Agenda

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OXFORD CITY COUNCIL

General Purposes Licensing Casework Sub-Committee

Date:	**Monday 30 September 2019**
Time:	**5.30 pm**
Place:	**Barristers' Room - Oxford Town Hall**

For any further information please contact:

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As a matter of courtesy, if you intend to record the meeting please let the Contact Officer know how you wish to do this before the start of the meeting.

General Purposes Licensing Casework Sub-Committee

Membership

Chair Councillor Colin Cook

Vice-Chair

Councillor Michael Gotch
Councillor Sian Taylor

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AGENDA

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PUBLIC BUSINESS

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

3 PROCEDURE TO BE FOLLOWED AT THE MEETING 7 - 28

Guidance on the procedure to be followed is attached.

4 MINUTES 29 - 30

Recommendation: That the minutes of the meeting held on 19 August 2019 be APPROVED as a true and accurate record.

5 EXEMPT MATTERS

If the Sub-Committee wishes to exclude the press and the public from the meeting during consideration of any aspects of the preceding or following agenda items it will be necessary for the Sub-Committee to pass a resolution in accordance with the provisions of Section 100A(4) of the Local Government Act 1972 specifying the grounds on which their presence could involve the likely disclosure of exempt information as described in specific paragraphs of Part 1 of Schedule 12A of the Act if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

PART II
EXEMPT BUSINESS

In accordance with paragraphs 1, 2, 3 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972, which includes:

- information relating to any individual
- information which is likely to reveal the identity of an individual
- business affairs of a person other than the Council
- information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

6 APPLICATION TO DRIVE PRIVATE HIRE VEHICLES 31 - 44

The Head of Regulatory Services and Community Safety has submitted a report to inform the determination of an application to drive Private Hire Vehicles in the City.

7 APPLICATION TO DRIVE PRIVATE HIRE VEHICLES

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The Head of Regulatory Services and Community Safety has submitted a report to inform the determination of an application to drive Private Hire Vehicles in the City.

8 CONFIDENTIAL MINUTES

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Recommendation: That the confidential minutes of the meeting held on 19 August 2019 be APPROVED as a true and accurate record.

9 DATES OF FUTURE MEETINGS

The next meetings of the Sub-Committee will be held, if needed, on the following dates:

- 11 November 2019
- 16 December 2019

All meetings start at 5.30pm.

DECLARING INTERESTS

General duty

You must declare any disclosable pecuniary interests when the meeting reaches the item on the agenda headed “Declarations of Interest” or as soon as it becomes apparent to you.

What is a disclosable pecuniary interest?

Disclosable pecuniary interests relate to your employment; sponsorship (ie payment for expenses incurred by you in carrying out your duties as a councillor or towards your election expenses); contracts; land in the Council’s area; licences for land in the Council’s area; corporate tenancies; and securities. These declarations must be recorded in each councillor’s Register of Interests which is publicly available on the Council’s website.

Declaring an interest

Where any matter disclosed in your Register of Interests is being considered at a meeting, you must declare that you have an interest. You should also disclose the nature as well as the existence of the interest.

If you have a disclosable pecuniary interest, after having declared it at the meeting you must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

Members’ Code of Conduct and public perception

Even if you do not have a disclosable pecuniary interest in a matter, the Members’ Code of Conduct says that a member “must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself” and that “you must not place yourself in situations where your honesty and integrity may be questioned”. What this means is that the matter of interests must be viewed within the context of the Code as a whole and regard should continue to be paid to the perception of the public.

[1] Disclosable pecuniary interests that must be declared are not only those of the member her or himself but also those of the member’s spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

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OXFORD CITY COUNCIL

General Purposes Licensing Casework Sub-Committee

HEARING PROCEDURE for Hackney Carriages and Private Hire licensing, Street Trading consents and Sex Establishment licenses

The Meeting

The General Purposes Licensing Casework Sub-Committee (Sub-Committee) consists of three members of the General Purposes Licensing Committee. With the consent of the applicant, or person who is subject of the hearing, the Sub-Committee can consist of two councillors. The Sub-Committee is responsible for reaching a decision upon the application having heard representations and considering all relevant material presented.

All members must be present throughout the hearing. If for any reason a member needs to withdraw during the proceedings the hearing should be temporarily adjourned until the member returns, or the member should not participate any further in the hearing. Any departure should therefore be avoided wherever possible. A member who arrives after the hearing has commenced is not allowed to participate in that hearing.

Closed and Open Hearings

Street Trading hearings shall normally take place in public. However, the Sub-Committee may exclude the press and the public from all or part of a hearing where exempt information *(section 100A(4) Local Government Act 1972)* is concerned and the Sub Committee considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

Taxi licensing hearings will usually be considered in private as cases coming before the Sub-Committee involve private and personal information relating to the case subject. Most taxi hearings will therefore be held in private and will be treated as confidential and not for publication.

Declaring Interests

To avoid any suggestion of bias, members should not take part in any hearing if they have any interest, financial or otherwise, in the outcome, or if they have any connection with or have been approached by a person who is the subject of an item on the Sub-Committee's agenda. Members must take care not to be

influenced by their role on any other council committee. Licensing decisions must be taken strictly on the criteria allowed by the relevant legislation.

The Paperwork

Officers of the Licensing Authority (the City Council) will prepare the paperwork for the application that is to be heard by the Sub-Committee. The paperwork will include:-

- A summary of the application or matter for determination, the representations received and of any other relevant material

- A copy of the application and any other supporting material supplied by the applicant.

for Street Trading hearing only:

- Any observations on the application or matter made by the Police and/or other technical advisor to the Sub-Committee

- Any representations of objection to the application

Attendees at the Hearing

Any party may be assisted or represented by any person whether or not that person is legally qualified.

For Street Trading hearings only:
Observations of Police and/or Technical advisors

Where appropriate the police or technical advisers to the Sub Committee may make their observations.

The Sub-Committee may ask questions of the Police and/or technical advisors.

Other parties may ask factual questions of the Police and/or technical advisors. Cross-examination will only be permitted with the consent of the Chair.

Objector's case

Where written representations of objection have been received the Sub-Committee will have regard to those representations. Any objectors can attend the hearing to speak in support of their written objection. However, the Sub Committee will not require repetition of points already made in written representations. Only objectors who have sent written representation during the consultation period can speak.

Where a number of objectors have made representations which are similar in nature the Sub-Committee will expect a spokesperson to be appointed to represent the group.

The Sub-Committee may ask questions of any objector.

Other parties may ask factual questions of any objector. Cross-examination will only be permitted with the consent of the Chair.

Non-Attendance of the Case Subject/Applicant

If a case subject/ applicant has had reasonable notice of the hearing fails to attend either in person or through their representative, the Sub- Committee can proceed with the hearing in their absence.

The Sub-Committee may grant an adjournment if a reasonable explanation has been given for failure to attend or an adjournment has been specifically requested, and there is no reason to think that the person would fail to attend on another occasion. If a case subject has expressed an intention not to attend, or has repeatedly failed to attend, it would be proper for the Sub-Committee to hear the case in their absence.

The Sub-Committee should be prepared to adjourn proceedings if questions arise which cannot be dealt with satisfactorily in the case subject's absence. In deciding whether to hear the case in the absence of the case subject, the Sub-Committee should take into account whether they have sent a representative to act on their behalf and whether delay in hearing the case is likely to result in hardship (for example, where the case subject has stated that his or her need is urgent).

Conduct of Proceedings

The role of the Chair is to control the proceedings. All questions must be put through the Chair.

Members of the Sub-Committee will have read and familiarised themselves with the papers and issues. The Sub-Committee does not therefore require points to be made or repeated at length.

The hearing shall take the form of a discussion managed through the Chair. Formal cross- examination shall not be permitted unless the Chair considers that cross-examination in a particular circumstance would assist. In exercising this

discretion to permit cross-examination, the Chair must have regard to the rules of natural justice and the right to a fair hearing.

In considering an application, the Sub-Committee may take into account documents or other information relied on by a party in support of their application or representation. Copies of the information should be supplied to the Licensing Authority at least two working days before the hearing or, with the consent of the Chair after that time.

If a person attending the hearing is acting in a manner that the Chair considers is disruptive, the Chair will require that person to leave the hearing and may:

(a) refuse to permit that person to return; or
(b) permit him / her to return only on such conditions as the Sub-Committee may specify.

Before the end of the hearing any person who was required to leave the hearing may submit in writing any information which they would have been entitled to give orally had they not been required to leave.

Order of Proceedings

The Chair commences the hearing by introducing themselves and the other Sub-Committee members. The Chair asks all of the other parties present to introduce themselves and explain in what capacity they are attending.

Licensing officers will present the report relating to the application or matter to be heard by the Sub-Committee. They shall say who the applicant is, what the application is for and explain the paperwork before the Sub-Committee.

- The person appearing before the Sub-Committee may ask questions of the licensing officers or their report.
- Members of the Sub-Committee may ask question of the licensing officer on their presentation.

The person appearing before the Sub-Committee will present their case.

- Licensing officers may ask questions of the person appearing before the Sub-Committee.
- Members of the Sub-Committee may ask question of the person appearing before them.

For Street Trading hearings only:
If present, Police, technical advisors and objectors will present their case.

- Licensing officers may ask questions of the person appearing before the Sub-Committee.

- Members of the Sub-Committee may ask question of the person appearing before them.

All parties will be given the opportunity to summarise briefly their key points. The order shall be:-

- Licensing officer
- Objectors (for Street Trading hearings)
- Police and/or technical advisors (for Street trading hearings)
- Applicant

At the end of the submissions, the Chair will announce that the hearing is adjourned while the Sub-Committee deliberate in private. The Sub-Committee will be accompanied by the committee clerk and legal advisor during their deliberations. All other officers, applicants/ case subjects and members of the public will leave the room.

If it is necessary to recall any party for clarification of any point, then all parties should be recalled.

The Chair will either:

- Announce the decision of the Sub-Committee and confirm that a written determination with reasons will be sent to the parties by a given date.

or

- Close the hearing and confirm that once a decision has been made a written determination with reasons will be sent to the parties by a given date.

The person appearing before the Sub-Committee shall be advised orally of their 21 day right of appeal, (starting from the date of the letter) and that the decision and rights of appeal shall be notified to them in writing.

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OXFORD CITY COUNCIL

POLICY ON THE RELEVANCE OF WARNINGS, OFFENCES, CAUTIONS AND CONVICTIONS

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POLICY ON THE RELEVANCE OF WARNINGS, OFFENCES, CAUTIONS AND CONVICTIONS

Consideration of the Grant, Renewal, Suspension or Revocation of Hackney Carriage and Private Hire Driver's Licences, Vehicle Licences, and Private Hire Operator Licences.

Introduction

Hackney Carriage and Private Hire have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside "normal hours" of operation such as in the evenings or on Sundays). The Hackney Carriage/Private Hire vehicles play an integral part in the dispersal of people to support the night time economy.

It is the Council's wish to facilitate well-run and responsible businesses which display sensitivity to the wishes and needs of the general public. Its purpose, therefore, is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to cause distress, harm or suffering to any passenger or other person.

It is important that the Council's powers are used to ensure that Hackney Carriages and Private Hire vehicles in the City are safe and comfortable and that the powers are exercised in compliance with the European Convention on Human Rights.

Licensing Objectives

The Licensing Authority will carry out its Hackney Carriage and Private Hire licensing functions with a view to promoting the following licensing objectives:

- **Safety and health of drivers and the public;**
- **The promotion of a professional and respected Hackney Carriage and Private Hire trade;**
- **To prevent crime and disorder and to protect consumers;**
- **Improve the local environment, economy and quality of life; and**
- **To promote the aims and vision of Oxford City Council and its Partners.**

The aim of the licensing process, in this context, is to regulate the Hackney Carriage and Private Hire trade in order to promote the above objectives. In promoting these licensing objectives the Authority will expect to see licence holders and applicants continuously demonstrate they can meet or exceed specifications set by the Council.

Status

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out above. Notwithstanding the existence of this policy and any other relevant Council policy, each case will be considered on its own merits.

Where it is necessary for the Authority to depart substantially from this policy, clear and compelling reasons will be given for doing so. The purpose of this document is to formulate guidelines which detail the Council's current stance on the relevance of warnings, offences, cautions and convictions in respect of applications for the grant of new licences, and the renewal of existing Hackney Carriage and Private Hire

vehicle driver's, operator's and proprietor's licences, and the maintaining of such licences.

The Council expects licence holders to comply with the conditions and regulations pertaining to the licence immediately. It is acknowledged, however, that certain provisions may place financial obligations on existing licence holders and accordingly the Council is prepared to permit a transitional period which will be determined by officers acting under delegated powers, during which necessary changes must be made.

The aim of the licensing regime to which these guidelines relate is not to punish the applicant twice for an offence (which includes a caution or a conviction), but to ensure that public safety is not compromised. The objective of the licensing regime is to ensure that, so far as possible, those licensed to drive Hackney Carriages and Private Hire vehicles are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, and honest; and that they are persons who would not take advantage of their position to abuse, assault or defraud customers.

These guidelines will be taken into account by the Licensing Officers when processing applications.

Enforcement Procedures

It is this Authority's policy to deal with enforcement matters relating to an applicant or existing licence holders by means of Licensing Officers, the Head of Community Services, the Hackney Carriage and Private Hire Licensing Sub-Committee and the Courts. The expectation of the Authority is that any person who seeks the grant of a licence, or who holds a licence, meets with our definition of a "fit and proper" person. Hackney Carriage and Private Hire drivers maintain close contact with the public and are therefore not expected to behave or act in a manner that may:

- **cause any person to take offence at their actions**
- **cause any person to believe their actions are inappropriate**
- **cause any person to fear of their physical safety**
- **cause any person to doubt their integrity**
- **brings in to disrepute the integrity of the Council for having granted such a person a licence**
- **fail to adhere to the conditions and regulations pertaining to the licence**

Any complaints or enforcement measures are dealt with in the first instance by the Licensing Officers by way of a "Warning" system. Any failures on the part of an applicant or existing licence holder to uphold the Licensing Objectives or to adhere to the conditions and regulations pertaining to the licence may result in any of the following actions (including Officers requesting that additional background checks be carried out):

- **the issue of a warning (appropriate to the incident reported)**
- **the issue of a higher level of warning (appropriate to the incident reported and having regard to the history of the licence holder)**
- **the request for an interview to be held in accordance with the Police and Criminal Evidence Act 1984**
- **the issue of a Formal Caution**
- **the referral of the matter to the Head of Community Services**
- **the referral of the matter to the Hackney Carriage and Private Hire Licensing Sub-Committee**

- **the referral of the matter to the Law and Governance department for consideration of prosecution**

Definitions

Appeal: A means by which a decision under delegated authority can be reviewed by the Magistrates Court or the Crown Court. The decision of the Council may be upheld or overturned.

Offence: commonly used to signify any public wrong, including crimes or indictable offences and offences punishable on summary conviction.

Caution: A caution is a formal warning given to an adult who has admitted to the commission of an offence and has consented to the caution.

Conviction: Judicially determining that someone is guilty of a crime

Free of convictions: This means a period since your last conviction in which you remain free of any further convictions. In the case of a custodial sentence this means the periods given will run from the date that the full sentence awarded by the court would have been completed.

Fit and Proper Person: A person who is of no threat to the general public, has a good City knowledge, is healthy, is of a good character (including driving record) and is therefore deemed fit and able to hold a licence.

Hackney Carriages: A vehicle that can carry passengers for hire or reward can be hailed by a prospective passenger and can park on a rank to await the approach of passengers; a vehicle available for public Hire.

Hackney Carriage and Private Hire Licensing Sub-Committee: A committee having powers given to it by the General Purposes Licensing Committee of the Council, to determine the suitability of an applicant to be granted a licence or existing licence holder to maintain a licence, when the Head of Community Services is unable to determine whether such a person meets the Authority's definition of a "fit and proper" person.

Head of Community Services: Who holds delegated authority to make day to day decisions regarding the suitability of any person seeking the grant or renewal of a licence, and the suspension of any licence holder.

Mitigating Circumstances: The circumstances surrounding an offence, caution or conviction. These may alter the seriousness of a crime.

Private Hire Vehicles: A vehicle which must be pre-booked with a Private Hire operator. This type of vehicle cannot ply for hire (stand in a rank, wait without a booking in a "prominent position" giving rise to the impression that the vehicle is available for hire, or undertake a journey that has not been pre-booked by the hirer with the Private Hire Operator).

Proprietor: The person in possession of a Hackney Carriage or Private Hire vehicle licence.

Operator: This means a business that makes provision for the invitation or acceptance of bookings for a Private Hire vehicle.

Refusal: To decide not to give something.

(Within this Policy any reference to refusal will also be a reference to revocation or suspension).

Revoke: To take something away permanently.

Suspend: To take something away temporarily.

Advisory Warning: Either verbally given or a letter advising that although an offence, caution or conviction was not serious enough to have warranted a First Level Warning, the offence committed is unacceptable and has caused concern to the Council as to the suitability to hold such a licence. If, in the future, similar behaviour is illustrated, the consequences could be more severe, possibly leading to an escalation in the level of warning issued, or the suspension of the licence.

First Level Warning: A letter advising that although an offence, caution or conviction was not serious enough to have warranted a Second Level Warning, the offence committed is unacceptable and has caused concern to the Council as to the suitability to hold such a licence. If, in the future, similar behaviour is illustrated, the consequences could be much more severe, possibly leading to the suspension of the licence

Second Level Warning: A letter advising that although an offence, caution or conviction was not serious enough to have warranted the refusal, suspension or revocation of the licence, the offence committed is unacceptable and has caused concern to the Council as to the suitability to hold such a licence. If, in the future, similar behaviour is illustrated, the consequences could be much more severe, possibly leading to the suspension of the licence.

Final Warning: A letter advising that although an offence, caution or conviction was not serious enough to have warranted the refusal, suspension or revocation of the licence, the offence committed is unacceptable and has caused concern to the Council as to the suitability to hold such a licence. If, in the future, similar behaviour is illustrated, the licence holder should expect the matter to be met with the suspension / revocation of his/her licence.

Councillor Warning: A Decision issued by the Hackney Carriage & Private Hire Licensing Sub-Committee (likely to also include additional conditions being imposed on a licence) advising that although an offence, caution or conviction, and / or accumulation of Warnings issued by the Licensing Officers was not serious enough to have warranted the refusal, suspension or revocation of the licence, the offence committed is unacceptable and has caused concern to the Council as to the suitability to hold such a licence. If, in the future, similar behaviour is illustrated, the
licence holder should expect the matter to be met with the suspension / revocation of his/her licence.

Introduction to the Guidelines Relating to the Relevance of Convictions

Powers and Duties

The Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847 (as amended), Road Safety Act 2006 (Sections 52-53) places on Oxford City Council (the “Authority”) the duty to carry out its licensing functions in respect of Hackney Carriage and Private Hire vehicles.

The Rehabilitation of Offenders Act 1974 is summarised at Appendix 1.0. However, Hackney Carriage and Private Hire drivers are listed as regulated occupations within the Rehabilitation of Offenders Act 1974 (Exceptions) Order (Amendment) (No2) 2002. No conviction is categorised as spent under this Order. All categories that criminal offences fall into are deemed to be relevant to the role of a Private Hire and Hackney Carriage driver.

In order to assess an individual’s suitability to hold a licence, this Authority requires all

applicants to provide an Enhanced Criminal Records Bureau Disclosure and a DVLA Disclosure; and the Authority will take into account all endorsement penalty points, cautions and convictions when considering an application for a driver's licence, irrespective of offence, sentence imposed or age when the offence is committed.

All motoring and criminal offences must be declared on the application form. Any failure to declare any endorsement penalty points, offences, cautions or convictions either when making an application, or within 7 days of receipt of their issue, may lead to the appropriate enforcement actions being taken in regard to the suitability of such a person being considered "fit and proper" to hold a licence issued by the Authority.

Suitability

The legislation states that the Council may grant a licence **only** if it is satisfied that the person is fit and proper – **the onus is on the applicant to prove this, not the Council to demonstrate that they are not.**

Where sufficient and appropriate enforcement measures have been taken by the Licensing Officers, in relation to a licence holder who has displayed a propensity to fail to adhere to the conditions and regulations pertaining to his or her licence, their suitability to hold a licence may be placed before the Hackney Carriage and Private Hire Licensing Sub-Committee to determine. It is therefore advisable for all new applicants and existing licence holders to be familiar with the content of this Policy on the Relevance of Warnings, Offences, Cautions and Convictions, and with the criteria, conditions and regulations specific to the licence that they hold.

Full details of the criteria, conditions and regulations relating to the Taxi Licensing function can be found in the following documents, or on the Council website:

- **Hackney Carriage & Private Hire Driver Licence Application Pack**
- **Hackney Carriage & Private Hire Vehicle Licence Application Pack**
- **Private Hire Operator Licence Application Pack**

Offences, Cautions and Convictions

The Licensing Officer is required to look at any past indicators (convictions, including formal cautions, fixed penalties, speeding offences, etc) that may affect a person's suitability to hold a Hackney Carriage/Private Hire driver's licence and consider the possible implications of granting such a licence to that person.

The imposition of a fixed penalty in place of a prosecution under any enactment may be considered a relevant indicator of suitability. In addition, applicants must disclose any recent formal cautions they have received and any pending matters.

The disclosure of any conviction will not necessarily prevent an applicant from being issued a licence. However, all convictions, spent or live, will be assessed.

Cautions are included under the definition of 'convictions' and they will also be taken into consideration. Although these are generally not as serious as convictions, they can give some indication as to an applicant's character and whether they are a fit and proper person to hold or be granted a licence. The Licensing Officer will bear in mind that a caution is given where there is sufficient evidence for a prosecution and guilt has been admitted. Cautions will be taken in to consideration for a period of five years.

Penalty notices are similar to fixed penalties, but are issued for a wide range of offences of an anti-social nature, including behaviour likely to cause harassment, alarm or distress to others, drunk and disorderly behaviour in a public place, destroying or damaging property up to the value of £500, retail theft under £200, sale

of alcohol to a person under 18 years of age, selling alcohol to a drunken person or using threatening words or behaviour. This will be viewed in an appropriate light given the nature of the offence.

The Licensing Officer may refer to the Rehabilitation of Offenders Act 1974 as part of their assessment of the convictions. A summary of the Act is provided at **Appendix 1.0**. The fact that a conviction is not yet spent under the Act may be relevant in the determination. However, the Exemption Order means that for all practical purposes, it is as if the Rehabilitation of Offenders Act had never been passed for licensed drivers. Therefore Licensing Officers may disregard the Act if they consider it necessary in a particular case.

If a Court or the Police have found as a matter of fact that a person has committed an offence, that person cannot then say to the Licensing Officer that he / she did not commit the offence; and if they seek to do so, their representations will not be taken into consideration. The applicant can, however, explain any mitigating factors that led to them committing the offence and the Licensing Officer can take these into account in deciding whether the applicant is a fit and proper person to hold or be granted a licence. Such cases may be referred to the Licensing Sub-Committee for determination.

In the case of offences that have led to a term of imprisonment, the periods given will run from the date that the full sentence awarded by the court would have been completed.

A "Fit and Proper Person"

When considering whether someone should serve the public, the range of passengers that a driver may carry should be borne in mind. For example, elderly people, unaccompanied children, the disabled, those who have had too much to drink, lone women, foreign visitors and unaccompanied property. Some areas give rise to particular concern, including:

- **Honesty and trustworthiness** – drivers often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. They must not abuse their position of trust.
- **Not abusive** – drivers are often subject to unpleasant or dishonest behaviour. The Council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. Drivers are expected to avoid confrontation, and to address disputes through the proper legal channels. In no circumstances should they take the law into their own hands.
- **A good and safe driver** – Passengers paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence. A person who has committed an offence and has to wait a period of time before being accepted as a Hackney Carriage or Private Hire driver is more likely to value his/her licence and act accordingly.

Protecting the Public

The over-riding consideration for the Licensing Officer is to protect the public. Having considered and applied the appropriate guidelines, the Licensing Officer will determine **each case on its own merits.**

History

The Licensing Officer may take into account a person's history whilst holding a licence, from this or any other authority. The Licensing Officer may take into account,

in deciding whether a person is a fit and proper person to hold (or to continue to hold) a licence, such matters as the record of complaints about them,
also their compliance with Licence conditions and their willingness to co-operate with the reasonable requests of Licensing Officers.

Best Practice Guidance

In formulating this policy, advice contained in the Taxi and Private Hire Vehicle Licensing Best Practice Guidance issued by the Department for Transport, and the advice provided by the Institute of Licensing has been taken into account.

GUIDELINES RELATING TO THE RELEVANCE OF WARNINGS, OFFENCES, CAUTIONS AND CONVICTIONS

General Policy

1. Each case will be decided on its own merits.

2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration must be the protection of the public.

3. In the case of offences that have led to a term of imprisonment, whether or not suspended, the periods given will run from the date that the full sentence awarded by the court would have been completed.

4. Cautions will be taken in to consideration for a period of five years.

5. A new applicant is a person who has not previously held a licence with this authority or whose licence had expired for 12 months before the application form was received in the Taxi Licensing Office.

6. Warnings issued by the Licensing Officers shall be considered relevant to the determination of the suitability of all applicants and existing licence holders with regard to the grant or continuation of a licence issued by the Authority.

The following examples afford a general guide on the action to be taken where convictions are admitted.

Driving & Traffic Offences

Private Hire and Hackney Carriage drivers are considered professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at all times.

Any traffic offences show a lack of responsibility whilst driving either due to the maintenance and safety of their vehicle or in the manner of their driving.

Convictions for traffic offences should not necessarily prevent a person from proceeding with an application. However, the number, type and frequency of an offence will be taken into account. In some cases it may be appropriate to issue a licence together with a strong warning as to future driving conduct. If a significant history of offences is disclosed, an application may be refused.

Whilst the imposition of a Fixed Penalty Notice does not lead to a conviction, it never the less attracts penalty points to a DVLA licence. The Council considers ‘death by careless driving’ or ‘death by dangerous driving’ to be a very serious and you should therefore refer to the **Major Traffic Offences** section. For information on alcohol and drug related offences see **Drunkenness & Drugs** sections.

New applicants should not normally be considered if they have acquired more than three penalty points within the twelve months prior to the application for the grant of a licence; or they have in the previous two years been convicted of any single offence which resulted in a points penalty of five or more points, or offences totalling more than six points.

If sufficient points have been accrued or offences committed resulting in a period of disqualification of the applicant’s DVLA driving licence then an application for a Hackney Carriage or Private Hire driver licence may not normally be considered until a period of twenty-four months has elapsed following its restoration and a warning should be issued as to future conduct.

If the DVLA driving licence of an applicant or an existing driver is revoked following the acquisition of six or more points during the first two years since passing the DVLA driving test, then a period of 24 months following the restoration of the licence must have elapsed before a Hackney Carriage or Private Hire driving licence may be applied for.

Drivers already licensed who are convicted during the course of the licence of any single offence which results in a penalty of five or more points or acquires nine or more penalty points, should be interviewed and may be referred to the Licensing Sub-Committee.

When a driver who is already licensed with this authority is disqualified from holding or obtaining a DVLA driving licence, the licence will be suspended. A period of 24 months following the restoration of the licence must have elapsed before a Hackney Carriage or Private Hire driving licence application may be considered. The driver may be required to appear before the Hackney Carriage and Private Hire Licensing Sub-Committee before the licence is reinstated.

Drivers already licensed and applicants awaiting the grant of a licence must inform the Taxi Licensing office within 7 days of any conviction.

For existing licence holders, a guideline is provided below in relation to penalty points:

5 or less penalty points: For 5 or fewer points on an applicant’s driving licence, a licence will usually be granted, with an advisory warning.

6 or more penalty points: Where any applicant has 6 or more penalty points on their driving licence the Licensing Officer will usually consider granting the licence with a written warning unless exceptional circumstances justify a refusal.

“Totting Up” under S35 Road Traffic Offenders Act 1988: Where an applicant has been disqualified under the “totting up” procedures, the Licensing Officers will normally consider refusal until there has been a **period of 12 months** free of relevant convictions. If an applicant has agreed “exceptional hardship” and avoided disqualification, refusal will still be considered and a **period of 12 months** free of relevant convictions required.

Motor Insurance Offences

An isolated incident in the past should not necessarily bar an applicant from being issued a licence; however, the Council takes a serious view of motor insurance offences. More

than one conviction for these offences should raise serious doubts as to an applicant's suitability to hold a Hackney Carriage or Private Hire licence. In this instance, at **least 3 years** after restoration of the DVLA driving licence should elapse before an applicant, who has been disqualified from driving for an insurance offence, can be considered.

Major traffic offences

E.g. dangerous driving, drive whilst disqualified, fail to stop after an accident, using a handheld mobile telephone whilst driving, no insurance, careless driving, using vehicle with defective brakes/tyres/steering wheel etc. If the applicant has been convicted of one isolated major traffic offence a **period of 12 months** free of convictions will usually be expected prior to consideration of grant.

If the applicant has been convicted of two or more major traffic offences then a licence will not normally be granted until the applicant has completed at least a **period of 2 years** free from conviction. This period may increase where the combination of offences are considered to increase the risk to the public.

We consider 'death by careless driving' or 'death by dangerous driving' to be a very serious offence. If the applicant has been convicted of such an offence a **period of 3 years** free of convictions will usually be expected prior to consideration of an application. In all such cases, the matter will be determined by the Hackney Carriage & Private Hire Licensing Sub-Committee.

Plying for Hire

A serious view is taken of this offence, particularly since the vehicle will almost certainly have been carrying fare-paying passengers whilst uninsured. The offence is making one's vehicle available for public hire whilst using a licensed Private Hire vehicle.

It is not appropriate for Private Hire drivers to park in prominent positions (i.e. where people are likely to congregate, locations with a high level of footfall, near a taxi rank), without a pre-booked journey having been provided by the Private Hire Operator. If witnessed by the Licensing Officer, the licence holder should expect further enforcement measures to be taken against them, including a full inspection of the driver and vehicle against the conditions relating to both licences.

The Licensing Officer may request from the Private Hire Operator details of all bookings given to the driver, and further evidence if required that would assist with the Licensing Officer's case. If a Private Hire Operator is complicit in allowing the driver to book a journey, rather than the passenger book the journey directly with the Operator, the Operator should expect for the Licensing Officer to undertake any necessary enforcement measures against the company itself.

The Licensing Authority regularly carries out what are known as "Test Purchase" Operations, where attempts are made to ascertain whether individual licence holders and Private Hire Operators knowingly ply for hire. If any licence holder is found to be non-compliant with regard to this matter during such an operation, they should expect the matter to result in a prosecution against them in the Courts. If convicted by the Court of a single offence of plying for hire, the licence holder will be required to appear before the Hackney Carriage and Private Hire Licensing Sub-Committee, where the licence holder should expect to receive a revocation of their licence.

If a licence is revoked a period of twenty-four months should have elapsed before any application is considered.

Drunkenness (With Motor Vehicle)

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of alcohol. A conviction for this offence should raise grave doubts as to the applicants' fitness to hold a licence and at least 3 years should elapse (after the restoration of the driving licence) before an application for a licence is considered.

If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic a period of 5 years should elapse after treatment is complete before a further licence application is considered.

Drunkenness (Not in Motor Vehicle)

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, more than one conviction for drunkenness could indicate a medical problem necessitating critical examination.

Drugs

A serious view should be taken of this type of offence. An applicant with a conviction or caution for any drug related offence should be required to show a period of at least 3 years free of conviction or caution before an application is entertained, or 5 years after detoxification treatment if he/she was an addict.

Any person convicted of supplying drugs should not be considered for the grant of a licence for at least 5 years following conviction. If the applicant has received a custodial sentence, the 5 years should be counted from the completion of the full sentence. If a licence is granted, the applicant should be warned of the serious consequences of driving a motor vehicle whilst under the influence of drugs.

Police Bail

Hackney Carriage and Private Hire drivers are expected to adhere to this Policy's definition of a "fit and proper" person. A person who already holds a licence with the Authority, if arrested for an alleged offence, and subsequently released by the Police on bail, depending upon the nature of the alleged offence, should expect to have their licence suspended by the Head of Community Services. The suspension shall remain in force until such time as the case is resolved by either the Police or by the Courts.

Police Recommendation

Hackney Carriage and Private Hire drivers maintain close contact with the public, often carrying unaccompanied and vulnerable passengers, and are therefore expected to adhere to this Policy's definition of a "fit and proper" person. Any person who is charged by the Police for an alleged offence, who in the view of the Police Officer represents a threat to the safety and well-being of the public, should expect to have their licence suspended by the Head of Community Services. The suspension shall remain in force until such time as the case is resolved by either the Police or by the Courts.

Indecency Offences

As Hackney Carriage and Private Hire vehicle drivers often carry unaccompanied passengers. Applicants with any cautions or convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused a

Hackney Carriage or Private Hire drivers licence until they can show a substantial period (at least 5 years) free of such offences before being considered to hold a licence.

Any applicant with a single caution or conviction of this kind should expect to have their application determined by the Hackney Carriage and Private Hire Licensing Sub-Committee. A person with more than once caution or conviction for any indecency offence would not normally be considered to be a suitable applicant.

A person who already holds a licence with this Authority, if charged with any indecency offence may expect to have their licence immediately suspended until the case is resolved by either the Police or by the Courts.

No application will be considered from a person currently on the Sex Offender's Register.

Violence

As Hackney Carriage and Private Hire vehicle drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for any form of offence that involves violence of any description. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be given.

Offences involving breaches of public order should be treated seriously even if the case resulted in the applicant being bound over. More than one offence of this nature may indicate a propensity for this type of behaviour and at least three years free of conviction should be shown before an application is entertained.

Dishonesty

Hackney Carriage and Private Hire vehicle drivers are expected to be persons of trust. The widespread delivery of unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc.

Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction or if a custodial sentence, 3 to 5 years from the completion should be required before entertaining an application.

Failure to declare endorsement penalty points, offences, cautions and convictions is regarded as a serious matter, whether it is through the omission of such incidents when submitting an application to the Authority, or by not informing the Authority within 7 days of receipt of their issue. Any person, who fails to declare on his or her application any such issues, should expect their application to be referred to the Hackney Carriage and Private Hire Licensing Sub-Committee, to determine their suitability to hold a licence.

Complaints Made Against Drivers

Complaints are frequently made against Hackney Carriage and Private Hire drivers. Such complaints include refusal to assist a disabled passenger, use of abusive language or refusal to accept a fare. Such complaints should be investigated and dealt with by the Licensing Officer, and if the complaint is serious enough, the applicant may be invited to make representations. At the Officer's discretion the applicant may be requested to attend an interview.

The Licensing Officer will consider the conduct of licence holders, taking into account the circumstances surrounding any alleged incident, and the realities of the profession, where drivers are often the subject of unwarranted abuse from members of the public.

The Licensing Officer will consider the history of all complaints made against the driver to assess any patterns and if deemed appropriate request additional background checks be carried out. If a pattern is identified, then the Officer will consider whether the driver is fit and proper person to hold such a licence, and the matter referred to the Licensing Sub-Committee for determination.

Warnings Issued by the Licensing Officers

The Licensing Officers carry out the day to day enforcement functions of the Licensing Authority. They deal with complaints made about licence holders, and carry out enforcement operations throughout the City. Such operations include the inspection of Hackney Carriage vehicles at the ranks, the checking of licensed

drivers for adherence to the conditions attached to the driver, vehicle and operator licences, and checking that licence holders are complying with the relevant regulations pertaining to the licence.

Any failures on behalf of the licence holder to adhere to the criteria, conditions and regulation pertaining to the licence, are dealt with by way of Warnings. It is this Authority's policy to provide advice and education to the licensed trade in order to meet the licensing objectives as described in this Policy.

The levels of Warning issued by the Licensing Officers are proportionate to the incidents that they deal with, however should a licence holder be found to be continually failing to meet with the requirements of their licence, the level of Warning shall be escalated, until such time as the Licensing Officer has no alternative other than to refer the matter to the Head of Community Services, the Hackney Carriage and Private Hire Licensing Sub-Committee, or the Law and Governance
department.

A licence holder who has shown a propensity to fail to adhere to the conditions and regulations pertaining to his or her licence, should expect to have additional condition imposed on the licence to ensure compliance. In certain cases the consequences could be much more severe and the licence holder should expect the matter to be dealt with by way of the suspension or revocation of his or her licence.

In cases where the licence is revoked, a period of 24 months must elapse before a further application may be made to the Authority. Should an applicant submit an application before 24 months has elapsed, he or she should expect the application to be refused by the Head of Community Services.

Any applicant or licence holder, who is issued with a Warning by the Licensing Officer and disagrees with that decision, has a right of appeal by way of written complaint, to the Licensing Team Leader within **21 days of the Warning being issued.**

Conclusion

Any applicant having a previous or current conviction should not necessarily prevent them from obtaining a Hackney Carriage or Private Hire licence. A person who has committed an offence and who is made to wait for a rehabilitation period to lapse prior to their application being accepted, is more likely to value their licence and act accordingly.

However, there are certain offences that are considered so serious that they will usually prevent a person obtaining or keeping a licence.

It is this Authority's policy to consider the safety, protection and well being of the general public by ensuring all licensed drivers are safe and competent drivers and are able to maintain their vehicles to an acceptable standard. The main purpose of the Licensing Officer's assessment is to ensure the public safety; not to punish or financially penalise licence holders. By applying these guidelines, the Council is seeking to maintain the high standard of quality of Hackney Carriage and Private Hire drivers, operators and proprietors in the City, which in turn maintains the good reputation of the taxi industry and the high quality of service to the travelling public.

Any applicant refused a licence on the grounds that the Licensing Officer is not satisfied he/she is a fit and proper person to hold such a licence, or who has had their licence suspended or revoked and disagrees with that decision, has a right of appeal by way of written complaint, to the Magistrates' Court within **21 days of the notice of decision.**

APPENDICES

Appendix 1: Table of Rehabilitation of Offenders Act

The Rehabilitation of Offenders Act 1974 provides that after a certain lapse of time, convictions for offences are to be regarded as "spent". Set out below are some examples of when convictions become "spent". Please note that it is from **the date of conviction** that the time commences for the Rehabilitation of Offenders Act.

Adult

	Sentence	**Rehabilitation Period**
1.	2 ½ years (30 months) imprisonment and over whether sentence was suspended or not	Never spent
2.	6 months imprisonment/youth custody and over but under 30 months whether sentence was suspended or not	10 years
3.	Under 6 months imprisonment/youth custody whether sentence was suspended or not	7 years
4.	A Fine, Compensation or Community Service Order	5 years
5.	Conditional Discharge, Bound Over or Probation Order. (Also includes Fit Person, Supervision and Care Orders)	1 year or period of probation sentence, whichever is longer
6.	Absolute Discharge	6 months
7.	Disqualification, disability or prohibition	Period of sentence unless a longer period as above (e.g. disqualification and a fine – 5 years)
8.	Remand Home/Approval School/ Attendance Centre Orders	1 year after Order expires
9.	Hospital Order Under Mental Health Acts	The period of the Order plus a further 2 years after Order expires (with a minimum of 5 years from the date of the conviction)

Youths
For applicants aged under 17 when the date of conviction took place 2, 3 and 4 above of the fixed rehabilitation periods are halved. Sentences which can only be passed on young offenders remain **fixed** and cannot be halved, i.e.

	Sentence	**Rehabilitation Period**
10.	Borstal	7 years
11.	6 months – 2 ½ years detention in a place determined by the Secretary of State	5 years
12.	6 months detention and less as above	3 years
13.	Detention Centre Orders	3 years

The period of time which must elapse in other cases before the conviction becomes "spent" may vary considerably according to the nature of the offence and other circumstances. **The rehabilitation period may, for example, be extended by the commission of a further offence during the rehabilitation period**

Minutes of a meeting of the GENERAL PURPOSES LICENSING CASEWORK SUB-COMMITTEE on Monday 19 August 2019

www.oxford.gov.uk
OXFORD CITY COUNCIL

Committee members:

Councillor Cook (Chair) Councillor Gotch

Officers:

Anita Bradley, Monitoring Officer
Alison Daly, Lawyer
Joshua Curnow, Senior Licensing Compliance Officer
John Mitchell, Committee and Member Services Officer

Apologies:

Councillors Lloyd-Shogbesan and Lygo sent apologies.

21. Declarations of Interest

None.

22. Procedure to be followed at the meeting

Guidance on the procedure to be followed was attached to the agenda.

23. Minutes

The Sub-Committee resolved to APPROVE the minutes of the meeting held on 08 July 2019 as a true and accurate record.

24. Exempt Matters

The Sub-Committee resolved that under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the remaining items of business on the grounds that their presence would involve the likely disclosure of exempt information as described in Paragraph 3 of Part 1 of Schedule 12A of the Act.

The Sub-Committee considered matters relating to Hackney Carriage and Private Hire Vehicle licensing in private.

The Sub-Committee had one case before it.

25. Application to drive Private Hire Vehicles in the City.

The Head of Regulatory Services and Community Safety had submitted a report to inform the determination of an application to drive Private Hire Vehicles in the City

The Sub-Committee resolved to:

Grant the application to drive Private Hire Vehicles in the City.

26. Confidential Minutes

The Sub-Committee resolved to APPROVE the confidential minutes of the meeting held on 08 July 2019 as a true and accurate record.

27. Dates of Future Meetings

The next meetings of the Sub-Committee will be held, if needed, on the following dates:

- 30 September 2019
- 11 November 2019
- 16 December 2019

The meeting started at 5.30 pm and ended at 6.00 pm

Chair …….. **Date: Monday 30 September 2019**

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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