



Scan code to view reports

Monday, 1 August 2022

To All Councillors:

As a Member or Substitute of the **Licensing & Appeals Sub-Committee**, please treat this as your summons to attend a meeting on **Tuesday, 9 August 2022 at 10.30 am** in the **Council Chamber, Town Hall, Matlock, DE4 3NN**

Yours sincerely,

James McLaughlin
Director of Corporate and Customer Services

This information is available free of charge in electronic, audio, Braille and large print versions, on request.

For assistance in understanding or reading this document or specific information about this Agenda or on the “Public Participation” initiative please call the Committee Team on 01629 761133 or email committee@derbyshiredales.gov.uk

AGENDA

1. APOLOGIES FOR ABSENCE

Please advise the Democratic Services Team on 01629 761133 or email committee@derbyshiredales.gov.uk of any apologies for absence.

2. ELECTION OF A CHAIRMAN

Proposal that a Member of the Sub-Committee be elected Chairman.

3. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council’s Code of Conduct.

Those interests are matters that relate to money or that which can be valued in money, affecting the Member, her/his partner, extended family and close friends. Interests that become apparent at a later stage in the proceedings may be declared at the time.

4. EXCLUSION OF PUBLIC AND PRESS

At this point the Committee will consider excluding the public and press in order to At this point the Committee will consider excluding the public and press in order to consider its decision in private in accordance with the Hearing procedure.

5. TAXI / PRIVATE HIRE VEHICLE DRIVER LICENSING (Pages 3 - 28)

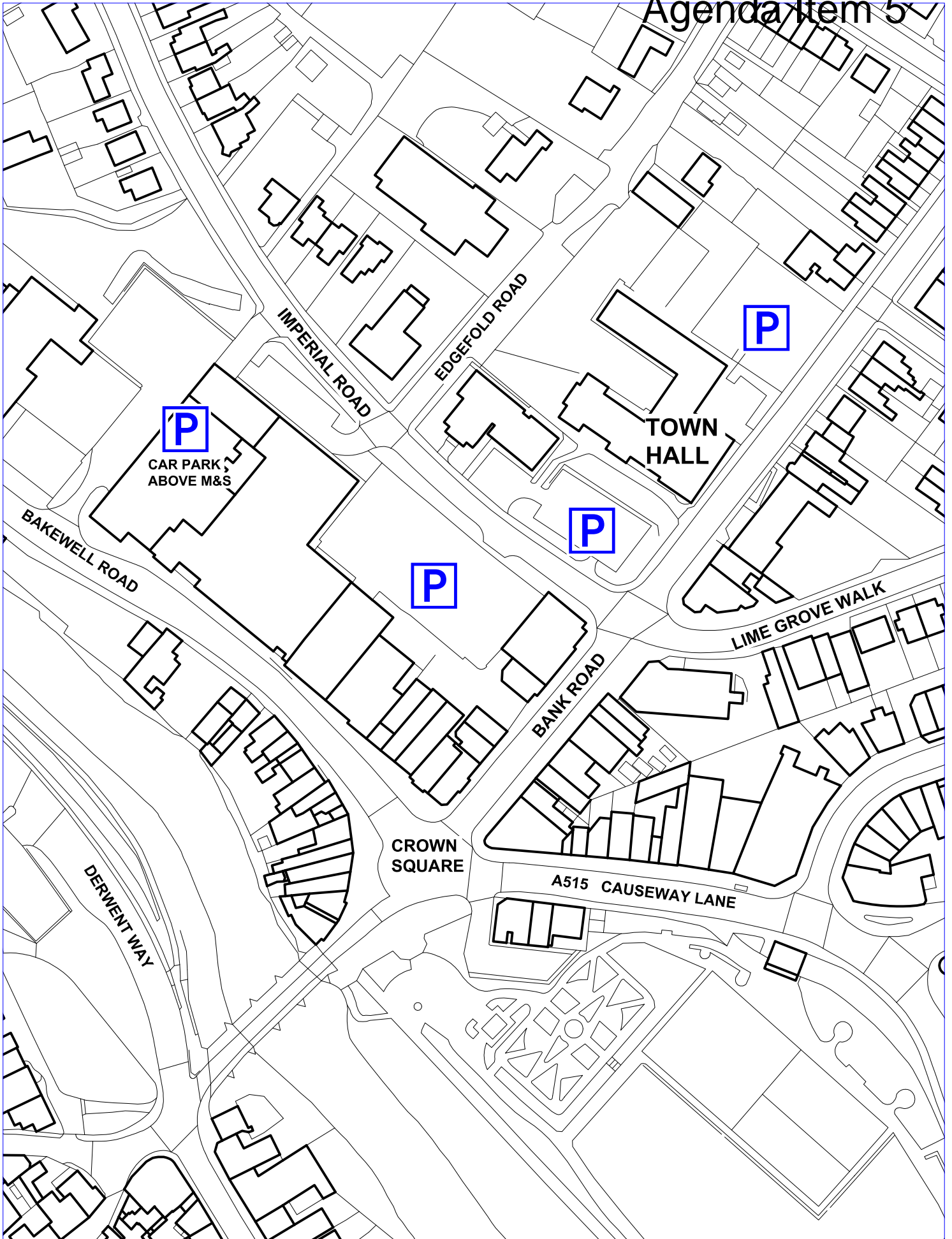
To determine whether Applicant A is a fit and proper person to hold a Licence to drive a Hackney Carriage / Private Hire Vehicle in Derbyshire Dales.

Members of the Committee - Councillors Graham Elliott, Andrew Statham and Mark Wakeman

Nominated Substitute – Councillor Steve Wain

NOTE

For further information about this Agenda or on “Public Participation” call 01629 761133 or email committee@derbyshiredales.gov.uk



This page is intentionally left blank

LICENSING AND APPEALS SUB-COMMITTEE

9th AUGUST 2022

Report of the Director of Regulatory Services

APPLICATION FOR TAXI/PRIVATE HIRE VEHICLE DRIVER'S LICENCE

PURPOSE OF REPORT

To determine an application received for a Combined Taxi/Private Hire Driver's Licence, which can be determined under powers delegated to Officers, as the Applicant has requested a deviation from the Policy and for the application to be referred to Committee, to be determined.

The legal issue to be determined by the Committee is whether **Applicant A** is a fit and proper person to hold a licence to drive Taxis (Hackney Carriages) and Private Hire Vehicles licensed by the District Council.

RECOMMENDATION

That the Committee determines whether **Applicant A** is a fit and proper person to hold a licence to drive a Private Hire Vehicle.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime contributes towards the District Council's priority of a thriving district, particularly in relation to business growth and job creation. Effective enforcement of this regime contributes to our vision of a distinctive rural environment with towns and villages that offer a high quality of life.

1 BACKGROUND

1.1 The Application

An application has been received for a new Combined Hackney Carriage (Taxi)/Private Hire Vehicle Driver's Licence.

1.2 The application procedure is a 2-part process. Part 1 requires the applicant to sit the District Council's Driver's Knowledge Test and secure an 80% pass in each of the required sections. Applicants are required to answer questions about the Highway Code and Driving Standards; to be able to identify the locations of specific premises/businesses and points of interest in the Derbyshire Dales, and to be fully conversant with the requirements of the District Council's Taxi & Private Hire Licensing Policy.

1.4 The second part of the process requires that before an application can be determined, the Council must receive a completed application, a DVLA driver's record report, an enhanced criminal record check from the Disclosure and Barring Service (DBS), a satisfactory Medical Certificate and the relevant fees.

- 1.5 On 13 April 2022, **Applicant A** passed the Council’s Knowledge Test.
- 1.6 On 26th May 2022, **Applicant A** submitted a complete application for a licence to drive Hackney Carriages (Taxis)/Private Hire Vehicles, The appropriate checks were carried out with the Disclosure and Barring Service (DBS) and the DVLA. The DVLA check revealed points on **Applicant A’s** DVLA Driving Licence, which had been disclosed by the applicant in the application form. The DBS disclosed information regarding an offence which has also been disclosed by the applicant verbally at the time of the application for a taxi/PHV Licence.
- 1.7 The Council’s Policy regarding Breaches of Conditions and Convictions Scheme
- Appendix F of the Taxi Licensing Policy provides details of the Council’s Breaches of Conditions and Convictions Scheme. This is an administrative system that provides a transparent and proportionate method generally used to determine the relevance of criminal convictions and breaches of conditions in relation to applications for hackney carriage and private hire vehicle driver’s licences. (See **APPENDIX 1** for a copy of Appendix F of the Policy – produced in full, for completeness and context).
- 1.8 Fit and Proper ‘Test’
- There is no judicially approved test of fitness and propriety and, accordingly, a number of local tests have developed. These tend to be based on a test similar to the following:
- “Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) 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?”
- 1.9 If the answer to this question (or a similar test) is an unqualified ‘Yes’, then the test is probably satisfied. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether this person is a fit and proper person to hold a Hackney Carriage/Private Hire Vehicle driver’s licence.

2 OPTIONS

- 2.1 The Committee has the following options:
- To resolve that **Applicant A** is a fit and proper person to hold a Hackney Private Hire Driver’s Licence and grant a licence.
 - To refuse to grant a licence on the grounds that **Applicant A** is not a fit and proper person to hold a Private Hire Driver’s Licence.

The applicant has the right of appeal to the Magistrates’ Court if not satisfied with the decision.

3 PROCEDURE

- 3.1 The procedure for the Committee is set out in **APPENDIX 2**.

4 RISK ASSESSMENT

4.1 Legal

The Committee must exercise their discretion reasonably.

Section 61(3) of the Local Government (Miscellaneous Provisions) Act 1976 states that any driver aggrieved by a decision of a district council to suspend or revoke his or her licence may appeal to a magistrates' court.

4.2 Financial

There are no financial risks arising from this report.

4.3 Corporate Risk

These decisions are one of the functions in which the Council acts in a quasi-judicial capacity. It is important that these decisions are robust to protect the reputation that the Council has for sound decision-making that stands up to scrutiny.

5 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

6 CONTACT INFORMATION

For further information contact:

Eileen Tierney, Licensing Manager
Tel: 01629 761374
Email: eileen.tierney@derbyshiredales.gov.uk

7 BACKGROUND PAPERS

Not applicable.

8 ATTACHMENTS

APPENDIX 1 – Appendix F of DDDC Taxi and Private Hire Licensing Policy

APPENDIX 2 - Committee Hearings Procedure

This page is intentionally left blank

APPENDIX F - DDDC TAXI & PRIVATE HIRE LICENSING POLICY (EXTRACT)**BREACHES OF CONDITIONS & CONVICTIONS SCHEME****1. Introduction**

- 1.1 The Breaches of Licensing Conditions and Convictions Scheme is an administrative system that provides a transparent and proportionate method for the Council to act on breaches of licence conditions and legislation that have been committed by drivers and operators.
- 1.2 The two objectives of the penalty point scheme are to improve the standards, safety and protection of the travelling public and to ensure that drivers are treated fairly and proportionately when they breach licence conditions.
- 1.3 The Council may consider all the past history of convictions whether spent or not.
- 1.4 This scheme sets out the conditions under which the granting of licences to convicted persons may be considered by the relevant Committee of the Council, or for less serious offences and offences that occurred a number of years ago, and where there is no history of repetition, the granting of licences is delegated to specified officers.
- 1.5 This scheme applies to applicants for a new licence or renewal of a licence or for licensed persons convicted during the currency of an existing licence.
- 1.6 The scheme has been developed to ensure consistency and to be transparent and proportionate for licence holders and potential licence holders. The policy also ensures that minor and or old convictions do not unreasonably penalise potential applicants or require licence holders to repeatedly appear before committees for the same conviction.
- 1.7 Where the total number of points issued is under the indicated amount for referral to the Licensing and Appeals Committee, the Council reserves the right to refuse to issue, renew or review an existing licence dependant on the nature of the breach of conditions or conviction.

2 Consideration of Convictions**2.1. Non-Motoring Convictions**

- 2.1.1. For the purposes of this scheme convictions will include Simple Cautions and fixed penalty fines for offences. There are also a variety of constraining orders issued by the Courts (Criminal and Civil) intended to control the behaviour of individuals to which this policy applies. See **Schedule 1** to this appendix for details of relevant convictions.
- 2.1.2. The criteria uses 9 points as the maximum number of points an applicant can hold before their application is referred to the Licensing and Appeals Committee to consider whether the applicant is, or continues to be, a fit and proper person to hold a licence. It also specifies the type of offence set out in the tables within schedule 1 of the Convictions Points Scheme in which the matter will be referred to the Licensing and Appeals Committee. In such circumstances it is likely that the Committee may refuse the licence, however the Committee will consider whether refusal, revocation, suspension or no action should be taken where the applicant demonstrates 10 or more points.
- 2.1.3. A decision notice will be given in writing detailing the reason for the Licensing and Appeal Committee's decision and informing the applicant of his/her right to appeal to the Magistrate's Court in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

- 2.1.4. Applications from individuals who are the subject of current criminal investigations and/or are being currently prosecuted for criminal offences will be dealt with on the basis that the person could be convicted of the offence.
- 2.1.5 In deciding whether an applicant is fit and proper the Council may consider any other relevant information provided to it by external agencies. If in those circumstances the applicant would then have 10 or more points the application would be referred to the Licensing and Appeal's Committee in accordance with paragraph 2.1.2.

2.2. Motoring Convictions

- 2.2.1. As points are awarded by the Courts for motoring offences the Council will use those points as a basis for granting or removing licences.
- 2.2.2. Motoring convictions adopt different criteria dependant on the conviction(s) disclosed on the licence. Motoring convictions are broken into two groups:

Minor road traffic offences (see Schedule 2)

Points on licence/other penalty	Action	Delegation
5 or fewer points	Renew or approve licence	Authorised Officer
6 or more points	Referral to -Committee	Licensing & Appeals Sub-Committee
Disqualification	Refuse or revoke Refuse licence for 12 months from the end of disqualification period.*	Authorised Officer

- 2.2.3 A refusal/revocation of an application will be given in writing, detailing the reason for the refusal and informing the applicant of his/her right to appeal against the decision to the magistrates' court in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

Major road traffic offences (see Schedule 3)

Points on licence/other penalty	Action	Delegation
Major road traffic offences (see Schedule 3) More than one conviction for a major offence or one major conviction with more than 5 points in total on the licence.	Renew, approve, suspend, refuse or revoke licence.	Licensing & Appeals Sub-Committee
Any disqualification for a major offence	Refuse licence for 12 months from the end of disqualification period.*	Authorised Officer

* If a period of disqualification has been received on a licence, a period of 12 months must have elapsed from the restoration of the DVLA licence and be free from any other motoring conviction before an application is approved or a licence restored.

3 Breaches of Licensing Conditions

- 3.1 Points will also be awarded by the Council for breaches of licensing conditions.
- 3.2 Where there is evidence available of a breach of conditions (to the civil burden of proof i.e. balance of probability test) an Authorised Officer will place penalty points on the licence holder's record to the levels shown in Schedule 4 to this appendix. Where the breaches are more serious these are shown in the table as requiring a referral to Councils Licensing and Appeals Committee as well as receiving points to be recorded against future conduct.
- 3.3 Penalty points will remain on the record for a rolling 36 month period from the time of the decision for the first breach.
- 3.4 Where a licensee accumulates more than 12 penalty points in any 36 month period the matter will be referred to the Council's Licensing and Appeals Committee for the committee to decide whether the driver is a "fit and proper" person. The Committee will determine each case subject to the licensing legislation and any evidence presented.
- 3.5 Points issued to either the proprietor of a vehicle, operator or a driver will be confirmed in writing within 10 working days from the decision to place the points on record. The decision to record points will only be made after discussion with the licence holder as part of the investigation into alleged breaches and dependant on the nature and circumstances of the breach of the licensing conditions or the conviction, the Council reserves the right to review, revoke or suspend the licence in accordance with its policies.
- 3.6 Appeal Process
- 3.6.1. Licence holders may make representations to the nominated council officer at any stage during the investigation and up to 28 days after the confirmation notice is received.
- 3.6.2. The Penalty Points Scheme will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, byelaws and regulations.
- 3.6.3. Once points are given the Council will take no further action over the individual issue that has led to the breach of conditions and they will only be cumulatively considered. The Council reserves the right to revisit a decision to issue points where new evidence is presented.

Schedule 1
Breaches of Licensing Conditions & Convictions Scheme

CONVICTION POINTS SCHEME

Points are doubled if a term of imprisonment is served and tripled if the sentence is greater than 2½ years.

The number of points will be doubled if aggravated on the grounds of any of the protected characteristics from the Equality Act 2010, that is a person's age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

* All referrals are to the Licensing and Appeals Committee for a decision.

Table 1 – Dishonesty

DATE SINCE CONVICTION RECEIVED	12 mth (1 Year)	24 mth (2 Years)	36 mth (3 Years)	48 mth (4 Years)	60 mth (5 Years)	72 mth (6 Years)	84 mth (7 Years)	96 mth (8 Years)	108 mth (9 Years)	120 mth (10 Years)
TYPE OF OFFENCE	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS
DISHONESTY										
1 Theft	Referral	Referral	Referral	5	4	3	2	1	0	0
2 Theft - Shoplifting	Referral	Referral	Referral	5	4	3	2	1	0	0
3 Theft - Employee	Referral	Referral	Referral	6	5	4	3	2	1	0
4 Theft - From Vehicle	Referral	Referral	Referral	5	4	3	2	1	0	0
5 Burglary & Theft - Dwelling	Referral	Referral	Referral	Referral	8	6	4	2	0	0
6 Burglary & Theft - Non Dwelling	Referral	Referral	Referral	5	4	3	2	1	0	0
7 Burglary - Aggravated	Referral	Referral	Referral	Referral	Referral	Referral	8	6	4	2
8 Fraudulent Use	Referral	Referral	Referral	5	4	3	2	1	0	0
9 Handling	Referral	Referral	Referral	5	4	3	2	1	0	0
10 Receiving	Referral	Referral	Referral	5	4	3	2	1	0	0
11 Forgery	Referral	Referral	Referral	5	4	3	2	1	0	0
12 Conspiracy to Defraud	Referral	Referral	Referral	5	4	3	2	1	0	0
13 Obtain Money by Deception	Referral	Referral	Referral	5	4	3	2	1	0	0
14 Obtain Money by Forged Instrument	Referral	Referral	Referral	5	4	3	2	1	0	0
15 Deception	Referral	Referral	Referral	5	4	3	2	1	0	0
16 False Accounting	Referral	Referral	Referral	5	4	3	2	1	0	0
17 False Statement to Obtain Benefit	Referral	Referral	Referral	5	4	3	2	1	0	0
18 Going Equipped	Referral	Referral	Referral	5	4	3	2	1	0	0
19 Taking/Driving or Attempt to Steal Vehicle	Referral	Referral	Referral	5	4	3	2	1	0	0
20 Allow to be Carried in Stolen Vehicle	Referral	Referral	Referral	5	4	3	2	1	0	0
21 Perverting Course of Justice	Referral	Referral	Referral	Referral	8	6	4	2	0	0
22 Any offence similar to those above to be assessed at closest match.										

Table 2 – Violence

DATE SINCE CONVICTION RECEIVED	12 mth (1 Year)	24 mth (2 Years)	36 mth (3 Years)	48 mth (4 Years)	60 mth (5 Years)	72 mth (6 Years)	84 mth (7 Years)	96 mth (8 Years)	108 mth (9 Years)
TYPE OF OFFENCE	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS
VIOLENCE									
1 Common Assault	Referral	Referral	Referral	5	4	3	2	1	0
2 Assault - Section 47	Referral	Referral	Referral	5	4	3	2	1	0
3 Grievous Bodily Harm - Section 20	Referral	Referral	Referral	Referral	Referral	Referral	8	6	4
4 Grievous Bodily Harm - Section 18	Referral	Referral	Referral	Referral	Referral	Referral	Referral	Referral	8
5 Assault Police	Referral	Referral	Referral	6	5	4	3	2	1
6 Affray	Referral	Referral	Referral	5	4	3	2	1	0
7 Riot	Referral	Referral	Referral	Referral	8	6	4	2	0
8 Murder	Referral	Referral	Referral	Referral	Referral	Referral	Referral	Referral	Referral
9 Manslaughter	Referral	Referral	Referral	Referral	Referral	Referral	Referral	Referral	Referral
10 Manslaughter or Culpable Homicide while Driving	Referral	Referral	Referral	Referral	Referral	Referral	Referral	Referral	Referral
11 Using Threatening, Abusive Words or Behaviour	5	4	3	2	1	0	0	0	0
12 Breach of the Peace	3	2	1	0	0	0	0	0	0
13 Drunk and Disorderly	3	2	1	0	0	0	0	0	0
14 Common Assault - Aggravated	Referral	Referral	Referral	6	5	4	3	2	1
15 Obstruction	Referral	Referral	Referral	3	2	1	0	0	0
16 Robbery	Referral	Referral	Referral	Referral	Referral	Referral	Referral	Referral	8
17 Possess Offensive Weapon	Referral	Referral	Referral	5	4	3	2	1	0
18 Possess Firearm	Referral	Referral	Referral	5	4	3	2	1	0
19 Possess Firearm with intent	Referral	Referral	Referral	Referral	Referral	8	6	4	2
20 Criminal Damage	Referral	Referral	Referral	5	4	3	2	1	0
21 Violent Disorder	Referral	Referral	Referral	8	6	4	2	1	0
22 Resist Arrest	Referral	Referral	Referral	8	6	4	2	1	0
23 Arson	Referral	Referral	Referral	Referral	Referral	Referral	Referral	Referral	Referral
24 Any offence similar to those above to be assessed at the closest match									

Table 3 - Drugs

	<u>DATESINCECONVICTIONRECEIVED</u>	12 mth ago	24 mth ago	36 mth ago	48 mth ago	60 mth ago	72 mth ago	84 mth ago	96 mth ago	108 mth ago	120 mth ago
		(1Year)	(2 Years)	(3 Years)	(4 Years)	(5 Years)	(6 Years)	(7 Years)	(8 Years)	(9 Years)	(10 Years)
	<u>TYPEOFFOFFENCE</u>	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS
DRUGS											
1	Possessing Controlled Drug	Refused	Refused	Refused	Refused	8	6	4	2	0	0
2	Possessing Controlled Drug with intent to Supply	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
3	Producing Controlled Drug	Refused	Refused	Refused	Refused	8	6	4	2	0	0
4	Import Drugs	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
5	Any offence similar to those above to be assessed at the closest match.										

Table 4 – Indecency

	<u>DATESINCECONVICTIONRECEIVED</u>	12 mth ago	24 mth ago	36 mth ago	48 mth ago	60 mth ago	72 mth ago	84 mth ago	96 mth ago	108 mth ago	120 mth ago
		(1Year)	(2 Years)	(3 Years)	(4 Years)	(5 Years)	(6 Years)	(7 Years)	(8 Years)	(9 Years)	(10 Years)
	<u>TYPEOFFOFFENCE</u>	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS	POINTS
INDECENCY											
1	Indecent Exposure	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
2	Indecent Exposure to the Annoyance of Residents	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
3	Indecent Exposure with intent to insult a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
4	Unlawful Sexual Intercourse	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
5	Sexual Assault	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
6	Indecent Assault on a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
7	Indecent Assault on a Child Under 16 yrs	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
8	Living Off Immoral Earnings	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
9	Prostitution	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
10	Possessing or Distributing Obscene Material	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
11	Rape	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
12	Indecent or Nuisance Telephone Calls	Refused	Refused	Refused	Refused	Refused	5	4	3	2	1
13	Any offence similar to those above to be assessed at the closest match.										

Racially aggravated offences under the Crime and Disorder Act 1998 ie:

Assaults

malicious wounding or grievous bodily harm (Section 20 of the Offences Against the Person Act 1861)
 actual bodily harm (Section 47 of the Offences Against the Person Act 1861) common assault.

Criminal Damage

destroying or damaging property belonging to another (Section 1(1) of the Criminal Damage Act 1971)

Harassment

harassment (Section 2 of the Protection from Harassment Act 1997)
 intimidation - putting people in fear of violence (Section 4 of the Protection from Harassment Act 1997)
 racially aggravated harassment (Section 32(1)(a) of the Crime and Disorder Act 1998)

Public Order offences

fear or provocation of violence (Section 4 of the Public Order Act 1986)
 intentional harassment, alarm or distress (Section 4A of the Public Order Act 1986)

Table 5 - Licensing Offences (See next page)

These points will only apply after a successful conviction otherwise the points as shown in Schedule 4 will apply.

TABLE 5

Date since conviction received		12 months (1 year)	24 months (2 years)	36 months (3 years)	48 months (4 years)	60 months (5 years)
Legislation/Section	Type of Offence	POINTS	POINTS	POINTS	POINTS	POINTS
Town Police Clauses Act 1847						
40	Giving false information on application for HC(V) proprietor's licence	5	4	3	2	1
44	Failure to notify change of address of HC(V) proprietor	5	4	3	2	1
45	Plying for hire without HC(V) proprietors licence	5	4	3	2	1
47	Driving a HC(V) without HC drivers' licence	5	4	3	2	1
47	Lending or parting with HC drivers' licence	5	4	3	2	1
47	HC(V) proprietor employing unlicensed driver	5	4	3	2	1
48	Failure of HC(V) proprietor to hold HC drivers' licence	5	4	3	2	1
48 4	Failure of HC(V) proprietor to produce HC drivers' licence	5	4	3	2	1
52	Failure to display HC(V) plate	5	4	3	2	1
53	Refusal to take a fare	5	4	3	2	1
54	Charging more than the agreed fare	5	4	3	2	1
55	Obtaining more than the legal fare	5	4	3	2	1
56	Travelling less than the lawful distance for the agreed fare	5	4	3	2	1
57	Failing to wait after a deposit to wait has been paid	5	4	3	2	1
58	Charging more than the legal fare	5	4	3	2	1
59	Carrying another person than the hirer without consent	5	4	3	2	1

Date since conviction received		12 months (1 year)	24 months (2 years)	36 months (3 years)	48 months (4 years)	60 months (5 years)
Legislation/Section	Type of Offence	POINTS	POINTS	POINTS	POINTS	POINTS
Town Police Clauses Act 1847						
60	Driving HC(V) without proprietor's consent	5	4	3	2	1
60	Allowing another to drive HC(V) without proprietors' consent	5	4	3	2	1
Local Government Act 1976						
49	Failure to notify transfer of HC(V) proprietors' licence	5	4	3	2	1
50(1)	Failure to present HC(V) for inspection as required	5	4	3	2	1
50(2)	Failure to inform local authority where HC(V) is stored if requested	5	4	3	2	1
50(3)	Failure to report an accident to local authority	5	4	3	2	1
50(4)	Failure to produce HC(V) proprietors' licence and insurance certificate	5	4	3	2	1
53(3)	Failure to produce HC driver's licence	5	4	3	2	1
57	Making false statement or withholding information to obtain HC drivers licence	5	4	3	2	1
58(2)	Failure to return a plate after expiry of notice, revocation or suspension of HC(V) proprietor's licence	5	4	3	2	1
61(2)	Failure to surrender driver's licence after suspension, revocation or refusal to renew	5	4	3	2	1

Date since conviction received		12 months (1 year)	24 months (2 years)	36 months (3 years)	48 months (4 years)	60 months (5 years)
Legislation/Section	Type of Offence	POINTS	POINTS	POINTS	POINTS	POINTS
Local Government Act 1976						
64	Permitting any vehicle other than HC(V) to wait on HC stand	5	4	3	2	1
66	Charging more than the meter fare for a journey ending outside the district without prior agreement	5	4	3	2	1
67	Charging more than the meter fare when HC(V) used as private hire vehicle	5	4	3	2	1
69	Unnecessarily prolonging a journey	5	4	3	2	1
71	Interfering with a taximeter	5	4	3	2	1
73(1)(a)	Obstruction of an authorised officer or constable	5	4	3	2	1
73(1)(b)	Failure to comply with requirements of authorised officer or constable	5	4	3	2	1
73(1)(c)	Failure to give information or assistance to authorised officer or constable	5	4	3	2	1
46(1)(a)	Using an unlicensed PH(V)	5	4	3	2	1
46(1)(b)	Driving a PH(V) without a PH driver's licence	5	4	3	2	1
46(1)(c)	Proprietor of a PH(V) using an unlicensed driver	5	4	3	2	1
46(1)(d)	Operating a PH(V) without a PH operator's licence	5	4	3	2	1
46(1)(e)	Operating a PH(V) when the vehicle is not licensed as a PH(V)	5	4	3	2	1

Date since conviction received		12 months (1 year)	24 months (2 years)	36 months (3 years)	48 months (4 years)	60 months (5 years)
Legislation/Section	Type of Offence	POINTS	POINTS	POINTS	POINTS	POINTS
Local Government Act 1976						
46(1)(e)	Operating a PH(V) when the driver is not licensed as a PH driver	5	4	3	2	1
48(6)	Failure to display PH (V) plate	5	4	3	2	1
49	Failure to notify transfer of PH (V) licence	5	4	3	2	1
50(1)	Failure to present vehicle for inspection as required	5	4	3	2	1
50(2)	Failure to inform Local Authority where PH(V) is stored if requested	5	4	3	2	1
50(3) ~	Failure to report an accident to Local Authority	5	4	3	2	1
50(4)	Failure to provide licence and insurance certificate	5	4	3	2	1
53(3)	Failure to produce PH driver's licence	5	4	3	2	1
54(2)	Failure to wear PH driver's badge	5	4	3	2	1
56(2)	Failure by PH Operator to keep record of bookings	5	4	3	2	1
56(3)	Failure of PH Operator to keep record of vehicles operated by him	5	4	3	2	1
56(4)	Failure to produce PH Operator's Licence on request	5	4	3	2	1
57	Making false statement or withholding information to obtain private hire driver's or operator's licence	5	4	3	2	1

Date since conviction received		12 months (1 year)	24 months (2 years)	36 months (3 years)	48 months (4 years)	60 months (5 years)
Legislation/Section	Type of Offence	POINTS	POINTS	POINTS	POINTS	POINTS
Local Government Act 1976						
58(2)	Failure to return plate after expiry of notice, revocation or suspension of PH(V) licence	5	4	3	2	1
61(2)	Failure to surrender driver's licence after suspension, revocation or refusal to renew	5	4	3	2	1
67	Charging more than the meter fare when HC used as PH vehicle	5	4	3	2	1
69	Unnecessarily prolonging a journey	5	4	3	2	1
71	Interfering with a taximeter	5	4	3	2	1
73 73(1)(a)	Obstructing of authorised officer or constable	5	4	3	2	1
73(1)(b)	Failure to comply with requirement of authorised officer or constable	5	4	3	2	1
73(1)(c)	Failure to give information or assistance to authorised officer or constable	5	4	3	2	1
Transport Act 1980						
64(2)(A)	Driving a PH(V) with a roof sign which contravenes s64(1)	5	4	3	2	1
64(2)(B)	Causing or permitting a PH(V) to be driven with a roof sign which contravenes s64(1)	5	4	3	2	1

Minor Road Traffic Offence

AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours.
AC30	Undefined accident offence
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 tyres.
CU40	Using a vehicle with defective steering.
CU50	Causing or likely to cause danger by reason of load or passengers.
CU60	Undefined failure to comply with Construction and Use Regulations.
CU80	Using a mobile phone while driving a motor vehicle
LC10	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
MS10	Leaving a vehicle in a dangerous position.
MS20	Unlawful pillion riding.
MS30	Playstreet Offences.
MS40	Driving with uncorrected defective eyesight or refusing to submit to a test.
MS50	Motor racing on the highway.
MS60	Offences not covered by other codes.
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.
PL10	Driving without 'L' plates.
PL20	Not accompanied by a qualified person.
PL30	Carrying a person not qualified.
PL40	Drawing an unauthorised trailer.
PL50	Undefined failure to comply with conditions of a Provisional Licence.
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.
SP60	Undefined speed limit offence.
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 or sign.
TS99	To signify a disqualification under 'totting up' procedure. If the total of penalty points reaches 12 or more within 3 years the driver is liable to be disqualified.

- 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 through careless driving with alcohol level above the legal limit
- CD60 Causing death through careless driving then failing to supply a specimen for analysis
- CD70 Causing death through careless or inconsiderate driving
- CD80 Causing death by driving: unlicensed, disqualified or uninsured drivers.
- IN10 Using a vehicle uninsured against third party risks.
- BA10 Driving while disqualified by order of Court.
- BA20 Driving while disqualified as under age.
- BA30 Attempting to drive while disqualified by the court.

An application received which details one of the following offences on the DVLA licence (DD30, DD60, and DD70) will automatically be refused or a current licence suspended or revoked. Other offences covered in this section will be treated under the dishonesty/violence category as detailed in the Criminal Convictions section.

Offences covered under this section include -

- DD30 Reckless driving.
- DD60 Manslaughter or culpable homicide while driving a vehicle.(see under violence)
- DD70 Causing death by reckless driving.
- UT10 Taking or driving away a vehicle without consent or an attempt thereof (see under dishonesty).
- UT20 Stealing or attempting to steal a vehicle (see under dishonesty).
- UT30 Going equipped for stealing or taking a vehicle (see under dishonesty).
- UT40 Taking or attempting to take a vehicle without consent, driving or attempting to drive a vehicle knowing it to have been taken without consent, allowing oneself to be carried in or on a vehicle knowing it to have been taken without consent (see under dishonesty).
- UT50 Aggravated taking of a vehicle

(c) Drive a Motor Vehicle under the influence of drink or drugs

A serious view is taken of convictions of driving or being in charge of a vehicle while under the influence of drink or drugs. An application with one conviction on the DVLA licence under this category will be accepted providing a 12 month's period has elapsed since the restoration of his DVLA licence. More than one conviction of this type and the application will be refused.

Offences covered under this section include -

- DR10 Driving or attempting to drive with alcohol level above limit.
- DR20 Driving or attempting to drive while unfit through drink or drugs.
- DR30 Driving or attempting to drive then refusing 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 or drugs.
- DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive.
- DR70 In charge of a vehicle when unfit through drink or drugs.

Breaches of Licensing Conditions/Policy/legal requirements/Code of Conduct not subject to prosecution

The Council reserves the right to issue points for matters that are covered by legislation or any Council conditions or Policies relating to hackney Carriages where Officers are satisfied that there is evidence of the breach. The Council will also use the enforcement policy to decide whether to award points or to prosecute a driver or operator where there is an offence. The Council will, where appropriate, also pass evidence to other relevant enforcement authorities.

Offence/ Breach of Condition	Points Applicable	Points applied to:	
		Driver	Person responsible for the vehicle condition*
Providing false or misleading information on licence application form/failing to provide relevant information or relevant fee	6	✓	✓
Failure to notify, in writing, a change of address within 10 working days	3	✓	✓
Refusal to accept hiring without reasonable cause	10	✓	
Unreasonable prolongation of journeys or any misconduct regarding the charging of fares	6	✓	
Plying for hire by private hire drivers	12	✓	✓
Using unlicensed vehicle or vehicle without insurance	12 + Committee		✓
Failure to produce relevant documents within timescale when requested by an Authorised Officer	4	✓	✓
Failure to provide proof of insurance cover when requested	6	✓	
Failure to produce hackney carriage or private hire vehicle for testing when required	4		✓
Using a vehicle subject to a suspension order issued by an Authorised Officer or a police officer	12 + Committee	✓	✓
Failure to maintain a vehicle in a safe mechanical and structural condition (VOSA classes I or D).	6		✓
Using a vehicle for which the licence has been suspended or revoked	12 + Committee	✓	✓

Failure to notify an accident or damage to a licensed vehicle within 72 hours (3 days) of the occurrence if the damage would materially affect the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein.	4	✓	✓
Carrying more passengers than stated on the licence	6	✓	
Failure to display external/internal licence plate or signs as required	4		✓
Failure to notify transfer of private hire or hackney carriage vehicle licence within 14 days of sale	4		✓
Displaying signs or advertisements in or on the vehicle that do not meet the requirement of the Policy of Conditions	3		✓
Failure to use a roof light that meets the requirements of the Conditions of Policy	4	✓	
Failure to maintain records in a suitable form of the start and finish of work of each driver each day	4		✓
Failure to produce on request records of drivers work activity	4		✓
Using a meter/taximeter that does not meet the requirements of the Policy or Conditions.	9	✓	✓
Obstruction of an authorised officer or police officer.	12	✓	✓
Displaying any feature on a private hire vehicle that may suggest that it is a taxi	6		✓
Failure to carry an assistance dog without requisite exemption	10	✓	✓
Driver not holding a current DVLA licence	12 +Committee	✓	✓
Failure to wear /display drivers badge	4	✓	
Failure to notify in writing, a change in medical circumstances	6	✓	✓
Failure to comply with Appendix J of the policy regarding dress code	3	✓	
Failure to comply with Section 9 of the policy regarding smoking (page 18)	3	✓	
Failure to comply with Appendix I of the policy regarding driver conduct	6	✓	
Failure to comply with the requirements for rank etiquette	6	✓	
Failure to comply with bye-laws not specifically covered in this schedule	3	✓	

Causing a private hire vehicle to drop off, pick up or park on a marked rank	3	✓	
Failure to maintain proper records of private hire vehicle	3		✓
Failure to keep or produce records of private hire bookings or other documents required to be kept or produced	6		✓
Misleading use of the words 'taxi' or 'cab' on advertising materials	3		✓
Failure to issue receipt on request	4	✓	✓
Failure to notify the Licensing section, in writing , of any motoring or criminal conviction within 10 working days of conviction, caution, motoring offence or fixed penalty during period of current licence	6	✓	✓
Fail to notify the Licensing section at the earliest opportunity and in any case within 24 hours, of being the subject of an investigation for other than a minor motoring offence. Such notification to be in writing.	6	✓	✓
Failure to display Council's Maximum Tariff Fare Card	3	✓	✓
Failure to attend punctually at appointed time and place without sufficient cause	4	✓	✓
Failure to surrender a hackney carriage/private hire drivers licence/badge/plate after suspension, revocation or refusal to renew	4	✓	✓
Operating the horn and/or shouting as a means of signalling that the vehicle has arrived	3	✓	✓
Failure to take lost property to a Police Station /District Council Offices	4	✓	✓
Failure to comply with wheelchair requirements including provision of ramps and straps	4	✓	✓
Using an e-cigarette in a licensed vehicle	3	✓	
Failure to comply with any other conditions	3	✓	✓
Fail to attend CSE training without reasonable excuse.	12+ Committee	✓	
Breach UK immigration laws	12+ Committee	✓	✓

KEY:

- Ticks (✓) indicate potential recipients of penalty points for breaches.

NB: certain breaches may result in one of several persons receiving points depending upon the nature of the infringement; however each case must be determined on its own merits. Certain matters are specific to hackney carriages, private hire drivers or private hire operators.

- The number of points will be doubled if aggravated on the grounds of any of the protected characteristics from the Equality Act 2010, that is a person's age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.
- (*) - Persons responsible for the vehicle will include the owner of the vehicle, any person hiring the vehicle or person responsible for organising the maintenance of the vehicle if licensed (otherwise the driver). This part does not apply to Private Hire Operators unless the vehicle is under their direct control.

PRINCIPLES OF THE REHABILITATION OF OFFENDERS ACT 1974 (as amended)

1. Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely.
2. The possibility of rehabilitation and the length of time before rehabilitation occurs, depends on the sentence imposed, and not the offence committed.
3. Despite the above, the principles of the Act do not apply to applicants for hackney carriage and private hire vehicle drivers' licences. This is because the driving of taxis is listed as a "Regulated Occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.
4. Although the Act does not prevent judicial authorities (inclusive of the Licensing Authority) from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a fit and proper person to hold a licence.
5. The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.
6. The rehabilitation periods to which reference is most commonly made are set out below. For a detailed commentary on the periods of rehabilitation applicable to all sentencing options, reference will need to be made to a specialist textbook on the Act.

Sentence	End of rehabilitation period for adult offenders	End of rehabilitation period for offenders under 18 at date of conviction
A custodial sentence of more than 30 months and up to, or consisting of, 48 months	The end of the period of 7 years beginning with the day on which the sentence (including any licence period) is completed	The end of the period of 42 months beginning with the day on which the sentence (including any licence period) is completed
A custodial sentence of more than 6 months and up to, or consisting of, 30 months	The end of the period of 48 months beginning with the day on which the sentence (including any licence period) is completed	The end of the period of 24 months beginning with the day on which the sentence (including any licence period) is completed
A custodial sentence of 6 months or less	The end of the period of 24 months beginning with the day on which the sentence (including any licence period) is completed	The end of the period of 18 months beginning with the day on which the sentence (including any licence period) is completed
Removal from Her Majesty's service	The end of the period of 12 months beginning with the date of the conviction in respect of which the sentence is imposed	The end of the period of 6 months beginning with the date of the conviction in respect of which the sentence is imposed
A sentence of service detention	The end of the period of 12 months beginning with the day on which the sentence is completed	The end of the period of 6 months beginning with the day on which the sentence is completed
A fine	The end of the period of 12 months beginning with the date of the conviction in respect of which the sentence is imposed	The end of the period of 6 months beginning with the date of the conviction in respect of which the sentence is imposed
A compensation order	The date on which the payment is made in full	The date on which the payment is made in full
A community or youth rehabilitation order	The end of the period of 12 months beginning with the day provided for by or under the order as the last day on which the order is to have effect	The end of the period of 6 months beginning with the day provided for by or under the order as the last day on which the order is to have effect
A relevant order	The day provided for by or under the order as the last day on which the order is to have effect	The day provided for by or under the order as the last day on which the order is to have effect

(3) Where no provision is made by or under a community or youth rehabilitation order or a relevant order for the last day on which the order is to have effect, the rehabilitation period for the order is to be the period of 24 months beginning with the date of conviction.

(4) There is no rehabilitation period for—

- (a) an order discharging a person absolutely for an offence, or
- (b) any other sentence in respect of a conviction where the sentence is not dealt within the Table or under subsection (3), and, in such cases, references in this Act to any rehabilitation period are to be read as if the period of time were nil.

[Driving endorsements have not changed and the rehabilitation period remains at 5 years]

This page is intentionally left blank

LICENSING AND APPEALS COMMITTEE PROCEDURE (Taxi Licensing)

1. Introduction by the Chair explaining that the process is not an adversarial one and all comments should be directed through the Chair
2. Report of the Licensing Officer
3. Any questions for the Licensing Officer from Councillors
4. Any questions for the Licensing Officer from the Applicant/Licence Holder (or representative)
5. Statement from Licence Holder/Applicant (or representative)
6. Any questions from Councillors
7. Any questions from the Licensing Officer
8. Summing up by the Licensing Officer
9. Summing up by the Applicant/Licence Holder (or representative)
10. Clarifications required by any party.
11. Councillors retire in order to consider whether the Licensee is/remains a fit and proper person to hold the relevant Licence, whether or not to impose a sanction and if so what it should be.
12. The Chairman will announce the Committee's decision.

This page is intentionally left blank