

**A POLICY ON DETERMINING THE SUITABILITY OF APPLICANTS AND LICENSEES AS DRIVERS IN TAXI & PRIVATE HIRE LICENSING.**

**GMB DRAFT CONSULATION RESPONSE, LEEDS, WEST YORKSHIRE & YORK 2022**

**(Referencing the original Leeds City Council Convictions Criteria Policy 2013)**

**Yellow – Areas of concern to the GMB**

**Blue – GMB feedback through consultation**

**Green – Suggested need for amendment**

**Introduction**

1. The West Yorkshire and City of York licensing authorities, which consists of Bradford, Calderdale, Leeds, Kirklees, Wakefield and York, recognises that the role of Hackney Carriage and Private Hire Drivers is a professional one. Hackney Carriage and Private Hire Drivers transport our most vulnerable persons and are often the first point of contact for visitors to each authority.

2. The reason for this policy is to ensure that the travelling public within West Yorkshire and York can be confident that the drivers licensed by each authority are suitable for this role, that the standards applied are consistent across each Authority area and that the requirements will be the same for whichever authority they choose to apply to. It should be noted that this is a policy principle and only truly applies if all of our regions that authorities sign up to this policy in its entirety.

3. It is a function of the Council to issue Hackney Carriage and Private licences under the Local Government Miscellaneous Provisions Act 1976.

4. The overriding requirement of the Council when carrying out this function is the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services. The aim of this policy is to ensure that public safety is not compromised.

5. The Council must ensure that applicants/licence holders are and remain fit and proper persons to hold a licence. This policy will apply to all new applicant and to existing licensees on renewal. This requirement is contained within Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.

6. This policy categorises the types of issues including, crime and driving convictions, that form part of the “fit & proper” test to facilitate the assessment of the potential risk to the public. As part of this assessment the Council is concerned to ensure that an individual does not pose a threat to the public. The Council’s obligations to safeguard children and vulnerable adults are met. The public are protected from dishonest persons.

7. The standards of safety and suitability are not set as a base minimum. They are set high to give the public the assurance it requires when using taxi services. The Council does not have to strike an even balance between the driver’s right to work and the public’s right to protection, both are enshrined in law. The public are entitled to be protected. This means that the Council is entitled and bound to treat the safety of the public as the paramount consideration. Worker’s Rights - including the right to challenge the decisions Councils make with regard to their license and driver operations issues and the welfare of drivers should be taken into account as both areas are important and contribute to standards. Both enable the driver to fulfil his/her obligations to provide customer service to the highest standards possible.

8. Taxis are used by almost everyone but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated. A taxi driver has significant power over a passenger who places themselves, and their personal safety, in the driver’s hands.

9. As part of the assessment referred to in paragraph 4 above the Council can consider convictions and cautions but also other outcomes or actions taken by the Police, other agencies and the Civil Courts. The word “other agencies” must, however, be specific because we cannot cover any type of agency. There must be no ambiguity as to what ‘agencies’ are covered by the policy. We cannot accept reference to decisions that are taken in the Civil Court because, as this paragraph stands that could refer to anything including debt recovery or a minor neighbour border disagreement. Add: Clarity, as to what agencies and County Court issues are covered in the policy include!

10. Reference to convictions in this policy also includes cautions, warnings, reprimands, all forms of fixed penalty notices, restrictive type orders and any other relevant information. These must be reported to the Council in the format and timescales stated in the relevant policy. In addition, any circumstances relating to the licensee are potentially relevant if it relates to their safety and suitability to hold a licence. We have concerns with words warnings, reprimands, all forms of fixed penalty notices – need clarification on exactly what these terms are referring to – a fixed penalty definition is “a fine of a fixed amount of money for a particular offence” without knowing what type of offence/s are covered how will drivers know which offences to report. Fixed penalty notices are issued for many types of civil matters as well as motoring offences. With the new bus gates in Leeds having different timings in different locations, some signs not being clearly visible/confusing (as on Vicar Lane), or if your vision is obscured by a bus/Lorry parked or close the signage it is going to be easy for drivers to get a fixed penalty. Also,

there will be issues as in the Royal Armouries case where a private firm has set up a camera enforcement system whereby drivers are receiving parking notices of £100. Also, drivers can quite easily get these fixed penalty notices when you take a fare to other cities due to lack of knowledge of the area and at times the satellite navigations don't recognise any new road layouts or any recent traffic regulations changes. It would be totally unjust to use these types of "Fixed Penalty" notices to determine whether a driver is a "Fit and Proper" person. Using such general and vague definitions will leave this policy open to abuse as it will depend on the licensing officer's interpretation of the policy wording. **Replace with the Leeds City Council Convictions Criteria Policy from 2013.**

11. Matters which have not resulted in a criminal conviction (whether as a result of an acquittal, a conviction being quashed, a decision not to prosecute or an investigation which is continuing where the individual has been bailed) may be considered by the Council. In addition, complaints where there was no police involvement may also be considered. **We have concerns regarding the last comment "where there was no police involvement" – Need clarification on this point as what type of complaints will be considered - This is worrying because you could have an argument with a neighbour/family member or at a restaurant/pub/football match no police would be involved, for example, but because you're a taxi/private hire driver, and someone who didn't like the way you spoke or if someone just doesn't like the look of you they can report you to vehicle licensing and you could, according to this paragraph, end up losing your license. For serious breaches of the law this is fine but not for very minor issues. This part of the policy could be open to abuse as it will depend on the licensing officer's interpretation of the policy wording. Delete**

12. In the case of a new applicant who has been charged with any offences and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn.

13. In all cases, the Council will consider a conviction or relevant behaviour and what weight should be attached to it, and each case will be decided on its own merits and in line with this policy. **Drivers should be able to request a subcommittee of the licensing panel to review officers' decisions as recommended by the Statutory Guidance if they feel the officers have misinterpreted or unfairly judged their case.**

Convictions and offences categories as shown in Table A of the policy document need to be clear and precise as the vague and generic terms used leaves drivers having to report everything and anything and then it is being left at the discretion of licensing officers. As has proven in cases across WYCA lately different officers will interpret policies differently and there will be no consistency with policies.

14. The licensing process places a duty on the Council to protect the public. Therefore, it is essential that those seeking a living as a driver meet the required standards. As previous offending and other

behaviour can be considered as a predictor in determining future behaviour, it is important that the Council considers all relevant factors including previous convictions, cautions, complaints, failures to comply with licence conditions, and the time elapsed since these were committed. Applying the Guidance - Need to have a sub-committee to review all officer's decisions for renewals or for new applicants if the applicant is not satisfied with the officer's decision

15. One of the purposes of this policy is to provide guidance to an applicant or existing licence holder on the criteria to be taken into account by the Council when determining whether or not an applicant, or an existing licensee on renewal, is a fit and proper person to hold a hackney carriage or private hire driver's licence. The Policy should comply with point 5 of the Regulators Code (2014) "Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply".

16. When determining whether or not a person is "fit and proper" to become or remain a licensed driver, each case will be decided on its own merits and the Council shall only depart from this Policy in exceptional circumstances. Need to have a sub-committee to review all officer's decisions for renewals or for new applicants if the applicant is not satisfied with the officer's decision

17. There must be clear and compelling reasons for the Council to depart from this policy. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered exceptional circumstances nor will the impact on the applicant and/or his family of losing (or not being granted) a licence. Good character and good record must be taken in to account where in the interest of ensuring that any action taken against the driver is fair, reasonable and necessary We need an example of a clear and compelling reason to be added.

18. The granting of a licence places an individual in a unique position of trust and they are expected to act with integrity and demonstrate conduct befitting of the trust placed in them. For this reason, whilst it is possible for an applicant or existing licence holder to have convictions that individually comply with the policy, the overall offending history and conduct of the applicant/licence holder will be considered. Appropriate weight will be applied where a series of convictions/incidents have occurred over a period of time. Why wouldn't any weight be given to the good character and previous good behaviour of the driver? sometimes stress, dealing with drunken disorderly customers, racist or abusive passengers, or if you are threatened with or actually assaulted by passengers/member of the public could lead the driver to make mistakes which you would never do in normal circumstances, but your clean record and previous history of no convictions/incidents won't be taken into consideration? This would be totally unjust as any suspension/revocation needs to be Fair, Reasonable and Necessary to the type of the incident. What does the term "incidents" mean? this is very vague term this could be customer complaints, public complaints which might remain on a driver file even though the driver was cleared of any wrong doing. In most cases as far as I am aware even if the driver is cleared the officers are leaving

all complaints on their records with no time limit to it being removed. This could also be a girlfriend or wife who might feel like making a complaint against you if you are going through relationship issues which shouldn't be an incident to be kept on file unless the police are involved and you have been charged for an offence normally you can have a domestic issue and the police get called, wife or girlfriend decides not to press any charges why should that be an incident which needs to be reported and impact on you keeping your license. Even MPs and police officers have domestic disputes unless a criminal charge is brought against or the complaint is of a very serious nature then no action should be taken or the allegations should not be put on file. This paragraph is too ambiguous and should be deleted and replaced with the Leeds City Council Convictions Criteria Policy from 2013

19. The Policy will also be applied if any additional issue arises that would call into question a person's suitability to continue to hold a licence. If an existing licence holder's conduct falls short of the "fit and proper" standard of behaviour at any time, their licence will be revoked. What does the term "additional issues" mean? This is a vague generic term and could be interpreted differently by different officers and could be abused by officers – Need clarity

20. Where a licence would normally be granted after the expiry of a specific period, there may be circumstances where the period will be extended. This should be in line with the table of offences as below and are part of the Leeds City Council Convictions criteria policy from 2013.

21. Any foreign offence disclosed by the applicant/licence holder or revealed on an enhanced Disclosure and Barring Service Disclosure will be dealt with in line with this Policy. Agree with this policy but the declaration and or reporting of foreign offences should be done via the application/renewal form and not via a 'Certificate of good character' from a solicitor or from overseas – The 'Certificate of good character' from a solicitor doesn't give licensing authorities any extra powers as they still have powers to revoke a license and or prosecute a license holder if false information is provided by the applicant on the application/renewal form. Authorities do have an option to carry out overseas checks via <https://www.onlinecrbcheck.co.uk/overseascheck.aspx> Every case needs to be assessed on its merits as many drivers have raised concerns that in some countries fake allegations are quite common and, in some cases, people are named in Incident Reports just because they were present when the reported incident took place. If the driver is visiting a country but does not have any official ID from that country they will not be able to obtain any police information once they have left the country – the point being who will give a character reference or any statement for an 'Alien' person? Just to prove fake allegations do take place check <https://www.amnesty.org.uk/> on the Naznin Zaghari-Ratcliffe case. The required outcome can be achieved by simply including a tick box on the application or renewal form.

22. Any concerns, issues, incidents or convictions/offences not covered by this Policy will not prevent the Council from taking them into account. It is the aim of this Policy that any information that has not been fully considered, will be considered at the time a licence is considered for renewal. Licence holders

renewing their licence with no new concerns, issues, incidents, convictions/offences, and about whom no other new information has been received will continue to be regarded as fit and proper persons. Some vague and generic terminology gives concern that different officers may interpret the policy differently and could be open abuse – need clarity on what type of concerns, issues, incidents or conviction/offences the policy is referring to. Delete

23. Applicants need to be aware that as a consequence of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, they are excluded from the provisions of the Rehabilitation of Offenders Act 1974 in relation to spent convictions and that ALL convictions (including minor motoring convictions and fixed penalty notices) must be declared. The Secretary of State made this exemption because it is necessary to put public safety as the first consideration and to enable the Councils to take a wider view of the applicant over a longer timescale. Generally, agree with statement but have concerns about the fixed penalty notices point – need clarification on exactly what these terms are referring to – a fixed penalty definition is “a fine of a fixed amount of money for a particular offence” without knowing what type of offence/s are covered how will drivers know which offences to report. Also, could be open to abuse as it will depend on the licensing officer’s interpretation of the policy wording Fixed penalty civil notices should not be included, delete that part of the reference.

24. The Council conducts enhanced disclosures from the Disclosure and Barring Service (“DBS”) of any applicant for a drivers licence. Applicants will be required to obtain an enhanced disclosure at their expense and to subscribe to the Disclosure and Barring Update Service.

25. Any information contained in the Enhanced DBS Certificate that identifies an individual as not suitable to work with children or vulnerable adults will normally result in the application being refused or existing licence being revoked.

26. The Council is also entitled to use other records and information including any complaints history that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other Councils and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations. Generally, agree with the statement but we need transparency on the recording of complaints – written confirmation must be given to the driver with the details of the complaint and how long it will remain on their file.

27. In determining safety and suitability the Council is entitled to take into account all relevant matters concerning that applicant or licensee. This includes not only their behaviour whilst working in the hackney carriage or private hire trade, but also their character including, but not limited to, their

attitude and temperament so far as relevant to an assessment of suitability. Some of the terminology used is too vague generic term and could be interpreted differently by different officers and could be abused by officers – Need clarity

28. Any applicant who has resided outside the UK for any period longer than 6 months within the preceding 3 years will be required to produce a certificate of good conduct dated in the last 3 months which details any convictions or cautions recorded against the individual. It is the applicant's responsibility to obtain this evidence at his cost. This will be in addition to the Enhanced DBS. Alternatively an applicant may be required to produce a Statutory Declaration dated in the last 3 months. The reporting of foreign offences should be via the application/renewal form declaration and not via a 'Certificate of good character' from a solicitor or from overseas – The 'Certificate of good character' doesn't give licensing authorities an extra power as they still have powers to revoke a license if false information is provided via a declaration by the applicant on the application/renewal form Give an example of how this would work re Pakistan, Kashmir and India or if a person went on a world cruise? This is open to abuse and is covered by paragraph 29, delete this point.

29. It is the responsibility of the applicant/licence holder to satisfy the Council that they are a "fit and proper person" to hold a licence. Therefore, the applicant/licence holder must ensure that all convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses are disclosed to the Council, including any incurred outside the UK. A failure to report such convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses will be given significant weighting. Generally, agree with statement but have concerns about the fixed penalty notices point – need clarification on exactly what these terms are referring to – a fixed penalty definition is "a fine of a fixed amount of money for a particular offence" without knowing what type of offence/s are covered how will drivers know which offences to report. As written in point 28 the declaration about time spent overseas must be via a declaration on the application/renewal form. Just to give you an example the bus gate restrictions on Vicar Lane/Lady Lane according to reports 11,000 fixed penalty notices were issued in one single month and from the information received from trade members many Private Hire drivers received these penalty notices, according to this policy these drivers would be classed as not being "Fit and Proper" and would have their license suspended or revoked. Need clarity on the wording as this could be open to abuse as it will depend on the licensing officer's interpretation of the policy wording

30. Once a licence has been granted there is a continuing requirement on the part of a licensee to maintain their safety and suitability to meet the "fit and proper" test. The Council has the powers to take action against licence holders and any behaviour, incidents, convictions or other actions on the part of the licensee which would be likely to have prevented them from being granted a licence are likely to lead to the licence being revoked. The term "incidents" is a vague generic term and could be interpreted differently by different officers and could be abused by officers – Need clarity

31. Any dishonesty or material non-disclosure by any applicant or other person acting on the applicant's behalf which occurs in any part of the application process will result in a licence being refused, or if already granted, revoked and may result in prosecution. This confirms that the proposals made in points 21, 28 & 29 to replace the 'Certificate of good character' with a declaration on the application/renewal form would be acceptable as the licensing authority will still have the power to revoke and or prosecute the driver if they are found to have withheld information or made a dishonest declaration. This point should only apply where there is clear evidence of dishonesty e.g. a driver has deliberately withheld evidence knowing full well that if the evidence is declared it will result in their license being suspended or revoked – for all other issues a warning would be sufficient

32. An applicant must hold a full DVLA driver's licence, have the right to remain and work in the UK and be a "fit and proper" person.

33. Under the Local Government (Miscellaneous Provisions) Act 1976 section 57, the Council has the power to require an applicant to provide: "such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to such licence." The provision of this information can help to satisfy the Council that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of "fit and proper" and "safety and suitability" go beyond this. There is the character of the person to be considered as well.

34. The character of the applicant is relevant when considering whether they should be licensed. The Council is not imposing an additional punishment in relation to previous convictions or behaviours. The information available to them is used to make an informed decision as to whether or not the applicant is a safe and suitable person to be licensed.

35. The fact that an offence was not committed when the applicant was driving a taxi or when passengers were aboard may be irrelevant. Speeding, drink driving and bald tyres are all dangerous, irrespective of the situation. Violence is always serious. A person who has a propensity to violence may have that potential in any situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour. Agree with the policy for the very serious offences – however every suspension needs to meet the Fair, Reasonable and Necessary test. For driving points issues any decision should be based on the Convictions Criteria Policy 2013 as sufficient evidence has not been provided to say that there was a serious risk to public safety with old policy or there were a very high percentage of drivers with more than 7 points – Just to give you an example on how easily points can be accumulated – the speed limit reduction from 40 mph to 30 mph on York road and the initial poor signage resulted in many members of the public including Taxi and Private Hire drivers getting speeding fines as they were driving to or less than 40 mph. Circumstances around such or similar



Incidents need to be taken into account before any suspension or revocation decision is taken. Also, violence it could be 3 cases of self-defence in a short period of time and that could happen whilst working or not working doesn't mean you are a threat to public safety and you will commit violence. This paragraph should be separated into two paragraphs so as to capture the violence and sexual offence as far more serious than the other offences referred to, good example in the Leeds City Council & Combined Authority Convictions Criteria Policy 2013 table of offences needs to be included in this policy.

36. Licensees are expected to demonstrate appropriate professional conduct at all times, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them. Broadly, we support the policy for serious crimes but it seems that drivers cannot have life outside their role as a Taxi and Private Hire driver and even having a discussion with someone and someone reports the incident and you could be suspended. You can be having a debate outside of work on an emotive issue such as Politics, Black Lives Matters, Palestine, Kashmir, Uighur Muslims or give your opinion on transgender issues whilst not working and someone can report you... does that mean that you are prejudice in any way and why should that impact your ability to work? Are we saying as a taxi/private hire driver you can't have an opinion or social media interactions on these issues or any other issues in fear of being reported for prejudice? There have been many cases where drivers are not even given a crime number when they report incidents which the police term as "Civil" matters and therefore are not recorded anywhere by the police, yet a customer making even a very minor allegation which could be in the same "Civil" category is taken seriously by the police and the licensing authority which will lead to suspension of the drivers license whilst an investigation takes place, even if there is no evidence to support the complaint the complaint will be recorded on the drivers file. We have had an incident in Leeds where just because the driver refused to accept a kebab soaked £10 note for the fare the customer made very serious allegations against him <https://www.phtm.co.uk/news/825/phtm-news/student-jailed-for-falsely-accusing-leeds-cabbie-of-groping-her> which led to his immediate suspension. Add this should be considered in the context of a Licensees work, when investigating complaints. All Licensing Authorities should explore putting a reporting system in place where drivers can report incidents that they feel aggrieved by so that any malicious or fake allegations can then be dealt with using both sets of information.

37. There are those who seek to take advantage of vulnerable people by providing services they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. The Council expects licensees to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers must feel able to check that the person offering a service is entitled to do so. Licensees must be willing to demonstrate that they are entitled to provide the service offered by, for example, showing their badge. Any applicant or licensee who does not comply with the requirements set out in this paragraph will be unlikely to meet the "fit and proper" test. Criminal and Driving Convictions. Support the policy where there is a deliberate intention, but each case must be taken on its own facts and based on the evidence available. Regarding issue of displaying the badge - Some officers are insisting that the badge should be hanging around the neck on a lanyard - The badge should be either worn or displaying in the vehicle, that should be at the discretion of the driver and the

overriding factor should be that the badge is available for inspection when requested by a customer, police or an enforcement officer. If the driver has forgotten to bring his badge with him/her then he/she should be given an opportunity to go home and bring his/her badge. Emphasis should be added clarifying that the onus on a driver reporting another Licensee for a breach has to be clear and reasonable as this is not their professional role (Council and Police enforcement).

38. The Council considers that a period of time should elapse after a conviction before a person can no longer be considered to be at risk of re-offending. The timescales set out in Table A are to reduce the risk to the public to an acceptable level. See table A comments below

39. In relation to single convictions, Table A sets out the time periods that should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted. See table A comments below

40. The Council will look at the entirety of the individual circumstances and in some cases the suitability will not be determined simply by a specified period of time having elapsed following a conviction or the completion of a sentence. The time periods are a relevant and weighty consideration but they are not the only determining factor.

41. In addition to the nature of the offence or other behaviour, the Council will also consider the quantity of matters and the period of time over which they were committed. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate an increased propensity for such behaviour or offending to recur.

42. This policy does not replace the Council's general duty to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by this policy, the Council must consider the matter from first principles and determine the fitness of the individual.

43. Once a licence has been granted there is a continuing requirement on the part of the licensee to maintain their safety and suitability to meet the "fit and proper" person test.

44. Some offences on their own are serious enough for a licence not to be granted and these are identified in Table A. In the case of an existing licence "refused" in the Table means "revoked". See table A comments below

45. Applicants and licensees should be aware that where they have been convicted of a crime which has resulted in the death of another person or was intended to cause the death or serious injury of another person they will almost certainly not be licensed.

46. Where an applicant or licensee has been convicted of a crime involving, related to, or which has any connection with abusive, exploitative, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will almost certainly not be licensed. This includes instances of slavery, child sexual exploitation, grooming, psychological or financial abuse.

47. The Council will almost certainly not grant a licence to any applicant who is currently on the Sex Offenders Register or on any “barred” list. Existing licensees who are placed on the Sex Offenders Register or on any “barred” list will almost certainly have their licence revoked.

48. Convictions for inciting, attempting or conspiring to commit an offence will be treated in the same way as convictions for the substantive crime. For these purposes, a caution may be regarded in the same way as a conviction. Fixed penalties and community resolutions may also be considered in the same way as convictions. Generally, agree with statement but have concerns about the fixed penalty notices point – need clarification on exactly what these terms are referring to – a fixed penalty definition is “a fine of a fixed amount of money for a particular offence” without knowing what type of offence/s are covered how will drivers know which offences to report. Need clarification on the point about ‘Community resolution’. Also, could be open to abuse as it will depend on the licensing officer’s interpretation of the policy wording, similar to in paragraph 23 Fixed penalty civil notices should not be included, delete that part of the reference.

49. Road Safety is a major priority to the Council. A taxi driver has direct responsibility for the safety of his or her passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any driving convictions or unacceptable behaviour whilst driving will weigh heavily against a licence being granted or retained. The driving convictions issue needs to remain as per the previous convictions criteria policy as the evidence of drivers with convictions supplied does not meet the threshold to change the policy Delete and replace with the Leeds City Council Convictions Criteria 2013 policy position.

50. Taxi drivers are professional drivers charged with the responsibility of safely conveying the public. Any motoring convictions may demonstrate a lack of professionalism and will be considered seriously. Whilst it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action being taken in respect

of an existing licence, subsequent convictions would indicate that the licensee does not take their professional responsibilities seriously, and is therefore not a fit and proper person to be granted or to retain a licence. Decision and Right of Appeal This is actually dealt with in the convictions policy and this paragraph undermines that. The driving convictions issue needs to remain as per the previous convictions Leeds City Council Convictions Criteria Policy from 2013 as the evidence of drivers with convictions supplied does not meet the threshold to change the policy as required by the Regulators Code 2014.

51. Where the Council is minded to refuse an application or suspend or revoke an existing licence in line with this policy the applicant or existing licence holder will be informed and be given an opportunity to provide any additional written evidence in support of their application or retention of their licence. Drivers should have an option to put their concerns or evidence to a Licensing Subcommittee.

52. The Council, at its absolute discretion, may determine to meet with the applicant or existing licence holder for the purpose of clarifying information provided or received. The applicant can be accompanied by one individual at the meeting who is not permitted to make comment or enter into any part of the discussion. When an applicant has an accomplice/Trade representative or Union rep with him/her then, unless it is a PACE interview, the accomplice must be allowed to comment or make representation for and on behalf of the applicant

53. The Applicant or existing licence holder will be notified in writing of the Council's final decision within 14 days of completion of the procedures set out in paragraphs 43 and/or 44 above.

54. Any person whose application is refused or licence suspended or revoked by the Council has a right of appeal to the Magistrates' Court. An Appeal must be lodged within 21 days of the decision at the appropriate Magistrates' Court. Applicants may wish to obtain professional and independent advice. In order to ensure that all decisions are just and fair it is essential that firstly there is complete clarity in the whole policy and secondly that drivers have the option of having their case heard by a Licensing Subcommittee.

#### **TABLE A**

- More serious Offences involving violence (including arson, riot, terrorism offences, grievous bodily harm, wounding, actual bodily harm) or connected with an offence of violence. 10 years

We have no issues with the 10-year ban for serious offences of ABH, GBH, Arson, Terrorism or where there is serious wounding done intentionally – but the wounding and or connected with an offence of violence wording means that even accidental or wounding caused during self-

defence could be classed as violence and the driver loses licence for 10 years. This is very draconian for the lesser offences.

- Less serious Offences involving violence (including harassment, battery, common assault & criminal damage) or connected with an offence of violence. 5 years

Common assault offences, criminal damage offences or connected with an offence of violence - Some of these could quite easily happen when drivers are being attacked, or a customer's property e.g. a mobile phone could get damaged and the driver gets banned for 5 years. Again, a very draconian sentence for the minor offences

- Possession of a weapon or any other weapon-related offence. 7 years

No issue with the Possession of weapon it should be 10 years - but the "any other weapon related offence" leaves it open to cover a driver that has maybe picked up any item from his vehicle like a torch to defend himself when he/she is being attacked or threatened and that could be classed as a weapon related offence and get banned for 7 years -

- Drugs use – any conviction for possession of drugs, or related to possession of drugs. 5 years

This also is very vague terminology - agree with ban for serious offences but not for minor issues or where drugs have been used for recreational use. We have customers using drugs in Taxis and sometimes the driver doesn't see them, you only find out when you see the empty wrappers. If you do see them and tell them to stop you risk being abused or assaulted or even worse they could make a false allegation that you supplied the drugs to them – so the driver has to make that decision and without the police support its best to keep quiet

- Unlawful discrimination – any conviction involving or connected with unlawful discrimination in any form. 7 years

Very generalised description – Majority of offences are committed due to lack of knowledge so can be quite easily resolved through training and education – the 7-year ban is very draconian

- Driving whilst using a hand-held telephone or other device – 5 years Agree for offences where a driver has been found guilty of causing death or serious injury or has been given a lengthy ban by the courts. Other offences where just points are awarded these should be considered under the totting up procedure – also makes a mockery of this when majority of the drivers are working for companies that dispatch booking via a mobile app or mobile device and bookings cannot be accepted without touching the mobile device – why are LCC licensing these operators knowing that the driver will have be breaking the law every time they accept the booking
- Minor traffic or vehicle related offences – offences which do not involve loss of life, driving under the influence of drink or drugs, driving whilst using a hand-held telephone or other device and has not resulted in injury to any person or damage to any property (including vehicles) resulting in 7 or more points on a DVLA licence. – 3 years

This should be the kept same as the Leeds City Council & Combined Authorities Convictions Criteria policy from 2013 as there is evidence to show that the policy is adequate with only 1% of drivers having more than 7 points and even less with 9 or more points. When a driver is banned by the courts then they will have to take an advanced test to apply again, a Court judgment is adequate.

- Hackney carriage and private hire offences – 7 years

Very vague description of offences no offence deserves a 7-year ban – This could be offences like incorrect time on the meter, forgetting to put the meter on, taking a longer route, very draconian as nothing that can't be changed with education and training.

- Vehicle use offences, for example being carried in vehicle without the owner's consent.
- 7 years

This doesn't make sense at all and again is a generalised description which could be anything or even a minor offence so a 7-year ban would be draconian

The Leeds City Council Convictions criteria Policy from 2013 is much clearer than this policy and there is no credible evidence to show that the policy did not work or needed to be re-written. We should incorporate the policy, and in particular, the offence table information and guidance into this policy (attached).

[illegible]

Abuse of children through prostitution and pornography (Section 47 – 50 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Trafficking for sexual exploitation (Section 57 – 59 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Preparatory offences for sexual offending	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Sex with adult relative (Section 64 – 66 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Voyeurism (Section 67)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Sexual penetration – animal or corpse (Section 69 – 70 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Prostitution – causing, inciting, controlling, exploitative conduct (Section 52 – 52A)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Category 2 offences										
Indecent exposure (Section 66)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Possession of extreme pornographic images	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Displaying Pornographic images	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Category 4										
Sexual activity in a public lavatory (Section 71)	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Soliciting for prostitution (Section 51A)	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Paying for sexual services – subjected to force (Section 53A)	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Sending indecent or obscene articles by post	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0



Riot	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Child abduction	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Assault – Actual Bodily Harm Section 47	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Stalking Section 2A	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Stalking Section 4 & 4A	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Category 5										
Violent disorder	Refused	Refused	Refused	8	6	4	2	0	0	0
Affray	Refused	Refused	Refused	8	6	4	2	0	0	0
Fear of provocation of violence –	Refused	Refused	Refused	8	6	4	2	0	0	0
Intentional harassment, alarm or distress	Refused	Refused	Refused	8	6	4	2	0	0	0
Protection from Harassment Section 1	Refused	Refused	Refused	8	6	4	2	0	0	0
Common Assault	Refused	Refused	Refused	6	4	2	0	0	0	0
Assault Police	Refused	Refused	Refused	8	6	4	2	0	0	0
Obstruct Police	Refused	Refused	Refused	6	4	2	0	0	0	0
Possess offensive weapon	Refused	Refused	Refused	8	6	4	2	0	0	0
Criminal damage	Refused	Refused	Refused	8	6	4	2	0	0	0
Violent Disorder	Refused	Refused	Refused	8	6	4	2	0	0	0
Resist arrest	Refused	Refused	Refused	8	6	4	2	0	0	0
Harassment, alarm or distress Section 5 Public Order Act 1986	6	4	2	0	0	0	0	0	0	0
Breach of the Peace	4	3	2	1	0	0	0	0	0	0
Drunk and disorderly	6	4	2	0	0	0	0	0	0	0

#### Dishonesty table

	1 year ago	2 years ago	3 years ago	4 years ago	5 years ago	6 years ago	7 years ago	8 years ago	9 years ago	10 years ago
Category 2 offences										
Robbery	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Aggravated Burglary	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Aggravated vehicle taking (causing death)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Blackmail	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	6	4
Footnote: And any other offences of dishonesty capable of attracting a term of imprisonment exceeding 10 years										
Category 4 Offences										
Burglary & Theft – Dwelling	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Perverting the Course of Justice	Refused	Refused	Refused	Refused	Refused	8	6	4	2	1
Money laundering Section 45	Refused	Refused	Refused	Refused	Refused	8	6	4	2	1
Theft – Employee	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Theft – Employee	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Burglary & Theft – Non Dwelling	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Fraudulent Use of Road Traffic documents	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Category 5 Offences										
Theft	Refused	Refused	Refused	6	5	3	2	1	0	0
Theft – From vehicle	Refused	Refused	Refused	6	4	2	1	0	0	0
Obtain by deception	Refused	Refused	Refused	6	5	3	2	1	0	0
Evasion of Liability by deception	Refused	Refused	Refused	6	5	3	2	1	0	0
Obtain Services by deception	Refused	Refused	Refused	6	5	3	2	1	0	0



Making off without payment	Refused	Refused	Refused	6	5	3	2	1	0	0
False Statement to obtain Benefit	Refused	Refused	Refused	8	6	4	2	0	0	0
Going Equipped	Refused	Refused	Refused	6	4	3	2	1	0	0
Taking/Driving or Attempt to steal Vehicle	Refused	Refused	Refused	5	3	2	1	0	0	0
Allow to be Carried in a Stolen Vehicle	Refused	Refused	Refused	5	3	2	1	0	0	0
Use unrebated fuel	Refused	8	6	4	2	0	0	0	0	0

Drugs Table									
	1 year ago	2 years ago	3 years ago	4 years ago	5 years ago	6 years ago	7 years ago	8 years ago	9 years ago
Category 2 offences									
Possessing a Controlled Drug with Intent to Supply	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Import Drugs	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Producing Controlled Drug	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Category 4									
Possessing Controlled Drug	Refused	Refused	Refused	Refused	Refused	8	6	4	2

Racially motivated Offences									
	1 year ago	2 years ago	3 years ago	4 years ago	5 years ago	6 years ago	7 years ago	8 years ago	9 years ago
Category 2 offences									
Possessing a Controlled Drug with Intent to Supply	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Import Drugs	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Producing Controlled Drug	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Category 4									
Possessing Controlled Drug	Refused	Refused	Refused	Refused	Refused	8	6	4	2

Offences for driving a motor vehicle under the influence of drink or drugs	
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.
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive
DR40	In charge of a vehicle while alcohol level above limit.
DR50	In charge of a vehicle while unfit through drink or drugs.
DR60	In charge of a vehicle then refusing to supply a specimen for analysis.
DR70	Failing to provide a specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs

<b>Offences where a licence will automatically be refused or a current licence suspended or revoked</b>	
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 alcohol analysis
CD80	Causing death by careless, or inconsiderate, driving
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers
DD10	Causing serious injury by dangerous driving
DD40	Dangerous driving.
DD60	Manslaughter or culpable homicide while driving a vehicle.
DD70	Causing death by dangerous driving.
DD90	Furious driving
When applicable to licensed vehicle	
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 effused on medical ground
MS70	Driving with uncorrected defective eyesight