



Exeter City Council

To the Chair and Members
of the Licensing Committee

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A meeting of the **LICENSING COMMITTEE** will be held in the Rennes Room, Civic Centre, Paris Street, Exeter on **TUESDAY 27 MARCH 2012** to consider the following business.

If you have an enquiry regarding any items on this agenda, please contact Howard Bassett, on **Exeter 265107**.

Pages

AGENDA

1 **APOLOGIES**

To receive apologies from Committee members.

2 **DECLARATIONS OF INTEREST**

Councillors are reminded of the need to declare personal and prejudicial interests, including the nature and extent of such interests, in relation to business on the agenda, before any discussion takes place on the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

3 **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 -
EXCLUSION OF PRESS AND PUBLIC**

To pass the following resolution:-

RECOMMENDED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for items 6 to 11 on the grounds that they involve the likely disclosure of exempt information as defined in the relevant paragraphs of Part I and 2 of Schedule 12A of the Act.

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- 4 **CONVICTIONS RELATING TO HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES** 1 - 26
- To consider the report of the Assistant Director Environment.
- (Report circulated)
- 5 **JOINT ENFORCEMENT EXERCISE - EXETER CITY COUNCIL AND OTHER AGENCIES ON LICENSED HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES** 27 - 30
- To consider the report of the Assistant Director Environment.
- (Report circulated)
- Part II: Items suggested for discussion with the press and public excluded**
- LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**
- 6 **APPLICATION TO RENEW AND VARY A CONSENT TO TRADE (MR A.C.)** 31 - 34
- To consider the report of the Assistant Director Environment.
- (Report circulated to Members)
- TOWN POLICE CLAUSES ACT 1847/TRANSPORT ACT 1985, SECTION 16**
- TRANSPORT ACT 1985**
- 7 **APPLICATION FOR THE ISSUE OF A HACKNEY CARRIAGE VEHICLE LICENCE (MR A.A.)** 35 - 38
- To consider the report of the Assistant Director Environment.
- (Report circulated to Members)
- 8 **APPLICATION FOR THE ISSUE OF A HACKNEY CARRIAGE VEHICLE LICENCE (MR K.J.)** 39 - 40
- To consider the report of the Assistant Director Environment.
- (Report circulated to Members)
- 9 **APPLICATION FOR THE ISSUE OF A HACKNEY CARRIAGE VEHICLE LICENCE (MR S.H.)** 41 - 42
- To consider the report of the Assistant Director Environment.
- (Report circulated to Members)

10 **APPLICATION FOR THE ISSUE OF A HACKNEY CARRIAGE VEHICLE LICENCE (MR S.R.)** 43 - 44

To consider the report of the Assistant Director Environment.

(Report circulated to Members)

11 **APPLICATION FOR THE ISSUE OF A HACKNEY CARRIAGE VEHICLE LICENCE (MR A.M.)** 45 - 54

To consider the report of the Assistant Director Environment.

(Report circulated to Members)

Membership will be drawn from the following members of the Licensing Committee -
Councillors Macdonald (Chair), Branston (Deputy Chair), Choules, Fullam, A Stone, D J Henson,
Newby, Newcombe, Payne, Robson, Ruffle, Shiel, Thompson and Tippins

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**EXETER CITY COUNCIL
LICENSING COMMITTEE
27 MARCH 2012**

**POLICY OF EXETER CITY COUNCIL IN RELATION TO THE RELEVANCE OF
CONVICTIONS OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE
DRIVERS.**

1. PURPOSE OF THE REPORT

- 1.1 To bring to the Committees attention the feedback from the consultation conducted between the 15 December 2011 and the 9 March 2012 relating to the draft policy presented to the Licensing Committee on the 29 November 2011 to assist in determining applications and standardising procedures relating to holders of and applicants for hackney carriage and private hire drivers licences.

2. BACKGROUND

- 2.1 Pursuant to section 51(1) (a) Local Government (Miscellaneous Provisions) Act 1976 the Council must satisfy itself as far as is possible that all drivers are fit and proper persons to hold a drivers licence.
- 2.2 The draft policy was circulated to the members of the Licensing Committee on the 29 November 2011 and sent out to the Hackney Carriage and Private Hire trade representatives and the Devon and Cornwall Constabulary on the 15 December 2011 stating that the closing date for the consultation would be the 9 March 2012.
- 2.3 At the close of business on the 9 March 2012 no responses had been received from any of the consultees.

3. IMPLICATIONS FOR THE LICENSING AUTHORITY

- 3.1 The Licensing Authority has a statutory duty to ensure Public safety is not compromised by its licensing functions and a policy such as this will reduce the potential for legal challenges to the Council if the Licensing Committee adopts clear policy in determining this aspect of fitness and propriety.

4. FINANCIAL IMPLICATIONS

- 4.1 The adoption of a clear policy will reduce the risk of challenges to licensing committee decisions thus reducing any financial impact.

5. RECOMMENDATION

- 5.1 It is recommended that the Licensing Committee adopt the policy relating to convictions.

Assistant Director Environment

ENVIRONMENT DIRECTORATE

Local Government (Access to Information) Act 1985 (as amended)

Background papers used in compiling this report:

None

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Policy of Exeter City Council in relation to the Relevance of Convictions of Hackney Carriage and Private Hire Vehicle Drivers.

1. In the context of this Policy:

- “the Council” means Exeter City Council
- “Licence” means a licence to drive a hackney carriage and/or private hire vehicle
- “Drivers” means persons applying for or holding hackney carriage and/or private hire vehicle drivers’ licences
- “Convictions” means all convictions including juvenile convictions, cautions, warnings and reprimands.
- “Fit and Proper” means Fit and Proper to hold a Drivers Licence
- “ROA” Rehabilitation of Offenders Act 1974
- “the Order” means Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended
- “he” means both he or she

2. General Policy

- 2.1 The Council must satisfy itself as far as possible that all Drivers are Fit and Proper persons to hold a Drivers Licence. In so doing, the Council will have regard to all relevant factors such as convictions, including those that are "spent convictions" under the ROA.
- 2.2 Issues calling in to question whether a Driver is Fit and Proper will be decided by the Licensing Committee on a case by case basis, with each case being decided on its own merits. The Licensing Committee will always put the protection of the public first when considering Drivers’ convictions and whether a Licence should be refused or revoked because a Driver is not considered Fit and Proper.
- 2.3 Where there is evidence, including evidence of convictions, to question whether a Driver is Fit and Proper, the matter will be referred to the Licensing Committee with a report which may make recommendations based on this Policy, but the final decision as to whether a Driver is Fit and Proper rests with the Licensing Committee. There will be an onus placed upon the Driver to demonstrate to the Licensing Committee that he is Fit and Proper.
- 2.4 Persons with convictions for serious offences are not necessarily prevented permanently from holding a Licence but will be expected to remain free of further convictions for an appropriate period, before an application for a Licence is considered. However, remaining free of further convictions for a specified period may not be sufficient to show that a Driver is Fit and Proper, and additional evidence to demonstrate a Driver’s fitness and propriety may be required.

3. Departure from Policy

- 3.1 There may be occasions where it is appropriate to depart from this policy when considering whether a Driver is Fit and Proper. For example, where the offence is an isolated incidence and there are persuasive mitigating circumstances or where there

are many or continuous low level offences which may show a pattern of offending and unfitness.

4. Relevance of Rehabilitation of Offenders Act 1974

4.1 ROA section 4(1) provides that where persons are rehabilitated for the purposes of ROA in respect of a conviction (i.e. the conviction is spent) they shall be treated for all purposes in law as a person who has not committed, been charged with, prosecuted for, convicted of or sentenced for the offence(s) which were the subject of that conviction and:

- a) *no evidence shall be admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in Great Britain to prove that any such person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which was the subject of a spent conviction; and*
- b) *a person shall not, in any such proceedings, be asked, and if asked, shall not be required to answer, any question relating to his past which cannot be answered without acknowledging or referring to a spent conviction or spent convictions or any circumstances ancillary thereto.*

4.2 Section 4(2) further provides that where a question seeking information with respect to a person's previous convictions, offences, conduct or circumstances is put to him or to any other person otherwise than in proceedings before a judicial authority:

- a) *the question shall be treated as not relating to spent convictions or to any circumstances ancillary to spent convictions, and the answer thereto may be framed accordingly; and*
- b) *the person questioned shall not be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose a spent conviction or any circumstances ancillary to a spent conviction in his answer to the question.*

5. Disclosure of Spent Convictions

5.1 However, the Order excludes Drivers from the provisions of section 4(2) ROA where the Driver questioned is informed at the time the question is asked, that by virtue of the Order, **spent convictions are to be disclosed.**

5.2 The following sets out the policy of the Council in relation to Drivers' Convictions.

(a) Serious offences where refusal or revocation will always be recommended (Appendix A).

Where a Driver has convictions for any of the offences listed in **Appendix A** the recommendation to the Licensing Committee will be to refuse application for or revoke a Licence. These include offences involving loss of life, serious road traffic offences and sexual offences.

As the driver of hackney carriages and private hire vehicles often carry passengers who are alone or may be vulnerable, applicants who have convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003 will normally be refused a licence.

(b) Offences where refusal or revocation will be recommended within 5 years of the date of conviction or expiry of any custodial sentence imposed whichever is the later date (Appendix B).

These include offences involving dishonesty, violence and indecency as well as offences involving the supply of drugs.

The public using hackney carriages and private hire vehicles expect drivers to be honest and trustworthy. Moreover, the widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and overseas visitors in particular may be an easy target for unscrupulous drivers.

6. Dishonesty

- 6.1 For these reasons where a Driver has convictions for offences involving dishonesty the policy of the Council will be to refuse application for or revoke a Licence within 5 years from the date of any conviction or the end of any custodial sentence imposed, or where there are two or more offences in any period involving dishonesty.

7. Violence

- 7.1 Drivers maintain close contact with the public and for this reason where a Driver has convictions for offences involving violence the recommendation to the Licensing Committee will be to refuse application for or revoke a Licence within 5 years from the date of any Conviction or the end of any custodial sentence imposed or where there are two or more offences in any period involving violence.

8. Sexual offence

- 8.1 Where an applicant has a conviction for a sexual offence such as indecent exposure they will normally be refused a licence until they can show a substantial period usually between 5 and 10 years free of any such convictions from the date of conviction or the date of release where a custodial sentence has been imposed before an application is made.
- 8.2 After a period of 5 years from the date of a conviction or the date of release where a custodial sentence has been imposed, consideration will be given to the circumstances of the offence and any evidence presented to show that an applicant is a Fit and Proper person to hold a licence.
- 8.3 When considering applications, the Licensing Committee may take into account any relevant information brought to its attention of inappropriate sexual behaviour which has not amounted to a criminal offence but which may indicate that an applicant is not a Fit and Proper person to hold a licence.

9. Illegal supply of drugs

- 9.1 An application will normally be refused where it is made within 5 years from the date of a conviction or the date of release where a custodial sentence has been imposed for an offence relating to the illegal supply of drugs.

c) Less serious offences where refusal or revocation will be recommended within 3 years of the date of conviction or expiry of any custodial sentence imposed whichever is the later date (Appendix C).

Appendix C includes less serious offences such as the possession of drugs

10. Possession of drugs

- 10.1 An application will normally be refused where it is made within 3 years from the date of a conviction or the date of release where a custodial sentence has been imposed for an offence relating to the possession of drugs.
- 10.2 An application will normally be refused where there is more than one conviction for offences related to the possession of drugs and the last conviction or the date of release where a custodial sentence has been imposed, is less than 5 years before the date of the application.

11. Drug Addiction

- 11.1 Where evidence is available that an applicant who has convictions for drug related offences has been addicted to drugs, they will have to produce evidence that shows that they have been free of drug taking for at least 5 years after successfully completing a drug treatment programme.

d) Convictions for Road Traffic Offences (Appendix D)

Convictions Where Disqualification from Holding a Driver's Licence is Imposed

12. Disqualification

- 12.1 Where an applicant has been disqualified from driving by the Courts for a serious traffic offence under Appendix D below, an application will generally be refused unless a period of 5 years free of conviction has passed since the return of the DVLA licence.
- 12.2 Where a disqualification is imposed by a court in a "totting-up" case, (i.e. where an applicant has been disqualified because of several driving offences), an application will generally be refused unless a period of 2 year free of conviction has elapsed since the return of the DVLA driver licence.
- 12.3 In "totting-up" cases where a court does not impose a disqualification because of exceptional circumstances, then because the Council apply different criteria to the Courts, an application will generally be refused unless an applicant can show a period of 2 years free of conviction from the date of the last Court appearance.

13. Other Convictions for Road Traffic Offences

- 13.1 Normally, convictions for other traffic offences not involving disqualification should not prevent someone obtaining a licence. However, the number, type and the frequency of these types of offence will be taken into account. If there are several convictions for these types of offence, an applicant will normally be expected not to have been convicted of an offence in the 6 months before an application is made.

(e) Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 (the Acts) (Appendix E)

One of the main purposes of the licensing regime set out in the Acts is to ensure the protection of the public. For this reason, a serious view will be taken of convictions for offences under these Acts.

For these offences the recommendation to the Licensing Committee will be to refuse the application within 3 years of the conviction or to revoke the Drivers Licence if the offence arises during the currency of that Licence.

Appendix A

Very serious offences – in relation to convictions for the following offences the recommendation to the Licensing Committee will be to refuse application for the grant of a Licence or revoke the existing Licence

Arson

Murder

Manslaughter

Manslaughter or culpable homicide while driving

Rape

Serious Sexual Offences

Similar offences or offences which may replace the above offences.

CD40 Causing death through careless driving when unfit through drink

CD50 Causing death through careless driving when unfit through drugs

CD60 Causing death through careless driving with alcohol level above the limit.

CD70 Causing death through careless driving then failing to supply a specimen for analysis.

DD40 Dangerous Driving

DD60 Manslaughter or culpable homicide while driving a vehicle

DD80 Causing death by dangerous driving

MS50 Motor racing on a highway

UT50 Aggravated taking of a vehicle

Any offence of Aiding, Abetting or procuring the above offences.

(Note, the offence code will have the 0 replaced by a 2)

Any offence of Causing or permitting the above offences.

(Note, the offence code will have the 0 replaced by a 4)

Inciting any of the above offences.

(Note, the offence code will have the 0 replaced by a 6)

Appendix B

Serious offences- in relation to convictions for the following offences where less than 5 years since conviction or end of any custodial sentence whichever is later, the recommendation to the Licensing Committee will be to refuse application for the grant of a Licence or revoke the existing Licence the Licence.

Theft

Theft – shoplifting

Theft – employee

Theft – from vehicle

Burglary and theft – dwelling

Burglary and theft – non-dwelling

Burglary – aggravated

Fraudulent use

Handling

Receiving

Forgery

Conspiracy to defraud

Obtain money by deception

Obtain money by forged instrument

Deception

False accounting

False statement to obtain benefit

Going equipped

Taking/driving or attempting to steal a vehicle

Allow to be carried in a stolen vehicle

Perverting the course of justice

Malicious wounding or grievous bodily harm;

Assault occasioning actual bodily harm;

Assault with intent to cause grievous bodily harm;

Assaulting a Police Officer in the execution of their duties;

Malicious wounding;

Common assault by beating;

Battery;

Violent Disorder;

Riot;

Affray;

Robbery;

Offences relating to the supply of drugs.

Similar offences or offences which may replace the above offences.

Appendix C

Less serious offences- in relation to convictions for the following offences where less than 3 years since conviction or end of any custodial sentence whichever is later the recommendation to the Licensing Committee will be to refuse application for the grant of a Licence or revoke the existing Licence the Licence

Common assault

Criminal damage

Obstructing an officer

Resisting arrest

Offences relating to the possession of drugs

Public Order offences not listed in Appendix B

Other minor offences.

Similar offences or offences which may replace the above offences.

Appendix D

AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours
BA10	Driving whilst disqualified by order of court
BA 30	Attempting to drive whilst disqualified by order of the Court
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.
CU10	Using a vehicle with defective brakes
CU20	Causing or likely to cause danger by 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.
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving or attempting to drive
DR70	Failing to provide a specimen for a breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle while unfit through drugs
IN10	Using a vehicle uninsured against third party risks
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle after having failed to notify a disability
MS70	Driving with uncorrected defective eyesight
LC20	Driving otherwise than in accordance with a licence
LC50	Driving after a licence has been revoked or refused on medical grounds
MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS60	Offences not covered by other codes
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver etc.
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with a moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with a stationary vehicle
SP10	Exceeding goods vehicle speed limits
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 "stop" sign
TS40	Failing to comply with direction of a constable/warden

TS50	Failing to comply with traffic sign (excluding stop signs, traffic lights or double white lines)
TS60	Failing to comply with a school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

Any offence of Aiding, Abetting or procuring the above offences.
(Note, the offence code will have the 0 replaced by a 2)

Any offence of Causing or permitting the above offences.
(Note, the offence code will have the 0 replaced by a 4)

Inciting any of the above offences.
(Note, the offence code will have the 0 replaced by a 6)

Appendix E

Offences Specific To Hackney Carriages, Private Hire Vehicles and Drivers

As well as the offences set out above there are specific offences set out in the two Acts that create offences relating to Hackney Carriages and Private Hire Vehicles and the drivers of those vehicles:

The offences are set out below. Those on the first page are offences arising from the 1847 Act, while those on subsequent pages are offences arising from the 1976 Act.

In relation to the maximum penalties specified, the levels of fine are currently as follows:

Level 1-£200 Level 2-£500 Level 3-£1,000 Level 4-£2,500.

Town Police Clauses Act 1847

Section	Offence	Max Penalty
40	Giving false information on application for HC proprietor's licence.	Level 1
44	Failure to notify change of address of HC proprietor.	Level 1
45	Plying for hire without HC proprietor's licence.	Level 4
47	Driving a HC without HC driver's licence.	Level 3
47	Lending or parting with HC driver's licence	Level 3
47	HC proprietor employing unlicensed driver	Level 3
48	Failure by HC proprietor to hold HC driver's licence.	Level 1
48	Failure by HC proprietor to produce HC driver's licence	Level 1
52	Failure to display HC plate	Level 1
53	Refusal to take a fare.	Level 2
54	Charging more than the agreed fare.	Level 1
55	Obtaining more than the legal fare. month's imprisonment until the excess is refunded.	Level 3 & 1
56	Travelling less than the lawful distance for an agreed fare.	Level 1
57	Failing to wait after a deposit to wait has been paid.	Level 1
58	Charging more than the legal fare.	Level 3
59	Carrying other person than the hirer without consent.	Level 1
60	Driving HC without proprietor's consent	Level 1
60	Person allowing another to drive HC without proprietor's consent.	Level 1
61	Drunken driving of HC	Level 1
61	Wanton or furious driving or wilful misconduct leading to injury or danger.	Level 1
62	Driver leaving HC unattended.	Level 1
64	HC driver obstructing other HC's.	Level 1

Local Government (Miscellaneous Provision) Act 1976

Section	Offence	Max Penalty
49	Failure to notify the transfer of a HC proprietor's licence.	Level 3
50(1)	Failure to present a HC for inspection, as required.	Level 3
50(2)	Failure to inform the Licensing Authority where the HC is stored, if requested.	Level 2
50(3)	Failure to report an accident to the Licensing Authority.	Level 3
50(4)	Failure to produce the HC proprietor's licence and insurance certificate.	Level 3
53(3)	Failure to produce the HC driver's licence.	Level 3
57	Making a false statement or withholding information to obtain a HC driver's licence.	Level 3

58(2)	Failure to return a plate after notice given following expiry, revocation or suspension of a HC proprietor's licence.	Level 3 plus daily fine of £10
61(2)	Failure to surrender a driver's licence after suspension, revocation or refusal to renew.	Level 3
64	Permitting any vehicle other than a HC to wait on a HC stand.	Level 3
66	Charging more than the meter fare for a journey ending outside the district, without prior agreement.	Level 3
67	Charging more than the meter fare when HC used as private hire vehicle.	Level 3
69	Unnecessarily prolonging a journey.	Level 3
71	Interfering with a taximeter.	Level 3
73(1)(a)	Obstruction of an authorised Officer or Constable.	Level 3
73(1)(b)	Failure to comply with a requirement of an authorised Officer or Constable.	Level 3
73(1)(c)	Failure to give information or assistance to an authorised Officer or Constable.	Level 3
46(1)(a)	Using an unlicensed PH vehicle.	Level 3
46(1)(b)	Driving a PH vehicle without a PH driver's licence.	Level 3
46(1)(c)	Proprietor of a PH vehicle using an unlicensed driver	Level 3
46(1)(d)	Operating a PH vehicle without a PH operator's licence.	Level 3
46(1)(e)	Operating a vehicle as a PH vehicle when the vehicle is not licensed as a PH vehicle.	Level 3
46(1)(e)	Operating a PH vehicle when the driver is not licensed as a PH driver.	Level 3
48(6)	Failure to display a PH vehicle plate	Level 3
49	Failure to notify transfer of a PH vehicle licence.	Level 3
50(1)	Failure to present PH vehicle for an inspection, as required.	Level 3
50(2)	Failure to inform the Licensing Authority where the PH vehicle is stored, if requested.	Level 3
50(3)	Failure to report an accident to the Licensing Authority.	Level 3
50(4)	Failure to produce a PH vehicle licence and an insurance certificate.	Level 3
53(3)	Failure to produce a PH driver's licence.	Level 3
54(2)	Failure to wear a PH driver's badge.	Level 3
56(2)	Failure by a PH operator to keep records of bookings.	Level 3
56(3)	Failure by a PH operator to keep records of PH vehicles operated by him.	Level 3
56(4)	Failure to produce a PH operator's licence on request.	Level 3
57	Making false statement or withholding information to obtain a PH driver or operator's licence.	Level 3
58(2)	Failure to return plate after notice given following expiry, revocation or suspension of a PH vehicle licence.	Level 3 plus daily fine of £10
61(2)	Failure to surrender a driver's licence after suspension, revocation or refusal to renew.	Level 3
67	Charging more than the meter fare when a HC used as PH vehicle.	Level 3
69	Unnecessarily prolonging a journey.	Level 3
71	Interfering with a taximeter.	Level 3
73(1)(a)	Obstruction of an authorised Officer or Constable.	Level 3
73(1)(b)	Failure to comply with a requirement of an authorised Officer or Constable.	Level 3
73(1)(c)	Failure to give information or assistance to an authorised Officer or Constable.	Level 3

Transport Act 1980

Section	Offence	Max Penalty
64(2)(a)	Driving a PH vehicle with a roof sign, which contravenes s64 (1).	Level 3
64(2)(b)	Causing or permitting a PH vehicle to be driven with a roof sign which contravenes s64 (1).	Level 3

Legislation referred to in the Policy.

Section 51(1)(a) Local Government (Miscellaneous Provisions) Act 1976

Rehabilitation of Offenders Act 1974

Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended.



Policy of Exeter City Council in relation to the Relevance of Convictions of Hackney Carriage and Private Hire Vehicle Drivers.

General Policy

The Council must be satisfied that all drivers are suitable [fit and proper in the law] to hold a drivers Licence. The Council will have look at all relevant matters such as convictions including those that are "spent convictions" which means those that would not show up on a basic Criminal Record Bureau check.

Whether a driver is fit and proper is decided by a Licensing Sub-Committee, each application being decided on its own merits.

If there is evidence that you may not be fit and proper, your application will be referred to a Licensing Sub-Committee. They will always put the protection of the public first when considering whether a licence should be refused or revoked.

A report explaining the convictions you have will be made to a Licensing Sub-Committee based on this Policy but the final decision as to whether you are fit and proper rests with them. The onus is on you to prove to that you are fit and proper.

If you have a conviction for a serious offence you are not necessarily prevented permanently from holding a Licence but you will be expected to remain free of conviction for a period depending on the nature and age of the conviction.

However, remaining free of convictions for a specified period may not be enough to show that you are fit and proper and additional evidence may be required.

There may be occasions where it is appropriate to depart from these guidelines when considering whether you are fit and proper. For example, where there are mitigating circumstances or where there are aggravating factors which may demonstrate unfitness.

Relevance of Rehabilitation of Offenders Act 1974

The law says that where you have only spent convictions they shall be treated for all purposes in law as not existing but when asked about your previous convictions, offences or warnings by a licensing officer and you are told about the law at the time, spent convictions are to be disclosed.

The following sets out the policy of the Council in relation to your convictions.

(a) Offences where refusal or revocation will always be recommended (Appendix A).

Where convictions for offences listed in Appendix A are identified, the recommendation will be to refuse an application for a new licence or revoke an existing Licence.

(b) Offences where refusal or revocation will be recommended within 5 years of the date of conviction or expiry of any custodial sentence imposed whichever is the later date (Appendix B).

Where convictions listed in Appendix B are identified the recommendation will be to refuse an application for a new licence, or revoke an existing Licence if the application is within 5 years from the date of conviction or the end of a custodial period.

The Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a fit and proper person to hold a licence.

Where there are two or more Appendix B convictions your application will normally be refused or revoked

c) Offences where refusal or revocation will be recommended within 3 years of the date of conviction or expiry of any custodial sentence imposed whichever is the later date (Appendix C).

Where convictions listed in Appendix C are identified the recommendation will be to refuse an application for a new licence, or revoke an existing Licence if the application is within 3 years from the date of conviction or the end of a custodial period

Where there are two or more Appendix C convictions your application will normally be refused or revoked

Where evidence is available that your conviction for drug related offences was due to being addicted to drugs, you will have to produce evidence that shows that you have been free of drug taking for at least 5 years after successfully completing a drug treatment programme.

d) Convictions for Road Traffic Offences (Appendix D)

Convictions Where Disqualification from Holding a Driver's Licence is Imposed

Where you have been disqualified from driving by the Courts, your application will generally be refused unless a period of 5 years free of conviction has passed since the return of the DVLA licence.

Where a disqualification is imposed by a court in a "totting-up" case, you will generally be refused unless a period of 2 years free of conviction has elapsed since the return of the DVLA driver licence.

In "totting-up" cases where a court does not impose a disqualification because of exceptional circumstances, an application will generally be refused unless an applicant can show a period of 2 year free of conviction from the date of the last Court appearance.

Other Convictions for Road Traffic Offences

Normally, convictions for other traffic offences not involving disqualification should not prevent someone obtaining a licence. However, if there are several convictions for these types of offence, an applicant will normally be expected not to have been convicted of an offence in the 6 months before an application is made.

(e) Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 (the Acts) (Appendix E)

One of the main purposes of the licensing regime is to ensure the protection of the public. For these offences the recommendation will be to refuse the application within 3 years of the conviction or to revoke the Drivers Licence if the offence arises during the currency of that Licence.

Appendix A

Very serious offences – in relation to convictions for the following offences the recommendation to the Licensing Sub-Committee will be to refuse application for the grant of a Licence or revoke the existing Licence

Arson

Murder

Manslaughter

Manslaughter or culpable homicide while driving

Rape

Serious Sexual Offences

Similar offences or offences which may replace the above offences.

CD40 Causing death through careless driving when unfit through drink

CD50 Causing death through careless driving when unfit through drugs

CD60 Causing death through careless driving with alcohol level above the limit.

CD70 Causing death through careless driving then failing to supply a specimen for analysis.

DD40 Dangerous Driving

DD60 Manslaughter or culpable homicide while driving a vehicle

DD80 Causing death by dangerous driving

MS50 Motor racing on a highway

UT50 Aggravated taking of a vehicle

Any offence of Aiding, Abetting or procuring the above offences.

(Note, the offence code will have the 0 replaced by a 2)

Any offence of Causing or permitting the above offences.

(Note, the offence code will have the 0 replaced by a 4)

Inciting any of the above offences.

(Note, the offence code will have the 0 replaced by a 6)

Appendix B

Serious offences- in relation to convictions for the following offences where less than 5 years since conviction or end of any custodial sentence whichever is later, the recommendation to the Licensing Sub-Committee will be to refuse application for the grant of a Licence or revoke the existing Licence the Licence.

Theft
Theft – shoplifting
Theft – employee
Theft – from vehicle
Burglary and theft – dwelling
Burglary and theft – non-dwelling
Burglary – aggravated
Fraudulent use
Handling
Receiving
Forgery
Conspiracy to defraud
Obtain money by deception
Obtain money by forged instrument
Deception
False accounting
False statement to obtain benefit
Going equipped
Taking/driving or attempting to steal a vehicle
Allow to be carried in a stolen vehicle
Perverting the course of justice
Malicious wounding or grievous bodily harm;
Assault occasioning actual bodily harm;
Assault with intent to cause grievous bodily harm;
Assaulting a Police Officer in the execution of their duties;
Malicious wounding;
Common assault by beating;
Battery;
Violent Disorder;
Riot;
Affray;
Robbery;
Offences relating to the supply of drugs.

Similar offences or offences which may replace the above offences.

Appendix C

Less serious offences- in relation to convictions for the following offences where less than 3 years since conviction or end of any custodial sentence whichever is later the recommendation to the Licensing Sub-Committee will be to refuse application for the grant of a Licence or revoke the existing Licence the Licence

Common assault

Criminal damage

Obstructing an officer

Resisting arrest

Offences relating to the possession of drugs

Public Order offences not listed in Appendix B

Other minor offences.

Similar offences or offences which may replace the above offences.

Appendix D

AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours
BA10	Driving whilst disqualified by order of court
BA 30	Attempting to drive whilst disqualified by order of the Court
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.
CU10	Using a vehicle with defective brakes
CU20	Causing or likely to cause danger by 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.
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving or attempting to drive
DR70	Failing to provide a specimen for a breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle while unfit through drugs
IN10	Using a vehicle uninsured against third party risks
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle after having failed to notify a disability
MS70	Driving with uncorrected defective eyesight
LC20	Driving otherwise than in accordance with a licence
LC50	Driving after a licence has been revoked or refused on medical grounds
MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS60	Offences not covered by other codes
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver etc.
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with a moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with a stationary vehicle
SP10	Exceeding goods vehicle speed limits
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 "stop" sign
TS40	Failing to comply with direction of a constable/warden
TS50	Failing to comply with traffic sign (excluding stop signs, traffic lights or double white lines)
TS60	Failing to comply with a school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

Any offence of Aiding, Abetting or procuring the above offences.
 (Note, the offence code will have the 0 replaced by a 2)

Any offence of Causing or permitting the above offences.
 (Note, the offence code will have the 0 replaced by a 4)

Inciting any of the above offences.
 (Note, the offence code will have the 0 replaced by a 6)

Appendix E

Offences Specific To Hackney Carriages, Private Hire Vehicles and Drivers

As well as the offences set out above there are specific offences set out in the two Acts that create offences relating to Hackney Carriages and Private Hire Vehicles and the drivers of those vehicles:

The offences are set out below. Those on the first page are offences arising from the 1847 Act, while those on subsequent pages are offences arising from the 1976 Act.

In relation to the maximum penalties specified, the levels of fine are currently as follows:

Level 1-£200 Level 2-£500 Level 3-£1,000 Level 4-£2,500.

Town Police Clauses Act 1847

Section	Offence	MaxPenalty
40	Giving false information on application for HC proprietor's licence.	Level 1
44	Failure to notify change of address of HC proprietor.	Level 1
45	Plying for hire without HC proprietor's licence.	Level 4
47	Driving a HC without HC driver's licence.	Level 3
47	Lending or parting with HC driver's licence	Level 3
47	HC proprietor employing unlicensed driver	Level 3
48	Failure by HC proprietor to hold HC driver's licence.	Level 1
48	Failure by HC proprietor to produce HC driver's licence	Level 1
52	Failure to display HC plate	Level 1
53	Refusal to take a fare.	Level 2
54	Charging more than the agreed fare.	Level 1
55	Obtaining more than the legal fare. and 1 month's imprisonment until the excess is refunded.	Level 3
56	Travelling less than the lawful distance for an agreed fare.	Level 1
57	Failing to wait after a deposit to wait has been paid.	Level 1
58	Charging more than the legal fare.	Level 3
59	Carrying other person than the hirer without consent.	Level 1
60	Driving HC without proprietor's consent	Level 1
60	Person allowing another to drive HC without proprietor's consent.	Level 1
61	Drunken driving of HC	Level 1
61	Wanton or furious driving or wilful misconduct leading to injury or danger.	Level 1
62	Driver leaving HC unattended.	Level 1
64	HC driver obstructing other HC's.	Level 1

Local Government (Miscellaneous Provision) Act 1976

Section	Offence	Maximum Penalty
49	Failure to notify the transfer of a HC proprietor's licence.	Level 3
50(1)	Failure to present a HC for inspection, as required.	Level 3
50(2)	Failure to inform the Licensing Authority where the HC is stored, if requested.	Level 3
50(3)	Failure to report an accident to the Licensing Authority.	Level 3
50(4)	Failure to produce the HC proprietor's licence and insurance certificate.	Level 3
53(3)	Failure to produce the HC driver's licence.	Level 3

57 Making a false statement or withholding information to obtain a HC driver's licence.	Level 3
58(2) Failure to return a plate after notice given following expiry, revocation or suspension of a HC proprietor's licence.	Level 3 plus daily fine of £10
61(2) Failure to surrender a driver's licence after suspension, revocation or refusal to renew.	Level 3
64 Permitting any vehicle other than a HC to wait on a HC stand.	Level 3
66 Charging more than the meter fare for a journey ending outside the district, without prior agreement.	Level 3
67 Charging more than the meter fare when HC used as private hire vehicle.	Level 3
69 Unnecessarily prolonging a journey.	Level 3
71 Interfering with a taximeter.	Level 3
73(1)(a) Obstruction of an authorised Officer or Constable.	Level 3
73(1)(b) Failure to comply with a requirement of an authorised Officer or Constable.	Level 3
73(1)(c) Failure to give information or assistance to an authorised Officer or Constable.	Level 3
46(1)(a) Using an unlicensed PH vehicle.	Level 3
46(1)(b) Driving a PH vehicle without a PH driver's licence.	Level 3
46(1)(c) Proprietor of a PH vehicle using an unlicensed driver	Level 3
46(1)(d) Operating a PH vehicle without a PH operator's licence.	Level 3
46(1)(e) Operating a vehicle as a PH vehicle when the vehicle is not licensed as a PH vehicle.	Level 3
46(1)(e) Operating a PH vehicle when the driver is not licensed as a PH driver.	Level 3
48(6) Failure to display a PH vehicle plate	Level 3
49 Failure to notify transfer of a PH vehicle licence.	Level 3
50(1) Failure to present PH vehicle for an inspection, as required.	Level 3
50(2) Failure to inform the Licensing Authority where the PH vehicle is stored, if requested.	Level 3
50(3) Failure to report an accident to the Licensing Authority.	Level 3
50(4) Failure to produce a PH vehicle licence and an insurance certificate.	Level 3
53(3) Failure to produce a PH driver's licence.	Level 3
54(2) Failure to wear a PH driver's badge.	Level 3
56(2) Failure by a PH operator to keep records of bookings.	Level 3
56(3) Failure by a PH operator to keep records of PH vehicles operated by him.	Level 3
56(4) Failure to produce a PH operator's licence on request.	Level 3
57 Making false statement or withholding information to obtain a PH driver or operator's licence.	Level 3
58(2) Failure to return plate after notice given following expiry, revocation or suspension of a PH vehicle licence.	Level 3 plus daily fine of £10
61(2) Failure to surrender a driver's licence after suspension, revocation or refusal to renew.	Level 3
67 Charging more than the meter fare when a HC used as PH vehicle.	Level 3
69 Unnecessarily prolonging a journey.	Level 3
71 Interfering with a taximeter.	Level 3
73(1)(a) Obstruction of an authorised Officer or Constable.	Level 3
73(1)(b) Failure to comply with a requirement of an authorised Officer or Constable.	Level 3
73(1)(c) Failure to give information or assistance to an authorised Officer or Constable.	Level 3

Transport Act 1980

Section	Offence	Maximum Penalty
64(2)(a)	Driving a PH vehicle with a roof sign, which contravenes s64 (1).	Level 3
64(2)(b)	Causing or permitting a PH vehicle to be driven with a roof sign which contravenes s64 (1).	Level 3

Legislation referred to in the Policy.

Section 51(1)(a) Local Government (Miscellaneous Provisions) Act 1976

Rehabilitation of Offenders Act 1974
Section 4(1)

Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended.

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**EXETER CITY COUNCIL
LICENSING COMMITTEE
27 MARCH 2012**

**JOINT ENFORCEMENT EXERCISE - EXETER CITY COUNCIL AND OTHER
AGENCIES ON LICENSED HACKNEY CARRIAGES AND PRIVATE HIRE
VEHICLES**

1. PURPOSE OF THE REPORT

- 1.1 To bring to the Committees attention the feedback from the enforcement exercise carried out on the 17 February 2012.
- 1.2 On the night of 17 February officers of the Devon and Cornwall Constabulary, VOSA, Borders Agency HMRC, Customs and Excise, Dept. for Woks and pensions, investigators from Exeter City Council's treasury services and the Council's licensing office carried out checks on vehicles and drivers working in the City to establish the level of compliance with the statutory obligations to ensure the vehicle is well maintained, to ensure the drivers are properly licensed and that those that are working under the provisions of the licence are not also claiming from the state and complying with standard conditions attached to vehicle and driver licenses.

2. BACKGROUND

- 2.1 The Licensing Office routinely carry out checks with other agencies to ensure the travelling public are not compromised by either illegal drivers or vehicles that are unfit for the carriage of the public.
- 2.2 The outcome of the exercise which commenced at 19:00 and completed at a little after midnight is set out in the appendix attached.

3. OTHER SIGNIFICANT FINDINGS

- 3.1 As well as the information contained in the attachment relating primarily to the vehicles, other agencies engaged with licence holders on the night and indications are that a number of drivers are suspected of claiming benefits whilst driving licensed vehicles but details of individuals are not available as further action may be taken by those enforcement agencies.
- 3.2 It was noted on the night that only a small number of Hackney carriages were identified on the circuit. No explanation was available until the following Monday when an e-mail was received from a Hackney Carriage driver, the content of which read :
- 3.3 *Hello and good morning,
It was a good idea to carry out vehicle / driver checks etc on Friday last week, as you will be able to see by your records that only a small amount of hackney taxis were checked, the reason being that word spread around of the checks, so a lot of the vehicle / drivers went home to avoid the checks, i can only presume they have something to hide, i hope this is the first step on checking the vehicle / drivers and the ones who avoided the checks get checked, it would make more sense to call each and every hackney carriage into the council for the checks, i look forward to this reply*

- 3.4 Joint Enforcement exercises are routinely carried out but frequency is limited because of the resource implications for so many agencies. It may be of benefit to the Licensing Committee for members to accompany officers when future multi-agency enforcement checks are carried out so that they can obtain an insight into the enforcement role of Licensing Officers.
- 3.5 However, because of the sensitive and intense nature of these night time activities, no more than two members of the Licensing Committee should be in attendance on any one occasion.

4. RECOMMENDATION

- 4.1 It is recommended that the Licensing Committee note the content of the report.

Assistant Director Environment

ENVIRONMENT DIRECTORATE

Local Government (Access to Information) Act 1985 (as amended)

Background papers used in compiling this report:

None

Operation "LOOKOUT"

H =hackney Carriage

P = Private Hire

FX = Fire Extinguisher FA First Aid Kit B=Bus lane stickers missing

H-P	P	Condition breach	Offence identified	Prohibition Notice served.
P	P	NO FX	No seat belt when stopped	Fixed penalty
P	P	-	Illegal number plate	YES & fixed penalty
P	P	FX & FA	Middle seat belt missing	YES
P	P	-	-	-
P	H	-	-	-
P	P	FA -B	Seat belt missing – defective tyre	YES
P	H	FX	-	-
P	H	FX	-	-
H	H	-	-	-
P	P	B	-	-
P	H	FA FX	Defective tyre	YES
P	H	FA	-	-
H	H	BL	-	-
P	H	B	Light not working	YES and fixed penalty
H	H		Defective tyre	YES
H	H	-	-	-
P	H	B	-	-
H	H	-	-	-
P	P	-	-	-
H	H	-	-	-
H	H	-	-	-
P	H	-	NO DRIVER BADGE	YES
P	H	-	-	-
P	H	-	-	-
H	H	B	-	-
H	H			
H	H			YES
H	H	East Devon licence		YES
P	P			
1 Non Taxi inspection				YES

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