that an individual is innocent until proven guilty and whilst an allegation may not be true, the Council's overriding responsibility is to the safety of the public. The Council must therefore consider the potential risk to the public should a driver continue to be licensed if the conduct alleged is likely to be repeated.
- 11.1.3 This appendix sets out durations in which an individual should be free from conviction before a licence is granted. This is to allow the Council to be satisfied that there will not be a repeat of the unlawful behaviour. Offences which the Council would normally expect 5 or more years to elapse before an individual is able to demonstrate that they are fit and proper are considered 'significant offences.'
- 11.1.4 An allegation that a licensed driver has committed a significant offence and/or caused harm to another person - whether a stranger, customer or family member in a manner that is violent, sexual or abusive in nature is an unacceptable risk to members of the public.
- 11.1.5 The Council cannot know whether the individual is guilty or not, and cannot "predict" that future harm would occur, but must base its decision on the balance of probabilities as to whether a) it is possible that the allegation is true and, b) if true, would the Council consider someone guilty of such an offence to not be a fit and proper person.
- 11.1.6 If the Council considers that on the balance of probabilities the allegation is possibly be true and would indicate the individual is not fit and proper the Council will suspend or revoke the licence. The Council will suspend or revoke a licence with immediate effect where a licence holder is alleged to have committed an offence which the Council considers to pose a significant risk to the public and it is in interest of public safety to act immediately.
- 11.1.7 In determining if an immediate suspension or revocation is reasonable the Council will consider first and foremost the seriousness of the offence alleged and if repeated, the consequences and harm to a member of the public.
- 11.1.8 The Council may further consider whether the licence holder has been charged, whether the licence holder notified the Council of the offence and the licence holders' previous criminal history or pattern of conduct.
- 11.1.9 Where an allegation about a licensed driver is being investigated by the Police or another agency and there is no immediate public safety risk the Council will wait until the conclusion of that investigation.