

GUIDELINES OF THE RELEVANCE OF CONVICTIONS AND THE SUSPENSION OR REVOCATION OF EXISTING HACKNEY CARRIAGE & PRIVATE HIRE DRIVER LICENCES

SAFEGUARDING

Everyone has a responsibility for protecting and safeguarding children and adults who may be vulnerable. In the event that the Hackney Carriage Driver, Private Hire Driver, Hackney carriage Operator or Private Hire Operator has concerns a child or adult is suffering or is likely to suffer from any form of maltreatment (whether financial, physical, sexual, emotional or neglect) this should be reported in the following ways:

- 1. If a child or vulnerable adult is in immediate danger or left alone, contact the police or call an ambulance on 999;**
- 2. In all other cases involving children, referrals should be made to Wiltshire social care services via Wiltshire Multi-Agency Safeguarding Hub (MASH) on 0300 4560108;**
- 3. In all other cases involving adults, referrals should be made to Wiltshire Council Customer Advisers on 0300 456 0111, e-mail customeradvisors@wiltshire.gov.uk**

CHILD SEXUAL EXPLOITATION AND ABUSE

‘Sexual exploitation of children and young people under 18 involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive ‘something’ (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of them performing, and/or another or others performing on them, sexual activities. In all cases, those exploiting the child/young person have power over them by virtue of their age, gender, intellect, physical strength and/or economic or other resources. Violence, coercion and intimidation are common, involvement in exploitative relationships being characterised in the main by the child or young person’s limited availability of choice resulting from their social/economic and/or emotional vulnerability.’(NWG 2008)

Children and young people may be taken to public or private venues, rooms, hotels or houses for the purpose of sexual abuse.

All drivers are expected to report any suspicion or concerns that a child or young person is being transported for the purposes of sexual abuse.

Where a driver becomes aware or concerned that they or other drivers are transporting a young person or a number of young people to specific premises or venues either accompanied or alone on a regular basis and they suspect the young person may be subject to exploitation they **must** report their concerns to Wiltshire Police based in the Multi-Agency Safeguarding Hub (MASH) as a matter of urgency on the above number. Drivers are also expected to inform their manager that they have reported their concerns to Wiltshire Police.

Failure to report a suspicion or concern that a young person or young people may be being sexually exploited could lead to the licence being revoked and the individual could also be considered complicit in the sexual exploitation in any subsequent criminal investigation.

General Legislation

Under Section 50 Town Police Clauses Act 1847 Wiltshire Council may, upon conviction for the second time of the proprietor or driver of any such hackney carriage for any offence under the provisions of this or the special Act with respect to hackney carriages, or any byelaw made in pursuance thereof, suspend or revoke, as they deem right, the licence of any such proprietor or driver.

Under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, Wiltshire Council may suspend, or revoke or refuse to renew a driver's licence, if since the licence was issued, the driver is convicted of:

- An offence involving dishonesty, indecency or violence
- An offence under the Town Police Clause Act 1847 or the local Government (Miscellaneous Provisions) Act 1976
- Or any other reasonable cause

Where Wiltshire Council suspend, revoke or refuse to renew a licence Under Section 61, they will give to the driver a notice of the grounds on which the licence has been suspended, revoked or not renewed, within 14 days. The suspension or revocation takes effect at the end of a period of 21 days beginning with the day on which the notice is served on the driver.

Any driver aggrieved by a decision of Wiltshire Council has a right of appeal to the Magistrates' Court. The appeal must be lodged within the 21 days of the notice being served on the driver and until the time of appealing has expired or when an appeal is lodged and until the time the appeal is heard, the driver may continue to work.

If it appears that in the interests of public safety it requires the suspension or revocation of the licence to have immediate effect, the notice given to the driver will include a statement that this is so and an explanation why. The suspension or revocation will take effect as soon as the notice is served on the driver, even though an appeal may be lodged.

General Policy

Each case will be decided on its own merits. The suspension, revocation or refusal to renew a licence is a serious matter and Wiltshire Council will always consider the full facts of the case and any mitigating or other circumstances, before making a decision.

If the offence is isolated and there are mitigating circumstances, some discretion may be appropriate when deciding on the period of suspension or revocation, but in every case the overriding consideration will always be the safety and protection of the public.

The following examples afford an illustration of the likely response of the Council, when offences are committed or unacceptable behaviour/conduct takes place.

Traffic Offences

(Please note a list of Minor, Major and Hybrid Offences are attached as Annexes). A Hybrid offence will be treated as a major traffic offence if the court awarded 4 or more penalty points for the offence and as a minor traffic offence if the court awarded 3 or less penalty points for the offence.

Licensed drivers of hackney carriages and private hire vehicles are responsible for the safety of members of the public who travel in their vehicles. A serious view will always be taken if evidence is obtained or information comes to light of a driver committing or being convicted of a major traffic offence. In these circumstances and after consideration of the circumstances and seriousness of the offence involved, a hackney carriage or private hire driver licence could be suspended for any period between 14 and 56 days.

If a licensed driver is convicted of committing any traffic offence and accrues sufficient penalty points to require a period of disqualification (totting up) then in these circumstances his hackney carriage or private hire driver licence will be suspended as follows:

- If the disqualification period is less than 28 days, it will be the period of disqualification plus 14 days.
- If the disqualification period is between 28 days and 3 months, it will be the period of disqualification plus 28 days.
- If the disqualification period is between 3 months and 6 months, it will be the period of disqualification plus 56 days.

If the disqualification period is for any period over 6 months the hackney carriage or private hire driver licence will be revoked from the date of the conviction. Any application for a new licence will not be considered until a period of at least 12 months has elapsed from the date of revocation plus any period of disqualification imposed by the court.

In cases where disqualification is considered by the court, but because of 'exceptional circumstances' they decide not to disqualify a driver, the following will apply:

- After considering the full circumstances of the case, including the 'exceptional circumstances' considered by the court, if it is felt appropriate a driver's licence may be suspended for a period not exceeding 28 days.
- If a decision is made not to suspend a driver's licence, an official warning should be served on the driver informing him/her that if any further driving offences are committed during a period of 6 months from the date of conviction, his/her licence may be suspended for a period not exceeding 28 days.

Driving Without Insurance

A serious view will always be taken of an offence of driving without insurance. Licensed drivers of hackney carriages and private hire vehicles are responsible for the safety of members of the public who are travelling in their vehicles.

If a licensed driver is convicted or evidence is obtained of him/her committing this type of offence the following will apply:

- If the offence is committed whilst driving a vehicle other than a licensed vehicle, his/her licence will be suspended for 56 days from either the date of the conviction or the date the offence is committed or came to notice on, plus any period of disqualification imposed by the court.
- If the offence is committed whilst driving a licensed vehicle, his/her licence will be revoked from either the date of the conviction or the date the offence is committed or came to notice on. Any application for a new licence will not be considered until a period of at least 6 months has elapsed from the date of revocation plus any period of disqualification imposed by the court.
- If the offence is committed whilst driving a licensed vehicle, which he/she is also the owner, his/her licence will be revoked from either the date of the conviction or the date the offence is committed or came to notice on. Any application for a new licence will not be considered until a period of at least 18 months has elapsed from the date of revocation plus any period of disqualification imposed by the court.

Driving Under the Influence of Drink or Drugs

A very serious view will be taken of convictions of driving or being in charge of a vehicle whilst under the influence of drink or drugs or failing to provide a specimen for analysis.

If a licensed driver is convicted of this type of offence the following will apply:

- A driver convicted of this type of offence, whilst driving or being in charge of a vehicle other than a licensed vehicle, will have his/her licence revoked from the date of conviction. Any application for a new licence will not be considered until a period of at least 3 years has elapsed from the date of conviction plus any period of disqualification imposed by the court.
- A driver convicted of this type of offence, whilst driving a licensed vehicle, will have his/her licence revoked from the date of conviction. Any application for a new licence will not be considered until a period of at least 4 years has elapsed from the date of conviction plus any period of disqualification imposed by the court.

Drugs

A serious view will always be taken of a conviction for any offence involving drugs. Licensed drivers are responsible for the safety of members of the public who are travelling in their vehicles.

A driver convicted of a drug related offence will have his/her licence revoked from the date of conviction. Any application for a new licence will not be considered until a period of at least 3 years has elapsed from the date of conviction.

If evidence is obtained of a licensed driver committing or being involved in a drug related offence or incident, then serious doubts should be raised as to his/her suitability to continue to hold a licence. Although each case will always be considered on its own merits, the Council will always retain the discretion to revoke a licence with the overriding consideration being the safety of the public. If a licence is revoked any application for a new licence will not be considered until a period of at least 3 years has elapsed from the date of revocation.

If there is any evidence to suggest that a driver may be a user of or dependant on drugs, a special medical examination should be arranged. Depending on the medical evidence and advice given then serious consideration should be given as to the driver's suitability to continue to hold a licence. Although each case will always be considered on its own merits, the Council will always retain the discretion to revoke a licence with the overriding consideration being the safety of the public. If a licence is revoked any application for a new licence will not be considered until at least 6 years has elapsed from the date of revocation and after any treatment has been completed.

Indecency/Sexual Offences

Drivers of hackney carriages and private hire vehicles often carry unaccompanied passengers and a serious view will always be taken of a conviction for any indecency or sexual offence.

A driver convicted of an indecency or sexual offence will have his/her licence revoked from the date of conviction. Any application for a new licence will not be considered until a period of at least 5 years has elapsed from the date of conviction.

If evidence is obtained of a licensed driver committing or being involved in any offence or incident involving indecency or of a sexual nature, then serious doubts should be raised as to his/her suitability to continue to hold a licence. Although each case will always be considered on its own merits, the Council will always retain the discretion to revoke a licence with the overriding consideration being the safety of the public. If a licence is revoked any application for a new licence will not be considered until a period of at least 5 years has elapsed from the date of revocation.

Dishonesty

Licensed drivers are expected to be persons of trust and for this reason a serious view will always be taken of any convictions involving dishonesty.

A driver convicted of any offence involving dishonesty will have his/her licence revoked from the date of conviction. Any application for a new licence will not be considered until a period of at least 3 years has elapsed from the date of conviction.

If evidence is obtained of a licensed driver committing or being involved in any offence of dishonesty, serious consideration should be given as to his/her suitability to continue to hold a licence. Although each case will be considered on its own merits, the Council will always retain the discretion to revoke a licence with the overriding consideration being the safety of the public. If a licence is revoked any application for a new licence will not be considered until a period of at least 3 years has elapsed from the date of revocation.

Violence

Licensed drivers maintain a close contact with the public and because of this a serious view will always be taken of any convictions involving offences of violence.

A driver convicted of a minor offence of assault, such as common assault, can expect his/her licence to be suspended for a period of time ranging from 28 to 56 days depending on the circumstances of the offence. The suspension will run from the date of conviction.

A driver convicted of an offence of actual bodily harm will have his/her licence revoked from the date of conviction. Any application for a new licence will not be considered until a period of at least 2 years has elapsed from the date of conviction.

A driver convicted of a more serious offence of assault such as grievous bodily harm, wounding, Racially-aggravated offence, will have his/her licence revoked from the date of conviction. Any application for a new licence will not be considered until a period of at least 5 years has elapsed from the date of conviction.

If evidence is obtained of a licensed driver committing or being involved in any offence of violence consideration should be given to suspending or revoking his/her licence. Although each case will be considered on its own merits, the Council will always retain the discretion to suspend or revoke a licence with the overriding consideration being the safety of the public. Depending on the seriousness of the offence, if a licence is suspended it will be for a period of time ranging from 28 to 56 days. If a licence is revoked any application for a new licence will not be considered until a period of at least 2 years has elapsed from the date of revocation.

Criminal Damage

A driver convicted of a minor offence of criminal damage can expect his/her licence to be suspended for a period of time ranging from 28 to 56 days depending on the cost of the damage caused. The suspension will run from the date of conviction.

A driver convicted of a serious offence of damage such as arson will have his/her licence revoked from the date of conviction. Any application for a new licence will not normally be considered.

Unacceptable Behaviour

A licensed driver should always behave in a civil and orderly manner at all times when dealing with passengers or members of the public, including other drivers of hackney carriage or private hire vehicles.

A driver convicted or cautioned of any discriminatory offence may have his/her licence suspended or revoked depending on the circumstances of the case.

A driver convicted of offences such as Drunk & Incapable, Drunk & Disorderly or Conduct Likely to Cause a Breach of the Peace may have his/her licence suspended or revoked depending on the circumstances of the case.

The period of suspension will be a period of time ranging from 28 to 56 days. If the licence is revoked any application for a new licence will not be considered until a period of at least 12 months has elapsed from the date of conviction.

Police Cautions

A Police Caution is considered and administered when a person comes to the notice of the Police for the first time. A formal caution is only offered if there is sufficient evidence to lead to a prosecution and the offender admits his/her guilt.

If a driver receives a formal Police Caution it will be viewed as a conviction. The relevant offence/conviction will then be considered in line with these guidelines relating to the relevance of convictions.

Pending Offences

A driver is required to disclose details of any incident where he is arrested by the Police and/or details of any charges pending against him/her.

In the majority of cases no action will be taken until the result of the Police investigation is known and the driver is charged or cleared of the relevant offence(s). If a conviction follows it will be considered in line with these guidelines relating to the relevance of convictions.

However if it appears that in the interests of public safety the offence(s) require the suspension/revocation of the licence to have immediate effect, the driver will be served with the relevant notice as explained under the paragraph 'General Legislation'.

Annex 1

MINOR TRAFFIC OFFENCES

MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street Offences
MS40	Driving with uncorrected defective eyesight or refusing to submit to a test
MS70	Driving with uncorrected defective eyesight
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 moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a 'Stop' sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding 'Stop' sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

Aiding, abetting, counseling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16)

Annex 2

MAJOR TRAFFIC OFFENCES

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of court
BA20	Attempting to drive while disqualified by order of 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
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death by careless driving when unfit through drugs
CD60	Causing death by careless driving with alcohol level above the limit
CD70	Causing death by careless driving then failing to supply a specimen for analysis
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
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 level above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive.
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
UT50	Aggravated taking of a vehicle

Aiding, abetting, counselling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16)

Annex 3

HYBRID TRAFFIC OFFENCES

CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyre(s)
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Undefined speed limit offence

Aiding, abetting, counselling or procuring

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

Causing or permitting

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

Inciting

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

1st September 2010.