

## OFFICIAL

**DERBYSHIRE MODEL POLICY**  
**FOR THE CONSIDERATION OF CONVICTIONS**

**1. GENERAL POLICY****1.1 Principles**

This Policy will act as guidance for the Council when considering the fitness and propriety of license-holders and applicants. In exercising this duty, the safety of the public will be the Council's primary consideration.

This policy provides guidance to the Licensing Committee (including Sub-Committees) and Officers with delegated powers on the criteria to take into account when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a Hackney Carriage and/or Private Hire drivers Licence. Any decision will be made on the balance of probabilities and not beyond all reasonable doubt.

Each application will be determined on its own merits. Some discretion to depart from these guidelines may be appropriate if the offence is isolated and there are mitigating circumstances. However the overriding consideration should be the protection of the public.

NB As a matter of law, where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction.

Reference in this Policy to revocation should be taken, where appropriate, to include refusal to renew a licence.

**1.2 Fit & Proper**

In seeking to safeguard the public, the Council seeks to ensure:

- That a person is a fit and proper person in accordance with Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II);
- That the person does not pose a threat to the public;
- That the public are safeguarded from dishonest persons; and
- The safety of children, young persons and vulnerable adults.

The term "Fit and Proper Person" for the purposes of licensing is not legally defined and in assessing whether someone may be "Fit and Proper" the Council will seek to establish that applicants are considered safe and suitable to hold a licence. The Council will take into account all available information, including information obtained from other local authorities, the Police and any third party organisations.

### 1.3 Considering Criminal Records

Listed below are some general principles relating to the determination of applications for drivers and operators which will generally be followed where convictions are admitted or otherwise identified.

In addition to providing a criminal record disclosure on application, all licence holders will be required to sign up to the Disclosure & Barring Service update service for the duration of the period they are licensed for. The Council must be given permission to check the licence holder's record when necessary.

In this guidance the word "conviction" includes convictions, cautions, warnings, reprimands, fixed penalty notices and other relevant information. For custodial sentences the term "from date sentence has ended" is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. For non-custodial offences the relevant date will be the date of sentencing.

Whilst the Council may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:

- Remain free of conviction for an appropriate period as detailed below; and
- Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the applicant to produce such evidence).

NB Solely remaining free of conviction may not necessarily be adequate evidence that a person is a fit and proper person to hold a licence.

### 1.4 Outstanding Charges or Summonses

If an outstanding charge or summons involves a serious offence and/or the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application should normally be put on hold until proceedings are concluded or the licence may be refused. Such cases will always be referred to the Licensing Committee with a view to refusal/revocation. **In urgent cases CBC delegates the authority to revoke to officers.**

### 1.5 Non-conviction information

If an individual has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to revoking their licence or refusing the application if the evidence supports this. In assessing the action to take, the safety of the public must be the paramount concern.

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Where an applicant has had a Hackney Carriage/Private hire driver's licence revoked by any local authority, the Council will not normally grant a licence until at least twelve months has elapsed since the revocation. The applicant's previous licensing authority may be contacted for details of why the licence was revoked.

## 2. **OFFENCES**

The following guidance applies to new applicants and those cases where a licence holder is convicted during the period of their current licence.

All categories below include any similar offences (including attempted or conspiracy to commit) and any offences which replace those specified.

### 2.1 **Serious offences involving violence**

Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence.

An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life. Existing licence-holders convicted of such offences shall have their licence revoked. This applies to offences of:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Kidnapping or abduction

A licence will not normally be granted where an applicant has a conviction for an offence or similar offence(s) to those below unless at least 10 years have passed since the completion of any sentence and /or licence period:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault which is racially aggravated
- Violent disorder
- Threats to kill
- Resisting arrest
- Hate crime against a person

**This section feels too inclusive, it seems disproportionate to include offences such as GBH with intent and assault police/ resist arrest/racially aggravated common assault together with an exclusion for 10 years.**

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Existing licence-holders convicted of such offences will have their licence revoked.

A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below unless at least 5 years have passed since the completion of any sentence and/or licence period:

- Racially-aggravated criminal damage
- Racially-aggravated offence
- Hate crime against property

Existing licence-holders convicted of such offences will normally have their licence revoked.

A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and at least 3 years have passed since the completion of any sentence and/or licence period:

- Common assault/Battery
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Harassment
- Offences involving anti-social behaviour

Existing licence-holders convicted of such offences will have normally have their licence revoked or subject to a lengthy suspension.

A licence will normally be revoked/refused if an individual has more than one conviction in the last 10 years for offences of a violent nature.

## **2.2 Possession of a weapon**

If an applicant has been convicted of possession of a weapon or any other weapon related offence, depending on the circumstances of the offence, at least 3 years must have passed since the completion of the sentence, before a licence is granted.

Existing licence-holders convicted of such offences will have normally have their licence revoked or subject to a lengthy suspension.

## **2.3 Sexual and indecency offences**

As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. All sexual offences should be considered as serious. Applicants with convictions

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for sexual offences will be refused a licence upon application/renewal or review. Existing licence holders will have their licence immediately revoked.

Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Grooming, Trafficking or other Sexual Exploitation related offences (adults and/or children)
- Making or distributing obscene material
- Possession of images depicting child sexual abuse.
- Sexual assault
- Indecent assault
- Exploitation of prostitution

In relation to indecency offences, an applicant should be free of conviction for at least 5 years (or at least 5 years must have passed since the completion of the sentence, whichever is longer), if he / she has a conviction for an offence such as:

- Making indecent telephone calls
- Importuning
- Indecent exposure
- Soliciting (kerb crawling)

Existing licence-holders convicted of such offences will have normally have their licence revoked or subject to a lengthy suspension.

A licence will be revoked/refused if an applicant has more than one conviction for an indecency offence.

In addition to the above the licensing authority will not licence any person who is currently on the Sex Offenders Register or any other similar register.

## **2.4 Dishonesty**

A licensed driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. For these reasons, a serious view is taken of any conviction involving dishonesty.

In general, a minimum period of 3 years free of conviction or at least 3 years have passed since the completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery

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- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Taking a vehicle without consent

Existing licence-holders convicted of such offences will have normally have their licence revoked.

A licence will normally be refused/revoked if an individual has more than one conviction for dishonesty or they are found to have intentionally misled the council, or lied as part of the application process.

## **2.5 Alcohol & Drugs**

An isolated conviction for drunkenness need not debar an applicant from gaining or keeping a licence. In some cases, a warning may be appropriate. However, a number of convictions for drunkenness, including drunk and disorderly or drunk and incapable, could indicate a medical problem necessitating critical examination and refusal or revocation of a licence.

In addition, new applicants will normally be required to show a period of 10 years has elapsed after completion of detoxification treatment if (s)he was an alcoholic.

A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

A licence will not normally be granted where the applicant has more than one conviction for offences related to the supply of drugs and has not been free of conviction for 10 years. An existing licence will normally be revoked where the licence holder is convicted of an offence related to the supply of drugs.

A licence will not normally be granted where a new applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.

New applicants who have an isolated conviction for an offence related to the possession of drugs within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.

A revocation or lengthy suspension may be appropriate where an existing licence holder has received more than one conviction for offences related to the possession of drugs.

If there is evidence of persistent drug use, misuse or dependency, a specialist examination (in accordance with the DVLA group two medical standards) may be required before a licence is granted (or reinstated if suspended). If a new applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

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

A very serious view is to be taken of anyone who has been convicted of a driving offence that resulted in the loss of life. A licence will normally be refused or revoked if an individual has a conviction for:

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

Before a licence is granted, a new applicant should be free of conviction for 10 years (or at least 10 years must have passed since the completion of the sentence, whichever is longer) if the applicant has a conviction for:

- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers.

Existing licence-holders convicted of such offences will have normally have their licence revoked.

A licence will not be granted if an applicant has more than one conviction for any of these offences.

## **2.7 Driving offences involving alcohol and/or drugs**

A serious view will be taken of convictions of driving, or attempting to drive, or being in charge of a vehicle while under the influence of drink or drugs. Where a disqualification has occurred as a result of a drug or drink-driving offence existing licences will be immediately revoked. For new applicants at least 5 years free of conviction should elapse after the restoration of the DVLA licence before an applicant is granted a licence.

More than one conviction for this type of offence or one such offence within the last 5 years is likely to merit refusal.

In addition, applicants will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if (s)he was an alcoholic or drug addict.

## **2.8 Major Traffic Offences**

Subject to the above paragraphs an isolated conviction for a major traffic offence, without disqualification, such as dangerous driving or driving without due care and attention will require careful consideration of the facts.

In cases of disqualification at least 3 years free from conviction after the restoration of the DVLA licence should normally elapse before a new applicant is granted a licence.

Where an applicant has been convicted of a major traffic offence which has not resulted in disqualification, careful consideration should be given to the

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circumstances surrounding the offence. An application for a licence will normally be refused where the offence occurred less than 2 years prior to the application.

Where an existing licence holder receives a conviction for a major traffic offence, the licence will normally be revoked. Any subsequent application for a new licence will be determined in accordance with the guidance above.

NB A non-exhaustive list of traffic offences is set out in the Appendix

## **2.9 Minor Traffic Offences**

Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application or keeping their licence. However, the number, type and frequency of this type of offence will be taken into account.

If there are several minor traffic offences a new applicant will normally be expected to show a period free of conviction of at least 6 months.

For existing licence holders convicted of a minor traffic offence a warning may be more appropriate than revocation or suspension. However, multiple minor traffic offences will normally be taken as reflecting seriously on the applicant's driving standard and more serious sanctions may be considered.

A licence will normally be refused or revoked where an individual has 12 or more penalty points on his DVLA licence for minor traffic offences but has not been disqualified from driving.

Where an offence has resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard. Generally, a period of 12 months free from conviction must have elapsed from the restoration of the DVLA licence.

Where an existing licence holder is disqualified from driving the licence will normally be revoked.



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NB A non-exhaustive list of traffic offences is set out in the Appendix

**2.10 Totting Up Disqualifications**

Where a number of traffic offences has resulted in a driver receiving 12 penalty points or more on his/her licence the driver will be disqualified from driving unless the Court is satisfied that exceptional hardship would be suffered by an individual if disqualified. This is known as a “totting-up” disqualification.

Where an applicant has a totting-up disqualification an application will usually be refused until a period of between 12 months and 2 years has lapsed from the restoration of the DVLA licence depending on the seriousness of the offences which led to the totting up.

Where an existing licence holder is disqualified from driving as a result of a totting up, the licence will normally be revoked.

**2.12 Borderline traffic offences**

Certain offences may not be clearly categorised as Major or Minor. Such offences will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or less penalty points for the offence.

A non-exhaustive list of such traffic offences can be found in the Appendix.

**2.13 Plying For Hire**

Any applicant who has committed an offence of plying for hire within the 6 months preceding their application will normally be refused a licence. Any existing licence holder found to have committed this offence will be judged on the circumstances of the case, and at the least suspension of the licence should be considered. Where a driver is convicted on more than one occasion the licence will be revoked or not granted. Consideration will be taken of whether at the time there was no insurance cover in place for the vehicle. It will be up to the applicant to prove that there was valid insurance in place at the time of the offence.

**2.14 Insurance Offences**

A serious view will be taken of convictions of driving a vehicle without insurance. An isolated incident will not necessarily stop a licence being granted provided a new applicant has been free of conviction for 3 years, subject to a strict warning being given as to future behaviour. For existing licence holders an isolated incident would be suitable for a short suspension or a warning.

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More than one of these offences would normally result in a licence being refused or revoked.

Isolated incidents associated with a licensing offence will not necessarily prevent a licence being granted or renewed. Each case will be assessed on its merits.

**3. OTHER OFFENCES AND SPECIAL CIRCUMSTANCES**

If the applicant has declared any other offences not listed above or the circumstances of the case justify, an officer acting under delegated powers will, if he/she considers it appropriate, refer the application to the Licensing Committee for determination.

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**APPENDIX****CATEGORIES OF MOTORING OFFENCES****1 MAJOR TRAFFIC OFFENCES**

AC10 Failing to stop after an accident

AC20 Failing to give particulars or to report an accident within 24 hours

AC30 Undefined accident offences

BA10 Driving while disqualified by order of court

BA30 Attempting to drive while disqualified by order of court

BA40 Causing death by driving while disqualified

BA60 Causing serious injury by driving while 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 by careless driving when unfit through drugs \*

CD60 Causing death by careless driving with alcohol level above the limit \*

CD70 Causing death by careless driving then failing to supply a specimen for analysis \*

CD80 Causing death by careless or inconsiderate driving \*

CD90 Causing Death by driving: unlicensed, disqualified or uninsured drivers \*

DD40 Dangerous driving

DD60 Manslaughter or culpable homicide while driving a vehicle \*

DD80 Causing death by dangerous driving \*

DD90 Furious driving

DG60 Causing death by careless driving with drug level above the limit\*

The above offences marked \* are dealt with in the section entitled driving offences involving the loss life

DR10 Driving or attempting to drive with alcohol level above limit +

DR20 Driving or attempting to drive while unfit through drink +

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

DR40 In charge of a vehicle while alcohol level above limit +

DR50 In charge of a vehicle while unfit through drink +

DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive

DR61 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive +

DR70 Failing to provide specimen for breath test +

DR80 Driving or attempting to drive when unfit through drugs +

DR90 In charge of a vehicle when unfit through drugs +

DG10 Driving or attempting to drive with drug level above the specified limit

DG40 In charge of a vehicle while drug level above the specified limit

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The above offences marked + are dealt with in the section entitled alcohol and drugs

IN10 Using a vehicle uninsured against third party risks

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LC20 Driving otherwise than in accordance with a licence  
 LC30 Driving after making a false declaration about fitness when applying for a licence  
 LC40 Driving a vehicle having failed to notify a disability  
 LC50 Driving after a licence has been revoked or refused on medical grounds  
 MS50 Motor racing on the highway  
 UT50 Aggravated taking of a vehicle  
 TT99 Signifies a disqualification under the totting up procedure 12 or more points within three years

**2. MINOR TRAFFIC OFFENCES**

CU10 Using vehicle with defective brakes  
 CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition  
 CU30 Using a vehicle with defective tyre(s)  
 CU40 Using a vehicle with defective steering  
 CU50 Causing or likely to cause danger by reason of load or passengers  
 CU80 Using a mobile phone while driving a vehicle  
 MS10 Leaving a vehicle in a dangerous position  
 MS20 Unlawful pillion riding  
 MS30 Play street Offences  
 MS40 Driving with uncorrected defective eyesight or refusing to submit to a test  
 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 the 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  
 SPI0 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/ warden  
 TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)  
 TS60 Failing to comply with school crossing patrol sign  
 TS70 Undefined failure to comply with a traffic direction sign

**3. HYBRID TRAFFIC OFFENCES**

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CU10 Using vehicle with defective brakes  
CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition  
CU30 Using a vehicle with defective tyre(s)  
CU40 Using a vehicle with defective steering  
CU50 Causing or likely to cause danger by reason of load or passengers  
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  
Other non endorsable motoring offences i.e. no MOT

## NOTE:

All offences in this Appendix may also include the following codes

Aiding, abetting, counselling or procuring:

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting:

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting:

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