

**APPENDIX E**

**Licensing Authority, Chichester District Council, East Pallant House,**

**East Pallant, Chichester, West Sussex PO19 1TY**

**Convictions Policy**

1. **Introduction**

## 1.1 This document provides existing and prospective Licensed Vehicle Proprietors, Drivers, and Operators with clarity as to Chichester District Council’s requirements as the Licensing Authority, with respect to convictions and their effect on whether or not Licence(s) will be granted and/ or retained.

## 1.2 This Licensing Authority has set out below the standards which will ordinarily be applied to both applicants and existing licensees, which are based on the recommendations as set out in HM Government’s Department for Transport statutory guidance titled ‘*Statutory Taxi & Private Hire Vehicle Standards*’ published in July 2020 in the annex titled ‘*Assessment of Previous Convictions*’. Where stated, they are the minimum standards that will ordinarily be applied by the Licensing Authority.

**2. Responsibility of the Licensing Authority**

2.1 Drivers and Operators cannot be granted a licence unless the Licensing Authority is satisfied that they are a “Fit and Proper Person” to hold that licence[[1]](#footnote-1).

2.2 As there are no statutory criteria for vehicle licences, Licensing Authorities have absolute discretion over whether or not to grant Hackney Carriage or Private Hire Vehicle Licences.

2.3 “Fit and Proper” means that the individual, or in the case of a Private Hire Operator’s Licence, the limited company together with its directors and secretary, or all members of a partnership[[2]](#footnote-2), is “safe and suitable” to hold the licence.

## 2.4 In determining safety and suitability, the Licensing Authority is entitled to take into account all matters concerning that applicant or existing Licence Holder: This is not simply concerning a person’s behaviour whilst working in the Hackney Carriage or Private Hire trade, and is far wider than simply criminal convictions or other evidence of unacceptable behaviour, with the entire character of the individual being considered: This can include, but is not limited to, the individual’s attitude and temperament.

## 2.5 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A Caution is regarded in exactly the same way as a conviction[[3]](#footnote-3). Also, Fixed Penalties and Community Resolutions will be considered in the same way as a conviction[[4]](#footnote-4).

**3. Explanation, Offence Types, and Debarring Periods**[[5]](#footnote-5)

# 3.1 Persons involved in the Licensed Vehicle trade have responsibility for the safety of their passengers, responsibility for the safety of other road users, and significant control over passengers who are in their vehicles. As those passengers may be alone, and also may be vulnerable, any previous convictions or unacceptable behaviour weighs heavily against a licence being granted or retained: Although this is particularly the case regarding Licensed Drivers, also these criteria will be applied to Operators and Proprietors of Licensed Vehicles.

3.2 Where an applicant or existing Licence Holder has more than one conviction showing a pattern or tendency, irrespective of the time elapsed since the convictions, serious consideration will be given as to whether they are a safe and suitable person to be Licensed.

3.3 This Licensing Authority debars persons from becoming Licence Holders should they already have a conviction, or receive a new conviction once Licensed unless, in relation to a single conviction, the following time periods have elapsed following completion of the sentence (or the date of conviction if a fine was imposed):

**Crimes resulting in death**

3.4 Where an applicant or existing licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

**Exploitation**

3.5 Where an applicant or existing licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

**Offences involving violence against the person**

3.6 Where an applicant or existing licensee has a conviction for an offence of violence against the person, or connected with any offence of violence, they will not be licensed until at least ten (10) years have elapsed since the completion of any sentence imposed.

**Possession of a weapon**

3.7 Where an applicant or existing licensee has a conviction for possession of a weapon or any other weapon related offence, they will not be licensed until at least seven (7) years have elapsed since the completion of any sentence imposed.

**Sexual offences**

3.8 Where an applicant or existing licensee has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

3.9 In addition to the above, the Licensing Authority will not grant a licence to any applicant or existing licensee who is currently on the sex offenders register or on any barred list.

**Dishonesty**

3.10 Where an applicant or existing licensee has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven (7) years have elapsed since the completion of any sentence imposed.

**Drugs**

3.11 Where an applicant or existing licensee has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply drugs, a licence will not be granted until at least ten (10) years have elapsed since the completion of any sentence imposed.

3.12 Where an applicant or existing licensee has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five (5) years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

**Discrimination**

3.13 Where an applicant or existing licensee has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven (7) years have elapsed since the completion of any sentence imposed.

**Motoring convictions**

3.14 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

3.15 Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

**Drink driving/driving under the influence of drugs**

3.16 Where an applicant or existing licensee has a conviction for drink-driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

**Using a hand‐held device whilst driving**

3.17 Where an applicant or existing licensee has a conviction for using a held‐hand mobile telephone or hand‐held device whilst driving, a licence will not be granted until at least five (5) years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

**ADDENDUM:**

3.21 As a consequence of HM Government’s guidance in its publication ‘*New filtering rules for DBS certificates (from 28 November 2020 onwards)*’, only convictions showing on the DBS Enhanced Certificate may be considered by this Licensing Authority in evaluating any Application received. However, still it is incumbent on Applicants and Licence holders alike immediately to notify this Licensing Authority in writing of any pending matters of which they are the subject: These will include, but are not limited to details of any Arrest, Court Order (both Criminal and Civil), Conviction, Caution, Fixed Penalty Notice (both criminal and all motoring offences), ASBO, Civil Injunction, Criminal Investigation, and any other similar matters.

1. Local Government (Miscellaneous Provisions) Act 1976 s.51 and s.59 in respect of drivers; s.55 in respect of operators. [↑](#footnote-ref-1)
2. Section 57(2)(c) Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the

   character of a company director or secretary, or any partner. [↑](#footnote-ref-2)
3. This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution. [↑](#footnote-ref-3)
4. This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt. [↑](#footnote-ref-4)
5. Based on HM Government’s Department for Transport’s ‘Statutory Taxi & Private Hire Vehicle Standards’ - July 2020 [↑](#footnote-ref-5)